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12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
FOR THE COUNTY OF SAN DIEGO – HALL OF JUSTICE

14 TAINA ROZIER, individually and as
15 successor in interest to ALFRED OKWERA
OLANGO, deceased; CHARE ROZIER-
16 OLANGO, a minor, individually and as
Successor in Interest to ALFRED OKWERA
17 OLANGO, deceased, by and through her
Guardian Ad Litem, EDWINA ROZIER; and
18 HASANA COLLINS, a minor, individually
19 and as Successor in Interest to ALFRED
OKWERA OLANGO, deceased, by and
20 through her Guardian Ad Litem, CELANESE
SMALL,

21
22 Plaintiffs,

23 vs.

24 CITY OF EL CAJON, a municipal entity;
25 OFFICER RICHARD GONSALVES, an
individual, and DOES 1 through 50, inclusive,

26 Defendants.
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

07/16/2018 at 04:25:42 PM

Clerk of the Superior Court
By Valeria Contreras, Deputy Clerk

CASE NO.: 37-2018-00036420-CU-PO-CTL

COMPLAINT FOR DAMAGES

1. **Wrongful Death (Cal. Government Code §§ 815.2(a), 820(a)) (Based on Negligence)**

DEMAND FOR JURY TRIAL

1 **COME NOW** Plaintiffs TAINA ROZIER, individually and as successor in interest to
2 ALFRED OKWERA OLANGO, deceased, CHARE ROZIER-OLANGO, a minor, individually
3 and as successor in interest to ALFRED OKWERA OLANGO, deceased, by and through her
4 Guardian Ad Litem, EDWINA ROZIER, and HASANA COLLINS, a minor, individually and as
5 successor in interest to ALFRED OKWERA OLANGO, deceased, by and through her Guardian
6 Ad Litem, CELANESE SMALL, for causes of action against Defendants CITY OF EL CAJON,
7 OFFICER RICHARD GONSALVES, and DOES 1 through 50, inclusive, and complain and allege
8 as follows:

9 **INTRODUCTORY ALLEGATIONS**

10 1. Plaintiff TAINA ROZIER is, and at all relevant times mentioned herein was, a
11 resident of the County of San Diego and State of California. Plaintiff TAINA ROZIER is the
12 surviving spouse of decedent ALFRED OKWERA OLANGO.

13 2. Plaintiff TAINA ROZIER is a Successor in Interest to decedent ALFRED
14 OKWERA OLANGO and is entitled to bring certain causes of action herein alleged pursuant to §
15 377.30 of the California Code of Civil Procedure. (Attached herein is a declaration designating
16 Plaintiff TAINA ROZIER as a Successor in Interest to decedent ALFRED OKWERA OLANGO,
17 furnished herewith pursuant to § 377.32 of the California Code of Civil Procedure, and a true and
18 correct copy of the death certificate for decedent ALFRED OKWERA OLANGO, furnished
19 herewith pursuant to § 377.32 of the California Code of Civil Procedure.)

20 3. Plaintiff CHARE ROZIER-OLANGO, a minor, is, and at all relevant times
21 mentioned herein was, a resident of the County of San Diego and State of California. Plaintiff
22 CHARE ROZIER-OLANGO is the surviving biological daughter of decedent ALFRED
23 OKWERA OLANGO. Plaintiff CHARE ROZIER-OLANGO brings this action by and through
24 her grandmother and Guardian Ad Litem, EDWINA ROZIER.

25 4. Plaintiff CHARE ROZIER-OLANGO is a Successor in Interest to decedent
26 ALFRED OKWERA OLANGO and is entitled to bring certain causes of action herein alleged
27 pursuant to § 377.30 of the California Code of Civil Procedure. (Attached herein is a declaration
28 designating Plaintiff CHARE ROZIER-OLANGO as a Successor in Interest to decedent ALFRED
OKWERA OLANGO, furnished herewith pursuant to § 377.32 of the California Code of Civil
Procedure, and a true and correct copy of the death certificate for decedent ALFRED OKWERA
OLANGO, furnished herewith pursuant to § 377.32 of the California Code of Civil Procedure.)

