

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

JACQUELINE MINIFIELD-BROWN,
as Administrator and Personal Representative
of the estate of D'LONDRE MINIFIELD,

Plaintiff,

v.

CASE NO. 5:17CV00043

CITY OF WINCHESTER

Serve: Anthony Williams
City Attorney
15 North Cameron St.
Winchester, VA 22601

KEVIN SANZENBACHER, in his individual capacity
and official capacity as the Chief of Police of Winchester

Serve: Kevin Sanzenbacher
231 E. Piccadilly St.
Winchester, Virginia 22602,

JOHN & JANE DOES, 1-15, in their individual capacity,
Serve: To be determined,

Defendants.

I. COMPLAINT

COMES NOW Plaintiff Jacqueline Minifield-Brown, Administrator and Personal Representative of the Estate of D'Londre Minifield, deceased ("Plaintiff"), by counsel, and states as follows for his complaint against Defendants City of Winchester ("the City"), Kevin Sanzenbacher in his individual capacity and his official capacity as the Winchester Police Chief

(Sanzenbacher or “Police Chief”) and John and Jane Does One through Fifteen, in their individual and personal capacities (“Doe Defendants”):

II. NATURE OF THE ACTION

1. This is a civil action brought pursuant to 42 U.S.C. § 1983 seeking damages against Defendants for their unlawful policies ratified by the chief law enforcement policy maker and the intentional acts and omissions committed by individual Doe Defendants under the color and authority of state law, which deprived D’Londre Minifield of his rights to life, liberty and the pursuit of happiness secured under the Constitution and laws of the United States of America. In addition, this action seeks damages against Defendants for the wrongful death of D’Londre Minifield pursuant to Virginia Code §§ 8.01-50 to 56, among other theories of recovery.

III. JURISDICTION

2. Jurisdiction exists in this case pursuant to the Fourth and Fourteenth Amendments of the U.S. Constitution, 42 U.S.C. §§ 1983, 1985 and 1988, and 28 U.S.C. §§ 1331, 1343 and 2202.

3. This Court has pendent and supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391 because the events underlying this action occurred within the jurisdiction of the United States District Court for the Western District of Virginia, Harrisonburg Division.

IV. PARTIES

5. At all relevant times, **Defendant Kevin Sanzenbacher** (hereinafter “Chief” or

Chief Sanzenbacher” or “Sanzenbacher”) was the duly appointed Chief of Police for the Winchester Police Department (“WPD”) in the City of Winchester, Virginia. As such, he was the commanding officer of the police officer Defendants and was responsible for their training, supervision, delegation of authority and conduct. He was also responsible for enforcing the regulations of the City of Winchester and for ensuring that personnel obey the laws of the Commonwealth of Virginia and the United States. Chief Sanzenbacher served as the final policymaker for the WPD, and is vested with the responsibility and authority to hire, train, supervise, set and enforce policies and procedures, and to provide protection to the citizens of the City of Winchester, including the Plaintiff. At all times, Sanzenbacher was acting as the agent and Chief Law Enforcement Official for the City of Winchester; and during and at all times was acting under the color of state law in his capacity as the Chief of Police. Defendant Sanzenbacher is sued in his individual and official capacity.

6. At all times relevant hereto, **Defendants John and Jane Does (hereinafter referred as “Doe Defendants” or “Does”)** were citizens of the United States and residents of the State of Virginia and were acting under color of state law in their capacity as law enforcement officers employed by the City of Winchester or the Virginia State Police. Defendant Does also provide supervisory leadership among other things on behalf of Defendant Sanzenbacher and other Defendant Does. The true names and capacities of each John and Jane Does are presently unknown; hence Plaintiff sues Defendants Does by such fictitious name and will move for leave to amend this Complaint to add his or her true names when the same have been ascertained. At all times, Does were acting as the agents, servants and employees of the

City of Winchester and Winchester Police Department or for the Virginia State Police. Each Defendant Doe is sued in his or her individual capacities.

7. **The City of Winchester** (hereinafter “City”) is a municipal corporation with its business and mailing address listed as *Rouss City Hall*, 15 North Cameron Street, Winchester, Virginia 22601. The City is the employer of Sanzenbacher and Doe Defendants. Plaintiff’s decedent was killed inside the jurisdictional boundaries under the dominion of the City of Winchester.

8. **Defendant Sanzenbacher and Defendant City of Winchester (hereinafter “the City”), and Defendant Does** (collectively “Defendants”) are all sued directly under 42 U.S.C. 1983 for their own and their delegated deliberately indifferent, intentional, wanton and deliberately indifferent unconstitutional decisions, policies, practices, habits, customs, usages, training, and derelict supervision, ratification, acquiescence and intentional failures, which were moving forces in the complained of constitutional and statutory violations and resulting injuries.

9. **D’Londre Minifield** (hereinafter “Decedent” or “Minifield”) was a 20 year old African American male who was domiciled in Stephens City, Virginia, which is within the geographic boundaries of County of Frederick, Virginia. At the time of Minifield’s untimely death, he was the father to one six month old child.

10. **Jacqueline Minifield-Brown** (hereinafter “Brown” or “Administrator” or “Personal Representative”) is the mother of the late D’Londre Minified and grandmother to decedent’s child. Ms Brown filed application to the Frederick County Clerk’s Office to become the Personal Representative and Administrator of her son’s Estate for the purpose of

contemplating litigation. On or around May 6, 2016, Brown duly qualified as the Personal Representative and Administrator of the Estate of D'Londre Minifield.

V. FACTS

11. At approximately 4:00 p.m. on February 28, 2016, Decedent was walking on the sidewalk on Wilson Blvd. within the city limits of Winchester, Virginia, with another African American teenager.

12. On information and belief, police officers from the Winchester Police Department (hereinafter "WPD") were dispatched to Orchard Crest Apartments in response to complaints of a fist fight with no weapons involved.

13. Doe Defendants were advised by WPD dispatchers of the person's name whom they were looking for and clearly described the clothing that the suspect was wearing and his skin color.

14. At no time was decedent a person of interest, suspect, or did his appearance or clothing match the description of complainant relayed to the dispatchers who, in turn, relayed that same information to Doe Defendants.

15. At all relevant times herein, all Defendants were acting under the color of state law when they committed acts and omissions in the furtherance of their deplorable conduct described *infra*.

16. Doe Defendants saw Decedent and another African American male teenager walking in an area which was not the area of interest described by the complainant or by WPD dispatchers.

17. While driving in an unsafe manor, Defendant Does willfully, intentionally, and recklessly rushed up towards decedent in their police cruiser with blue lights actively engaged on the top of their vehicle.

18. On information and belief, Decedent became startled, frightened, and enthralled with uncontrollable anxiety by the aforementioned unreasonable and reckless acts of Defendant Does.

19. As a result, decedent ran out of imminent fear to protect himself for his own safety.

20. With no positive identification, no reasonable suspicion, no probable cause, and no reason to physically detain or arrest Decedent for a crime that he had committed, was being committed or that they suspected he would commit, Doe Defendants pursued Decedent on a foot chase.

21. Doe Defendants never commanded Decedent to “stop”, or that he was “under arrest” or that he was being detained.

22. Other Doe Defendants arrived from various directions and joined in on the foot pursuit against Decedent, relentlessly chasing him with no reasonable suspicion or probable cause that Minifield had, was or intended to commit any crime.

23. Decedent, scared, confused and out of breath, ran toward a chain-link fence while Doe Defendants brandished service weapons (“hand guns”) towards his head and other parts of his body.

24. Other Doe Defendants discharged multiple Taser prongs into Minifield’s backside

and then applied high continuous levels of electrocuting, debilitating and paralyzing shock to Minifield's mind and his body.

