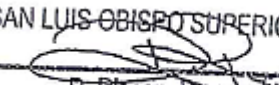


ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James R. Murphy, Jr., Esq. SBN 063410 JAMES R. MURPHY, JR., A LAW CORPORATION 221 East Branch Street Arroyo Grande, CA 93420 TELEPHONE NO: (805) 489-8929 FAX NO. (Optional): (805) 489-0663 E-MAIL ADDRESS (Optional): james@murphylawcorp.com ATTORNEY FOR (Name): Stan Smart and Denise Smart	FOR COURT USE ONLY ELECTRONICALLY FILED 4/22/2021 12:38 PM
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO STREET ADDRESS: 1050 Monterey Street MAILING ADDRESS: 1035 Palm Street, Room 385 CITY AND ZIP CODE: San Luis Obispo, CA 93408 BRANCH NAME: Civil Branch	SAN LUIS OBISPO SUPERIOR COURT BY  D. Rincon, Deputy Clerk
PLAINTIFF: STAN SMART and DENISE SMART DEFENDANT: RUBEN FLORES	
<input checked="" type="checkbox"/> DOES 1 TO <u>10</u>	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): IT Emotional Dist., Pun. D <input type="checkbox"/> Property Damage <input checked="" type="checkbox"/> Wrongful Death <input type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	
CASE NUMBER: <div style="text-align: center; font-size: 1.2em;">21CV-0230</div>	

1. Plaintiff (name or names): **STAN SMART and DENISE SMART**

alleges causes of action against defendant (name or names):
RUBEN FLORES

2. This pleading, including attachments and exhibits, consists of the following number of pages: **9**

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

SMART v. FLORES, et al.

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1-10 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER:
---	--------------

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☒ Intentional Tort - Intentional Infliction of Emotional Distress
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☒ Other (*specify*):

Punitive Damages (see Exemplary Damages Attachment, page 7).

11. Plaintiff has suffered

- a. ☐ wage loss
- b. ☐ loss of use of property
- c. ☐ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☐ loss of earning capacity
- g. ☒ other damage (*specify*):

Punitive Damages (see Exemplary Damages Attachment, page 7).

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☒ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Intentional Infliction of Emotional Distress 1:1-16; Exemplary Damages 1-3.

Date: April 22, 2021

JAMES R. MURPHY, JR.

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER
---	-------------

FIRST

(number)

CAUSE OF ACTION—Intentional TortPage 4ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint*(Use a separate cause of action form for each cause of action.)*

IT-1. Plaintiff (name): Stan Smart and Denise Smart

alleges that defendant (name): Ruben Flores

☒ Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff
on (date) from May 25, 1996 to present
at (place) Arroyo Grande, California

*(description of reasons for liability):***INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. On February 5, 2020, representatives of the San Luis Obispo Sheriff's Department served a search warrant upon Defendant Ruben Flores. The warrant authorized a search of the premises at 710 White Court, Arroyo Grande.
2. On or about February 9, 2020, Defendant Ruben Flores removed the remains of Kristin Smart from its location which, on information and belief, were located at 710 White Court, Arroyo Grande.
3. Two additional individuals, who will be later named as defendants in this action, participated with Defendant Ruben Flores in the removal of the remains of Kristin Smart from the location at 710 White Court, Arroyo Grande, California.
4. Defendant Ruben Flores, on or about February 9, 2020, acted in complicity and in concert with the Doe defendants in removing the remains of Kristin Smart from the burial location inside the lattice enclosure below the deck of Defendant Ruben Flores' White Court residence.
5. On information and belief, Plaintiffs allege that Defendant Ruben Flores and Doe defendants 1 and 2 worked through the night, under cover of darkness, to remove the remains of Kristin Smart to avoid having those remains at 710 White Court in the event of an additional search of the property.

[Continued on Page 5]

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER:
---	--------------

ATTACHMENT (Number): First COA- IT

(This Attachment may be used with any Judicial Council form.)

[Continued from Page 4]

6. Plaintiffs allege on information and belief that the remains of Kristin Smart were removed from the White Court property and were taken to another location in San Luis Obispo County for later disbursement, in an attempt to cover up the complicity of Paul Flores in the death of Kristin Smart and to conceal the complicity of Defendant Ruben Flores and Doe defendants 1 and 2, thereby insuring the remains would not be found should another search warrant be executed.

7. Approximately one year later, the Sheriff's Office of the County of San Luis Obispo conducted yet another search of Defendant Ruben Flores' property at 710 White Court, Arroyo Grande. Based upon videos taken and observations made by persons at the scene, Sheriff's representatives focused on an area in the enclosed lattice area under the deck of the residence of Defendant Ruben Flores where dirt had been removed from a hole. The removal of dirt was photographically and forensically documented by law enforcement.

8. The burial of loved ones has been a spiritual tradition of the human race for a documented 130,000 years. Primitive burial sites from that time forward have revealed that the remains of persons who were interred usually contained items of value or spiritual importance that were placed in the graves of decedents as part of the process of assisting those departed loved ones in their journey to the afterlife.

