

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA

**Lillie Brown Clark,**  
as the Administrator for the  
Estate of Andrew Brown, Jr.,

Plaintiff,

Civil Action File No.

**Investigator Daniel Meads;**  
**Deputy Sheriff II Robert Morgan;**  
**Cpl. Aaron Lewellyn;**  
**Lt. Steven Judd;**  
**Sgt. Michael Swindell;**  
**Sgt. Kenneth Bishop;**  
**Sgt. Joel Lunsford;**  
**Sheriff Tommy S. Wooten, II;**  
**Sheriff Doug Doughtie;**  
**John and Jane Doe 1-20;**  
**ABC corporation 1-4,** unknown  
Sureties Bonding companies  
for Tommy S. Wooten, II,  
and Doug Doughtie.

Defendants.

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COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Lillie Brown Clark, as the Administrator for the Estate of Andrew Brown, Jr. (hereinafter "Plaintiff"), by and through the undersigned attorneys, and hereby files this Complaint against Investigator Daniel Meads, in his individual capacity; Deputy Sheriff II Robert Morgan, in his individual

capacity; Cpl. Aaron Lewellyn, in his individual capacity; Lt. Steven Judd, in his individual capacity; Sgt. Michael Swindell, in his individual capacity; Sgt. Kenneth Bishop, in his individual capacity; Sgt. Joel Lunsford, in his individual capacity; Sheriff Tommy S. Wooten, II, in his individual capacity and in his official capacity as Sheriff of Pasquotank County, North Carolina; Sheriff Doug Doughtie, in his individual Capacity and in his official capacity, as Sheriff of Dare County, North Carolina; John and Jane Doe 1-20, in their individual capacities and in their official capacities.

#### INTRODUCTION

*The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, nondangerous suspect by shooting him dead.*

*-----Justice Byron White, Tennessee vs Garner, 471 U.S. 1 (1985)*

On April 21, 2021, Andrew Brown, Jr, a 42-year-old black man, was gunned down by deputies of the Pasquotank County Sheriff's Office ("PCSO") and/or Dare County Sheriff's Office ("DCSO"). At the time Andrew Brown, Jr. was shot, he was unarmed and posing no threat to law enforcement or others.

Plaintiff brings federal constitutional claims against all named Defendants, for committing acts under color of law that deprived Andrew Brown, Jr. (hereinafter “Brown”) of his rights under the Constitution and the laws of the State of North Carolina by using unlawful and deadly force against Brown; whereby, Brown was unarmed and posing no threat to law enforcement or others. Further, Plaintiffs brings state law claims of Wrongful Death, Battery and Assault against all named and unknown Defendants.

### JURISDICTION AND VENUE

1.

This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343 over Plaintiff’s claims under the U.S. Constitution, which are brought both directly under 42 U.S.C. § 1983.

2.

This Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant to 28 U.S.C. § 1367 because it is so related to the federal claims that it forms part of the same case or controversy under Article III of the U.S. Constitution.

3.

This Court has personal jurisdiction over all Defendants as it relates to Plaintiff’s state law claims. Defendant Tommy S. Wooten, II maintained an official

bond issued as required by N.C. Gen. Stat. § 162-8 and the laws of North Carolina. The official bond issued by surety to Defendant Tommy S. Wooten, II and the deputies of his office as Sheriff of Pasquotank County, covers damages resulting from the neglect, misconduct, or misbehavior of the Sheriff or his deputies in the performance of their official duties. Further, Defendant Tommy S. Wooten, II waives his sovereign immunity defense by the purchase of liability insurance under N.C. Gen. Stat. § 153A-435. Further, at all times relevant to this complaint Defendant Doug Doughtie maintained an official bond issued as required by N.C. Gen. Stat. § 162-8 and the laws of North Carolina. The official bond issued by Surety to Defendant Doug Doughtie and the deputies of his office as Sheriff of Dare County, covers damages resulting from the neglect, misconduct, or misbehavior of the Sheriff or his deputies in the performance of their official duties. Further, Defendant Doug Doughtie, II waives his sovereign immunity defense by the purchase of liability insurance under N.C. Gen. Stat. § 153A-435.

4.

Venue is proper in this District under 28 U.S.C. § 1391(b)(2). All of the events giving rise to this Complaint occurred within this District.

## PARTIES

5.

