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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

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MECKLENBURG CO., C.S.C.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

18-CVS- 16700

BY

RAKEYIA SCOTT, as Administratrix of the
Estate of KEITH LAMONT SCOTT (Deceased),
Plaintiff,

vs.

CITY OF CHARLOTTE and BRENTLEY
VINSON, both individually and in his official
capacity as a law enforcement officer with the
Charlotte-Mecklenburg Police Department,
Defendants.

COMPLAINT

COMES NOW Plaintiff Rakeyia Scott, as Administratrix of the Estate of Keith Lamont Scott (Deceased), by and through her undersigned attorneys, and for her complaint against the Defendants, alleges and says as follows:

PREFACE

This is an action to recover money damages resulting from the negligence and gross negligence of Defendants, and the assault, battery, and wrongful death of Keith Lamont Scott, whose death occurred in Charlotte, Mecklenburg County, North Carolina on September 20, 2016. The Plaintiff, Rakeyia Scott, brings this lawsuit as the duly appointed Administratrix of the Estate of Keith Lamont Scott (Deceased), as a result of Defendants having executed their duties in a grossly negligent manner which proximately caused personal injuries to, and the wrongful death of, Keith Lamont Scott. Mr. Scott, who was sitting peacefully in his vehicle at the time of his initial encounter with officers from the Charlotte-Mecklenburg Police Department, was shot multiple times after exiting his vehicle. Despite being completely incapacitated, paralyzed, and mortally wounded, Mr. Scott was then handcuffed with his hands behind his back as he lay dying on the ground in the presence of his wife.

PARTIES, JURISDICTION AND VENUE

1. This cause of action arises in Charlotte, Mecklenburg County, North Carolina.

2. At all times relevant to this action, Keith Lamont Scott was a citizen and resident of Charlotte, Mecklenburg County, North Carolina.
3. The Plaintiff, Rakeyia Scott, is a citizen and resident of the State of North Carolina. Plaintiff is the wife of Keith Lamont Scott.
4. The Plaintiff, Rakeyia Scott, has been duly appointed as the Administratrix of the Estate of Keith Lamont Scott (Deceased), by the Clerk of Superior Court for Mecklenburg County in Estate File 16-E-4109 and is appearing in that capacity.
5. The Defendant, City of Charlotte ("City"), was and is a municipal corporation located in Mecklenburg County, North Carolina, duly chartered and existing pursuant to the provisions of N.C. Gen. Stat. § 160A-11, and vested with corporate powers and rights as specified in N.C. Gen. Stat. § 160A-11, including, but not limited to, the capacity to sue and be sued. At all times relevant to this action, Defendant City acted through its managers and policy makers, including the Chief of Police and other employees of the Charlotte-Mecklenburg Police Department ("CMPD"); and the acts, edicts, and practices of said persons represent the official policies of Defendant City.
6. Upon information and belief, to the extent that any and/or all of the Defendants in this action claim they are a municipal and/or governmental and/or City owned, operated and/or funded entity or an employee and/or agent of any such entity, such Defendants do not have governmental immunity and/or sovereign immunity for any of the acts or omissions described herein. In the alternative, should any and/or all of the Defendants in this action have governmental immunity and/or sovereign immunity, upon information and belief, any and/or all such Defendants have waived any and all such governmental and/or sovereign immunity to which they may have been otherwise entitled, for themselves, their agents, employees and all officials acting in their official (and, if applicable, individual) capacities for civil liability and tort by the act of purchasing (or otherwise procuring, obtaining and/or having in place) liability insurance (or the functional and substantive equivalent thereof, i.e., participation in a local governmental risk pool, etc.) prior to, concurrent with, and/or subsequent to and/or applicable to the acts and omissions alleged herein.
7. Upon information and belief, Defendant City was and is a participant in local governmental risk pools or the functional and substantive equivalent thereof, at all times applicable to the events that are the subject of this action. By resolution duly adopted by the elected City Council pursuant to express authorization by state statute, the City has waived any governmental immunity it may have at least to the extent of the coverage provided by the NC State Tort Claims Act.
8. Subject matter jurisdiction is, therefore, appropriate and proper and any and all such

governmental immunity and sovereign immunity is and has been fully waived pursuant to N.C. Gen. Stat. §160A-485.

9. Upon information and belief, the Defendant, Brentley Vinson ("Vinson"), was an adult citizen and resident of Mecklenburg County, North Carolina and was acting in the course of his employment as a sworn police officer of the CMPD at all times relevant to this Complaint.
10. The amount in controversy exceeds Twenty-five Thousand Dollars (\$25,000.00) and is greater than the jurisdictional limit of this Court.
11. The Superior Court of Mecklenburg County, North Carolina has jurisdiction over the parties and subject matter of this action and is the proper division for this action.
12. Venue is proper in Mecklenburg County because this is where the cause of action alleged in this Complaint arose.

