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6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF MARICOPA**

9 GRADY SHAVER, surviving father of Daniel  
10 Shaver, Deceased; and NORMA SHAVER,  
11 surviving mother of Daniel Shaver

12 Plaintiffs,

13 v.

14 CITY OF MESA, a public entity;  
15 PHILIP BRAILSFORD and JANE DOE  
16 BRAILSFORD, husband and wife;  
17 CHARLES LANGLEY and JANE DOE  
LANGLEY, husband and wife; JOHN AND  
JANE DOE OFFICERS I-X; JOHN AND  
JANE DOE SUPERVISORS I-X; BLACK  
CORPORATIONS I-X; AND WHITE  
PARTNERSHIPS I-X

18 Defendants.

No. CV2017-090318

**COMPLAINT**

(Jury Trial Demanded)

19 Grady Shaver and Norma Shaver, husband and wife, both individually as the surviving  
20 parents of Daniel Shaver, for their Complaint against Defendants, allege as follows:

21 **JURISDICTION AND VENUE**

22 1. Plaintiffs bring this action pursuant to A.R.S. § 12-611, *et seq*; 42 U.S.C § 1983;  
23 the Fourth and Fourteenth Amendments of the United States Constitution; and pendent state  
24 common and statutory laws.  
25  
26



1 within the course and scope of their employment. Brailsford and Langley are sued both in their  
2 official capacity for purposes of Plaintiffs' state law claims and in their individual capacities for  
3 purposes of Plaintiffs' claims under 42 U.S.C. § 1983. Jane Doe Brailsford and Jane Doe  
4 Langley are fictitious names of Brailsford's and Langley's spouses, if any, who will be  
5 substituted upon the discovery of their names and if appropriate.  
6

7 8. At all times material herein, Defendants John and Jane Doe Officers I-X and John  
8 and Jane Doe Supervisors I-X ("Police John Doe Supervisors") were officers, agents, and  
9 employees, and their spouses, of the City, acting within the course and scope of their  
10 employment and under color of law. Their actions constitute actions of the City. The City is  
11 vicariously and directly liable, as permitted by state and federal law, for any of their wrongful  
12 conduct. The true name, capacities, and relationships, whether individual, corporate,  
13 partnership, or otherwise of all John and Jane Doe Defendants, Black Corporation, and White  
14 Partnerships, are unknown at the time of the filing of this complaint and are being designated  
15 pursuant to Ariz. R. Civ. P. 10(d). Plaintiffs will amend the complaint to name any unidentified  
16 individuals once they have learned, through discovery, the identities and acts, omissions, roles,  
17 and/or responsibilities of such Defendants sufficient for Plaintiffs to discover the claims against  
18 them.  
19  
20  
21

22 9. All spouses of the respective Defendants are so designated because the wrongful  
23 conduct of Defendants was engaged in for the benefit of the marital communities, thereby  
24 rendering the spouses and marital communities of Defendants liable for such conduct.  
25  
26



1           17.    These six officers mobilized in the hotel lobby and formulated a plan to approach  
2 the room on the fifth floor.

3           18.    Sergeant Langley, who was leading this team, designated two officers as lethal  
4 force including Brailsford, and ensured that they were armed with AR-15 assault rifles.  
5

6           19.    None of the other officers were designated as less than lethal force and none of the  
7 officers elected to proceed with non-lethal weapons at this point despite several less than lethal  
8 options being available. These officers made their way up the elevator and down the hall  
9 towards Daniel's room.  
10

11          20.    While the officers were in the hallway at an estimated twenty to sixty feet away  
12 from Daniel's room they made verbal commands, which were not heard by Daniel or Monique  
13 in the room behind a closed door.  
14

15          21.    Sergeant Langley sent one officer down to the front desk to ask hotel staff to call  
16 Daniel's room. Daniel received the phone call from hotel staff who stated that the Police were  
17 there and they wanted them to exit the room.  
18

19          22.    Daniel and Monique then exited the room where they were shocked to see a group  
20 of five to six police officers pointing their weapons at them, including Brailsford and another  
21 officer who were utilizing AR-15 rifles.

22          23.    Stunned and completely surprised, they stopped as one officer began screaming a  
23 series of commands at them.  
24

25          24.    This entire incident was captured on the video cameras worn by two of the officers  
26 including Brailsford.

