

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION**

**Case No.:**

**HUMBERTO PELLEGRINO, and  
PEDRO CLAVERIA,**

Plaintiffs,

vs.

**GERALD WENGERT**, a deputy with the Broward Sheriff's Office; **DAVIS ACEVEDO**, a deputy with the Broward Sheriff's Office; **STEPHEN ROBERTS**, a deputy with the Broward Sheriff's Office; and **SCOTT J. ISRAEL**, in his official capacity as **BROWARD COUNTY SHERIFF**,

Defendants.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs, **HUMBERTO PELLEGRINO** and **PEDRO CLAVERIA**, by and through undersigned counsel, sue the Defendants, **GERALD WENGERT**, a deputy with the Broward Sheriff's Office, **DAVIS ACEVEDO**, a deputy with the Broward Sheriff's Office, **STEPHEN ROBERTS**, a deputy with the Broward Sheriff's Office, and **SCOTT J. ISRAEL**, in his official capacity as **BROWARD COUNTY SHERIFF**, as follows:

**JURISDICTION AND VENUE**

1. This action is an action against the Defendant Officers under Florida's common law and under 42 U.S.C. § 1983 to redress the deprivation, under color of law, statute, custom or usage, of rights, privileges and immunities secured to Plaintiffs **HUMBERTO PELLEGRINO** and **PEDRO CLAVERIA** by the Fourth and Fourteenth Amendments to

the United States Constitution, when the Defendant Officers used excessive force during their arrest of the Plaintiffs.

2. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 1983, 28 U.S.C. § 1331, 28 U.S.C. § 1343, through principles of supplemental jurisdiction, 28 U.S.C. § 1367, 28 U.S.C. § 1346, and through the actions described herein, all of which were committed in the Southern District of Florida.

### **THE PARTIES**

3. Plaintiff, HUMBERTO PELLEGRINO, was and is a resident of Miami-Dade County, Florida.
4. Plaintiff, PEDRO CLAVERIA, was and is a resident of Miami-Dade County, Florida.
5. At all times material hereto, Defendant, GERALD WENGERT (“WENGERT”), was a sheriff deputy, employed by the Broward Sheriff’s Office, and was acting within the course and scope of his employment and under the color of law.
6. At all times material hereto, Defendant, DAVIS ACEVEDO (“ACEVEDO”), was a sheriff deputy, employed by the Broward Sheriff’s Office, and was acting within the course and scope of his employment and under the color of law.
7. At all times material hereto, Defendant, STEPHEN ROBERTS (“ROBERTS”), was a sheriff deputy, employed by the Broward Sheriff’s Office, and was acting within the course and scope of his employment and under the color of law.
8. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, is an elected official of state government, whose office is created under and by the laws of Florida. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, is responsible for the policies and procedures

governing the investigation of suspects, arrest of citizens and detention of citizens in Broward County, Florida.

#### **ALLEGATIONS AS TO ALL COUNTS**

9. HUMBERTO PELLEGRINO, PEDRO CLAVERIA, Jose Laboy, and Johnny Bland are friends and street artists in South Florida.
10. Their artwork can be seen in many prominent locations in Broward and Miami-Dade.
11. On the evening of January 17, 2014, the friends arrived at Matco Stone Center, Inc., in Pompano Beach, Florida.
12. Behind Matco is a loading dock with train tracks, on which there are freight trains and gondolas. The owner of Matco is an acquaintance of the men. He allows the men to enter Matco's premises in order to gain access to the loading dock to paint on the freight trains and gondolas.
13. At approximately 9:30 p.m. that evening, the men entered Matco's premises in the usual and permitted fashion, walked past an unlocked gate and toward the train tracks.
14. Once they got to the last gondola on the centerline, they dropped their backpacks filled with spray paint cans and began to work.
15. As his three friends prepared to paint, MR. PELLEGRINO stepped away from the area to urinate and look around the loading dock.
16. As MR. PELLEGRINO headed back towards the group, he saw what appeared to be a person in the warehouse in the neighboring business, Pallet Consultants, Corp.
17. MR. PELLEGRINO watched that person walk up the platform and into the office.
18. At that time, MR. PELLEGRINO was surprised to see someone in the loading dock at that time of night, but he figured it was a late-arriving driver and shrugged it off.

19. The men started to paint; MR. PELLEGRINO and Jose painting one gondola, while Johnny and MR. CLAVERIA painted another gondola on their left, with one gondola between them.
20. Unbeknownst to the men, the person MR. PELLEGRINO saw was actually a concerned security guard for Pallet Consultants, Corp., who saw the group by the gondolas and placed a call for police assistance believing they were burglars.
21. The Broward Sheriff's Office responded to the call.
22. After approximately 30 minutes of painting, the men heard a helicopter approaching their location.
23. MR. PELLEGRINO called his friend, Ted Faven, who knows the Matco owner and told them that the helicopter was likely conducting a perimeter check or chasing suspects in the area and told them to stand-by.
24. They waited for helicopter to move from its location, but it did not.
25. This caused the men to become nervous and anxious that the helicopter was searching for them, so they hid, crouched on their knees and stomachs, under the trains they had been painting. MR. CLAVERIA and Johnny under one gondola and MR. PELLEGRINO and Jose under another gondola, with one gondola in between.
26. Approximately ten minutes later, with the helicopter continuing to hover overhead with no spotlight, MR. CLAVERIA and Johnny moved to MR. PELLEGRINO and Jose's gondola.
27. Plaintiffs learned later that the Broward Sheriff's Office was executing what is deemed as a "Code 4." Upon information and belief, a "Code 4" denotes that the helicopter and all

arriving units will come to the scene dark—with no lights or sirens—as to make their presence unknown.

28. MR. PELLEGRINO looked in the direction of the loading dock where he had seen the person earlier and saw someone looking in their direction and then ducking behind a wall.
29. He let the others know that he thought someone was watching them.
30. As all four men looked towards the loading dock, they saw another figure with an assault rifle and a dog come out from behind a stack of pallets.
31. That was when the men realized that the police were coming for them.
32. MR. PELLEGRINO, in a panic, called his girlfriend to let her know that he thought he was in trouble and the cops were coming toward him and that he might be arrested.
33. Next, a group of deputies from the Broward Sheriff's Office—including Defendants WENGERT, ACEVEDO, and ROBERTS holding assault rifles, one of whom had a police dog with him on a leash—jumped down from the Pallet Consulting Company who circled South and walked in between the East and West tracks to where the men were laying.
34. The Defendant Deputies essentially surrounded the train under which the four men lay, and began yelling, "Broward Sheriff's Office! Don't move! Show me your hands! Show me your hands!"
35. The men fully cooperated without any hesitation by immediately putting their open hands up as much as possible and not otherwise moving.
36. Defendant Deputy ACEVEDO was at that point holding the leash with the police dog and headed to the south side, closest to MR. CLAVERIA.

37. One or more of the deputies then shouted to MR. CLAVERIA to come out from under the gondola under which he and Johnny were laying perfectly still. MR. CLAVERIA immediately did as he was instructed, and came out from under the train on his hands and knees and surrendered completely to the Deputies; he laid flat on his stomach with his hands open. MR. CLAVERIA also exclaimed, "We are unarmed! We don't have any weapons! Here are my hands, sir!" MR. CLAVERIA posed utterly no threat. None of the men did.
38. MR. CLAVERIA and Johnny watched as the Defendant Deputies turned on a flashlight, which was attached to their weapon, and passed it under the gondola to see the other two men.
39. At least fifteen seconds passed since MR. CLAVERIA had crawled out from the gondola as instructed and sprawled out on his stomach, completely surrendered. Then, for no apparent reason other than to maliciously cause MR. CLAVERIA harm, Deputy ACEVEDO sicced the police dog on Mr. CLAVERIA.
40. All of the Defendant Deputies made grunting and other noises to antagonize the police dog into attacking MR. CLAVERIA.
41. The police dog started biting at the top of MR. CLAVERIA's left shoulder, trying to find an area onto which his teeth could grab, leaving puncture marks. The dog worked its way down MR. CLAVERIA's arm, just below the elbow, into which the animal dug its teeth.
42. MR. CLAVERIA screamed in agony, "MERCY, PLEASE, MERCY!" begging Deputy ACEVEDO to release the canine.

43. Instead, ACEVEDO had the dog continue to chew MR. CLAVERIA's arm, and Deputies WENGERT and ACEVEDO both praised the canine, each repeatedly shouting, "Get him! Grab him! Good boy!"
44. After about two minutes, which felt to MR. CLAVERIA like an eternity, the Deputies finally released the police dog from MR. CLAVERIA's arm.
45. Deputy ROBERTS stood near Deputies WENGERT and ACEVEDO the entire time and made no attempt to prevent ACEVEDO from siccing the dog on MR. CLAVERIA, and likewise made no attempt to have the dog called off the attack after the dog was sicced on CLAVERIA.
46. Deputy ROBERTS dragged MR. CLAVERIA by the neck of his T-shirt and Deputy WENGERT handcuffed his arms behind his back while MR. CLAVERIA shrieked in pain, "My arm is broken!"
47. Blood, MR. CLAVERIA saw, seemed to pour from the sleeve of his T-shirt.
48. Then, Deputy ROBERTS, with his rifle in hand, walked over to the other side of the gondola and ordered the three remaining men to roll out from under the car to the east side.
49. The three men immediately did as they were told: Jose, who was located farthest on the east rolled out, and faced north on his stomach; Johnny, too, rolled out and faced north on his stomach; and MR. PELLEGRINO rolled out and faced Jose and Johnny on his stomach.
50. Then, Deputy ROBERTS directed Jose and Johnny to stand up and follow him.
51. Jose and Johnny once more did as they were told without hesitation.

