

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED

Date 12/21/2011 Time _____
CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

ESTATE OF TOREY ADRELL
BREEDLOVE, through
his personal representative,
and guardians in law and
fact of his minor children,
Plaintiff

-vs-

Case No. 6:11 CV 2027-ORL-31 MRS

ORANGE COUNTY SHERIFF
JERRY DEMINGS, in his official
Capacity;
NINE SHERIFF'S DEPUTIES
in their individual and official
capacities; and,
the FLORIDA
DEPARTMENT OF LAW
ENFORCEMENT,
Defendants

COMPLAINT
INTRODUCTIONS

Plaintiff, through counsel, sues Defendants, the Orange County Sheriff's Office, through the Sheriff in his official capacity, Nine Deputy Sheriffs in their official and individual capacities, and the Florida Department of Law Enforcement, and states:

1. Plaintiff seeks damages arising from Defendants' violation of the federally protected constitutional rights of Torey Breedlove. Torey Breedlove, a 27 year old black male, was executed in his vehicle, shot at over 130 times at point blank range, and killed as a result of wrongful acts or omissions of the Defendants in violation of his rights secured by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. Sections 1331 and 1343.

3. Jurisdiction over the State actions is invoked pursuant to the provisions of 28 U.S.C. Section 1367 and is discretionary.

4. Venue is proper in that all actions giving rise to these claims occurred in Orange County, Florida.

5. Plaintiff's claim for relief is predicated upon 42 U.S.C. Section 1983 and upon 42 U.S.C. Section 1988, which authorizes the award of attorney's fees and costs to a prevailing party in actions brought pursuant to 42 U.S.C. Section 1983.

6. Plaintiff's claim for relief is also predicated upon State law for all claims arising from violations of State statutes and common law.

NOTICE OF CLAIM

7. Plaintiff in furtherance of its State causes of action filed a timely Notice of Claim in accordance with Florida Statute Section 768.28 against the Orange County Sherriff's Office and the Florida Department of Law Enforcement. Consequently, all conditions precedent to suit have been satisfied and/or waived.

GENERAL ALLEGATIONS

8. All acts giving rise to this cause of action occurred in Orange County, Florida.

9. On or about January 5, 2010, after significant investigative and surveillance activity by the Orange County Sheriff's Office - Auto Theft and Auto Trap Forces, Torey Breedlove was shot at over 130 times and killed on January 5, 2010 at the Alta Westgate Condominiums in Orlando, Florida.

10. Surveillance units observed a Dodge Ram driven by Torey Breedlove enter into the Alta Westgate Condominiums and also observed Torey Breedlove outside the vehicle. Several Sheriff's deputies were stationed inside the Alta Westgate Condominium complex waiting for Torey Breedlove to arrive.

11. After exiting the Dodge Ram, Torey Breedlove walked in the parking lot at the condominium and entered a dark green 2003 GMC Denali SUV, which he owned.

12. Prior to the time Torey Breedlove entered the GMC Denali the officers had access to the vehicle and had flattened one of the vehicle's tires.

13. After entering into the GMC Denali at approximately 0500 hours at the Condominiums, Torey Breedlove was surrounded by 4 unmarked Orange County Sheriff's Office's vehicles.

14. After surrounding and striking Torey Breedlove's vehicle with the Orange County Sheriff's Office's vehicles, officers opened fire repeatedly shooting at Torey Breedlove who was sitting in the front seat of his GMC Denali unarmed.

15. Sheriff's Office's deputies shot into the vehicle at point blank range over 130 times striking Torey Breedlove in excess of 20 times and killing him at the scene.

16. At the time of the shooting, Torey Breedlove posed no danger to any officers of the Orange County Sheriff's Office and was unarmed.

17. After the shooting, members of the Orange County Sheriff's Office attended an instant briefing with members of the FDLE to coordinate testimony for purposes of avoiding liability for the unconscionable act taken against Torey Breedlove.

18. At the time that members of the Auto Theft and Auto Trap Squads converged on the GMC Denali by utilizing a vehicle blocking maneuver, they were indifferent to the use of deadly

force against Torey Breedlove, and the Sheriff had a de facto policy of allowing the use of excessive force.

