

LAURA THOMAS :
Columbus 911 Emergency Dispatcher :
120 Marconi Boulevard :
Columbus, Ohio 43215, :
: :
Defendants. :

COMPLAINT

THE PARTIES

1. Plaintiff Luzy Saenz is a resident of the City of Humble, Harris County, Texas, and was appointed Administrator of the Estate of Deborah Saenz, deceased (hereinafter "Plaintiff's decedent"), by the Harris County, Texas Probate Court on October 16, 2020, in Docket No. 484661 (see a copy of Letters of Administration, attached as Exhibit 1 to this Complaint).

2. Plaintiff Luzy Saenz brings this action as a personal representative for the exclusive benefit of the surviving parent(s) and other next of kin of Plaintiff's decedent.

3. Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed were, at all times pertinent to this Complaint, duly appointed police officers employed by the City of Columbus in its Division of Police and were acting in the course and scope of their employment.

4. Defendant Laura Thomas was, at all times pertinent to this Complaint, a 9-1-1 Emergency Dispatcher employed by the City of Columbus and was acting in the course and scope of her employment.

JURISDICTION AND VENUE

5. This Court has original jurisdiction over Plaintiff's claims under Ohio law because this is a civil action seeking damages for wrongful death, survivorship and other claims that are each governed by Ohio law.

6. Venue is proper in this Court because the events giving rise to this action occurred in Columbus, Franklin County, Ohio, where Defendant City of Columbus is located and operates the Division of Police and where Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer, Rodney Reed and Laura Thomas are employed.

STATEMENT OF FACTS

7. On or about the afternoon of July 11, 2019, in the City of Columbus, Franklin County, Ohio, Plaintiff's decedent called 9-1-1 and stated that law enforcement needed to "come get" her boyfriend, Marcos Solis III ("Solis"), because he was "beating" her; during the call, Plaintiff's decedent also made clear to the dispatcher that there were two guns inside the house and that Solis had guns in his hands; Plaintiff's decedent identified her location as 1667 Genessee Avenue, in Columbus, Franklin County, Ohio ("apartment"); then, while still on the line with the 9-1-1 emergency dispatcher, Plaintiff's decedent began crying, then screaming, then moaning, when the call disconnected.

8. In response to Plaintiff's decedent's 9-1-1 call, Columbus Police officers were dispatched to the apartment.

9. The Computer Aided Dispatch (CAD) data provided to the Columbus Police officers regarding the subject matter of the emergency run included, among other things, that the caller (Plaintiff's decedent) had been assaulted by Solis, that there were guns inside the house, that the caller yelled that Solis had guns in his hands and that the dispatcher heard a loud scream when the line disconnected.

10. Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed were on duty and each responded to the emergency run by going to the apartment.

11. Once they arrived at the apartment, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer, and Rodney Reed could openly see that a window to the apartment was broken in, from the outside to the inside of the apartment, consistent with someone forcibly entering the apartment.

12. While at the apartment, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed spoke with Plaintiff's decedent, who was crying and stated that she was scared of Solis.

13. Inside the apartment, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed identified a gun case, which was open and empty, located in plain view, on a bed, inside a bedroom; this information was consistent with Plaintiff's decedent's description to the 9-1-1 dispatcher and with the information included on the CAD data available to Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed that there were guns in the apartment.

14. In addition to there being an open gun case in plain view on a bed, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed identified ammunition ("magazine(s)") near the open gun case.

15. Despite the fact that an open gun case and ammunition were identified within the apartment, that Plaintiff's decedent notified the 9-1-1 dispatcher that there were guns in the apartment and that Solis had guns in his hands and that this information was included within the CAD data available to them, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed did not conduct a search of

the apartment to locate the guns, leaving unidentified and unaccounted any guns that were in the apartment or nearby.

16. Despite the fact that an open gun case and ammunition were identified within the apartment, that Plaintiff's decedent notified the 9-1-1 dispatcher that there were guns in the house and that Solis had guns in his hands and that this information was included within the CAD data available to them, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed did not ask either Plaintiff's decedent or Solis about the presence of guns or the location of the guns, leaving unidentified and unaccounted any guns that were in the apartment or nearby.

17. While at the apartment, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed spoke with Solis, who acknowledged that one or more of his body tattoos were "gang" tattoos and that he had served time in prison.

18. Plaintiff's decedent stated to Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed that Solis had served time in prison.