52. Deputy WENGERT went around to the other side of the gondola after cuffing the injured MR. CLAVERIA.
53. Deputy ACEVEDO followed, dog leash with dog in hand.
54. Then, Deputy WENGERT remarked, "He's ready to eat again," and "I think he's still hungry."
55. Deputy WENGERT held an assault rifle and instructed Deputy ACEVEDO to command the dog to attack.
56. As MR. PELLEGRINO remained surrendered, laying flat on his stomach, Deputy WENGERT pulled MR. PELLEGRINO's leg as Deputy ACEVEDO gave the canine a command in what sounded like German.
57. Then, Deputy ROBERTS commanded Jose and Johnny. "Turn your fucking heads around! Don't look back there!" he threatened, "Do you want to be fucking next?"
58. Deputy ROBERTS instructed them to start walking, so they would not witness what was going to happen next.
59. MR. PELLEGRINO sensed the canine come behind him, and then he felt dog bite his upper right leg over his jeans.
60. Plainly annoyed, Deputy ACEVEDO said, "It's just the jeans, he's not even biting him."
61. Deputy ACEVEDO moved the police dog to MR. PELLEGRINO's left leg, had the dog rip through the jeans below his knee and had the dog bite the exposed skin.
62. MR. PELLEGRINO screamed in anguish and terror as the canine tore at his left leg.
63. Deputy WENGERT pointed a gun at MR. PELLEGRINO, and continued to shout commands in what sounded like German, and he also screamed, "Eat boy, eat," while Deputy ACEVEDO yelled, "Don't move, stop fighting my dog!" Of course, MR.



PELLEGRINO wasn't fighting the dog, and ACEVEDO knew it: PELLEGRINO was only writhed in agony.

64. Deputies WENGERT and ACEVEDO let the canine rip at MR. PELLEGRINO'S leg for approximately three minutes, which felt like an eternity to MR. PELLEGRINO, as MR. PELLEGRINO cried out, "Please stop! He's tearing my leg! Please!"

65. Finally, the dog released its grip. PELLIGRINO nearly passed out from the pain.

66. Deputies WENGERT and ACEVEDO praised the police dog for a job well done.

67. Then, Deputy ACEVEDO took the police dog away.

68. After the dog attacks had ended, Deputy ROBERTS instructed the helicopter to turn on its spotlight.

69. Deputy WENGERT then dragged MR. PELLEGRINO across to one of the platforms towards the rest of his friends. WENGERT, with help from the other Deputies, threw PELLEGRINO on a truck lift where he splayed out in pain crying, as he heard them say, "Yeah I think he's had enough."

70. When the Defendant Deputies inspected the Plaintiffs' bags, Deputy ROBERTS screamed, "What?!? These bags are full of spray paint!!"

71. Deputy ROBERTS took MR. CLAVERIA, Jose, and Johnny through a loading dock in the opposite direction from the direction in which they arrived.

72. Deputy WENGERT then dragged MR. PELLEGRINO to the loading dock and attempted to toss him up onto it. MR. PELLEGRINO did not make it on top; he landed on his hip area, which just caused him to slam his head and fall back down. On the second attempt MR. PELLEGRINO, landed further up, and he squirmed the rest of the way.

73. He lay on the floor and implored Deputy WENGERT, "Please give me a second to catch my breath. I think I'm going into shock. I can't breathe."
74. Deputy WENGERT put him on his feet, told him to shut up, and forced him to walk despite just sustaining a massive leg wound.
75. Finally, they reached a gate where an ambulance and more deputies were waiting.
76. The emergency medical technicians cut MR. CLAVERIA's sleeve. The dog bite was so deep that MR. CLAVERIA's bone was exposed.
77. The emergency medical technicians cut MR. PELLEGRINO's jeans open and he first saw what the canine did to his leg: just above MR. PELLEGRINO's left calf, the police dog left an open wound about nine inches long and three inches wide and there were several bite punctures on his right hamstring.
78. Jose and Johnny were sent to a Pompano Beach police station.
79. MR. PELLEGRINO and MR. CLAVERIA were rushed to the Emergency Room at Broward County Hospital where they were placed into separate rooms.
80. Several deputies walked in and out the hospital rooms looking at the wounds, taking photographs of the wounds, and making jokes about the wounds.
81. The Defendant Deputies told MR. PELLEGRINO and MR. CLAVERIA that the police dog needs to taste blood when it goes out to know that it did a good job.
82. MR. PELLEGRINO overheard the Defendant Deputies say that the owner of Pallet Consultants, Corp. did not want to give a report or press charges because after looking at the surveillance video the four men never stepped onto his property.
83. MR. CLAVERIA overheard the Defendant Deputies conferring about their next course of action: they were going to charge the men to justify the dog attacks.

84. MR. PELLEGRINO asked Deputies ROBERT and WENGERT, “Why did you do this to me?”
85. The Defendant Deputies responded, “You shouldn’t have run.”
86. “What do you mean?” MR. PELLEGRINO corrected, “I completely surrendered.”
87. The Defendant Deputies then said, “Well, you shouldn’t have been there. We thought you were burglars.”
88. MR. PELLEGRINO replied, “I understand, but I surrendered and I never gave you a reason to let the dog tear me up.”
89. The Defendant Deputies just shrugged their shoulders.
90. MR. CLAVERIA asked a similar question to the Deputies, and their response was, “It’s nothing personal, we’re just doing our job.”
91. During the night, an investigator came into MR. PELLEGRINO’s room and told him, “Well we pretty much all understand what happened, I’m sure you guys don’t want to give a statement and are aware you have rights. So just sign here.”
92. MR. PELLEGRINO remained in the emergency room all night with the open wound until about 7:00 a.m., where he was transferred upstairs into his own room under an alias the Defendant Deputies assigned him to make it more difficult for loved ones to find him, Hank Piper.
93. The Fourth Amendment’s prohibition against unreasonable seizures provides protection against the use of excessive force by law-enforcement officers during the course of a lawful arrest, investigatory stop, or “other ‘seizure’ of a free citizen.” *See Graham v. Connor*, 490 U.S. 386, 395 (1989); *Zivojinovich v. Barner*, 525 F.3d 1059, 1071-73 (11th Cir. 2008). “When properly stated, an excessive force claim presents a discrete

constitutional violation relating to the manner in which an arrest was carried out, and is independent of whether law enforcement had the power to arrest.” *Bashir v. Rockdale Cnty., Ga.*, 445 F.3d 1323, 1332 (11th Cir. 2006).

94. The inquiry into whether any given use of force is “reasonable” under the Fourth Amendment is an objective one that requires a careful balancing of “the nature and quality of the intrusion” and the “countervailing governmental interests at stake.” *Graham*, 490 U.S. at 396-97 (citations and internal quotation marks omitted). Evaluating an excessive-force claim requires “careful attention to the facts and circumstances of each particular case,” including, among other things, the relationship between the need for force and the amount used and the extent of the injury inflicted. *Crenshaw v. Lister*, 556 F.3d 1283, 1290 (11th Cir. 2009) (citing *Hadley v. Gutierrez*, 526 F.3d 1324, 1329 (11th Cir. 2008)).
95. Furthermore, the Eleventh Circuit Court held in *Danley v. Allen*, 540 F.3d 1298, 1307 (11th Cir. 2008) overruled on other grounds by *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009), in pertinent part as follows:

Whether a [defendant’s] use of force is excessive, and thus violates the [arrestee’s] Fourteenth Amendment right to be free from cruel and unusual punishment, depends on whether the [defendant’s] act “shocks the conscience,” *Cockrell v. Sparks*, 510 F.3d 1307, 1311 (11th Cir. 2007), and it necessarily will if the force “was applied ... maliciously and sadistically for the very purpose of causing harm.” *Id.* (quoting *Whitley v. Albers*, 475 U.S. 312, 320–21, 106 S.Ct. 1078, 1085, 89 L.Ed.2d 251 (1986).

...

When [officers] continue to use substantial force against [an arrestee] who has clearly stopped resisting—whether because he has decided to become compliant, he has been subdued, or he is otherwise incapacitated—that use of force is excessive. *See Bozeman*, 422 F.3d at 1272 (giving special weight to the fact that the jailers “continued [to] use ... force in a manner that was severe enough to render [the plaintiff], at the very least,

unconscious after [he] had surrendered”); *Skrtich*, 280 F.3d at 1303 (“[G]overnment officials may not use gratuitous force against a prisoner who has been already subdued or, as in this case, incapacitated.”); *see also Harris v. Chapman*, 97 F.3d 499, 505–06 (11th Cir. 1996); *Davis v. Locke*, 936 F.2d 1208, 1212–13 (11th Cir. 1991); *Williams v. Cash–C.O.I.*, 836 F.2d 1318, 1320 (11th Cir. 1988); *Perry v. Thompson*, 786 F.2d 1093, 1093–95 (11th Cir. 1986); *cf. Vinyard*, 311 F.3d at 1348. Once a[n arrestee] has stopped resisting there is no longer a need for force, so the use of force thereafter is disproportionate to the need.

