

**UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**BUD LEE and CINDY LUNDMAN, )  
as next friend and as natural parents of )  
PATRICK LEE, deceased, )**

**Plaintiffs, )**

**v. )**

**METROPOLITAN GOVERNMENT )  
OF NASHVILLE/DAVIDSON )  
COUNTY, TENNESSEE, )  
CHIEF OF POLICE, RONAL SERPAS, )  
Individually and in his official capacity, )  
POLICE OFFICER JONATHAN MAYS,)  
POLICE OFFICER JAMIE SCRUGGS, )  
POLICE OFFICER CHRISTOPHER )  
BROOKS, POLICE OFFICER JASON )  
CREGAN, POLICE OFFICER PAUL )  
SMITH, SERGEANT JUSTIN )  
PINKELTON, POLICE OFFICER )  
SHARRAFF MALLERY, POLICE )  
OFFICER JOHN WRIGHT, POLICE )  
OFFICER RYAN SCOTT, POLICE )  
OFFICER WAYNE FISHER, )  
Individually and in their official )  
capacities, and )  
TASER INTERNATIONAL, INC., )**

**Defendants. )**

**Case No. 3:06-CV-00108**

**Judge Trauger**

**Magistrate Judge Griffin**

**JURY DEMAND**

**AMENDED COMPLAINT**

Come now the Plaintiffs, Bud Lee and Cindy Lundman, as next friend and as natural parents of Patrick Lee, deceased, and for a cause of action would show unto this Honorable Court as follows:

**INTRODUCTION AND GENERAL ALLEGATIONS**

1. This is a civil action against the Defendant, Taser International, Inc., for the wrongful death of Patrick Lee and involves claims of negligence, misrepresentation, breach of implied and

expressed warranty and strict liability in tort and arises out of an incident which occurred on or about September 22, 2005 in Nashville, Davidson County, Tennessee.

2. Specifically, the Plaintiff alleges that the Defendant, Taser International, Inc., its agents, servants and/or employees were negligent in the design, repair, testing, inspection, manufacture, distribution, education, warning, labeling, marketing and sale of a taser gun and/or device, causing decedent's death. The specific details of the allegations against Taser, Inc. are set forth below.

3. This is also an action for money damages against the Metropolitan Government of Nashville/Davidson County, Tennessee; Chief of Police, Ronal Serpas; Police Officer, Jonathan Mays; Police Officer, Jamie Scruggs; Police Officer, Christopher Brooks; and Police Officers John and/or Jane Doe 1-10, individually and in their official capacities, for committing acts under the color of law and depriving Plaintiff of rights secured by the Constitution and laws of the United States and the State of Tennessee as well as for battery, negligence, failure to train and educate, failure to warn, and other claims as set forth below.

4. That this is also an action under the Tennessee Governmental Tort Liability Act (GTLA) Tenn. Code Ann. §29-20-101, et. seq. Under said act, the Metropolitan Government of Nashville/Davidson County is liable for the negligent acts or omissions of employees under the GTLA and the doctrine of respondeat superior and other agency relationships.

#### **THE PARTIES**

5. That the Plaintiff, Bud Lee, is the natural father of Patrick Lee and a resident and citizen of Nashville, Davidson County, Tennessee. He is a person authorized to bring this suit pursuant to Tenn. Code Ann. §20-5-106, et. seq.

6. That the Plaintiff, Cindy Lundman, is the natural mother of Patrick Lee and a resident and citizen of Ocala, Florida. She is a person authorized to bring this suit pursuant to Tenn. Code Ann. §20-5-106, et. seq.

7. That the Defendant, Taser International, Inc., is a Delaware corporation headquartered in Arizona, which manufactures and sells electric stun guns to law enforcement agencies and others, including law enforcement agencies in the State of Tennessee.