At all times relevant hereto, Plaintiff Lillie Brown Clark as the Administrator for the Estate of Andrew Brown, Jr, is the paternal aunt of the decedent Andrew Brown, Jr., and a citizen of the United States of America.

6.

At all times relevant hereto, Defendant Daniel Meads was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Daniel Meads is sued in his individual capacity.

7.

At all times relevant hereto, Defendant Robert Morgan was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Robert Morgan is sued in his individual capacity.

8.

At all times relevant hereto, Defendant Aaron Lewellyn was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Aaron Lewellyn is sued in his individual capacity.

9.

At all times relevant hereto, Defendant Steven Judd was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Steven Judd is sued in his individual capacity.

10.

At all times relevant hereto, Defendant Michael Swindell was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Michael Swindell is sued in his individual capacity.

11.

At all times relevant hereto, Defendant Kenneth Bishop was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Kenneth Bishop is sued in his individual capacity.

12.

At all times relevant hereto, Defendant Joel Lunsford was a citizen of the United States and a resident of the State of North Carolina and was acting under color of state law in his capacity as a law enforcement officer employed by the PCSO. Defendant Joel Lunsford is sued in his individual capacity.

13.

At all times material hereto, Defendant Tommy S. Wooten, II, was Sheriff of Pasquotank County, an entity, corporate and political, duly organized under the laws of the State of North Carolina. Defendant Tommy S. Wooten, II, was responsible for his deputies' training, supervision, and conduct. Defendant Tommy S. Wooten, II, is responsible for ensuring that his deputies obey the laws of the State of North Carolina and ensuring that his rules, regulations, and policies are followed and enforced. Defendant Tommy S. Wooten, II is sued in his individual and official capacities.

14.

At all times material hereto, Defendant Doug Doughtie, was Sheriff of Dare County, North Carolina an entity, corporate and political, duly organized under the laws of the State of North Carolina. Defendant Doug Doughtie was responsible for his deputies' training, supervision, and conduct. Defendant Doug Doughtie is responsible for ensuring that his deputies obey the laws of the State of North Carolina and ensuring that his rules, regulations, and policies are followed and enforced. Defendant Doug Doughtie is sued in his individual and official capacities.

## FACTUAL ALLEGATIONS

### *Events That Occurred on April 21, 2021*

15.

On April 21, 2021, at approximately 8:20 a.m., Andrew Brown Jr. (hereinafter “Brown”), the father of seven children, was sitting in the driver’s seat of his vehicle while parked in his driveway located at 421 Perry St. Elizabeth City, North Carolina.

16.

At approximately 8:23 a.m., members of the PCSO and DCSO arrived at 421 Perry Street to execute a search warrant on the property located at 421 Perry Street and Brown’s vehicle; and to execute arrest warrants for Brown out of Dare County, North Carolina.

17.

Notably, the Dare County arrest warrants were invalid because the arrest warrants only bore the typed name of the purported judicial officer who issued the warrants and no actual signature of the judicial officer in violation of N.C. Gen. Stat. § 15A-301(a)(2). (See Exhibit A).

18.

The arrest warrants were based on the allegation that Brown had sold drugs on two separate occasions in Dare County in mid-March and late March of 2021. Based on the allegations within the invalid arrest warrants, the PCSO secured a search warrant for the premises located at 421 Perry St. and Brown’s vehicle.

19.

The allegation of selling illegal drugs nor the possession of illegal drugs are considered violent felonies in North Carolina. Additionally, Neither PCSO nor DCSO possessed any information that Brown possessed any weapons. Further neither PCSO nor DCSO possessed any information that Brown had a violent history against law enforcement or a propensity of violence towards others.

20.

Before PCSO and DCSO arrived, Brown was sitting in his vehicle parked in his driveway. Upon PCSO's and DCSO's arrival to his residence, Brown had his cell phone to his ear. At all times relevant, Brown's hands were visible to the law enforcement officers.

21.

Notwithstanding the fact that Brown had not been accused of committing any violent felonies, that no intelligence existed that Brown was known to possess any weapons, and that no intelligence existed that Brown had a propensity for violence towards law enforcement or others, Brown was confronted by several members of the PCSO and/or DCSO with assault rifles being pointed at him coupled with loud shouting and profanity directed towards him.

22.

Due to such an unwarranted confrontation, Brown was startled and afraid. Subsequently, in an attempt to escape, Brown placed his vehicle in reverse and backed away from the law enforcement officers. At no time were any members of the PCSO, DCSO or others in any imminent threat of harm or injury from Brown or his vehicle.