25. Decedent's body stiffened and was paralyzed by the effect of being electrocuted by Doe Defendants.

26. Defendant Does punched, kicked, grabbed, choked and applied excessive force to Decedent on the six foot chain link fence; and at least one officer brandished her service weapon at decedent while he climbed on top of the same fence.

27. As Minifield was being electrocuted by the Tasers, another Doe Defendant discharged a handgun at the back of Minifield's head while he was located around the top of the six-foot chain-link fence.

28. At all relevant times herein, Decedent did not possess nor brandish a handgun or any weapon in his hand during the foot chase with Doe Defendants.

29. At all relevant times herein, Decedent did not commit any overt or furtive acts in reaching for anything prior to, during or after the foot pursuit ended.

30. At all relevant times herein, Decedent did not pose a threat to Defendant Does or to anyone else during the foot chase or thereafter.

31. Several eyewitnesses observed WPD officers brandishing their service weapons at Decedent and one discharged her service weapon at Decedent.

32. Decedent died as a direct result of being shot with a handgun in the back of his head by Defendant Doe.

33. Doe Defendants pulled Decedent's body from the top of the six foot chain-link

fence and onto the ground and immediately handcuffed decedent's body.

34. The Winchester Star reported the following statements by WPD, VSP, Winchester City Council and the head of the local NAACP chapter as well as other reports including:

- Virginia State Police are investigating an apparent suicide at the request of the City of Winchester Police Department. [*Winchester Star*, 2/26/2016].
- No law enforcement personnel discharged a firearm during the incident. Id.
- During the pursuit, the release stated, “**the officers heard a single gunshot and within minutes located a deceased male,**” who died as a result of an apparent self-inflicted gunshot wound. [*Winchester Star*, 3/1/2016].
- No officer fired a weapon during a foot chase.... Id.
- The City of Winchester publicly released the statement “VSP and the Commonwealth’s Chief of the Medical Examiner in Manassas continue to work this case as a suicide and confirmed that that no WDP officer’s firearm was discharged during the incident on Sunday.” Id.
- The Winchester Star reported on March 2, 2016, that the VSP stated “no city police officer’s firearm was discharged during a foot pursuit”¹. [March 2, 2016 Edition of Winchester Star]
- The Winchester Star re-reported the statement made by the City of Winchester again stating “VSP and [the] Commonwealth of Virginia Office of the Medical Examiner in Manassas continue to work this case as a suicide and confirmed that no WPD officer’s firearm was discharged during the incident on Sunday” Id.
- The Winchester Star reported that “City police have not released an incident report, but a department spokesman said Sunday that Minifield apparently killed himself with a firearm.” Id.
- The Winchester Star reported that WPD Sgt. Frank Myrtle stated “It appears he died from a self-inflicted gunshot wound. Our officers were in close proximity... They were actively in pursuit when he took his own life”. Id.

¹ Note: To the extent that the VSP report may be technically correct, Plaintiff contends that Defendant Doe discharged his/her firearm after the foot pursuit was over.

- The Winchester Star reported that WPD police officers were called to 2200 block of Roosevelt Blvd. about 4:05 P.M. Sunday for a report of an altercation. Police have said at least one person involved in the altercation was armed with a gun. *Id.*
- The Winchester Star reported that WPD blotter lists Chief Kevin Sanzenbacher as the responding officer. *Id.*
- The Winchester Star reported that Winchester NAACP President Gwen Border-Walker said Tuesday that the organization --- along with two members of the Minifield family met with state police investigators in March; and Borders-Walker said her organization is pleased so far with the handling of the investigation and the police’s response to the protests that erupted in the wake of Minifield’s death. [April 1, 2016 Edition of the Winchester Star]
- The Winchester Star reported that Borders-Walker stated “Sanzenbacher, has handled the situation with professionalism..... and he’s been proactive in terms of identifying possible community issues. *Id.*
- The Winchester Star reported that on March 7th, 2016 an open letter addressed to Sanzenbacher and the mayor, Borders-Walker (NAACP local chapter) wrote: “There exists a deep gulf of anxiety, distrust and fear of the police within the African-American community.... And while those feelings of disconnect still exist, Border-Walker said, she and Sanzenbacher meet every time she receives a complaint. *Id.*
- The Winchester Star reported that Sanzenbacher stated “the letter and allegations were disappointing; and that data of traffic² citations do not support claims of racial profiling.”
- The Winchester Star reported “City Council members including John Willingham and John Hill praised city police for their steadfastness and professionalism. *Id.*
- The Winchester Star reported “numerous protesters said on Tuesday to have witnessed Minifield’s shooting. *Id.*
- The Winchester Star reported that an eye witness stated “I saw a cop aiming a gun at him [Minifield] and the gun went off”. [March 4, 2016 Edition of the Winchester Star].
- The Winchester Star reported that another eye witness stated “Minifield was about to

² Citing traffic data is not the issue. As seen in the instant case, decedent was not driving a car, he was walking down the street when WPD Officers targeted him inflicting him with constitutional injuries.

climb the fence when police opened fire.” *Id.*

- The Winchester Star reported that there were other witnesses who claimed to witness the WPD officer shoot Minifield. *Id.*

35. On information and belief, as a result of the witnesses coming forward in the newspaper initially, they were and continue to be harassed and threatened by officers, agents and/or employees of the City of Winchester and/or VSP.

36. On information and belief, the eyewitnesses are afraid to come forward as a result of those actual, implicit and perceived threats communicated by officers, agents and/or employees of the City.

37. On information and belief, one eyewitness was threatened by agents of the City with his/her child being taken away and placed with social services if she spoke out against the City surrounding the shooting death of D’Londre Minifield.

38. Doe Defendants willfully, intentionally, and with a total disregard or with want of slight or even scant care during a police cover-up, deprived Decedent of his Constitutional Rights to life and liberty as a result of the fabrication of evidence while acting in an investigatory capacity.

39. Doe Defendants willfully, intentionally, with malice or want of slight or even scant care, covered-up and fabricated evidence when they failed to place bags on Decedent’s hands or swab Decedent’s hands to preserve evidence of alleged gunshot residue.

40. Doe Defendants willfully, intentionally, with malice or want of slight or scant care covered-up and/or fabricated evidence to the public when they failed to accurately disclose

the exact place/location and position of Decedent when he was shot by Doe Defendants.

41. Doe Defendants willfully, intentionally, with malice or want of slight or scant care covered-up and/or fabricated evidence to the public when they “materially” changed, added or omitted material facts which lead up to and ultimately ended the life of Decedent.

42. Doe Defendants willfully, intentionally, and with malice or want of slight diligence or absent even scant care covered-up and/or fabricated evidence when they fraudulently misrepresented material facts by making statements or intentionally drawing erroneous inferences to the public that Decedent shot himself in the back of his own skull while lying face down on the ground; and that the incident was a suicide.

43. Doe Defendants willfully, intentionally, with malice or with deliberate indifference fabricated evidence when Does fraudulently misrepresented material facts by making statements to the public that officers “found” a handgun underneath the front of decedent’s head after previously stating Decedent shot himself in the back of his head.

44. Doe Defendants willfully, intentionally, with malice or even want of slight or even scant care covered up and/or fabricated evidence when they fraudulently misrepresented to the public that all ammunition from Doe Defendants service weapons were accounted for and that no shots were fired by any of the officers present during the incident.

45. Sanzenbacher, or others on his behalf, indicated in the newspapers that he directed the Virginia State Police (“VSP”) to do the investigation into Minifield’s death.

46. On information and belief, Virginia State Police investigate police related homicides and not suicides within the city limits of Winchester, Virginia.

47. All further requests for specific information regarding the investigation into the death of D'Londre Minifield issued to WPD and VSP have been intentionally withheld from the Estate, Decedent's family, and the public.

48. The City of Winchester has refused to release any investigation documents surrounding the shooting death of Minifield, including the names of the officers or any information requested via Virginia Freedom of Information Act.

