

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
14-CVS-\_\_\_\_\_

GEORGIA FERRELL, as Administratrix of the  
Estate of JONATHAN A.P. FERRELL (Deceased),  
Plaintiff,

vs.

CITY OF CHARLOTTE, COUNTY OF  
MECKLENBURG, RANDALL W. KERRICK, both  
individually and in his official capacity as a law  
enforcement officer with the Charlotte-Mecklenburg  
Police Department, and RODNEY A. MONROE, in  
his official capacity as a law enforcement officer  
with the Charlotte-Mecklenburg Police Department,  
Defendants.

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR JURY  
TRIAL**

**COMES NOW**, Plaintiff Georgia Ferrell, as Administratrix of the Estate of Jonathan A.P. Ferrell (Deceased), by and through her undersigned attorneys, and for her complaint against the Defendants, alleges and says as follows:

**PREFACE**

This is an action to recover money damages resulting from the negligence and gross negligence of Defendants, and the assault, battery, and wrongful death of Jonathan A.P. Ferrell, whose death occurred in Charlotte, Mecklenburg County, North Carolina on September 14, 2013. The Plaintiff, Georgia Ferrell, brings this lawsuit as the duly appointed Administratrix of the Estate of Jonathan A.P. Ferrell (Deceased), as a result of multiple violations of Jonathan A.P. Ferrell's rights as guaranteed by state and federal law. Plaintiff alleges that one or more officers from the Charlotte-Mecklenburg Police Department used excessive force upon the person of Jonathan A.P. Ferrell during their response to a 911 call from a citizen and executed their duties in a grossly negligent manner which proximately caused personal injuries to, and the wrongful death of, Jonathan A.P. Ferrell. Mr. Ferrell, who had committed no crime and was unarmed at the time of his encounter with officers from the Charlotte-Mecklenburg Police Department, was shot 10 times. Despite being completely incapacitated and mortally wounded, Mr. Ferrell was then handcuffed with his hands behind his back as he lay dying on the ground.

## **PARTIES, JURISDICTION AND VENUE**

1. This cause of action arises in Charlotte, Mecklenburg County, North Carolina.
2. At all times relevant to this action, Jonathan A.P. Ferrell (Deceased) was a citizen and resident of Charlotte, Mecklenburg County, North Carolina.
3. The Plaintiff, Georgia Ferrell, is a citizen and resident of Tallahassee, Leon County, Florida. Plaintiff is the biological mother of Jonathan A.P. Ferrell (Jonathan).
4. The Plaintiff, Georgia Ferrell, has been duly appointed as the Administratrix of the Estate of Jonathan A.P. Ferrell (Deceased), by the Clerk of Superior Court for Mecklenburg County in Estate file 14-E-113.
5. The Defendant, City of Charlotte (“City”), was and is a municipal corporation located in Mecklenburg County, North Carolina, duly chartered and existing pursuant to the provisions of N.C. Gen. Stat. § 160A-11, and vested with corporate powers and rights as specified in N.C. Gen. Stat. § 160A-11, including, but not limited to, the capacity to sue and be sued. At all times relevant to this action, Defendant City acted through its managers and policy makers, including the Chief of Police and other employees of the Charlotte-Mecklenburg Police Department (“CMPD”); and the acts, edicts, and practices of said persons represent the official policies of Defendant City.
6. The Defendant, County of Mecklenburg (“County”), was and is a political subdivision and county of the State of North Carolina, duly chartered and existing pursuant to the provisions of N.C. Gen. Stat. § 153A-10, and vested with corporate powers and rights as specified in N.C. Gen. Stat. § 153A-11 including, but not limited to, the capacity to sue and be sued. At all times relevant to this action, Defendant County acted through its managers and policy makers, including the Chief of Police and other employees of the Charlotte-Mecklenburg Police Department; and the acts, edicts, and practices of said persons represent the official policies of Defendant County.
7. Upon information and belief, to the extent that any and/or all of the Defendants in this action claim they are a municipal and/or governmental and/or City and/or County owned, operated and/or funded entity or an employee and/or agent of any such entity such Defendants do not have governmental immunity and/or sovereign immunity for any of the acts or omissions described herein. In the alternative, should any and/or all of the Defendants in this action have governmental immunity and/or sovereign immunity, upon information and belief, any and/or all such Defendants have waived any and all such governmental and/or sovereign immunity to which they may have been otherwise entitled, for themselves, their agents, employees and all officials acting in their official (and, if applicable, individual) capacities for civil liability and tort by the act of purchasing (or otherwise procuring, obtaining and/or having in place) liability insurance (or the functional and substantive equivalent thereof, i.e.,

participation in a local governmental risk pool, etc.) prior to, concurrent with, and/or subsequent to and/or applicable to the acts and omissions alleged herein.

8. Upon information and belief, both Defendant City and Defendant County were and are participants in local governmental risk pools or the functional and substantive equivalent thereof, at all times applicable to the events that are the subject of this action.
9. Subject matter jurisdiction is, therefore, appropriate and proper and any and all such governmental immunity and sovereign immunity is and has been fully waived pursuant to N.C. Gen. Stat. §160A-485 and/or N.C. Gen. Stat. §153A-435.
10. Upon information and belief, at all times relevant to this action the Defendant, Randall Kerrick (“Kerrick”), was an adult citizen and resident of Midland, Cabarrus County, North Carolina. He is sued in his individual and official capacities for compensatory and punitive damages under both state and federal law.
11. Defendant Kerrick was hired as a law enforcement officer with the CPMD on or about April, 2011. Prior to becoming a CMPD officer, Defendant Kerrick was employed as an animal control officer. Upon information and belief, Defendant Kerrick was suspended from his duties with CMPD in December, 2012 for disciplinary reasons unknown to the Plaintiff at this time.
12. Upon information and belief, at all times relevant to this action the Defendant, Rodney A. Monroe (“Monroe”), was an adult citizen and resident of Charlotte, Mecklenburg County, North Carolina. He is sued in his official capacity as Chief of the Charlotte-Mecklenburg Police Department (“CMPD”) under both state and federal law.
13. Jurisdiction is founded upon North Carolina common law against CMPD, Defendant City, Defendant County, Defendant Kerrick and Defendant Monroe in his official capacity as the Chief of CMPD. Plaintiff further invokes this Court’s concurrent jurisdiction to hear claims arising under the Fourth and Fourteenth Amendments of the United States Constitution and brought pursuant to 42 U.S.C. §§ 1983 and 1988.
14. The amount in controversy exceeds Ten Thousand Dollars (\$10,000.00) and is greater than the jurisdictional limit of this Court.
15. The Superior Court of Mecklenburg County, North Carolina has jurisdiction over the parties and subject matter of this action.
16. Venue is proper in Mecklenburg County because this is where the cause of action alleged in this Complaint arose.