23.

Next, Brown placed his vehicle in drive and purposely turned his vehicle leftward negotiating his vehicle to avoid all law enforcement members. At no time were any members of the PCSO, DCSO or others in any imminent threat of harm or injury from Brown or his vehicle as he drove his vehicle away from law enforcement.

24.

During the course of his retreat, a member of the PCSO or DCSO fired his weapon into the front windshield of Brown's vehicle. At the time that shot was fired, no members of the PCSO, DCSO or others were in any imminent threat of harm or injury by Brown or his vehicle.

25.

As Brown's vehicle was passing by the law enforcement officers at a low rate of speed, multiple shots were fired by some of the individual Defendants into

Brown's vehicle. At no time were any members of the PCSO, DCSO or others in any imminent threat of harm or injury by Brown or his vehicle.

26.

As Brown's vehicle gained a considerable distance away from the law enforcement officers, multiple shots were fired into the rear of Brown's vehicle by members of the PCSO and/or DCSO. At that time, no members of the PCSO, DCSO or others were in any imminent threat of harm or injury by Brown or his vehicle.

27.

As a result of members of the PCSO's and/or DCSO's intentional and reckless disregard of the life and safety of Brown, Brown's vehicle was riddled with bullets.

28.

Brown sustained multiple gun shots wounds to his right arm and a fatal gunshot wound to the back of his head as he drove away from law enforcement. At the time Brown was shot in his right arm and the back of his head (See Exhibit B), Brown did not pose any threat or harm to any members of the PCSO, DCSO or others.

29.

Brown died as a result of members of the PCSO's and/or DCSO's intentional and reckless disregard of his life and safety on April 21, 2021.

30.

The North Carolina State Bureau of Investigation (hereinafter “SBI”) conducted an investigation surrounding the shooting death of Brown.

31.

After the SBI’s investigation, the SBI provided its findings to the First Judicial Circuit District Attorney Andrew Womble (hereinafter “Womble”).

32.

On May 18, 2021, Womble declared that the shooting death of Brown was justified and that no law enforcement officer involved in the shooting death of Brown would be charged.

33.

According to Womble in his May 18, 2021 press conference, the reason why the officers fired their weapons at Brown, was because they perceived a threat to Defendants Swindell and Lunsford by Brown’s vehicle.

34.

However, for arguendo purposes only, if such threat initially existed, the threat clearly ceased once Brown drove by Defendants Swindell and Lunsford and distanced his vehicle away from Defendants Swindell and Lunsford. However, the shooting officers intentionally and deliberately discharged their weapons into

Brown's vehicle. Approximately fourteen rounds struck Brown's vehicle and one round struck a nearby residence.

35.

In Williams v. Strickland, 917 F.3d 763 (4<sup>th</sup> Cir. 2019), the Fourth Circuit of United States Court of Appeals held that:

**Officers had violated the Fourth Amendment to the extent that they started to use deadly force, or continued to use deadly force, once the car had driven by them—i.e., once it was no longer reasonable for them to believe that the car was about to run them (or their fellow officers) over. This was true even though mere seconds separated the point at which deadly force was lawful from the point at which deadly force was unlawful. As we put it then, “force justified at the beginning of an encounter is not justified even seconds later if the justification for the initial force has been eliminated.”**

36.

The state of North Carolina is within the Fourth Circuit of United States Court of Appeals.

37.

Notably, the PCSO Use of Force Policy 300.4.1 MOVING VEHICLES states the following:

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective. When feasible, deputies should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, **or if deadly force other than the vehicle is directed at the deputy or others. Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.** (See Exhibit C)

38.

At all times relevant, All Defendants, were acting under color of state law in their capacities as a law enforcement officer employed by PCSO and/or DCSO.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

**42 U.S.C. § 1983 – Excessive Force in Violation of the Fourth Amendment**  
(Against All Individual Defendants)

39.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint.

42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress.....

40.

All individual Defendants to this claim, is a person for purposes of 42 U.S.C. § 1983.

41.

All individual Defendants, at all times relevant hereto, were acting under the color of state law in their capacities as a Deputy or Officer for PCSO and/or DCSSO and their acts or omissions were conducted within the scope of his official duties or employment.

42.

At the time of the complained of events, Brown had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through excessive force.

43.

Brown also had the clearly established Constitutional right under the Fourth Amendment to bodily integrity and to be free from excessive force by law enforcement.