19. A routine Law Enforcement Automated Database Search (LEADS) performed by Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed would have quickly revealed that Solis was a convicted felon.

20. Based upon Solis's status as a convicted felon, which should have been known to Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer, and Rodney Reed from a routine LEADS search and from information provided separately by Solis and Plaintiff's decedent, it was unlawful for Solis to be in possession of any firearm or dangerous ordnance, pursuant to Ohio Revised Code Section 2923.13.

21. While it is not the responsibility of the victim to request that officers make an arrest, after initially stating that she did not want Solis arrested, Plaintiff's decedent

told Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed to arrest Solis.

22. As to the information being provided separately and verbally by Plaintiff's decedent and Solis while at the apartment, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed did not believe that they were receiving the full, accurate information from Plaintiff's decedent and Solis about what was happening between them and the reasons why Plaintiff's decedent called 9-1-1.

23. Unfortunately, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed either did not realize or did not care that although Plaintiff's decedent was in the apartment and Solis was outside seated on a picnic table, there was a broken window between them which allowed for Solis to hear what was being said by Plaintiff's decedent to officers in the apartment or, at a minimum, that the broken window would have been reason for Plaintiff's decedent to be concerned that Solis could hear her.

24. Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed ignored the fact that Plaintiff's decedent was never sufficiently separated from Solis while talking with officers in the apartment.

25. Instead of taking seriously Plaintiff's decedent's report of violence and being in danger at the hands of Solis, as well as her expressed fears of Solis, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed labeled Plaintiff's decedent a "16B," which is code between the police officers identifying Plaintiff's decedent as mentally ill, effectively dismissing what Plaintiff's decedent was saying and undermining her credibility.

26. Despite the fact that there was evidence of the existence of one or more guns in the apartment or area, that Solis was a convicted felon who was not legally allowed to possess a firearm or dangerous ordnance, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed neither specifically questioned Plaintiff's decedent or Solis about the location of guns nor performed a search of the apartment and area to locate the guns, to ensure that any guns were confiscated and removed from the scene and, specifically, from Solis.

27. Despite the fact there was evidence of the existence of one or more guns in the apartment or area, that Solis was a convicted felon who was not legally allowed to possess a firearm or dangerous ordnance, that Plaintiff's decedent's emergency call to 9-1-1 stated that Solis was beating her and that there were guns in the house, that this information was available as part of the CAD data, that Plaintiff's decedent told Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed that she was scared of Solis and wanted him arrested, that Plaintiff's decedent was never given an opportunity to speak to the officers separate and apart from Solis, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed failed to arrest Solis.

28. Although probable cause existed to arrest Solis, Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed should have at least taken action to remove Plaintiff's decedent or Solis from the property in order to physically separate Plaintiff's decedent from Solis so her complaints of abuse could be shared with the officers without fear of reprisal from Solis and so that Plaintiff's decedent would be in a safe environment, away from Solis.

29. Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and/or Rodney Reed concluded the “investigation” without taking any preventative action to protect Plaintiff’s decedent from Solis; Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed physically left the apartment and surrounding area, each walking by Plaintiff’s decedent as she was crying outside the apartment, without any of these Defendants asking Plaintiff’s decedent why she was reacting so emotionally to their departure.

30. Approximately nine minutes after Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed left the apartment and the surrounding area, a 9-1-1 emergency call was made from Plaintiff decedent’s phone; the call was disconnected without the caller saying anything; the 9-1-1 dispatcher attempted to return the call, but there was no answer.

31. Defendant Laura Thomas was the 9-1-1 dispatcher who answered the “hang up” call described within paragraph thirty (30) of this Complaint; Defendant Laura Thomas added the “hang up” call information to the “gun run” information entered the same day, which involved Plaintiff’s decedent’s initial 9-1-1 call described within paragraph seven (7) of this Complaint; Defendant Laura Thomas failed to air (dispatch) the information about the 9-1-1 “hang up” call to police officers so that police officers could respond to the “hang up” call.

32. On or about the morning of July 12, 2019, fewer than twenty-four (24) hours after Plaintiff’s decedent’s initial 9-1-1 emergency call described within paragraph seven (7) of this Complaint, Solis shot Plaintiff’s decedent multiple times in the apartment with one or more handguns; Plaintiff’s decedent later died from her gunshot wounds.