## ACTUAL AND/OR APPARENT AGENCY

17. Prior to 1993, the City of Charlotte and Mecklenburg County maintained independent police departments.
18. The Charlotte-Mecklenburg Police Department was formed in 1993 with the merger of the former Charlotte City Police Department and the Mecklenburg County Rural Police Department.
19. In the exercise of statutory powers granted by the North Carolina Legislature, Defendant City, along with Defendant Mecklenburg County, established and created and continue to operate the Charlotte-Mecklenburg Police Department.
20. At all times relevant to the allegations alleged in this Complaint, the Charlotte-Mecklenburg Police Department exercised jurisdiction throughout Mecklenburg County, including those portions of Mecklenburg County located outside the city limits of Charlotte, Pineville, Matthews, Mint Hill and Huntersville.
21. The City of Charlotte maintained no municipal police department during the times relevant to the allegations alleged in this Complaint.
22. Mecklenburg County maintained no independent police department during the times relevant to the allegations alleged in this Complaint.
23. Upon information and belief, the operating budget of CMPD is funded jointly by Defendants City and County. Both Defendants City and County have the actual right and legal authority to direct and control CMPD, its policies and procedures, officers and employees. In the alternative, Both Defendants City and County have the apparent right and authority to direct and control CMPD, its policies and procedures, officers and employees.
24. That the enforcement of laws of the state of North Carolina is an essential and well recognized duty of all counties in the state of North Carolina. Defendant County had a non-delegable duty to engage in law enforcement activities within its borders.
25. At all times relevant to the allegations alleged in this Complaint, Defendant Kerrick was employed by the Defendant City and/or Defendant County and/or the Charlotte-Mecklenburg Police Department as a law enforcement officer, and was acting at all relevant times as an agent of Defendant City and/or Defendant County within the course and scope of his duties as a sworn officer of the Charlotte-Mecklenburg Police Department and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina. He is sued in his individual and official capacities for compensatory and punitive damages.

26. At all times relevant to the allegations alleged in this Complaint, Defendant Monroe was employed by the Defendant City and/or Defendant County and/or the Charlotte-Mecklenburg Police Department as a law enforcement officer and Chief of Police, and was acting at all relevant times as an agent of Defendant City and/or Defendant County within the course and scope of his duties as a sworn officer of the Charlotte-Mecklenburg Police Department and under the color of laws, statutes, regulations, customs, practices and usage of the City of Charlotte, County of Mecklenburg and the State of North Carolina. He is sued in his official capacity for compensatory damages under both State and Federal law.
27. Defendant City, Defendant County and Defendant Monroe and CMPD had the right and/or power to direct and control the manner in which its/their employees and/or agents executed their official duties.
28. The grossly negligent acts, omissions and liability of all Defendants includes their agents, principals, employees and/or servants, both directly and vicariously, pursuant to principals of non-delegable duty, corporate liability, actual authority, apparent authority, actual agency, ostensible agency and/or *respondeat superior* and the acts and/or omissions of the above-named Defendants were a direct and proximate cause of the injuries, damages and losses sustained by the Plaintiff.

#### **JOINT AND SEVERAL LIABILITY**

29. The above-named Defendants are jointly and severally liable for all damages alleged herein since their negligent, grossly negligent, reckless and wanton acts and omissions, singularly or in combination, are a direct and proximate cause of Plaintiff's damages, injuries and losses.

#### **GENERAL FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

30. At all times relevant to this action, Jonathan A.P. Ferrell ("Jonathan") is an adult citizen of the United States of America residing in Charlotte, Mecklenburg County, North Carolina, entitled to exercise all of the rights and privileges provided by the Constitutions of the State of North Carolina and the United States of America, including the Fourth Amendment thereto.
31. Jonathan is 24 years of age on September 14, 2013. He is employed at Dillard's department store as a salesman in the Men's Department and at Best Buy as a salesman in the appliance department. Jonathan is engaged to be married to Ms. Caché Heidel.
32. Jonathan has attended Florida A&M University where he played safety on the varsity football team during the 2009 and 2010 seasons.

33. Jonathan and Caché move to Charlotte in August, 2012, so that Caché can begin employment with an accounting firm. He plans to complete his college education, obtain his degree and to eventually become an automotive engineer. Jonathan is working two jobs to save money to complete his education.
34. Jonathan works as usual during the day on September 13, 2013. In the morning he works at Dillard's and during the afternoon he works at Best Buy.
35. During the evening of September 13, 2013, Jonathan meets a group of friends and co-workers at a Hickory Tavern restaurant. When it is time to leave, Jonathan offers to give one of his co-workers, Max Funderburke, a ride home.
36. Mr. Funderburke lives on Reynard Lane, which is located in a subdivision known as Bradfield Farm. The subdivision, approximately 17 miles east of central Charlotte, is a residential community of single family private homes. The neighborhood also has four tennis courts, two swimming pools and a clubhouse. It is not an area that is known for frequent or serious criminal activity.
37. Jonathan drops Mr. Funderburke off at his home and then begins driving to his own home. He takes a left from Reynard onto Jardin Way, then makes another left onto Reedy Creek Road. Being unfamiliar with the area and tired after working all day, Jonathan inadvertently drives off the paved portion of Reedy Creek Road, onto the shoulder, down an embankment and into a group of trees.
38. Jonathan's 1999 Toyota is disabled by the wreck. He is unable to locate his mobile phone in the wrecked vehicle. With his vehicle disabled and unable to find his mobile phone, Jonathan has no alternative but to look for a nearby house for someone to assist him.
39. Because his car doors will not open, Jonathan kicks out the back window of the car he has been driving and walks approximately one-half mile up a hill towards the first group of houses he can see.
40. Upon information and belief, Jonathan walks from the location of the wreck to a home located at 7507 Reedy Creek Road and knocks on the door of the home.
41. Upon information and belief, a woman, later identified as Sarah McCartney, comes to the door and sees Jonathan on her doorstep.
42. Upon information and belief, it is approximately 2:35 a.m. and Ms. McCartney is the only adult in the home. The only other person in the home is an infant child.
43. Upon information and belief, Ms. McCartney does not understand that Jonathan may be injured and is in need of assistance and becomes frightened by his presence on her doorstep

