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24 Attorneys for Plaintiffs,
25 Betty Fowler, individually and as successor in
26 interest to Denise Nicole Glasco, AG by and through
27 his guardian ad litem Betty Fowler, BG by through
28 his guardian ad litem Betty Fowler, CG by and through
his guardian ad litem Betty Fowler.

18 **UNITED STATES DISTRICT COURT**
19 **DISTRICT OF NEVADA – LAS VEGAS**

20 Betty Fowler, individually and as
21 successor in interest to Denise Nicole
22 Glasco, AG by and through his guardian
23 ad litem Betty Fowler, BG by and
24 though his guardian ad litem Betty
25 Fowler, CG by and through his guardian
ad litem Betty Fowler,

26 Plaintiffs,

27 vs.

28 Las Vegas Metropolitan Police
Department, Clark County, Douglas C.

) Case No.:
) **COMPLAINT FOR DAMAGES AND**
) **DECLARATORY RELIEF**
) **[REQUEST FOR JURY TRIAL]**

1 Gillespie, Justin Byers, Zohn Kovene,)
 2 Mary Lou Crocker, Jennifer Santiago,)
 3 Officer Kenneth Krmpotich, Officer)
 4 Alford, AND DOES 1 – 10,)
 INCLUSIVE,)
 5
 6 Defendants)

7
 8 Plaintiffs Betty Fowler Individually and as successor in interest to Denise
 9 Nicole Glasco, AG for himself, BG for himself, CG for himself – through their
 10 guardian ad litem Betty Fowler allege as follows:

11 **I**

12 **PARTIES**

- 13 1. Plaintiff, Betty Fowler (“Betty”) was and at all times relevant herein a
 14 resident of the County of San Bernardino, California. She is the mother
 15 of decedent Denise Nicole Glasco (“Denise”) and successor in interest to
 16 Denise.
 17 2. Plaintiff AG was and at all times relevant herein a resident of Clark
 18 County, Nevada. He was the minor child of decedent Denise.
 19 3. Plaintiff BG was and at all times relevant herein a resident of Clark
 20 County, Nevada. He was a minor child of decedent Denise.
 21 4. Plaintiff CG was and at all times relevant herein a resident of Clark
 22 County, Nevada. He was a minor child of decedent Denise.
 23 5. Defendant County of Clark was and at all times relevant herein a public
 24 entity organized under the laws of the State of Nevada.
 25 6. Defendant Las Vegas Metropolitan Police Department (“LVMPD”) was
 26 and at all times relevant herein a public entity organized under the laws
 27 of the State of Nevada.
 28 7. Defendant Douglas Gillespie (“Gillespie”) was and at all times relevant
 the Sheriff of the Las Vegas Metropolitan Police Department, said

1 defendant was acting within the course and scope of his employment as
2 an officer of LVMPD and acted pursuant to ordinances, regulations,
3 policies, customs, practices, and usages of defendant County of Clark.

4 8. Defendant Officer Justin Byers (“Byers”) was at and all times relevant an
5 employee of the Las Vegas Metropolitan Police Department. At all times
6 relevant hereto, said defendant was acting within the course and scope of
7 his employment as an officer of Las Vegas Metropolitan Police
8 Department and acted pursuant to ordinances, regulations, policies,
9 customs, practices, and usages of defendant County of Clark and its
10 police department.

11 9. Defendant Officer Zohn Kovene (“Kovene”) was and at all times relevant
12 an employee of the Las Vegas Metropolitan Police Department. At all
13 times relevant hereto, said defendant was acting within the course and
14 scope of his employment as an officer of Las Vegas Metropolitan Police
15 Department and acted pursuant to ordinances, regulations, policies,
16 customs, practices, and usages of defendant County of Clark and its
17 police department.

18 10. Defendant Officer Mary Lou Crocker (“Crocker”) was and at all times
19 relevant an employee of the Las Vegas Metropolitan Police Department.
20 At all times relevant hereto, said defendant was acting within the course
21 and scope of his employment as an officer of Las Vegas Metropolitan
22 Police Department and acted pursuant to ordinances, regulations,
23 policies, customs, practices, and usages of defendant County of Clark and
24 its police department.