96. The Eleventh Circuit held in *Skrtich v. Thomas*, 280 F.3d 1295, 1300–1301 (11th Cir. 2002):

Under the Eighth Amendment [and under the Fourteenth Amendment for non-prisoner arrestees like PELLEGRINO and CLAVERIA], force is deemed legitimate in a custodial setting as long as it is applied “in a good faith effort to maintain or restore discipline [and not] maliciously and sadistically to cause harm.” *Whitley v. Albers*, 475 U.S. 312, 320–21, 106 S.Ct. 1078, 89 L.Ed.2d 251 (1986) (quoting *Johnson v. Glick*, 481 F.2d 1028, 1033 (2nd Cir. 1973)); *see also Hudson v. McMillian*, 503 U.S. 1, 8, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992). To determine if an application of force was applied maliciously and sadistically to cause harm, a variety of factors are considered including: “the need for the application of force, the relationship between that need and the amount of force used, the threat reasonably perceived by the responsible officials, and any efforts made to temper the severity of a forceful response.” *Hudson*, at 7–8, 503 U.S. 1, 112 S.Ct. 995, 117 L.Ed.2d 156; *see also Whitley*, 475 U.S. at 321, 106 S.Ct. 1078, 89 L.Ed.2d 251; *Harris v. Chapman*, 97 F.3d 499, 505 (11th Cir. 1996). From consideration of such factors, “inferences may be drawn as to whether the use of force could plausibly have been thought necessary, or instead evinced such wantonness with respect to the unjustified infliction of harm as is tantamount to a knowing willingness that it occur.” *Whitley*, 475 U.S. at 321, 106 S.Ct. 1078, 89 L.Ed.2d 251 (quoting *Johnson*, 481 F.2d at 1033).

97. The Defendant Deputies used unreasonable force when they subjected PELLEGRINO and CLAVERIA to dog attacks while the two men were perfectly and immediately compliant with the Deputies’ orders and not at all resisting arrest. The Defendant Deputies were in a position to immediately effectuate PELLEGRINO’s and CLAVERIA’s arrest without any use of force. *See Edwards v. Shanley*, 666 F.3d 1289,

1296 (11th Cir. 2012). The Eleventh Circuit has found that it is “objectively unreasonable for police officers to allow a dog to bite and hold a suspect for two minutes, which we described as ‘an eternity,’ where that suspect was compliant with the officers’ orders and not resisting arrest.” *Id.* at 1297 (citing *Priester v. City of Riviera Beach*, 208 F.3d 919 (11th Cir. 2000)).

**COUNT I**  
**PLAINTIFF, HUMBERTO PELLEGRINO’S, EXCESSIVE USE OF FORCE CLAIM**  
**AGAINST DEFENDANT WENGERT, INDIVIDUALLY, COGNIZABLE UNDER**  
**42 U.S.C. § 1983**

98. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
99. The force used by Defendant WENGERT was objectively unreasonable and unnecessary for Defendant WENGERT to defend himself or any other person from bodily harm during the arrest of Plaintiff PELLEGRINO, and occurred while Plaintiff PELLEGRINO was neither resisting nor fleeing. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
100. The force used by Defendant WENGERT was objectively unreasonable and constitutes the excessive use of force, in violation of Plaintiff PELLEGRINO’s clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
101. Defendant WENGERT also witnessed the unreasonable and unnecessarily excessive force that Defendant ACEVEDO was inflicting upon Plaintiff PELLEGRINO during his arrest, in violation of Plaintiff PELLEGRINO’s clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.

102. Defendant WENGERT was in a position to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
103. Defendant WENGERT had a duty to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).
104. As a direct and proximate result of the conduct of Defendant WENGERT, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
105. WHEREFORE, Plaintiff PELLEGRINO demands judgment against WENGERT for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

## COUNT II

### **PLAINTIFF, PEDRO CLAVERIA'S, EXCESSIVE USE OF FORCE CLAIM AGAINST DEFENDANT WENGERT, INDIVIDUALLY, COGNIZABLE UNDER 42 U.S.C. § 1983**

106. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
107. The force used by Defendant WENGERT was objectively unreasonable and unnecessary for Defendant WENGERT to defend himself or any other person from bodily harm during the arrest of Plaintiff CLAVERIA, and occurred while Plaintiff CLAVERIA was

neither resisting nor fleeing. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).

108. The force used by Defendant WENGERT was objectively unreasonable and constitutes the excessive use of force, in violation of Plaintiff CLAVERIA's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
109. Defendant WENGERT also witnessed the unreasonable and unnecessarily excessive force that Defendant ACEVEDO was inflicting upon Plaintiff CLAVERIA during his arrest, in violation of Plaintiff CLAVERIA's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
110. Defendant WENGERT was in a position to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
111. Defendant WENGERT had a duty to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).
112. As a direct and proximate result of the conduct of Defendant WENGERT, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
113. WHEREFORE, Plaintiff CLAVERIA demands judgment against WENGERT for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988,



and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT III**  
**PLAINTIFF, HUMBERTO PELLEGRINO'S, EXCESSIVE USE OF FORCE CLAIM**  
**AGAINST DEFENDANT ACEVEDO, INDIVIDUALLY, COGNIZABLE UNDER**  
**42 U.S.C. § 1983**

114. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
115. The force used by Defendant ACEVEDO was without warning and was unreasonable and unnecessary for Defendant ACEVEDO to defend himself or any other person from bodily harm during the arrest of Plaintiff PELLEGRINO, and occurred while Plaintiff PELLEGRINO was neither resisting nor fleeing. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
116. The force used by Defendant ACEVEDO was objectively unreasonable and constitutes the excessive use of force, in violation of Plaintiff PELLEGRINO's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
117. Also, Defendant ACEVEDO witnessed the unreasonable and unnecessarily excessive force that Defendant WENGERT was inflicting upon Plaintiff PELLEGRINO during his arrest, in violation of Plaintiff PELLEGRINO's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
118. Defendant ACEVEDO was in a position to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).

119. Defendant ACEVEDO had a duty to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).
120. As a direct and proximate result of the conduct of Defendant ACEVEDO, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
121. WHEREFORE, Plaintiff PELLEGRINO demands judgment against ACEVEDO for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

#### COUNT IV

#### **PLAINTIFF, PEDRO CLAVERIA'S, EXCESSIVE USE OF FORCE CLAIM AGAINST DEFENDANT ACEVEDO, INDIVIDUALLY COGNIZABLE UNDER 42 U.S.C. § 1983**

122. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
123. The force used by Defendant ACEVEDO was objectively unreasonable and unnecessary for Defendant ACEVEDO to defend himself or any other person from bodily harm during the arrest of Plaintiff CLAVERIA, and occurred while Plaintiff CLAVERIA was neither resisting nor fleeing. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).

124. The force used by Defendant ACEVEDO was objectively unreasonable and constitutes the excessive use of force, in violation of Plaintiff CLAVERIA's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
125. Also, Defendant ACEVEDO witnessed the unreasonable and unnecessarily excessive force that Defendant WENGERT was inflicting upon Plaintiff CLAVERIA during his arrest, in violation of Plaintiff CLAVERIA's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
126. Defendant ACEVEDO was in a position to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
127. Defendant ACEVEDO had a duty to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).
128. As a direct and proximate result of the conduct of Defendant ACEVEDO, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
129. WHEREFORE, Plaintiff CLAVERIA demands judgment against ACEVEDO for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT V**

**PLAINTIFF, HUMBERTO PELLEGRINO'S, EXCESSIVE USE OF FORCE CLAIM  
AGAINST DEFENDANT ROBERTS, INDIVIDUALLY COGNIZABLE UNDER  
42 U.S.C. § 1983**

130. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
131. Defendant ROBERTS witnessed the unreasonable and unnecessarily excessive force that Defendants WENGERT and ACEVEDO were inflicting upon Plaintiff PELLEGRINO during his arrest, in violation of Plaintiff PELLEGRINO's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
132. Defendant ROBERTS was in a position to intervene and stop the excessive use of force occurred during Plaintiff PELLEGRINO's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
133. Defendant ROBERTS had a duty to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998)
134. As a direct and proximate result of the conduct of Defendant ROBERTS, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
135. WHEREFORE, Plaintiff PELLEGRINO demands judgment against ROBERTS for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT VI**

**PLAINTIFF, PEDRO CLAVERIA'S, EXCESSIVE USE OF FORCE CLAIM AGAINST  
DEFENDANT ROBERTS, INDIVIDUALLY, COGNIZABLE UNDER 42 U.S.C. § 1983**

136. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
137. Defendant ROBERTS witnessed the unreasonable and unnecessarily excessive force that Defendants WENGERT and ACEVEDO were inflicting upon Plaintiff CLAVERIA during his arrest, in violation of Plaintiff CLAVERIA's clearly established constitutional rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.
138. Defendant ROBERTS was in a position to intervene and stop the excessive use of force occurred during Plaintiff CLAVERIA's arrest. *Priester v. City of Riviera Beach*, 208 F.3d 919, 927 (11th Cir. 2000).
139. Defendant ROBERTS had a duty to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest. *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).
140. As a direct and proximate result of the conduct of Defendant ROBERTS, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
141. WHEREFORE, Plaintiff CLAVERIA demands judgment against ROBERTS for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT VII**  
**PLAINTIFF, HUMBERTO PELLEGRINO'S, COMMON LAW CLAIM AGAINST**  
**DEFENDANT WENGERT**

142. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
143. At all times material, Defendant WENGERT had a duty to PELLEGRINO to exercise reasonable care in the manner, method and means of effecting PELLIGRINO's arrest.
144. Defendant WENGERT breached this duty of care in the manner described above.
145. The acts, events, or omissions of action which the Defendant WENGERT committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
146. As a direct and proximate result of the conduct of Defendant WENGERT, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
147. WHEREFORE, Plaintiff PELLEGRINO demands judgment against WENGERT for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT VIII**  
**PLAINTIFF, PEDRO CLAVERIA'S, COMMON LAW CLAIM AGAINST DEFENDANT**  
**WENGERT**

148. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
149. At all times material, Defendant WENGERT had a duty to CLAVERIA to exercise reasonable care in the manner, method and means of effecting CLAVERIA's arrest.
150. Defendant WENGERT breached this duty of care in the manner described above.
151. The acts, events, or omissions of action which the Defendant WENGERT committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
152. As a direct and proximate result of the conduct of Defendant WENGERT, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
153. WHEREFORE, Plaintiff CLAVERIA demands judgment against WENGERT for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT IX**  
**PLAINTIFF, HUMBERTO PELLEGRINO'S, COMMON LAW CLAIM AGAINST**  
**DEFENDANT ACEVEDO**

154. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.

155. At all times material, Defendant ACEVEDO had a duty to PELLEGRINO to exercise reasonable care in the manner, method and means of effecting PELLEGRINO's arrest.
156. Defendant ACEVEDO breached this duty of care in the manner described above.
157. The acts, events, or omissions of action which the Defendant ACEVEDO committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
158. As a direct and proximate result of the conduct of Defendant ACEVEDO, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
159. WHEREFORE, Plaintiff PELLEGRINO demands judgment against ACEVEDO for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT VIII**  
**PLAINTIFF, PEDRO CLAVERIA'S, COMMON LAW CLAIM AGAINST DEFENDANT**  
**ACEVEDO**

160. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
161. At all times material, Defendant ACEVEDO had a duty to CLAVERIA to exercise reasonable care in the manner, method and means of effecting CLAVERIA's arrest.
162. Defendant ACEVEDO breached this duty of care in the manner described above.



163. The acts, events, or omissions of action which the Defendant ACEVEDO committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
164. As a direct and proximate result of the conduct of Defendant ACEVEDO, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
165. WHEREFORE, Plaintiff CLAVERIA demands judgment against ACEVEDO for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT XI**  
**PLAINTIFF, HUMBERTO PELLEGRINO'S, COMMON LAW CLAIM AGAINST**  
**DEFENDANT ROBERTS**

166. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
167. Defendant ROBERTS witnessed the unreasonable and unnecessarily excessive force that Defendants WENGERT and ACEVEDO were inflicting upon Plaintiff PELLEGRINO during his arrest.
168. Defendant ROBERTS was in a position to intervene and stop the excessive use of force occurred during Plaintiff PELLEGRINO's arrest.

169. Defendant ROBERTS had a duty to intervene and stop the excessive use of force that occurred during Plaintiff PELLEGRINO's arrest.
170. Defendant ROBERTS breached this duty.
171. The acts, events, or omissions of action which the Defendant ROBERTS committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
172. As a direct and proximate result of the conduct of Defendant ROBERTS, individually, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
173. WHEREFORE, Plaintiff PELLEGRINO demands judgment against ROBERTS for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT XII**  
**PLAINTIFF, PEDRO CLAVERIA'S, COMMON LAW CLAIM AGAINST DEFENDANT**  
**ROBERTS**

174. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
175. Defendant ROBERTS witnessed the unreasonable and unnecessarily excessive force that Defendants WENGERT and ACEVEDO were inflicting upon Plaintiff CLAVERIA during his arrest.

176. Defendant ROBERTS was in a position to intervene and stop the excessive use of force occurred during Plaintiff CLAVERIA's arrest.
177. Defendant ROBERTS had a duty to intervene and stop the excessive use of force that occurred during Plaintiff CLAVERIA's arrest.
178. Defendant ROBERTS breached this duty.
179. The acts, events, or omissions of action which the Defendant ROBERTS committed in the course and scope of his employment, as described above, were in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, proximately causing the death of Decedent.
180. As a direct and proximate result of the conduct of Defendant ROBERTS, individually, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
181. WHEREFORE, Plaintiff CLAVERIA demands judgment against ROBERTS for compensatory damages, punitive damages, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT XIII**

**PLAINTIFF, HUMBERTO PELLEGRINO'S, CLAIM UNDER 42 U.S.C. § 1983  
AGAINST DEFENDANT SCOTT J. ISRAEL, IN HIS OFFICIAL CAPACITY AS  
BROWARD COUNTY SHERIFF**

182. Plaintiff PELLEGRINO incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.

183. At all material times Plaintiff PELLEGRINO was denied his clearly established constitutional rights in violation of 42 U.S.C. § 1983. In particular, MR. PELLEGRINO was, as indicated above, subjected to excessive use of force during his arrest at Matco Stone Center, Inc., in Pompano Beach, Florida, of the Defendant Deputies acting in the course and scope of their employment and under color of state law, which excessive force was implemented or executed a policy statement, ordinance, regulation, or decision officially adopted, ratified and promulgated by the Defendant SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, or was visited pursuant to governmental “custom” even though such custom has not received formal approval through the Broward Sheriff’s Office’s official decision-making channels.
184. The Defendant Deputies’ use of force was objectively unreasonable, extreme, disproportionate, gratuitous and/or applied maliciously and sadistically for the purpose of causing harm because, as previously alleged:
  - a. MR. PELLEGRINO was unarmed and complied with all of the instructions given to him by the Defendant deputies on the scene, including rolling out from under the gondola and laying flat on his stomach;
  - b. While MR. PELLEGRINO was laying on the ground, completely surrendered, Defendant Deputies sicced a police dog on his leg, and threatened him with an assault rifle that he not move or protect himself from the police dog;
  - c. After being attacked for several minutes and sustaining a massive leg wound, MR. PELLEGRINO was forced to walk through a gate and climb up onto a loading dock.

185. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, at all times material hereto, has and implemented a policy of inadequate investigation that allows an environment for the use of unreasonable force because officers may believe they will not be held accountable for the consequences of using excessive force.

186. Defendant WENGERT's internal affairs file is replete with excessive-use-of-force violations and failures to meet the most fundamental and reasonable of police standards:

- a. Broward Sheriff's Office conducted an internal investigation regarding an incident that occurred on February 17, 2006, where the victim and news reporters asserted that Deputy WENGERT falsified his reports. During the incident, Deputy WENGERT tackled a man after he had already surrendered himself following a police chase. According to the man, he stepped out his car with his hands raised in the air and Deputy WENGERT charged at him, threw him to the ground, and put his knee on the small of his back and his forearm on the back of his neck. After the victim was surrendered and subdued, Deputy WENGERT then commanded his dog to start biting the back of the victim's leg and arm. When the man tried to tell them to stop, Deputy WENGERT and another officer kicked the man in his face and mouth. At some point, Deputy WENGERT's K-9 partner also bit the man on his neck, which is considered "a deadly force" or "lethal force bite." Deputy WENGERT's report contradicts the man's sworn statements; he wrote that the man did not surrender, and he had to release his canine to apprehend him. He

also writes in the report that the man tried to kick him, and Deputy WENGERT punched the man in retaliation.

- b. On April 21, 2006, a news reporter who knew of the falsified report allegations, observed Deputy WENGERT on duty. The news reporter approached Deputy WENGERT and asked why the police report failed to mention the neck bite. Deputy WENGERT offered no comment and turned to walk away, letting out an audible laugh. BSO exonerated Deputy WENGERT from the charges of falsifying his report and failed to discipline him in any way.
- c. On May 5, 2006, around 2:30am, a man departed Gaby's nightclub and dropped a friend off at home in Pembroke Pines. Upon his return home, he spotted what he thought was the vehicle of a woman he had met earlier in the night, and followed the vehicle to try to meet up with the woman. Unbeknownst to the man, the vehicle was the unmarked vehicle of Deputy Brown, who called Deputy WENGERT for backup, thinking that the man was stalking him. Deputy WENGERT showed up and he and Deputy Brown handcuffed the man while questioning him, threatening him several times in the process. Upon releasing the man from the handcuffs, Deputy WENGERT slammed the man onto his own vehicle while Brown put the man in a headlock, tearing the man's earring from his lobe, causing the lobe to bleed. Deputy WENGERT then took his own turn, putting the man in a headlock, threatening, "Man get outta here or I'll kill you," slamming the man onto his own vehicle again. The man got into the car and drove away. Deputies

WENGERT and Brown wrote up reports conflicting with the man's account, justifying some of their violent actions as a means of not being shot because they "felt very strongly that the incident was going to end in a shootout." Sergeant Nathan Osgood confirmed that the man gave the exact same account to him during an inquiry into the incident, and Sergeant Osgood noted a scar on the man's earlobe. Yet, BSO took no disciplinary measures.

