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10 *Counsel for Plaintiff*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF LOS ANGELES**

13 ALANA GEE, individually and as Executor of  
14 the Estate of Matthew Gee, deceased,

15 *Plaintiff,*

16 v.

17 NATIONAL COLLEGIATE ATHLETIC  
18 ASSOCIATION,

19 *Defendant.*

Case No. **20STCV43627**

**COMPLAINT FOR:**

**(1) Negligence (Survival Action); and**  
**(2) Negligence (Wrongful Death)**

**DEMAND FOR JURY TRIAL**

20 Plaintiff Alana Gee, in her capacity as widow and Executor of the Estate of Matthew Gee,  
21 deceased, brings this Complaint and Demand for Jury Trial (“Complaint”) against Defendant  
22 National Collegiate Athletic Association (“NCAA”) to obtain redress for Matthew Gee, who was  
23 injured and died as a result of Defendant’s reckless disregard for his health and safety as a student-  
24 athlete. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and  
25 experiences and, as to all other matters, upon information and belief, including investigation  
26 conducted by her attorneys:

1 **INTRODUCTION**

2 1. Nearly one hundred thousand student-athletes sign up to compete in college football  
3 each year, and it’s no surprise why. Football is America’s sport and Matthew Gee and football  
4 players like him were raised to live and breathe the game. During football season, there are entire  
5 days of the week that millions of Americans dedicate to watching the game. On game days,  
6 hundreds of thousands of fans fill stadium seats and even more watch around the world. Before each  
7 game, these players—often mere teenagers—are riled up and told to do whatever it takes to win  
8 and, when playing, are motivated to do whatever it takes to keep going.

9 2. However, for years Defendant has kept players like Matthew Gee and the public in  
10 the dark about an epidemic that was slowly killing college athletes.

11 3. During the course of a college football season, athletes absorb more than 1,000  
12 impacts greater than 10 Gs (gravitational force) and, worse yet, the majority of football-related hits  
13 to the head exceed 20 Gs, with some approaching 100 Gs. To put this in perspective, if you drove  
14 your car into a wall at twenty-five miles per hour and weren’t wearing a seatbelt, the force of you  
15 hitting the windshield would be around 100 Gs. Thus, each season these eighteen (18), nineteen  
16 (19), twenty (20), and twenty-one (21)-year-old student-athletes are subjected to repeated car  
17 accidents.

18 4. Over time, the repetitive and violent impacts to players’ heads led to repeated  
19 concussions that severely increased their risks of long-term brain injuries, including memory loss,  
20 dementia, cognitive impairment, Chronic Traumatic Encephalopathy (“CTE”), Parkinson’s disease,  
21 and other related symptoms. Meaning, long after they played their last game, they are left with a  
22 series of neurological conditions that could slowly strangle their brains.

23 5. For decades, Defendant NCAA knew about the debilitating long-term dangers of  
24 concussions, concussion-related injuries, and sub-concussive injuries (referred to as “traumatic  
25 brain injuries” or “TBIs”) that resulted from playing college football, but recklessly disregarded this  
26 information to protect the very profitable business of “amateur” college football.

27 6. While in school at the University of Southern California (“USC”), football players  
28

1 like Matthew Gee were ultimately under Defendant's care. Unfortunately, Defendant did not care  
2 about the off-field consequences that would haunt students, like Matthew Gee, for the rest of their  
3 lives.

4 7. Despite knowing for decades of a vast body of scientific research describing the  
5 dangers of concussive and sub-concussive impacts like those Matthew Gee experienced, Defendant  
6 failed to implement adequate procedures to protect Gee from the long-term dangers associated with  
7 them. It did so knowingly and for profit.

8 8. As a direct result of Defendant's acts and omissions, Matthew Gee suffered brain  
9 and other neurocognitive injuries from playing NCAA football, culminating in his death and  
10 diagnosis of Chronic Traumatic Encephalopathy.

11 9. As such, Plaintiff brings this Complaint in order to vindicate Gee's rights and hold  
12 the NCAA accountable for its acts and omissions.

### 13 **PARTIES**

14 10. Plaintiff Alana Gee brings this action as the widow of and Executor of the Estate of  
15 Matthew Gee, who is deceased. (*See* Exhibit A, Death Certificate; Exhibit B, Will of Matthew  
16 Gee.) Alana Gee is a citizen of the State of California and Matthew Gee was a citizen of the State  
17 of California when he died.

18 11. Defendant NCAA is an unincorporated association with its principal place of  
19 business located at 700 West Washington Street, Indianapolis, Indiana 46206. Defendant NCAA is  
20 not organized under the laws of any State, but is registered as a tax-exempt organization with the  
21 Internal Revenue Service. As such, Defendant NCAA is a citizen of the State of Indiana pursuant  
22 to 28 U.S.C. § 1332(d)(10). Defendant NCAA conducts business throughout this District, the State  
23 of California, and the United States.

### 24 **JURISDICTION AND VENUE**

25 12. This Court has subject matter jurisdiction over this action pursuant to Article VI,  
26 Section 10 of the California Constitution.

27 13. This Court has personal jurisdiction over Defendant NCAA because it is an

1 unincorporated association containing numerous members within this State, has conducted and  
2 continues to conduct significant business within this State related to the conduct described in this  
3 Complaint, and caused significant effects in this State through the conduct described in this  
4 Complaint, both as to its activities within this State and elsewhere.

5 14. Venue is proper in this Court under Cal. Code Civ. P. § 395(a) because Defendant  
6 NCAA is an unincorporated association with at least one member residing in this county, or in the  
7 alternative, because Plaintiff has designated Los Angeles Superior Court as the venue for this  
8 action.

### 9 **FACTUAL BACKGROUND**

#### 10 **I. Defendant Had A Duty To Protect Student-Athletes, Including Matthew Gee.**

11 15. The NCAA is the governing body of collegiate athletics that oversees twenty-three  
12 college sports and over 400,000 students who participate in intercollegiate athletics, including the  
13 football program at USC. According to the NCAA, “[m]ore than 1,200 schools, conferences, and  
14 affiliate organizations collectively invest in improving the experiences of athletes—on the field, in  
15 the classroom, and in life.”

16 16. The NCAA brings in more than \$750 million in revenue each year and is the most  
17 significant college sports-governing body in the United States.

18 17. To accommodate the wide spectrum of athletes at its member schools, the NCAA  
19 has three different divisions of intercollegiate competition.

20 18. Each NCAA division is composed of several “conferences” to facilitate regional  
21 league play.

22 19. USC has an NCAA Division I football program in the Pac-12 Conference. USC has  
23 been a member of the NCAA since at least 1927 and a member of the Pac-12 Conference since at  
24 least 1959.

25 20. Defendant played a significant role in governing and regulating these football  
26 programs and owed a duty to safeguard the well-being of their participating student-athletes.

27 21. Since its founding in 1906, the NCAA (then the Intercollegiate Athletic Association  
28

1 of the United States (“IAAUS”)), has claimed to be “dedicated to safeguarding the well-being of  
2 student-athletes and equipping them with the skills to succeed on the playing field, in the classroom  
3 and throughout life.”<sup>1</sup> The IAAUS was specifically formed for this purpose because, at the turn of  
4 the twentieth century, head injuries were occurring at an alarming rate in college football. In  
5 response, President Theodore Roosevelt convened a group of Ivy League university presidents and  
6 coaches to discuss how the game could be made safer. After several subsequent meetings of  
7 colleges, the NCAA was established.<sup>2</sup>

8       22.     As such, the genesis of the NCAA was for a singular goal: “to keep college athletes  
9 safe.”<sup>3</sup>

10       23.     According to the NCAA, “[c]ollege and university presidents and chancellors guide  
11 each division, supported by an extensive committee structure guided by athletics administrators,  
12 faculty and student-athlete representatives [while each] division creates its own rules that follow  
13 the overarching principles of the NCAA.”<sup>4</sup>

14       24.     The overarching principles of the NCAA, including its purported commitment to  
15 safeguarding its athletes, are contained in the NCAA Constitution. The NCAA Constitution clearly  
16 defines the NCAA’s purpose and fundamental policies to include maintaining control over and  
17 responsibility for intercollegiate sports and athletes. The NCAA Constitution states:

18             The purposes of this Association are:

19             (a) To initiate, stimulate and improve intercollegiate athletics  
20                 programs for student-athletes[;]

21             (b) To uphold the principle of institutional control of, and  
22                 responsibility for, all intercollegiate sports in conformity with the  
23                 constitution and bylaws of this Association;

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24       <sup>1</sup> *Who We Are*, Nat’l Collegiate Athletic Ass’n, <http://www.ncaa.org/about/who-we-are> (last  
25 visited November 12, 2020).

26       <sup>2</sup> In 1910, the IAAUS changed its name to the National Collegiate Athletic Association.

27       <sup>3</sup> *Well-Being*, Nat’l Collegiate Athletic Ass’n, <http://www.ncaa.org/health-and-safety> (last  
28 visited October 28, 2020).

29       <sup>4</sup> *Membership*, Nat’l Collegiate Athletic Ass’n, <http://www.ncaa.org/about/who-we-are/membership> (last visited November 12, 2020).

