

KJG: car

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

YVONNE CHALLIEH, Independent)	
Administrator of the Estate of Jesse)	
Hare, deceased)	
)	
Plaintiff,)	No.
)	
v.)	
)	
CITY OF LOVES PARK, JOSHUA THOMAS)	
HECKER, TERRY HAYES, JEFFREY PETTY,)	
SGT. CURTIS WILSON, LOVES PARK POLICE)	
DEPARTMENT, COUNTY OF WINNEBAGO,)	
WINNEBAGO COUNTY CORONER)	
ELIZABETH FIDUCCIA, DEPUTY CORONER)	
ROBERT BAUMGARTNER, JR. and MARK)	
PETERS, M.D.)	
)	
Defendants.)	

COMPLAINT AT LAW

NOW COMES the Plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, by and through her attorneys, Dudley & Lake, LLC, and complaining of the defendants, CITY OF LOVES PARK, JOSHUA THOMAS HECKER, TERRY HAYES, JEFFREY PETTY, SGT. CURTIS WILSON, LOVES PARK POLICE DEPARTMENT, COUNTY OF WINNEBAGO, WINNEBAGO COUNTY CORONER, ELIZABETH FIDUCCIA, DEPUTY CORONER ROBERT BAUMGARTNER, JR. and MARK PETERS, M.D., and states as follows:

INTRODUCTION

1. This lawsuit arises out of the intentional and malicious attack by the

LOVES PARK POLICE officers against JESSE HARE on July 2, 2008. As a result of the attack, JESSE HARE died on July 2, 2008.

2. This is an action for damages to address the individual and/or concerted conduct of the defendants which constitutes violations of the plaintiff's rights guaranteed under the Fourth, Eighth and Fourteenth Amendments to the United States Constitution, and for violations of Illinois common law, where the negligent and willful and wanton acts caused the death of JESSE HARE. This action is brought pursuant to §1983 and §1988, as well as the Fourth, Eighth and Fourteenth Amendments to the United States Constitution. Specifically, the plaintiff seeks recovery of compensatory and exemplary damages for the wrongful death of JESSE HARE, as a result of the concerted actions and conduct of the defendants.

JURISDICTION AND VENUE

3. This court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 1443 (a)3 as Federal claims are brought under 42 U.S.C. 1983; and venue, pursuant to 28 U.S.C. § 1391(b), as the party resides in the district .

4. The Court has supplemental jurisdiction on the plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a) as the claims arise on the same nucleus of operative facts.

PARTIES

5. The deceased plaintiff, JESSEE HARE, was at all relevant times a resident of LOVES PARK, COUNTY OF WINNEBAGO, State of Illinois and a citizen of the

United State of America and enjoyed all rights and liberties guaranteed by the Constitution of the United States of American and all amendments thereto.

6. The defendant, JOSHUA THOMAS HECKER, was at all relevant times employed by the defendant, LOVES PARK POLICE DEPARTMENT, and the CITY OF LOVES PARK, as a Love's Park Police Officer and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of his employment and under the cover of law. JOSHUA THOMAS HECKER is being sued in his individual capacity and his official capacity.

7. The defendant, TERRY HAYES, was at all relevant times employed by the defendant, LOVES PARK POLICE DEPARTMENT, and the CITY OF LOVES PARK, as a Love's Park Police Officer and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of his employment and under the cover of law. TERRY HAYES is being sued in his individual capacity and his official capacity.

8. The defendant, JEFFREY PETTY, was at all relevant times employed by the defendant, LOVES PARK POLICE DEPARTMENT, and the CITY OF LOVES PARK, as a Love's Park Police Officer and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of his employment and

under the cover of law. JEFFREY PETTY is being sued in his individual capacity and his official capacity.

9. The defendant, SGT. CURTIS WILSON, was at all relevant times employed by the defendant, LOVES PARK POLICE DEPARTMENT, and the CITY OF LOVES PARK, as a Love's Park Police Officer and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of his employment and under the cover of law.

10. The defendant, ELIZABETH FIDUCCIA, was at all times employed by the defendant, COUNTY OF WINNEBAGO, as the WINNEBAGO COUNTY CORONER, and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of her employment and under the cover of law.

