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12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 DANIEL GILLSON and BEVERLY  
15 GILLSON  
16 Plaintiffs,

Case No.:

17 vs.

18 SPARKS POLICE DEPARTMENT;  
19 WASHOE COUNTY SHERIFF'S OFFICE;  
20 TASER INTERNATIONAL, INC., an  
21 Arizona Corporation; TASER  
22 INTERNATIONAL, INC., a Delaware  
23 Foreign Corporation; DOES I through X in  
24 their individual and official capacity; DOES  
25 XI through XX in their individual and  
26 official capacity; DOES XXI through XXX in  
27 their individual and official capacity; DOES  
28 XXXI through XL in their individual and  
official capacity; and ROE  
CORPORATIONS XLI Through L,  
inclusive,  
Defendants.

**COMPLAINT  
JURY TRIAL DEMAND**

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## NATURE OF THE ACTION

### DEMAND FOR JURY TRIAL

## JURISDICTION (Federal Causes of Action)

-2-

**JURISDICTION FOR STATE CAUSES OF ACTION**  
**(State Causes of Action)**

4. Jurisdiction for the state tort claims against all Defendants is pursuant to statutes of the State of Nevada and is conferred upon this Court by the doctrine of pendent jurisdiction pursuant to 28 U.S.C. § 1367.

**VENUE**

5. Venue is proper in the District of Nevada pursuant to 28 U.S.C. § 1391(b) as the claims arose in this district.

**PARTIES**

6. Plaintiff Daniel Gillson in his individual capacity, is the Father of Decedent, Jacob J. Lair and at all times relevant hereto, a resident of Clark County, State of Nevada.

7. Plaintiff Beverly Gillson in her individual capacity, is the mother of Decedent, Jacob J. Lair and at all times relevant hereto, a resident of Clark County, State of Nevada.

8. Defendant Sparks Police Department is a legal entity for the purposes of 42 U.S.C. §1983. Defendant Sparks Police Department (hereinafter "SPD") is responsible for the enforcement of the law and the protection of the citizenry of the City of Sparks, Clark County, Nevada. SPD is also responsible for the training, hiring, control and supervision of all its officers, employees and/or agents as well as the implementation and maintenance of official and unofficial policies necessary to carry out their police

1 functions. At all times relevant to this Complaint SPD employed and controlled all the  
2 individually named and or involved Defendants' officers.

3  
4 9. Defendant Does I through X, inclusive, are the individual members of SPD  
5 who assisted in, participated in, facilitated, permitted or allowed the violation of  
6 Plaintiffs' civil rights and/or the killing of Decedent. Plaintiffs will ask leave of this  
7 Court to insert the true names and capacities of such Defendants when the same have  
8 been ascertained and will further ask leave to join said Defendants in these proceedings.  
9

10 10. Defendant Does XI through XX, inclusive, are supervisory and/or policy  
11 making officials of SPD as yet unidentified who have adopted, implemented,  
12 maintained or tolerated policies which permitted, facilitated or allowed the violation of  
13 the Plaintiffs' civil rights and/or the killing of Decedent or who have negligently  
14 trained, hired or supervised officers, agents or employees of SPD. Plaintiffs will ask  
15 leave of this Court to insert the true names and capacities of such Defendants when the  
16 same have been ascertained and will further ask leave to join said Defendants in these  
17 proceedings.  
18

19 11. Defendant Washoe County Sheriff's Office is a legal entity for the purposes  
20 of 42 U.S.C. §1983. Defendant Washoe County Sheriff's Office (hereinafter "WCSO") is  
21 responsible for the enforcement of the law and the protection of the citizenry of Washoe  
22 County, Nevada. WCSO is also responsible for the training, hiring, control and  
23 supervision of all its officers, employees and/or agents as well as the implementation  
24 and maintenance of official and unofficial policies necessary to carry out their police  
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1 functions. At all times relevant to this Complaint WCSO employed and controlled all  
2 individually named and or involved Defendants' officers.

3  
4 12. Defendant Does XXI through XXX, inclusive, are the individual members  
5 of WCSO who assisted in, participated in, facilitated, permitted or allowed the violation  
6 of Plaintiffs' civil rights and/or the killing of Decedent. Plaintiffs will ask leave of this  
7 Court to insert the true names and capacities of such Defendants when the same have  
8 been ascertained and will further ask leave to join said Defendants in these proceedings.