ACTUAL AND/OR APPARENT AGENCY

13. Prior to 1993, the City of Charlotte and Mecklenburg County maintained independent police departments.
14. The Charlotte-Mecklenburg Police Department was formed in 1993 with the merger of the former Charlotte City Police Department and the Mecklenburg County Rural Police Department.
15. In the exercise of statutory powers granted by the North Carolina Legislature, Defendant City, along with Mecklenburg County, established and created and continue to operate the CMPD.
16. At all times relevant to the allegations alleged in this Complaint, the CMPD exercised jurisdiction throughout Mecklenburg County, including those portions of Mecklenburg County located outside the city limits of Charlotte, Pineville, Matthews, Mint Hill and Huntersville.
17. The City of Charlotte maintained no municipal police department during the times relevant to the allegations alleged in this Complaint.
18. Upon information and belief, the operating budget of CMPD is funded jointly by Defendant City and Mecklenburg County. Defendant City has the actual right and legal authority to direct and control CMPD, its policies and procedures, officers and employees. In the alternative, Defendant City has the apparent right and authority to

direct and control CMPD, its policies and procedures, officers and employees.

19. At all times relevant to the allegations alleged in this Complaint, Defendant Vinson was employed by the Defendant City and/or the CMPD as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City within the course and scope of his duties as a sworn officer of the CMPD and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina. He is sued in his individual and official capacities for compensatory and punitive damages. Vinson's actions in shooting Scott were intentional, thus public officer immunity has no application to the assault claim against him individually. Public officer immunity shields an officer only from liability for acts of negligence, and Defendant City has waived that immunity through the resolution referred to above. Alternatively, to the extent Vinson claims public officer immunity from the assault and battery claim, his use of deadly force under the circumstances exceeded his statutory authority, piercing any entitlement to that immunity.
20. At all times relevant to the allegations alleged in this Complaint, Sergeant James Pendergraph, Jr. was employed by the Defendant City and/or the CMPD as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City within the course and scope of his duties as a sworn officer of the CMPD and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina.
21. At all times relevant to the allegations alleged in this Complaint, Officer Bryan Wiggins was employed by the Defendant City and/or the CMPD as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City within the course and scope of his duties as a sworn officer of the CMPD and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina.
22. At all times relevant to the allegations alleged in this Complaint, Officer Christopher Miranda was employed by the Defendant City and/or the CMPD as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City within the course and scope of his duties as a sworn officer of the CMPD and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina.
23. At all times relevant to the allegations alleged in this Complaint, Officer Andrew Hostutler was employed by the Defendant City and/or the CMPD as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City within the course and scope of his duties as a sworn officer of the CMPD and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina.

24. Defendant City and CMPD had the right and/or authority to direct and control the manner in which its employees and/or agents executed their official duties.
25. The grossly negligent acts, omissions and liability of all Defendants includes their agents, principals, employees and/or servants, both directly and vicariously, pursuant to principals of non-delegable duty, corporate liability, actual authority, apparent authority, actual agency, ostensible agency and/or *respondeat superior* and the acts and/or omissions of the above-named Defendants were a direct and proximate cause of the injuries, damages and losses sustained by the Plaintiff.

JOINT AND SEVERAL LIABILITY

26. The above-named Defendants are jointly and severally liable for all damages alleged herein since their negligent, grossly negligent, reckless and wanton acts and omissions, singularly or in combination, are a direct and proximate cause of Plaintiff's damages, injuries and losses.

GENERAL FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

27. At all times relevant to this action, Keith Lamont Scott was an adult citizen of the United States of America residing in Charlotte, Mecklenburg County, North Carolina, entitled to exercise all of the rights and privileges provided by the Constitutions of the State of North Carolina and the United States of America, including the Fourth Amendment thereto.
28. Keith Lamont Scott was born on March 2, 1973. At the time of his death on September 20, 2016, Keith Lamont Scott is 43 years old and is married to Rakeyia Scott. They have seven children.
29. During the afternoon of September 20, 2016, Keith Lamont Scott is sitting in his vehicle which is parked in his usual shaded parking space at The Village at College Downs apartment complex located at 9400 Lexington Circle, Charlotte, North Carolina. His purpose for parking in that specific location is to await the arrival of a school bus, after which he would greet his children and take his youngest child back to their apartment.
30. At that same time, Defendant Vinson and CMPD Sergeant James Pendergraph, Jr. are parked in the same parking lot conducting undercover surveillance on an individual named Walter Boyd. According to information provided to the officers, Walter Boyd is thought to reside in the Shannon Green Apartment Complex, a complex located adjacent to the Village at College Downs. Vinson and Sergeant Pendergraph are aware of Walter

Boyd's identity and description. Walter Boyd is 29 years old.