1 NCAA Const., Art. 1 § 1.2(a), (b).

2 25. The NCAA Constitution also defines one of its “Fundamental Polic[ies]” as the  
3 requirement that “[m]ember institutions shall be obligated to apply and enforce this legislation,  
4 and the infractions process of the Association shall be applied to an institution when it fails to  
5 fulfill this obligation.” NCAA Const., Art. 1 § 1.3.2.

6 26. Article 2.2 of the NCAA Constitution specifically governs the “Principle of  
7 Student-Athlete Well-Being[,]” and provides:

8  
9 **2.2 The Principle of Student-Athlete Well-Being.**

10 Intercollegiate athletics programs shall be conducted in a manner  
11 designed to protect and enhance the physical and educational well-  
12 being of student-athletes. (Revised: 11/21/05[.])

13 **2.2.3 Health and Safety.**

14 It is the responsibility of each member institution to protect the health  
15 of, and provide a safe environment for, each of its participating  
16 student-athletes. (Adopted: 1/10/95[.])

17 27. To accomplish this purpose, the NCAA promulgates and implements standard sport  
18 regulations and requirements, such as the NCAA Constitution, Operating Bylaws, and  
19 Administrative Bylaws. These NCAA documents provide detailed instructions on game and  
20 practice rules, player eligibility, scholarships, and player well-being and safety. Both NCAA  
21 member institutions, including schools like USC, and NCAA conferences are obligated to abide by  
22 the NCAA’s rules and requirements. Specifically, according to the NCAA Constitution: “Each  
23 institution shall comply with all applicable rules and regulations of the Association in the conduct of  
24 its intercollegiate athletics programs . . . Members of an institution’s staff, student-athletes, and  
25 other individuals and groups representing the institution’s athletics interests shall comply with the  
26 applicable Association rules, and the member institution shall be responsible for such compliance.”  
27 NCAA Const., Art. 2 § 2.8.1.

28 28. The NCAA publishes a health and safety guide termed the Sports Medicine  
Handbook (the “Handbook”). The Handbook, which is produced annually, includes the NCAA’s

1 official policies and guidelines for the treatment and prevention of sports-related injuries, as well as  
2 return-to-play guidelines, and recognizes that “student-athletes rightfully assume that those who  
3 sponsor intercollegiate athletics have taken reasonable precautions to minimize the risks of injury  
4 from athletics participation.”<sup>5</sup>

5 29. The NCAA, therefore, holds itself out as both a proponent of and authority on the  
6 treatment and prevention of sports-related injuries upon which NCAA athletes, including Matthew  
7 Gee, during his life, as well as schools like USC, could rely for guidance on player-safety issues.

8 30. Matthew Gee relied upon the NCAA’s authority and guidance to protect his health  
9 and safety by treating and preventing head-related injuries, including the effects of those head  
10 injuries later on in his life.

11 31. As compared to Matthew Gee, the NCAA was in a superior position to know of and  
12 mitigate the risks of sustaining concussions and other TBIs while playing football at USC. It failed  
13 to do so.

## 14 **II. Decades of Studies Firmly Establish the Dangers of Football-Related Concussions.**

15 32. Throughout the twentieth century and into the twenty-first century, studies have  
16 firmly established that repetitive and violent impacts to the head can cause concussions and TBIs,  
17 with a heightened risk of long-term injuries and impacts, including—but not limited to—memory  
18 loss, dementia, depression, Alzheimer’s disease, Parkinson’s disease, and CTE.

19 33. Such violent impacts to the head are a one-way street for those who experience  
20 them. As Jonathan J. Russin—Assistant Surgical Director at the USC Neurorestoration Center at  
21 the Keck School of Medicine—has stated, “[t]here’s no way to undo a traumatic brain injury,” and  
22 one’s “best bet is to avoid concussions altogether.”<sup>6</sup>

23 34. To better understand the results of these studies, a brief introduction to concussions  
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25 <sup>5</sup> John T. Parsons, *2014-15 NCAA Sports Med. Handbook*, Nat’l Collegiate Athletic Ass’n  
26 (Aug. 2014), <https://www.ncaa.org/sites/default/files/SMHB%20Mental%20Health%20INterventions.pdf>.

27 <sup>6</sup> Deanna Pai, *Do Concussions Increase the Risk of Stroke or Brain Cancer?*, Keck Sch. of  
28 Med. at USC, <https://bit.ly/2MzSkkC> (last visited Oct. 19, 2020).

1 in football follows.

2 A. An Overview of Concussions in Football.

3 35. A TBI is an injury to the brain that comes as the result of the application of either  
4 external physical force or rapid acceleration and deceleration forces, which disrupts brain function  
5 in a manner that causes impairments in cognitive and/or physical function.

6 36. A concussion is a TBI initiated by an impact to the head, which causes the head and  
7 brain to move rapidly back and forth. The movement causes the brain to bounce around or twist  
8 within the skull, damaging brain cells and leading to harmful chemical changes in the brain.

9 37. The human brain is made of soft tissue, cushioned by spinal fluid, and encased in a  
10 hard skull. During everyday activity, the spinal fluid protects the brain from crashing against the  
11 skull. But relatively minor impacts—including not only direct blows to the head, but also blows to  
12 the body and movements that cause the neck to whiplash—can move the brain enough to press  
13 through the spinal fluid, knock against the inside of the skull, and cause concussions.

14 38. Concussions typically occur when linear and rotational accelerations impact the  
15 brain through either direct impact to the head or indirect impacts that whiplash the head. During the  
16 course of a college football season, studies have shown that athletes can receive more than 1,000  
17 impacts greater than 10 Gs. This is slightly more force than a fighter pilot receives from performing  
18 maximal maneuvers. The majority of football-related hits to the head exceed 20 Gs, with some  
19 going well over 100 Gs.

20 i. *Concussion Symptoms.*

21 39. When a collegiate athlete suffers a severe impact to the head, he may experience  
22 concussion-related symptoms, including:

- 23 • “seeing stars” and feeling dazed, dizzy, or lightheaded;
- 24 • memory loss;
- 25 • nausea or vomiting;
- 26 • headaches;
- 27 • blurred vision and sensitivity to light;



- 1 • slurred speech or saying things that do not make sense;
- 2 • difficulty concentrating, thinking, or making decisions;
- 3 • difficulty with coordination or balance;
- 4 • feeling anxious or irritable for no apparent reason; and
- 5 • feeling overly tired.

6 40. A collegiate athlete may not recognize the signs and/or symptoms of a concussion,  
7 and, more often, the effect of the concussion itself prevents him from recognizing them. Because of  
8 that, he may put himself at risk of further injury by returning to a game after a concussion. Brains  
9 that have not had time to properly heal from a concussion are particularly susceptible to further  
10 injury.

11 ii. *Post-Concussion Treatment.*

12 41. After a concussion, the brain needs time to heal. Doctors generally prohibit  
13 individuals from returning to normal activities—certainly, including contact sports—until all  
14 symptoms have subsided. They do so because, immediately after a concussion, the brain is  
15 particularly vulnerable to further injury. Even after the immediate effects have worn off, a person  
16 who has suffered a concussion is four to six times more likely to receive another concussion than a  
17 person who has been concussion-free.

18 42. The length of the healing process varies from person to person and from concussion  
19 to concussion. Symptoms may even last for one or two weeks.

20 43. Individuals who do not recover from a concussion within a few weeks are diagnosed  
21 with post-concussion syndrome. The symptoms of post-concussion syndrome can last for months,  
22 and sometimes can even be permanent. Generally, people suffering from post-concussion syndrome  
23 are referred to specialists for additional medical help.

24 44. Still, many people think of concussions as short-term, temporary injuries. However,  
25 decades of scientific research demonstrate that the effects of concussions are anything but  
26 temporary.

1           B.       Studies Confirm the Dangers and Long-Term Effects of Concussions.

2           45.       Two of the leading studies of the long-term effects of concussions were conducted  
3 by Boston University’s Center for the Study of Traumatic Encephalopathy and the Brain Injury  
4 Research Institute. These studies showed the “devastating consequences” of repeated concussions,  
5 including that they lead to an increased risk of depression, dementia, and suicide. These studies  
6 have also demonstrated that repeated concussions trigger progressive degeneration of the brain  
7 tissue, including the build-up of an abnormal protein called the “tau protein.”

8           46.       In his early studies, Dr. Robert Cantu of the Boston University Center for the Study  
9 of Traumatic Encephalopathy found evidence of CTE in ninety (90) of ninety-four (94) (96%)  
10 autopsied brains of former National Football League (“NFL”) players. A recent update to these  
11 studies found CTE in a staggering 110 of 111 (99%) former NFL players and forty-eight (48) of  
12 fifty-three (53) former college players (91%).<sup>7</sup>

13          47.       These more recent studies were neither aberrations nor surprises but confirmations of  
14 what was already known or readily apparent from the existing medical literature.

15          48.       Studies like these, which establish the devastating dangers related to TBIs, date back  
16 to the early twentieth century. For example, in an article in the 1905 multi-volume medical text *A*  
17 *System of Medicine*, surgeon Sir William Bennett noted that the dangers from TBIs can arise just as  
18 easily when “no loss of consciousness occurs at all[,]” and that such injuries “may in the end have  
19 far graver results” due to their “escap[ing] treatment altogether in the first instance” given their less  
20 severe appearance.<sup>8</sup> Bennett noted that the imposition of a strict treatment regimen immediately  
21 after an injury, during initial recovery, and following the initial recovery period, was essential to the  
22 “treatment of all cases of concussion of the brain, whether they be severe or slight[.]”