49. Alternatively, the City of Winchester and WPD actively went on a smear campaign against decedent after he was shot and killed by purporting to do a criminal investigation on Minifield; making public statements that he was known by WPD to be wanted when that was patently false information; by releasing all of decedent's confidential VCIN information to the public immediately following his death; and by filing meaningless search warrants to access his phone regardless that he was dead.

50. Defendants willfully, intentionally, recklessly, and with deliberate indifference to the constitutional rights of decedent - used irrelevant information from an unrelated incident approximately five years prior, to further disparage decedent after Defendant Doe shot and killed Minifield.

51. Defendants willfully, intentionally, recklessly and with deliberate indifference for the constitutional rights decedent's Estate released a ledger of purported criminal history/background information about Decedent after he was killed wholly unrelated to his death.

52. This information released by law enforcement would have been sealed in reasonably legitimate law enforcement investigation and not released to the public immediately

based on prejudice it would cause to the investigation - if not only for pretextual purposes.

53. The strategic release and leak of said pretextual investigation in the form of an affidavit with search warrant application served no legitimate law enforcement objective other than to demonize the victim in the furtherance of a police cover-up, protecting the Winchester Police Department and Doe Defendant who actually shot and killed Plaintiff's decedent.

VI. COUNTS

COUNT I -- DEPRIVATION OF CIVIL RIGHTS -- 42 U.S.C. § 1983

Fourth and Fourteenth Amendment

(Excessive Force/Unreasonable Seizure-Use of Tasers)

Plaintiff v. Doe Defendants

54. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

55. Doe Defendants are sued in their individual capacities herein.

56. The actions of Defendants as set forth above constituted a "seizure" of Minifield under the Fourth Amendment of the U.S. Constitution, and as further applied to state action under the Fourteenth Amendment of the U.S. Constitution.

57. At all relevant times, the law concerning excessive force by tasers was established in the state of Virginia, the U.S. Court of Appeals for the Fourth Circuit, and the United States Supreme Court.

58. Through their attempts to restrain, arrest, and seize Minifield by use of tasers, and further through use of excessive force, Doe Defendants effectuated an unreasonable seizure of Minifield in violation of the Fourth and Fourteenth Amendments of the U.S. Constitution.

59. On information and belief, through their attempts to restrain, arrest, and seize Minifield by use of their tasers, and further through the use of excessive force, Doe Defendants acted intentionally, carelessly, recklessly, willfully and wantonly, and with malice and/or deliberate indifference to the safety, well-being, and federally protected rights of Minifield, and in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States of America.

60. Defendants' actions and omissions were the direct and proximate cause of Decedent's constitutional injuries.

61. Defendants' acts and omissions caused Plaintiff's decedent to sustain serious and severe emotional and physical injuries, as well as great pain and suffering of mind and body preceding his death.

COUNT II -- DEPRIVATION OF CIVIL RIGHTS -- 42 U.S.C. § 1983
Fourth and Fourteenth Amendment
(Excessive by Deadly Force/Unreasonable Seizure-Use of Firearm)
Plaintiff v. Doe Defendants

62. Plaintiff restates and incorporates all previous paragraphs in this Complaint as if fully set forth herein.

63. Doe Defendants are sued in their individual capacities herein.

64. The actions of Doe Defendants as set forth above constituted a "seizure" of Minifield under the Fourth Amendment of the U.S. Constitution, and as further applied to state action under the Fourteenth Amendment of the U.S. Constitution.

65. At all relevant times herein the law was clearly established concerning using

deadly force against fleeing unarmed individuals.

66. Through their attempts to restrain, arrest, and seize Minifield, and further through their use of excessive force and, ultimately, deadly force by use of his/her firearm, Defendant Doe effectuated an unreasonable seizure of Minifield in violation of the Fourth and Fourteenth Amendments of the U.S. Constitution.

67. Through their attempts to restrain, arrest, and seize Minifield, and further through his/her use of excessive force and, ultimately, deadly force by use of his firearm, Defendants acted intentionally, carelessly, recklessly, willfully and wantonly, and with malice and/or deliberate indifference to the safety, well being, and federally protected rights of Minifield, and in violation of the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution.

68. Defendants willfully, intentionally, recklessly and with deliberate indifference or without slight or even scant care, relentlessly tased and ultimately shot to death decedent under the color and authority of state law.

69. Defendants' acts and omissions violated decedent's federally protected constitutional rights.

70. Defendants' acts and omissions were the direct and proximate cause of Decedent's constitutional injuries.

71. As a direct and proximate result of Defendants' acts and omissions, Plaintiff's decedent sustained severe and permanent injuries which ultimately resulted in the loss of his life, as well as great pain of mind and body preceding his death.

72. Further, Plaintiff's decedent has been prevented from transacting future business

as a result of his untimely death, and incurred health care expenses associated with efforts to try and save his life, among other expenses associated with Minifield's death.

COUNT III -- WRONGFUL DEATH

Va. Code § 8.01-50 et seq.

(Plaintiff v. City of Winchester, Sanzenbacher and Doe Defendants(WPD))

73. Plaintiff incorporates and restates all previous paragraphs set forth in herein.

74. This suit brings this right of action against Defendants in the following capacities:
i) Defendant City is sued in its capacity as a municipal corporation and the employer of the chief law enforcement policy maker for the City; *ii)* Sanzenbacher is sued in his individual and official capacity as the chief law enforcement policy maker for the City; and *iii)* Doe Defendants are sued in their individual capacity.

75. On February 28, 2016, at approximately 4:00 p.m., a twenty year old black man, D'Londre Minifield, was not known to have committed nor was committing nor was about to commit a crime in the city limits of Winchester, Virginia. Minifield was not known to be armed by any Defendants herein; and was not known to be wanted by Defendants based on the issuance of a credible capias or warrant issued by a competent Judge. He was peacefully and orderly walking down the street while chatting with another young black man.

76. Defendant Does intentionally, recklessly, wantonly and with deliberate indifference or without slight or even scant care, **“rushed up on”** decedent in their police cruiser; hitting their blue lights, immediately startling, scaring, and causing decedent great anxiety and imminent fear and apprehension for his life.

77. On February 28, 2016, Minifield, at approximately 4:00 p.m., a twenty year old

black man, D'Londre Minifield, who was not known to be armed by Defendants, was killed by Defendants' willful, intentional, malicious or otherwise grossly negligent acts and omissions.

78. The proximate cause of decedent's death was Doe Defendants' volitional acts of harassing, unlawfully chasing, terrorizing and subsequently assaulting, and relentlessly tasing decedent.

79. The direct cause of decedent's death was Doe Defendant's intentional and volitional act of shooting D'Londre Minifield in the back of the head with a firearm.

80. Defendants' actions were done willfully, wantonly, maliciously, and with such recklessness as evinced a conscious disregard for the safety of others, or without slight or even scant care.

81. As a result of Minifield's death, his statutory beneficiaries have suffered severe and substantial damages, including but not limited to grief, sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance and advice.

82. Additionally, as a result of Minifield's death, his statutory beneficiaries have suffered loss of income of the decedent and services, protection, care, and assistance that would have been provided by the decedent.

83. Finally, a result of Minifield's death, his statutory beneficiaries have incurred expenses for the care, treatment, hospitalization of the decedent and travel incident to the injury resulting in death, and funeral expenses.

COUNT IV— VA STATE LAW

Gross Negligence

(Versus the Doe Defendants, City of Winchester and the Sanzenbacher)

84. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

85. Defendants are sued in the following capacities herein *i)* Doe Defendants in their individual capacities; *ii)* the City in its capacity as a municipal corporation; and *iii)* Sanzenbacher in his individual capacity and official capacity as the chief law enforcement policy maker.

86. Doe Defendants had a duty to accurately assess and verify that decedent was the suspect who was described in the 911 complaint as a fist fight among teenagers at a specific location.