- d. On May 2, 2008, three people were seen burglarizing vehicles in a residential area. Deputy WENGERT arrived at the scene, exited his vehicle, and approached the suspect vehicle. According to Deputy WENGERT, he gave several verbal warnings for them to step out of the vehicle, but none of the suspects did. Deputy WENGERT also claims that the driver reached down for what he thought may have been a weapon. According to Deputy WENGERT, the vehicle then began traveling at a high rate of speed, fishtailed, and headed directly at him. As he was purportedly scared for his safety, Deputy WENGERT discharged multiple rounds from his firearm into the suspect vehicle as it just missed him, and it came close enough that he pushed off of it with his hand. The discharged rounds struck the driver and another occupant. The vehicle continued at a high rate of speed, almost hitting a house, and ultimately collided with shrubbery, stopping, and all three suspects were taken into custody. Following a standard review by the Shooting Review Board, Broward Sheriff's office deemed Deputy WENGERT's actions just and chose to not pursue any further investigatory measures. If Deputy WENGERT's account aligns with the truth, then his use of his firearm comes across as

wholly justified. However, it is alarming that Deputy WENGERT was, yet again, the lone law enforcement official present during an incident in which he utilized a firearm and more unsettling that Broward Sheriff's Office failed, once again, to see it in this light. The fact that Deputy WENGERT was and is still employed by Broward Sheriff's Office is a disgrace, but the fact that Broward Sheriff's Office treats Deputy WENGERT's actions so nonchalantly is more disgraceful still.

- e. Broward Sheriff's Office conducted an internal investigation and a grand jury indicted Deputy WENGERT regarding an incident that occurred on December 1, 2010. There, a 17-year-old was driving on Sterling Road when he saw two of his classmates on the road, and reversed the car to pick them up. He almost hit the vehicle driven by Jessica Mercer, Deputy WENGERT's girlfriend. She yelled profanities at the teen and called Deputy WENGERT to notify him about the teenager's driving. Mercer followed the teen into the parking lot of a Wendy's restaurant, where she waited until he left the restaurant. Upon leaving the Wendy's restaurant, the teen was pulled over by Deputy WENGERT. Deputy WENGERT failed to follow Broward Sheriff's Office protocol, never calling in the traffic stop or looking up the teen's vehicle tag prior to approaching the vehicle. Without asking for the teen's driver's license or vehicle registration, notifying the teen of his reason for pulling the teen over, or asking the teen to step out of his vehicle, Deputy WENGERT forced the teen's car door open and pulled the teen out of the car, turned him over and started frisking him. When the teen questioned what Deputy WENGERT



was doing, the two started to scuffle. Deputy WENGERT punched the teen in the face, forced the teen to the Broward Sheriff's Office SUV, opened the door of the SUV, and remotely sicced his police dog on the teen. While the dog was brutally attacking the teen, Deputy WENGERT finally called into Broward Sheriff's Office, notifying them of the incident and his arrest of the teen. The teenager's father made a formal complaint to the Division of Internal Affairs and showed that the event report did not match the event. In his report, Deputy WENGERT wrote that he observed a reckless driver and initiated a traffic stop that escalated into a canine bite. Deputy WENGERT was suspended without pay from June 14, 2012 to August 16, 2013 as the investigation and trial were in progress. Despite several eyewitness reports confirming the teen's account of the incident and glaring inconsistencies in Deputy WENGERT's and Ms. Mercer's respective accounts, Deputy WENGERT was acquitted of all charges. Still, in light of the overwhelming evidence against WENGERT, and the weight BSO should have afforded it as compared to the weight a criminal jury had to afford it, BSO should have terminated WENGERT. BSO instead failed to levy any punishment, and, in fact, paid WENGERT \$63,661 in back pay after his acquittal.

- f. The national television show *Unleashed K9: Broward County* aired six episodes in 2011 starring Deputy WENGERT and Deputy Geoffrey Brown on The Learning Channel. In it, Deputy Brown discusses a routine traffic stop, which Deputy WENGERT claimed the aforementioned incident with the teenager to be. In Episode 3 of the series, Deputy Brown says, "The most

dangerous type of work we do as police officers is conduct traffic stops.” He continues, “You could be thinking you’re pulling [a driver] over for speeding and [the driver may have] just committed a big crime that they think you know about and now, all the sudden, they have nothing to lose. So, we never know what’s inside that vehicle.” Deputy WENGERT plainly did not treat the traffic stop with the aforementioned teenager with this care or precaution. Yet, BSO did not punish WENGERT.

- g. In Episode 4 of the aforementioned television series, Deputy Brown discusses another traffic stop, stating, “It is extremely dangerous any time that you can’t see an individual’s hands. That’s what’s going to kill you.” This is exactly why a police officer will ask to see a driver’s hands if they feel suspicious of the driver’s actions. Deputy WENGERT failed to do this in the aforementioned traffic stop of the teenage driver. Yet, BSO did not punish WENGERT.
- h. In Episode 5 of the aforementioned television series, Deputy WENGERT discusses a case, saying “In this situation, we didn’t use Bali [the Deputy’s K-9 partner] because we didn’t have enough evidence to actually deploy him from the vehicle.” In the aforementioned traffic stop, Deputy WENGERT had no evidence to pull over, attack, or arrest the teenager and failed to call the traffic stop in or ask the teenager for photo identification and vehicle registration, but still felt it necessary to deploy his K-9 partner to detain the cooperating teenager. Yet, BSO did not punish WENGERT.

- i. In Episode 6 of the aforementioned television series, Deputy WENGERT and Deputy Brown investigated a suspicious vehicle. Upon properly investigating the vehicle and questioning the occupants, Deputy WENGERT warns, "I'm letting everybody know now, if anybody decides to run, there's a dog in the car. He will come out and he will take you to the ground. Understand?" In the aforementioned incident with the teenager, in addition to fully cooperating with Deputy WENGERT, the teenager never tried to fight back or flee the scene. Additionally Deputy WENGERT never gave any warning, similar to the one from Episode 6, of his dog being in his car. Yet, Deputy WENGERT felt it necessary to retrieve the aggressively trained animal from his vehicle and, without warning, sic him on the cooperating teenager. And yet, BSO did not punish WENGERT.
- j. In 2012, prior to Deputy WENGERT's trial with the aforementioned arrested teenager, he had an encounter with Lieutenant Holly Greene, who served as a Sergeant at the time. Lieutenant Greene attempted to serve Ms. Mercer with a subpoena following Mercer's first falsified sworn statement regarding the incident with the teenager and a second sworn statement in which Mercer and her attorney decided she would not answer question regarding the incident with the teenager. Upon her attempt to serve Ms. Mercer, Lieutenant Greene went to the address on Ms. Mercer's file and found that she was no longer residing there. Lieutenant Greene found Ms. Mercer's new residence, where she lived with Deputy WENGERT, and saw Deputy WENGERT and Ms. Mercer speed away from the home in their vehicle as Lieutenant Greene was

approaching it. Lieutenant Greene followed the vehicle onto a residential road, where Deputy WENGERT turned his vehicle around and sped toward Lieutenant Greene's vehicle in her lane, stopping quickly before causing a collision. Deputy WENGERT abruptly exited his vehicle and screamed as he approached Lieutenant Greene's vehicle, and Lieutenant Greene had to tell Deputy WENGERT to stand down. Deputy WENGERT continued to yell as Lieutenant Greene explained that she was serving Ms. Mercer rather than Deputy WENGERT, and he was angered because he did not want to get Ms. Mercer involved in the case, though Deputy WENGERT unquestionably knew of Ms. Mercer's involvement in the case. Yet again, BSO did not punish WENGERT.

- k. On March 26, 2010, Deputy WENGERT used excessive force on Kevin Buckler after first taunting the 21-year-old at a gas station and then pulling him over, without cause, less than a mile away. Deputy WENGERT yanked Buckler from his vehicle and smashed it into the frame of his car door. Buckler suffered fractures on his face and his eyes were swollen shut and spent two days in the hospital. Deputy WENGERT's report, not surprisingly, contradicts Buckler's statement and states that Buckler blew smoke in WENGERT's face, threw his cigarette at him, and tried to fight Deputy WENGERT as he was being pulled from the car. Deputy WENGERT's internal affairs file does not reflect that BSO even did an investigation into these disturbing excessive use of force and falsifying records actions, let alone that BSO punished WENGERT.