23          49.       Some early articles from this period began to recognize the unique dangers presented  
24 by football, specifically. The editors of the *Journal of the American Medical Association* recognized

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25                   <sup>7</sup> Jesse Mez, MD, MS, et al., *Clinicopathological Evaluation of Chronic Traumatic*  
26 *Encephalopathy in Players of Am. Football*, 318 JAMA 4, 360–370 (2017).

27                   <sup>8</sup> Sir William Bennett, *Some Milder Forms of Concussion of the Brain*, *A System of Med.*,  
28 Vol. 8 231-32 (2d ed. 1910).

1 the long-term risks of such head injuries very early on, writing in 1905 that “[t]o be a cripple or  
2 lunatic for life is paying high for athletic emulation” via football.<sup>9</sup> Similarly, the risks of  
3 concussions in football were discussed in a 1906 article by Dr. Edward Nichols, who observed that  
4 a concussed player might go through multiple plays before his teammates noticed his altered mental  
5 state.<sup>10</sup>

6 50. Beginning with studies on the brain injuries suffered by boxers in the 1920s, medical  
7 science began to clearly recognize the debilitating effects of concussions and other TBIs, connect it  
8 to contact sports (including football), and find that repetitive head impacts can cause permanent  
9 brain damage and increased risk of long-term cognitive decline and disability.

10 51. For instance, in 1927, Doctors Michael Osnato and Vincent Giliberti discussed a  
11 disease they called traumatic encephalitis in an article on post-concussion damage in *Archives of*  
12 *Neurology & Psychiatry*, concluding that brain disease could manifest in “young men knocked out  
13 in football and other games,” but noting that the issue had “not received adequate attention.”<sup>11</sup>  
14 Then, in 1928, Pathologist Dr. Harrison Martland published a study called “Punch Drunk” in the  
15 *Journal of the American Medical Association*, where he described the clinical spectrum of  
16 abnormalities found in nearly fifty (50) percent of boxers who had been knocked out or who had  
17 suffered a considerable impact to the head.<sup>12</sup>

18 52. Countless studies were later conducted on boxers suffering chronic neurological  
19 symptoms as a result of repeated head injuries, and who displayed signs of dementia and  
20 impairment of motor functions.<sup>13</sup> As incidents of chronic encephalopathy increased, they were often

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21 <sup>9</sup> Editors, *The Football Mortality*, 39 JAMA 1464 (1905).

22 <sup>10</sup> Edward Nichols, *The Physical Aspect of Am. Football*, 154 Bos. Med. & Surgical J.1  
23 (1906).

24 <sup>11</sup> Michael Osnato & Vincent Giliberti, *Postconcussion Neurosis-Traumatic Encephalitis*, 18  
25 *Archives of Neurology & Psychiatry* 181 (1927).

26 <sup>12</sup> Dr. Harrison S. Martland, *Punch Drunk*, 91 JAMA 1103 (1928).

27 <sup>13</sup> See, e.g., E. Guttmann & C.E. Winterstein, *Disturbances of Consciousness After Head*  
28 *Injuries: Observations on Boxers*, 84 J. of Mental Sci. 347 (Mar. 1938); Harry L. Parker, *Traumatic*  
*Encephalopathy ('Punch Drunk') of Professional Pugilists*, 15 J. of Neurology & Psychopathology  
20 (July 1934); C.E. Winterstein, *Head Injuries Attributable to Boxing*, 2 Lancet 719 (Sept. 1937).

1 characterized as a “Parkinsonian” pattern of progressive decline. However, in a chapter of a mid-  
2 twentieth century book on brain injuries, psychiatrists Karl M. Bowman and Abram Blau coined the  
3 term “chronic traumatic encephalopathy” to explain the deterioration of a boxer’s mental state over  
4 time.<sup>14</sup>

5 53. In 1936, Dr. Edward J. Carroll, Jr. wrote an article further recognizing “punch-drunk  
6 syndrome’s” seriousness, stating that “no head blow is taken with impunity, and [] each knock-out  
7 causes definite and irreparable damage. If such trauma is repeated for a long enough period, it is  
8 inevitable that nerve cell insufficiency will develop ultimately, and the individual will become  
9 punch-drunk.” He also noted that in addition to boxers, punch drunk had been recognized among  
10 football players.<sup>15</sup>

11 54. The next year, the American Football Coaches Association published a report  
12 warning that players who suffer even “one concussion” should be removed from play.<sup>16</sup>

13 55. In 1952, an article published in *The New England Journal of Medicine* first  
14 recommended a “three-strike rule” for concussions in football, demanding that players cease to play  
15 football permanently after receiving their third concussion.<sup>17</sup>

16 56. Starting in the late 1960s, the medical community began focusing on the effects of  
17 concussion-related injuries in football. In a 1967 study, Doctors John R. Hughes and D. Eugene  
18 Hendrix examined how severe impacts affected brain activity in football players by utilizing  
19 electroencephalograms (“EEGs”).<sup>18</sup> Several years after that, a potentially fatal condition known as  
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21 <sup>14</sup> K.M. Bowman & A. Blau, *Psychotic States Following Head and Brain Injury in Adults*  
22 *and Children*, Injuries of the Skull, Brain and Spinal Cord: Neuropsychiatric, Surgical, and Medico-  
23 Legal Aspects 309 (S. Brock, ed. 1940).

24 <sup>15</sup> Edward J. Carroll, Jr., *Punch-Drunk*, 191 *Am. J. Med. Sci.* 706 (1936).

25 <sup>16</sup> Proceedings of the Seventeenth Annual Meeting of the American Football Coaches  
26 Association (Dec. 29, 1937) (“Sports demanding personal contact should be eliminated after an  
27 individual has suffered a concussion.”).

28 <sup>17</sup> Augustus Thorndike, *Serious Recurrent Injuries of Athletes—Contraindications to*  
*Further Competitive Participation*, 247 *New Eng. J. Med.* 554, 555-56 (1952).

<sup>18</sup> John R. Hughes & D. Eugene Hendrix, *Telemetered EEG From A Football Player In*  
*Action*, 24 *Electroencephalography & Clin. Neurophysiology* 183 (1968).

1 “Second Impact Syndrome” was identified, which is a re-injury to an already-concussed brain that  
2 triggers swelling the skull cannot accommodate.

3 57. In 1975, the Chief Medical Officer of the British Boxing Board of Control suggested  
4 boxers were not the only persons or athletes vulnerable to the risk of long-term brain injuries,  
5 stating:

6 Irreversible brain damage caused by regular excessive punching can  
7 cause a boxer to become punch drunk, a condition known  
8 euphemistically in medical terms as [Chronic] Traumatic  
9 Encephalopathy. The condition can be caused by other hazards of  
10 contact sports—taking too many falls whilst hunting or steeple  
11 chasing or the continual use of brute force rather than skill in the  
12 rugby field or heading a football incessantly over many years.  
13 **Anything which entails intermittent trauma to the head can cause  
14 it.**<sup>19</sup> (emphasis added).

15 58. Overall, countless studies—published in prominent medical journals such as the  
16 *Journal of the American Medical Association*, *Neurology*, *The New England Journal of Medicine*,  
17 and *Lancet*—warned of the dangers of single concussions, multiple concussions, and/or football-  
18 related head trauma from multiple concussions and head injuries. These studies collectively  
19 established that:

- 20 • repetitive head trauma in contact sports, including football, has  
21 potentially dangerous long-term effects on brain function;
- 22 • traumatic encephalopathy (dementia pugilistica) is caused by  
23 repeated sub-concussive and concussive blows to the head;
- 24 • acceleration and rapid deceleration of the head that results in  
25 brief loss of consciousness also results in a tearing of the axons  
26 (brain cells) in the brainstem;
- 27 • with respect to head injuries in athletes who play contact sports,  
28 there is a relationship between neurologic pathology and the  
length of the athlete’s career;
- immediate retrograde memory issues occur following  
concussions;
- head injuries require recovery time without risk of subjection to  
further injury;
- a football player who suffers a concussion requires significant  
rest before being subjected to further contact; and
- minor head trauma can lead to neuropathological and

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<sup>19</sup> J.W. Graham, *Eight, Nine, Out! Fifty Years as Boxer’s Doctor*, 56 (1975).

1 neurophysiological alterations, including neuronal damage,  
2 reduced cerebral blood flow, altered brainstem evoked  
potentials, and reduced speed of information processing.

3 59. As a result of these studies, medical professionals began recommending changes to  
4 the game of football and how concussion-related injuries should be handled.

5 60. By 1991, Dr. Robert Cantu, the American Academy of Neurology, and the Colorado  
6 Medical Society had developed return-to-play criteria for football players suspected of sustained  
7 head injuries.