11. The defendant, ROBERT BAUMGARTNER, JR. was at all times employed by the defendant, COUNTY OF WINNEBAGO, as the WINNEBAGO COUNTY DEPUTY CORONER, and upon information and belief, resides within the boundaries of the United States District Court for the Northern District of Illinois, Western Division, and at all times hereto acted within the scope of his employment and under the cover of law.

12. The defendant, MARK PETERS, M.D., was at all times employed or an agent of the COUNTY OF WINNEBAGO, as a medical doctor and upon information and belief, resides within the boundaries of the United States District Court for the

Northern District of Illinois. Western Division, and at all times hereto acted within the scope of his employment and under the cover of law.

13. All the above mentioned defendants were acting within the scope of their employment at the time of the incident giving rise to the cause of action. All defendants have acted and continue to act under the color of law in the State of Illinois and all times relevant to this complaint. Their deprivation of JESSE HARE constitutional rights are set forth in the following statements of facts and causes of action.

14. Defendant, CITY OF LOVES PARK is a municipal corporation under the laws of the State of Illinois.

15. Defendant, COUNTY OF WINNEBAGO is a local public entity under the laws of the State of Illinois.

FACTS COMMON TO ALL COUNTS OF THE COMPLAINT

16. On March 28, 2007, LOVES PARK POLICE OFFICERS, Ronald McFarland, Douglas Allton, and Officer Czech, arrested JESSE HARE for possession of a controlled substance at his residence at 5166 Granite Street.

17. JESSE HARE was handcuffed inside his trailer home and was taken outside.

18. Once outside the trailer home, Officer McFarland and other LOVES PARK POLICE OFFICERS physically beat and assaulted JESSE HARE while he was handcuffed, and as a result JESSE HARE was admitted into Swedish American Hospital.

19. The incident was never properly investigated by the LOVES PARK POLICE DEPARTMENT and Officer McFarland and the other officers were never disciplined or punished for their actions.

20. On July 2, 2008, JESSE HARE was at home, with his mother, YVONNE CHALLIEH, at 5166 Granite Street, City of Loves Park, County of Winnebago.

21. On that day, JESSE HARE began to suffer from chest pains and his mother, YVONNE CHAILLEH, called for an ambulance to come and assist her son.

22. On July 2, 2008, OFFICER JOSHUA THOMAS HECKER of the LOVES PARK POLICE DEPARTMENT went to 5166 Granite Street and when he arrived there was an ambulance at the residence.

23. On July 2, 2008, JESSE HARE informed the paramedics and OFFICER HECKER that he did not want medical assistance.

24. On July 2, 2008, after informing the police officer and the paramedics that he did not want any assistance, JESSE HARE left his residence and traveled, on foot, to the entrance of the trailer park, where his home was located.

25. OFFICER HECKER made a call over the radio for backup to assist him, even though there was no probable cause to arrest JESSE HARE and indicated on the call that JESSE HARE was "acting goofy".

26. LOVES PARK POLICE OFFICERS, TERRY HAYES, JEFFREY PETTY, and SARGENT CURTIS WILSON responded to assist OFFICER HECKER.

27. On July 2, 2008, at or near Granite Street and Forest Hill Road in Loves Park, OFFICER HECKER, OFFICER PETTY, and OFFICER HAYES, illegally detained

JESSE HARE and began to strike JESSE HARE with an ASP (expandable baton) on his arms, legs, and his entire body.

28. On July 2, 2008, SERGEANT CURTIS WILSON arrived at the scene and observed OFFICER HECKER, OFFICER HAYES, and OFFICER PETTY striking and physically assaulting JESSE HARE and SERGEANT CURTIS WILSON joined in on the physical assault of JESSE HARE.

29. The Officers also sprayed JESSE HARE with oleoresin capsicum (OC).

30. On July 2, 2008, SERGEANT CURTIS WILSON, OFFICER HECKER, OFFICER HAYES, and OFFICER PETTY threw JESSE HARE to the ground and choked him, placed their knees on his throat and chest, and continued to strike and physically assault JESSE HARE.