9  
10 13. Defendant Does XXXI through XL, inclusive, are supervisory and/or  
11 policy making officials of WCSO as yet unidentified who have adopted, implemented,  
12 maintained or tolerated policies which permitted, facilitated or allowed the violation of  
13 the Plaintiffs' civil rights and/or the killing of Decedent or who have negligently  
14 trained, hired or supervised officers, agents or employees of WCSO. Plaintiffs will ask  
15 leave of this Court to insert the true names and capacities of such Defendants when the  
16 same have been ascertained and will further ask leave to join said Defendants in these  
17 proceedings.

18  
19 14. At all times relevant to this Complaint, all of the actions of the Defendants  
20 SPD, Does I through X, Does XI through XX, WCSO, Does XXI through XXX, Does XXXI  
21 through XL (hereinafter sometimes referred to as "Official Defendants") were  
22 performed under color of state law and pursuant to their authority as police officers.

23  
24 15. Defendant Taser International, Inc. (hereinafter "Taser International") is a  
25 Delaware corporation with its principal place of business at 17800 N. 85<sup>th</sup> Street,  
26 Scottsdale, Arizona 85255. Taser International manufactured, promoted, marketed,  
27  
28

1 distributed, developed, and sold Tasers in Washoe County, Nevada and in interstate  
2 commerce.

3  
4 16. That the true names and capacities, whether individual, corporate,  
5 associate, partnership or otherwise of Defendants herein designated as Roes XLI  
6 through L are not known to Plaintiffs, who therefore sues said Defendants by such  
7 fictitious names. Plaintiffs herein allege that each named Defendant herein designated  
8 as a Roe is in some manner negligently, willfully, maliciously, contractually, vicariously  
9 or otherwise legally responsible for the events and happenings herein referred to and  
10 proximately caused damage sustained by Plaintiffs who have been damaged as a result  
11 thereof (collectively referred to as "Private Defendants".) Plaintiffs will ask leave of this  
12 Court to insert the true names and capacities of such Private Defendants when the same  
13 have been ascertained and will further ask leave to join said Private Defendants in these  
14 proceedings.  
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18 17. That at all times pertinent hereto, Private Defendants and each of them  
19 were the agents, servants, employers and/or employees of each other and were acting  
20 within the course and scope of said relationship.  
21

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

23 18. On or about June 9, 2004, at approximately 4:00 P.M., Decedent Lair slept  
24 in his bed within his residence located at 5380 Sidehill Drive, Sun Valley, and Washoe  
25 County, Nevada.  
26

27 19. Officers of SPD arrived at the residence seeking to contact Decedent Lair in  
28 reference to an investigation. The SPD Officers entered the Decedent's home and found

1 him asleep in his bedroom. In attempting to wake Decedent Lair, an altercation broke  
2 out.

3  
4 20. Upon information and belief, WCSO deputies, responding to an "alert  
5 tone", joined the milieu during which unknown officers utilized pepper spray and  
6 Taser devices on Decedent Lair both before and after he was hobbled and handcuffed.

7  
8 21. Upon information and belief, Decedent Lair was "tased" 10 to 15 times by  
9 responding officers after receiving a burst of pepper spray.

10 22. Upon information and belief, medical responders arrived at approximately  
11 4:20 P.M., finding Lair hobbled, handcuffed, and naked laying in the prone position face  
12 down on his bed. Upon moving Lair to the floor of his bedroom, medical personal  
13 found him to be without pulse or respiration (agonal respiration). CPR and  
14 resuscitation procedures were initiated with Lair remaining unresponsive.  
15

16  
17 23. Subsequent to transportation to the Washoe Medical Center, Decedent Lair  
18 was pronounced dead at approximately 5:04 P.M. by Doctor Gregory Juhl M.D.