1. In the early morning, around 5:00am, on September 21, 2006, Deputies WENGERT and Raymond Rogers were searching for a burglary suspect in West Park, Florida. Deputy WENGERT was searching a residential yard and saw that the door of the gate surrounding the yard of the residence warns unknowing persons with a "BEWARE OF DOG" sign. Deputy WENGERT claims to have followed Broward Sheriff's Office K-9 protocol for such a situation, shaking the fence and calling into the yard, surveying the yard for the presence of a dog. According to Deputy WENGERT, the animal Beau Blue, who resided at the home with two female owners, made no indication of his presence. Knowing that there still may be an animal present, Deputy WENGERT entered the yard to search for the suspect and rounded the corner of the residence to the back of the yard, where Beau Blue came into his line of vision. According to Deputy WENGERT, the dog began to walk toward him and he became fearful for his own safety as well as his K-9 partner's safety. Deputy WENGERT and his K-9 partner began backtracking out of the yard when, according to Deputy WENGERT, the dog began to aggressively bark and growl. Based on the actions of the dog, Deputy WENGERT ostensibly felt that he and his K-9 partner's lives were in danger, and likewise ostensibly felt it necessary to draw his firearm and fire multiple rounds at Beau Blue, one or more of which hit and killed the pet. Comparatively, Deputy Rogers encountered two dogs in his search of a nearby residence who began attacking his K-9 partner. Upon realizing the danger of the situation, Deputy Rogers drew his firearm, firing a single round at the ground, frightening the dogs

away, and getting away safely with his K-9 partner. BSO took no action against WENGERT despite the fact that his account of the incident rang hollow, and even if true, showed WENGERT improvidently used extreme measures and deadly force against an innocent pet dog, whereas Rogers exercised proper restraint when confronted a real and greater threat posed by two dogs.

- m. Deputy WENGERT's K-9 Unit Supervisor Dennis Additon confirms that the following BSO mandate: "Unless you are a passenger or if you are assigned to [an] airport, you have to have credentials in order to get onto a plane, even if you are a deputy sheriff." According to eyewitness accounts, however, on February 23, 2011, Deputy WENGERT was seen, in uniform, at the airport without assignment and unaccompanied by his K-9 partner. Without credentials, Deputy WENGERT boarded a plane and was seen "goofing off" with flight attendants on a Spirit Airlines aircraft. BSO did not discipline WENGERT,
- n. On May 12, 2012, Deputy WENGERT's Broward Sheriff's Office marked unit 5580 was photographed and video-recorded via red light cameras running a red light. Deputy WENGERT was traveling north on U.S. Route 441 and traveled through a red light at Sheridan Street without any warning for road occupants, as Deputy WENGERT's overhead lights and emergency signals were disengaged. For the incident, Broward Sheriff's Office received a Notice of Violation issued for the offense "Failure to comply with a steady red signal." In response to the violation, Lieutenant Brian Montgomery of Cooper

City “spoke with Deputy WENGERT” and explained that he must “utilize all emergency equipment in the event he must overtake an intersection,” procedures of which a properly trained and qualified officer of the law for over a decade would be fully aware. Ultimately, Deputy WENGERT was exonerated from the charge and the civil fine of \$158.00 was withdrawn by the City of Hollywood. BSO again failed to punish WENGERT.

- o. On June 3, 2014, around 10:00 p.m., two women were robbed by two armed suspects outside of a North Lauderdale, Florida restaurant. Shortly after the victims reported the incident, Deputy WENGERT spotted a man whom he claimed matched the description of one of the suspects and began a foot pursuit. According to Deputy WENGERT, the suspect, Steven Thompson, fled when WENGERT identified himself and ordered for Thompson’s surrender. Deputy WENGERT then called for backup as he chased Thompson into an apartment complex. According to Deputy WENGERT, once at the complex, Thompson ran down a long hallway, stopped, turned around and opened fire on Deputy WENGERT. Deputy WENGERT returned fire, striking Thompson multiple times. Thompson died of the multiple gunshot wounds. Deputy WENGERT was placed on administrative leave following the incident, as yet another internal review of yet another deadly shooting at the hands of DEPUTY WENGERT would take place. The fact that Deputy WENGERT was armed and in the field, let alone still a wage-earning employee of Broward Sheriff’s Office is shameful. Though the case is still open, it should be universally expected that Broward Sheriff’s Office exert no

form of punishment against Deputy WENGERT and that he will be reinstated following what can only be seen as a paid extended vacation following another incident that should, yet will not, leave him unemployed.

- p. In Episode 5 of the aforementioned television series, Deputies Brown and WENGERT pursue a suspect. Deputy Brown is on foot and ends up taking a blow to the chest by the suspect, who continues running as Brown falls to the ground. Deputy WENGERT is in pursuit in his Broward Sheriff's Office marked K-9 Unit and spots the suspect running. The video is taken from a dashboard-mounted camera in Deputy WENGERT's vehicle. In the video, it is clear that Deputy WENGERT is traveling straight down a road, then he notes that he spots the suspect. It is evident that Deputy WENGERT purposely steered to the right at that juncture, directly at the suspect, striking the man as he braked, yet WENGERT falsely claims, "And then this guy ran into the side of my car." BSO did not punish WENGERT at all.

187. No investigation into the use of force by WENGERT, ACEVEDO, or ROBERTS has been done by SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, regarding this subject incident.

188. The failure of SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, to perform an internal affairs investigation with respect to excessive force here, constitutes deliberate indifference against citizens by the ratification of egregious police field practices known within the law enforcement industry to result in unreasonable uses of force and deadly force resulting in serious physical injuries to citizens.



189. The case of Jeffrey Kogan, a 14-year veteran of the Broward Sheriff's Office, is still another example that Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, at all times material hereto, has and implemented a policy of inadequate investigation that allows an environment for the use of unreasonable force because officers may believe they will not be held accountable for the consequences of using excessive force. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, demoted Deputy Kogan after Kogan appropriately reported to his supervisors and the prosecutor that a K-9 officer used excessive force against a murder suspect by siccing his canine partner on the suspect after the suspect complied with his arrest.
190. In April 2013, Deputy Kogan was a homicide detective assigned to investigate the murder of Keema Gooding, whom Walter Hart was suspected of killing the previous day. Kogan witnessed Walter Hart sitting on the ground, apprehended, with his hands secured behind his back; Hart was not resisting any of the officers present in any way, nor being combative in any way; Hart was detained and cooperative and not a threat to anyone. Detective Kogan then witnessed a Fort Lauderdale Police K-9 officer deploy his canine on Hart, and the canine bit the suspect on his right arm.
191. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, demoted Kogan from homicide detective to road patrol in June 2013, the same day Kogan testified about the K-9 officer's plainly excessive force to investigators. The demotion resulted in a loss of his detective rank and a cut in pay. No charges were ever filed against the K-9 officer, meanwhile.

192. Kogan sued the Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, in a whistleblower action. After an eight day trial, a jury issued a verdict on March 12, 2015, in Kogan's favor. However, nothing tells K-9 officers that they will not be held accountable for the consequences of using excessive force, such as siccing their dogs on detained suspects, more than when the Defendant, SCOTT J. ISRAEL, punishes one of his own homicide detectives for reporting such a heinous incident and allows the K-9 officer from another police agency who committed the atrocity to go unpunished.
193. The Sheriff's inadequate processes allowed an environment for the use of excessive force, because officers knew they would not be held accountable for the consequences of using excessive force.
194. These acts, omissions, and acquiesces creates an environment which would allow an officer to engage in improper use of excessive and deadly force and were factors that were significant and causal in physical damages suffered by MR. PELLEGRINO.
195. These shortcomings amount to "deliberate indifference" and an actionable § 1983 municipality claim. *See Canton v. Harris*, 489 U.S. 378, 388–89 (1989).
196. As a direct and proximate result of the foregoing actions and inactions, Plaintiff PELLEGRINO suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff PELLEGRINO will suffer the losses in the future.
197. WHEREFORE, Plaintiff PELLEGRINO demands judgment against SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, for compensatory damages,

punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

**COUNT XIV**  
**PLAINTIFF, PEDRO CLAVERIA'S, CLAIM UNDER 42 U.S.C. § 1983 AGAINST**  
**DEFENDANT SCOTT J. ISRAEL, IN HIS OFFICIAL CAPACITY AS BROWARD**  
**COUNTY SHERIFF**

198. Plaintiff CLAVERIA incorporates by reference paragraphs 1 through 97 set forth above as if fully re-alleged.
199. At all material times Plaintiff CLAVERIA was denied his clearly established constitutional rights in violation of 42 U.S.C. § 1983. In particular, MR. CLAVERIA was, as indicated above, subjected to excessive use of force during his arrest at Matco Stone Center, Inc., in Pompano Beach, Florida, of the Defendant Deputies acting in the course and scope of their employment and under color of state law, which excessive force was implemented or executed a policy statement, ordinance, regulation, or decision officially adopted, ratified and promulgated by the Defendant SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, or was visited pursuant to governmental "custom" even though such custom has not received formal approval through the Broward Sheriff's Office's official decision-making channels.
200. The Defendant Deputies' use of force was objectively unreasonable, extreme, disproportionate, gratuitous and/or applied maliciously and sadistically for the purpose of causing harm because, as previously alleged:
  - a. MR. CLAVERIA was unarmed and complied with all of the instructions given to him by the Defendant deputies on the scene, including rolling out from under the gondola and laying flat on his stomach;

- b. While MR. CLAVERIA was laying on the ground, completely surrendered, Defendant Deputies sicced a police dog on his left shoulder and arm, and threatened him with an assault rifle that he not move or protect himself from the police dog; and
- c. After being attacked for two minutes, MR. CLAVERIA was bleeding profusely and sustained a large wound on his harm, and he was forced to put his arms behind his back to be handcuffed.

201. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, at all times material hereto, has and implemented a policy of inadequate investigation that allows an environment for the use of unreasonable force because officers may believe they will not be held accountable for the consequences of using excessive force.

202. Defendant WENGERT's internal affairs file is replete with excessive-use-of-force violations and failures to meet the most fundamental and reasonable of police standards:

- a. Broward Sheriff's Office conducted an internal investigation regarding an incident that occurred on February 17, 2006, where the victim and news reporters asserted that Deputy WENGERT falsified his reports. During the incident, Deputy WENGERT tackled a man after he had already surrendered himself following a police chase. According to the man, he stepped out his car with his hands raised in the air and Deputy WENGERT charged at him, threw him to the ground, and put his knee on the small of his back and his forearm on the back of his neck. After the victim was surrendered and subdued, Deputy WENGERT then commanded his dog to start biting the back of the

victim's leg and arm. When the man tried to tell them to stop, Deputy WENGERT and another officer kicked the man in his face and mouth. At some point, Deputy WENGERT's K-9 partner also bit the man on his neck, which is considered "a deadly force" or "lethal force bite." Deputy WENGERT's report contradicts the man's sworn statements; he wrote that the man did not surrender, and he had to release his canine to apprehend him. He also writes in the report that the man tried to kick him, and Deputy WENGERT punched the man in retaliation.

- b. On April 21, 2006, a news reporter who knew of the falsified report allegations, observed Deputy WENGERT on duty. The news reporter approached Deputy WENGERT and asked why the police report failed to mention the neck bite. Deputy WENGERT offered no comment and turned to walk away, letting out an audible laugh. BSO exonerated Deputy WENGERT from the charges of falsifying his report and failed to discipline him in any way.
- c. On May 5, 2006, around 2:30am, a man departed Gaby's nightclub and dropped a friend off at home in Pembroke Pines. Upon his return home, he spotted what he thought was the vehicle of a woman he had met earlier in the night, and followed the vehicle to try to meet up with the woman. Unbeknownst to the man, the vehicle was the unmarked vehicle of Deputy Brown, who called Deputy WENGERT for backup, thinking that the man was stalking him. Deputy WENGERT showed up and he and Deputy Brown handcuffed the man while questioning him, threatening him several times in

the process. Upon releasing the man from the handcuffs, Deputy WENGERT slammed the man onto his own vehicle while Brown put the man in a headlock, tearing the man's earring from his lobe, causing the lobe to bleed. Deputy WENGERT then took his own turn, putting the man in a headlock, threatening, "Man get outta here or I'll kill you," slamming the man onto his own vehicle again. The man got into the car and drove away. Deputies WENGERT and Brown wrote up reports conflicting with the man's account, justifying some of their violent actions as a means of not being shot because they "felt very strongly that the incident was going to end in a shootout." Sergeant Nathan Osgood confirmed that the man gave the exact same account to him during an inquiry into the incident, and Sergeant Osgood noted a scar on the man's earlobe. Yet, BSO took no disciplinary measures.

- d. On May 2, 2008, three people were seen burglarizing vehicles in a residential area. Deputy WENGERT arrived at the scene, exited his vehicle, and approached the suspect vehicle. According to Deputy WENGERT, he gave several verbal warnings for them to step out of the vehicle, but none of the suspects did. Deputy WENGERT also claims that the driver reached down for what he thought may have been a weapon. According to Deputy WENGERT, the vehicle then began traveling at a high rate of speed, fishtailed, and headed directly at him. As he was purportedly scared for his safety, Deputy WENGERT discharged multiple rounds from his firearm into the suspect vehicle as it just missed him, and it came close enough that he pushed off of it with his hand. The discharged rounds struck the driver and another occupant.

The vehicle continued at a high rate of speed, almost hitting a house, and ultimately collided with shrubbery, stopping, and all three suspects were taken into custody. Following a standard review by the Shooting Review Board, Broward Sheriff's office deemed Deputy WENGERT's actions just and chose to not pursue any further investigatory measures. If Deputy WENGERT's account aligns with the truth, then his use of his firearm comes across as wholly justified. However, it is alarming that Deputy WENGERT was, yet again, the lone law enforcement official present during an incident in which he utilized a firearm and more unsettling that Broward Sheriff's Office failed, once again, to see it in this light. The fact that Deputy WENGERT was and is still employed by Broward Sheriff's Office is a disgrace, but the fact that Broward Sheriff's Office treats Deputy WENGERT's actions so nonchalantly is more disgraceful still.

- e. Broward Sheriff's Office conducted an internal investigation and a grand jury indicted Deputy WENGERT regarding an incident that occurred on December 1, 2010. There, a 17-year-old was driving on Sterling Road when he saw two of his classmates on the road, and reversed the car to pick them up. He almost hit the vehicle driven by Jessica Mercer, Deputy WENGERT's girlfriend. She yelled profanities at the teen and called Deputy WENGERT to notify him about the teenager's driving. Mercer followed the teen into the parking lot of a Wendy's restaurant, where she waited until he left the restaurant. Upon leaving the Wendy's restaurant, the teen was pulled over by Deputy WENGERT. Deputy WENGERT failed to follow Broward Sheriff's Office

protocol, never calling in the traffic stop or looking up the teen's vehicle tag prior to approaching the vehicle. Without asking for the teen's driver's license or vehicle registration, notifying the teen of his reason for pulling the teen over, or asking the teen to step out of his vehicle, Deputy WENGERT forced the teen's car door open and pulled the teen out of the car, turned him over and started frisking him. When the teen questioned what Deputy WENGERT was doing, the two started to scuffle. Deputy WENGERT punched the teen in the face, forced the teen to the Broward Sheriff's Office SUV, opened the door of the SUV, and remotely sicced his police dog on the teen. While the dog was brutally attacking the teen, Deputy WENGERT finally called into Broward Sheriff's Office, notifying them of the incident and his arrest of the teen. The teenager's father made a formal complaint to the Division of Internal Affairs and showed that the event report did not match the event. In his report, Deputy WENGERT wrote that he observed a reckless driver and initiated a traffic stop that escalated into a canine bite. Deputy WENGERT was suspended without pay from June 14, 2012 to August 16, 2013 as the investigation and trial were in progress. Despite several eyewitness reports confirming the teen's account of the incident and glaring inconsistencies in Deputy WENGERT's and Ms. Mercer's respective accounts, Deputy WENGERT was acquitted of all charges. Still, in light of the overwhelming evidence against WENGERT, and the weight BSO should have afforded it as compared to the weight a criminal jury had to afford it, BSO should have



terminated WENGERT. BSO instead failed to levy any punishment, and, in fact, paid WENGERT \$63,661 in back pay after his acquittal.

- f. The national television show *Unleashed K9: Broward County* aired six episodes in 2011 starring Deputy WENGERT and Deputy Geoffrey Brown on The Learning Channel. In it, Deputy Brown discusses a routine traffic stop, which Deputy WENGERT claimed the aforementioned incident with the teenager to be. In Episode 3 of the series, Deputy Brown says, “The most dangerous type of work we do as police officers is conduct traffic stops.” He continues, “You could be thinking you’re pulling [a driver] over for speeding and [the driver may have] just committed a big crime that they think you know about and now, all the sudden, they have nothing to lose. So, we never know what’s inside that vehicle.” Deputy WENGERT plainly did not treat the traffic stop with the aforementioned teenager with this care or precaution. Yet, BSO did not punish WENGERT.
- g. In Episode 4 of the aforementioned television series, Deputy Brown discusses another traffic stop, stating, “It is extremely dangerous any time that you can’t see an individual’s hands. That’s what’s going to kill you.” This is exactly why a police officer will ask to see a driver’s hands if they feel suspicious of the driver’s actions. Deputy WENGERT failed to do this in the aforementioned traffic stop of the teenage driver. Yet, BSO did not punish WENGERT.
- h. In Episode 5 of the aforementioned television series, Deputy WENGERT discusses a case, saying “In this situation, we didn’t use Bali [the Deputy’s K-

9 partner] because we didn't have enough evidence to actually deploy him from the vehicle." In the aforementioned traffic stop, Deputy WENGERT had no evidence to pull over, attack, or arrest the teenager and failed to call the traffic stop in or ask the teenager for photo identification and vehicle registration, but still felt it necessary to deploy his K-9 partner to detain the cooperating teenager. Yet, BSO did not punish WENGERT.