9. It is the custom and practice of most citizens of the modern world to bury their dead or, in the alternative, to cremate their dead and conduct spiritual and religious ceremonies thereafter. The remains of a loved one, especially under the conditions of the disappearance and death of Kristin Smart, are precious to the family members of those deceased persons.

10. Defendant Ruben Flores and Doe defendants 1 and 2, through their actions in removing the remains of Kristin Smart from its location, and moving same to an undisclosed location or locations, committed acts of such viciousness, depravity and cruelty as to, by their very definition, cause severe emotional distress to Plaintiffs, the natural mother and father of Kristin Smart.

11. As a result of the conduct of Defendant Ruben Flores and Doe defendants 1 and 2, Plaintiffs have suffered devastating emotional pain and suffering caused by the wrongful acts alleged herein. Plaintiffs have suffered and continue to suffer, severe emotional distress caused by the disappearance of their daughter; by the participation of Defendant Ruben Flores with Paul Flores in moving the body of Kristin Smart from Paul Flores' dorm room at California Polytechnic State University; and by the hiding of Kristin's body at various locations which by definition prevent Plaintiffs from burying their beloved child.

12. Compounding the initial acts perpetrated by Paul Flores, Defendant Ruben Flores and Doe defendants 1 and 2, Kristin's body was moved yet again and disposed of by Defendant Ruben Flores as part of his attempt to protect his son from the consequences of Paul Flores' sexual assault and murder of Kristin Smart.

[Continued on Page 6]

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 5 of 9

(Add pages as required)

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER:
---	--------------

ATTACHMENT (Number): First COA-IT

(This Attachment may be used with any Judicial Council form.)

[Continued from Page 5]

13. As a result of the conduct of Defendant Ruben Flores and Doe defendants 1 and 2, and each of them, Plaintiffs have been denied the opportunity to obtain closure and peace of mind in the tragic death of their daughter. Had Kristin's remains not been hidden, re-hidden and then moved yet again, it is reasonably likely Plaintiffs could have been reunited with the remains of their daughter and would have been permitted the opportunity to conduct a burial service at which their daughter could be laid to rest in a place of honor and dignity, as opposed to the present circumstances where their daughter's body was discarded like human garbage.

14. Plaintiffs have suffered severe emotional distress spanning almost 25 years; that emotional distress has been even further exacerbated by the removal of Kristin from the burial place at White Court; that emotional distress and pain has been even further aggravated and increased by the movement and disbursement of the remains of Kristin Smart to as yet unknown locations in San Luis Obispo County.

15. Plaintiffs seek general damages in an amount to be determined at trial; Plaintiffs further seek punitive damages according to established principles of California law.

16. Plaintiffs further alleges that the conduct of Defendant Ruben Flores and Does 1 and 2 was outrageous; that Defendant Ruben Flores and Does 1 and 2 intended to cause Plaintiffs severe emotional distress; that Defendant Ruben Flores and Does 1 and 2 acted with reckless disregard of the probability that Plaintiffs would suffer emotional distress knowing that Plaintiffs' daughter had been killed by Paul Flores and with knowledge that Defendant Ruben Flores had previously transported the body of Kristin Smart from the Cal Poly dorm room of Paul Flores to the initial burial site at the home of Defendant Ruben Flores; that the Plaintiffs did in fact suffer severe emotional distress; and that the conduct of Defendant Ruben Flores and Does 1 and 2 was a substantial factor in causing the Plaintiffs severe emotional distress.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 6 of 9

(Add pages as required)

SHORT TITLE:

SMART v. FLORES, et al.

CASE NUMBER:

Exemplary Damages AttachmentPage 7ATTACHMENT TO ☒ Complaint ☐ Cross - ComplaintEX-1. As additional damages against defendant (*name*):

Ruben Flores

Plaintiff alleges defendant was guilty of

☒ malice☒ fraud☒ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

1. On February 5, 2020, representatives of the San Luis Obispo Sheriff's Department served a search warrant upon Defendant Ruben Flores. The warrant authorized a search of the premises at 710 White Court, Arroyo Grande.
2. On or about February 9, 2020, Defendant Ruben Flores removed the remains of Kristin Smart from its location which, on information and belief, were located at 710 White Court, Arroyo Grande.
3. Two additional individuals, who will be later named as defendants in this action, participated with Defendant Ruben Flores in the removal of the remains of Kristin Smart from the location at 710 White Court, Arroyo Grande, California.
4. Defendant Ruben Flores, on or about February 9, 2020, acted in complicity and in concert with the Doe defendants in removing the remains of Kristin Smart from the burial location inside the lattice enclosure below the deck of Defendant Ruben Flores' White Court residence.
5. On information and belief, Plaintiffs allege that Defendant Ruben Flores and Doe defendants 1 and 2 worked through the night, under cover of darkness, to remove the remains of Kristin Smart to avoid having those remains at 710 White Court in the event of an additional search of the property.