19. The shots from the officers both in quantity and manner constitute unconscionable conduct by the police unit against an unarmed citizen.

20. The manner in which the Orange County Sheriff's Office conducted investigations and concluded investigations regarding excessive force were such that it can be reasonably said that the Orange County Sheriff's Office had a policy and procedure condoning the use of excessive force on the citizens of Orange County.

21. Despite the fact that there were video cameras at the Westgate Condominiums, the video of the scene was not preserved and not made part of the investigative file. At this time it is claimed to have been lost.

22. Several of the officers participating in the shooting not only shot at Torey Breedlove but shot up the complex endangering other individuals and residents at the condominium and also reloaded their weapons and continued to shoot at Torey Breedlove.

23. None of the officers on the scene were injured.

24. None of the officers on the scene were treated for any injuries.

25. Torey Breedlove was unarmed.

26. Based upon doing surveillance on Breedlove's vehicle before he arrived at the condominium complex, and based upon observing Breedlove on foot approaching his vehicle, the officers knew Breedlove was unarmed.

27. After the killing of Torey Breedlove, the tires of his vehicle were pointed directly at the car pinning him in head-on. They were not pointed in any direction that could have led any

officer to believe that the vehicle could be coming at him, nor had the vehicle avoided the block-in maneuver.

28. There were no skid marks left at the scene, nor were any preserved by photographs.

29. As a direct result of the policies, procedures and customs of the Orange County Sheriff's Office, Torey Breedlove was killed and it can be reasonably said that the failure to adequately train, supervise, reprimand or investigate the use of excessive force by the Orange County Sheriff's Office upon its citizens was the moving force behind the death of Torey Breedlove.

30. The individual officers all used deadly force without the requisite factual basis for its use and at the time they used such force, the excess of the force was clearly established under both State and Federal laws.

THE PARTIES

31. Tiffanye Breedlove, is the personal representative of the Estate of Torey Adrell Breedlove.

32. Tamesha Prince is the natural and legal guardian of the minor child of Torey Breedlove, Son # 1.

33. Sharelle Tyson is the natural and legal guardian of the minor child of Torey Breedlove, Son # 2.

34. Teresa Jones is the natural and legal guardian of the minor child of Torey Breedlove, Daughter # 1.

35. Teresa Jones is the natural and legal guardian of the minor child of Torey Breedlove, Daughter # 2.

36. The Orange County Sheriff's Office is being sued by the suit against the Sheriff, Jerry L. Demings, in his official capacity as the highest law enforcement officer for the county of Orange County, Florida.

37. The Florida Department of Law Enforcement is being sued for its improper involvement in the surveillance and apprehension resulting in death, as well as its negligent and/or intentional falsifications of Torey Breedlove's criminal history, cover-up for the officers involved, and the incomplete and untimely investigation of this matter.

38. In addition to the facts alleged in the following sub paragraphs, the following defendants are all sued in their individual and official capacities and all acted within the scope of their employment and under the color of state law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the Orange County Sheriff Department.

- a. Defendant, Hector Cartegena, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.
- b. Defendant, Paul Volkerson, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.
- c. Defendant, Rafael Cruz, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.
- d. Defendant, Jason Gorberg, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.
- e. Defendant, Richard Schmeltzer, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.
- f. Defendant, Randall Dean Root, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.

g. Defendant, Troy Tiegs, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.

h. Defendant, Jason Popovich, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.

i. Defendant, John Leone, at all relevant times was a deputy sheriff employed by the defendant, Orange County Sheriff's Office.

COUNT I

42 U.S.C. SECTION 1983 ACTION (Individual Officers) EXCESSIVE FORCE

39. Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

40. This is an action to redress the deprivation of Torey Breedlove's, right to be free from physical abuse or rights secured to him by the Fourth and Fourteenth Amendment to the United States Constitution.

41. The actions of the individually named Defendants were done under color of State law leading to the brutal death of Torey Breedlove and permitting and not preventing such action when each individual officer participated in the shooting and had the ability to take corrective action and thus constituted a violation of Plaintiff's rights secured under the United States Constitution and the laws of the State of Florida.

WHEREFORE, Plaintiff demands judgment against the individual officers for compensatory damages, punitive damages, interest, costs of this action and attorney's fees as provided in 42 U.S.C. Section 1988 as well as trial by jury.