8 61. In 2003, an NCAA concussion study concluded that football players who had  
9 previously sustained a concussion were more likely to have future concussion injuries. Another  
10 2003 NCAA concussion study concluded that collegiate football players “may require several days  
11 for recovery of symptoms, cognitive dysfunction, and postural instability after [a] concussion[,]”  
12 and that concussions are “followed by a complex cascade of ionic, metabolic, and physiological  
13 events that can adversely affect cerebral function for several days to weeks.”<sup>20</sup>

14 62. Following these studies, in 2004, the National Athletic Trainers’ Association  
15 published a position statement, recommending baseline cognitive and postural-stability testing, as  
16 well as return-to-play recommendations, including holding out athletes who exhibit symptoms of a  
17 suspected head injury.

18 63. Building upon that, a convention of neurological experts met in Prague in 2004 with  
19 the aim of providing recommendations for the improvement of the safety and health of athletes who  
20 suffer concussive injuries in ice hockey, rugby, football, and other sports, based on the most up-to-  
21 date research. These experts recommended that a player never be returned to play while  
22 symptomatic, and coined the phrase, “when in doubt, sit them out.”

23 64. Ultimately, while the NCAA knew of the harmful effects of TBIs (and other head  
24 injuries) on athletes for decades, they ignored these facts and failed to institute any meaningful  
25 methods of warning and/or protecting the athletes, including Matthew Gee and other USC athletes.

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26 <sup>20</sup> Michael McCrea, et al., *Acute Effects and Recovery Time Following Concussion in*  
27 *Collegiate Football Players, The NCAA Concussion Study*, *The Journal of the Am. Med. Ass’n*  
28 (Nov. 19, 2003), available at <http://jama.jamanetwork.com/article.aspx?articleid=197668>.

1 For the NCAA, the continued expansion and operation of college football was simply too profitable  
2 to put at risk.

3 **III. The NCAA Ignores the Dangers of Concussions and Fails to Implement Adequate**  
4 **Concussion Management Protocols and Requirements.**

5 65. For decades, the NCAA has been aware—through its own institutional knowledge,  
6 internal research, and current medical science, among other sources of information—that severe  
7 and/or repeated head impacts can lead to long-term brain injuries, including memory loss, dementia,  
8 depression, and CTE. Unfortunately, while Defendant knew about the harmful and devastating  
9 effects of these sub-concussive and concussive injuries, it recklessly ignored these facts and failed  
10 to implement reasonable concussion management protocols to protect its athletes, including  
11 Matthew Gee.

12 66. But as to college football, including USC’s football program, the NCAA continued  
13 to govern, support, and profit from the sport without disclosing what it knew to student-athletes,  
14 including Matthew Gee.

15 A. NCAA Fails to Adopt Any Concussion Protocols for Decades.

16 67. Since at least 1933, the NCAA has known of the serious nature of concussions and  
17 other head injuries in college football, and even recognized the need for appropriate concussion  
18 management protocols. In its 1933 Sports Medicine Handbook—which it distributed to all member  
19 institutions—the NCAA specifically recognized that head injuries warrant special attention and  
20 should not be regarded lightly.

21 68. The 1933 Sports Medicine Handbook then provided information for school and  
22 college doctors, coaches, and trainers to identify the signs and symptoms of concussions, as well as  
23 methods to be used on the sidelines for treating them. It discussed head injuries, stating that they  
24 “are in a category by themselves and warrant special attention[,]” as they “may be, and often are  
25 more severe in their immediate and remote consequences” than other injuries. Notably, the 1933  
26 Sports Medicine Handbook recommended that, when concussion-related symptoms lasted longer  
27 than two days, players “should not be permitted to compete for 21 days or longer, if at all.” It also

1 stated, “[t]here is definitely a condition described as ‘punch drunk’ and often recurrent concussion  
2 cases in football and boxing demonstrate this[,]” and that “[a]ny individual who is knocked  
3 unconscious repeatedly on slight provocation should be forbidden to play body-contact sport.”

4 69. The NCAA recognizes that its Sports Medicine Handbook “may constitute some  
5 evidence of the legal standard of care,” and has publicly recognized its duty and moral obligation to  
6 protect collegiate athletes. As NCAA President Mark Emmert testified to the Senate Commerce  
7 Committee in January 2014, “I will unequivocally state we have a clear moral obligation to make  
8 sure we do everything we can to protect and support student-athletes.”

9 70. Indeed, in the September 1968 issue of NCAA News, the NCAA published an article  
10 entitled *Dangers of Grid Head Injuries Cited by Safeguards Committee*. In the article, the NCAA  
11 Committee on Competitive Safeguards and Medical Aspects of Sport issued a statement on the  
12 dangers of repeated head injuries in football, stating:

13 [T]hose individuals who have been rendered unconscious, even  
14 momentarily, in a given game should never be allowed to play again  
15 in the same game and not allowed to return to contact until all  
16 symptoms have cleared up entirely and he has been checked by a  
17 competent medical authority.

18 71. Rather than inform Matthew Gee of these risks or implement protocols to protect and  
19 safeguard him from TBI-related injuries (as the NCAA promised to do through the NCAA  
20 Constitution, among other things), Defendant failed to meaningfully adopt or enforce the  
21 internationally accepted guidelines regarding concussion management and return to play protocols  
22 until 2010.

23 72. It was not until April 2010, under mounting public pressure, that the NCAA made  
24 some changes to its concussion treatment protocols, this time enacting a new policy that required its  
25 member institutions to have a Concussion Management Plan (“CMP”) in place for all sports.  
26 However, these changes were little more than a gesture that the NCAA had no plans to enforce, and  
27 were grossly insufficient for purposes of protecting football players.

#### 28 **FACTS SPECIFIC TO MATTHEW GEE**

73. Matthew Gee played football at USC from 1988 to 1992, at the position of



1 linebacker.

2       74.     While playing as a linebacker at USC, Matthew Gee sustained multiple concussions  
3 as well as countless sub-concussive blows to the head. No adequate protocols to identify, manage,  
4 and/or mitigate the effects of such concussions and repetitive sub-concussive impacts were in place  
5 at the time he played at USC. Nevertheless, Matthew was a key team member at USC, playing on  
6 the team during its 1989 and 1990 trips to the Rose Bowl.

7       75.     For about twenty years after Matthew Gee left USC, his life was relatively normal.  
8 He had a wife, multiple children, and was a positive, successful, and contributing member of the  
9 workforce and society. He even started his own insurance business.

10       76.     Starting in or around 2013, however, Matthew’s demeanor began to change. He  
11 began to lose his temper and experience periods of confusion. His mental state fluctuated  
12 frequently, as he lost control of his emotions and impulses, his memory started to fade, and he  
13 became depressed.

14       77.     Over the course of the next several years, Matthew’s mental state and overall  
15 condition continued to decline significantly. In March 2018, he reported to a physician that long  
16 periods—even days—sometimes went by without his having any memory of what had happened.

17       78.     Matthew died on December 31, 2018.

18       79.     Subsequently, tissue samples from Matthew’s brain were sent to Boston  
19 University’s Chronic Traumatic Encephalopathy Center in Boston, Massachusetts.

20       80.     In March 2020, a neuropathological assessment of Matthew’s brain concluded that  
21 Matthew suffered from Chronic Traumatic Encephalopathy. Further, the report found that  
22 Matthew’s CTE “likely contributed to his mood, behavioral, and cognitive dysfunction.”

23       81.     During the time Matthew Gee played college football, there were no adequate  
24 concussion management protocols or policies in place to address and treat concussions (to say  
25 nothing of repetitive sub-concussive impacts) sustained by student-athletes during practice and in  
26 games.

27       82.     In fact, although Matthew Gee sustained repetitive serious blows to the head in  
28

1 practices and games, the NCAA failed to adopt or implement adequate concussion management  
2 safety protocols or return to play guidelines during his time on USC's football team. Each time Gee  
3 suffered a blow to the head, Defendant deprived him of the appropriate medical attention and  
4 treatment that it knew was necessary to monitor, manage, and mitigate the risks associated with  
5 TBIs.

6 83. Such changes would have been easy to make and would have had profound  
7 impacts.<sup>21</sup>

8 84. Had the NCAA disclosed the truth to Matthew Gee, he would have, at minimum,  
9 taken more precautions to protect his head and otherwise ensure his safety while playing football.

10 85. Indeed, had the NCAA been honest with Matthew Gee about the long-term  
11 consequences of taking repeated blows to the head while playing football, he would not have  
12 continued to play football at all, or, at minimum, would have taken additional precautions to  
13 protect himself.

14 86. As a result of these injuries and the NCAA's failure to adhere to a reasonable duty  
15 of care towards Matthew Gee, he developed CTE and died as a result.

16  
17 **FIRST CAUSE OF ACTION**  
**Negligence (Wrongful Death)**

18 87. Plaintiff incorporates by reference the foregoing allegations.

19 88. From its inception and by virtue of its role as the governing body in college  
20 athletics, the NCAA has historically assumed a duty to protect the health and safety of all student-  
21 athletes at member institutions, including Matthew Gee. The NCAA also assumed a duty of care  
22 by voluntarily taking steps to protect and promote the health and safety of its players, including  
23 promulgating safety handbooks and regulations. That duty included an obligation to supervise,  
24 regulate, and monitor the rules of its governed sports, and provide appropriate and up-to-date  
25

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26 <sup>21</sup> See, e.g., Lindsay Tanner, *Football Concussion Rates Plummet After One Simple Rule*  
27 *Change, Study Shows*, TIME (Oct. 2, 2018), [https://www.yahoo.com/news/football-concussion-](https://www.yahoo.com/news/football-concussion-rates-plummet-one-145530797.html)  
28 [rates-plummet-one-145530797.html](https://www.yahoo.com/news/football-concussion-rates-plummet-one-145530797.html).