31. On July 2, 2008, after physically attacking JESSE HARE, the police officers placed him in handcuffs while he was on the ground.

32. At the time the defendants attacked, detained and handcuffed JESSE HARE, the police officers were not in possession of any information establishing the existence of probable cause to detain or arrest JESSE HARE.

33. JESSE HARE was taken to Rockford Memorial Hospital where he was pronounced dead.

34. DEPUTY CORONER ROBERT BAUMGARTNER, JR. went to the hospital on behalf of the WINNEBAGO COUNTY CORONER'S OFFICE.

35. DEPUTY CORONER ROBERT BAUMGARTNER, JR. conducted his own investigation and indicated in a report that "Mr. Hare was snorting cocaine and out of

control", and that "Mr. HARE was scooping up cocaine with his hands and shoving it up to his face".

36. JESSE HARE'S body was transported to the Winnebago County Public Safety Building in order for an autopsy to be performed.

37. DEPUTY CORONER ROBERT BAUMGARTNER, JR wrote an additional report and indicated in a report that JESSE HARE "was snorting cocaine out of control, grabbing the white powder up and shoving it into his face." He also indicated in a report that the pathologist "need to draw samples for toxicological studies".

38. On July 3, 2008, DR. MARK PETERS conducted an autopsy on JESSE HARE and did not issue an autopsy report until September 10, 2008.

39. MARK PETERS, M.D. determined the cause of death to be "adverse effects of cocaine".

40. DR. PETERS failed to conduct a proper autopsy in that he intentionally failed to document the trauma sustained by JESSE HARE, including but not limited to internal injuries, injury to his brain, and injury to bones.

41. DR. PETERS failed to conduct an autopsy of JESSE HARE within the standard of care.

42. Knowing that an improper autopsy was performed, the WINNEBAGO COUNTY CORONER, ELIZABETH FIDUCCIA, presented the evidence to a jury during an inquest into the death of JESSE HARE and she knowingly provided false and inaccurate information, including the autopsy report and details of the evening, to the jurors who found that JESSE HARE died an accidental death.

43. The Estate of JESSE HARE hired a pathologist to conduct a second autopsy and ELIZABETH FIDUCCIA failed to forward the hyoid bone to the pathologist who was hired to conduct the second autopsy.

44. After the Estate requested the bone, SUSAN FIDUCCIA sent the bone to the second pathologist.

45. SUSAN FIDUCCIA signed off on a death certificate indicating that the case of death for JESSE HARE was "adverse effects of cocaine".

COUNT I

42 U.S.C. §1983, Fourth Amendment- Unlawful Detention/False Arrest/Conspiracy

1-45 Plaintiff incorporates all prior allegations in paragraphs 1-45 as fully set forth in this complaint.

46. On July 2, 2008, the plaintiff's decedent possessed the right guaranteed under the Fourth Amendment to the United States Constitution to be free from unreasonable seizure of his person.

47. On July 2, 2008, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON, accomplished an unlawful result through individual and/or concerted action, in that they agreed, through explicit or implicit means, to affect the unlawful detention and false arrest of the plaintiff without lawful authority in the form of reasonable articulable suspicion, probable cause, a judicial warrant or writ, or other lawful authority to do so.

48. Prior to July 2, 2008, the defendant's ELIZABETH FIDUCCIA, ROBERT BAUMGARTNER, JR., and MARK PETERS, M.D. accomplished an unlawful result through individual and/or concerted actions, accomplished an unlawful result through action in that they agreed, through explicit or implicit acts, to establish a custom and practice in their death investigations of suspects who had died while in custody of the police officers in WINNEBAGO COUNTY, including the officer employed by the LOVES PARK POLICE DEPARTMENT, to conclude that the death of the arrestees was due to the use of illegal street drugs and not the physical force and blunt force trauma used by the officers who had detained and used force to detain the suspect.

49. As a result of the agreement between police departments in WINNEBAGO COUNTY, including the LOVES PARK POLICE DEPARTMENT, and the defendants, ELIZABETH FIDUCCIA, ROBERT BAUMGARTNER, JR., and MARK PETERS, M.D., the defendants violated JESSE HARE right to be free from unreasonable seizures.