44.

Any reasonable PCSO and/or DCSO Deputy/Officer knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

45.

All individual Defendants' actions and use of force, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated the Fourth Amendment rights of Brown.

46.

All individual Defendants' actions and use of force, as described herein, were also malicious and/or involved reckless, callous, and deliberate indifference to Brown's federally protected rights. The force used by all individual Defendants shocks the conscience and violated the Fourth Amendment rights of Brown.

47.

All individual Defendants unlawfully seized Brown by means of objectively unreasonable, excessive and conscious shocking physical force. The force used was deadly force and did cause the death of Brown.

48.

All individual Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Brown's federally protected constitutional rights.

49.

All individual Defendants did so with shocking and willful indifference to Brown's rights and with conscious awareness that it could cause Brown severe bodily harm or death.

50.

The acts or omissions of all individual Defendants were the moving forces behind Brown's injuries. The acts or omissions of all individual Defendants as described herein intentionally deprived Brown of his constitutional rights and caused him other damages. All individual Defendants are not entitled to qualified immunity for his actions.

51.

As a proximate result of all individual Defendants' unlawful conduct, Brown was killed. As a further result of the individual Defendants' unlawful conduct, Brown has incurred special damages, including medical expenses and other special damages related expenses, in amounts to be established at trial.

52.

On information and belief, Brown suffered lost future earnings and impaired earnings capacities from the not yet fully ascertained sequelae of his injuries, in amounts to be ascertained in trial. Plaintiffs are further entitled to attorneys' fees and costs pursuant to 42 U.S.C. §1988, pre-judgment interest and costs as allowable by federal law. There may also be special damages for lien interests.

53.

In addition to compensatory, economic, consequential and special damages, Plaintiffs are entitled to punitive damages against each of the individually named Defendants under 42 U.S.C. § 1983, in that the actions of each of these individual Defendants have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Brown. All Defendants are jointly and severally liable for violating Brown's Fourth Amendment Rights.

54.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
5. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

**SECOND CLAIM FOR RELIEF**  
**(42 U.S.C. § 1983 – (42 U.S.C. § 1983 Deliberate Indifference)**  
(Against Defendants Tommy S. Wooten, II and Doug Doughtie,  
in their Individual Capacity and  
in their Official Capacity)

55.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint.

42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress.....

56.

Defendants Tommy S. Wooten, II and Doug Doughtie are persons for purposes of 42 U.S.C. § 1983.

57.

Defendants Tommy S. Wooten, II and Doug Doughtie, at all times relevant hereto, were acting under the color of state law in their capacities as Sheriff for

PCSO and DCSO, respectively, and their acts or omissions were conducted within the scope of their official duties or employment.

58.

The unconstitutional actions and/or omissions of all individual Defendants, were pursuant to the following customs, policies, practices, and/or procedures of PCSO and DCSO, which were directed, encouraged, allowed, and/or ratified by policy making Defendants Tommy S. Wooten, II and Doug Doughtie:

- a. To use or tolerate the use of excessive and/or unjustified force;
- b. To create unnecessary danger and risk of serious harm or death, with deliberate indifference, to an unarmed non threaten person;
- c. To cover-up violations of constitutional rights by failing to properly investigate and/or evaluate officer involved shootings and by ignoring and/or failing to properly and adequately investigate and discipline unconstitutional or unlawful activity by their deputies;
- d. To allow, tolerate, and/or encourage a "code of silence" among their deputies, whereby a deputy does not provide adverse information against a fellow deputy;
- e. To use or tolerate inadequate, deficient, and improper procedures for handling, investigating, and reviewing complaints of law enforcement officer misconduct; and
- f. In such other: ways as may be learned during discovery in this case.

59.

Defendants Tommy S. Wooten, II and Doug Doughtie failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline deputies of

the PCSO and DCSO with deliberate indifference to Brown's constitutional rights, which were thereby violated as described above.

60.

The aforementioned customs, policies, practices, and procedures, the failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline, as well as the unconstitutional orders, approvals, ratification and toleration of wrongful conduct by Defendants Tommy S. Wooten, II and Doug Doughtie, were a moving force and/or a proximate cause of the deprivations of Brown's clearly established and well-settled constitutional rights in violation of 42 U.S.C. §1983, as more fully set forth above.

61.