1 guidance and regulations to minimize the risk of injury to its student-athletes.

2 89. The duties of Defendant included specific obligations to supervise, regulate, and  
3 monitor the rules of its member universities' football programs and provide appropriate and up-to-  
4 date guidance and regulations to minimize the risk of long-term and short-term brain damage to  
5 member schools' football players, including Matthew Gee.

6 90. The NCAA had a duty to educate student-athlete football players on the proper  
7 ways to evaluate and treat TBIs during football games and practices, including repetitive sub-  
8 concussive and concussive injuries. Defendant's duties further included a duty to warn student-  
9 athletes of the dangers of sub-concussive and concussive injuries, of the risks associated with  
10 football before, during, and after they played college football, and as additional information came  
11 to light.

12 91. The NCAA also had a duty not to conceal material information from student-  
13 athlete football players, including Matthew Gee.

14 92. The NCAA breached its duties owed to Matthew Gee by failing to implement,  
15 promulgate, or require appropriate and up-to-date guidelines regarding the evaluation and  
16 treatment of concussions on the playing field, in the locker room, and in the weeks and months  
17 after he sustained concussions, as well as failing to provide treatment for the latent effects of  
18 concussions. These failings included, but are not limited to:

19 (a) failing to adequately recognize and monitor concussive and/or sub-concussive  
20 injuries during football practices and games;

21 (b) failing to adequately inform Gee of the dangers of concussive and/or sub-  
22 concussive injuries;

23 (c) failing to adequately design and implement return to play regulations for  
24 student football players who sustained concussive and/or sub-concussive injuries and/or were  
25 suspected of sustaining such injuries;

26 (d) failing to adequately design and implement procedures to monitor the health  
27 of student football players after they sustained (or were suspected of sustaining) concussive

1 and/or sub-concussive injuries; and

2 (e) failing to adequately provide Gee notification, warning, and treatment for  
3 latent neuro-cognitive and neuro-behavioral effects of concussive and/or sub-concussive  
4 injuries, after the time he left college.

5 93. The NCAA breached its duties to Matthew Gee by failing to disclose, failing to  
6 recognize, and/or being willfully non-observant of: (a) material information regarding the long-  
7 term risks and effects of repetitive head trauma they possessed or should have possessed; (b) the  
8 dangers of concussive and sub-concussive injuries; and (c) the proper ways to evaluate, treat, and  
9 avoid concussive and sub-concussive trauma to football players, including Matthew Gee.

10 94. Matthew Gee relied upon the guidance, expertise, and instruction of the NCAA in  
11 understanding the risks associated with the serious and life-altering concussive and sub-  
12 concussive hits in football.

13 95. At all times, Defendant had superior knowledge of material information regarding  
14 the effect of repeated traumatic head injuries, including through its institutional knowledge of  
15 such effects. Because such information was not readily available to student-athlete football  
16 players, including Matthew Gee, the NCAA knew or should have known that they would act and  
17 rely upon the guidance, expertise, and instruction of Defendant on these crucial medical issues  
18 while attending college and thereafter.

19 96. Repetitive TBIs during college football practices and games have a pathological  
20 and latent effect on the brain. Repetitive exposure to rapid accelerations to the head causes  
21 deformation, twisting, shearing, and stretching of neuronal cells such that multiple forms of  
22 damage take place, including the release of small amounts of chemicals within the brain, such as  
23 protein, which is a signature pathology of the same phenomenon as boxer's encephalopathy (or  
24 "punch drunk syndrome") studied and reported by Harrison Martland in 1928, and explicitly  
25 connected to football by the NCAA itself not long after.

26 97. In addition, repetitive concussive and sub-concussive blows to the head can  
27 significantly increase a person's risk of developing Alzheimer's disease, especially at an early

1 age, as well as CTE.

2 98. Matthew Gee experienced repetitive head impacts during his college football  
3 career, which significantly increased his risk of developing neurodegenerative disorders and  
4 diseases, including but not limited to CTE and other similar cognitive-impairing conditions. And  
5 Gee did, in fact, develop CTE, which ultimately led to his death.

6 99. The repetitive head accelerations, hits, and TBIs to which Matthew Gee was  
7 exposed to as a student-athlete football player presented risks of latent and long-term debilitating  
8 chronic illnesses. Absent the NCAA's negligence, the risk of harm to Matthew Gee would have  
9 been materially decreased and Matthew Gee would not have developed CTE.

10 100. Thus, as a direct and proximate result of Defendant's negligence, Matthew Gee  
11 died.

12 101. As a result of its negligence, NCAA is liable to Plaintiff for the full measure of  
13 damages and other relief allowed under applicable law for causing the death of Matthew Gee,  
14 including but not limited to the loss of Matthew Gee's care, support, advice, companionship,  
15 financial support, future and past earnings, and moral support.

16  
17 **SECOND CAUSE OF ACTION**  
**Negligence (Survival Action)**

18 102. Plaintiff incorporates by reference the foregoing allegations.

19 103. From its inception and by virtue of its role as the governing body in college  
20 athletics, the NCAA has historically assumed a duty to protect the health and safety of all student-  
21 athletes at member institutions, including Matthew Gee. The NCAA also assumed a duty of care  
22 by voluntarily taking steps to protect and promote the health and safety of its players, including  
23 promulgating safety handbooks and regulations. That duty included an obligation to supervise,  
24 regulate, and monitor the rules of its governed sports, and provide appropriate and up-to-date  
25 guidance and regulations to minimize the risk of injury to its student-athletes.

26 104. The duties of the NCAA included specific obligations to supervise, regulate, and  
27 monitor the rules of its member institutions' football programs and provide appropriate and up-to-

1 date guidance and regulations to minimize the risk of long-term and short-term brain damage to  
2 student-athlete football players, including Matthew Gee.

3 105. The NCAA had a duty to educate student-athlete football players, including Gee, on  
4 the proper ways to evaluate and treat head injuries during and after football games and practices,  
5 including repetitive concussive and sub-concussive injuries. The NCAA's duties further included a  
6 duty to warn athletes of the dangers of concussive and sub-concussive injuries and of the risks  
7 associated with football before, during, and after they played college football, and as additional  
8 information came to light.

9 106. The NCAA had a duty not to conceal material information from student-athlete  
10 football players, including Gee.

11 107. The NCAA breached its duties owed to Matthew Gee by failing to implement,  
12 promulgate, or require appropriate and up-to-date guidelines regarding the evaluation and  
13 treatment of concussions on the playing field, in the locker room, and in the weeks and months  
14 after he sustained concussions, as well as by failing to provide treatment for the latent effects of  
15 these concussions. These failings included, but are not limited to:

- 16 (a) failing to adequately recognize and monitor concussive and/or sub-concussive  
17 injuries during football practices and games;
- 18 (b) failing to adequately inform Gee of the dangers of concussive and/or sub-  
19 concussive injuries;
- 20 (c) failing to adequately design and implement return to play regulations for  
21 student football players who sustained concussive and/or sub-concussive injuries  
22 and/or were suspected of sustaining such injuries;
- 23 (d) failing to adequately design and implement procedures to monitor the health  
24 of student football players after they sustained (or were suspected of sustaining)  
25 concussive and/or sub-concussive injuries; and
- 26 (e) failing to adequately provide Gee notification, warning, and treatment for  
27 latent neuro-cognitive and neuro-behavioral effects of concussive and/or sub-

1 concussive injuries, after the time he left college.

2 108. The NCAA breached its duties to student football players, including Gee, by  
3 failing to disclose, failing to recognize, and/or being willfully non-observant of: (a) material  
4 information regarding the long-term risks and effects of repetitive head trauma they possessed or  
5 should have possessed; (b) the dangers of concussive and sub-concussive injuries; and (c) the  
6 proper ways to evaluate, treat, and avoid concussive and sub-concussive trauma to football  
7 players, including Gee.

8 109. As a football player at USC, Gee and those like him relied upon the guidance,  
9 expertise, and instruction of the NCAA in understanding the risks associated with serious and life-  
10 altering concussive and sub-concussive hits in football.

11 110. At all times, the NCAA had superior knowledge of material information regarding  
12 the effects of repeated head injuries, including through its institutional knowledge of such effects.  
13 Because such information was not readily available to student-athlete football players, including  
14 Gee, NCAA knew or should have known that they would act and rely upon its guidance, expertise,  
15 and instruction on these crucial medical issues while attending USC, and thereafter.

16 111. Repetitive head impacts during college football practices and games have a  
17 pathological and latent effect on the brain. Repetitive exposure to rapid accelerations to the head  
18 causes deformation, twisting, shearing, and stretching of neuronal cells such that multiple forms of  
19 damage take place, including the release of small amounts of chemicals within the brain, such as tau  
20 protein, which is a signature pathology of the same phenomenon as boxer's encephalopathy (or  
21 "punch drunk syndrome") studied and reported by Harrison Martland in 1928.

22 112. In addition, repetitive concussive and sub-concussive blows to the head can  
23 significantly increase a person's risk of developing neurodegenerative disorders and diseases,  
24 including but not limited to CTE, Alzheimer's disease, and other similar cognitive-impairing  
25 conditions, especially at an early age.