50. In furtherance of said agreement, the defendants unlawfully took custody of the plaintiff and place him into handcuffs when there was no lawful reason to do so.

51. Defendants individual acts and/or failure to intervene and/or conspiracy as described above, violated plaintiff's decedent right to be free from unreasonable seizure as provided in the Fourth Amendment of the United States Constitution and as a result, caused the plaintiff to die.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, jointly

and separately for compensation and punitive damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000), and her attorney fees and cost, pursuant to 42 U.S.C. § 1988.

COUNT II

42 U.S.C. §1983, Fourth Amendment-Excessive Force/Conspiracy

1-51 Plaintiff incorporates all prior allegations in paragraphs 1-50 as fully set forth in this complaint.

52. On July 2, 2008, the plaintiff possessed the rights guaranteed under the Fourth Amendment to the United States Constitution to be free from unreasonable seizure of his person.

53. On July 2, 2008, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, ELIZABETH FIDUCCIA, ROBERT BAUMGARTNER, JR., and MARK PETERS, M.D. through individual and/or concerted actions, accomplished an unlawful result through concerted action in that they agreed, through explicit or implicit means, to inflict bodily harm on the plaintiff without any objectively reasonable circumstances and justification.

54. In furtherance of said agreement, the defendants unlawfully took custody of the plaintiff and place him into handcuffs when there was no lawful reason to do so.

55. In further of said agreement, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON, physically attacked and assaulted the plaintiff which caused his death.

56. On July 2, 2008, the conduct of the defendants were not objectably reasonable within the meaning of the Fourth Amendment to the Constitution of the United States given the totality of circumstances that the plaintiff had not committed any crime and there was no reason, under the law, to detain and attack the plaintiff's decedent, JESSE HARE.

57. Defendant's individual acts, failure to act, and/or conspiracy as described above, violated plaintiff's decedent to be free from unreasonable seizure as provided in the Fourth Amendment to the United States Constitution and caused the plaintiff 's decedents death.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, jointly and separately for compensation and punitive damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000), and for her attorney fees and cost, pursuant to 42 U.S.C.§ 1988.

COUNT III

42 U.S.C § 1983- Fourteenth Amendment-Police Brutality/Conspiracy

1-57 Plaintiff incorporates all prior allegations in paragraphs 1-57 as fully set forth in this complaint.

58. At all times relevant in times, the plaintiff's decedent enjoyed and possessed the right under the Fourteenth Amendment to the Constitution of the United States to be free from arbitrary and indifferent intrusion of his bodily health and integrity, including the use of conscious shocking police brutality against him.

59. As described above, the conduct of the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, WINNEBAGO COUNTY CORONER, ELIZABETH FIDUCCIA, DEPUTY CORONER ROBERT BAUMGARTNER, JR., and MARK PETERS, M.D. was intentional and carried out with willful and deliberate indifference to the health and welfare of the plaintiff's decedent and constituted conscious shock and conduct in violation of the Fourteenth Amendment to the Constitution of the United States.

60. As a proximate result of the above described violation of plaintiff's decedent's right guaranteed under the Fourteenth Amendment to the Constitution of the United States, the plaintiff died.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, WINNEBAGO COUNTY CORONER, ELIZABETH FIDUCCIA, DEPUTY CORONER ROBERT BAUMGARTNER, JR., and MARK PETERS, M.D. jointly and separately for compensation and punitive damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000), and her attorney fees and cost, pursuant to 42 U.S.C. § 1988.

COUNT IV

42 U.S.C § 1983- Monell Claim Against the City of Loves Park/Loves Park Police Department

1-60 Plaintiff incorporates all prior allegations in paragraphs 1-60 as fully set forth in this complaint.

61. The constitutional violation detailed above were caused in part by the customs, policies and practice of the defendants, as promulgated, enforced and disseminated by the CITY OF LOVES PARK, LOVES PARK POLICE DEPARTMENT, and the Chief of the Loves Park Police Department, whereby those charged with ensuring compliance with the Constitution of the United States, in this case and many other cases, instead, deliberately, willfully, and wantonly encouraged the infliction of physical assaults and beatings by LOVES PARK POLICE OFFICERS to the citizens of the CITY OF LOVES PARK.