8. That the Defendant, Metropolitan Government of Nashville/Davidson County, Tennessee, is a political subdivision established under the laws of the State of Tennessee. At all times alleged herein, public and law enforcement supervisory and policymaking officials employed by Defendant, Metropolitan Government of Nashville/Davidson County, Tennessee, engaged in unconstitutional acts under color of law which were directed to the Plaintiff and resulted in the violation of Plaintiff's state and federal rights.

9. That the Defendant, Ronal Serpas, is and was, at all times pertinent to this action, the Chief of Police for Nashville, Davidson County, Tennessee and, as such, was the chief policymaker for the Nashville Metropolitan Police Department. While acting in this capacity, Chief Serpas, acting under color of law, violated the state and federal rights of the Plaintiff.

10. That the Defendants, Police Officer Jonathan Mays, Police Officer Jamie Scruggs, and Officer Christopher Brooks, were, at all times pertinent to the Complaint, individuals duly appointed employed and acting under color of law in the course and scope of their employment as police officers employed by the Nashville, Davidson County Police Department and, while acting in that capacity, violated the state and federal rights of the Plaintiff.

11. That the Defendants, Police Officer Jason Cregan, Police Officer Paul Smith,

Sergeant Justin Pinkelton, Police Officer Sharraff Mallery, Police Officer John Wright, Police Officer Ryan Scott, and Police Officer Wayne Fisher, were originally identified in Plaintiff's original Complaint as "John and/or Jane Doe 1-10". They were, at all times pertinent to the Complaint, individuals acting under color of law in the course and scope of their employment as police officers employed by the Nashville, Davidson County Police Department and, while acting in that capacity, violated the state and federal rights of the Plaintiff. As Plaintiff has now learned the identifies of these Defendants, the Complaint is being amended to identify those individuals.

12. That all of the Defendants are sued in their official and individual capacities.

13. That all of the Defendants committed the unconstitutional acts herein after complained of while acting under color of state law.

#### **FACTS**

14. That on September 22, 2005, Patrick Lee was attending a concert at the Mercy Lounge located at One Cannery Row, #100, in Nashville Davidson County Tennessee

15. That Patrick Lee was asked to leave the Mercy Lounge after getting too close to the stage.

16. That Mr. Lee was not violent nor threatening. In fact, he stated several times as he was escorted out of the building that he didn't do anything wrong. He left the building peacefully.

17. That shortly thereafter, a police officer showed up and confronted Mr. Lee. Mr. Lee was again stated that he had nothing wrong. Upon information and belief this officer was the defendant Christopher Brooks.

18. That this police officer was accompanied by an unidentified male.

19. That this Officer sprayed Mr. Lee on at least two occasions with pepper spray.

20. After being pepper sprayed, Mr Lee began taking his clothes off and trying to walk away.

21. That Mr. Lee was then cornered by this police officer and the unidentified male.

22. That in the meantime, other police officers arrived, including the defendants, Jonathon Mays and Jamie Scruggs.

23. That Officers Brooks, Mays, Scruggs and several of the other police officer Defendants surrounded Mr. Lee and would not let him leave the premises.

24. Mr. Lee was beaten, kicked, struck numerous times with batons and electrically shocked with a Taser stun gun approximately nineteen times. The Taser shocks consisted of 50,000 volts of electricity and upon information and belief lasted from two to nine seconds.

25. Upon information and belief the tasers were in the possession of Officers Mays and Scruggs.

26. That Mr. Lee began experiencing difficulty breathing and became unresponsive.

27. He was taken to Vanderbilt University Medical Center Emergency Room.

28. He was pronounced dead at Vanderbilt University Medical Center on September 24, 2005.

29. Vanderbilt University Medical Center noted the cause of death as brain death secondary to electrocution.

30. Nearly three months prior to this incident, the Nashville Metropolitan Police Department received a bulletin from Taser International, Inc. warning of using the Taser in circumstances such as those existing with Mr. Lee.

31. The bulletin contradicted much of the training and instructional materials, advertising,

brochures, promotional materials previously disseminated by Taser International and the training received by Metropolitan Police Officers.

