

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SALIMATA SANFO and CHARLES RYANS, as
co-Administrators of the Estate of
OUSMANE ZONGO, on her own behalf, and on
behalf of his infant children, FATOW
ZONGO and FADILATOU ZONGO; and SALIMATA
SANFO Individually,

JURY TRIAL DEMANDED
COMPLAINT

Civil Action No.:

Plaintiffs,

-against-

THE CITY OF NEW YORK, POLICE OFFICER BRYAN
CONROY and JOHN DOES and JANE DOES,
POLICE OFFICERS WHO WERE INVOLVED IN THE
INCIDENT LEADING TO DECEDENT'S DEATH,

Defendants.

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Plaintiffs, complaining of the defendants, by their attorneys,
RUBENSTEIN & RYNECKI, ESQS. and MICHAEL HARDY, ESQ., upon
information and belief, allege as follows:

1. That at all times hereinafter mentioned, plaintiffs
bring this suit for a violation of decedent's civil rights under 42
U.S.C.A. sections 1981, 1983, 1985, 1986 and 1988 and within the
United States Constitution and the laws of the State of New York
and this court has jurisdiction of this action pursuant to 28
U.S.C.A. 1331 and 1343.

2. The amount of damages in controversy is in excess of
SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest
and costs.

3. Venue is laid within the United States District Court
for the Southern District of New York in that the incident arose in
the Southern District of New York.

4. Plaintiffs demand a trial by jury on each and every

one of the claims pled herein.

**AS AND FOR A FIRST CAUSE OF ACTION FOR ASSAULT
AND BATTERY ON BEHALF OF OUSMANE ZONGO**

5. That at the time of his death on May 22, 2003, and at all times hereinafter mentioned, decedent OUSMANE ZONGO, who lived at 225 West 136th Street, New York, New York, was married to plaintiff Co-Administratrix SALIAMATA SANFO, who resided in Burkina Faso.

6. That prior to the commencement of this action, SALIMATA SANFO and CHARLES RYANS were appointed administratrix of the goods, chattels, and credits of the decedent OUSMANE ZONGO by Order of the the Honorable Renee R. Roth, Surrogate of New York County.

7. That in bringing this action against the above-named defendants, plaintiffs continue to act in their representative capacity on behalf of the Estate of OUSMANE ZONGO, and SALIMATA SANFO acts on behalf of her individual capacity and as the parent and natural guardian of her infant children, FATOW ZONGO and FADILATOU ZONGO as well.

8. (a) That the defendant THE CITY OF NEW YORK (hereinafter "CITY"), at all times hereinafter mentioned was a municipal corporation duly organized and existing by virtue of the laws of the State of New York.

(b) That prior hereto on August 11, 2003, and within the time prescribed by law, a sworn Notice of Claim stating, among other things, the time when and place where the injuries and damages were sustained, together with plaintiff's demands for

adjustment or payment thereof, and that thereafter the CITY OF NEW YORK refused or neglected for more than (30) days and up to the commencement of this action to make any adjustment or payment thereof, and that thereafter, and within provided by law, this action was commenced.

(c) That on October 17, 2003, pursuant to the General Municipal Law a Statutory 50-H hearing was held.

(D) That this matter is being commenced within one year and ninety days from the date cause of action accrued.

9. That the defendant, CITY, its agents, servants and/or employees operated, maintained, and controlled a police force known as the NEW YORK CITY POLICE DEPARTMENT, including all the police officers employed thereby.

10. That at all times hereinafter mentioned, defendant, BRYAN CONROY and JOHN DOES and JANE DOES, POLICE OFFICERS WHO WERE INVOLVED IN THE INCIDENT LEADING TO DECEDENT'S DEATH were employed by the defendant CITY's Police Department.

11. That at all times hereinafter mentioned at approximately 4:00 P.M. on May 22, 2003 at a storage facility in Chelsea located at 615 West 27th Street, County, City and State of New York, defendant BRYAN CONROY was assigned to assist in a police raid to bust a counterfeit CD ring, was guarding evidence on the third floor of said facility and was acting within the course and scope of his employment with the Police Department of defendant CITY.