25 11. Defendant Officer Jennifer Santiago (“Santiago”) was and at all times
26 relevant an employee of the Las Vegas Metropolitan Police Department.
27 At all times relevant hereto, said defendant was acting within the course
28 and scope of his employment as an officer of Las Vegas Metropolitan

1 Police Department and acted pursuant to ordinances, regulations,
2 policies, customs, practices, and usages of defendant County of Clark and
3 its police department.

4 12. Defendant Officer Kenneth Krmopotich (“Krmopotich”) was and at all
5 times relevant an employee of the Las Vegas Metropolitan Police
6 Department. At all times relevant hereto, said defendant was acting
7 within the course and scope of his employment as an officer of Las
8 Vegas Metropolitan Police Department and acted pursuant to ordinances,
9 regulations, policies, customs, practices, and usages of defendant County
10 of Clark and its police department.

11 13. PLAINTIFF is ignorant of the true names and capacities of defendants
12 sued herein as DOE defendants 1 through 10, inclusive, and therefore
13 sues these defendants by such fictitious names. PLAINTIFF will amend
14 this complaint to allege their true names and capacities when ascertained.
15 PLAINTIFF is informed and believes and thereon alleges that each of the
16 fictitiously named defendants is responsible in some manner for the
17 occurrences herein alleged, and that PLAINTIFF’S injuries as herein
18 alleged were proximately caused by the acts and/or omissions of said
19 fictitiously named defendants.

20 **II**

21 **JURISDICTION**

22 14. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,
23 1343 because it presents a question arising under the Constitution and
24 laws of the United States. The Court has supplemental jurisdiction to the
25 state law claims pursuant to 28 U.S.C. § 1367.

26 **III**

27 **VENUE**

1 15. The claims alleged herein arose from events or omissions occurring in
2 the County of Clark. Therefore venue lies within the Nevada District
3 pursuant to 28 U.S.C. § 1391(b)(2).

4 IV

5 **FACTS COMMON TO ALL CAUSES OF ACTION**

6 16. At about 8:00 a.m. on June 12, 2007, defendants Byers and Kovene
7 responded to a call for service due to an altercation involving patrons at
8 Jack-in-the-Box restaurant ("Restaurant") at the corner of Lake Mead and
9 Martin Luther King Avenue in the City of Las Vegas, NV.

10 17. Upon arrival at the Restaurant, Byers and Kovene were advised that
11 Denise had left the restaurant with her son AG.

12 18. The defendants approached Denise and attempted to stop her. Denise
13 informed the officers that she would not talk to them or follow them
14 since she had not committed any crime.

15 19. Denise walked away from Byers and Kovene. At all times relevant,
16 Denise attempted to walk away from Byers and Kovene continually
17 asserting that she had committed no crime and had no reasons to follow
18 the police officers.

19 20. Thereafter Byers and Kovene called for back-up. Crocker, Santiago,
20 Krimpotich, and Alford arrived at the scene in response to the call for
21 back-up.

22 21. Denise insisted that the police had no right to arrest her or take away her
23 son from her. Denise did not threaten the officers or approach the
24 officers. At all times relevant, she was attempting to walk away from the
25 officers.

26 22. The plaintiffs are informed and believe and thereon alleges that the
27 officers believing that Denise was mentally unstable snatched her son
28 from her.

1 23. The officers attempted to control Denise and in the process deployed a
2 taser gun on her several times. The officers shot and killed Denise. The
3 lethal force was applied on Denise in the presence of her son.
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8 V

9 **CLAIMS FOR RELIEF**

10 **FIRST CLAIM FOR RELIEF**

11 **EXCESSIVE FORCE IN VIOLATION OF 42 U.S.C § 1983 AGAINST ALL**
12 **NAMED PARTY DEFENDANTS**

13 24. Plaintiff re-alleges and incorporates Paragraphs 1 through 23 above, as
14 though fully stated in this paragraph.

15 25. Denise has a right to be free from unreasonable search and seizures as
16 secured to her by the Fourth Amendment to the United States
17 Constitution.