62. The customs, policies and practices that caused the constitutional violations herein alleged include:

- a. Excessive force by Loves Park Police Officers,
- b. The filing of false and incomplete police reports to hide criminal and unconstitutional conduct by officers,
- c. Knowingly and willingly failed to properly train the Loves Park Police officers,
- d. The willful and wanton deliberate indifference failure to train, supervise and discipline police officers in regard to unconstitutional and criminal misconduct,
- e. Failure to adequately investigate and substantiate allegations of unconstitutional criminal misconduct by police officers.
- f. Failure to adequately discipline police officers that engage in unconstitutional and criminal conduct,
- g. Failure to deter police officers from engaging in unconstitutional and criminal misconduct through deficit, defective, and ineffective investigatory and disciplinary procedures,

63. The policies, customs and practice herein complained of are so prevalent and widespread within the LOVES PARK POLICE DEPARTMENT as to put the CITY OF LOVES PARK policy makers on actual and implied notice that such policies existed in full force and effect.

64. The CITY OF LOVES PARK policy makers acted willfully, wantonly, and deliberately indifferent towards the constitutional right of the plaintiff's decedent by accepting, monitoring, maintaining, protecting, and encouraging the unconstitutional policies, practices and customs in listed in the above paragraph.

65. By acting willfully, wantonly and deliberately indifferent towards the constitutional rights of the plaintiff's decedent, CITY OF LOVES PARK policy makers approved, encouraged and caused constitutional violations alleged in this complaint.

66. As a proximate result of the above detailed actions of the defendants and the CITY OF LOVES PARK policy makers, JESSE HARE died.

WHEREFORE, the plaintiff demand judgment against the defendants for compensatory damages in the amount of ONE MILLION DOLLARS (\$1,000,000,000), plus attorney fees pursuant to statute and cost of this action and such other and further relief as this Court deems proper and equitable

COUNT V
745 ILCS 10/9-102

1-66 Plaintiff incorporates all prior allegations in paragraphs 1-66 as fully set forth in this complaint.

67. Defendant, CITY OF LOVES PARK is the employer of defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES and OFFICER JEFFREY PETTY and SERGEANT CURTIS WILSON.

68. Defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON, committed the acts alleged above under the color of law and in the scope of their employment as employees of the CITY OF LOVES PARK.

69. Defendants , COUNTY OF WINNEBAGO, is the employer of defendant, ELIZABETH FIDUCCIA, ROBERT BAUMGARTNER, JR. and MARK PETERS, M.D.

70. Defendants, ELIZABETH FIDUCCIA, ROBERT BAUMGARTNER, JR. and MARK PETERS, M.D. committed the acts alleged above under the color of law and in the scope of their employment as employees of the COUNTY OF WINNEBAGO.

WHEREFORE, should OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON, be found liable on one or more of the claims set forth above, plaintiff demands that pursuant to 735 ILCS 10/9-102, the defendant, CITY OF LOVES PARK be found liable for any judgment plaintiff obtains against said defendants as well as attorney's fees and cost awarded. If ELIZABETH FIDUCCIA, ROBERT BAUMARTNER, JR, AND MARK PETERS, M.D. are found liable on one or more of the claims set forth above, plaintiff demands that pursuant to 735 ILCS 10/9-102, the defendant, COUNTY OF WINNEBAGO, be found liable for any judgment plaintiff obtains against said defendants as well as attorney's fees and cost awarded.

COUNT VI**Illinois State Common Law- Battery/Wrongful Death/Conspiracy**

1-70 Plaintiff incorporates all prior allegations in paragraphs 1-70 as fully set forth in this complaint.

71. On July 2, 2008, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON,

through individual and/or concerted actions, accomplished an unlawful result through concerted action in that they agreed, through explicit or implicit means, to cause bodily harm to the plaintiff's decedent, JESSE HARE, without any lawful justification to do so.

72. In further in said agreement, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, and SERGEANT CURTIS WILSON, intentionally made contact of a physical nature with the plaintiff's decedent, causing his death.