26 113. Student-athletes, including Gee, experienced repetitive concussive and sub-  
27 concussive impacts during their college football careers, which significantly increased their risk of

1 developing neurodegenerative disorders and diseases, including but not limited to CTE, and Gee  
2 did, in fact, develop CTE.

3 114. The repetitive head accelerations and hits to which student-athletes, including Gee,  
4 were exposed presented risks of latent and long-term debilitating chronic illnesses. Absent the  
5 NCAA's negligence, the risk of harm to Gee would have been materially decreased and he would  
6 not have developed debilitating physical and mental health issues prior to his death.

7 115. As a direct result of the NCAA's negligence, prior to the time of his death, Gee  
8 incurred economic and non-economic damages in the form of pain and suffering, permanent brain  
9 damage, medical costs, care expenses, other out of pocket expenses, lost time, lost earnings, and a  
10 significant loss of enjoyment of life. As a result, Defendant is liable to Plaintiff for the full measure  
11 of damages allowed under applicable law for causing these harms to Matthew Gee through its  
12 negligence.

### 13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff Alana Gee, individually and as Executor of the Estate of Matthew  
15 Gee, respectfully requests that the Court enter an Order providing for the following relief:

16 A. Declare that Defendant's actions, as set out above, constitute negligence and caused  
17 the wrongful death of Matthew Gee;

18 B. Award all economic, monetary, actual, consequential, compensatory, and punitive  
19 damages caused by Defendant's conduct, including, without limitation, damages for past medical  
20 expenses, other out of pocket expenses, lost time and interest, lost earnings, death, and other  
21 damages;

22 C. Award Plaintiff restitution and/or disgorgement of all monies Defendant has unjustly  
23 received as a result of its misconduct alleged herein;

24 D. Award Plaintiff reasonable litigation expenses and attorneys' fees;

25 E. Award Plaintiff pre- and post-judgment interest, to the extent allowable;

26 F. Enter injunctive and/or declaratory relief as is necessary to protect the interests of  
27 Plaintiff; and



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G. Award such other and further relief as equity and justice may require.

**JURY DEMAND**

Plaintiff demands a trial by jury for all issues so triable.

Respectfully submitted,

**ALANA GEE**, individually and as Executor of the  
Estate of Matthew Gee, deceased,



Dated: November 12, 2020

By: \_\_\_\_\_  
*One of Plaintiff's Attorneys*

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*Attorneys for Plaintiff*

# **Exhibit A**



# STATE OF CALIFORNIA

## CERTIFICATION OF VITAL RECORD

# County of Ventura

VENTURA, CALIFORNIA

3052018266038

### CERTIFICATE OF DEATH

3201856005550

STATE FILE NUMBER		LOCAL REGISTRATION NUMBER			
1. NAME OF DECEDENT—FIRST (Given) <b>MATTHEW</b>		2. MIDDLE <b>SCOTT</b>		3. LAST (Family) <b>GEE</b>	
AKA, ALSO KNOWN AS - Include full AKA (FIRST, MIDDLE, LAST)					
4. DATE OF BIRTH mm/dd/yyyy <b>11/22/1969</b>		5. AGE Yrs. <b>49</b>	6. UNDER 24 HOURS Months Days Hours Minutes <b>0 0 0 0</b>	7. SEX <b>M</b>	
8. BIRTH STATE/FOREIGN COUNTRY <b>KS</b>	10. SOCIAL SECURITY NUMBER <b>513-70-7245</b>	11. EVER IN U.S. ARMED FORCES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	12. MARITAL STATUS/SROP <sup>1</sup> at Time of Death <b>MARRIED</b>		7. DATE OF DEATH mm/dd/yyyy <b>12/31/2018</b>
13. EDUCATION - Highest Level/Degree (see worksheet on back) <b>BACHELOR</b>		14/15. WAS DECEDENT HISPANIC/LATINO/SPANISH? (If yes, see worksheet on back) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		18. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) <b>CAUCASIAN</b>	
17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED <b>BROKER</b>			18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) <b>COMMERCIAL INSURANCE</b>		19. YEARS IN OCCUPATION <b>26</b>
20. DECEDENT'S RESIDENCE (Street and number, or location) <b>661 OAK TREE COURT</b>					
21. CITY <b>SIMI VALLEY</b>		22. COUNTY/PROVINCE <b>VENTURA</b>		23. ZIP CODE <b>93065</b>	24. YEARS IN COUNTY <b>20</b>
25. STATE/FOREIGN COUNTRY <b>CA</b>					
26. INFORMANT'S NAME, RELATIONSHIP <b>ALANA GEE, SPOUSE</b>			27. INFORMANT'S MAILING ADDRESS (Street and number, or rural route number, city or town, state and zip) <b>661 OAK TREE COURT, SIMI VALLEY, CA 93065</b>		
28. NAME OF SURVIVING SPOUSE/SROP—FIRST <b>ALANA</b>		29. MIDDLE <b>MARIA</b>	30. LAST (BIRTH NAME) <b>SOARES</b>		
31. NAME OF FATHER/PARENT—FIRST <b>RONAL</b>		32. MIDDLE <b>LOUIS</b>	33. LAST <b>GEE</b>		34. BIRTH STATE <b>KS</b>
35. NAME OF MOTHER/PARENT—FIRST <b>CHARLOTTE</b>		36. MIDDLE <b>ILENE</b>	37. LAST (BIRTH NAME) <b>DICKERMAN</b>		38. BIRTH STATE <b>KS</b>
39. DISPOSITION DATE mm/dd/yyyy <b>01/09/2019</b>		40. PLACE OF FINAL DISPOSITION <b>PARKER CEMETERY 3514 EAST VINE AVENUE, ARKANSAS CITY, KS 67005</b>			
41. TYPE OF DISPOSITION(s) <b>TR/BU</b>		42. SIGNATURE OF EMBALMER <b>BRITTANY GROOT</b>		43. LICENSE NUMBER <b>EMB9339</b>	
44. NAME OF FUNERAL ESTABLISHMENT <b>ROSE FAMILY FUNERAL HOME</b>		45. LICENSE NUMBER <b>FD1760</b>	46. SIGNATURE OF LOCAL REGISTRAR <b>ROBERT M LEVIN, MD</b>		47. DATE mm/dd/yyyy <b>01/07/2019</b>
101. PLACE OF DEATH <b>RESIDENCE - FND</b>					
104. COUNTY <b>VENTURA</b>		105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) <b>661 OAK TREE CT</b>		106. CITY <b>SIMI VALLEY</b>	
107. CAUSE OF DEATH Enter the chain of events --- diseases, injuries or complications --- that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or vascular fibrillation without showing the etiology. DO NOT ABBREVIATE.					
IMMEDIATE CAUSE (Final disease or condition resulting in death) <b>(A) PENDING</b>		108. DEATH REPORTED TO CORONER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		109. BIRTH REPORTED TO CORONER? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Sequentially list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST		110. AUTOPSY PERFORMED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		111. USED IN DETERMINING CAUSE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
112. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107					
113. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, list type of operation and date)					
113A. IF FEMALE, PREGNANT IN LAST YEAR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK					
114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. Decedent Attended Since Decedent Last Seen Alive		115. SIGNATURE AND TITLE OF CERTIFIER <b>CHRIS YOUNG</b>		116. LICENSE NUMBER	117. DATE mm/dd/yyyy
(A) mm/dd/yyyy (B) mm/dd/yyyy		118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE			
119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED.					
MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input checked="" type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		120. INJURED AT WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		121. INJURY DATE mm/dd/yyyy	
122. HOUR (24 Hour)					
123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.)					
124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury)					
125. LOCATION OF INJURY (Street and number, or location, and city, and zip)					
126. SIGNATURE OF CORONER / DEPUTY CORONER <b>CHRIS YOUNG</b>		127. DATE mm/dd/yyyy <b>01/03/2019</b>	128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER <b>CHRIS YOUNG, MEDICAL EXAMINER</b>		

STATE REGISTRAR A B C D E \*010001004082917\* FAX AUTH.# GENSUS TRACT

### CERTIFIED COPY OF VITAL RECORDS STATE OF CALIFORNIA, COUNTY OF VENTURA

This is a true and exact reproduction of the document officially registered and placed on file in the Vital Records Section, Ventura County Public Health Department, if it bears the date of issue in red ink.