31. Defendant Vinson is hired as a law enforcement officer with the CPMD on or about July, 2014. Prior to becoming a CMPD officer, Defendant Vinson was a recent college graduate with no law enforcement experience.
32. After being hired by CMPD Defendant Vinson is almost immediately assigned to conduct undercover work with the CMPD Crime Reduction Unit ("CRU"), Metro Division. This assignment is made because CRU conducted operations in minority communities and Vinson is a young, African-American male who is better suited for uncover operations.
33. On the day of this shooting, Defendant Vinson's unit is substituting for the CMPD Violent Criminal Apprehension Team ("VCAT"), which has been assigned the Walter Boyd case. According to Defendant CMPD the VCAT unit maintains sworn status through the Federal Bureau of Investigations and the U.S. Marshal's Service, is deployed in coordination with federally-adopted apprehension efforts anywhere in the world, participates in specialized training schools both on and off site throughout the year, and is assigned other special tasks requiring a heightened degree of training and experience.
34. While conducting undercover surveillance in their effort to apprehend Walter Boyd and as Scott sits in his vehicle awaiting the arrival of his children's school bus, Defendant Vinson sees Scott prepare what he believes to be a marijuana filled cigar and also sees Scott in possession of a small handgun.
35. Defendant Vinson never sees Scott light the cigar and never actually smells marijuana.
36. Neither Defendant Vinson or any other CMPD officer present on the scene knows Keith Lamont Scott's identity, his medical history or anything whatsoever about his background. They do not know whether Scott has been issued and possesses a permit to lawfully carry a handgun and are not certain Scott is in possession of marijuana.
37. At no time before, leading up to, or after the shooting of Keith Lamont Scott does Scott verbally threaten anyone or make any threatening gesture toward Defendant Vinson or other officers on scene.
38. Vinson and Pendergraph immediately abandon their VCAT assignment to apprehend Walter Boyd, a potentially violent criminal, and decide to arrest Keith Lamont Scott without knowing whether Scott has been issued and possesses a permit to lawfully carry a handgun and without being certain Scott is in possession of marijuana.
39. Vinson and Pendergraph then drive a short distance to the Shannon Green Apartment complex, which backs up to the Village at College Downs complex, and meet up with Officers Bryan Wiggins and Christopher Miranda, who were already at Shannon Green

conducting surveillance on Boyd.

40. Pendergraft, the supervisor of the Metro CRU unit, leads the briefing. The four officers (Vinson, Pendergraph, Miranda, Wiggins) formulate a plan to arrest Scott. The plan also includes uniformed Police Officer Hostutler.
41. Despite the fact that none of the officers are equipped with Tasers, pepper spray, or any “less than lethal” use of force tools they decide to arrest Scott by performing a risky “vehicle takedown,” as he sits in his vehicle, minding his own business and awaiting the arrival of his children’s school bus. The only use of force tools in their possession are their department issued service pistols.
42. A vehicle takedown is a maneuver CMPD officers use to extract a suspect from a vehicle. The vehicle takedown begins with officers, driving undercover vehicles, making a quick-strike approach to swiftly block the path of a stationary suspect vehicle with police vehicles to prevent it from leaving the scene. The goal is to use the “element of surprise” to cause the suspect’s thought process to “freeze,” in an attempt to create an advantage for the officers and gain compliance from the subject inside a vehicle. After the vehicle is blocked, officers assigned to provide “lethal coverage” point their service weapons at the suspect and order the suspect to surrender. Meanwhile, officers assigned to extract the suspect from the vehicle take up positions nearby so they can be ready to remove the suspect from the vehicle at the appropriate time.
43. The tactic can result in unpredictable reactions by the suspect who typically experiences a period of confusion as he or she attempts to determine exactly what is occurring and by whom in the first few seconds of the takedown.
44. The briefing lasts only a few minutes. It consists of Pendergraph calling for the vehicle takedown, giving out assignments, and officers donning their tactical police vests. The plan is to use four armed officers to surprise and arrest Scott as he sits in his vehicle.
45. The officers do not discuss or consider other, less extreme options, including immediate steps they might take to further assess the situation and the potential threat to public safety posed by Scott or the vehicle takedown.
46. They do not discuss or consider taking up surveillance positions sufficiently close to Scott’s SUV to observe his behavior or activities so they can intervene later if the need arises.
47. They do not attempt to run Scott’s license plate number to see if that might reveal useful information about the vehicle’s occupant.
48. They do not attempt to obtain body cameras or other “less than lethal” use of force tools

such as tasers, batons or pepper spray.