32. The warning was buried in a three page bulletin and was not adequate. Given the vast difference in what was buried in this bulletin and everything that Taser International, Inc. had done and said previously, the warning accomplished very little.

33. That despite this bulletin, Taser International, Inc. has continued to maintain that the taser has never caused a death and that the taser is safe and nonlethal.

34. The information contained in the bulletin was of such critical importance that Taser International, Inc. should have emphasized its importance and the Metropolitan Police Department should have insured not only that officers that carry tasers read this bulletin, but that they understood what was contained in that bulletin.

35. Despite this bulletin, Metro was aware that its officers continued to use the taser in a dangerous method and were aware that, on many occasions after the bulletin, Metro police officers continued to use the taser in a manner in direction violation of the warnings.

36. Taser International, Inc. knowingly created a false impression regarding the dangers associated with the taser. Training bulletins and other materials put out by Taser International, Inc. made statements intended to create a false impression that the weapons were non-lethal and safe.

37. That Metropolitan Government knew or should have known when it purchased the tasers that was a great deal of controversy surrounding the safety of the tasers and that very little testing had been done by Taser International, Inc. Nevertheless, they purchased the weapons without proper research and investigation.

**CAUSES OF ACTION**  
**AGAINST THE DEFENDANT,**  
**TASER INTERNATIONAL, INC.**

**Count I - Negligence**

\_\_\_\_\_ Plaintiff reaffirms each and every allegation contained in paragraphs 1-37 as if fully set forth herein.

38. The Defendant, Taser International, Inc., was negligent in designing, manufacturing, testing, inspecting, distributing and/or selling the taser stun gun to law enforcement personnel and agencies in general and specifically to the other Defendants in this case.

39. The Defendant, Taser International, Inc., was further negligent in that they knew that their product was unreasonably dangerous and defective and failed to adequately warn the ultimate users of the stun guns and the general public of the dangers associated with this weapon.

40. That the Defendant, Taser International, Inc., was further negligent in the way that they advertised and promoted the stun guns. Specifically, the Defendant, Taser International, Inc., has made the following claims about the safety of the potential dangers associated with its weapons:

- ◆ Another benefit of the taser is the lack of injury to the target subject;
- ◆ It does no harm;
- ◆ There are no residual effects after the taser's cycle has stopped;
- ◆ It is completely safe;
- ◆ The device will not stop a person's heart;
- ◆ The taser will incapacitate with any circuit completing hits with no lasting effects;
- ◆ No deaths have ever been directly attributed to the taser;
- ◆ The T-wave does not interrupt the heartbeat;

- ◆ The output of the M26 into a human body is a fraction of the dangerous level;
- ◆ No reports of a taser causing death;
- ◆ There is no effect on heart rhythms;
- ◆ The taser will not cause a heart attack or damage a pacemaker;
- ◆ The taser has never caused a death;
- ◆ It becomes apparent that the chances of a random situation in the real world where the advanced taser would pose a risk to the heart is minuscule;
- ◆ There are no aftereffects noted, other than the slight surface irritation of the skin similar to sunburn;
- ◆ The electrical omissions from stun-type pulse generators, delivered to the body surface in the recommended matter do not cause cardiac rhythm abnormalities in the otherwise healthy human heart;
- ◆ I know in my heart what the truth is. Taser hasn't killed any of these people;
- ◆ No medical examiner or coroner has ever attributed an in-custody death to a taser;
- ◆ No one in the history of taser usage has ever died during an actual application and, to date, no medical examiners have ruled tasers as a cause of death;
- ◆ No cause and effect exist between the use of taser guns and their targets' deaths;
- ◆ We stand by the safety of our product. It does not cause death; and,
- ◆ Tasers aren't dangerous. They are just used in dangerous situations. The fact of the matter is that our taser technology has not been the cause of a single death.

41. That all of the above statements have been made by Taser International, Inc., through its agents, employees, board members, representatives and/or designees.