73. As a proximate result of the aforesaid battery, JESSE HARE died on July 2, 2008.

74. JESSE HARE left surviving him as his only heirs and next of kin, Chris Hare, adult brother, Yvonne Challieh, mother, and Bill Hare, father, each of whom have suffered injuries and damages, including loss of his society, love and companionship as a proximate result of death.

75. YVONNE CHALLIEH is duly appointed Independent Administrator of the Estate of Jesse Hare, deceased.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, CITY OF LOVES PARK, and LOVES PARK POLICE DEPARTMENT, jointly and separately for compensation and punitive damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

Count VII
Illinois State Common Law- Battery/Survival Act

1-75. Plaintiff incorporates all prior allegations in paragraphs 1-75 as fully set forth in this complaint.

76. As a direct and proximate result of the foregoing battery, the plaintiff's decedent, JESSE HARE, was injured and suffered damages of a personal and pecuniary nature, including conscious pain and suffering, disability and disfigurement, medical, nursing care taking and hospital expenses, that had he lived, he would have been entitled to bring this action and this action is survived his death.

77. Plaintiff, YVONNE CHALLIEH is the duly appointed Independent Administrator of the Estate of JESSE HARE, deceased.

WHEREFORE, the plaintiff, YVONNE CHALLIEH is the duly appointed Special Administrator of the Estate of JESSE HARE, deceased, demand judgment against the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, CITY OF LOVES PARK, and the LOVES PARK POLICE DEPARTMENT, in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

COUNT VIII**State Claim/Wrongful Death/Police Officers, City of Loves Park**

1-77 Plaintiff incorporates all prior allegations in paragraphs 1-77 as fully set forth in this complaint.

78. Decedent, JESSE HARE, at all time relevant to this complaint exercised due care for his own safety.

79. At the time and place aforesaid, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, and the CITY OF LOVES PARK, acting by and through its duly authorized agents and/or employees, owed JESSE HARE the duty to refrain from willful and wanton acts or omissions which could cause suffering or death to the decedent.

80. As detail above, the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, and the CITY OF LOVES PARK, acting by and through its duly authorized agents, breached this duty by willfully and wantonly committing one or more of the following acts and/or omissions:

- a. Physically abusing the decedent, JESSE HARE without lawful justification,
- b. Choking JESSE HARE and placing their knees and legs onto the chest of JESSE HARE when it was not necessary and was improper police procedure.
- c. Had an improper physical confrontation with JESSE HARE, that caused his death.
- d. Willfully and wantonly physical attacked and assaulted JESSE HARE which led to his death.

- e. Illegally detained and illegally assaulted JESSE HARE which caused his death.

81. As a direct and proximate result of one or more of the foregoing willful and wanton acts and/or omissions of OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY and SERGEANT CURTIS WILSON, JESSE HARE was caused to die on July 2, 2008.

82. The CITY OF LOVE PARK is named in this count pursuant to doctrine of respondent superior in that the defendant officer performed the actions complained of while on duty and in the employee of the defendant, CITY OF LOVES PARK, and while acting within the scope of their employment.

83. JESSE HARE left surviving him as his only heirs and next of kin, Chris Hare, adult brother, Yvonne Challieh, mother, and Bill Hare, father, each of whom have suffered injuries and damages, including loss of his society, love and companionship as a proximate result of death.

84. YVONNE CHALLIEH is duly appointed Independent Administrator of the Estate of Jesse Hare, deceased.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, and the CITY OF LOVES PARK, jointly and separately for compensation and punitive damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

Count IX**State Claim/Survival Act/City of Loves Park, and Loves Park Police Officers**

1-84 Plaintiff incorporates all prior allegations in paragraphs 1-84 as fully set forth in this complaint.

85. As a direct and proximate result the foregoing negligence are willful and wanton acts of the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, and the CITY OF LOVES PARK, the plaintiff decedent, JESSE HARE, was injured and suffered damages of a personal and pecuniary nature, including conscious pain and suffering, disability and disfigurement, medical, nursing, caretaking and hospital expenses and had he lived, he would have been entitled to bring this action and this action has survived his death.