87. When Doe Defendants saw decedent peacefully walking down the street, they were deliberately indifferent when they recklessly rushed up in front of decedent with their blue lights engaged knowing that he did not match the police dispatched description in that 1) his black puffy coat did not match the description of the blue jean jacket worn by the suspect; 2) decedent's dark brown skin color did not match that the subject had very "light" skin color; 3) decedent had long braided hair which did not match the police 911 dispatched information that the subject had very short hair; 4) the subject's name, Devon Brown, was communicated to Doe Defendants via police dispatch, who were aware and knew that name and the identity of said suspect; and that decedent was not that individual.

88. Doe Defendants encountered two black men by coincidence walking down the street and acted deliberately indifferent towards them in failing to properly identify either as the

person complained of in the 911 dispatch description.

89. Doe Defendants knew that 1) decedent was not in the vicinity of the place where the purported fight was taking place; that 2) decedent was not fighting; and 3) there was no crime afoot when Doe Defendants recklessly rushed up onto decedent while he was peacefully walking down the street.

90. Doe Defendants grossly neglected their duty to protect the public by showing an indifference to decedent, constituting an utter disregard of prudence amounting to a complete neglect of public safety toward decedent and others similarly situated and likened to him.

91. Doe Defendants exercised the degree of negligence that would shock fair minded men when they chased Decedent with deliberate indifference regardless that he did not fit the description provided by the 911 complainant³ and continued to pursue him because he was young, black and not willing to engage in a purely consensual encounter.

92. Doe Defendants committed a heedless and palpable violation of legal duty utterly disrespecting the Constitutional rights of decedent⁴.

93. Doe Defendants further committed **gross negligence** in the escalation and excessive use of force, by tasing, shooting, and ultimately killing an unarmed young black man while he was fleeing.

94. No reasonable racially unbiased officer would suspect decedent of being involved

³ *Ferguson v. Ferguson*, 212 Va. 86, 181 S.E.2d 648, 653 (1971)

⁴ *Town of Big Stone Gap v. Johnson*, 184 Va. 375, 35 S.E.2d 71, 73 (1945)

in a crime.

95. Doe Defendants' acts and omissions were committed intentionally, wantonly, and recklessly against decedent with the absence of slight diligence, or the want of even scant care.⁵

96. Doe Defendants gross negligence was the direct and proximate cause of Decedent's pain and suffering as well as his terminal injury.

COUNT V — VA STATE LAW
Willful, Wanton and Reckless Negligence
(Versus the Doe Defendants, City of Winchester and Sanzenbacher)

97. Plaintiff incorporates and restates all previously alleged paragraphs as if fully set forth in herein.

98. Defendants are sued in the following capacities herein: *i)* Doe Defendants in their individual capacities; *ii)* the City in its capacity as a municipal corporation; and *iii)* Sanzenbacher in his individual and official capacity as the chief law enforcement policy maker.

99. Defendant Does, the City, and Sanzenbacher's acts and omissions were committed with willful, wanton, and reckless intent in the furtherance of depriving decedent of his fourth and fourteenth amendment rights under the Constitution of the United States of America.

100. Defendants willful, wanton, and intentional reckless acts and omissions were the direct and proximate cause of decedent's extreme pain and suffering as well as his terminal injury.

⁵ *Frazier v. City of Norfolk*, 234 Va. 388, 362 S.E.2d 688, 691 (1987)

COUNT VI – DEPRIVATION OF CIVIL RIGHTS - 42 U.S.C. § 1983
EQUAL PROTECTION UNDER THE LAW
Fourteenth Amendment
(Plaintiff v. Sanzenbacher and City)

101. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

102. Defendant Sanzenbacher is sued in his official capacity and the City is sued in its capacity as a municipal corporation.

103. At all relevant times herein, Gwenn Borders-Walker⁶ was acting in her capacity as the President of the Winchester, Virginia, Chapter of the NAACP when she made comments to the Winchester Star, sent an Open Letter to the City and Police Chief, as well as met with the decedent's family and was present and made inquiries during numerous meetings between VSP, the City and decedent's family.

104. Defendant City and Sanzenbacher have a racially discriminatory hiring policy⁷ of

⁶ **Note:** At all relevant times herein, Ms Borders-Walker's son was one of (three) black police officers employed by the City of Winchester.

⁷ **See below:**

- i) Defendants incentivize white officers in Winchester over other minorities, thus encouraging more Caucasians to apply and/or stay employed at WPD.
- ii.) At all relevant times herein, Defendants do not facilitate a community policing culture uniformly within the community of Winchester Virginia. WPD exercises community policing towards whites, women and children but enforces a "Police State" culture and mentality towards black males in the City. For example: simple traffic stops among whites end regularly with no search, seizures or detainment. However, black males regularly get stopped and searched.
- iii.) The City and Sanzenbacher engage very little with the black community as stakeholders, both from within and outside the law enforcement agency – hence, they don't create a workforce that reflects diversity to the Winchester community.
- iv.) The City and Sanzenbacher have been unwilling to re-evaluate employment criteria, standards, and benchmarks to ensure that they are tailored to the skills needed to perform job

hiring Caucasian applicants over African Americans and other races among other racially discriminatory policies fostered at the Winchester Police Department.

105. At all relevant times herein, ninety-nine percent of the officers employed by Defendant City and Defendant Sanzenbacher are caucasian. The National average for racial diversity in local law enforcement is 75% Caucasian and 10% African American.

106. Defendant City and Sanzenbacher's hiring policy is willfully, intentionally and deliberately indifferent to racial minorities in the African American demographic or sector of the local population⁸.

functions, and consequently attract, select, and retain the most qualified and desirable sworn officers

v.) The City and Sanzenbacher have failed to be proactive and target community outreach efforts to encourage people from diverse populations and walks of life to consider careers in law enforcement.

vi.) Defendants have failed to evaluate skills and strengths from African American applicants who apply within the WPD, in part by failing and refusing to reevaluate information revealed during background checks, including previous drug use.

vii.) Defendants have failed to involve members of the African American community in the hiring process as a way to develop workforces that reflects the diversity of their communities.

viii.) Defendants have no Mentorship programs and leadership training which are critical to providing new officers - particularly those from underrepresented populations - with the support, guidance, and resources they need to succeed on the job, enjoy their careers, and earn promotions.

ix.) Defendants have failed to reach out and cultivate meaningful Community partnerships and stakeholder engagement which can help retain officers of color and women by better understanding the unique challenges they face in the profession.

x.) Defendants have failed and refuse to include or provide temporary housing packages for recruiting African American law enforcement officers, or make an allowance or incentive to work towards college credit while on the job, and providing financial bonuses for language skills.

⁸ The City of Winchester's racial demographic is approximately (6) Caucasians to 1 African American; however, the Winchester Police Department's racial diversity is approximately (40) Caucasians for every (1) African American employed as a police officer for WPD. The City of Winchester employees approximately 50 to 60 Caucasians for every one

107. At all relevant times herein, decedent was treated differently than other sixteen to twenty-two year old caucasian men who actively walk down streets on sidewalks within the city limits of Winchester.

108. The WPD implements an unwritten tacit policy, custom and practice to intentionally “**rush up on**” black males while lawfully walking down the streets in the community; to constructively detain them by engaging their cruiser blue lights; not allowing the black male subjects to consensually walk away, then unlawfully searching their person, run their names over VCIN; all absent probable cause or reasonable suspicion that a crime was afoot.

109. Defendant’s unconstitutional policy *supra* permits and encourages WPD officers to engage [hit] their blue lights immediately against the african american black men to cause fear and constructively gain unlawful compliance during an encounter.

110. Defendants unconstitutional policy ensures unlawful searches and seizures are constructively successful under the fear and duress of unwilling black males.