19 24. An autopsy performed by the Washoe County Coroner's Office  
20 determined that Lair died of acute methamphetamine intoxication with associated  
21 (probable) cardiac arrhythmia while engaged in physical struggle with law enforcement  
22 officers involving "taser gun", "pepper spray", and restraints.  
23

24 25. Pathologist Alane M. Olson, M.D. of the Washoe County Coroner's Office  
25 ruled Decedent Lair's death an "accident" and found that the amount of  
26 methamphetamine in Lair's blood was not necessarily enough to have led to his death  
27 independent of other factors.  
28

1           26. Upon information and belief, multiple tasings by SPD and or WCSO  
2 officers coupled with the effects of pepper spray under restraining procedures  
3 eliminated Lair's ability to breathe causing him to go into cardiac arrest.  
4

5           27. At all times relevant hereto, Taser International manufactured, created,  
6 designed, supplied, marketed, advertised, and otherwise distributed Tasers in interstate  
7 commerce.  
8

9           28. Upon information and belief and in furtherance of Taser International's  
10 sales campaign, they jointly acted with SPD and WCSO in deploying Taser devices to  
11 their officers; training SPD and WCSO master trainers and officers by teaching  
12 certification courses; recertifying instructors; providing policies and procedures for the  
13 use of Taser devices; providing maintenance, evaluation and continuing support of SPD  
14 and WCSO's inventory of Taser devices; providing forensic and evidentiary technical  
15 support for SPD and WCSO criminal cases; providing forensic and evidentiary support  
16 for SPD and WCSO disciplinary and internal affairs investigations; and, providing  
17 ongoing consultations, advice, updates, and recommendations regarding the  
18 deployment of Taser devices to SPD and WCSO officers and the use of force in general.  
19  
20  
21

22           29. Upon information and belief, SPD and WCSO officers were issued a Taser  
23 model X26z manufactured and transferred to their respective departments by Taser  
24 International.  
25

26           30. Upon information and belief, SPD and WCSO were issued the Taser  
27 devices on or before June 9, 2004 after completing training designed and conducted by  
28



1 SPD and or WCSO and Taser International personnel derived from Taser International's  
2 training guidelines.

3  
4 31. Upon information and belief, SPD and WCSO officers were trained by SPD  
5 and or WCSO and Taser International personnel that no limit existed to the amount of  
6 times a Taser could be used on a potential assailant and that no injuries would result  
7 except for those arising from falling in response to the effect of the Taser device.  
8

9 32. Defendant's Tasers are handheld devices that fire two wires tipped with  
10 metal barbs. Tasers look and operate like polymer guns. After firing, the probes  
11 discharged from the Taser remain connected to the handheld device by high-voltage  
12 insulated wires that electrocute, via the transmission of electrical pulses, the target  
13 person. The device can be used as a handheld stun gun as well.  
14

15 33. Upon information and belief, Taser International theorizes that their device  
16 overwhelms the normal electrical signals within the body's nerve fibers, impairing the  
17 subject's ability to control their bodies or perform coordinated actions. Upon  
18 information and belief, Taser International's "theory" is just that; a theory wholly  
19 lacking in objectively verifiable data demonstrating how Tasers work, where the  
20 electricity travels in the human body, or whether those subject to its immensely painful  
21 electrocution live without long-term or short-term consequences; such as but not  
22 limited to cardiovascular or respiratory distress and damage.  
23  
24  
25

26 34. With Taser International's latest Taser models, the initial "impairment"  
27 effect lasts up to five seconds, and the charge can be repeated for up to approximately  
28 ten minutes by repeated firing of the Taser.

1           35. Taser International makes several models of Tasers with most being  
2 designed for law enforcement personnel and some for average consumers. The M26, the  
3 first of Taser International's current generation of Tasers, was introduced in late 1999.  
4 Taser International's latest law enforcement model, the X26, was first introduced in  
5 May of 2003. Upon information and belief, the price for an X26 Taser is approximately  
6 \$800. The X26 Taser has a range of approximately 21 feet and delivers 50,000 volts of  
7 electricity to its target.  
8

9  
10           36. Upon information and belief, Taser International shipped the first X26  
11 Tasers in September of 2003, after what they allege to be "comprehensive medical safety  
12 testing was conducted." Upon information and belief, Taser International widely  
13 markets its Tasers expressly as "non-lethal," "safe" alternatives to guns and deadly  
14 force. In addition, Taser International claims its Tasers have no adverse long-term  
15 health consequences. As a result of the company's aggressive "safety" marketing and  
16 purported "extensive" medical research, Taser International has enjoyed significant  
17 sales of its Tasers.  
18  
19