- i. In Episode 6 of the aforementioned television series, Deputy WENGERT and Deputy Brown investigated a suspicious vehicle. Upon properly investigating the vehicle and questioning the occupants, Deputy WENGERT warns, "I'm letting everybody know now, if anybody decides to run, there's a dog in the car. He will come out and he will take you to the ground. Understand?" In the aforementioned incident with the teenager, in addition to fully cooperating with Deputy WENGERT, the teenager never tried to fight back or flee the scene. Additionally Deputy WENGERT never gave any warning, similar to the one from Episode 6, of his dog being in his car. Yet, Deputy WENGERT felt it necessary to retrieve the aggressively trained animal from his vehicle and, without warning, sic him on the cooperating teenager. And yet, BSO did not punish WENGERT.
- j. In 2012, prior to Deputy WENGERT's trial with the aforementioned arrested teenager, he had an encounter with Lieutenant Holly Greene, who served as a Sergeant at the time. Lieutenant Greene attempted to serve Ms. Mercer with a subpoena following Mercer's first falsified sworn statement regarding the incident with the teenager and a second sworn statement in which Mercer and

her attorney decided she would not answer question regarding the incident with the teenager. Upon her attempt to serve Ms. Mercer, Lieutenant Greene went to the address on Ms. Mercer's file and found that she was no longer residing there. Lieutenant Greene found Ms. Mercer's new residence, where she lived with Deputy WENGERT, and saw Deputy WENGERT and Ms. Mercer speed away from the home in their vehicle as Lieutenant Greene was approaching it. Lieutenant Greene followed the vehicle onto a residential road, where Deputy WENGERT turned his vehicle around and sped toward Lieutenant Greene's vehicle in her lane, stopping quickly before causing a collision. Deputy WENGERT abruptly exited his vehicle and screamed as he approached Lieutenant Greene's vehicle, and Lieutenant Greene had to tell Deputy WENGERT to stand down. Deputy WENGERT continued to yell as Lieutenant Greene explained that she was serving Ms. Mercer rather than Deputy WENGERT, and he was angered because he did not want to get Ms. Mercer involved in the case, though Deputy WENGERT unquestionably knew of Ms. Mercer's involvement in the case. Yet again, BSO did not punish WENGERT.

- k. In the early morning, around 5:00am, on September 21, 2006, Deputies WENGERT and Raymond Rogers were searching for a burglary suspect in West Park, Florida. Deputy WENGERT was searching a residential yard and saw that the door of the gate surrounding the yard of the residence warns unknowing persons with a "BEWARE OF DOG" sign. Deputy WENGERT claims to have followed Broward Sheriff's Office K-9 protocol for such a

situation, shaking the fence and calling into the yard, surveying the yard for the presence of a dog. According to Deputy WENGERT, the animal Beau Blue, who resided at the home with two female owners, made no indication of his presence. Knowing that there still may be an animal present, Deputy WENGERT entered the yard to search for the suspect and rounded the corner of the residence to the back of the yard, where Beau Blue came into his line of vision. According to Deputy WENGERT, the dog began to walk toward him and he became fearful for his own safety as well as his K-9 partner's safety. Deputy WENGERT and his K-9 partner began backtracking out of the yard when, according to Deputy WENGERT, the dog began to aggressively bark and growl. Based on the actions of the dog, Deputy WENGERT ostensibly felt that he and his K-9 partner's lives were in danger, and likewise ostensibly felt it necessary to draw his firearm and fire multiple rounds at Beau Blue, one or more of which hit and killed the pet. Comparatively, Deputy Rogers encountered two dogs in his search of a nearby residence who began attacking his K-9 partner. Upon realizing the danger of the situation, Deputy Rogers drew his firearm, firing a single round at the ground, frightening the dogs away, and getting away safely with his K-9 partner. BSO took no action against WENGERT despite the fact that his account of the incident rang hollow, and even if true, showed WENGERT improvidently used extreme measures and deadly force against an innocent pet dog, whereas Rogers exercised proper restraint when confronted a real and greater threat posed by two dogs.

1. Deputy WENGERT's K-9 Unit Supervisor Dennis Additon confirms that the following BSO mandate: "Unless you are a passenger or if you are assigned to [an] airport, you have to have credentials in order to get onto a plane, even if you are a deputy sheriff." According to eyewitness accounts, however, on February 23, 2011, Deputy WENGERT was seen, in uniform, at the airport without assignment and unaccompanied by his K-9 partner. Without credentials, Deputy WENGERT boarded a plane and was seen "goofing off" with flight attendants on a Spirit Airlines aircraft. BSO did not discipline WENGERT,
- m. On May 12, 2012, Deputy WENGERT's Broward Sheriff's Office marked unit 5580 was photographed and video-recorded via red light cameras running a red light. Deputy WENGERT was traveling north on U.S. Route 441 and traveled through a red light at Sheridan Street without any warning for road occupants, as Deputy WENGERT's overhead lights and emergency signals were disengaged. For the incident, Broward Sheriff's Office received a Notice of Violation issued for the offense "Failure to comply with a steady red signal." In response to the violation, Lieutenant Brian Montgomery of Cooper City "spoke with Deputy WENGERT" and explained that he must "utilize all emergency equipment in the event he must overtake an intersection," procedures of which a properly trained and qualified officer of the law for over a decade would be fully aware. Ultimately, Deputy WENGERT was exonerated from the charge and the civil fine of \$158.00 was withdrawn by the City of Hollywood. BSO again failed to punish WENGERT.

- n. On June 3, 2014, around 10:00 p.m., two women were robbed by two armed suspects outside of a North Lauderdale, Florida restaurant. Shortly after the victims reported the incident, Deputy WENGERT spotted a man whom he claimed matched the description of one of the suspects and began a foot pursuit. According to Deputy WENGERT, the suspect, Steven Thompson, fled when WENGERT identified himself and ordered for Thompson's surrender. Deputy WENGERT then called for backup as he chased Thompson into an apartment complex. According to Deputy WENGERT, once at the complex, Thompson ran down a long hallway, stopped, turned around and opened fire on Deputy WENGERT. Deputy WENGERT returned fire, striking Thompson multiple times. Thompson died of the multiple gunshot wounds. Deputy WENGERT was placed on administrative leave following the incident, as yet another internal review of yet another deadly shooting at the hands of DEPUTY WENGERT would take place. The fact that Deputy WENGERT that was armed and in the field, let alone still a wage-earning employee of Broward Sheriff's Office is shameful. Though the case is still open, it should be universally expected that Broward Sheriff's Office will seek no form of punishment against Deputy WENGERT and that he will be reinstated following what can only be seen as a paid extended vacation following another incident that should, yet will not, leave him unemployed.
- o. In Episode 5 of the aforementioned television series, Deputies Brown and WENGERT pursue a suspect. Deputy Brown is on foot and ends up taking a blow to the chest by the suspect, who continues running as Brown falls to the

ground. Deputy WENGERT is in pursuit in his Broward Sheriff's Office marked K-9 Unit and spots the suspect running. The video is taken from a dashboard-mounted camera in Deputy WENGERT's vehicle. In the video, it is clear that Deputy WENGERT is traveling straight down a road, then he notes that he spots the suspect. It is evident that Deputy WENGERT purposely steered to the right at that juncture, directly at the suspect, striking the man as he braked, yet WENGERT falsely claims, "And then this guy ran into the side of my car." BSO did not punish WENGERT at all.

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203. No investigation into the use of force by WENGERT, ACEVEDO, or ROBERTS has been done by SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, regarding this subject incident.
204. The failure of SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, to perform an internal affairs investigation with respect to excessive force here, constitutes deliberate indifference against citizens by the ratification of egregious police field practices known within the law enforcement industry to result in unreasonable uses of force and deadly force resulting in serious physical injuries to citizens.
205. The case of Jeffrey Kogan, a 14-year veteran of the Broward Sheriff's Office, is still another example that Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, at all times material hereto, has and implemented a policy of inadequate investigation that allows an environment for the use of unreasonable force because officers may believe they will not be held accountable for the

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207. Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, demoted Kogan from homicide detective to road patrol in June 2013, the same day Kogan testified about the K-9 officer's plainly excessive force to investigators. The demotion resulted in a loss of his detective rank and a cut in pay. No charges were ever filed against the K-9 officer, meanwhile.
208. Kogan sued the Defendant, SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, in a whistleblower action. After an eight day trial, a jury issued a verdict on March 12, 2015, in Kogan's favor. However, nothing tells K-9 officers that they will not be held accountable for the consequences of using excessive force, such as siccing their dogs on detained suspects, more than when the Defendant, SCOTT J. ISRAEL, punishes one of his own homicide detectives for reporting such a heinous



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210. These acts, omissions, and acquiesces creates an environment which would allow an officer to engage in improper use of excessive and deadly force and were factors that were significant and causal in physical damages suffered by MR. CLAVERIA.
211. These shortcomings amount to "deliberate indifference" and an actionable § 1983 municipality claim. *See Canton v. Harris*, 489 U.S. 378, 388–89 (1989).
212. As a direct and proximate result of the foregoing actions and inactions, Plaintiff CLAVERIA suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and treatment. The losses are either permanent or continuing and Plaintiff CLAVERIA will suffer the losses in the future.
213. WHEREFORE, Plaintiff CLAVERIA demands judgment against SCOTT J. ISRAEL, in his official capacity as BROWARD COUNTY SHERIFF, for compensatory damages, punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, and costs, and further demands trial by jury as to all issues so triable, and such other relief as this Honorable Court may deem just and appropriate.

Respectfully submitted this 13<sup>th</sup> day of March, 2015,

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*/s/ David W. Brill, Esq.* \_\_\_\_\_

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