1           25. Daniel did his best to follow the commands he was given despite the commands  
2 being confusing, difficult to follow and Daniel being told to "shut up" whenever he tried to  
3 speak or clarify the commands given by Langley.  
4

5           26. After several minutes of laying face down on the ground Daniel was finally  
6 ordered to crawl towards the officers with his legs crossed and his hands in the air, all while  
7 being told that if he lowered his hands or uncrossed his legs he would be shot.  
8

9           27. The order to crawl necessitated that Daniel place his hands on the ground and as  
10 he was crawling he can be heard on the video audibly crying and begging the officers "please,  
11 don't shoot me."  
12

13           28. As Daniel was crawling on his hands and knees per the officer's orders, his loose  
14 fitting basketball shorts fell down to his knees and he instinctively reached to catch them and  
15 pull them up.  
16

17           29. At that instant officer Brailsford opened fire and shot Daniel five times in the  
18 back, neck, chest, face, and right leg with his own personal AR-15 assault rifle. Daniel was  
19 unarmed and died at the scene.  
20

21           30. The Mesa Police Department (specifically Brailsford) unjustifiably shot and killed  
22 Daniel without any threat existing. There was absolutely no reason to kill this unarmed,  
23 vulnerable young man.  
24

25           31. Daniel was not committing any crime, he had not hurt or injured anyone, he had  
26 made no threats to the officers or anyone else, he did not argue with the officers and he had no  
weapon.







1           46. Brailsford and Langley breached their duties, as identified by the allegations set  
2 forth in the paragraphs above by (among others and without limitation): subjecting Daniel to  
3 excessive force; fatally shooting Daniel; and failing to properly follow the applicable protocols,  
4 practices, policies, training, and standards of law enforcement.  
5

6           47. The City of Mesa is legally responsible for the screening, hiring, training,  
7 retaining, and supervision of all employees and agents who have responsibility for the  
8 processing, handling, and management of those in the care, custody, and control of the Police.  
9 This responsibility includes (among other things and without limitation) making certain that  
10 such employees and agents satisfy all federal, state, and applicable standards. It also includes  
11 (among others and without limitation) making certain that Police policies, procedures, practices,  
12 protocols, customs, and training satisfy all federal, state, and applicable standards. And, it also  
13 includes (among others and without limitation) reasonably responding to known problems  
14 and/or improper customs, policies, practices, procedures, training, and/or conditions. The City  
15 was negligent in the performance of those duties and responsibilities.  
16  
17

18           48. The City of Mesa breached its duties, as identified by the allegations set forth in  
19 the paragraphs above, by (among others and without limitation): failing to properly screen, hire,  
20 retain and supervise its employees; ratifying improper conditions, customs, policies, procedures,  
21 and/or practices by inaction; implementing, utilizing, and/or permitting to exist unreasonable  
22 dangerous policies, practices, protocols, customs, and training (or lack thereof) with respect to  
23 (among others and without limitation) the use of force; approaching, arresting, and/or  
24 responding to citizens; failing to appropriately hire, retain and supervise its employees.  
25  
26

1           49. Police John Doe Supervisors have individual, supervisory responsibility for  
2 overseeing the operations of the City of Mesa Police Department and the actions of the officers  
3 underneath them, as well as ensuring that the Police are provided with the proper training,  
4 education, resources, and knowledge necessary to comply with applicable federal and state law  
5 and standards. They are also responsible for ensuring that every police officer is properly  
6 qualified to perform the duties of the job, and that the policies, procedures, customs, practices,  
7 and/or protocols of the Police are proper, legal, and complied with. They are also responsible  
8 for taking appropriate measures to correct any problems that they are aware of or put on notice  
9 of with respect to the Police. Each of these supervisors was negligent in the performance of  
10 such duties, as alleged herein this Complaint.  
11

12           50. Defendants were, at all times material hereto, acting within the course and scope  
13 of their employment.  
14

15           51. Defendants breached their duties owed to Daniel, as identified by the claims, facts,  
16 and allegations set forth in the paragraphs above.  
17

18           52. Defendants' breaches of duty caused or contributed to the cause of Daniel's death.  
19