18 26. The plaintiffs are informed and believes and thereon alleges that the
19 amount of force used to effectuate the search and seizure of Denise was
20 excessive in that it was uncalled for, unprovoked, and simply gratuitous.

21 27. The plaintiff are informed and believes and thereon alleges that the
22 individual named supervisory defendants and each of them despite the
23 knowledge that the officers were acting contrary to the law, failed to
24 investigate and/or adequately investigate the nature and amount of force
25 used on Denise, failed to correct the behavior of the officers implicated in
26 this lawsuit by ordering them to be retrained in light of obvious need to
27 do so, failed to discipline, reprimand or censure any of the officers
28 implicated in the use of force.

1 28. The plaintiffs are informed and believe and thereon allege that the
2 individually named supervisory defendants and each of them acquiesced
3 in the amount of force used on Denise and by such acquiescence ratified
4 the force used on Denise in keeping with a culture of silence within
5 LVMPD.

6 29. The plaintiffs are informed and believe and thereon allege that the acts of
7 the defendants as set forth above were intentional, malicious, oppressive
8 and unlawful.

9 30. As an actual and proximate result of the acts of the defendants and each
10 of them as set forth above, the Plaintiff was damaged.

11 **SECOND CLAIM FOR RELIEF**

12 **42 U.S.C. § 1983 – DENIAL OF SUBSTANTIVE DUE PROCESS AGAINST**
13 **ALL NAMED PARTY DEFENDANTS**

14 31. Plaintiff re-alleges and incorporates Paragraphs 1 through 23 above, as
15 though fully stated in this paragraph.

16 32. Plaintiffs have a right to due process of the law as guaranteed by the Fifth
17 and Fourteenth Amendment to the United States Constitution.

18 33. The defendants denied plaintiffs substantive due process under the law
19 when Denise was killed without due process of the law.

20 34. The plaintiff are informed and believes and thereon alleges that the
21 individual named supervisory defendants and each of them despite the
22 knowledge that the officers were acting contrary to the law, failed to
23 investigate and/or adequately investigate the nature and amount of force
24 used on Denise, failed to correct the behavior of the officers implicated in
25 this lawsuit by ordering them to be retrained in light of obvious need to
26 do so, failed to discipline, reprimand or censure any of the officers
27 implicated in the use of force.
28

1 35. The plaintiffs are informed and believe and thereon allege that the
2 individually named supervisory defendants and each of them acquiesced
3 in the amount of force used on Denise and by such acquiescence ratified
4 the force used on Denise in keeping with a culture of silence within
5 LVMPD.

6 36. The plaintiffs are informed and believe and thereon allege that the acts of
7 the defendants as set forth above were intentional, malicious, oppressive
8 and unlawful.

9 37. As an actual and proximate result of the acts of the defendants and each
10 of them as set forth above, the plaintiffs were damaged.

11 **THIRD CLAIM FOR RELIEF**

12 **42 U.S.C. § 1983 – RECKLESS INDIFFERENCE AGAINST ALL NAMED**
13 **PARTY DEFENDANTS**

14 38. Plaintiff re-alleges and incorporates Paragraphs 1 through 23 above, as
15 though fully stated in this paragraph.

16 39. The plaintiffs have a due process right to their personal safety and bodily
17 integrity as secured to them by the Fourteenth Amendment to the United
18 States Constitution.

19 40. The plaintiffs are informed and thereon allege that the individual named
20 party defendants recklessly and with a wanton disregard to Denise's
21 personal safety and bodily integrity subjected her to gratuitous use of
22 force resulting in her death. The plaintiffs are further informed and
23 believes and thereon allege that following the use of deadly force on
24 Denise, the individual named supervisory defendants who had a legal
25 obligation to adequately investigate, and discipline the errant officers
26 with marked reckless indifference to the rights of plaintiffs as secured by
27 the United States Constitution failed to adequately investigate much less
28 discipline the errant officers.

1 41. The plaintiffs are informed and believe and thereon allege that the acts of
2 the defendants as set forth above were intentional, malicious, oppressive
3 and unlawful.

4 42. As an actual and proximate result of the acts of the defendants and each
5 of them as set forth above, the Plaintiff was damaged.