Defendants Tommy S. Wooten, II and Doug Doughtie subjected Brown to their wrongful conduct, depriving Brown of the rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Brown and other members of the general public would be violated by their acts and/or omissions.

62.

As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, practices and procedures of Defendants Tommy S. Wooten, II and Doug Doughtie, Plaintiff is entitled to damages, penalties, costs and attorney fees as

set forth, above, including punitive damages against Defendants Tommy S. Wooten, II and Doug Doughtie.

WHEREFORE, Plaintiffs prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
5. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

**THIRD CLAIM FOR RELIEF**  
**(Assault and Battery)**  
(All individual Defendants)

63.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint

64.

All individual Defendants pointed a firearm at Brown and unjustifiably used deadly force against Brown, such force was objectively excessive and unreasonable under the circumstances.

65.

All individual Defendants' intentional acts as described more fully hereinabove, put Brown in actual, subjective apprehension of immediate harmful or offensive contact.

66.

Brown's apprehension was objectively reasonable under the circumstances in that a person of ordinary care and prudence under the same or similar circumstances would have believed that harmful, or offensive contact was about to occur.

67.

All individual Defendants' actions against Brown were unreasonable and unlawful. At the time Brown was shot by the individual Defendants, Brown did not pose any threat or harm to any members of the PCSO, DCSO, or others. All individual Defendants acted with a depraved indifference to human life and conscious disregard for the safety of the general public, constituted an intentional unwelcome and unprivileged touching of Brown, and was undertaken in bad faith and with actual malice.

68.

As a further direct and proximate result of the conduct described above, Brown died. Prior to his death Brown suffered loss of his liberty and freedom, bodily injury resulting in pain and suffering, mental anguish, and medical expenses for

treatment and care. Brown did not consent to contact with, from or by any of the individual Defendants.

69.

All individual Defendants are jointly and severally liable for their assault and battery towards Brown.

70.

WHEREFORE, Plaintiffs prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Reasonable attorney fees;
5. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

**FOURTH CLAIM FOR RELIEF**  
**(Assault and Battery)**

(Against Tommy S. Wooten, II, in his Official Capacity as Sheriff of Pasquotank County and Doug Doughtie, in his Official Capacity as Sheriff of Dare County)

71.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint.

72.

All individual Defendants' actions against Brown were unreasonable and unlawful. At the time Brown was shot by the individual Defendants, Brown did not pose any threat or harm to any members of the PCSO, DCSO, or others. All individual Defendants acted with a depraved indifference to human life and conscious disregard for the safety of the general public, constituted an intentional unwelcome and unprivileged touching of Brown, and was undertaken in bad faith and with actual malice.

73.

As a further direct and proximate result of the conduct described above, Brown died. Prior to his death Brown suffered loss of his liberty and freedom, bodily injury resulting in pain and suffering, mental anguish, and medical expenses for treatment and care.

74.

At the time of the complained incident, all individual Defendants were acting within the scope of their employment with Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. At the time all individual Defendants committed the acts described herein, they were acting within the course and scope of their employment and/or agency with PCSO and DCSO. As

such, Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina is liable for the intentional acts of all individual Defendants. Therefore, the intentional acts of all individual Defendants are imputed to Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. through the doctrines of agency, vicarious liability and respondeat superior.

75.

As a further direct and proximate result of the conduct described above, Brown died. Prior to his death Brown suffered loss of his liberty and freedom, bodily injury resulting in pain and suffering, mental anguish, and medical expenses for treatment and care.

76.

WHEREFORE, Plaintiffs prays for the following relief:

6. Judgment for compensatory damages in excess of \$5,000,000.00.
7. Judgment for exemplary or punitive damages;
8. Cost of suit;
9. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

**FIFTH CLAIM FOR RELIEF**  
**(Wrongful Death)**  
**(Intentional)**  
**(All Defendants)**

77.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint.

78.

On April 21, 2021, all individual Defendants, employees and uniformed officers with PCSO and DCSO, committed a battery when they discharged their weapons to intentionally strike Brown that resulted in the untimely and unlawful death of Brown.

79.

The aforementioned act of discharging their weapons at Brown, was intentional and deliberate. All the individual Defendants' acts were carried out in bad faith and with malicious intent to harm Brown. As a direct and proximate result of their acts, Brown was murdered.

80.