33. After learning that Plaintiff's decedent was murdered by Solis, the day after Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed were at the apartment with Plaintiff's decedent and Solis, LuEllen Kuykendoll, a Lieutenant with the Columbus Police Department, instructed or encouraged Defendant Rodney Reed to revise Defendant Rodney Reed's original report documenting Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed's "investigation" response to Plaintiff decedent's initial 9-1-1 emergency call described within paragraph seven (7) of this Complaint.

34. At the instruction or encouragement of Lieutenant LuEllen Kuykendoll, Defendant Rodney Reed amended the classification and narrative of the original report Defendant Rodney Reed created, changing the classification from "Domestic Dispute" to "Miscellaneous Incident" and changing the entire narrative, in an obvious attempt to justify why Solis was not arrested, why no guns were recovered and why no other action was taken by Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer and Rodney Reed on July 11, 2019.

FIRST CAUSE OF ACTION

35. Plaintiff incorporates by reference and makes part hereof paragraphs one (1) through thirty-four (34) of this Complaint as if completely rewritten herein.

36. The actions of the Defendants were willful, wanton and/or reckless under Ohio law.

37. As a direct and proximate result of Defendants' misconduct, Plaintiff's decedent, Deborah Saenz, was shot by Solis using one or more handguns; she suffered injuries from her gun wounds and died on July 12, 2019.

38. Since Plaintiff's decedent, thirty-two years of age upon her demise, had a life expectancy of not less than forty-nine years at the time of her death, her beneficiaries have suffered damages of loss of support for her reasonably expected earnings capacity.

39. As a direct and proximate result of her death, Plaintiff's decedent's beneficiaries suffer permanent damages for loss of services over the time that she was expected to live.

40. As a direct and proximate result of her death, Plaintiff's decedent's beneficiaries suffer permanent damages for the loss of society over her life expectancy including the loss of companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education.

41. As a direct and proximate result of her death, Plaintiff's decedent's beneficiaries suffer permanent damages from the mental anguish caused by her death.

42. As a direct and proximate result of her death, Plaintiff's decedent's heirs at law have suffered loss of prospective inheritance.

43. As a direct and proximate result of her fatal injury and death, beneficiaries of the estate have incurred reasonable medical, funeral and burial expenses.

SECOND CAUSE OF ACTION

44. Plaintiff incorporates by reference and makes part hereof paragraphs one (1) through forty-three (43) of this Complaint as if completely rewritten herein.

45. As a direct and proximate result of Defendants' misconduct, Deborah Saenz sustained conscious physical pain, mental distress, loss of enjoyment of life, physical impairment, inability to perform usual activities, and anxiety until her loss of consciousness and death.

WHEREFORE, Plaintiff Luzy Saenz, as Administrator of the Estate of Deborah Saenz, deceased, demands judgment against Defendants, jointly and severally, for damages in an amount greater than twenty-five thousand dollars (\$25,000.00), plus prejudgment interest, costs, attorney fees, punitive damages and any other relief determined to be just and proper.

Respectfully submitted,

ROBERT J. WAGONER CO., L.L.C.

/s/ Robert J. Wagoner _____

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and

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/s/ Jeffrey A. Dittmer _____

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Attorneys for Plaintiff Luzy Saenz,
Administrator of the Estate of Deborah Saenz

JURY DEMAND

Now comes Plaintiff, by and through counsel, and demands trial of the within cause to a jury of eight (8) persons.

/s/ Robert J. Wagoner _____
Robert J. Wagoner (0068991)
Attorney for Plaintiff Luzy Saenz,
Administrator of the Estate of Deborah Saenz

EXHIBIT 1



Chris Hollins
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

In Matter of Probate	{	
	{	Docket No. 484661
County Probate Court No. 1	{	
	{	In the Estate of: Deborah Saenz,
Harris County, Texas	{	Deceased

LETTERS OF ADMINISTRATION

It is hereby certified that on **October 07, 2020** said court granted Letters of Administration in the estate of **Deborah Saenz, Deceased** and that **Luzy Saenz** qualified as **Independent Administrator** of this Estate on **October 16, 2020** as the law requires, and that this Appointment is still in full force and effect.

Witness my hand and seal of said court, at Houston, Texas, on **November 10, 2020**.

(SEAL)

Chris Hollins, County Clerk
County Probate Court No. 1
201 Caroline, Room 800
Harris County, Texas

Graciela Z. Muñoz
Graciela Munoz
Deputy County Clerk