49. Four officers (Vinson, Pendergraph, Wiggins, and Miranda) are dressed in plain clothes and are not wearing body cameras. Vinson and Pendergraph are operating a blue colored Chevrolet Highlander minivan, while Miranda and Wiggins operate a blue colored Ford Expedition. Both vehicles are undercover vehicles and do not have police markings, blue lights, or in-car camera devices.
50. A third vehicle, operated by Hostutler, is a "marked" patrol unit and is equipped with in-car camera equipment. Hostutler is the only officer wearing a body camera.
51. Vinson's assignment is to drive the blue undercover minivan and "pin" Scott's white Ford Expedition so that he can not leave. Pendergraph (still riding with Vinson) will immediately exit the vehicle and provide "lethal cover" on Scott. Miranda is to arrive in the blue Expedition behind Vinson and also provide "lethal cover." Wiggins, in the vehicle with Miranda, is to assist with the extraction of Scott from his vehicle. The plan is radioed to uniformed Officer Hostutler, who is to immediately respond after the approach in his "marked" patrol vehicle.
52. The decision to perform the vehicle takedown on Scott needlessly escalates the situation from a routine arrest to a situation that is now unpredictable and which significantly increases the risk of injury or death to both the suspect and the officers involved.
53. Defendant Vinson has never performed an actual vehicle takedown prior to September 20, 2016. Because of his limited experience the plan calls for Vinson to remain in his vehicle at all times.
54. The two undercover vehicles leave the briefing area and drive back to the small parking lot. Scott is still calmly sitting in his vehicle which is parked in the far left parking space. The middle space is vacant and a white pickup truck is parked in the far right space. Scott is not exhibiting any type of aggressive behavior whatsoever.
55. Vinson blocks Scott's vehicle with the unmarked blue minivan. His front bumper does not make contact with Scott's front bumper, a small gap remains. Miranda follows in the unmarked blue Expedition and stops directly behind the unmarked blue minivan driven by Vinson.
56. Vinson initially remains behind the wheel of the minivan. Pendergraph, Wiggins and Miranda immediately jump out and assume lethal coverage positions. Pendergraph and Wiggins approach the driver's side area of Scott's vehicle. Miranda runs to the passenger's side of Scott's vehicle. Miranda instructs Vinson to move the minivan closer to Scott's vehicle, while Pendergraph and Wiggins remain at the driver's side area of Scott's vehicle.

57. Wiggins looks through the passenger window of Scott's vehicle and then yells: "gun, passenger seat."
58. Vinson hears Miranda yell, then abandons his assigned task, gets out of the minivan, draws his weapon, and takes cover behind the A-frame on the driver's side of the minivan.
59. Scott is sitting in his vehicle, with the windows up and the doors closed. No one ever instructs him to roll down a window or open a door.
60. Instead of one officer giving Scott step-by-step commands instructing how they want him to comply in a calm, measured manner Miranda and the other officers repeatedly yell at Scott in a loud, urgent voices to "drop the gun" while aiming their service weapons directly at him. The officers actions have the effect of further escalating the situation. No one ever instructs him where to drop the gun or how to demonstrate his compliance.
61. Around this time, Rakeyia Scott, arrives on the scene. She immediately begins telling the officers on the scene "Don't shoot him, he has no weapon."
62. Hostutler arrives in his "marked" police vehicle and parks off to the right of both undercover vehicles. He exits his vehicle and joins Wiggins behind a pickup truck that is parked two spaces down from Scott's SUV. From this vantage point, Wiggins and Hostutler have "lethal coverage" on Scott's driver's side door.
63. Rakeia Scott continues her own attempts to de-escalate the situation. She tells the officers Keith Scott has a traumatic brain injury and that "He's not going to do anything to you guys. He just took his medicine."
64. Instead of de-escalating the situation by moving back and using time, distance and other available resources, including the knowledge and presence of Rakeia Scott, to their tactical advantage the officers continue to further escalate the situation when they knew or should have known that Scott could be or was cognitively impaired as a result of a traumatic brain injury.
65. The officers make no attempt to speak with Rakeia Scott to learn more about Keith Scott's traumatic brain injury, any cognitive impairment he may have, his other medical conditions or the medications he has just taken.
66. Miranda then yells for a "breach," meaning for someone to come and break out the passenger window so he can shoot Scott with his service weapon while he is still sitting in his vehicle.

67. Hostutler, the only officer on scene equipped with a baton, immediately goes to the passenger's side of Scott's vehicle and strikes the front passenger's door window with his ASP baton until the window partially breaks.
68. Rakeia Scott instructs her husband: "Keith don't let them break the windows. Come on out of the car."
69. Miranda is still unable to shoot Scott while he sits in his vehicle because most of the passenger window glass remains intact and Scott begins to exit the vehicle..
70. The officers actions in breaking the door window have the effect of further escalating an already stressful situation.
71. Scott then slowly exits his vehicle with his hands down by his side. His demeanor is calm. He does not speak to anyone. He makes no attempt to flee the scene.
72. Scott never raises his arms, hands, or makes any threatening or aggressive movement toward any of the officers. Scott then begins to slowly back away from his vehicle.
73. All officers on scene have their firearms drawn on Scott as he exits his vehicle. Vinson – the least experienced officer on scene who has only been assigned the task of blocking Scott's vehicle – shoots Scott three times, striking him in the left wrist, left abdomen, and left back. None of the other more experienced officers on scene discharge their weapons.
74. Scott immediately falls to the ground as one of Vinson's bullets severs his spinal cord. The officers approach Scott and begin to render aid but only after handcuffing an unresponsive and mortally wounded Scott as he lays dying.
75. Scott never engages in any conduct sufficient to cause a reasonable person or law enforcement officer to develop an objectively reasonable belief that he poses a threat of imminent physical harm to any of the CMPD officers present at the scene or to the general public at any time during his brief encounter with CMPD officers.
76. Scott never voluntarily waives, relinquishes or forfeits any of his Fourth Amendment rights or privileges at any time during his brief encounter with CMPD officers during the afternoon of September 20, 2016.
77. Defendant Vinson's conduct herein, including but not limited to his decision to use deadly force, is negligent, grossly negligent, willful, wanton, careless, and reckless, and his decision to use excessive and unnecessary force against Scott is and was contrary to generally accepted, reasonable law enforcement procedures and tactics and proximately caused the damages to the Plaintiff as set forth in this Complaint.