20  
21           37. Upon information and belief, Taser International's safety claims permeate  
22 its marketing materials. For example, the Company claims that "TASER devices use  
23 proprietary technology to safely incapacitate." Tom Smith, President of the Company  
24 and brother to Taser International Chief Executive Officer ("CEO") Rick Smith, recently  
25 told the *Rocky Mountain News* that the Company "stand[s] by the safety of [its] product.  
26 It does not cause deaths." Similarly, in the Company's "Certification Lesson Plan,"  
27  
28

1 Taser International states that there are “no reports of TASER weapons causing death,”  
2 and calls its Tasers “health insurance for everyday circumstances.”  
3

4 38. Upon information and belief, Taser International knew or reasonably  
5 should have known that persons suffering from a diminished capacity such as a mental  
6 illness, an adverse medical condition, or being under the influence of medications  
7 would be subjected to “Tasings”; and even multiple “Tasings” by law enforcement  
8 officers issued a Taser device and used in conjunction with Taser International’s  
9 guidelines.  
10

11 39. Upon information and belief, when Taser International has purported to  
12 disclose the results of scientific or medical studies on Tasers, it has disregarded and  
13 obscured the studies’ negative information. For example, Taser International claims that  
14 a Department of Defense (“DOD”) study proves that Tasers are “safe and effective.”  
15 However, upon information and belief, DOD officials who were involved with and  
16 have reviewed the DOD Study have stated that it contains no data whatsoever to justify  
17 Taser International’s claims that there is no risk of death or serious injury from the use  
18 of its product.  
19  
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21

22 40. Upon information and belief, Taser International, in all of its marketing  
23 materials and in numerous, frequent public comments by its executives, state that  
24 Tasers are safe and non-lethal and go to great lengths to avoid any acknowledgment  
25 that Tasers are anything but perfectly harmless. In that regard, in a March 2005 public  
26 debate, Taser International co-founder and CEO Rick Smith stated that Tasers present a  
27 danger comparable to “coming up behind your grandmother and screaming ‘Boo.’”  
28

1           41. Upon information and belief, SPD, WCSO, and Taser International  
2 received notice that Taser devices had been at least partly responsible for the death of a  
3 person or persons subjected to its jolt.  
4

5           42. Upon information and belief, as a result of its concerted marketing efforts  
6 and demonstrably false claims, Taser International now reportedly equips about 7,000  
7 United States police agencies, and approximately 135,000 of the nation's one million law  
8 and corrections officers. Sales to law enforcement agencies make up approximately 95%  
9 of Taser International's business.  
10

11           43. Upon information and belief, these law enforcement agencies and  
12 departments have been misled by the company's safety rhetoric and, as a consequence,  
13 routinely use Tasers to subdue citizens in situations that do not warrant or permit the  
14 use of deadly force such as for misdemeanor offenses where citations would normally  
15 be given.  
16  
17

18           44. Upon information and belief because of these false safety claims by Taser  
19 International, law enforcement has used and been trained to use Tasers on unarmed  
20 subjects, pregnant women, citizen over 80 years of age, children as young as age six,  
21 passively resisting or fleeing subjects, people already under restraint, individuals who  
22 are physically disabled, and an overwhelming number of emotionally distressed  
23 individuals. Upon information and belief, reports on Taser International's web site  
24 show that, as a direct result of the company's false safety claims, Tasers are frequently  
25 being used instead of more traditional methods, such as seeking the assistance of  
26 mental health professionals.  
27  
28

**FIRST CLAIM FOR RELIEF**  
**(Violation of Civil Rights to Life and Security of Person**  
**42 U.S.C. §1983 as against all Defendants)**

45. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 44 as though fully set forth herein by reference.

46. The Defendants, and each of them, acted under color of law in “tasing” the Decedent without lawful justification, subjecting the Decedent to excessive force, therefore depriving Plaintiffs and Decedent of certain constitutionally protected rights, including but not limited to:

- a. The right not to be deprived of life or liberty without due process of law as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;
- b. The right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution;
- c. The right to be free from use of excessive force by law enforcement officers as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution; and
- d. The right to be free from pre-conviction punishment as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

47. That as a proximate result of the foregoing wrongful acts of the Defendants, and each of them, and of the death of Decedent Lair, Plaintiffs have been deprived of the society, love, comfort, companionship, financial support, emotional support and support services of the Decedent.