6 **FOURTH CLAIM FOR RELIEF**

7 **42 U.S.C. § 1983 – MONNELL CLAIM AGAINST THE ENTITY**

8 **DEFENDANTS**

9 43. Plaintiff re-alleges and incorporates Paragraphs 1 through 42 above, as
10 though fully stated in this paragraph.

11 44. The plaintiffs are informed and believe and thereon allege that the entity
12 defendants have customs, practices and usages that encourage its officers
13 to violate people's civil rights.

14 45. The Plaintiffs are further informed and believes and thereon alleges that
15 the entity defendants failed to adequately train supervise, investigate and
16 discipline the errant officers. The entity defendants had in place and had
17 ratified, policies, procedures, customs and practices which permitted and
18 encouraged their employees to unjustifiably, unreasonably and in
19 violation of the Fourteenth Amendment and right to be free from
20 unreasonable search and seizures, to knowingly subject persons they
21 knew were innocent to unreasonable force.

22 46. Such policies, procedures, customs and practices also called for the entity
23 defendants not to discipline, prosecute, or objectively and/or
24 independently investigate or in any way deal with or respond to known
25 incidents and complaints of use of unreasonable force.

26 47. As a result of the above-described acts and misconduct, plaintiffs were
27 harmed

28 **FIFTH CLAIM FOR RELIEF**

1 **VIOLATION OF THE AMERICAN WITH DISABILITIES ACT AGAINST**
2 **ALL DEFENDANTS**

3 48. Plaintiff re-alleges and incorporates Paragraphs 1 through 23 above, as
4 though fully stated in this paragraph.

5 49. The named party defendants by their conducts failed to reasonably
6 accommodate the known disability of Denise.

7 50. As an actual and proximate result, Denise was killed.

8 **SIXTH CLAIM FOR RELIEF**

9 **WRONGFUL DEATH AGAINST ALL DEFENDANTS**

10 51. Plaintiff re-alleges and incorporates Paragraphs 1 through 50 above, as
11 though fully stated in this paragraph.

12 52. On or about June 12, 2007, Denise was shot and killed by defendants.

13 53. As a direct and proximate result of defendants' wrongdoing, as described
14 above, plaintiffs sustained damages in an amount to be proved at trial.

15 **SEVENTH CLAIM FOR RELIEF**

16 **NEGLIGENCE**

17 54. Plaintiffs re-allege and incorporate Paragraphs 1 through 23 above, as
18 though fully stated in this paragraph.

19 55. Defendants placed Denise in harm's way by their conduct.

20 56. Defendants owed Denise a duty of care to take all reasonable steps to
21 protect her from based on the special relationship existing between
22 Denise and defendants.

23 57. Defendants breached the duty of care by engaging in the conduct as
24 delineated above.

25 58. As a result of defendants' breach of their duty of care, plaintiffs were
26 harmed.

27 **EIGHTH CLAIM FOR RELIEF**

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL DEFENDANTS

- 59. Plaintiff AG re-alleges and incorporates Paragraphs 1 through 23 above, as though fully stated in this paragraph.
- 60. Defendants owed AG a duty of care not to expose her to the harm inflicted on his mother after removing him from the care and custody of his mother.
- 61. Defendants breached the duty of care by engaging in the conduct delineated above.
- 62. As a result of defendants breach of their duty of care, AG was harmed.

VI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

- 1. Plaintiffs be awarded compensatory damages;
- 2. Plaintiffs be awarded punitive damages as against individual named party defendants;
- 3. Plaintiffs be awarded reasonable attorneys' fees and costs of litigation pursuant 42 U.S.C. §§ 1988, 12205; and
- 4. Plaintiffs be granted such and other relief as this court deems proper and just.

Dated October 23, 2008

Law Offices of Akudinobi & Ikonte,

BY: _____
 Chijioke O. Ikonte, Esq.
 Attorney for Plaintiffs
 Betty Fowler, individually and as
 successor in interest to Denise Nicole
 Glasco, AG by and through his
 guardian ad litem Betty Fowler, BG
 by through his guardian ad litem
 Betty Fowler, CG by and through
 his guardian ad litem Betty Fowler.

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