- at such a late hour. She quickly closes the door, calls 911 for assistance and activates her home security system.
44. The 911 operator dispatches multiple CMPD officers in response to the 911 call.
  45. Jonathan leaves Ms. McCartney's home and walks down Reedy Creed Road still looking for and in need of, assistance.
  46. Ms. McCartney tells the 911 operator that the person at her door is a black male and tells the operator that he is he is standing in her yard "yelling."
  47. On information and belief, Ms. McCartney never tells the 911 operator that the person on the doorstep of her home has harmed her in any way, has stolen or removed anything from her property, or that he has defaced or destroyed anything on her property.
  48. Ms. McCartney never tells the 911 operator that the person in her yard is or has made threatening statements, that he has a weapon or that he has physically entered her home. She does tell the 911 operator that he is yelling for her to turn her alarm off.
  49. Ms. McCartney informs the 911 operator that the man has left her yard and that she can no longer see him.
  50. That on September 14, 2013, and at all pertinent times alleged in this Complaint, Defendant Kerrick is assigned duties as a patrol officer with CMPD.
  51. That on September 14, 2013, and at all pertinent times alleged in this Complaint, Defendants City and County, acting through CMPD have issued Defendant Kerrick a firearm for use in his law enforcement activities. Defendant Kerrick's possession and use of the firearm are with the actual knowledge, consent and permission of Defendants City, County and Monroe.
  52. Approximately 11 minutes after the 911 call is first received, Defendant Kerrick, CMPD officers Thornell Little and Adam Neal each individually respond in their respective patrol cars to the 911 call of a suspicious man in the Bradfield Farms neighborhood made by Ms. McCartney.
  53. Upon information and belief, Defendant Kerrick arrives at Ms. McCartney's home. He makes no attempt to speak directly to her to determine whether she is safe or to notify her that CMPD has arrived in response to her call. Instead, once he sees that the black male is no longer in her yard, he gets back into his patrol car and begins driving away from her home.
  54. Jonathan had not committed, nor was he in the process of committing, any criminal act which would threaten the safety or welfare of anyone or establish probable cause or reasonable suspicion for his arrest.

55. Jonathan never engages in any conduct sufficient for a reasonable person or law enforcement officer to develop an objectively reasonable belief that he poses a threat of physical harm to either Sarah McCartney, the Charlotte-Mecklenburg Police Department officers present at the scene or to the general public at any time during his brief encounter with CMPD officers.
56. Jonathan never voluntarily waives, relinquishes or forfeits any of his Fourth Amendment rights or privileges at any time during his brief encounter with CMPD officers in the early morning of September 14, 2013.
57. At all times relevant to this action, Jonathan acts with due care for his own safety and never breaches any duty he may have pursuant to North Carolina law to exercise due care for his own safety.
58. Defendant Kerrick's conduct herein, including but not limited to his decision to use excessive and unnecessary force against Jonathan is and was contrary to generally accepted, reasonable law enforcement procedures and tactics and proximately caused the damages to the Plaintiff as set forth in this Complaint.

**PRIOR INCIDENTS OF EXCESSIVE USE OF FORCE BY  
CHARLOTTE-MECKLENBURG POLICE DEPARTMENT**

59. The Charlotte-Mecklenburg Police Department has a long and extensive history of excessive force by its officers.
60. In 1997, after years of resistance from local public officials, the Charlotte City Council votes to establish a Citizens Review Board and gives it limited authority to investigate allegations of police misconduct. This decision comes after separate killings of three unarmed black citizens by white police officers. Two of the killings occurred within 5 months of each other. James Willie Cooper and Carolyn Boetticher are two of the victims.
61. James Willie Cooper is a 19-year old man who is the subject of a traffic stop on November 19, 1996. Upon information and belief, an officer signals for Mr. Cooper to stop his vehicle using his blue lights. Mr. Cooper then pulls into a driveway and exits his vehicle. The officer tells Cooper to get back inside the vehicle and pulls out his service pistol. Mr. Cooper reaches into his car for something before allegedly jerking towards the officer. The officer fires five shots at him with his service weapon. One bullet goes through the rear-driver's side window and another into Cooper's torso. It is later determined that Mr. Cooper was simply reaching into his car for his jacket. His 4-year old daughter is in the back seat of the vehicle throughout the entire incident.
62. Carolyn Boetticher is a 48-year old woman who is a passenger in a vehicle that had driven through a police checkpoint on April 8, 1997. An officer, positioned in front of the vehicle,

steps towards the car in an attempt to stop it. The car allegedly swerves towards him and he, along with another CMPD officer, fire 22 shots at the car. 14 of the 22 shots enter the rear of the vehicle, with one striking Ms. Boetticher in the back of the neck and killing her.

63. Alexander "Sasha" Ehrenburg is a 67-year-old, wheelchair-bound double-amputee when Charlotte-Mecklenburg Police SWAT officers kill him with 2 shots to his body on May 10, 2005. Medics and CMPD officers did not go to Ehrenburg's home to arrest him, but merely to check on him after a doctor called 911 because he believed Ehrenburg might be having medical problems. Three and a half hours later, Sasha Ehrenburg is dead. Though Ehrenburg repeatedly declines the offer of help and asks simply to be left alone, CMPD Swat team members knock down his door twice, and both times officers say he points a gun at them. SWAT officers kill him in his own home.
64. Wayne Furr is a 41-year-old Stanly County resident working at a cellular phone tower in southeast Charlotte at 1:30 a.m. when he is shot and killed by CMPD officers responding to a 911 call about a suspicious individual on July 20, 2006. The officer fires three times. Two of the bullets strike Furr in the chest. Furr is a single father and a church usher. His family and friends say they cannot imagine him being aggressive toward a police officer. Wayne Furr is lawfully performing his job at the time he is shot and killed.
65. LaQuan Hykeem Davon Brown is 16-years-old when he is shot and killed by a CMPD officer in 2007. A CMPD officer, who later says he thought Brown had a gun in his hand, fires two shots. One of the bullets strikes Brown in the lower back. An investigation later reveals that Brown is not holding a gun – and likely simply has a cellphone in his hand – when he is shot to death. A cell phone is found near his hand.
66. Darryl Wayne Turner is 17 years old when he is killed by a CMPD officer inside a Food Lion store on March 20, 2008. Turner works at the Food Lion store as a cashier and grocery bagger. He is asked by a store manager to leave the store but refuses. Minutes later he is dead.
67. On or about October 17, 2010, a CPMD officer responding to a call shoots 15 year old Jeffery Green while he is standing in the middle of a Charlotte street; other officers present do not discharge their weapons. Green is the son of the crime victim who had called for police assistance.
68. More than 3,500 allegations accusing CMPD officers of misconduct are filed between 2004 and 2011. Citizens file more than 1,400 of those complaints. The remaining complaints are filed by other CMPD employees.
69. CMPD Internal Affairs inquiries find police misconduct occurred in only 26 percent of complaints lodged by citizens. When CMPD supervisors and officers file complaints, 85 percent or more than 1800, lead to findings of misconduct.