COUNT II

42 U.S.C. SECTION 1988 ACTION (Individual Officers)
FALSE POLICE REPORTS

42. Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

43. The acts of the officers in filing false reports willfully and falsely reporting that Plaintiff had committed acts that he had not committed and that he had committed crimes that he had not committed, and omitting material information that the District Attorney's Office should have considered in determining whether to file charges against the officers, intending that the District Attorney's Office would insulate the Defendants from suit by successfully presenting false evidence to the Grand Jury in order to not indict, deprive the Plaintiff of its rights under the Fourteenth Amendment of the United States Constitution.

WHEREFORE, the Plaintiff demands judgment against the individual officers for compensatory damages, punitive damages, interest, costs of this action and attorney's fees provided by 42 U.S.C. 1988.

COUNT III

42 U.S.C. SECTION 1988 ACTION (Florida Department of Law Enforcement)
IMPROPER INVESTIGATION

44. Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

45. The acts of the Florida Department of Law Enforcement in filing false reports willfully and falsely reporting that Plaintiff had committed acts that he had not committed and that he had committed crimes that he had not committed, and omitting material information that the District

Attorney's Office should have considered in determining whether to file charges against the officers, intending that the District Attorney's Office would insulate the Defendants from suit by successfully presenting false evidence to the Grand Jury in order to not indict, deprive the Plaintiff of its rights under the Fourteenth Amendment of the United States Constitution.

46. The Florida Department of Law enforcement conducted its investigation in such a manner that it excluded the memorialization of lay witness testimony and/or video testimony so that an adequate record for review of the use of excessive and/or deadly force could not be conducted.

WHEREFORE, the Plaintiff demands judgment against the Florida Department of Law Enforcement for compensatory damages, punitive damages, interest, costs of this action and attorney's fees provided by 42 U.S.C. 1988.

COUNT IV

42 U.S.C. SECTION 1983 ACTION
AGAINST SHERIFF JERRY L. DEMINGS, IN HIS OFFICIAL CAPACITY

47. Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

48. The acts of the individual officers involved in causing the death of Torey Breedlove were due to the custom and policy of deliberate indifference of the Orange County Sheriff's Office and in failing to adequately train, supervise and reprimand its employees.

49. The failure to supervise, train, oversee, investigate, reprimand and otherwise discipline officers for the use of excessive force was the moving force behind the violation of Plaintiff's rights.

50. It is also upon information and belief, that the Orange County Sheriff's Office has historically failed to either perform an adequate investigation, keep or create records of internal

affairs investigations, maintain an objective investigation of complaints, track systematic problems, or remedy matters brought to its attention regarding the use of excessive force and the initiation or the use of excessive force based on recurring police activities.

51. The culture of malfeasance by the Orange County Sheriff's Office established the lack of effective discipline that itself created an atmosphere within the Department that allowed officers to use excessive force or otherwise violate rights of citizens without fear of discipline or termination. The Orange County Sheriff's Office by its actions in failing to supervise, discipline, investigate or memorialize acts of excessive force including the wrongful use of deadly force and otherwise adequately train its employees in procedures that foreseeably, if not done correctly, would initiate the use of deadly force, was and is the moving force behind the death of Torey Breedlove and the violation of the constitutional rights asserted herein.

52. Based upon information and belief, there exists numerous similar complaints both in the police community and more specifically, within the knowledge of the management of the Orange County Sheriff's Office that would establish that the Orange County Sheriff's Office knew of its officers' propensity for violence, knew that its investigatory procedures were structured to curtail disciplinary action, knew that its officers were improperly and inappropriately trained in conducting box-ins and arrest maneuvers and conducted investigations in such a manner that excluded the memorialization of lay witness testimony and/or video testimony so that an adequate record for review of the use of excessive and/or deadly force could not be conducted.

53. Therefore, the death of Torey Breedlove was a result of the policies, procedures and/or customs of the Orange County Sheriff's Office and said actions were the moving force in both factual and legal cause of the death of Torey Breedlove as set forth above.