86. The plaintiff, YVONNE CHALLEIH is duly appointed Independent Administrator of the Estate of JESSE HARE.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendants, OFFICER JOSHUA THOMAS HECKER, OFFICER TERRY HAYES, OFFICER JEFFREY PETTY, SERGEANT CURTIS WILSON, and the CITY OF LOVES PARK and each of them for damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

Count X**Mark PETERS, M.D.**

1-86 Plaintiff incorporates all prior allegations in paragraphs 1-86 as fully set forth in this complaint.

87. At all time herein mentioned, the defendant, MARK PETERS, M.D., was a physician duly licensed to practice medicine within the State of Illinois, specializing in pathology.

88. On July 3, 2008, DR. PETERS performed an autopsy on JESSE HARE.

89. With respect to said autopsy, MARK PETERS, M.D., had a duty to the Estate of JESSE HARE to provide accurate and complete information regarding the cause of death of JESSE HARE.

90. DR. PETERS negligently conducted his autopsy on July 3, 2008, in one or more of the following respects:

- a. Intentionally omitted the facts revealing the trauma sustained by JESSE HARE on July 2, 2008.
- b. Failed to determine that the physical trauma was a cause of JESSE HARE'S death.
- c. Negligently and carelessly issued a report which misleads the cause of death for JESSE HARE.
- d. Negligently issued an autopsy report to protect the LOVES PARK POLICE DEPARTMENT from the illegal conduct of its officers on July 2, 2008.
- e. Failed to properly conduct an autopsy in a professional manner.
- f. Performed an autopsy that was grossly deficient and incomplete.

91. As a direct and proximate result of the foregoing negligent acts and/or omissions of the defendant, MARK PETERS, M.D., the Estate of JESSE HARE, was damaged as a result of the permanent loss of accurate medical information concerning the decedents cause of death.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendant, MARK PETERS, M.D., for damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

Count XI

MARK PETERS, M.D. And WINNEBAGO COUNTY/Willful and Wanton

1-91 Plaintiff incorporates all prior allegations in paragraphs 1-91 fully set forth in this paragraph.

92. At all time herein mentioned defendant, MARK PETERS, M.D., was a physician duly licensed to practice medicine in the State of Illinois, specializing in pathology.

93. In regard to all acts and/or omissions of the defendant, MARK PETERS, M.D. hereinafter complained of, such acts and/or omissions were performed by him while he was acting within the scope of his employment with the defendant, COUNTY OF WINNEBAGO.

94. In regard to all acts and/or omissions of the defendant, MARK PETERS, M.D., there in complained of, such acts and/or omissions were performed by him while he was acting as an apparent agent of the defendant, COUNTY OF WINNEBAGO.

95. On July 3, 2008, the defendant, COUNTY OF WINNEBAGO, by and through its the acts and/or omission of its employees and/or agents, including but not limited to MARK PETERS, M.D., was willful and wanton in one or more of the following respects:

- a. Intentionally omitted the facts revealing the trauma sustained by JESSE HARE on July 2, 2008.
- b. Failed to determine that the physical trauma was a cause of JESSE HARE'S death.
- c. Negligently and carelessly issued a report which misleads the cause of death for JESSE HARE.
- d. Negligently issued an autopsy report to protect the LOVES PARK POLICE DEPARTMENT from the illegal conduct of its officers on July 2, 2008.
- e. Failed to properly conduct an autopsy in a professional manner.
- f. Performed an autopsy that was grossly deficient and incomplete.

96. As a direct and proximate result of the foregoing willful and wanton acts of the defendants, COUNTY OF WINNEBAGO and MARK PETERS, M.D., the Estate of JESSE HARE, was damaged as a result of the permanent loss of accurate medical information concerning the decedents cause of death.

WHEREFORE, the plaintiff, YVONNE CHALLIEH, Independent Administrator of the Estate of Jesse Hare, deceased, demands judgment against the defendant, MARK PETERS, M.D., and the COUNTY OF WINNEBAGO for damages in a sum in excess of ONE MILLION DOLLARS (\$1,000,000,000).

Respectfully submitted,



Kevin J. Golden

Dudley & Lake, LLC
20 N. Clark Street ~ Suite 720
Chicago, IL 60602
312.263.6300
ARDC: 6210825