42. That these statements were made despite the fact that Taser International, Inc. knew or should have known that they were false and/or misleading and created a false perception regarding the dangers of using tasers by law enforcement personnel throughout the country, including the Defendants in this case.

43. That these statements show an intentional and conscious disregard for the true dangers associated with the product and were intended to place profits over lives.

44. That as a direct and proximate result of the above acts of negligence, Patrick Lee sustained serious injuries, death and other damages as set forth below.

### **Count II - Misrepresentation**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-44 as if fully set forth herein.

45. That, in furtherance of their profit-making pursuit, the Defendant, Taser International, Inc., engaged in an extensive advertising and promotional campaign for its weapons. This extensive campaign was pursued through video and print advertising, labels, brochures, promotional and instructional materials and verbal statements, all of which contained numerous misrepresentations of material fact concerning the character, quality and safety of the taser weapons including, but not limited to, the following:

a. Said promotional and advertising materials demonstrate users operating tasers in a reckless, dangerous and irresponsible manner;

b. Said advertising and promotional materials portray and suggest that users of a taser can adopt a nonchalant attitude while using tasers;

c. Said advertising and promotional materials were purposefully designed to create and

did actually create the impression that tasers can be used safely on anyone and that they are nonlethal when, in fact, the tasers were unreasonably dangerous when used under normal circumstances in the manner portrayed in the various advertising and promotional materials;

46. That said advertising and promotional materials deliberately omitted any indication, warning or instruction regarding the true dangers of the weapons.

47. That the Defendant, Taser International, Inc., either knew or should have known that operation and use of tasers in ways identical or similar to those portrayed in the materials disseminated during the course of the national advertising promotional campaign created an unreasonable and substantial risk of harm to users of the weapon and to the general public.

48. That, as a direct and proximate result of the breach of implied warranties by the Defendant, Taser International, Inc., Patrick Lee sustained serious injuries, death and other damages as set forth below.

### **Count III - Breach of Implied Warranty**

\_\_\_\_\_ Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-48 as if more fully set forth herein.

49. The Defendant, Taser International, Inc., its agents, servants and/or employees represented and warranted expressly and impliedly to the Plaintiff and members of the general public that its taser guns and all of the component parts, equipment, accessories and related products were safe, of merchantable quality and fit for the ordinary purposes for which the product was intended to be used.

50. The Plaintiffs and/or members of the public relied upon the skill, knowledge, judgment, representations and warranties of the Defendant, Taser International, Inc., in the

manufacture, inspection, testing, repair, design, distribution, labeling, promotion, advertising, education of, marketing and sell of the product.

51. The representations and warranties were false, misleading and inaccurate in that the product, when put to the test of actual performance, proved to be dangerous, lethal, unsound and unsuitable for the purposes for which it was intended or reasonably could be expected to be used.

52. That the Plaintiff's decedent had no knowledge of the falsity of these representations and warranties.

53. That, as a direct and proximate result of the breach of implied warranties by the Defendant, Taser International, Inc., Patrick Lee sustained serious injuries, death and other damages as set forth below.

#### **Count IV - Breach of Express Warranty**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-53 as if fully set forth herein.

54. That, upon information and belief, prior to the use of the taser weapon on the decedent by members of the Metropolitan Nashville Police Department, the Defendant, Taser International, Inc., in order to promote and induce the purchase of its product, expressly warranted by advertisement, literature and other means that users, operators, subjects of the electrical charge of the taser weapon, could safely use, operate and shock persons without harm or death for the specific use of safely apprehending suspects, which was in fact the purpose for which the product was intended.

55. Plaintiffs and Plaintiffs' decedent relied upon the skill, knowledge, judgment, representations and warranties of the Defendant, Taser International, Inc., as to the use of

Defendant's product.

56. That the representations were false, misleading and inaccurate and that the product utilized by the Metropolitan Police Department, when put to the test of actual performance was, and proved to be, deadly, unsound, unsafe and unsuitable for the purposes for which it was intended and reasonably could be expected to be used.