At the time of the complained of incident, all individual Defendants were acting within the scope of their employment with Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug

Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. At the time all individual Defendants committed the acts described herein, they were acting within the course and scope of their employment and/or agency with PCSO and DCSO. As such, Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina is liable for the intentional acts of all individual Defendants. Therefore, the intentional acts of all individual Defendants are imputed to Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. through the doctrines of agency, vicarious liability and respondeat superior.

81.

WHEREFORE, Plaintiffs prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. The value of support and services the deceased person had provided to the surviving family member;
5. Loss of companionship, guidance, and protection provided by the deceased person;

6. Mental and emotional pain and suffering due to the loss of a child, and medical or funeral expenses any surviving family member has paid for the deceased person;
7. The deceased person's estate may also recover certain types of damages.

These include:

- a. lost wages, benefits, and other earnings, including the value of lost earnings that the deceased person could reasonably have been expected to make if he or she had lived
- b. lost "prospective net accumulations" of the estate, or the value of earnings the estate could reasonably have been expected to collect if the deceased person had lived, and
- c. medical and funeral expenses that were paid by the estate directly.
- d. Such other relief as this Honorable Court may deem just and appropriate.

**SIXTH CLAIM FOR RELIEF**  
**(Wrongful Death Negligence/ Gross Negligence)**  
(All Defendants)

(Pleaded in the Alternative Pursuant to Federal Rule of Civil Procedure 8(d)(2).)

82.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 38 of this Complaint.

83.

All Individual Defendants owed a duty to Brown and to the general public, to perform their duties in such a way as to avoid placing Brown and other members of the public in unreasonable danger of serious injury or death. Furthermore, all Defendants owed a duty to ensure that Brown and other members of the public would be free from unreasonable searches and seizures and excessive force.

84.

All individual Defendants breached their duty by shooting at Brown even though he posed no threat to law enforcement or others.

85.

Specifically, members of PCSO who fired their weapons at Brown as he drove his vehicle away from them, clearly violated PCSO Use of Force Policy 300.4.1.

86.

All individual Defendants' negligent acts and omissions constitute proximate causes of the incident which resulted in injuries to and the death of Brown which Plaintiff on behalf of the Estate of Andrew Brown, Jr. is entitled to recover damages under the North Carolina Wrongful Death Statute, N.C. Gen. Stat. §28A-18-2, as more particularly described herein.

87.

At the time of the complained incident, all individual Defendants were acting within the scope of their employment with Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. At the time all individual Defendants committed the acts described herein, they were acting within the course and scope of their employment and/or agency with PCSO and DCSO. As such, Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina are liable for the intentional acts of all individual Defendants. Therefore, the negligent acts and omissions of all individual Defendants are imputed to Tommy S. Wooten, II, in his Official Capacity as Sheriff of the Pasquotank County, North Carolina or Doug Doughtie, in his Official Capacity as Sheriff of the Dare County, North Carolina. through the doctrines of agency, vicarious liability and respondeat superior.

88.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00;
2. Judgment for exemplary or punitive damages;
3. Cost of suit;

4. The value of support and services the deceased person had provided to the surviving family member;
5. Loss of companionship, guidance, and protection provided by the deceased person;
6. Mental and emotional pain and suffering due to the loss of a child, and medical or funeral expenses any surviving family member has paid for the deceased person;
7. The deceased person's estate may also recover certain types of damages.

These include:

- a. lost wages, benefits, and other earnings, including the value of lost earnings that the deceased person could reasonably have been expected to make if he or she had lived
- b. lost "prospective net accumulations" of the estate, or the value of earnings the estate could reasonably have been expected to collect if the deceased person had lived, and
- c. medical and funeral expenses that were paid by the estate directly.

Such other relief as this Honorable Court may deem just and appropriate.

## **PRAYER FOR RELIEF**

Plaintiff prays that this Court enter judgment for the Plaintiff and against each of the Defendants and grant:

- A. compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount in excess of \$30,000,000.00
- B. economic losses on all claims allowed by law;
- C. special damages in an amount to be determined at trial;
- D. punitive damages on all claims allowed by law against all Defendants and in an amount in excess of \$1,000,000.00
- E. attorneys' fees and the costs associated with this action under 42 U.S.C. § 1988, including expert witness fees, on all claims allowed by law;
- F. pre- and post-judgment interest at the lawful rate; and,
- G. any further relief that this court deems just and proper, and any other appropriate relief a law and equity.

**PLAINTIFF REQUESTS A TRIAL BY JURY.**

Respectfully submitted July 14th, 2021.

*(signatures on following page)*

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