1 5. Plaintiff HASANA COLLINS, a minor, is, and at all relevant times mentioned
2 herein was, a resident of the County of Harris and State of Texas. Plaintiff HASANA COLLINS is
3 the surviving biological daughter of decedent ALFRED OKWERA OLANGO. Plaintiff HASANA
4 COLLINS brings this action by and through her mother and Guardian Ad Litem, CELANESE
5 SMALL.

6 6. Plaintiff HASANA COLLINS is a Successor in Interest to decedent ALFRED
7 OKWERA OLANGO and is entitled to bring certain causes of action herein alleged pursuant to §
8 377.30 of the California Code of Civil Procedure. (Attached herein is a declaration designating
9 Plaintiff HASANA COLLINS as a Successor in Interest to decedent ALFRED OKWERA
10 OLANGO, furnished herewith pursuant to § 377.32 of the California Code of Civil Procedure, and
11 a true and correct copy of the death certificate for decedent ALFRED OKWERA OLANGO,
12 furnished herewith pursuant to § 377.32 of the California Code of Civil Procedure.)

13 7. Defendant CITY OF EL CAJON (hereinafter "CITY") is, and at all relevant times
14 mentioned herein was, a municipal entity or political subdivision of the United States, organized
15 and existing under the laws of the State of California.

16 8. Plaintiffs are informed and believe, and thereon allege, that Defendant OFFICER
17 RICHARD GONSALVES (hereinafter "OFFICER GONSALVES") is, and at all relevant times
18 mentioned herein was, a resident of the County of San Diego and State of California. Further, at
19 all times relevant to the acts and omissions herein alleged, Defendant OFFICER GONSALVES
20 was a police officer employed by the Defendant CITY and the El Cajon Police Department, and
21 was acting under color of state law and in the course and scope of his employment with the
22 Defendant CITY and the El Cajon Police Department.

23 9. Plaintiffs are informed and believe, and thereon allege, that the heretofore unknown
24 Defendant DOE Officers are, and at all relevant times mentioned herein were, residents of the
25 County of San Diego and State of California. Further, at all times relevant to the acts and
26 omissions herein alleged, said Defendant DOE Officers were police officers employed by the
27 Defendant CITY and the El Cajon Police Department, and were acting under color of state law
28 and in the course and scope of their employment with the Defendant CITY and the El Cajon
Police Department.

 10. On or around November 3, 2016, a timely Claim for Damages was submitted to the
City of El Cajon in substantial compliance with California Government Code § 910, et seq. As of
the date of the filing of this Complaint, said Claim has been denied. This matter was originally

1 filed on February 21, 2017 in the United States District Court, under case number 3:17-CV-00347-
2 JLS-BLM. On May 18, 2018, the Court Dismissed the claim asserted herein pursuant to Fed. R.
3 Civ. P. 41(a)(2), with instructions to file the within action in the instant venue.

4 11. Plaintiffs are unaware of the true names and capacities of those Defendants named
5 herein as DOE Defendants. Plaintiffs will amend this Complaint to allege said Defendants' true
6 names and capacities when that information becomes known to them. Plaintiffs are informed,
7 believe, and thereon allege that these DOE Defendants are legally responsible and liable for the
8 incident, injuries, and damages hereinafter set forth, and that each of said Defendants proximately
9 caused the injuries and damages by reason of negligent, careless, deliberately indifferent,
10 intentional, willful, or wanton misconduct, including the negligent, careless, deliberately
11 indifferent, intentional, willful, or wanton misconduct in creating and otherwise causing the
12 incidents, conditions, and circumstances hereinafter set forth, or by reason of direct or imputed
13 negligence or vicarious fault or breach of duty arising out of the matters herein alleged. Plaintiffs
14 will seek leave to amend this Complaint to set forth said true names and identities of the unknown
15 named DOE Defendants when they are ascertained.

16 12. Each of the individual Defendants sued herein is sued both in his individual and
17 personal capacity, as well as in his official capacity.