12. That at all times hereinafter mentioned at approximately 4:00 P.M. on May 22, 2003 at a storage facility in

Chelsea located at 615 West 27th Street, County, City and State of New York, additional officers referred to as JOHN DOES and JANE DOES, POLICE OFFICERS WHO WERE INVOLVED IN THE INCIDENT LEADING TO DECEDENT'S DEATH were acting in concert with defendant BRYAN CONROY in a police raid to bust a counterfeit CD ring at said facility, and were acting within the course and scope of their employment with the Police Department of defendant CITY.

13. That at all times hereinafter mentioned, decedent OUSMANE ZONGO, was lawfully on the aforementioned premises.

14. That on May 22, 2003, at approximately 4:00 P.M., the decedent was confronted by defendant BRYAN CONROY; and without reason or provocation, was caused to be shot four times, resulting in death.

15. At the aforementioned time and place, decedent, OUSMANE ZONGO, was shot numerous times by Defendant, OFFICER BRYAN CONROY, while acting as agent, servant and/or employee of the Defendant, CITY.

16. The aforementioned shooting was performed knowingly, intentionally and wilfully.

17. That the police officer who committed the aforementioned shooting upon the decedent, OUSMANE ZONGO, was acting within the scope of his employment with the Defendant, CITY.

18. That the shooting of the plaintiff was without probable cause.

19. By reason of said assault and battery decedent, OUSMANE ZONGO, was caused to suffer severe physical injuries and pain and suffering resulting in death, including pre-death pain and

suffering; emotional and psychological distress and horror.

20. By reason of the foregoing, the Plaintiffs, demands judgment against the defendants, CITY OF NEW YORK, OFFICER BRYAN CONROY and JOHN DOES and JANE DOES-police personnel whose names are not yet known or identified, in a sum exceeding the jurisdictional limits of all the lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION FOR
INJURIES SUSTAINED BY OUSMANE ZONGO -Sec. 1983 of 42 U.S.C.**

21. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "20" inclusive with the same force and effect as if more fully set forth at length herein.

22. That at all times hereinafter mentioned, defendant BRYAN CONROY engaged in the actions and conduct alleged herein in his official capacity as a New York City police officer and under the color and authority of State law, regulation, ordinance, custom, and usage.

23. That such actions served to deprive the decedent OUSMANE ZONGO of the rights and privileges of the United States Constitution, the Fourteenth Amendment of the U.S. Constitution and Sec. 1983 of 42 U.S.C. In particular, he was deprived of his right to due process of law, of his right to happiness, to liberty, to be free from physical injury and the unwarranted use of physical force, and ultimately to the most fundamental right - his right to life.

24. The defendant CITY has as a matter of policy and practice and with deliberate indifference failed to adequately

train, supervise, discipline, sanction or otherwise direct it's police officers, including the officers at the scene in this case, regarding the protection of the constitutional rights of citizens - and more importantly - failed to tear down the "Blue Wall of Silence" so as to force the disclosure of these constitutional abuses and to take corrective measures.

25. Such policy, practice and deliberate indifference has been described in excruciating detail in the various investigations and commissions into the Police Department. It has served to encourage and sanction the police officers' unlawful conduct described above, and was a proximate cause of the violations of decedent OUSMANE ZONGO'S rights on the afternoon of May 22, 2003.

26. By reason of the foregoing, the Plaintiffs, demands judgment against the defendants, CITY OF NEW YORK, OFFICER BRYAN CONROY and JOHN DOES and JANE DOES-police personnel whose names are not yet known or identified, in a sum exceeding the jurisdictional limits of all the lower courts.

AS AND FOR A THIRD CAUSE OF ACTION FOR
PERSONAL INJURIES SUSTAINED BY OUSMANE ZONGO -NEGLIGENCE

27. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "26" inclusive with the same force and effect as if more fully set forth at length herein.