57. That the product was unsafe, dangerous, defective and not of merchantable quality.

58. That, as a direct and proximate result of the breach of express warranties by the Defendant, Taser International, Inc., Patrick Lee sustained serious injuries, death and other damages as set forth below.

#### **Count V - Strict Liability**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-58 as if fully set forth herein.

59. That the Defendant, Taser International, Inc., is engaged in the business of selling, developing, assembling and marketing energy weapons, primarily for use in the law enforcement, corrections, private security and personal defense market.

60. That the product/weapon utilized on the Plaintiffs' decedent was in a defective and unreasonably dangerous condition when it left the Defendant, Taser International, Inc.

61. That the Defendant, Taser International, Inc., was otherwise negligent and careless in failing to properly design, manufacture, test, promote, advertise, market and warn about the aforementioned products/weapons and was negligent and careless in the warning, design, testing, inspection, installation, assembly, construction, manufacture, distribution, labeling, sales, promotion, maintenance, service and/or repair of the taser guns and all of the component parts, equipment,

accessories and related products which were not safe for the intended purpose and were not free from design manufacture defects which failed to give adequate warnings, notice, educational information and directions for safety and use and the Defendant, Taser International, Inc., was otherwise negligent and careless.

62. That the taser is dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it, with the ordinary knowledge common to the community as to its characteristics.

63. That the taser, because of its dangerous condition and characteristics, would not be put on the market by a reasonably prudent manufacturer or seller under the same or similar circumstances.

64. That, at the time of the occurrences set forth herein, the products were being used for the purpose and in the manner normally intended and reasonably could be expected to be used and the Plaintiff was unaware of any design or manufacturing defects or inadequate warnings or directions for use or of any danger associated with the product's use.

65. That, as a direct and proximate result of the Defendant's conduct as set forth above, Patrick Lee sustained serious personal injuries and death.

66. That the Defendant, Taser International, Inc., is strictly liable to Plaintiffs for their actions.

**CAUSES OF ACTION AGAINST**  
**THE METROPOLITAN GOVERNMENT OF**  
**NASHVILLE/DAVIDSON COUNTY, TENNESSEE**  
**AND CHIEF OF POLICE, RONAL SERPAS,**  
**INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY**  
**AND ALL DEFENDANT POLICE OFFICERS**

**Count VI – 42 U.S.C. §1983 – Excessive Use of Force**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-66 as if fully set forth herein.

67. The vicious beating, electrocution, use of chemical agent and other wrongful acts conducted against the Plaintiffs' decedent, Patrick Lee, by the Defendants including, but not limited to, Defendant Officers, constituted unreasonable and excessive force by a police officer as well as abuse of process. Such actions were negligent, reckless, unreasonable and unauthorized, as the Defendants had a duty to not subject Plaintiffs' decedent to vicious and fatal police actions, but failed to prevent same and breached that duty.

68. As a direct and proximate consequence of the Defendants' intentional wrongful actions and negligent behavior in violation of state and federal laws, Plaintiffs' decedent was deprived of his freedom and life, was seriously physically injured, and was subjected to a great fear and terror and suffered great physical pain and impairment, mental and emotional distress as a result of the aforesaid unlawful conduct of Defendant Officers and the other Defendants.

**Count VII - 42 U.S.C. §1983 - Municipal Violations**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-68 as if fully set forth herein.

69. That the Defendant, Metropolitan Government of Nashville, Davidson County,

Tennessee, and the Defendant, Chief Ronal Serpas, have permitted and tolerated a pattern and practice of unjustified, unreasonable, and illegal uses of force, beatings, and use of weapons against civilians by police officers of the Nashville Metropolitan Police Department. Although such beatings, illegal uses of force, and use of weapons were improper, the officers involved were not seriously prosecuted, disciplined or subjected to restraint and such instances were, in fact, covered up with official claims that the beatings, uses of force, and uses of weapons were justified and proper. As a result, Nashville, Davidson County Police Officers were caused and encouraged to believe that civilian persons could be beaten or abused under circumstances not requiring the use of excessive force and that such beatings would, in fact, be permitted by the Metropolitan Government.