**PRIOR INCIDENTS OF USE OF FORCE BY
CHARLOTTE-MECKLENBURG POLICE DEPARTMENT**

78. The Charlotte-Mecklenburg Police Department has a long and extensive history of excessive force by its officers.
79. In 1997, after years of resistance from local public officials, the Charlotte City Council votes to establish a Citizens Review Board and gives it limited authority to investigate allegations of police misconduct. This decision comes after separate killings of three unarmed black citizens by white police officers. Two of the killings occurred within 5 months of each other. James Willie Cooper and Carolyn Boetticher are two of the victims.
80. James Willie Cooper is a 19-year old man who is the subject of a traffic stop on November 19, 1996. Upon information and belief, an officer signals for Mr. Cooper to stop his vehicle using his blue lights. Mr. Cooper then pulls into a driveway and exits his vehicle. The officer tells Cooper to get back inside the vehicle and pulls out his service pistol. Mr. Cooper reaches into his car for something before allegedly jerking towards the officer. The officer fires five shots at him with his service weapon. One bullet goes through the rear-driver's side window and another into Cooper's torso. It is later determined that Mr. Cooper was simply reaching into his car for his jacket. His 4-year old daughter is in the back seat of the vehicle throughout the entire incident.
81. Carolyn Boetticher is a 48-year old woman who is a passenger in a vehicle that had driven through a police checkpoint on April 8, 1997. An officer, positioned in front of the vehicle, steps towards the car in an attempt to stop it. The car allegedly swerves towards him and he, along with another CMPD officer, fire 22 shots at the car. 14 of the 22 shots enter the rear of the vehicle, with one striking Ms. Boetticher in the back of the neck and killing her.
82. Alexander "Sasha" Ehrenburg is a 67-year-old, wheelchair-bound double-amputee when Charlotte-Mecklenburg Police SWAT officers kill him with 2 shots to his body on May 10, 2005. Medics and CMPD officers did not go to Ehrenburg's home to arrest him, but merely to check on him after a doctor called 911 because he believed Ehrenburg might be having medical problems. Three and a half hours later, Sasha Ehrenburg is dead. Though Ehrenburg repeatedly declines the offer of help and asks simply to be left alone, CMPD Swat team members knock down his door twice, and both times officers say he points a gun at them. SWAT officers kill him in his own home.
83. Wayne Furr is a 41-year-old Stanly County resident working at a cellular phone tower in southeast Charlotte at 1:30 a.m. when he is shot and killed by CMPD officers responding to a 911 call about a suspicious individual on July 20, 2006. The officer fires three times. Two of the bullets strike Furr in the chest. Furr is a single father and a church usher. His

family and friends say they cannot imagine him being aggressive toward a police officer. Wayne Furr is lawfully performing his job at the time he is shot and killed.

84. LaQuan Hykeem Davon Brown is 16-years-old when he is shot and killed by a CMPD officer in 2007. A CMPD officer, who later says he thought Brown had a gun in his hand, fires two shots. One of the bullets strikes Brown in the lower back. An investigation later reveals that Brown is not holding a gun – and likely simply has a cellphone in his hand – when he is shot to death. A cell phone is found near his hand.
85. Darryl Wayne Turner is 17 years old when he is killed by a CMPD officer inside a Food Lion store on March 20, 2008. Turner works at the Food Lion store as a cashier and grocery bagger. He is asked by a store manager to leave the store but refuses. Minutes later he is dead.
86. On or about October 17, 2010, a CPMD officer responding to a call shoots 15 year old Jeffery Green while he is standing in the middle of a Charlotte street; other officers present do not discharge their weapons. Green is the son of the crime victim who had called for police assistance.
87. A CMPD officer responding to a mental health crisis shoots and kills Spencer Mims III on January 6, 2013.
88. A CMPD officer responding to a call shoots 24 year old Jonathan Ferrell 10 times on September 14, 2013. He is unarmed at the time. Jonathan has been involved in a car crash and is seeking help at the time of the shooting.
89. CMPD officers are involved in 7 deadly force incidents in 2014.
90. CMPD officers are involved in 5 deadly force incidents in 2015.
91. CMPD officers are involved in 12 deadly force incidents in 2016.
92. CMPD officers are involved in 5 deadly force incidents in 2017.
93. There have been multiple citizen deaths and injuries as the result of use of force by the CMPD over the last two years.

USE OF EXCESSIVE FORCE AGAINST KEITH SCOTT

94. Defendant Vinson and the other CMPD officers present at the scene owed a legal duty to Keith Lamont Scott under G.S. §15A-401(d)(2) to use only that level of force that was reasonable and necessary under the circumstances.