WHEREFORE, the Plaintiff demands judgment against the Defendant, Orange County Sheriff, for compensatory damages, interest and costs of this action and attorney's fees provided for in 42 U.S.C. Section 1988.

COUNT V

WRONGFUL DEATH

54. Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

55. In accordance with Florida's "Wrongful Death Act", this action may be brought by Tiffanye Breedlove, as decedent's personal representative, who shall recover for the benefit of the decedent's survivors and estate all damages caused by the injury resulting in death.

56. Torey Breedlove contributed in kind as well as money to support each of his 4 surviving children.

57. On January 5, 2010 at approximately 5:00 A.M. the plaintiff, decedent, Torey Breedlove, was lawfully in a motor vehicle when he was caused to be shot multiple times resulting in his death, by defendants, Hector Cartagena- Auto Trap, Paul Volkerson – Auto Trap, Rafael Cruz- Auto Trap, Jason Gorberg- Auto Theft, Richard Schmeltzer- Auto Theft, Randall Dean Root- Auto Trap, Troy Tiegs- Auto Trap, Jason Popovich- Auto Trap and John Leone- Auto Trap ("The Deputies").

58. The aforementioned shooting was performed knowingly, intentionally and willfully.

59. The aforementioned shooting was performed negligently and recklessly. The aforementioned shooting was performed without reason or provocation.

60. The aforementioned shooting resulted in the death of the Torey Breedlove.

61. That at all times hereinafter mentioned, defendants, The Deputies, engaged in the actions and conduct alleged herein in their official capacity as Orange County Sheriff's Deputies and under the color and authority of State law, regulation, ordinance, custom, and usage.

62. That such actions served to deprive the decedent, Torey Breedlove, of the rights and privileges of the United States Constitution, the Fourteenth Amendment of the U.S. Constitution and Sec. 1983 of 42 U.S.C. In particular, he was deprived of his right to due process of law, of his right to happiness, to liberty, to be free from physical injury and the unwarranted use of physical force, and ultimately to the most fundamental right -his right to life.

63. The defendant, Orange County Sheriff's Office, have as a matter of policy and practice and with deliberate indifference failed to adequately train, supervise, discipline, sanction or otherwise direct its police officers, including the officers at the scene in this case, regarding the protection of the constitutional rights of citizens – and more importantly - failed to tear down the "Blue Wall of Silence" so as to force the disclosure of these constitutional abuses and to take corrective measures.

64. Such policy, practice and deliberate indifference have been described in excruciating detail in the various investigations and commissions into the Police Department. It has served to encourage and sanction the police officers' unlawful conduct described above, and was a proximate cause of the violations of decedent Torey Breedlove's rights on the morning of January 5, 2010.

65. By reason of the foregoing, Tiffany Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually demands judgment for wrongful death against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

COUNT VI

**LOSS OF SERVICES ON BEHALF OF SON # 1 IN ACCORDANCE WITH FLORIDA
STATUTE § 768.21**

66. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

67. At all times hereinafter mentioned, Son # 1 was the son of decedent, Torey Breedlove, and was entitled to his services, society, comfort and affection.

68. As a result of the defendants' negligence, defendants' assault and battery, defendants' negligent hiring and retention, and defendants' violation of the decedent's constitutional rights resulting in the death of Torey Breedlove, Son #1 has been deprived of the services, society and support of his Father, Torey Breedlove, forever!

69. By reason of the foregoing, Tiffanye Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually demands judgment for wrongful death against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

COUNT VII

**LOSS OF SERVICES ON BEHALF OF SON # 2 IN ACCORDANCE WITH FLORIDA
STATUTE § 768.21**

70. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

71. At all times hereinafter mentioned, Son #2 was the son of decedent, Torey Breedlove, and was entitled to his services, society, comfort and affection.

72. As a result of the defendants' negligence, defendants' assault and battery, defendants' negligent hiring and retention, and defendants' violation of the decedent's constitutional rights resulting in the death of Torey Breedlove, Son #2, has been deprived of the services, society and support of his Father, Torey Breedlove, forever!

73. By reason of the foregoing, Tiffany Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually demands judgment for wrongful death against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

COUNT VIII

LOSS OF SERVICES ON BEHALF OF DAUGHTER #1 IN ACCORDANCE WITH FLORIDA STATUTE § 768.21

74. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

75. At all times hereinafter mentioned, Daughter # 1 was the daughter of decedent, Torey Breedlove, and was entitled to his services, society, comfort and affection.