48. That as a further proximate result of the Defendant’s wrongful and unlawful conduct as alleged above, Decedent Lair has lost the enjoyment of life.

49. That the wrongful and unlawful acts perpetrated by the Defendants and each of them, in intentionally disregarding the constitutional rights of the Plaintiffs and

1 the Decedent were willful, oppressive, and malicious and performed with a wanton  
2 disregard for the established and constitutionally protected rights of the Plaintiffs and  
3 the Decedent.  
4

5 **SECOND CLAIM FOR RELIEF**  
6 **(Violation of Plaintiffs' Civil Rights-Familial Relationships,**  
7 **42 U.S.C. §1983 as against all Defendants)**

8 50. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
9 through 49 as though fully set forth herein by reference.

10 51. Defendants, and each of them, acting under color of state law, deprived  
11 Plaintiffs of their right to a familial relationship without due process of law by seizing  
12 Decedent, and by using unreasonable, unjustified and cruel and unusual punishment  
13 causing injuries which resulted in Decedent's death, and in violation of his rights,  
14 privileges and immunities secured by the Fourteenth Amendment to the United States  
15 Constitution, all to Plaintiffs' damage as hereinabove alleged.  
16  
17

18 52. That as a proximate result of the foregoing wrongful acts of Defendants,  
19 and each of them, and of the death of Decedent, Plaintiffs have been deprived of  
20 society, love, comfort, companionship, financial support, emotional support and  
21 support services of the Decedent.  
22

23 53. That the wrongful and unlawful acts perpetrated by the Defendants and  
24 each of them, in intentionally disregarding the constitutional rights of the Plaintiffs and  
25 the Decedent were willful, oppressive, and malicious and performed with a wanton  
26 disregard for the established rights of the Plaintiffs and the Decedent.  
27  
28

**THIRD CLAIM FOR RELIEF**  
**(Violation of Plaintiffs' Civil Rights - Municipal Liability**  
**42 U.S.C. §1983 as against all Defendants)**

54. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 53 as though fully set forth herein by reference.

55. Plaintiffs further allege, upon information and belief, that it is the policy, practice and custom of SPD and WCSO, its supervisors, and its police officers to tolerate and ratify the use of unreasonable and cruel and unusual punishment by its police officers, employees and agents.

56. Plaintiffs also allege, upon information and belief, that it is the policy, practice and custom of SPD and WCSO to inadequately hire, train and supervise its officers, agents and employees in the use of Tasers and excessive force in general.

57. That the wrong and unlawful acts perpetrated by the Defendants and each of them, in intentionally disregarding the constitutional rights of the Plaintiffs and the Decedent were willful, oppressive, and malicious and performed with a wanton disregard for the established rights of the Plaintiffs and the Decedent.

**FOURTH CLAIM FOR RELIEF**  
**(Negligence as against Official Defendants)**

58. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 57 as though fully set forth herein by this reference.

59. At all times mentioned herein, Official Defendants were subject to a duty of care to avoid causing unnecessary physical harm and distress to citizens in the exercise of the police function. The conduct of Official Defendants as set forth herein

1 did not comply with the standard of care to be exercised by reasonable police officers,  
2 thus, the Official Defendants, and each of them, breached their duty of care.

3  
4 60. As a direct and proximate result of Official Defendants' negligence as  
5 herein alleged, Plaintiffs and Decedent have been damaged in an amount in excess of  
6 \$10,000.00, the exact amount to be proven at trial.

7  
8 **FIFTH CLAIM FOR RELIEF**  
9 **(Negligent Supervision and Training as against Official Defendants)**

10 61. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
11 through 60 as though fully set forth herein by reference.

12 62. Upon information and belief, Defendant SPD and WCSO had prior notice  
13 of the inherent dangers of using the Taser in the performance of the police function.

14  
15 63. SPD and WCSO had a mandatory duty to properly and adequately train  
16 and supervise officers and personnel under their control so as to avoid unreasonable  
17 risk of harm to citizens.

18  
19 64. SPD and WCSO breached their duty of care to citizens in that it failed to  
20 adequately train and supervise its officers by having inadequate training and  
21 supervisory procedures regarding the use of Tasers, securing of medical treatment for  
22 injured suspects, and the use of deadly and non-deadly force to apprehend suspects.