70. In addition to permitting a pattern and practice of improper beatings and abuses of civilian persons, the Nashville Metropolitan Police Department and Chief Ronal Serpas have failed to maintain a proper system for investigation of all incidents of unjustified beatings, shootings and excessive use of force by police officers.

71. That, on several prior occasions, supervisory personnel have reviewed the use of force and the use of tasers by Metropolitan Police Officers and have found that the police officers acted properly when, in fact, the officers had violated department policy and state and federal law.

72. That the Defendants, Metropolitan Government of Nashville, Davidson County and Chief Ronal Serpas, have failed to respond to the continuing and urgent need to prevent, restrain and discipline police officers who wrongfully beat, use excessive force, and abuse civilian persons.

73. That the Defendants, Metropolitan Government of Nashville, Davidson County and Chief Ronal Serpas, have maintained a system of review of unjustified beatings, shootings and excessive use of force by police officers that has failed to identify the improper brutality by police

officers and failed to subject officers who shot, tasered, beat and/or brutalized citizens to discipline, closer supervision, and/or restraint, to the extent that it has become the custom of the Metropolitan Government of Nashville, Davidson County to tolerate the improper beatings, illegal arrests and other wrongful actions by police officers.

74. Upon information and belief, specific systemic flaws in the Metropolitan Government of Nashville, Davidson County, Tennessee's brutality review process include, but are not limited to, the following:

a. Preparing reports regarding investigations of beatings and shooting incidents and the use of tasers, as routine point by point justifications of the actions of the police officers involved, regardless of whether such actions are justified;

b. Police officers investigating beatings, shootings and the use of tasers have systematically failed to credit testimony by non-police officer witnesses, and uncritically rely upon reports by police officers involved in the incident;

c. Police officers investigating beatings, shootings and the use of tasers have failed to include in their reports relevant factual information which would tend to contradict the statements of the police officers involved;

d. Supervisory police officers have issued public statements exonerating police officers for the use of unnecessary and excessive force, improper beatings, and/or the use of tasers before the investigations of the incidents by the police department has been completed;

e. Reports of brutality cases are not reviewed for accuracy by supervisory officers. Conclusions are frequently permitted to be drawn on the basis of clearly incorrect, misleading or contradictory information;

f. The Metropolitan Police Department has a policy of issuing public statements which are designed to mislead and influence public perception of the police department rather than to provide critical important details to the public.

75. That the foregoing acts, omissions, systemic flaws, policies, and customs of the Defendants have caused police officers of Metropolitan Government of Nashville, Davidson County to believe that brutality, excessive force and other improper actions would not be aggressively, honestly and properly investigated, with the foreseeable result being that officers are likely to use excessive force in situations where such force is neither necessary nor reasonable.

76. As a direct and proximate result of the aforesaid acts, omissions, systemic flaws, police, practices and customs of the Defendants, Metropolitan Government of Nashville, Davidson County and Chief Ronal Serpas, and Defendant Officers unjustifiably electrically shocked, sprayed with chemical agent, beat, brutalized, and killed Plaintiffs' decedent, Patrick Lee, all in violation of his civil and constitutional rights and he has suffered with the loss of his life as well from physical injuries, psychological harm, mental distress, humiliation, embarrassment, fear and being prevented from attending his usual duties and his life as a son, brother, and citizen.

77. The Defendants, Metropolitan Government of Nashville Davidson County and Chief Ronal Serpas, were reckless, negligent, and deliberately indifferent in their training, hiring and supervision of their police officers, including the Defendant Officers with respect to the use of force against citizens of Nashville, Davidson County and the recognition and preservation of the civil and constitutional rights and life of citizens of Davidson County.