111. Defendants unconstitutional policy *supra* is not applied uniformly to others similarly situated to decedent such as young caucasian men who happen to walk down neighborhood streets in Winchester, Virginia.

112. Defendants unconstitutional custom, practice and widespread unwritten policy *supra* is applied selectively towards areas of the North Side in Winchester, Virginia, and several other areas where well-known large communities of African Americans and other minorities live

African American employed by the City of Winchester.

and congregate in the community.

113. Defendants' unconstitutional custom, practice and widespread unwritten policy is the driving force of racial bias; and a discriminatory component of local law enforcement intentionally geared towards segments of the community and responsible for Plaintiff's decedent's constitutional injuries.

114. Doe Defendants treated decedent differently than they would have treated white males who would have been similarly situated while walking down the same street or anywhere within the city's limits.

115. Defendants implement a different unwritten policy, custom, and widespread practice associated with Caucasian males designed to not violate their fourth amendment rights, not pressure those who do not reasonably consent to encounters, not utilize [hitting] their blues (blue lights) immediately during consensual encounters, or otherwise "rushing up on" white males, all unlike and dissimilar from Defendant's policy with African American males.

116. Defendants' unequal treatment towards Plaintiff's decedent violated Minifield's fourteenth amendment right to equal protection under the law and was the result of intentional, purposeful, and racial discrimination towards blacks (African American males) in the City of Winchester.

117. Defendants discriminatory and unconstitutional policy violated Plaintiff's decedent's fourth and fourteenth amendment rights and was the direct and proximate cause of decedent's constitutional injuries.

COUNT VII – DEPRIVATION OF CIVIL RIGHTS - 42 U.S.C. § 1983
MUNICIPAL LIABILITY
Unconstitutional Fourth Am. Policy (“Monell”)
(Versus City of Winchester and Kevin Sanzenbacher in Official Capacity)

118. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

119. Defendant Sanzenbacher was hired to take over the position of Chief of Police by Brandon Godfrey (hereinafter “Godfrey” or “City Manager”), the previous City Manager for the City in 2008-09.

120. A scandal ensued surrounding Sanzenbacher’s hiring, his law enforcement experience, and his actual qualifications in the Winchester Star newspaper immediately after Godfrey announced Sanzenbacher was chosen as the next Chief of Police replacing Eric Varnau, who abruptly quit as the Chief of Police among another scandal deeply seeded within the ranks of the Winchester Police Department in 2007-08.

121. Godfrey’s methods⁹ regarding the way Sanzenbacher became the top prospect for the position of Chief of Police was highly politicized and questioned by the public and other

⁹ After a local search committee chose the “Top 10” candidates for Godfrey and his assistant City Manager to vet for the City, Godfrey intentionally went outside of the search committee’s recommendations, and interviewed and ultimately hired Sanzenbacher, who was not on the list. Disgruntled by Godfrey’s and Smith’s choice, the top candidate reached out to the Winchester Star and explained that when they both interviewed him, that he was placed in a position to receive the job if he would commit to allowing Craig Smith to move over to the WPD as a Lieutenant or higher position - in the furtherance of stepping over senior officers who were in line for promotions. Immediately after Sanzenbacher was hired, Smith left the City Manager’s office and began working for the Winchester Police Department. Immediately after this story broke in the Winchester Star, Godfrey was terminated by the City Council and ultimately allowed to resign. See *infra*.

officials openly in the Winchester Star.

122. Credible allegations of *quid pro quo* or “pay to play” arose out of the direct hiring of Kevin Sanzenbacher by the former City Manager, Godfrey.

123. A local search committee was formed to vet the Chief of Police candidates; however, Sanzenbacher did not appear on any list to be considered for the position – during the hiring or vetting process.

124. On information and belief, Sanzenbacher did not have the appropriate law enforcement training or certifications and was not on the short list of candidates to be further vetted for the position of Chief of Police by the committee.

125. Shortly after a meeting with Sanzenbacher in Maryland, Godfrey and the City announced to the community via the local newspaper that Kevin Sanzenbacher had been chosen as the next Chief of Police to the dismay of local law enforcement professionals as well as those who participated on the local search committee.

126. In the months following, it was reported by the Winchester Star that Godfrey and another high up administrative official were ordered into a closed door meeting in Council Chambers with the City Council members.

127. Shortly thereafter, it was reported in the newspapers that Brandon Godfrey and the other administrative official was escorted out of the building or otherwise removed¹⁰ and their computers had been seized/confiscated.

¹⁰ On information and belief, through a grievance process and more closed door meetings in City Council chambers, Godfrey was allowed to resign from his position and paid a substantial severance package as a result.

128. The City Manager is appointed by the City Council and serves at their pleasure according to the Winchester City Charter¹¹. **[See Section 3.0 – Administration of the City; Officers Enumerated].**

129. On information and belief, three City Managers have been hired and subsequently left unexpectedly and in an untimely manner while employed for the City of Winchester, including Godfrey's untimely departure.

130. On information and belief, the City Manager for the City of Winchester is responsible for appointing the position of Chief of Police¹².

131. After Godfrey's departure, Sanzenbacher was not reasonably fired or removed, asked to resign nor did he step down; indeed, Defendant City allowed Sanzenbacher to continue in his new unqualified capacity as the chief law enforcement policymaker for the City.

132. On or about March 12, 2017, Chief Sanzenbacher announced his retirement suddenly, with little to no notice from the Winchester Police Department; approximately around the same time the Estate was preparing to file the instant Civil Rights complaint against all Defendants.

¹¹ The administration and government of said city shall be vested in a mayor and a board called the Common Council of Winchester, and such other boards and offices as are now, or hereafter may be provided for. Council may appoint: (1) a City Manager to whom shall be delegated the responsibility for administration of the City's affairs including management, appointment, and supervision of officers, directors, and department heads;

¹² Council may appoint: (1) a City Manager to whom shall be delegated the responsibility for administration of the City's affairs including management, appointment, and supervision of officers, directors, and department heads; (2) a City Attorney who shall be responsible for handling all legal matters on behalf of the City of Winchester; **[See Section 3.0 of Winchester City Charter]**

133. Defendant City unequivocally approves of and has adopted Sanzenbacher's fourth and fourteenth amendment law enforcement policies and philosophy.

134. Sanzenbacher maintains a policy that he personally trains his police officers on application of the fourth amendment as it pertains to private citizens in public walking down the street.

135. In practice, Sanzenbacher's unwritten policy, practice, custom; and his own understanding of the fourth amendment is memorialized by Thomas Hobbs' social contract¹³.

136. Defendant Kevin Sanzenbacher believes that his unconstitutional policy to unreasonably search, seize and commit excessive force against private citizens in Winchester, Virginia, is authorized because he has the "representative" consent of the people.

137. When Winchester citizens assert their rights to not engage with law enforcement absent reasonable suspicion, probable cause, or by the issuance of a warrant by a competent judge, Sanzenbacher believes that his officers are justified in violating citizen's rights because he has obtained the representative consent of the governed.

138. Indeed, Sanzenbacher believes that those whom his officers violate the rights of are in fact 'not' the represented citizens; therefore Sanzenbacher further believes that consent by the individual is not necessarily an element for any lawful police encounter.

139. Sanzenbacher has previously attempted to characterize his own fourth amendment

¹³ 1) Human beings are basically corrupt and need to be controlled; 2) The social contract being that the people give up some of their liberty in exchange for order which is given by the ruler; 3) The Ruler has absolute power and is given this absolute power by the general consent of the people; 4) The idea that God gave the ruler power or the Divine right of kings; and 5) And their part of the contract was to maintain **order at all costs**.

policy of “consent of the governed” as to that of John Locke’s writings; while in the same breath explaining, in essence, that citizens should cooperate with the requests of his officers so we [police and those individuals whom his police officers violate the rights of] can all get along.