23  
24 65. As a direct and proximate result of Official Defendants' negligence as  
25 herein alleged, Plaintiffs and Decedent have been damaged in an amount in excess of  
26 \$10,000.00, the exact amount to be proven at trial.



**SIXTH CLAIM FOR RELIEF**  
**(Wrongful Death Statute as against all Defendants)**

66. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 65 of their Complaint as though fully set forth herein by reference.

67. Plaintiffs, upon information and belief, allege that Defendants, and each of them, are responsible for their willful actions and for the occurrences and injuries herein alleged.

68. The Defendant Officers, and each of them, used excessive, and cruel and unusual punishment and intentionally, wantonly, willfully, maliciously, oppressively and without just provocation or cause proximately brought about the death of the Decedent and the injuries sustained by Plaintiffs. The Defendant Officers, and each of them, ratified each other's conduct, and left the Decedent in a position where he could not adequately breathe.

69. That the use of the Taser upon the body of the Decedent was based upon the warranties and representations of Taser International to the SPD, WCSO and the public in general. That the warranties and representations made by Taser International were not true in that Taser International failed to warn accurately of the injuries, damages and effects of using the weapon on an individual. Taser International also designed and manufactured the Taser so that the Taser was an inherently dangerous instrumentality.

70. That the wrongful and unlawful acts perpetrated by the Defendants and each of them, in intentionally disregarding the rights of the Plaintiffs and the Decedent

1 were willful, oppressive, and malicious and performed with wanton disregard for the  
2 established rights of the Plaintiffs and the Decedent.

3  
4 71. As a direct and proximate result of the Defendants', and each of them,  
5 conduct as herein alleged, Plaintiffs and Decedent have been damaged in an amount in  
6 excess of \$10,000.00, the exact amount to be proven at trial.

7  
8 **SEVENTH CLAIM FOR RELIEF**  
9 **(Negligent Design - Strict Liability as against**  
10 **Taser International and Private Defendants)**

11 72. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
12 through 71 as though fully set forth herein by reference.

13 73. That Defendant Taser International and the Private Defendants owed a  
14 duty to the Plaintiffs and knew or had reason to know at the time of the manufacture of  
15 the Taser of the dangers inherent in the weapon and of the possible injuries to those  
16 upon which the weapon was to be used.

17  
18 74. That Defendant Taser International and the Private Defendants negligently  
19 failed to design a weapon in such a manner to avoid or minimize risks to those upon  
20 whom the weapon was used.

21  
22 75. That Plaintiffs and Decedent were injured as a direct and proximate result  
23 of Defendant Taser International's and the Private Defendants' negligent design of the  
24 weapon.

25  
26 76. That Defendant Taser International and the Private Defendants designed,  
27 manufactured and sold Tasers expecting the weapon to reach its customers in the  
28 condition in which they are manufactured and sold and knowing, or with reason to

1 know, that the Taser would be used without inspection for defects for the purpose for  
2 which it was designed and that Defendant Taser International and the Private  
3 Defendants are strictly liable for all damages to Plaintiffs and Decedent.  
4

5 77. As a direct and proximate result of Defendants' conduct as herein alleged,  
6 Plaintiffs and Decedent have been damaged in an amount in excess of \$10,000.00, the  
7 exact amount to be proven at trial.  
8

9 **EIGHTH CLAIM FOR RELIEF**  
10 **(Negligent Manufacturing - Strict Liability as against**  
11 **Taser International and Private Defendants)**

12 78. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
13 through 77 as though fully set forth herein by reference.