[Continued on Page 8]

EX-3. The amount of exemplary damages sought is

a. ☒ not shown, pursuant to Code of Civil Procedure section 425.10.b. ☐ \$

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER:
---	--------------

ATTACHMENT (Number): EX-2

(This Attachment may be used with any Judicial Council form.)

[Continued from Page 7]

6. Plaintiffs allege on information and belief that the remains of Kristin Smart were removed from the White Court property and were taken to another location in San Luis Obispo County for later disbursement, in an attempt to cover up the complicity of Paul Flores in the death of Kristin Smart and to conceal the complicity of Defendant Ruben Flores and Doe defendants 1 and 2, thereby insuring the remains would not be found should another search warrant be executed.

7. Approximately one year later, the Sheriff's Office of the County of San Luis Obispo conducted yet another search of Defendant Ruben Flores' property at 710 White Court, Arroyo Grande. Based upon videos taken and observations made by persons at the scene, Sheriff's representatives focused on an area in the enclosed lattice area under the deck of the residence of Defendant Ruben Flores where dirt had been removed from a hole. The removal of dirt was photographically and forensically documented by law enforcement.

8. The burial of loved ones has been a spiritual tradition of the human race for a documented 130,000 years. Primitive burial sites from that time forward have revealed that the remains of persons who were interred usually contained items of value or spiritual importance that were placed in the graves of decedents as part of the process of assisting those departed loved ones in their journey to the afterlife.

9. It is the custom and practice of most citizens of the modern world to bury their dead or, in the alternative, to cremate their dead and conduct spiritual and religious ceremonies thereafter. The remains of a loved one, especially under the conditions of the disappearance and death of Kristin Smart, are precious to the family members of those deceased persons.

10. Defendant Ruben Flores and Doe defendants 1 and 2, through their actions in removing the remains of Kristin Smart from its location, and moving same to an undisclosed location or locations, committed acts of such viciousness, depravity and cruelty as to, by their very definition, cause severe emotional distress to Plaintiffs, the natural mother and father of Kristin Smart.

11. As a result of the conduct of Defendant Ruben Flores and Doe defendants 1 and 2, Plaintiffs have suffered devastating emotional pain and suffering caused by the wrongful acts alleged herein. Plaintiffs have suffered and continue to suffer, severe emotional distress caused by the disappearance of their daughter; by the participation of Defendant Ruben Flores with Paul Flores in moving the body of Kristin Smart from Paul Flores' dorm room at California Polytechnic State University; and by the hiding of Kristin's body at various locations which by definition prevent Plaintiffs from burying their beloved child.

12. Compounding the initial acts perpetrated by Paul Flores, Defendant Ruben Flores and Doe defendants 1 and 2, Kristin's body was moved yet again and disposed of by Defendant Ruben Flores as part of his attempt to protect his son from the consequences of Paul Flores' sexual assault and murder of Kristin Smart.

[Continued on Page 9]

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 8 of 9

(Add pages as required)

SHORT TITLE: SMART v. FLORES, et al.	CASE NUMBER:
---	--------------

ATTACHMENT (Number): EX-2

(This Attachment may be used with any Judicial Council form.)

[Continued from Page 8]

13. As a result of the conduct of Defendant Ruben Flores and Doe defendants 1 and 2, and each of them, Plaintiffs have been denied the opportunity to obtain closure and peace of mind in the tragic death of their daughter. Had Kristin's remains not been hidden, re-hidden and then moved yet again, it is reasonably likely Plaintiffs could have been reunited with the remains of their daughter and would have been permitted the opportunity to conduct a burial service at which their daughter could be laid to rest in a place of honor and dignity, as opposed to the present circumstances where their daughter's body was discarded like human garbage.

14. Plaintiffs have suffered severe emotional distress spanning almost 25 years; that emotional distress has been even further exacerbated by the removal of Kristin from the burial place at White Court; that emotional distress and pain has been even further aggravated and increased by the movement and disbursement of the remains of Kristin Smart to as yet unknown locations in San Luis Obispo County.

15. Plaintiffs seek general damages in an amount to be determined at trial; Plaintiffs further seek punitive damages according to established principles of California law.

16. Plaintiffs further alleges that the conduct of Defendant Ruben Flores and Does 1 and 2 was outrageous; that Defendant Ruben Flores and Does 1 and 2 intended to cause Plaintiffs severe emotional distress; that Defendant Ruben Flores and Does 1 and 2 acted with reckless disregard of the probability that Plaintiffs would suffer emotional distress knowing that Plaintiffs' daughter had been killed by Paul Flores and with knowledge that Defendant Ruben Flores had previously transported the body of Kristin Smart from the Cal Poly dorm room of Paul Flores to the initial burial site at the home of Defendant Ruben Flores; that the Plaintiffs did in fact suffer severe emotional distress; and that the conduct of Defendant Ruben Flores and Does 1 and 2 was a substantial factor in causing the Plaintiffs severe emotional distress.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 9 of 9

(Add pages as required)