001276248

DATE ISSUED **02/06/2019**

*Robert M Levin*  
HEALTH OFFICER  
VENTURA COUNTY, CALIFORNIA

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ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE





# STATE OF CALIFORNIA

## CERTIFICATION OF VITAL RECORD

# County of Ventura

VENTURA, CALIFORNIA

3052018266038

STATE FILE NUMBER

1.1

### PHYSICIAN/CORONER'S AMENDMENT

NO ERASURES, WHITEOUTS, PHOTOCOPIES,  
OR ALTERATIONS

3201856005550

LOCAL REGISTRATION NUMBER

BIRTH  DEATH  FETAL DEATH

TYPE OR PRINT CLEARLY IN BLACK INK ONLY - THIS AMENDMENT BECOMES AN ACTUAL PART OF THE OFFICIAL RECORD

#### PART I INFORMATION TO LOCATE RECORD

INFORMATION AS IT APPEARS ON ORIGINAL RECORD	1A. NAME—FIRST MATTHEW	1B. MIDDLE SCOTT	1C. LAST GEE	2. SEX M
	3. DATE OF EVENT—MM/DD/CCYY 12/31/2018 FND	4. CITY OF EVENT SIMI VALLEY	5. COUNTY OF EVENT VENTURA	

#### PART II STATEMENT OF CORRECTIONS

6. CERTIFICATE ITEM NUMBER	7. INFORMATION AS IT APPEARS ON ORIGINAL RECORD	8. INFORMATION AS IT SHOULD APPEAR
107A	PENDING	COMBINED TOXIC EFFECTS OF ETHANOL AND COCAINE
107AT	-	UNK
112	-	HYPERTENSIVE AND ATHEROSCLEROTIC CARDIOVASCULAR DISEASE, ANOMALOUS SMALL CORONARY ARTERIES, COMPLICATIONS OF HEPATIC CIRRHOSIS, OBSTRUCTIVE SLEEP APNEA, OBESITY
113	-	NO
119	PENDING INVESTIGATION	ACCIDENT
120	-	NO
121	-	12/30/2018
122	-	UNK
123	-	RESIDENCE
124	-	USED DRUGS AND ALCOHOL
125	-	661 OAK TREE CT, SIMI VALLEY, CA 93065

2 OF 2

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DECLARATION OF CERTIFYING PHYSICIAN OR CORONER	9. SIGNATURE OF CERTIFYING PHYSICIAN OR CORONER CHRIS YOUNG	10. DATE SIGNED—MM/DD/CCYY 01/31/2019	11. TYPED OR PRINTED NAME AND TITLE/DEGREE OF CERTIFIER MEDICAL EXAMINER	
	12. ADDRESS—STREET and NUMBER 3291 LOMA VISTA ROAD	13. CITY VENTURA	14. STATE CA	15. ZIP CODE 93003

STATE/LOCAL REGISTRAR USE ONLY	16. OFFICE OF VITAL RECORDS OR LOCAL REGISTRAR STATE REGISTRAR - OFFICE OF VITAL RECORDS	17. DATE ACCEPTED FOR REGISTRATION—MM/DD/CCYY 02/01/2019
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STATE OF CALIFORNIA, DEPARTMENT OF PUBLIC HEALTH, OFFICE OF VITAL RECORDS



FORM VS 24Ae (REV. 1/08)

1.1

#### CERTIFIED COPY OF VITAL RECORDS STATE OF CALIFORNIA, COUNTY OF VENTURA

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DATE ISSUED 02/06/2019

*Robert J. Zuercher*  
HEALTH OFFICER  
VENTURA COUNTY, CALIFORNIA

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ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE



CAVENTUR01

# **Exhibit B**



# Pour-Over Will of MATTHEW S. GEE

I, MATTHEW S. GEE, a resident of Ventura County, California, revoke any prior Wills and codicils made by me and declare this to be my Pour-Over Will.

## Article One Family Information

I am married to ALANA M. GEE.

I have three children. Their names and dates of birth are:

TUCKER SCOTT LOUIS GEE, born on January 17, 1994;

TANNER MITCHELL GEE, born on May 10, 1996; and

MALIA CATHERINE GEE, born on November 6, 2000

All references in my Will to *my children* are to these children, as well as to any children later born to me or adopted by me in a legal proceeding valid in the domestic or foreign jurisdiction in which it occurred.


## Article Two Distribution of My Property

### Section 2.01 Pour-Over to My Revocable Living Trust

I give all of my probate estate, excluding any property over which I have a power of appointment, after expenses and taxes are paid under this Will, to the then-acting Trustee of the GEE TRUST executed February 17, 2000, as restated earlier this date, to be added to the property of that trust. I direct that the Trustee administer the property according to the trust and any amendments made prior to my death.

### Section 2.02 Alternate Disposition

If the trust referred to in Section 2.01 is not in effect at my death, or if for any other reason the pour over fails, I specifically incorporate by reference all the terms of the trust into this Will. I direct my Executor to then establish a new trust under the provisions of that trust and distribute the remainder of my estate, excluding any property over which I have a power of appointment, to that Trustee to administer as provided in the trust.

  
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Initials

Pour-Over Will of MATTHEW S. GEE  
Page 1

## Article Three

### Designation and Succession of Fiduciaries

#### **Section 3.01    Executor**

I nominate ALANA M. GEE as my Executor. If ALANA M. GEE ceases or fails to act as my Executor for any reason, I nominate the following as my successor Executors in the order named:

RONAL GEE and CHARLOTTE GEE, jointly, or if either of them is unable or unwilling to serve for any reason, the other shall serve alone; and then

PHIL McPHERSON and MARY McPHERSON jointly, or if either of them is unable or unwilling to serve for any reason, the other shall serve alone.

#### **Section 3.02    Custodian or Successor Owner of Other Accounts**

If I am no longer able to act due to incapacity or death, or if I should resign as the custodian for any accounts established under the California Uniform Transfer to Minors Act (CUTMA) or the California Uniform Gift to Minors Act (CUGMA), or as owner of 529 Plans (college savings accounts), I nominate the person(s) serving, or named to serve, as my Executor(s) under this Will, as custodian(s), or successor owner(s), of said accounts.

#### **Section 3.03    Appointment of Special Executor**

If for any reason my Executor is unwilling or unable to act as Executor with respect to any provision or provisions of my Will, my Executor will appoint, in writing, an individual, a bank, or a trust company that is not related or subordinate to any beneficiary within the meaning of Internal Revenue Code Section 672(c) to act as a Special Executor. The Special Executor appointed under this provision will serve for the purposes and with respect to the provisions specified by my Executor, and my Executor may revoke the appointment at will.

Any Special Executor appointed under this provision may exercise all administrative and fiduciary powers granted by my Will unless expressly limited in writing by the appointing Executor. Any Special Executor may resign at any time by delivering a written resignation to my Executor.


#### **Section 3.04    Guardian of the Person for Minor Children**

I appoint the following, in the order named, as guardian of the person for each child of mine who needs a guardian:

CATHLEEN SOARES and LEILANI BAKER, jointly, or if either of them is unable or unwilling to serve for any reason, the other shall serve alone; and then

PHIL McPHERSON and MARY McPHERSON, jointly, or if either of them is unable or unwilling to serve for any reason, the other shall serve alone.

I direct that no guardian be required to give any bond in any jurisdiction. But if a guardian's bond is required by law or by court determination, no sureties will be required on the bond.

  
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Initials

Pour-Over Will of MATTHEW S. GEE

Page 2

### **Section 3.05 Guardian of the Estate for Minor Children**

If it becomes necessary to appoint a guardian of the estate of any child of mine, I nominate the person(s) serving, or named to serve, as my Executor(s) under this Will, in the order named, to serve as guardian(s) of that child's estate.

## **Article Four Powers of Fiduciaries**

### **Section 4.01 Grant of Powers**

My Executor may perform every act reasonably necessary to administer my estate and any trust established under my Will. In addition to this general grant of powers, my Executor is specifically authorized to:

hold, retain, invest, reinvest, sell, and manage any real or personal property, including interests in any form of business entity including limited partnerships and limited liability companies, and life, health, and disability insurance policies, without diversification as to kind, amount, or risk of non-productivity and without limitation by statute or rule of law;

partition, sell, exchange, grant, convey, deliver, assign, transfer, lease, option, mortgage, pledge, abandon, borrow, loan, and contract;

distribute assets of my estate in cash or in kind, or partly in each, at fair market value on the distribution date, without requiring *pro rata* distribution of specific assets and without requiring *pro rata* allocation of the tax bases of those assets;

hold any interest in nominee form, continue businesses, carry out agreements, and deal with itself, other fiduciaries, and business organizations in which my Executor may have an interest;

establish reserves, release powers, and abandon, settle, or contest claims; and

employ attorneys, accountants, custodians for trust assets, and other agents or assistants as my Executor deems advisable to act with or without discretionary powers, and compensate them and pay their expenses from income or principal.

### **Section 4.02 Powers Granted by State Law**

In addition to the above powers, my Executor may, without prior authority from any court, exercise all powers conferred by my Will, by common law, or by the California Probate Code or other statute of the State of California or any other jurisdiction whose law applies to my Will. My Executor has absolute discretion in exercising these powers. Except as specifically limited by my Will, these powers extend to all property held by my fiduciaries until the actual distribution of the property.

### **Section 4.03 Distribution Alternatives**

My Executor may make any payments under my Will:

  
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Initials

Pour-Over Will of MATTHEW S. GEE  
Page 3



directly to a beneficiary;  
in any form allowed by applicable state law for gifts or transfers to minors or persons under disability;  
to a beneficiary's guardian, conservator, or caregiver for the beneficiary's benefit;  
or  
by direct payment of the beneficiary's expenses.

A receipt by the recipient for any distribution will fully discharge my Executor if the distribution is consistent with the proper exercise of my Executor's duties under my Will.

## **Article Five**

### **Administrative Provisions**

#### **Section 5.01 Court Proceedings**

Any trust established under my Will will be administered in a timely manner; consistent with its terms; free of active judicial intervention; and without order, approval, or other action by any court. The trust will be subject only to the jurisdiction of a court being invoked by the Trustees or by other interested parties, or as otherwise required by law.

