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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

**DEREK NEFF as next best friend of
X.N., Deceased,**

CASE NO.:

Plaintiff,
v.

**SHERIFF OF PALM BEACH COUNTY
and CITY OF GREENACRES,**

Defendants.

_____ /

COMPLAINT

Plaintiff, DEREK NEFF, as next best friend of X.N., Deceased, sues Defendants, SHERIFF OF PALM BEACH COUNTY and the CITY OF GREENACRES, for Wrongful Death and alleges:

1. This is an action for damages in excess of \$15,000.00, exclusive of costs and interest, brought pursuant to the Florida Wrongful Death Act, Florida Statute Sections 768.16-.26. The Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida has jurisdiction over this cause and over the Defendants.

2. Plaintiff, DEREK NEFF, was at all material times herein mentioned a resident of Palm Beach County, Florida and is sui juris.

3. That at all times material hereto, Defendant, SHERIFF OF PALM BEACH COUNTY, (hereinafter "SHERIFF"), was and is elected and/or appointed public official who exercised his authority in Palm Beach County, Florida Pursuant to Chapter 30 of the Florida Statutes.

4. Pursuant to Section 48.193(1)(a), Florida Statutes, Defendant, CITY OF GREENACRES (hereinafter "GREENACRES") is subject to personal jurisdiction in Florida because it operates, conducts, engages in, or carries on a business or business ventures within this state or has an office or agency within this state, more specifically, Palm Beach County, Florida.

5. That all conditions precedent to maintaining a civil action against, Defendant, SHERIFF and Defendant, GREENACRES, have been fulfilled by Plaintiff, DEREK NEFF pursuant to Section 768.28 of the Florida Statutes.

6. Plaintiff is the father of X.N., D.O.B.: 01/10/2008, referred to in this complaint as decedent. **Plaintiff is authorized pursuant to §768.20, Fla. Stat., to bring this wrongful death action against defendant on behalf of decedent's survivors as statutory beneficiary.**

7. Pursuant to Section 48.193(1)(a), Florida Statutes, Defendant, SHERIFF OF PALM BEACH COUNTY (hereinafter "SHERIFF") is subject to personal jurisdiction in Florida because it operates, conducts, engages in, or carries on a business or business ventures within this state or has an office or agency within this state, more specifically, Palm Beach County, Florida.

8. Plaintiff, DEREK NEFF, is the father of the decedent, X.N. This action is brought against Defendants, SHERIFF OF PALM BEACH COUNTY and CITY OF GREENACRES, by and through, Plaintiff, DEREK NEFF, in that capacity, pursuant to Florida Rule of Civil Procedure 1.210(b).

9. The following are survivors and beneficiaries of a recovery for the wrongful death of X.N.:

a) Derek Neff

10. At all times material, Defendant, SHERIFF, was a corporation organized and existing under the laws of Florida, with its principal place of business located at 3228 Gun Club Road, West Palm Beach, FL 33406, Palm Beach County, Florida.

11. At all times material Defendant, GREENACRES, was a corporation organized and existing under the laws of Florida and is a Municipality, with its place of business located at 5800 Malaleuca Lane, Greenacres, FL 33463, Palm Beach County, Florida.

12. Since the date of the shooting, Defendant, SHERIFF, has acquired the Greenacres Police Department. The City of Greenacres is now patrolled by the Palm Beach County Sheriff's Office, and the Greenacres Police Department no longer exists.

GENERAL ALLEGATIONS

13. On June 27, 2015, at 4661 Chariot Circle, Greenacres, FL in Palm Beach County, Florida, X.N. was shot and killed by his grandmother, Nilda Sheffield.

14. Plaintiff, DEREK NEFF, contacted Defendant, SHERIFF, and Defendant, GREENACRES, on the evening of June 26, 2017 and requested that one or both do a wellness check at the address of 4661 Chariot Circle, Greenacres, FL, as the mother of X.N., failed to show up at the drop off time.

15. Plaintiff, DEREK NEFF, was informed by both agencies that they were unable to check on his son, as this was not the Palm Beach Sheriff's jurisdiction and, in the case of the Greenacres Police Department, the agency left a "message" on Sheffield's phone, however, informed Plaintiff that they "simply would not do so."

16. On June 27, 2015, X.N. was shot and killed by his grandmother after Plaintiff, DEREK NEFF, requested and was refused a wellness check by the above-referenced agencies.