18 13. Plaintiffs are informed, believe, and thereon allege that at all times herein
19 mentioned, each of the Defendants was the agent and/or employee and/or co-conspirator of each
20 of the remaining Defendants, and in doing the things hereinafter alleged, was acting within the
21 scope of such agency, employment, and/or conspiracy and with the permission and consent of
22 other co-Defendants.

23 **FACTS COMMON TO ALL COUNTS**

24 14. This Complaint concerns a fatal officer-involved shooting incident that occurred
25 during the afternoon hours of Tuesday, September 27, 2016, in or around the 800 block of
26 Broadway in the City of El Cajon, County of San Diego, and State of California. Plaintiffs are
27 informed, believe, and thereupon allege that on the afternoon of September 27, 2016, Defendant
28 OFFICER GONSALVES, while acting under color of state law and in the course and scope of his
employment with the Defendant CITY and the El Cajon Police Department, responded to a
"5150" help call regarding an unarmed, mentally unwell man, later identified as decedent
ALFRED OKWERA OLANGO, who was reportedly behaving strangely and had been seen
walking into traffic.

1 15. At approximately 2:10 p.m. on Tuesday, September 27, 2016, Defendant OFFICER
2 GONSALVES, while acting under color of state law and in the course and scope of his
3 employment with the Defendant CITY and the El Cajon Police Department, contacted decedent
4 ALFRED OKWERA OLANGO in the 800 block of Broadway, negligently assessed the
5 circumstances presented to him, and violently confronted ALFRED OKWERA OLANGO by
6 approaching ALFRED OKWERA OLANGO with his firearm drawn and detaining ALFRED
OKWERA OLANGO at gunpoint.

7 16. Both prior to and during the time in which Defendant OFFICER GONSALVES
8 detained decedent ALFRED OKWERA OLANGO at gunpoint, ALFRED OKWERA OLANGO
9 was not armed with any kind of weapon and was not threatening any person. Both prior to and
10 during the time in which Defendant OFFICER GONSALVES detained ALFRED OKWERA
11 OLANGO at gunpoint, ALFRED OKWERA OLANGO had not committed and was not suspected
12 of having committed any felony offenses. Both prior to and during the time in which Defendant
13 OFFICER GONSALVES detained ALFRED OKWERA OLANGO at gunpoint, ALFRED
14 OKWERA OLANGO had not committed and was not suspected of having committed a criminal
15 offense involving the infliction or threatened infliction of injury or violence. Both prior to and
16 during the time in which Defendant OFFICER GONSALVES detained ALFRED OKWERA
17 OLANGO at gunpoint, ALFRED OKWERA OLANGO was simply walking around in a
18 driveway/parking lot area behind a local restaurant. At the time that Defendant OFFICER
19 GONSALVES first encountered ALFRED OKWERA OLANGO, it was or should have been
apparent to OFFICER GONSALVES that ALFRED OKWERA OLANGO was mentally unwell
and/or emotionally disturbed.

20 17. During the course of the detention of decedent ALFRED OKWERA OLANGO,
21 Defendant OFFICER GONSALVES continued to negligently assess the circumstances presented
22 to him and violently confront ALFRED OKWERA OLANGO. Then, without warning, Defendant
23 OFFICER GONSALVES proceeded to negligently discharge his department-issued firearm at the
24 person of ALFRED OKWERA OLANGO, inflicting multiple gunshot wounds, which proved to
25 be fatal. After surviving for an appreciable period of time following the shooting, ALFRED
26 OKWERA OLANGO died as a direct and proximate result of the gunshot wounds negligently
inflicted upon his person by Defendant OFFICER GONSALVES.