#### **Section 5.02 No Bond**

I direct that no Executor be required to give any bond in any jurisdiction. But if a bond is required by law or by court determination, no sureties will be required on the bond.

#### **Section 5.03 Informal Proceedings**

I authorize my personal representative to exercise all powers without court supervision under the Independent Administration of Estates Act of California.

#### **Section 5.04 Compensation and Reimbursement**

Any fiduciary serving under my Will is entitled to reasonable compensation commensurate with services actually performed. In addition, any fiduciary serving under my Will is entitled to reimbursement for reasonable expenses incurred.

#### **Section 5.05 Ancillary Fiduciary**

If any ancillary administration is required or desired, and my domiciliary Executor is unable or unwilling to act as an Ancillary Fiduciary, my domiciliary Executor may have power to designate, compensate, direct, and remove an Ancillary Fiduciary. The Ancillary Fiduciary may either be a person or a corporation. My domiciliary Executor may delegate to the Ancillary Fiduciary any powers granted to my domiciliary Executor as my domiciliary Executor considers to be proper, including the right to serve without bond or without surety on bond. The net proceeds of the ancillary estate will be paid over to the domiciliary Executor.

  
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Initials

Pour-Over Will of MATTHEW S. GEE  
Page 4

## Article Six Taxes, Claims, and Expenses

### **Section 6.01 Payment of Death Taxes, Claims, and Expenses**

The Trustee of the GEE TRUST is authorized to pay expenses incurred for my funeral and for the disposition of my remains, claims against my estate, and expenses of estate administration. Accordingly, I direct my Executor to consult with the Trustee to determine which expenses and claims should be paid by my Executor from property passing under my Will, and which expenses and claims should be paid by the Trustee from the GEE TRUST.

I direct my Executor to follow any instructions contained in the GEE TRUST in making any tax elections, including the allocation of my GST Exemption and any elections relative to the *Deceased Spousal Unused Exclusion Amount*. My Executor will suffer no liability for making or not making any tax election in good faith to any person, including any person not yet in being, whose interest may have been affected.

Any taxes imposed on property passing under and outside my Will because of my death will be apportioned and paid under the provisions of the GEE TRUST, and I incorporate the tax apportionment provisions of the GEE TRUST as part of my Will.

No death taxes may be allocated to or paid from property that is not included in my gross estate for federal estate tax purposes, or that qualifies for the federal estate tax marital or charitable deductions.

### **Section 6.02 Tax and Administrative Elections**

My Executor may exercise any available elections under any applicable income, inheritance, estate, succession, or gift tax law. This authority includes the power to select any alternate valuation date for death tax purposes and the power to determine whether to use any estate administration expenses as estate or income tax deductions. No compensating adjustments are required between income and principal as a result of those determinations unless my Executor determines otherwise, or unless required by law.

My Executor, other than my wife or any beneficiary, may elect to have any part of the property in my estate qualify for the federal estate tax marital deduction as qualified terminable interest property under Internal Revenue Code Section 2056(b)(7) (the *QTIP Election*). If no one other than my wife or a beneficiary is nominated to serve or is serving as my Executor, my Executor will nominate, in writing, an individual, a bank, or a trust company that is not related or subordinate to any beneficiary within the meaning of Internal Revenue Code Section 672(c) to act as a Special Executor. The Special Executor's sole responsibility is to elect to have all, none, or part of the property in my estate qualify for the QTIP Election. The nomination of the Special Executor may be made before or after my Executor is appointed.

My Executor will be indemnified and held harmless from any loss, claim, or damage that results from any action taken by a beneficiary against my Executor arising out of my



Initials

Pour-Over Will of MATTHEW S. GEE

Page 5

Executor's decision whether to make the QTIP Election with respect to any portion of the property in my gross estate. My Executor is specifically authorized to use the property in my probate estate to reimburse any expenses incurred by my Trustee in defending against any threatened or actual legal action arising under this provision. Alternatively, my Executor may direct the Trustee of my Revocable Living Trust to reimburse those expenses.

Any tax paid as a result of the inclusion in my taxable estate of property held in a qualified terminable interest property (QTIP) trust created for me by my wife will be apportioned to and collected from the qualified terminable interest property (QTIP) as provided in Section 2207A. But my Executor may waive this right of recovery. To the extent my wife's Will or other governing instrument provides for payment of the tax, my Executor will pursue any right of reimbursement in a manner consistent with that provision.

My Executor is not liable to any beneficiary of my estate for tax consequences that arise as a result of the exercise or nonexercise of any tax elections, or for decisions made concerning the distribution of property in kind in full or partial satisfaction of any beneficiary's interest in my estate.

## **Article Seven General Provisions**

### **Section 7.01 Adopted and Afterborn Persons**

A legally adopted person in any generation and that person's descendants, including adopted descendants, have the same rights and will be treated in the same manner under this Will as natural children of the adopting parent if the person is legally adopted before turning 18 years old. If an adoption was legal in the jurisdiction it occurred in at that time, then the adoption is considered legal.

A fetus *in utero* that is later born alive will be considered a person in being during the period of gestation.

### **Section 7.02 Applicable Law**

The validity and construction of my Will will be determined by the laws of California.

### **Section 7.03 Burial Instructions**

I wish that my remains be buried in the family plot in Parker Cemetery in Parkerfield, Kansas.

### **Section 7.04 No Contract to Make Will**

I have not entered into any contract, actual or implied, to make a Will.

### **Section 7.05 Contest Provision**

If any beneficiary of my Will or any trust created under my Will, alone or in conjunction with any other person, engages in any of the following actions, the right of the beneficiary



Initials

Pour-Over Will of MATTHEW S. GEE

Page 6

to take any interest given under my Will or any trust created under my Will will be determined as if the beneficiary predeceased me without leaving any surviving descendants:

contests by a claim of undue influence, fraud, menace, duress, or lack of testamentary capacity, or otherwise objects in any court to the validity of my Will, any trust created under the terms of my Will, or any beneficiary designation of an annuity, retirement plan, IRA, Keogh, pension, profit-sharing plan, or insurance policy signed by me (collectively referred to in this Section as *Document* or *Documents*) or any amendments or codicils to any Document;

seeks to obtain an adjudication in a court proceeding or otherwise to void, nullify, or set aside a Document or any of its provisions;

files suit on a creditor's claim filed in a probate of my estate, against my estate, or against any other Document, after rejection or lack of action by the respective fiduciary;

files a petition or other pleading to change the character (community, separate, joint tenancy, partnership, domestic partnership, real or personal, tangible or intangible) of property already characterized by a Document;

files a petition to impose a constructive trust or resulting trust on any assets of my estates; or

participates in any of the above actions in a manner adverse to my estate, including conspiring with or assisting any person who takes any of these actions.

At my estate's expense, my Executor may defend any violation of this Section. This Section applies to any arbitration proceeding brought by any beneficiary, but does not include any above action in a mediation not preceded by a filing of a contest with a court.

But during any period in which the laws of the State of California govern the applicability or validity of this provision, Section 21311 of the California Probate Code will apply, and my Executor may only enforce this provision against any of the following types of contests:

a direct contest brought by any beneficiary without probable cause;

any pleading by any beneficiary, without probable cause, to challenge a transfer of property on the grounds that the transferor did not own the property at the time of the transfer; and

any filing of a creditor's claim or prosecution, without probable cause, of any action based on the filing of such a claim.

The terms *direct contest*, and *pleading* have the same meanings as set forth in Section 21310 of the California Probate Code. My Will and any trusts created under my Will are *protected instruments* as provided in Section 21310(e) of the California Probate Code.



Initials

Pour-Over Will of MATTHEW S. GEE

Page 7

**Section 7.06 Construction**

Unless the context requires otherwise, words denoting the singular may denote the plural, and words indicating the plural may denote the singular. As the context requires, words of one gender may denote another gender.

**Section 7.07 Headings and Titles**

The headings and paragraph titles are for reference only.

**Section 7.08 Internal Revenue Code, IRC, or Code**

References to the Internal Revenue Code, the IRC or the Code refer to the Internal Revenue Code of the United States. References to specific sections of the Code apply to any sections of similar import that replace the specific sections due to changes to the Internal Revenue Code made after the date of my Will.

**Section 7.09 Shall and May**

Unless otherwise specifically provided in this document or by the context in which used, the word *shall* is used to impose a duty or to command, direct, or require, and the word *may* is used to allow or permit, but not require. In the context of the Trustee or my Executor, the word *shall* is used to impose a fiduciary duty on the Trustee or my Executor. When I use the word *may*, I intend to empower the Trustee or my Executor to act with sole and absolute discretion unless otherwise stated in this document.

**Section 7.10 Other Definitions**

Except as otherwise provided in my Will, terms will be interpreted as defined in the California Probate Code as amended after the date of my Will and after my death.

**Section 7.11 Survivorship**

For purposes of this Will, if I survive my wife by any period of time or if the order of our deaths is unknown, then I will be considered to have survived my wife. Any other beneficiary will be considered to have predeceased me if the beneficiary dies within 45 days after my death.

**Section 7.12 Severability**

If any part of this instrument is determined to be void or invalid, the remaining provisions will continue in full force and effect.

  
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Initials