95. Prior to September 16, 2016, the CMPD had adopted written use of force regulations for use by its officers which are supposed to limit the amount of force that can be used by an officer against a citizen.
96. The written CMPD guidelines purport to restrict an officer's use of lethal force to situations where the officer has an objectively reasonable belief that the individual to be subdued is engaged in "aggravated, active aggression."
97. The written CMPD policy defines "Aggravated Active Aggression" as actions by an individual "that are likely to result in the death or serious bodily injury to an officer. These actions may include discharge of a firearm, use of a blunt or bladed weapon, and extreme physical force that threatens the health and safety of the officers or members of the general public."
98. Scott never engages in any conduct which can be objectively reasonably interpreted as "aggravated active aggression" during his brief encounter with CMPD officers during the afternoon of September 20, 2016. He never discharges a firearm, uses or attempts to use a blunt or bladed weapon, or engages in extreme physical force that threatens the health and safety of the officers present or any member of the general public.
99. Despite the lack of any conduct which could be reasonable interpreted as aggravated active aggression by Scott, Defendant Vinson, in direct violation of written CMPD regulations, fires multiple bullets at Scott, mortally wounding him.
100. At the moment he discharges his weapon, Defendant Vinson does not, and could not have had, an objectively reasonable belief that Scott's actions constituted "aggravated, active aggression" toward any of the officers present or to any member of the general public.
101. Scott suffers three gunshot wounds, two of which are potentially lethal, as a result of the clearly excessive force used by Defendant Vinson.

FIRST CAUSE OF ACTION
[Wrongful Death-Direct Liability of Defendant City]

102. The preceding paragraphs are incorporated by reference as if fully set forth herein.
103. Defendant City owed a duty to Keith Lamont Scott, and to the general public, to ensure that the CMPD, its agents and employees performed their duties in such a way as to avoid placing Scott and other members of the public in unreasonable danger of serious injury or death. Furthermore, Defendant City owed a duty to ensure that Keith Lamont Scott and other members of the public would be free from unreasonable searches and seizures and

excessive force by officers employed by the CMPD.

104. Defendant City breached these duties with regard to Scott in various ways including, but not limited to, the following:
- a. It failed to ensure that the CMPD and Chief Putney established and enforced reasonable and appropriate policies to accomplish the stated mission of the CMPD of protecting and serving the public, including Keith Lamont Scott;
 - b. It failed to ensure that the CMPD and Chief Putney established and enforced reasonable and appropriate policies regarding the hiring, promotion and retention of law enforcement personnel;
 - c. It failed to ensure that the CMPD and Chief Putney adequately trained, supervised, instructed and/or monitored CMPD employees in the use of force against individuals suspected of criminal conduct or law abiding citizens;
 - d. It failed to ensure that the CMPD and Chief Putney adequately trained, supervised, instructed and/or monitored CMPD employees in the use of vehicle takedown maneuvers;
 - e. It failed to establish and enforce reasonable and appropriate policies and procedures governing the situations under which and the manner in which CMPD personnel could use deadly force against members of the public and particularly those members of the public who were cognitively impaired;
 - f. It failed to establish and enforce reasonable and appropriate policies and procedures governing the situations under which and the manner in which CMPD personnel could use vehicle takedown maneuvers;
 - g. It failed to take reasonable measures to ensure that all CMPD personnel complied with existing policies and procedures with regard to the use of excessive or deadly force;
 - h. It failed to take corrective action to prevent CMPD personnel and others under its control from exercising unreasonable and excessive force in response to prior incidents involving the wrongful use of excessive or deadly force by CMPD personnel upon citizens of Charlotte and Mecklenburg County;
 - i. It adopted and encouraged a paramilitary approach to law enforcement inconsistent with the goals and responsibilities of a civilian law enforcement agency; and

- j. It was careless and negligent in such other ways as may be identified during the course of discovery and/or trial.
105. Defendant City's negligent acts and omissions were a proximate cause of the incident which resulted in injuries to and the death of Keith Lamont Scott for which Plaintiff on behalf of the Estate of Keith Lamont Scott is entitled to recover damages under the North Carolina Wrongful Death Statute, N.C. Gen. Stat. §28A-18-2, as more particularly described herein.