27 18. At no time during the course of these events did decedent ALFRED OKWERA
28 OLANGO pose any reasonable or credible threat of death or serious bodily injury to Defendant

1 OFFICER GONSALVES, nor did he do anything to justify the force used against him, and the
2 same was deadly, excessive, unnecessary, and unlawful. Both prior to and during the time in
3 which he was fatally shot, ALFRED OKWERA OLANGO was not armed with any kind of
4 weapon, and posed no reasonable or credible threat of death or serious bodily injury to Defendant
5 OFFICER GONSALVES, nor to any other individual. Both prior to and during the time in which
6 he was shot dead, ALFRED OKWERA OLANGO made no aggressive movements, no furtive
7 gestures, and no physical movements which would suggest to a reasonable police officer that he
8 was armed with any kind of weapon, or had the will, or the ability to inflict substantial bodily
9 harm against any individual. Both prior to and during the time in which Defendant OFFICER
10 GONSALVES shot and killed ALFRED OKWERA OLANGO, OFFICER GONSALVES, who
11 fired, was not faced with any circumstances which would have led a reasonable police officer to
12 believe that ALFRED OKWERA OLANGO posed the risk of death or serious bodily injury to any
13 person.

12 **FOR THE FIRST CAUSE OF ACTION**

13 **(By All Plaintiffs Against All Defendants for Wrongful Death [Cal. Government Code §§**
14 **815.2(a), 820(a)])**

15 **(Based on Negligence)**

16 19. Plaintiffs restate and incorporate by reference the foregoing paragraphs of this
17 Complaint as if set forth in full at this point.

18 20. All claims asserted herein against the Defendant CITY are presented pursuant to
19 the CITY's vicarious liability for acts and omissions of municipal employees undertaken in the
20 course and scope of their employment pursuant to California Government Code §§ 815.2(a) and
21 820(a).

22 21. Plaintiffs are informed, believe, and thereupon allege that on the afternoon of
23 September 27, 2016, Defendant OFFICER GONSALVES, while acting under color of state law
24 and in the course and scope of his employment with the Defendant CITY and the El Cajon Police
25 Department, responded to a "5150" help call regarding an unarmed, mentally unwell man, later
26 identified as decedent ALFRED OKWERA OLANGO, who was reportedly behaving strangely
27 and had been seen walking into traffic.

28 22. At approximately 2:10 p.m. on Tuesday, September 27, 2016, Defendant OFFICER
GONSALVES, while acting under color of state law and in the course and scope of his
employment with the Defendant CITY and the El Cajon Police Department, contacted decedent

1 ALFRED OKWERA OLANGO in the 800 block of Broadway, negligently assessed the
2 circumstances presented to him, and violently confronted ALFRED OKWERA OLANGO by
3 approaching ALFRED OKWERA OLANGO with his firearm drawn and detaining ALFRED
4 OKWERA OLANGO at gunpoint.

5 23. Both prior to and during the time in which Defendant OFFICER GONSALVES
6 detained decedent ALFRED OKWERA OLANGO at gunpoint, ALFRED OKWERA OLANGO
7 was not armed with any kind of weapon and was not threatening any person. Both prior to and
8 during the time in which Defendant OFFICER GONSALVES detained ALFRED OKWERA
9 OLANGO at gunpoint, ALFRED OKWERA OLANGO had not committed and was not suspected
10 of having committed any felony offenses. Both prior to and during the time in which Defendant
11 OFFICER GONSALVES detained ALFRED OKWERA OLANGO at gunpoint, ALFRED
12 OKWERA OLANGO had not committed and was not suspected of having committed a criminal
13 offense involving the infliction or threatened infliction of injury or violence. Both prior to and
14 during the time in which Defendant OFFICER GONSALVES detained ALFRED OKWERA
15 OLANGO at gunpoint, ALFRED OKWERA OLANGO was simply walking around in a
16 driveway/parking lot area behind a local restaurant. At the time that Defendant OFFICER
17 GONSALVES first encountered ALFRED OKWERA OLANGO, it was or should have been
18 apparent to OFFICER GONSALVES that ALFRED OKWERA OLANGO was mentally unwell
19 and/or emotionally disturbed.

20 24. During the course of the detention of decedent ALFRED OKWERA OLANGO,
21 and prior to the shooting of decedent, Defendant OFFICER GONSALVES continued to employ
22 negligent tactics, and without making any effort to reasonably use departmental resources and/or
23 formulate a tactically sound plan with any other officer, proceeded to negligently assess the
24 circumstances presented to him and violently confront ALFRED OKWERA OLANGO. Then,
25 without warning, Defendant OFFICER GONSALVES proceeded to negligently discharge his
26 department-issued firearm at the person of ALFRED OKWERA OLANGO, inflicting multiple
27 gunshot wounds, which proved to be fatal. After surviving for an appreciable period of time
28 following the shooting, ALFRED OKWERA OLANGO died as a direct and proximate result of
the gunshot wounds negligently inflicted upon his person by Defendant OFFICER GONSALVES.