20           53. As the result of Defendants' negligence, his Parents, as Daniel's survivors, have  
21 been deprived of the continued companionship and society of their son and have suffered and  
22 will continue to suffer in the future a loss of love, affection, companionship, care, protection,  
23 guidance, as well as pain, grief, sorrow, anguish, stress, shock, and mental suffering; and  
24 economic and non-economic damages in an amount to be proven at trial.  
25  
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1 **THIRD CLAIM FOR RELIEF**

2 **(Gross Negligence – All Defendants)**

3 54. Plaintiffs re-allege and incorporate, by this reference, their claims, facts, and  
4 allegations in the paragraphs above, as if set forth fully herein.  
5

6 55. Defendants acted and/or failed to act, despite knowing or having reason to know  
7 that Daniel was or would be inappropriately subjected to an unreasonable risk of serious harm  
8 and injury as a result of their actions and/or inactions.  
9

10 56. Defendants subjected Daniel to reckless and excessive force, and/or failed to  
11 intervene to prevent use of such force, as alleged above.

12 57. A reasonable person under the same circumstance would have known that Daniel  
13 was inappropriately subject to the use of unreasonable and unjustified force.

14 58. At all times material hereto, Defendants were acting within the course and scope  
15 of their employment.  
16

17 59. Brailsford and Langley were reckless and/or grossly negligent in the handling,  
18 treatment, and care of Daniel.  
19

20 60. The City of Mesa, and Police John Doe Supervisors, directly and through its  
21 employees and agents, were reckless and/or grossly negligent in the screening, hiring, retention,  
22 training and supervision of Brailsford, Langley and potentially others, as identified by the  
23 claims, facts, and allegations set forth in the paragraphs above.  
24

25 61. Defendants' breaches of their duties, as outlined above, constitute gross  
26 negligence, which was the proximate cause of Daniel's death.



1 reasonably probable to be experienced in the future; for any income and services that have  
2 already been lost as a result of the death, and that are reasonably probable to be lost in the  
3 future; for any reasonable expenses of funeral and burial; for the reasonable expenses of  
4 necessary medical care and services for the injury that resulted in the death; and for related  
5 damages.  
6

7 69. The conduct of officers Brailsford and Langley was engaged in with intent to  
8 cause injury, was wrongful conduct motivated by spite or ill will or the officers acted to serve  
9 their own interests, having reason to know and consciously disregarding a substantial risk that  
10 their conduct might significantly injure the rights of or cause the death of Daniel. The officers  
11 consciously pursued a course of conduct knowing that it created a substantial risk of significant  
12 harm to Daniel.  
13

14 70. Moreover, deterrence and punishment are appropriate.  
15

16 71. Plaintiffs are therefore entitled to damages in an amount to be determined at trial.  
17

#### 18 **FIFTH CLAIM FOR RELIEF**

19 **(Violation of 42 U.S.C. § 1983: Unconstitutional Policies, Customs, and Failure to Train  
20 and Supervise – Defendants City of Mesa and Police John Doe Supervisors)**

21 72. Plaintiffs re-allege and incorporate by reference their claims, facts, and allegations  
22 contained in the paragraphs above, as if set forth fully herein.

23 73. The City and Police John Doe Supervisors (in their official capacities), directly  
24 and by and through their agents and official policymakers, establish policy for the City's police  
25 department, oversee operations of the police department and the services provided by its  
26

1 officers, and evaluate, certify, and maintain the police department's compliance with applicable  
2 standards. Such actions, directly or via ratification, constitute official municipal policy, customs  
3 and practices.

4  
5 74. The City and Police John Doe Supervisors (in their official capacities), have  
6 oversight and supervisory responsibility over their officers, employees, and agents with respect  
7 to Police Matters.

8  
9 75. Despite their knowledge of and notice to them, the City and Police John Doe  
10 Supervisors (in their official capacities) were deliberately and callously indifferent to the  
11 constitutional rights of those that they serve in training (and/or failing to adequately train) police  
12 personnel, employees, and agents in (among other things): the appropriate, lawful and  
13 constitutional policies, procedures, practices, protocols, and customs for the use of force; the  
14 processing, evaluation, handling, management, and restraint of citizens; and other usual and  
15 recurring circumstance police face, as alleged herein.

16  
17 76. The City and John Doe Supervisors (in their official capacities) have long been on  
18 notice and had knowledge of the dangerous and unconstitutional conditions that led to Daniel's  
19 death.