14 79. Defendant Taser International and the Private Defendants, upon  
15 information and belief, are the designer, developer, manufacturer, tester, marketer,  
16 distributor, fabricator and supplier of the Taser which was used upon the body of the  
17 Decedent.  
18

19 80. Defendant Taser International and the Private Defendants owed a duty to  
20 the Plaintiffs and Decedent to manufacture the Taser weapon in a safe and reasonable  
21 manner to prevent Plaintiffs and Decedent from exposure to an unreasonable and  
22 foreseeable risk of physical injury and damage.  
23

24 81. Defendant Taser International breached the duty owed to Plaintiffs and  
25 Decedent by and through the negligent manufacture of the Taser weapon, thereby  
26 proximately causing the Plaintiffs and Decedent to sustain injury and damage.  
27  
28

1           82. As a direct and proximate result of Defendants' conduct as herein alleged,  
2 Plaintiffs and Decedent have been damaged in an amount in excess of \$10,000.00, the  
3 exact amount to be proven at trial.  
4

5                           **NINETH CLAIM FOR RELIEF**  
6                           **(Failure to Warn - Strict Liability as against**  
7                           **Taser International and Private Defendants)**

8           83. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
9 through 82 as though fully set forth herein by reference.

10           84. Defendant Taser International and the Private Defendants, upon  
11 information and belief, are the designer, developer, manufacturer, tester, marketer,  
12 distributor, fabricator and supplier of the Taser which was used upon the body of the  
13 Decedent.  
14

15           85. That the Taser weapon sold by Taser International was not accompanied  
16 with warnings to users regarding all possible and foreseeable injuries associated with  
17 being "tased" by the weapon, and that the warnings and information, upon information  
18 and belief, given to the SPD and WCSO and the public in general did not accurately  
19 reflect the symptoms, scope, or severity of the potential injuries, damages and adverse  
20 effects to those upon whom the weapon was used.  
21

22           86. Prior to the date upon which Taser International placed the Taser product  
23 used by the Official Defendants in this case in the stream of commerce, Taser  
24 International, upon information and belief, concealed and repressed material facts  
25 known to them which were intentionally concealed or suppressed with the intent that  
26  
27  
28

1 the ultimate purchasers of the weapon would rely to their detriment upon the wrongful  
2 warranties and representations and omissions made by Taser International.

3  
4 87. That Taser International had a duty to disclose truthfully to purchasers,  
5 users and the public in general, the true facts and circumstances surrounding the safety  
6 of the Taser weapon used upon the Decedent, and failed to do so.

7  
8 88. That the wrongful and unlawful acts perpetrated by Defendant Taser  
9 International and the Private Defendants, in intentionally failing to warn purchasers  
10 and the public in general of the safety issues associated with the Taser weapon, were  
11 willful, oppressive, malicious, and performed with wanton disregard for the established  
12 rights of the Plaintiffs and Defendants and therefore Plaintiffs are entitled to punitive  
13 damages to punish Defendant Taser International and the Private Defendants for its  
14 wrongful and egregious conduct.  
15

16  
17 **TENTH CLAIM FOR RELIEF**  
18 **(Negligence and Gross Negligence as against**  
19 **Taser International and Private Defendants)**

20 89. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
21 through 88 as though fully set forth herein by reference.

22 90. Defendant Taser International and the Private Defendants owed a duty to  
23 the public in general to not subject the public to an unreasonable risk of injury.

24 91. Defendant Taser International and the Private Defendants breached that  
25 duty of care by the conduct as set forth herein.  
26

27 92. That the wrong and unlawful acts perpetrated by Defendant Taser  
28 International and the Private Defendants in intentionally disregarding the rights of the

1 Plaintiffs and the Decedent were willful, oppressive, and malicious and performed with  
2 wanton disregard for the established rights of the Plaintiffs and Decedent.

3  
4 93. As a direct and proximate result of Defendant Taser International's and the  
5 Private Defendants' conduct as herein alleged, Plaintiffs and Decedent have been  
6 damaged in an amount in excess of \$10,000.00, the exact amount to be proven at trial.

7  
8 **ELEVENTH CLAIM FOR RELIEF**  
9 **(Breach of Implied Warranty as against**  
10 **Taser International and the Private Defendants)**

11 94. Plaintiff hereby adopts and incorporates by reference paragraphs 1  
12 through 93 as if fully set forth herein.

13 95. Prior to the time that Tasers were used by the Official Defendants, upon  
14 information and belief, Taser International and the Private Defendants impliedly  
15 warranted to the Official Defendants that Tasers were of merchantable quality and safe  
16 and fit for the use for which they were intended. Nevada Law allows for third parties to  
17 benefit from such warranties.

18  
19 96. Upon information and belief, Official Defendants were and are unskilled in  
20 the research, design, and manufacture of Tasers and reasonably relied on the skill,  
21 judgment, and implied warranty of Defendant Taser International and the Private  
22 Defendants in using Tasers.