17. As a result of the death of his young son, Plaintiff, DEREK NEFF, has had to undergo intense counseling. Plaintiff, DEREK NEFF, has been deprived the love and comfort of his son, X.N., and continues to suffer from the resulting emotional and psychological pain resulting from his son's death and from the actions and omissions of the Defendants, SHERIFF OF PALM BEACH COUNTY and Defendant, CITY OF GREENACRES.

NEGLIGENCE OF DEFENDANT, SHERIFF

18. Plaintiff re-allege and incorporate by reference the allegations contained in paragraphs 1-17 above, and further allege:

18. Defendant, SHERIFF, as a public servant, owed a duty to Plaintiff, DEREK NEFF to do a wellness check on his son, X.N., given the prior events that occurred between Plaintiff and X.N.'s mother, Elizabeth Flores and grandmother, Nilda Sheffield. Specifically, the violence towards Plaintiff, exhibited by Elizabeth Flores and Nilda Sheffield, and had the highest duty of care to ensure the safety of the minor child, X.N.

19. Defendant, SHERIFF, breached its duty in the following ways:

- a. Negligent failure to use reasonable care by failing to drive to 4661 Chariot Circle, Greenacres, FL in order to ensure the minor child's safety;
- b. Negligent failure to conduct a formal wellness check;
- c. Negligent failure to comply with Plaintiff's pleas for a wellness check; and,
- d. Negligent failure to have in place proper procedures established for conducting a wellness check;

20. Defendant, SHERIFF's acts or omissions were a direct, proximate, and legal cause of the death of X.N.

21. As a further direct and proximate result of the negligence of Defendant, SHERIFF, Plaintiff, DEREK NEFF, has incurred funeral and burial expenses, and suffered damages including being deprived of the love and comfort of his son, X.N., and continues to suffer from the resulting emotional and psychological pain resulting from his son's death.

22. The conduct of Defendant, SHERIFF, rises to a level sufficient to warrant the imposition of punitive damages, which will be pled by Plaintiff at a later date.

WHEREFORE, Plaintiff requests judgment against Defendant, SHERIFF OF PALM BEACH COUNTY, for damages in a sum within the jurisdictional limits of this court, together with costs of suit, and any further relief as the court deems proper. Plaintiff demands trial by jury in the above entitled action.

NEGLIGENCE OF DEFENDANT, GREENACRES

23. Plaintiff re-allege and incorporate by reference the allegations contained in paragraphs 1-17 above, and further allege:

24. Defendant, GREENACRES, as a public servant, owed a duty to Plaintiff, DEREK NEFF to do a wellness check on his son, X.N., given the prior events that occurred between Plaintiff and X.N.'s mother, Elizabeth Flores and grandmother, Nilda Sheffield. Specifically, the violence towards Plaintiff, exhibited by Elizabeth Flores and Nilda Sheffield, and had the highest duty of care to ensure the safety of the minor child, X.N.

25. Defendant, GREENACRES, breached its duty in the following ways:

- a. Negligent failure to use reasonable care by failing to drive to 4661 Chariot Circle, Greenacres, FL in order to ensure the minor child's safety;
- b. Negligent failure to conduct a formal wellness check;
- c. Negligent failure to comply with Plaintiff's pleas for a wellness check; and,

d. Negligent failure to have in place proper procedures established for conducting a wellness check;

26. Defendant, GREENACRES's acts or omissions were a direct, proximate, and legal cause of the death of X.N.

27. As a further direct and proximate result of the negligence of Defendant, GREENACRES, Plaintiff, DEREK NEFF, has incurred funeral and burial expenses, and suffered damages including being deprived of the love and comfort of his son, X.N., and continues to suffer from the resulting emotional and psychological pain resulting from his son's death.

28. The conduct of Defendant, GREENACRES, rises to a level sufficient to warrant the imposition of punitive damages, which will be pled by Plaintiff at a later date.

WHEREFORE, Plaintiff requests judgment against Defendant, CITY OF GREENACRES, for damages in a sum within the jurisdictional limits of this court, together with costs of suit, and any further relief as the court deems proper. Plaintiff demands trial by jury in the above entitled action.

DEMAND FOR JURY TRIAL

Plaintiff, DEREK NEFF, demands a jury trial on all issues so triable.
Respectfully submitted this 15th day of June, 2017.

Respectfully submitted,

PLASENCIA & ASSOCIATES
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By: /s/ Leonel R. Plasencia

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