28. That said incident and the injuries resulting therefrom were caused solely by the negligence, carelessness, and recklessness of defendants CITY, through its agents, servants,

employees and the police officers involved, defendant BRYAN CONROY, and defendants JOHN DOES and JANE DOES, POLICE OFFICERS WHO WERE INVOLVED IN THE INCIDENT LEADING TO DECEDENT'S DEATH, both directly and vicariously.

Such negligence consisted of: Improperly and carelessly initiating a confrontation with decedent OUSMANE ZONGO which was without probable cause and unwarranted under all the circumstances and in violation of the restrictions and commonly accepted practices of the New York City Police Department; in improperly engaging in the use and discharge of a firearm; in shooting 5 shots and striking the decedent 4 times; in improperly, carelessly, and recklessly using physical force in connection with the unwarranted confrontation in violation of the restrictions and commonly accepted practices of the New York City Police Department; in failing to adequately and timely investigate the shooting, and said incident was further caused by the systemic failures of the protocols utilized in similar raids by the defendants; in falsely claiming that decedent OUSMANE ZONGO was reaching for CONROY's gun in order to cover-up said shooting; in failing to create and enforce guidelines and rules of the New York City Police Department governing the conduct of officers while utilizing their firearms; in failing to adequately investigate the shooting, participating in an attempt to cover-up said incident, and creating the condition which gave rise to the shooting.

29. The defendants, its agents, servants and/or employees were negligent, reckless and careless in assaulting, battering and shooting the plaintiff, OUSMANE ZONGO.

30. As the result of said negligence, the decedent, OUSMANE ZONGO, was caused to suffer severe physical injuries and pain and suffering resulting in death, including pre-death pain and suffering; emotional and psychological distress and horror.

31. By reason of the foregoing, the plaintiffs were damaged in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR INJURIES
SUSTAINED BY OUSMANE ZONGO- NEGLIGENT HIRING AND RETENTION**

32. The plaintiff OUSMANE ZONGO repeats and realleges each and every allegation set forth above numbered "1" through "31" inclusive with the same force and effect as if more fully set forth at length herein.

33. Defendants did not exercise reasonable care and diligence in the selection, engagement, employment and training of its agents, servants, and employees and were negligent in the hiring, training and retention of defendants, OFFICER BRYAN CONROY and JOHN DOES and JANE DOES, POLICE OFFICERS WHO WERE INVOLVED IN THE INCIDENT LEADING TO DECEDENT'S DEATH who shot the decedent OUSMANE ZONGO.

34. That the Defendant, CITY had prior knowledge of the inappropriate, unlawful, and improper conduct of the defendants, OFFICER BRYAN CONROY and JOHN DOES and JANE DOES, POLICE OFFICERS WHO WERE INVOLVED IN THE INCIDENT LEADING TO DECEDENT'S DEATH, and continued to employ them and allowed them to be in contact with the public at large.

35. By reason of the foregoing, the plaintiffs was damaged in an amount exceeding the jurisdictional limits of all the

lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR PUNITIVE
DAMAGES RESULTING FROM THE DEATH OF OUSMANE ZONGO**

36. The plaintiff OUSMANE ZONGO repeats and realleges each and every allegation set forth above numbered "1" through "35" inclusive with the same force and effect as if more fully set forth at length herein.

37. The actions of the defendants herein above alleged, were malicious, willful and grossly negligent.

38. The defendants authorized, permitted and ratified the unlawful and negligent acts of defendants, its agents, servants and/or employees, herein above alleged.

39. By reason of the foregoing, the plaintiffs demand punitive damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A SIXTH CAUSE OF ACTION ON BEHALF OF
SALIMATA SANFO -LOSS OF SERVICES**

40. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "40" inclusive with the same force and effect as if more fully set forth at length herein.

41. At all times hereinafter mentioned, Plaintiff SALIMATA SANFO was the wife of decedent OUSMANE ZONGO, who was financially supported, was raising decedent's children, and enjoyed the services, society, and companionship prior to this occurrence.