23  
24 97. Upon information and belief, Defendant Taser International's Tasers were  
25 neither safe for their intended use nor of merchantable quality, as warranted by them,  
26 in that they have dangerous propensities when put to their intended use that can cause  
27 severe injuries, including death.  
28

1           98. As a direct and proximate result of Taser International's wrongful conduct,  
2 Plaintiffs have suffered injury and seek damages in the amount necessary to restore  
3 them to the positions they would be in had Taser International not breached its implied  
4 warranty concerning the safety of its Tasers.  
5

6                                   **TWELFTH CLAIM FOR RELIEF**  
7                   **(Intentional Infliction of Emotional Distress as against all Defendants)**

8           99. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
9 through 98 as though fully set forth herein by reference.  
10

11           100. The unlawful use of excessive force and negligent supervision of officers  
12 of SPD and WCSO are the direct and proximate cause of Plaintiff's claim for intentional  
13 infliction of emotional distress.  
14

15           101. Plaintiffs are informed and believe the alleged acts of the Defendants,  
16 were malicious, intentional, oppressive, and that they were done in conscious disregard  
17 of the rights, welfare and safety of the Plaintiffs and the Decedent.  
18

19           102. These acts were done in willful and conscious disregard of the rights,  
20 welfare and safety of the Plaintiff, justifying the award of punitive and exemplary  
21 damages in an amount to be determined at trial. Plaintiff also seeks compensatory  
22 damages in an amount in excess of \$10,000.00.  
23

24                                   **THIRTEENTH CLAIM FOR RELIEF**  
25                   **(Negligent Infliction of Emotional Distress as against all Defendants)**

26           103. Plaintiffs repeat and reallege the allegations contained in paragraphs 1  
27 through 102 as though fully set forth herein by reference.  
28

1           104. Defendants owed a duty to the Plaintiffs to Manufacture, design, test, use,  
2 train with, and employ weaponry within reasonable guidelines of the police function.

3  
4           105. The unlawful use of excessive force, negligent supervision of officers, and  
5 the failure of those officers who observed these violations to correct them, are the direct  
6 and proximate cause of Plaintiffs' claim for breach of that duty and the resulting  
7 negligent infliction of emotional distress.  
8

9           106. Plaintiff is informed and believes the alleged acts of the Defendants were  
10 at least foreseeable and quite possibly malicious, intentional, oppressive, and that they  
11 were done in conscious disregard of the rights, welfare and safety of the Plaintiffs and  
12 the Decedent.  
13

14           107. These acts were done in willful and conscious disregard of the rights,  
15 welfare and safety of the Plaintiffs, justifying the award of punitive and exemplary  
16 damages in an amount to be determined at trial. Plaintiff also seeks compensatory  
17 damages in an amount in excess of \$10,000.00.  
18

19           **WHEREFORE**, each Plaintiff individually prays for judgment against  
20 Defendants as follows:  
21

22           As to the Federal Claims for Relief:

- 23           1. For compensatory damages in an amount in excess of \$10,000,000.00;  
24           2. For punitive damages in an amount deemed appropriate to punish those  
25 Defendants lawfully susceptible to punitive damages;  
26           3. For special damages;  
27           4. For reasonable attorney's fees pursuant to 42 U.S.C. §§ 1983 and 1988;  
28



1           5.     For costs of suit incurred herein; and

2           6.     For such other and further relief as this Court deems just and proper.

3           As to State Claims for Relief:

4           1.     For compensatory damages in an amount in excess of \$10,000.00;

5           2.     For punitive damages in an amount deemed appropriate to punish those  
6                 Defendants lawfully susceptible to punitive damages for their wrongful  
7                 and egregious conduct;

8           3.     For general damages in an amount in excess of \$10,000.00;

9           4.     For special damages;

10          5.     For an award of reasonable attorney's fees;

11          6.     For cost of suit incurred herein; and

12          7.     For such other and further relief as the Court deems just and proper.

13                 **DATED** this 7th day of June, 2006.

14                                 THE LAW OFFICES OF GENTILE DEPALMA, LTD.

15   /s/ William Gamage, For

16                                 By: \_\_\_\_\_

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