76. As a result of the defendants' negligence, defendants' assault and battery, defendants' negligent hiring and retention, and defendants' violation of the decedent's constitutional rights resulting in the death of Torey Breedlove, Daughter # 1 , has been deprived of the services, society and support of her Father, Torey Breedlove, forever!

77. By reason of the foregoing, Tiffany Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually demands judgment for wrongful death against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

COUNT IX

**LOSS OF SERVICES ON BEHALF OF DAUGHTER #2 IN ACCORDANCE WITH
FLORIDA STATUTE § 768.21**

78. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

79. At all times hereinafter mentioned, Daughter # 2 was the daughter of decedent, Torey Breedlove, and was entitled to his services, society, comfort and affection.

80. As a result of the defendants' negligence, defendants' assault and battery, defendants' negligent hiring and retention, and defendants' violation of the decedent's constitutional rights resulting in the death of Torey Breedlove, Daughter # 2, has been deprived of the services, society and support of her Father, Torey Breedlove, forever!

81. By reason of the foregoing, Tiffanye Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually demands judgment for wrongful death against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

COUNT X

NEGLIGENT HIRING AND RETENTION

82. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

83. The Defendant, Orange County Sheriff's Office, did not exercise reasonable care and diligence in the selection, engagement, employment and training of its agents, servants, and

employees and were negligent in the hiring, training and retention of the defendants, The Deputies, so as to cause the death of Torey Breedlove.

84. The Defendant, Orange County Sheriff's Office, had prior knowledge of the inappropriate, unlawful, and improper conduct of the defendants, The Deputies, and continued to employ them and allowed them to be in contact with the public at large.

85. By reason of the foregoing, Tiffany Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually, demands judgment for negligent hiring and retention against the defendant, Orange County Sheriff's Office, for all damages allowable by law.

COUNT XI

ASSAULT AND BATTERY

86. The Plaintiff repeats and realleges each and every allegation set forth above numbered "1" through "38" inclusive with the same force and effect as if more fully set forth at length herein.

87. On January 5, 2010 at approximately 5:00 A.M. and at all times hereinafter mentioned and upon information and belief, decedent, Torey Breedlove, was shot without reason or provocation, resulting in death by the defendants, including but not limited to The Deputies, as agents, servants and/or employees of the defendants, and the Orange County Sheriff's Office.

88. The aforementioned shooting was performed knowingly, intentionally and willfully.

89. The police officers involved in this incident who committed the aforementioned shooting on the decedent, Torey Breedlove, were acting within their scope of employment with the defendant, Orange County Sheriff's Office.

90. The shooting of the decedent, Torey Breedlove, was without probable cause for the use of deadly force.

91. By reason of said assault and battery, the decedent, Torey Breedlove, was caused to suffer severe physical injuries and pain and suffering resulting in death, including pre-death pain and suffering; emotional and psychological distress and horror.

92. By reason of the foregoing, Tiffanye Breedlove, as personal representative of the Estate of Torey Adrell Breedlove, and on behalf of his minor children, individually, demands judgment for assault and battery against the defendants, Orange County Sheriff's Office, and The Deputies, for all damages allowable by law.

Plaintiff demands a jury trial on all counts.

Dated this 22nd day of December, 2011.

Respectfully submitted,

/s/ JOHN D. MALLAH
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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ESTATE OF TOREY ADRELL BREEDLOVE, through his personal representative, and guardians in law and fact of his minor children

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Katzman Garfinkel & Berger Women's Trial Group
300 N. Maitland Ave. 538 Washington Street
Maitland, FL 32751 Orlando, FL 32801
(407) 539-3900 (407) 418-1212

DEFENDANTS

ORANGE COUNTY SHERIFF JERRY DEMINGS, in his official capacity, ET ALS

County of Residence of First Listed Defendant Orange
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HLA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HLA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983, 1988

Brief description of cause:
Wrongful death

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 12/19/2011 SIGNATURE OF ATTORNEY OF RECORD s/John D. Mallah s/Natalie A. Jackson

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____