78. That the Defendants, Metropolitan Government of Nashville Davidson County and Chief Ronal Serpas, promoted and enabled procedures permitting the types of actions taken by the

Defendant Police Officers which resulted in the violation of Patrick Lee's constitutional and civil rights and physically harmed him. The Defendants failed to promulgate procedures and/or monitor and enforce compliance with established policies and procedures for the handling of persons in the same or similar circumstances of the decedent, which resulted in a violation of Patrick Lee's constitutional and civil rights, as well as physical harm to him.

79. That, upon learning that the training which police officers received was inadequate, the Metropolitan Government of Nashville, Davidson County, Tennessee and Chief of Police, Ronal Serpas failed to take steps to see that they received additional and proper training regarding the use of tasers.

80. That, although the Metropolitan Government of Nashville, Davidson County, Tennessee and Chief of Police, Ronal Serpas knew or should have known that police officers in their department were routinely and consistently using tasers inappropriately and when not warranted, they failed to take steps to remedy the situation.

81. That, as a direct result of the actions and failures of the Defendant, Metropolitan Government of Nashville Davidson County and Chief Ronal Serpas, the Defendant Police Officers did not employ appropriate procedures to physically safeguard Patrick Lee, especially with respect to their preparation for and initial contact with him, attempts to contain him, attempts to take him into custody, failure to use protective devices, failure to employ nonlethal control devices, use of excessive force, use of deadly force, and to minimize the escalation of inappropriate physical force used against him.

**Count VIII – 42 U.S.C. §1983 – Fourteenth Amendment and Other Laws**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-81 as if fully set forth

herein.

82. That the Defendants, acting under color of state law, both collectively and individually, have engaged in actions and abuses which have deprived Plaintiffs' decedent, Patrick Lee, of rights, privileges and immunities secured by the United States Constitution including, but not limited to, rights secured by the due process and equal protection under the Fourteenth Amendment and other laws in violation of 42 U.S.C. §1983.

83. In derogation of their duty, the Defendant Police Officers failed to follow established and widely recognized law enforcement policies and procedures with respect to the handling of persons in the same or similar circumstances of Patrick Lee and/or Defendant, Metropolitan Government of Nashville Davidson County and Chief Ronal Serpas, failed to develop and implement adequate policies to establish appropriate handling by its police officers of persons in the same or similar circumstances as Patrick Lee.

84. That, as a direct and proximate result of said acts, Patrick Lee sustained serious injuries, death and other damages as set forth below.

#### **Count IX – Negligence**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-84 as if fully set forth herein.

85. In the acts complained of herein, Defendant Police Officers acted negligently in that they had a duty to act reasonably and responsibly and not to act in a manner which would cause the death of Patrick Lee. Defendant Officers had a duty not to repeatedly shock, chemically spray, beat and otherwise abuse Plaintiffs' decedent in such a way that would summarily cause his death. Defendant Officers had a duty to act as would prudent police officers by not taking actions which

would endanger the life of Patrick Lee and other persons similarly situated and acting within the scope of their authority and not to use excessive force or otherwise violate the constitution or the civil rights of Plaintiffs' decedent. Defendant Officers, in their actions, breached those duties.

86. In derogation of their duty the Defendant Police Officers failed to follow established and widely recognized law enforcement policies and procedures with respect to the handling of persons similarly situated as Patrick Lee and the Defendants, Metropolitan Government of Nashville Davidson County and Chief Ronal Serpas failed to develop and implement adequate policies to establish appropriate handling by its police officers of persons similarly situated as Patrick Lee.

87. In the acts complained of herein, each of the Defendants acted negligently in that they had a duty to properly investigate, act within the scope of their authority and to refrain from using excessive force or otherwise violate the constitution and civil rights of Plaintiffs' decedent. They breached that duty.

88. That, as a direct and proximate result of the negligence of these Defendants, Patrick Lee sustained serious injuries, death and other damages as set forth below.