140. Sanzenbacher’s officers actions and his words are at odds with the writings of John Locke.

141. Sanzenbacher’s officers’ actions and statements agree with the “social contract” writings of Thomas Hobbs.

142. A prevalent pattern exists in the form of private complaints which have been filed with the City, the WPD, with the NAACP *supra*, as well as with newspapers regarding the prevalent and perpetual fourth and fourteenth amendment violations, and Sanzenbacher’s unconstitutional law enforcement policies, *infra*, implemented against private citizens in Winchester, Virginia.

143. The City, through its agent and chief law enforcement policymaker, has a systemic policy to cover up all claims of police brutality, racial profiling, and other evidence of unlawful search/seizures and acts of excessive force committed by their officer employees - among other things.

144. The City, by and through its chief law enforcement policy maker, Kevin Sanzenbacher, believe that private citizens should endure and forebear the brief inconvenience of unlawfully being searched and unlawfully being seized absent reasonable suspicion that a crime was afoot, any probable cause, or a warrant issued by a competent judge or magistrate.

145. The City and its chief law enforcement policy maker, Kevin Sanzenbacher, have

created a culture that allows their police officers to constitutionally injure citizens of Winchester, Virginia, by shaking down people walking down the street under nebulous and illegitimate pretexts for the purpose of gaining unlawful compliance under fear and duress.

146. Citizens in Winchester, Virginia, are actively being exploited and their rights are violated by Sanzenbacher's police officers. Black males are not confident to assert their rights for fear of being assaulted, battered or illegitimately placed under arrest.

147. The City and Sanzenbacher's policy to "Allow us to violate your rights, so we can all get along" rings hollow and is not acknowledged by the Virginia Supreme Court or any federal appellate courts.

148. Indeed, Sanzenbacher's policy implicitly makes it clear that if you do not consent to allow his police officers to violate your rights, then "the police officer will not get along with you."

149. Threats of violence, force, and unwarranted criminal charges, as well as intimidation and, in the instant case death by Defendants, are baked into the cake of Sanzenbacher's and the City's unconstitutional fourth and fourteenth amendment policies concerning equal protection, unlawful search, seizure, bystander assistance and police cover-up thereafter.

150. As a result of this unlawful policy instituted by the City and its chief law enforcement policymaker, private citizens minding their own business in public are systematically harassed, unconstitutionally violated, physically injured as well as subject to "pretextual" criminal charges used against them to circumvent their constitutional rights to 1) not

answer questions; 2) not show identification; 3) not allow officers to search and seize them absent probable cause; 4) not be detained when no credible law enforcement objective is in progress; 5) Not allowing people to leave during consensual encounters; 6) committing excessive force against those who attempt to leave¹⁴; and, finally, 7) unlawfully aiding, abetting and committing spoliation after the fact, as is the present posture of Plaintiff's decedent's case.

151. On information and belief, the City and Sanzenbacher readily and maliciously over-police areas in the city of Winchester with their tacit, unwritten policy and custom to force their unconstitutional fourth amendment policy compliance (without the necessary constitutional requirements) in lower socio-economical areas of Winchester including the North side of Winchester and large apartment complexes where, on information and belief, the City targets people who participate in public assistance programs among other reasons (housing vouchers, SNAP, Medicaid, etc.).

152. On information and belief, as a result, the City and its chief law enforcement policymaker intentionally target African Americans, and likely other minorities, with their oppressive unconstitutional "so we can all get along" policy within the city limits of Winchester, Virginia.

153. On information and belief, Doe Defendants were called to Orchard Crest Apartments, which defendants have discriminatorily and racially profiled or otherwise selectively targeted, and caused a racial profiling effect.

154. On information and belief, Doe Defendants, on their way to Orchard Crest

¹⁴ Note: In this case, committing excessive by deadly force.

apartments, acted on Sanzenbacher's unconstitutional policy towards decedent when they intentionally, willfully, wantonly, maliciously, or with deliberate indifference **"rushed up on"** Minifield and [hit] their police cruiser's blue lights without a legitimate law enforcement purpose at the location where Minifield was casually walking down the street.

155. Doe Defendants aided and abetted one another as they implemented Sanzenbacher's "so we can all get along" policy; and then aided and abetted in committing spoliation of evidence after the fact against Plaintiff's decedent

156. On information and belief, Doe Defendants aided and abetted the actual shooter who killed Minifield 1) By intentionally applying defective investigative procedures; 2) By intentionally altering the scene of the incident; 3) By intentionally committing spoliation of evidence; 4) By making false statements either to the Virginia State Police or the Chief Medical Examiner and to the Winchester Star as well as other media outlets among others; 5) By causing disparaging, hurtful, irrelevant and confidential Virginia Crime Information Network (VCIN) investigative data and information to be intentionally leaked to the Winchester Star after Doe Defendant killed Minifield; 6) By intentionally causing false memorializations of investigative and other reports to be created/generated and then intentionally leaked to further the aiding and abetting of Doe Defendants; and 7) Being the proximate cause of search warrant affidavits created as a "pretext" to further portray decedent as a criminal who was wanted by law enforcement authorities.

157. Defendants did all of these acts in the furtherance of the cover-up and to garner support from the community and City Council by attempting to demonize the decedent after he

was killed.

158. Defendant Does willfully and purposefully did not ask for the warrants and criminal affidavits to be sealed to protect any purported authentic criminal investigation that the newspaper reported and Doe Defendants alleged was ongoing.

159. No meaningful information was gathered and utilized by WPD or other law enforcement agency as a result of the pretextual investigation conducted as a facade in the furtherance of a police coverup.

160. The Winchester Star was tipped off by a conspirator that the documents had been filed and were being stored in an alternative Circuit Court Clerk's Office for Frederick County and not Winchester City.¹⁵ The shooting happened within the jurisdiction of the City of Winchester but no affidavits or charging documents were filed therein.

161. The Winchester Star immediately reported on the alleged contents of the search warrant affidavits.

162. Defendant Does knew and intentionally foresaw the media would obtain copies of the documentation filed in the Frederick County Clerk's office, and would generate newspaper articles based on the pretextual contents thereof.

163. At all relevant times herein, Defendants did not know Minifield or whether he had a criminal background or any outstanding charging documents up and until decedent was shot

¹⁵ The affidavit and search warrant paperwork was hidden on top of a shelf in the back of the Clerk's office. It was not scanned nor was it searchable in the online database. When asking for it, Clerk Rebecca Hogan had to be notified and informed of who was inquiring into the documents even though the documents were not sealed.

and killed by Doe Defendant.

164. At all relevant times herein, Doe Defendants' acts and omissions in aiding and abetting was for the purpose of hindering decedent's beneficiaries and the public from discovering that Defendants were directly and proximately responsible for Minifield's death.

165. The City and Sanzenbacher have an unwritten policy, custom, and widespread prevalent practice of aiding and abetting WPD police officers and employees when they constitutionally injure private citizens.

166. At all relevant times herein, Decedent's fourth and fourteenth amendment rights were clearly established.

167. No reasonably objective officer would have chased, tased, brandished a service weapon at decedent, or shot and killed him on February 28, 2016.

168. No reasonably objective officer who knew that a fellow officer was violating the rights of another would have looked the other way and failed to protect the rights of a private citizen and the public at large; or otherwise aided and abetted and committed spoliation of the scene, the evidence, and all memorialized work product produced thereafter.

169. Defendants Does acts and omissions in the furtherance of Defendant Sanzenbacher's and the City's unconstitutional policies was the driving force that violated decedent's constitutional rights.

170. Defendants foreseeably knew or should have known their fourth and fourteenth amendment policies *supra* would cause constitutional injuries to decedent and others similarly situated.

171. Defendant and Defendant Does executed the “so we can all get along” policy *supra* intentionally, willfully, wantonly, recklessly and with deliberate indifference towards Plaintiff’s decedent’s constitutional rights, and those similarly situated.