25 25. At no time during the course of these events did decedent ALFRED OKWERA
26 OLANGO pose any reasonable or credible threat of death or serious bodily injury to Defendant
27 OFFICER GONSALVES, nor did he do anything to justify the force used against him, and the
28

1 same was deadly, excessive, unnecessary, and unlawful. Both prior to and during the time in
2 which he was fatally shot, ALFRED OKWERA OLANGO was not armed with any kind of
3 weapon, and posed no reasonable or credible threat of death or serious bodily injury to Defendant
4 OFFICER GONSALVES, nor to any other individual. Both prior to and during the time in which
5 he was shot dead, ALFRED OKWERA OLANGO made no aggressive movements, no furtive
6 gestures, and no physical movements which would suggest to a reasonable police officer that he
7 was armed with any kind of weapon, or had the will, or the ability to inflict substantial bodily
8 harm against any individual. Both prior to and during the time in which Defendant OFFICER
9 GONSALVES shot and killed ALFRED OKWERA OLANGO, OFFICER GONSALVES, who
10 fired, was not faced with any circumstances which would have led a reasonable police officer to
11 believe that ALFRED OKWERA OLANGO posed the risk of death or serious bodily injury to any
12 person.

11 26. Plaintiffs are informed and believe, and thereupon allege, that on and before
12 September 27, 2016, Defendant OFFICER GONSALVES had a duty to exercise the reasonable
13 and ordinary care which would be expected of similarly situated peace officers in the use of deadly
14 force, and had a duty to exercise the reasonable and ordinary care which would be expected of
15 similarly situated peace officers in the execution of police tactics and police procedures in
16 approaching and/or attempting to detain unarmed civilians and suspects who do not pose an
17 immediate threat of death or serious bodily injury to any person. Notwithstanding each of these
18 duties, Defendant OFFICER GONSALVES failed to exercise reasonable and ordinary care in
19 committing the acts alleged herein, by actions and inactions which include, but are not limited to,
20 negligently failing to utilize additional departmental resources during the detention of decedent
21 ALFRED OKWERA OLANGO, negligently failing to utilize available forms of cover and
22 concealment during the detention of ALFRED OKWERA OLANGO, negligently failing to
23 maintain a position of tactical advantage during the detention of ALFRED OKWERA OLANGO,
24 negligently failing to formulate a tactical plan that reflected tactically sound field contacts with
25 persons suffering from mental illnesses and/or mental impairments, negligently failing to
26 communicate and/or effectively communicate with other departmental personnel and resources
27 during the detention of ALFRED OKWERA OLANGO, negligently failing to utilize less lethal
28 force options and other alternatives less intrusive than deadly force during the detention of
ALFRED OKWERA OLANGO, negligently failing to deescalate the situation involving
ALFRED OKWERA OLANGO, negligently employing a tactical response to the situation

1 involving ALFRED OKWERA OLANGO that resulted in the unnecessary and preventable
2 shooting of ALFRED OKWERA OLANGO, negligently failing to determine the fact that
3 ALFRED OKWERA OLANGO was suffering from a mental illness and/or mental impairment,
4 and the fact that decedent was unarmed and posed no immediate threat of death or serious bodily
5 injury to any person when he was shot and killed, negligently inflicting physical injury upon
6 ALFRED OKWERA OLANGO, as described herein, and negligently employing deadly force
7 against ALFRED OKWERA OLANGO when the same was unnecessary and unlawful. All of
8 these negligent acts proximately caused ALFRED OKWERA OLANGO's death on September 27,
9 2016.

10 27. As a proximate result of the above-described conduct of the Defendants, and each
11 of them, decedent ALFRED OKWERA OLANGO was shot and killed on September 27, 2016.