70. More than 3,000 disciplinary actions, including more than 500 suspensions, are levied against CMPD officers between 2004 and 2011. Officers are given written reprimands more than 900 times and ordered to undergo counseling more than 1,300 times.
71. CMPD officers use deadly force 15 times between January 1, 2006, and December 31, 2007.
72. 132 complaints alleging excessive use of force by Charlotte-Mecklenburg Police Department officer are made by citizens between January 1, 2006, and December 31, 2007. CPMD Internal Affairs sustains only 3.8% of the 132 complaints filed.
73. 73.5% of excessive use of force reports filed against officers of the Charlotte-Mecklenburg Police Department between January 1, 2006 and December 31, 2007, involve some type of injury to a citizen.
74. Charlotte-Mecklenburg Police Department officers injure 979 citizens while effectuating or attempting to effectuate an arrest between January 1, 2006, and December 31, 2007.
75. The Charlotte-Mecklenburg Police Department takes no action against its officers with regard to 95.5% of officer excessive use of force complaints filed between January 1, 2006 and December 31, 2007.
76. CMPD discipline for the 4.5% of excessive force complaints found justified by Internal Affairs is 1 officer suspension; 3)written reprimands; and 1 command counseling.
77. Charlotte-Mecklenburg Police Department does not terminate a single officer as a result of officer excessive use of force complaints filed by citizens between January 1, 2006 and December 31, 2007.
78. There have been at least five citizen deaths resulting from officer shootings by the CMPD over the past thirteen months.

#### **USE OF EXCESSIVE FORCE AGAINST JONATHAN FERRELL**

79. The CMPD has adopted written use of force regulations for use by its officers which are supposed to limit the amount of force that can be used by an officer against a citizen.
80. The written CMPD guidelines purport to restrict the use of force to situations where the officer has an objectively reasonable belief that the individual to be subdued is engaged in “aggravated, active aggression.”
81. The written CMPD policy defines “Aggravated Active Aggression” as actions by an individual “that are likely to result in the death or serious bodily injury to an officer. These actions may include discharge of a firearm, use of a blunt or bladed weapon, and extreme physical force that threatens the health and safety of the officers or members of the general public.”

82. Jonathan never engages in any conduct which can be objectively reasonably interpreted as aggravated active aggression during his brief encounter with CMPD officers during the early morning of September 14, 2013.
83. Despite the lack of any aggravated active aggression by Jonathan, Defendant Kerrick in direct violation of written CMPD regulations, fires 12 high velocity bullets at Jonathan, striking him 10 times in the chest and arms. See Exhibit A attached hereto.
84. At the time he discharged his weapon, Defendant Kerrick did not, and could not have had, an objectively reasonable belief that Jonathan's actions constituted "aggravated, active aggression" toward any of the officers present or to members of the general public.
85. Jonathan suffers at least ten gunshot wounds, five of which are potentially lethal, as a result of the clearly excessive force used by Defendant Kerrick. The wounds are described by the Medical Examiner as follows:
  - a. GUNSHOT WOUND #1: Located on the right supraclavicular area/superior shoulder near the lateral base of the neck, 8½" from the top of the head and 3¾" from the anterior midline of the neck, is a 3/8" x ¼" round/ovoid gunshot entrance wound with an 1/8" marginal abrasion along the posterior/superior aspect. The wound track perforates through the skin, soft tissue, and muscle passing into the right side of the back. A large caliber lead projectile and copper jacketing are recovered from the right side of the back in the muscle/subcutaneous tissue. This is a penetrating gunshot wound injury of the chest with the wound track traveling downward and slightly back with the body in an upright anatomical position;
  - b. GUNSHOT WOUND #2: Located on the right upper chest/anterior shoulder overlying the lateral aspect of the clavicle, 9¼" from the top of the head and 4½" from the anterior midline of the body, is a ½" x 3/8" oval gunshot entrance wound with a slightly irregular circumferential marginal abrasion measuring 3/16" to ¼". The wound track perforates through the skin and fractures the lateral aspect of the clavicle. The wound track continues into the underlying soft tissue and muscle of the right posterior upper back and shoulder area. A large caliber lead projectile and copper jacketing is recovered from the right upper back/posterior shoulder muscle and soft tissue. This is a penetrating gunshot wound of the right chest/shoulder area with the wound track traveling downward and back with the decedent's body in an upright anatomical position;
  - c. GUNSHOT WOUND #3: Located on the right upper lateral chest, 11½" from the top of the head and 4½" from the anterior midline of the body, is a 3/8" round gunshot entrance wound with a 1/16" marginal abrasion along the superior aspect. The wound track perforates through the skin and enters the chest cavity through the first intercostal space. The track continues through the upper lobe of the right lung,

perforates the superior vena cava, and then passes below the right main stem bronchus. The wound track then perforates the esophagus and the aorta as it crosses to the left side of the chest and perforates through the basilar portion of the lower lobe of the left lung. The projectile exits the chest cavity through the left lateral 10th intercostal space. A large caliber gray metal projectile and associated copper jacketing is recovered from the muscle of the left lateral back near the 10th rib. This is a penetrating gunshot wound injury of the chest with the wound track traveling from front-to-back, downward, and from right-to-left with the body in an upright anatomical position. This has resulted in injury to the bilateral chest wall, both lungs, superior vena cava, esophagus, and aorta with significant hemorrhage and is lethal;

- d. GUNSHOT WOUND #4: Located on the mid portion of the chest, 17¼" from the top of the head and ½" right of the anterior midline of the body, is a 3/8" round gunshot entrance wound with a slightly less than 1/16" marginal abrasion along the superior and medial aspects. The wound track perforates through the anterior chest wall and costal cartilage of right rib #5. The track continues with perforation of the pericardial sac, perforation of the lateral edge of the right atrium of the heart, graze injury of the right ventricle of the heart, small graze injury to the medial aspect of the middle lobe of the right lung, perforation of the medial basilar edge of the lower lobe of the right lung, passes through the diaphragm, perforates through the liver, and passes back through the diaphragm into the lower posterior chest cavity. The projectile exits the chest cavity with fracturing of the posterior right 11th rib. A large caliber lead projectile and copper jacketing are recovered from the mid-to-lower right back muscle adjacent to the vertebral column. This is a penetrating gunshot injury of the chest with the wound track traveling from front-to-back, downward, and slightly from left-to-right with the decedent's body in an upright anatomical position. This has resulted in injury to the chest wall, heart, right lung, diaphragm, and liver with hemorrhage and is potentially lethal;
- e. GUNSHOT WOUND #5: Located on the left supraclavicular area, 9" from the top of the head and 4" from the anterior midline of the neck, is a 3/8" round gunshot entrance wound with a ¼" marginal abrasion along the posterior/superior aspect. The wound track perforates through the soft tissues of the left supraclavicular area with damage to small vessels and hemorrhage into the soft tissue. The wound track continues into the muscle of the back. A large caliber gray metal projectile and associated copper jacketing is recovered from the muscle/subcutaneous tissue of the left mid back. This is a penetrating gunshot wound injury of the supraclavicular area and upper back with the wound track traveling downward and slightly from front-to-back with the decedent's body in an upright anatomic position;
- f. GUNSHOT WOUND #6: Located on the left upper chest at the sternoclavicular joint, 11¼" from the top of the head and ½" from the anterior midline of the body, is a 7/16" x 5/16" oval gunshot entrance wound with a 1/16" marginal abrasion along the superior aspect. The wound track perforates through the skin and fractures the