### **Count X – Battery**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-88 as if fully set forth herein.

89. That the deliberate and intentional acts and omissions of the Defendant Police Officers, acting in their individual and official capacities, for the Defendant, Metropolitan Government of Nashville, Davidson County, Tennessee, as set forth above, give rise to a cause of action under the common law of Tennessee for battery and that all Defendants are jointly liable for such actions.

90. That, as a direct and proximate result of the intentional acts of these Defendants, Patrick Lee sustained serious injuries, death and other damages as set forth below.

**Count XI – Governmental Tort Liability Act (GTLA)**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-90 as if fully set forth herein.

91. That the Defendant, Metropolitan Government of Nashville Davidson County, is a governmental entity within the meaning of the Governmental Tort Liability Act (GTLA), Tenn. Code Ann. §29-21-101, et. seq and is liable for the negligent acts and omissions of employees under the GTLA and the doctrine of respondeat superior and other agency relationships.

92. That, at all times pertinent to this action, the Defendant Police Officers and other employees of the Metropolitan Government of Nashville Davidson County were acting within the course and scope of their employment.

93. That, without limiting the general allegations of negligence, the Defendant Police Officers were negligent as follows:

a. Using force that was excessive and unjustified under the conditions and circumstances then and there present; and,

b. Failing to follow established policies and procedures relating to the use of force.

94. That, without limiting the general allegations of negligence, the Defendant, Metropolitan Government of Nashville Davidson County was negligent as follows:

a. Failing to properly train and supervise officers in the use of force in the use of tasers; and,

b. Failing to establish appropriate policies and procedures regarding the use of force and

the use of tasers.

95. That, without limiting the general allegations of negligence, the Defendant Chief Ronal Serpas, was negligence as follows:

a. Failing to properly train and supervise officers in the use of force in the use of tasers;  
and,

b. Failing to establish appropriate policies and procedures regarding the use of force and the use of tasers.

96. That it was foreseeable that a person such as Patrick Lee would sustain serious personal injuries and/or death as a result of the above acts of negligence.

97. That these negligent acts show a conscious disregard for the health and welfare of the citizens of Nashville, Davidson County, Tennessee.

98. That, as a direct and proximate result of the above acts of negligence, Patrick Lee sustained serious injuries and death and further damages as set forth below.

### **DAMAGES**

Plaintiffs reaffirm each and every allegation contained in Paragraphs 1-98 as if fully set forth herein.

99. That, as a direct and proximate result of the above-stated actions of the Defendants, Patrick Lee was repeatedly electrocuted, sprayed with chemical agents, beaten and died. Patrick Lee suffered serious personal injuries, severe mental anguish, pain and suffering, humiliation, loss of earning capacity and medical expenses.

100. That, as a direct and proximate result of the above acts of the Defendants, Patrick Lee's family, including, but not limited to his father, Bud Lee, his mother, Cindy Lundman, and his

brother, Christopher Lee have the lost the love, affection, companionship of their son and brother.

101. That the actions of the Defendants were intentional, reckless, malicious and fraudulent and Plaintiffs are entitled to punitive damages.

**WHEREFORE**, Plaintiffs demand judgment against the Defendants, jointly and severally, in the amount of Ten Million Dollars (\$10,000,000.00) compensatory and Fifty Million Dollars (\$50,000,000.00) punitive damages. Plaintiffs further demand attorney fees and whatever further relief the Court deems appropriate and further demand a jury of twelve to try all issues joined herein.

Respectfully submitted,

**BEDNARZ & BEDNARZ**

s/ Joe Bednarz, Jr.

**JOE BEDNARZ, JR.**

**BPR# 18540**

Suite 1400, Parkway Towers  
404 James Robertson Parkway  
Nashville, Tennessee 37219  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been furnished via U.S. mail, postage prepaid to:

Thomas T. Overton, Esq.  
213 Third Avenue North  
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and by electronic means via the Court's electronic filing system to:

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