SECOND CAUSE OF ACTION
[Wrongful Death-Vicarious Liability of Defendant City]

106. The preceding paragraphs are incorporated by reference as if fully set forth herein.
107. At the time Defendant Vinson committed the acts of negligence described herein, he was acting within the course and scope of his employment and/or agency with the CMPD. As such, Defendant City is liable for the negligent acts and omissions of Defendant Vinson and the negligence of Defendant Vinson is imputed to Defendant City through the doctrines of agency, vicarious liability and *respondeat superior*.
108. At the time Sargent Pendergraph, Officer Wiggins, Officer Miranda and Officer Hostutler committed the acts of negligence described herein, they were each acting within the course and scope of their employment and/or agency with the CMPD. As such, Defendant City is liable for the negligent acts and omissions of these individuals and the negligence of Sargent Pendergraph, Officer Wiggins, Officer Miranda and/or Officer Hostutler is imputed to Defendant City through the doctrines of agency, vicarious liability and *respondeat superior*.
109. Sargent Pendergraph, Officer Wiggins, Officer Miranda and/or Officer Hostutler were negligent, both in their individual and official capacities, and their acts and omissions of negligence include, but are not limited to, the following:
- a. They planned and implemented a risky vehicle takedown maneuver which was excessive in many respects and likely escalated a situation that otherwise might have ended peacefully;
 - b. They elected to conduct a risky vehicle takedown maneuver with little discussion or planning and without considering other, less extreme alternatives;
 - c. They failed to consider whether there was the potential and opportunity for de-escalation of the situation by the use of time, distance, communications, and other available resources, including Rakeia Scott;

- d. They failed to consider whether their decision to perform a vehicle takedown might make matters worse and needlessly increase the risk of harm or death to both Scott and the officers involved;
 - e. They unreasonably believed that an armed suspect who refuses commands to drop a weapon presents, by definition, an imminent threat justifying the use of lethal force;
 - f. They failed to equip themselves with at least one less-than-lethal force option, such as a Taser, pepper spray or baton which eliminated their ability to use the least amount of force required by the situation;
 - g. They were otherwise careless and negligent in such other ways as may be revealed by discovery or during the trial of this action.
110. Plaintiff is entitled to recover from the Defendants, jointly and severally, an amount in excess of Twenty-five Thousand Dollars (\$25,000.00) as a result of Defendants' negligence, gross negligence, and/or willful and wanton negligence.

THIRD CAUSE OF ACTION

[Negligence/Gross Negligence of Defendant Vinson
in his individual and official capacities]

111. The preceding paragraphs are incorporated by reference as if fully set forth herein.
112. Defendant Vinson, individually and in his official capacity as a patrol officer for CMPD, was negligent at the time and place alleged hereinabove, and his acts and omissions of negligence include, but are not limited to, the following:
- a. He aimed his semi-automatic pistol at Keith Lamont Scott and deliberately fired shots into his body despite the complete lack of objective evidence that Scott posed any threat whatsoever to any of the CMPD personnel on the scene and without even knowing the identity of the man he was about to kill;
 - b. He failed to give Scott a reasonable opportunity to comprehend the situation and comply with his and other officers' commands before using excessive and deadly force or, in the alternative, failed to see and ascertain that Scott was in the process of complying with his or other officers' commands;
 - c. He negligently failed to realize that, because of the circumstances then existing, Scott would be startled, frightened and unable to quickly process and comply his

and the other officers' commands;

- d. He failed to use less combative, provocative and aggressive methods of alerting Scott to the presence of the officers, before using deadly force against him;
 - e. He failed to use his firearm as a reasonable, careful and prudent officer would have used it under the same or similar circumstances;
 - f. He used deadly force against Scott when he knew, or reasonably should have known, that the use of deadly force was not necessary or justified;
 - g. He used deadly force against Scott when the four other more experienced officers on scene knew and recognized that the use of deadly force was not necessary or justified at that point in time;
 - h. He negligently used excessive force against Scott when such force was not justified under the circumstances and was in violation of written CMPD regulations regarding the use of force;
 - i. He failed to recognize that Scott was under the influence of medications and suffered from a traumatic brain injury prior to aiming his semi-automatic pistol at Scott and firing bullets into his body;
 - j. He failed to determine or adequately assess the situation prior to aiming his semi-automatic pistol at Scott and firing bullets into his body;
 - k. He failed to properly identify himself to Scott, and to confirm that Scott heard or otherwise understood the identification prior to aiming his semi-automatic pistol at Scott and firing bullets into his body;
 - l. He negligently failed to perform the vehicle takedown;
 - m. He was otherwise careless and negligent in such other ways as may be revealed by discovery or during the trial of this action.
113. Based on Defendant Vinson's conduct, Defendant Vinson is not entitled to immunity from personal liability and may be sued in his individual capacity.
114. The negligent acts and omissions of Defendant Vinson, as described hereinabove, were a proximate cause of the shooting and death of Keith Lamont Scott.
115. The acts and omissions of Defendant Vinson, as described hereinabove, were willful, wanton and/or reckless, and amount to gross negligence.

116. Defendant Vinson was aware of the probable consequences of his conduct in recklessly discharging his firearm as described above, due to the likelihood that his conduct was reasonably likely to result in serious injury or death to others, including Keith Lamont Scott.
117. The negligence of Defendant Vinson is imputed by law to Defendant City by reason of Defendant Vinson 's agency relationship with, and employment by, Defendant City and/or CMPD at the time and place that the incident occurred, under the doctrine of *respondeat superior*.
118. Plaintiff is entitled to recover from the Defendants, jointly and severally, an amount in excess of Twenty-five Thousand Dollars (\$25,000.00) as a result of Defendant Vinson's negligence, gross negligence, and/or willful and wanton negligence.