head of the clavicle just lateral to the sternoclavicular joint. Wound track continues into the underlying tissue with transection of the left subclavian artery near its takeoff from the aortic arch. Wound track continues with a perforation of the left lateral aspect of the trachea just above the origin of the left main stem bronchus and then perforates through the esophagus. Associated with this is left hemothorax as well as hemorrhage into the mediastinal tissues, trachea, and the esophagus. The wound track terminates with fracturing of the T5 vertebral body. A large caliber gray metal projectile and associated copper jacketing is recovered from within the T5 vertebral body. This is a penetrating gunshot wound injury of the chest with the wound track traveling front-to-back, downward, and slightly from left-to-right with the body in an upright anatomical position. This has resulted in injury to the left clavicle, left subclavian artery, trachea, esophagus, and T5 vertebral body with associated hemorrhage and would be lethal;

- g. GUNSHOT WOUND #7: Located on the left upper chest wall, 12" from the top of the head and 1¼" from the anterior midline of the body, is a 9/16" x 5/16" oval gunshot entrance wound with a 1/16" marginal abrasion along the superior and lateral aspects. The wound track perforates through the skin and fractures the anterior of left rib #1 before passing through the aortic arch and the left pulmonary artery at the left hilum. The wound track passes through the posterior left rib #6 with fracturing of the rib and then into the muscle of the back behind rib #7. A large caliber gray metal projectile and copper jacketing are recovered from the muscle behind left rib #7. This is a penetrating gunshot wound injury of the chest with the wound track traveling downward and from front-to-back with the body in an upright anatomical position. This has resulted in injury to the chest wall, aorta, and left pulmonary artery with significant hemorrhage and would be lethal;
- h. GUNSHOT WOUND #8: Located on the left upper chest, 13" from the top of the head and 2" from the anterior midline of the body, is a ½" x 5/16" oval gunshot entrance wound with a 1/16" marginal abrasion along the superior and lateral aspect. The wound track perforates through the chest wall with fracturing of rib #2 and then passes through the superior most aspect of the lower lobe of the left lung. The projectile continues through the chest cavity and exits the posterior left 10th intercostal space. A large caliber gray metal projectile and copper jacketing are recovered from the muscle in the left side of the back behind the 11<sup>th</sup> rib. This is a penetrating gunshot wound of the chest with the wound track traveling front-to-back and downward and slightly from left-to-right with the body in an upright anatomic position. This has resulted in injury to the chest wall and left lung and is potentially lethal;
- i. GUNSHOT WOUND #9: Located on the anterior upper left arm (biceps), 19½" from the top of the head is a 3/8" x 1/8" oval entrance wound with a 3/16" marginal abrasion located along the inferior and lateral aspects. The wound track perforates through the soft tissue and muscle of the medial aspect of the upper arm. There is no

evidence of injury to major vessels and no damage to the underlying bone. A ½" x 3/16" exit wound is located on the posterior medial left upper arm, 15½" from the top of the head. Exploration of the muscle just beneath the exit wound reveals a nearly complete, deformed, large caliber projectile copper jacketing. The gray metal lead core is not identified. This is a perforating gunshot wound injury of the left upper arm with the wound traveling from front-to-back, upward, and slightly from left-to-right with the decedent's body in an upright anatomical position;

- j. GUNSHOT WOUND #10: Located on the left upper abdominal wall, 23" from the top of the head and 1¾" from the anterior midline of the body, is a 5/16" x 1/8" oval gunshot entrance wound with a 5/16" x 3/8" leading abrasion located along the superior/medial aspect. The wound track perforates through the anterior abdominal wall muscle and perforates through several loops of bowel before passing through the left psoas muscle. There is a focal fracture of the tip of the left transverse process of the L4 vertebral body. A large caliber gray metal projectile and copper jacketing material is recovered from the left lower back/upper buttocks area in the muscle. This is a penetrating gunshot wound injury of the abdomen with the wound track traveling from front-to-back, downward, and slightly from right-to-left with the body in an upright anatomical position.

### **FIRST CAUSE OF ACTION**

[Wrongful Death-Negligence/ Gross Negligence of Defendant City]

86. The preceding paragraphs are incorporated by reference as if fully set forth herein.
87. Defendant City owed a duty to Jonathan A.P. Ferrell, and to the general public, to ensure that the CMPD , its agents and employees would perform their duties in such a way as to avoid placing Jonathan and other members of the public in unreasonable danger of serious injury or death. Furthermore, Defendant City owed a duty to ensure that Jonathan A.P. Ferrell and other members of the public would be free from unreasonable searches and seizures and excessive force by officers employed by the CMPD.
88. Defendant City breached these duties with regard to Jonathan in various ways including, but not limited to, the following:
- a. It failed to ensure that the CMPD and Defendant Monroe had established reasonable and appropriate policies to accomplish the mission of the CMPD of protecting and serving the law-abiding public, including Jonathan A.P. Ferrell;
  - b. It failed to ensure that the CMPD and Defendant Monroe had established reasonable and appropriate policies regarding the hiring, promotion and retention of law enforcement personnel;

- c. It failed to ensure that the CMPD and Defendant Monroe adequately trained, supervised, instructed and/or monitored CMPD employees in the use of force against suspects and other law abiding citizens;
  - d. It failed to ensure that the CMPD and Defendant Monroe established reasonable and appropriate policies and procedures governing the manner in which CMPD personnel would respond to 911 calls involving suspicious persons;
  - e. It failed to establish reasonable and appropriate policies and procedures governing the situations under which and the manner in which CMPD personnel could use deadly force against suspicious persons and/or members of the public;
  - f. It failed to ensure that all CMPD personnel complied with existing policies and procedures with regard to the use of excessive or deadly force;
  - g. It failed to take corrective action to prevent CMPD personnel and others under its control from exercising unreasonable and excessive force in response to prior incidents involving the wrongful use of excessive or deadly force by CMPD personnel upon citizens of Charlotte and Mecklenburg County;
  - h. It adopted and encouraged a paramilitary approach to law enforcement inconsistent with the goals and responsibilities of a civilian law enforcement agency; and
  - i. It was careless and negligent in such other ways as may be identified during the course of discovery and/or trial.
89. Defendant City's negligent acts and omissions constitute proximate causes of the incident which resulted in injuries to and the death of Jonathan A.P. Ferrell which Plaintiff on behalf of the Estate of Jonathan A.P. Ferrell is entitled to recover damages under the North Carolina Wrongful Death Statute, N.C. Gen. Stat. §28A-18-2, as more particularly described herein.
90. At the time Defendants Monroe and Kerrick committed the acts of negligence described herein, they were acting within the course and scope of their employment and/or agency with the CMPD. As such, Defendant City is liable for the negligent acts and omissions of Defendants Monroe and Kerrick and the negligence of Defendants Monroe and Kerrick is imputed to Defendant City through the doctrines of agency, vicarious liability and *respondeat superior*.