12 28. As a direct and proximate result of the above-described conduct of the Defendants,
13 and each of them, and the ensuing death of decedent ALFRED OKWERA OLANGO, ALFRED
14 OKWERA OLANGO's heirs, the Plaintiffs herein, have sustained substantial economic and non-
15 economic damages resulting from the loss of the love, companionship, comfort, care, assistance,
16 protection, affection, society, moral support, training, guidance, services, earnings, and support of
17 ALFRED OKWERA OLANGO in an amount according to proof at trial.

18 29. As a further proximate result of the above-described conduct of the Defendants,
19 and each of them, and the ensuing death of decedent ALFRED OKWERA OLANGO, Plaintiffs
20 have incurred funeral and burial expenses in an amount according to proof at trial.

21 **WHEREFORE**, Plaintiffs pray for judgment against Defendants as follows:

- 22 1. For funeral and burial related expenses according to proof at trial;
- 23 2. For general and special damages in an amount according to proof at trial;
- 24 3. For costs of suit incurred herein;
- 25 4. For attorneys' fees incurred herein, as provided by law; and
- 26 5. For such other and further relief as the Court deems just and proper.

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JURY DEMAND

Plaintiffs hereby demand that a jury be impaneled for the trial of this matter.

DATED: July 16, 2018

Respectfully submitted,

THE COCHRAN FIRM CALIFORNIA

By: 

BRIAN T. DUNN

MEGAN R. GYONGYOS

Attorneys for Plaintiffs TAINA ROZIER and
CHARE ROZIER-OLANGO

DATED: July 16, 2018

Respectfully submitted,

THE SWEENEY FIRM

By: 

JOHN E. SWEENEY

Attorneys for Plaintiff HASANA COLLINS

CERTIFICATION OF VITAL RECORD

8052016195511

CERTIFICATE OF DEATH

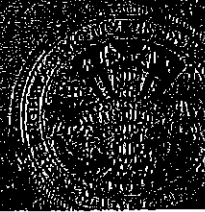
020163701614

11-17-91-1368028-0005718-016

STATE OF NEW YORK: ss. I, _____, County Clerk of the County of _____, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears from the records of said County.



1994年12月31日



DECLARATION OF TAINA ROZIER

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2 1. The decedent's name who is the subject of this action for wrongful death is
3 ALFRED OLANGO.

4 2. On September 27, 2016, ALFRED OLANGO was killed in an officer involved
5 shooting by an agent of the El Cajon Police Department occurring in or around the 800 block of
6 Broadway in the City of El Cajon, County of San Diego, State of California.

7 3. No proceeding is now pending in California for the administration of the
8 decedent's estate.

9 4. I am the decedent's successor in interest (as defined in Section 377.11 of the
10 California Code of Civil Procedure), and am authorized to act on behalf of the decedent's
11 successor in interest with respect to the decedent's interest in the within action.

12 5. No other person has a superior right to commence the action or proceeding or to
13 be substituted for the decedent in the pending action.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

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17 DATED: 02/20/2017

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TAINA ROZIER, declarant

DECLARATION OF CELANESE SMALL

1
2 1. The decedent's name who is the subject of this action for wrongful death is
3 ALFRED OLANGO.

4 2. On September 27, 2016, ALFRED OLANGO was killed in an officer involved
5 shooting by an agent of the El Cajon Police Department occurring in or around the 800 block of
6 Broadway in the City of El Cajon, County of San Diego, State of California.

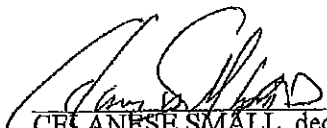
7 3. No proceeding is now pending in California for the administration of the
8 decedent's estate.

9 4. I am authorized to act on behalf of the decedent's successor in interest (as defined
10 in Section 377.11 of the California Code of Civil Procedure) with respect to the decedent's
11 interest in the within action.

12 5. No other person has a superior right to commence the action or proceeding or to
13 be substituted for the decedent in the pending action.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16
17 DATED: 2-2-17


18 _____
19 CELANESE SMALL, declarant
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