FIFTH CAUSE OF ACTION
[Assault and Battery by Defendant Vinson]

119. The preceding paragraphs are incorporated by reference as if fully set forth herein.
120. Defendant Vinson, individually and in his official capacity as a law enforcement officer for CMPD, pointed a firearm at Scott and unjustifiably used deadly force against Scott, which force was objectively excessive and unreasonable under the circumstances.
121. Defendant Vinson 's intentional acts as described more fully hereinabove, put Scott in actual, subjective apprehension of imminent harmful or offensive contact.
122. Scott's apprehension was objectively reasonable under the circumstances in that a person of ordinary care and prudence under the same or similar circumstances would have believed that harmful, or offensive contact was about to occur.
123. Defendant Vinson's intentional act of shooting Scott constituted a harmful or offensive contact with Scott.
124. Defendant Vinson 's actions in discharging his firearm proximately caused the harmful or offensive contact with Scott.
125. Scott did not consent to contact with, from or by Defendant Vinson.
126. The Defendants are jointly and severally liable for the malicious assault and battery of Scott by Defendant Vinson, in an amount to be determined by a jury, but believed to be in excess of Twenty-five Thousand Dollars (\$25,000.00).

SIXTH CAUSE OF ACTION
[Punitive Damages-Defendant Vinson]

127. The preceding paragraphs are incorporated by reference as if fully set forth herein.
128. As a direct and proximate result of the grossly negligent, reckless, intentional and willful conduct of Defendant Vinson as well as Defendant Vinson's conscious disregard for the health and safety of Scott, and other members of the law abiding public as alleged herein Plaintiff, on behalf of the Estate of Keith Lamont Scott, is entitled to recover punitive and exemplary damages as forth in N.C. Gen. Stat. § 28A-18-2(b)(5) to punish him for his illegal, egregiously wrongful, reckless and willful misconduct and to deter such conduct by others. Defendants' actions as alleged hereinabove, constitute willful and wanton conduct, as defined in N.C. Gen. Stat. §1 D.
129. Pursuant to N.C. Gen. Stat. §1D, Plaintiff is entitled to recover punitive damages from Defendants, jointly and severally, in an amount to be determined by a jury, but not less than Twenty-five Thousand Dollars (\$25,000.00).

DAMAGES

130. At the time of his death, Scott is 43 years of age. In November, 2015 he had survived a horrific motorcycle crash which had nearly killed him. He relearned to walk and was still suffering the effects of a traumatic brain injury sustained in the accident. Scott had a new lease on life after a near-death experience, and he was working to continue building a better life with his wife Rakeyia and seven children. Scott was intelligent, hard-working, dedicated to his family and enjoyed life immensely.
131. By reason of the wrongful and negligent acts and omissions of all Defendants, as heretofore alleged, Scott's family and friends have been forever deprived of his society and their relationship. In particular, Rakeyia Scott, Scott's wife and children have been and will be forever deprived of his services, care, protection, and assistance, as well as his society, companionship, comfort, guidance, kindly offices, advice, love, and affection. Plaintiff is further entitled to recover the reasonable and necessary funeral and burial expenses which were incurred as a result of his death.
132. Furthermore, Scott experienced, upon information and belief, fleeting yet significant terror of his impending death when Defendant Vinson aimed his semi-automatic pistol at him, and further experienced excruciating physical pain and mental anguish as Defendant Vinson fired bullets into his wrist, abdomen, and back. Afterwards, as he lay dying on the ground all while being handcuffed. In short, Scott experienced excruciating and

horrible physical pain and mental suffering as he died from gunshot wounds inflicted upon him by Defendant Vinson and as his hands were handcuffed behind his back as he lay dying on the ground.

133. Plaintiff is entitled to recover from all Defendants, jointly and severally, all damages permitted by N.C. Gen. Stat. § 28A-18-2.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Rakeyia Scott, as Administratrix of the Estate of Keith Scott (Deceased), respectfully prays the Court for the following relief:

- A. That Plaintiff have and recover of Defendant City of Charlotte an amount in excess of Twenty-five Thousand Dollars (\$25,000.00) for the personal injuries and wrongful death of Keith Lamont Scott;
- B. That Plaintiff have and recover of Defendant Vinson, both individually and in his official capacity as a sworn officer of the Charlotte-Mecklenburg Police Department, an amount in excess of Twenty-five Thousand Dollars (\$25,000.00) for the personal injuries and wrongful death of Keith Lamont Scott;
- C. That Plaintiff have and recover of Defendant Vinson, both individually and in his official capacity as a sworn officer of the Charlotte-Mecklenburg Police Department, an amount greater than Ten Thousand Dollars (\$10,000.00) for punitive and exemplary damages;
- D. That Plaintiff recover from Defendants, jointly and severally, the costs of this action and reasonable attorney's fees to the fullest extent allowed by North Carolina and United States law; and
- E. That Plaintiff be granted all other relief, both legal and equitable, which the Court deems just and proper.

This the 29th day of August, 2018.



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