## **SECOND CAUSE OF ACTION**

[Wrongful Death-Negligence/ Gross Negligence of Defendant County]

91. The preceding paragraphs are incorporated by reference as if fully set forth herein.

92. Defendant County owed a duty to Jonathan A.P. Ferrell, and to the general public, to ensure that the CMPD, its agents and employees would perform their duties in such a way as to avoid placing Jonathan, and other members of the public, in unreasonable danger of injury or death. Furthermore, Defendant County owed a duty to ensure that Jonathan A.P. Ferrell, and other members of the public, would be free from unreasonable searches and seizures and excessive force at the hands of the CMPD.
  
93. Defendant County breached these duties with regard to Jonathan in various ways including, but not limited to, the following:
  - a. It failed to ensure that the CMPD and Defendant Monroe had established reasonable and appropriate policies to accomplish the mission of the CMPD of protecting and serving the law-abiding public, including Jonathan Ferrell;
  - b. It failed to ensure that the CMPD and Defendant Monroe had established reasonable and appropriate policies regarding the hiring, promotion and retention of law enforcement personnel;
  - c. It failed to ensure that the CMPD and Defendant Monroe adequately trained, supervised, instructed and/or monitored CMPD employees in the use of force against suspects and other law abiding citizens;
  - d. It failed to ensure that the CMPD and Defendant Monroe established reasonable and appropriate policies and procedures governing the manner in which CMPD personnel would respond to 911 calls involving suspicious persons;
  - e. It failed to establish reasonable and appropriate policies and procedures governing the situations under which and the manner in which CMPD personnel could use deadly force against suspicious persons and/or members of the public;
  - f. It failed to ensure that all CMPD personnel complied with existing policies and procedures with regard to the use of excessive or deadly force;
  - g. It failed to take corrective action to prevent CMPD personnel and others under its control from exercising unreasonable and excessive force in response to prior incidents involving the wrongful use of excessive or deadly force by CMPD personnel upon citizens of Charlotte and Mecklenburg County;
  - h. It adopted and encouraged a paramilitary approach to law enforcement inconsistent with the goals and responsibilities of a civilian law enforcement agency; and
  - i. It was careless and negligent in such other ways as may be identified during the course of discovery and/or trial.

94. Defendant County's negligent acts and omissions constitute proximate causes of the incident which resulted in injuries to and the death of Jonathan A.P. Ferrell which Plaintiff on behalf of the Estate of Jonathan A.P. Ferrell is entitled to recover damages under the North Carolina Wrongful Death Statute, N.C. Gen. Stat. §28A-18-2, as more particularly described herein.
95. At the time Defendants Monroe and Kerrick committed the acts of negligence described herein, they were acting within the course and scope of their employment and/or agency with the CMPD. As such, Defendant County is liable for the negligent acts and omissions of Defendants Monroe and Kerrick and the negligence of Defendants Monroe and Kerrick is imputed to Defendant City through the doctrines of agency, apparent agency, vicarious liability and *respondeat superior*.

### **THIRD CAUSE OF ACTION**

[Wrongful Death -Chief Rodney Monroe, in his Official Capacity)

96. The preceding paragraphs are incorporated by reference as if fully set forth herein.
97. Defendant Monroe, as the chief law enforcement officer in Charlotte and Mecklenburg County, owed a duty to Jonathan A.P. Ferrell and the general public, to perform his duties and to ensure that the CMPD and its agents and employees performed their duties, in such a way as to avoid placing Jonathan and other members of the law abiding public, in danger of serious injury or death. Furthermore, Defendant Monroe owed a duty to ensure that Jonathan and other members of the law abiding public, would be free from unreasonable searches and seizures and excessive force at the hands of the CMPD.
98. Defendant Monroe breached these duties with regard to Jonathan in various ways, including, but not limited to, the following:
  - a. He failed to establish reasonable policies or to take reasonable precautions in the hiring, promotion and retention of CMPD personnel;
  - b. He negligently hired Defendant Kerrick;
  - c. He failed to properly train Defendant Kerrick;
  - d. He failed to properly supervise the activities of Defendant Kerrick;
  - e. He failed to train, supervise, instruct, and/or monitor employees of the CMPD, including Defendant Kerrick, in the use of force against suspects, suspicious persons, and members of the law abiding public;
  - f. He failed to establish reasonable procedures to train officers to properly respond to reports of suspicious activity;

- g. He failed to establish reasonable and appropriate policies and procedures governing the situations under which and the manner in which CMPD personnel could use deadly force against suspicious persons and/or members of the public;
  - h. He failed to ensure that CMPD personnel, including patrol officers, complied with existing policies and procedures regarding the use of deadly force against suspicious persons and/or members of the public;
  - i. He failed to take appropriate corrective action to prevent CMPD personnel and others under his command from utilizing unreasonable and excessive force in response to other prior incidents involving the wrongful use of excessive or deadly force by CMPD personnel; and
  - j. He was careless and negligent in such other ways as may be identified during the course of discovery and/or the trial of this action.
99. Defendant Monroe's negligent acts and omissions constitute proximate causes of the incident which resulted in injuries to and the death of Jonathan A.P. Ferrell which Plaintiff on behalf of the Estate of Jonathan A.P. Ferrell is entitled to recover damages under the North Carolina Wrongful Death Statute, N.C. Gen. Stat. §28A-18-2, as more particularly described herein.
100. At the time Defendants Monroe committed the acts of negligence described herein, he was acting within the course and scope of his employment and/or agency with the CMPD. As such, Defendant City is liable for the negligent acts and omissions of Defendant Monroe and the negligence of Defendant Monroe is imputed to Defendant City through the doctrines of agency, vicarious liability and *respondeat superior*.