20  
21 77. Despite their knowledge of and notice, the City and Police John Doe Supervisors  
22 (in their official capacities) were deliberately and callously indifferent to the constitutional rights  
23 of those that they serve in the screening, hiring, retention and supervision of Police personnel,  
24 employees, and agents.  
25  
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1           78: Despite their knowledge and notice, the City and Police John Doe Supervisors (in  
2 their official capacities) were deliberately and callously indifferent to the constitutional rights of  
3 those that they serve in fostering, encouraging, and knowingly accepting formal and informal  
4 Police policies or customs condoning indifference to the use of excessive force, such as that  
5 death and/or bodily harm to citizens was likely to occur in a manner similar to that of Daniel.  
6

7           79. These Defendants' deliberate, reckless, and callous actions, as described above,  
8 substantially contributed to and/or were the moving force behind Daniel's treatment and the use  
9 of excessive force upon him by City employees and his ultimate death in their hands and on  
10 their watch.  
11

12           80. The wrongful conduct of Defendants, as described herein, constitutes violations of  
13 42 U.S.C. § 1983, in that with deliberate and callous indifference, they deprived Daniel and his  
14 Parents of rights secured to them by the Constitution and laws of the United States, including  
15 (among others and without limitation) the right be free from law enforcement's excessive force,  
16 and the right to the continued familial and societal relationship, guaranteed by the Forth and  
17 Fourteenth Amendments.  
18

19           81. The wrongful conduct of these Defendants was in reckless disregard of the rights  
20 and Daniel and his Parents, and punitive damages in an amount to be determined by a jury  
21 should be awarded to deter and prevent others from acting in a similar manner in the future.  
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**SIXTH CLAIM FOR RELIEF**

**(Violation of 42 U.S.C. § 1983: Excessive Force - Brailsford and Langley Individually)**

82. Plaintiffs re-allege and incorporate by reference all claims, facts and allegation set forth in the paragraphs above, as if set forth fully herein.

83. At all times material hereto, Brailsford and Langley were acting under the color of law and within the course and scope of their employment.

84. Brailsford and Langley used excessive force upon Daniel which caused, contributed to cause, or was the moving force of his death.

85. The wrongful conduct of Brailsford and Langley deprived Daniel and his Parents of rights secured to them by the constitution and the laws of the United States.

86. The wrongful conduct of Brailsford and Langley constitutes a violation of the United States Constitution, Fourteenth Amendment, in that his Parents have been deprived of their constitutional interest in the continued familial companionship and society of their son.

87. The actions of Brailsford and Langley were malicious or in reckless disregard of the rights of Daniel and his Parents and punitive damages in an amount to be determined by a jury should be awarded against each of them to punish them for their wrongdoing and to deter and prevent them and others from acting in a similar manner in the future.

**JURY TRIAL**

88. Plaintiffs hereby request and demand a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for damages and for judgment against Defendants as follows:



- 1 a) General damages in an amount to be proved at trial, as to the causes of action, claims, and  
2 theories of relief alleged herein;
- 3 b) Punitive damages in an amount deemed just and reasonable against the individual  
4 Defendants as to the causes of action, claims, and theories of relief alleged herein;
- 5 c) Costs and attorneys' fees against all Defendants as to the causes of action, claims, and  
6 theories of relief alleged herein under the Constitution and laws of the United States,  
7 pursuant to 42 U.S.C. § 1988;
- 8  
9 d) Economic and non-economic damages for Daniel Shaver pursuant to applicable Arizona  
10 and federal law;
- 11  
12 e) Pre-death pain and suffering and loss on enjoyment of life damages for Daniel Shaver,  
13 pursuant to 42 U.S.C. § 1983;
- 14  
15 f) The costs of litigation;
- 16  
17 g) All remedies provided by 42 U.S.C. § 1983; and
- 18  
19 h) Such other and further relief which may seem just and reasonable under the  
20 circumstances.

21 RESPECTFULLY SUBMITTED this 10 day of January, 2017.

22 BUDGE LAW FIRM, PLLC

23 By: 

24 Sven K. Budge  
25 1134 E. University Dr., Suite 121  
26 Mesa, AZ 85203  
Attorney for Plaintiffs

1 ORIGINAL filed this 10 day  
2 of January, 2017:

3 Clerk of the Court  
4 Maricopa County Superior Court  
5 222 E. Javelina Ave.  
6 Mesa, AZ 85210

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