172. At all relevant times herein, Defendants unconstitutional “so we can all get along” policy, among others, are the direct and proximate cause of decedent’s severe emotional and physical pain, as well as his financial injuries and ultimately his death.

173. Defendant’s “so we can all get along” policy was the driving force that caused decedent’s constitutional injuries and ultimately his death.

174. The Estate seeks compensatory, special and exemplary damages for Plaintiff’s decedent’s injuries caused by the unconstitutional policies ratified by the City by and through its chief law enforcement officer – Kevin Sanzenbacher.

COUNT VIII – DEPRIVATION OF CIVIL RIGHTS -- 42 U.S.C. § 1983
“ByStander Liability”
Fourth Amendment
(Versus Defendant Does(WPD) in their individual capacity)

175. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

176. Defendant Does committed or allowed to be committed an unreasonable seizure which deprived the decedent of his Constitutional rights without affording him due process of law.

177. At all relevant times herein, Defendant Does, Sanzenbacher, and the City did commit, or allowed to be committed, aiding and abetting of those who unreasonably seized and

committed excessive and deadly force against Minifield, depriving decedent of his constitutional rights without affording him due process of law.

178. Defendant Does, Sanzenbacher, and the City knew that officers were violating the constitutional rights of Plaintiff's decedent; and the rights of Minifield's beneficiaries through the Estate of D'Londre Minifield.

179. Each Defendant had a reasonable opportunity to prevent the harm caused to Minifield and ultimately his beneficiaries through his Estate.

180. Defendants acts and omissions were the direct and proximate cause of Plaintiff's First, Fourth, Fifth and Fourteenth amendment rights being violated.

181. As a direct and proximate result of the acts and omissions committed by Defendants in failing to protect decedent and his beneficiary's Constitutional rights, both decedent and his statutory beneficiaries have experienced great pain and suffering, emotional, physical, and financial injuries, as well as malicious delay in resolution.

COUNT IX – Virginia State Law Claim
Abuse of Process
(Plaintiff v. Doe Defendants(VSP))

182. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

183. Defendant Does executed affidavits and an application in support of a request for search warrants against Plaintiff's decedent and his personal property for the ulterior purpose of creating disparaging content which would demonize Plaintiff's decedent after he had been shot and killed by Defendant Doe; shed him in bad light purposefully to the public and community;

and did attempt to cause an appearance that Defendant Does had a legitimate law enforcement objective and encounter with decedent on February 28, 2016, when they did not.

184. Defendant Does and/or those who aided and abetted them willfully, intentionally, maliciously, or with deliberate indifference, leaked the abused process contents filed in the Frederick County, Virginia Circuit Court Clerk's office.

185. The irrelevant, erroneous and contrived information was printed in the Winchester Star as a result of Defendants acts and omissions in issuing process for an illegitimate and pretextual purpose.

186. Defendants acts and omissions in abusing court process caused Plaintiff severe pain, suffering and emotional distress; and severe delay in conducting the affairs of the Estate by Plaintiff.

COUNT X – Virginia State Law Claim
Intentional Infliction
of Emotional Distress
(Versus Defendant Does, Sanzenbacher, City)

187. Plaintiff restates and incorporates all previously alleged paragraphs as if fully set forth herein.

188. Defendants conduct was intentional, reckless, outrageous and intolerable.

189. Defendants conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, as to be atrocious, and utterly intolerable in a civilized community.

190. Defendants wrongful acts, omissions and conduct are causally connected to

Plaintiff's decedent's severe emotional distress; and that of Plaintiff's beneficiaries

COUNT XI – VA STATE LAW
“Common Law Assault and Battery”
(Versus Doe Defendants(WPD))

191. Plaintiff incorporates and restates all previously alleged paragraphs as if fully set forth herein.

192. At all relevant times herein, Plaintiff's decedent was repetitively tased by Defendant Does at or nearby the chain-link fence described *supra*.

193. Plaintiff did not consent or allow Doe Defendants to engage in said unwanted touching or the threat thereof.

194. Doe Defendants caused Plaintiff's decedent to have a reasonable apprehension of fear that Doe Defendants would cause imminent bodily harm to him at all relevant times herein.

195. Doe Defendant's conduct constitutes an assault and battery upon Plaintiff's decedent.

196. Plaintiff's decedent was emotionally, physically, and ultimately terminally injured as a direct and proximate result of Doe Defendants committing an assault and battery against him.

COUNT XII – DEPRIVATION OF CIVIL RIGHTS - 42 U.S.C. § 1983
“Failure to Train”
Fourteenth Amendment
(Versus City of Winchester and Kevin Sanzenbacher)

197. Plaintiff incorporates and restates all previously alleged paragraphs as if fully set forth herein.

198. Defendants Sanzenbacher is sued in his individual and official capacity; Defendant City is sued in its capacity as a municipal corporation; and Defendant Does are sued in their individual and official capacities.

199. At all relevant times herein, Defendants' acts and omissions were committed under the color of state law and authority.

200. At all relevant times herein, the law regarding citizen's rights to not engage in consensual encounters, law enforcement foot pursuits against unarmed fleeing individuals, false arrest, excessive and improper use of force by taser, excessive and improper use of force by deadly weapon, and aiding and abetting by the malicious use of spoliation of evidence in an ongoing investigation was clearly established.

201. Defendant Sanzenbacher was the established supervisory official who may be held liable for the constitutional injuries inflicted by other employee subordinates.

202. At all relevant times herein, Defendant Sanzabacher was the chief law enforcement policy maker and self-proclaimed personal trainer for Defendant Does.

203. Sanzenbacher's subordinates, Doe Defendants, actually violated Plaintiff's decedent's Fourth and Fourteenth amendment rights.

204. Sanzenbacher inadequately trained Doe Defendants by ratifying his unconstitutional policy and teaching his officers to force private citizens to consent to WPD demands – under fear and duress.

205. Sanzenbacher inadequately trained Doe Defendants in the use of force against fleeing unarmed individuals.

206. Sanzenbacher inadequately trained Doe Defendants on the use of tasers against citizens who were not 1) wanted or reasonably suspected of a crime; 2) and were fleeing a consensual encounter with law enforcement.

207. Sanzenbacher inadequately trained Doe Defendants on the use of deadly force to shoot and kill a fleeing unarmed individual.

208. Sanzenbacher inadequately trained Doe Defendants to unlawfully utilize “blue lights” for the purpose of obtaining constructive compliance and detainment under fear and duress due to the meaning of the application of “blue lights,” which means a person is being detained.

209. At all relevant times herein, Sanzenbacher’s inadequate training issued to Doe Defendants on the Fourth Amendment was deliberately indifferent to the rights of Plaintiff’s decedent and others who Defendant Does would come into contact with.

210. Defendant Sanzenbacher’s failure to adequately train Doe Defendants on the proper application of Fourth Amendment procedures that did not violate citizen’s constitutionally protected rights was the driving force that caused Defendants to violate Plaintiff’s decedent’s fourth amendment constitutional rights at issue.

211. Defendant Sanzenbacher’s inadequate training, which he provided to his Defendant Does on search, seizure, use of force--all under the Fourth Amendment, caused Doe defendants to attempt to conduct an unlawful stop, chase, assault by excessive and deadly force; and ultimately kill Plaintiff’s decedent.

212. Decedent’s constitutional injuries were directly and proximately caused by the

unqualified and inadequate training provided by Defendant Sanzenbacher. As a result, decedent severely suffered emotionally, physically and financially.

COUNT XIII – DEPRIVATION OF CIVIL RIGHTS - 42 U.S.C. § 1983
“Conspiracy to Commit Spoliation”
(Versus Defendant Does(WPD) & (VSP))

213. Plaintiff incorporates and restates all previously alleged paragraphs as if fully set forth herein.

214. Defendant Does (VSP) have a law enforcement investigative policy to collect gunshot residue to establish factual elements surrounding the firing of a gun during a police homicide.