#### **FOURTH CAUSE OF ACTION**

[Negligence/ Gross Negligence of Defendant Kerrick in his individual and official capacities]

101. The preceding paragraphs are incorporated by reference as if fully set forth herein.
102. Defendant Kerrick, individually and in his official capacity as a patrol officer for CMPD, was negligent at the time and place alleged hereinabove, and his acts and omissions of negligence include, but are not limited to, the following:
- a. He failed to possess the necessary training and experience to serve as a patrol officer in the CMPD and to respond to the 911 call of a suspicious person in a residential neighborhood on September 14, 2013;
  - b. He aimed his semi-automatic pistol at Jonathan Ferrell and deliberately fired 10 shots into his body despite the complete lack of objective evidence that Jonathan posed

any threat whatsoever to any of the CMPD personnel on the scene and without even knowing the identity of the young man he was about to kill;

- c. He failed to recognize that Jonathan was injured and unarmed prior to aiming his semi-automatic pistol at Jonathan and firing 10 high velocity bullets into his body;
- d. He failed to determine or adequately assess the situation prior to aiming his semi-automatic pistol at Jonathan and firing 10 high velocity bullets into his body;
- e. He failed to properly identify himself to Jonathan Ferrell, and to confirm that Jonathan Ferrell heard or otherwise understood the identification prior to aiming his semi-automatic pistol at Jonathan and firing 10 high velocity bullets into his body;
- f. He negligently failed to investigate or confirm that Jonathan Ferrell was lawfully seeking assistance before rapidly approaching Jonathan, late at night, in a dark area with his firearm drawn and aimed;
- g. He negligently approached Jonathan, using stealth and surprise, late at night and in a darkened area, with his firearm drawn, and while knowing, actually or constructively, that Jonathan would be startled and frightened by his appearance and might instinctively react in self-defense, and failed to give Jonathan an adequate opportunity to comprehend the situation before using excessive and deadly force;
- h. He negligently failed to realize that, because of the dim lighting in the area, Jonathan would be startled, frightened and unable to see his approach and commands;
- i. He failed to give Jonathan an opportunity to comprehend the situation and comply with his commands to halt before using excessive and deadly force or, in the alternative, failed to see and ascertain that Jonathan was in the process of complying with his commands;
- j. He failed to use less combative, provocative and aggressive methods of alerting Jonathan to the presence of the three officers, before using deadly force against him;
- k. He failed to use his firearm as a reasonable, careful and prudent officer would have used it under the same or similar circumstances;
- l. He used deadly force against Jonathan when he knew, or reasonably should have known, that the use of deadly force was not necessary or justified;
- m. He negligently used excessive force against Jonathan when such force was not justified under the circumstances and was in violation of written CMPD regulations regarding the use of force;

- n. In committing some or all of the following criminal offenses: Voluntary Manslaughter, Involuntary Manslaughter, Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury, Assault with a Deadly Weapon Inflicting Serious Injury, Assault Inflicting Serious Bodily Injury, Assault with a Deadly Weapon, Assault with intent to Kill, Assault by Pointing a Gun, Simple Assault and Battery in violation of the General Statutes of North Carolina and the common law of North Carolina (all of which are negligence within themselves); and
  - o. He was otherwise careless and negligent in such other ways as may be revealed by discovery or during the trial of this action.
103. On September 14, 2013, Defendant Kerrick's actions were malicious, corrupt, intentional, illegal, excessive, unreasonable, wilful and wanton, and Defendant Kerrick acted outside the scope of his duties with the CMPD and with conscious and reckless disregard for the lives and safety of others, including Jonathan A.P. Ferrell. Based on Defendant Kerrick's conduct, Defendant Kerrick is not entitled to immunity from personal liability and may be sued in his individual capacity.
104. The negligent acts and omissions of Defendant Kerrick, as described hereinabove, were a proximate cause of the shooting and death of Jonathan A.P. Ferrell.
105. The acts and omissions of Defendant Kerrick, as described hereinabove, were willful, wanton and/or reckless, and amount to gross negligence.
106. Defendant Kerrick was aware of the probable consequences of his conduct in recklessly discharging his firearm as described above, due to the likelihood that his conduct was reasonably likely to result in injury or death to others, including Jonathan A.P. Ferrell.
107. The negligence of Defendant Kerrick is imputed by law to Defendant City and Defendant County by reason of Defendant Kerrick's agency relationship with, and employment by, Defendant City and/or Defendant County at the time and place that the incident occurred, under the doctrine of *respondeat superior*.
108. Plaintiff is entitled to recover from the Defendants, jointly and severally, an amount in excess of Ten Thousand Dollars ( \$10,000.00) as a result of Defendant Kerrick's negligence, gross negligence, and/or willful and wanton negligence.

**FIFTH CAUSE OF ACTION**  
[Assault and Battery]

109. The preceding paragraphs are incorporated by reference as if fully set forth herein.

110. Defendant Kerrick, individually and in his official capacity as a law enforcement officer for CMPD, pointed a firearm at Jonathan and unjustifiably used deadly force against Jonathan, which force was objectively excessive and unreasonable under the circumstances.
111. Defendant Kerrick's intentional acts as described more fully hereinabove, put Jonathan in actual, subjective apprehension of imminent harmful or offensive contact.
112. Jonathan'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.
113. Defendant Kerrick's intentional act of shooting Jonathan constituted a harmful or offensive contact with Jonathan.
114. Defendant Kerrick's actions proximately caused the harmful or offensive contact with Jonathan.
115. Jonathan did not consent to contact with, from or by Defendant Kerrick.
116. The Defendants are jointly and severally liable for the malicious assault and battery of Jonathan by Defendant Kerrick, in an amount to be determined by a jury, but believed to be in excess of Ten Thousand Dollars ( \$10,000.00).

### **SIXTH CAUSE OF ACTION**

[Acts of Malice and Acts Beyond Scope of Duties]

117. The preceding paragraphs are incorporated by reference as if fully set forth herein.
118. The acts and omissions of Defendant Kerrick described hereinabove were committed with such reckless and wanton disregard for the life and safety of Jonathan that they were malicious, corrupt and beyond the scope of his official duties as a CMPD patrol officer.
119. Specifically, Defendant Kerrick's approach, failure to warn, inadequate identification and warning, failure to consider the darkness as a factor inhibiting Jonathan's ability to ascertain the identity of individuals approaching from the darkened street and near-immediate resort to deadly force in violation of CMPD regulations, policies and procedures, without first confirming whether Jonathan had the means and opportunity to comply with any verbal orders to remain still, were committed with malice.
120. Plaintiff is entitled to recover from the Defendants, jointly and severally, an amount in excess of Ten Thousand Dollars ( \$10,000.00) as a result of Defendants' acts of malice and acts beyond the scope of duties.

**SEVENTH CAUSE OF ACTION**

[Punitive Damages]

121. The preceding paragraphs are incorporated by reference as if fully set forth herein.
122. As a direct and proximate result of the grossly negligent, reckless, intentional and wilful conduct of Defendant Kerrick as well as Defendant Kerrick's conscious disregard for the health and safety of Jonathan, and other members of the law abiding public as alleged herein Plaintiff, on behalf of the Estate of Jonathan A.P. Ferrell, is entitled to recover punitive and exemplary damages as forth in N.C. Gen. Stat. § 28A-18-2(b)(5) to punish him for his illegal, egregiously wrongful, reckless and wilful misconduct and to deter such conduct by others. Defendants' actions as alleged hereinabove, constitute willful and wanton conduct, as defined in N.C. Gen. Stat. §1 D.
123. Pursuant to N.C. Gen. Stat. §1D, Plaintiff is entitled to recover punitive damages from Defendants, jointly and severally, in an amount to be determined by a jury, but not less than Ten Thousand Dollars ( \$10,000.00).