42. As a result of the defendant's negligence, defendant's assault and battery, defendant's negligent hiring and

retention, and defendant's violation of the decedent's constitutional rights, SALIMATA SANFO has been deprived of the services, society and support of her husband - forever!

43. By reason of the foregoing, the plaintiffs were damaged in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION ON BEHALF OF
SALIMATA SANFO FOR FATOW ZONGO -LOSS OF GUIDANCE**

44. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "43" inclusive with the same force and effect as if more fully set forth at length herein.

45. At all times hereinafter mentioned, Plaintiff FATOW ZONGO was the infant child of decedent OUSMANE ZONGO, who was supported, maintenance parental nurture and care, and the physical, moral and intellectual training and guidance prior to this occurrence.

46. As a result of the defendant's negligence, defendant's assault and battery, defendant's negligent hiring and retention, and defendant's violation of the decedent's constitutional rights, FATOW ZONGO has been deprived of the support, maintenance, parental nurture and care, the physical, moral and intellectual training and guidance of his father - forever!

47. By reason of the foregoing, the plaintiffs were damaged in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A EIGHTH CAUSE OF ACTION ON BEHALF OF
SALIMATA SANFO FOR FADILATOU ZONGO -LOSS OF GUIDANCE**

48. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "47" inclusive with the same force and effect as if more fully set forth at length herein.

49. At all times hereinafter mentioned, Plaintiff FADILATOU ZONGO was the infant child of decedent OUSMANE ZONGO, who was supported, maintenance parental nurture and care, and the physical, moral and intellectual training and guidance prior to this occurrence.

50. As a result of the defendant's negligence, defendant's assault and battery, defendant's negligent hiring and retention, and defendant's violation of the decedent's constitutional rights, FADILATOU ZONGO has been deprived of support, maintenance, parental nurture and care, the physical, moral and intellectual training and guidance of her father - forever!

51. By reason of the foregoing, the plaintiffs were damaged in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A TENTH CAUSE OF ACTION ON BEHALF OF
THE CO-ADMINISTRATORS OF THE ESTATE - WRONGFUL DEATH**

52. The plaintiffs repeats and realleges each and every allegation set forth above numbered "1" through "51" inclusive with the same force and effect as if more fully set forth at length herein.

53. That on May 22, 2003, OUSMANE ZONGO died at the age of 43 as a result of the defendant's negligence, defendant's assault and battery, defendant's negligent hiring and retention, and defendant's violation of the decedent's constitutional rights.

54. Prior to the time of OUSMANE ZONGO'S death, he was self-employed as an arts craftsman, and sold his art in order to support his family and neighbors in Burkina Faso.

55. Decedent OUSMANE ZONGO was survived by his wife and two children who, by reason of the actions of the defendants herein alleged, have been deprived of the decedent's involvement in their lives as described herein.

56. As a result of the foregoing, the plaintiffs became responsible for the expenses of decedent's funeral and they have suffered pecuniary loss as a result thereof.

57. By reason of the foregoing, the plaintiffs were damaged in an amount exceeding the jurisdictional limits of all the lower Courts.

WHEREFORE, plaintiffs, SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the First Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an

amount exceeding the jurisdictional limits of all lower Courts on the Second Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Third Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Fourth Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Fifth Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Sixth Cause of Action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment

against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Seventh Cause of action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Eighth Cause of action; plaintiffs SALIMATA SANFO and CHARLES RYANS, as co-Administrators of the Estate of OUSMANE ZONGO, on her own behalf, and on behalf of his infant children, FATOW ZONGO and FADILATOU ZONGO; and SALIMATA SANFO Individually, demands judgment against the defendants in an amount exceeding the jurisdictional limits of all lower Courts on the Ninth Cause of action, together with attorneys' fees, and the costs and disbursements of this action.

DATED: Brooklyn, New York
March 3, 2003

Yours, etc.,

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