215. Defendant Sanzenbacher requested Defendants from VSP to lead the investigation of decedent’s shooting death.

216. Defendants VSP and Defendants WPD remained on the scene where decedent was killed for over eight hours while Plaintiff’s decedent’s body laid on the ground the entire time, and while Defendants Does from WPD and Defendants Does from VSP conspired, confederated and agreed¹⁶ to commit spoliation, cover-up, throw away or otherwise purposefully fail to collect evidence material to the shooting death of D’Londre Minifield.

217. Defendant Does (WPD) and Defendant Does (VSP) conspired, confederated, and agreed to commit spoliation during the investigation of Plaintiff’s decedent’s death on February

¹⁶ In light of all of the nationwide police shootings that have come to light via cell phone video, dashcam footage and other video that conclusively shows law enforcement shooting unarmed fleeing individuals – In some cases as in South Carolina where a white officer staged the scene after he shot and killed a fleeing unarmed black individual in the back eight times. See: <http://www.reuters.com/article/us-south-carolina-shooting-slager-idUSKBN12Y1XU>

28, 2016, when they discussed and had a meeting of the minds to complete the common objective of hiding the real and actual WPD Defendant Doe “shooter” who pulled the trigger of a gun and shot decedent in the back of his head.

218. Defendants took a substantial step in the conspiracy, among many others, when Doe Defendants from VSP willfully, recklessly, intentionally, and with deliberate indifference towards the rights of Plaintiff’s decedent and others similarly situated, intentionally failed and refused to gather gunshot residue (“GSR”) swabbing[s] from Defendant Does, their clothing, their skin; or, from decedent’s clothing, from decedent’s hands or any other potentially useful gather of gunshot residue for purposes of analysis to make a meaningful determination to identify which weapon was used to kill decedent.

219. Plaintiff Estate and decedent’s beneficiaries have a constitutionally protected Due Process right to know who killed Plaintiff’s decedent and how he actually died; and to fundamental fairness and the right to present a complete defense or case for decedent.

220. Defendants’ conspiracy was to further their spoliation of facts and evidence to cover-up the truth that a WPD Police Officer shot and killed decedent.

221. Defendants conspiracy and the actual spoliation was “apparently” exculpatory, meaning they knew that the evidence was exculpatory. It was obvious and clear that the evidence was material before they committed the acts and omissions in furthering of committing spoliation.

222. Plaintiff and decedent’s beneficiaries have a constitutional right to be told what the actual and truthful facts are concerning the death of Mr. Minifield. This includes, who shot

decedent, where the decedent was shot, who had gunshot residue on their hands, whether Minifield had gunshot residue on his hands, and that decedent was tased multiple times prior to being shot in the back of his head by John/Jane Doe. All of these facts were spoliated in the furtherance of a cover-up; or otherwise fabricated and intentionally hidden by Defendants.

223. Defendants acts and omissions violated Plaintiff's constitutional rights when Defendants took substantial steps in the furtherance of the conspiracy to cover-up the events; by intentionally publishing disinformation; materially changing the facts on at least five occasions to the family of decedent and the Commonwealth's attorney; by threatening eyewitnesses and scaring them from offering further information by stating that "Defendants will have their baby removed from them if they talk about what they saw;" among other threatening comments that were stated for the purpose of successfully quelling the public from speaking out.

224. Defendants conspiracy to commit spoliation to cover-up Defendant Doe shooting and killing decedent was the common objective between Does from WPD and Does from VSP.

225. Defendants successfully completed the agreement to spoliare evidence willfully wantonly, recklessly, and with deliberate indifference to the established constitutional rights of decedent and his estate.

226. Defendant's acts and omissions are the direct and proximate cause of severe pain and suffering by the beneficiaries of decedent's estate.

227. As a direct and proximate result of Defendants acts and omissions, decedent's beneficiaries have sustained severe pain and suffering, as well as emotional, physical and constitutional injuries.

COUNT XIV – 42 U.S.C. § 1985

“Conspiracy to Interfere with Civil Rights”

(Versus City of Winchester, Kevin Sanzenbacher, Defendant Does(WPD) & (VSP))

228. Plaintiff incorporates and restates all previously alleged paragraphs as if fully set forth herein.

229. Plaintiff has third party standing to bring this cause of action against Defendants for money damages and injunctive relief.

230. Defendant Sanzenbacher and Does are sued in their individual capacities.

231. Title 42 Section 1985 states

“If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws”

232. Defendant Does from the WPD conspired with one another and with Defendant Does from VSP to deter, by force and intimidation, the material eyewitnesses to the shooting death of Plaintiff’s decedent from coming forth to testify freely, fully, and truthfully that Plaintiff’s decedent was shot and killed by Defendant Doe, who is employed by the City of Winchester and WPD.

233. Defendants did so conspire with the intent to cover-up the material facts that lead to decedent's death and deny Plaintiff's decedent equal protection of the laws; and to injure Plaintiff's decedent or his property for lawfully, attempting to enforce his rights as an African American citizen in Winchester, Virginia.

234. Defendants acts and omissions have violated Plaintiff's due process rights.

235. Plaintiff's Estate and those who were threatened and harassed have suffered severe emotional, physical and financial injuries as a result of Defendants' acts and omissions in conspiring to deprive the Estate of being able to get the witnesses to testify that decedent was shot and killed by Defendant Doe, an employee of the City of Winchester and the Winchester Police Department.

236. A jury trial is demanded.

VI. CONCLUSION

WHEREFORE, Plaintiff Jacqueline Minifield-Brown, Administrator and Personal Representative of the Estate of D'Londre Minifield, deceased, prays for and demands judgment against the City of Winchester, Kevin Sanzenbacher, and Defendants John and Jane Does, in their official and personal capacities as follows:

- (1) **Doe Defendants (WPD):** Compensatory damages against John and Jane Does 1-15 in the amount of TWELVE MILLION DOLLARS (\$12,000,000.00), plus pre-judgment and post-judgment interest;
- (2) **Doe Defendants (VSP):** Compensatory Damages against John and Jane

Does 1-10 in the amount of ONE MILLION DOLLARS (\$1,000,000.00), plus pre-judgment and post-judgment interest;

(3) **Kevin Sanzenbacher and the City of Winchester:** Compensatory

Damages against the City and the Chief of Police in the amount of TWENTY MILLION DOLLARS (\$20,000,000.00), plus pre-judgment and post-judgment interest;

(4) Punitive damages in the highest amount of FIVE MILLION DOLLARS (\$5,000,000), plus pre-judgment from the date of the Decedent's death and post-judgment interest;

(4) An award for attorneys' fees and costs herein expended as authorized by 42 U.S.C. § 1988.

(5) Injunctive relief to ensure Doe Defendants refrain from violating the constitutional rights of other citizens of color pursuant to the allegations in this Complaint (in regard to racial discrimination).

(6) Injunctive relief to ensure the City and the Police Chief engage in proper training of officers in the use of firearms, the appropriate circumstances under which you discharge your firearm, and properly assessing whether there is an authentic threat to the officer or to the public which may justify discharging a firearm. (Don't shoot a fleeing unarmed citizen.)

(7) Injunctive relief to enjoin defendants from further threatening the witnesses to keep them from testifying.

- (8) Injunctive relief to enjoin all defendants from committing further spoliation of all material evidence related to this case.
- (9) Such other legal and equitable remedies as may be allowed by law.

DATE: APRIL 30, 2017

JACQUELINE MINIFIELD-BROWN,
ADMINISTRATOR AND PERSONAL
REPRESENTATIVE OF THE ESTATE OF
D'LONDRE MINIFIELD
By Counsel

s/ Bradley G. Pollack
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