**EIGHTH CAUSE OF ACTION**

[Violation of Civil Rights --42 U.S.C. §1983]

124. The preceding paragraphs are incorporated by reference as if fully set forth herein.
125. By the actions and omissions described above, Defendants violated 42 U.S.C. §1983, depriving Jonathan A.P. Ferrell of the following clearly-established and well-settled constitutional rights protected by the Fourth and Fourteenth Amendments to the United States Constitution:
- a. The right to be free from unreasonable searches and seizures as secured by the Fourth and Fourteenth Amendments;
  - b. The right to be free from excessive and unreasonable force in the course of search or seizure as secured by the Fourth and Fourteenth Amendments;
  - c. The right to be free from the use of unlawful deadly force as secured by the Fourth and Fourteenth Amendments;
  - d. The right to be free of unlawful, reckless, deliberately indifferent, and conscience shocking deadly and/or excessive force as secured by the Fourteenth Amendment;
  - e. The right to be free from deprivation of liberty and injury without substantive due process and from state created danger as secured by the Fourteenth Amendment; and
  - f. In such other particulars as may be learned through discovery.

126. As a direct and proximate result of Defendants' acts and/or omissions as set forth above, Jonathan A.P. Ferrell sustained injuries and Plaintiff sustained damages as otherwise set forth in this Complaint.
127. The conduct of Defendant Kerrick in his individual capacity entitles Plaintiff to punitive damages and penalties allowable under 42 U.S.C. §1983.
128. Plaintiff is also entitled to reasonable costs and attorney fees pursuant to 42 U.S.C. §1988.

**NINTH CAUSE OF ACTION  
(42 U.S.C. § 1983 Deliberate Indifference)**

129. The preceding paragraphs are incorporated by reference as if fully set forth herein.
130. The unconstitutional actions and/or omissions of Defendants as well as other officers employed by or acting on behalf of these Defendants, on information and belief, were pursuant to the following customs, policies, practices, and/or procedures of the CMPD, which were directed, encouraged, allowed, and/or ratified by policy making officers for Defendants City and County:
  - a. To use or tolerate the use of excessive and/or unjustified force, in particular during the investigation of suspicious persons;
  - b. To create unnecessary danger and risk of serious harm or death, with deliberate indifference, to suspicious persons being investigated by law enforcement officers;
  - 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 police activity;
  - d. To allow, tolerate, and/or encourage a “code of silence” among law enforcement officers and police department personnel, whereby an officer or member of the department does not provide adverse information against a fellow officer or member of the department;
  - 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.
131. Defendants City, County and Monroe failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline officers of the CMPD with deliberate

indifference to Jonathan A.P. Ferrell's constitutional rights, which were thereby violated as described above.

132. 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 City, County and Monroe, were a moving force and/or a proximate cause of the deprivations of Jonathan A.P. Ferrell's clearly-established and well-settled constitutional rights in violation of 42 U.S.C. §1983, as more fully set forth above.
133. Defendants subjected Jonathan A.P. Ferrell to their wrongful conduct, depriving Jonathan of the rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Jonathan Ferrell and other members of the general public would be violated by their acts and/or omissions.
134. As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, practices and procedures of Defendants, Plaintiff is entitled to damages, penalties, costs and attorney fees as set forth, above, including punitive damages against Defendants.

### **DAMAGES**

135. At the time of his death, Jonathan A.P. Ferrell was 24 years of age and in excellent physical health. Practically his entire adult life lay ahead of him and his prospects in life were unlimited. Jonathan was intelligent, hard working, ambitious, considerate and kind. He enjoyed life immensely.
136. Jonathan is survived by his mother, Georgia Ferrell, his fiancé, Caché Heidel, a sister and three brothers and shared bonds of genuine love and affection with all of his family. By reason of the wrongful and negligent acts and omissions of all Defendants, as heretofore alleged, Jonathan's family (as well as his friends, relatives, co-workers and society in general), has been forever deprived of his society and their relationship with a wonderful young man. In particular, Georgia Ferrell, Jonathan's mother and the beneficiary of his estate in this claim for wrongful death, has been and will be forever deprived of his services, care, protection, and assistance, as well as his society, companionship, comfort, guidance, kindly offices, advice, love, and affection. Plaintiff is further entitled to recover the reasonable and necessary funeral and burial expenses which were incurred as a result of his death.
137. Furthermore, Jonathan experienced, upon information and belief, fleeting yet significant terror of his impending death when Defendant Kerrick aimed his semi-automatic pistol at him, and further experienced excruciating physical pain and mental anguish as Defendant Kerrick fired 10 high velocity bullets into his chest and arm. Afterwards, as he lay dying on the ground in a pool of his own blood, on information and belief, Jonathan struggled to breathe and, in effect, drowned in his own blood. In short, upon information and belief,

Jonathan experienced excruciating and horrible physical pain and mental suffering as he died from gunshot wounds inflicted upon him by Defendant Kerrick and as his hands were handcuffed behind his back as he lay dying on the ground.

138. Plaintiff is entitled to recover from all Defendants, jointly and severally, all damages permitted by N.C. Gen. Stat. § 28A-18-2.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff, Georgia Ferrell, as Administratrix of the Estate of Jonathan A.P. Ferrell (Deceased), respectfully prays the Court for the following relief:

- A. That Plaintiff have and recover of Defendants, jointly and severally, an amount greater than Ten Thousand Dollars (\$10,000.00) and exceeding the jurisdictional limit of this Court for the personal injuries and wrongful death of Jonathan A.P. Ferrell;
- B. That Plaintiff have and recover of Defendants, jointly and severally, an amount greater than Ten Thousand Dollars (\$10,000.00) and exceeding the jurisdictional limit of this Court for punitive and exemplary damages;
- C. That all issues of fact be tried by a jury;
- D. That Plaintiff recover from Defendants, jointly and severally, the costs of this action and reasonable attorney's fees to the fullest extent allowed by North Carolina and United States law; and
- E. That Plaintiff be granted all other relief, both legal and equitable, which the Court deems just and proper.

This the \_\_\_\_ day of January, 2014.

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Charles G. Monnett III  
NC State Bar Number 11230  
CHARLES G. MONNETT III & ASSOCIATES  
6842 Morrison Boulevard, Suite 100  
Charlotte, North Carolina 28211  
P: (704) 376-1911  
F: (704) 376-1911  
Email: [cmonnett@carolinalaw.com](mailto:cmonnett@carolinalaw.com)