

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

CARMEN TREVINO, INDIVIDUALLY,	§	
AS REPRESENTATIVE OF THE	§	
ESTATE OF JOSE ROMAN	§	
RODRIGUEZ, DECEASED, AND ON	§	
BEHALF OF ALL THOSE ENTITLED	§	
TO RECOVER UNDER THE TEXAS	§	
WRONGFUL DEATH ACT FOR THE	§	
DEATH OF JOSE ROMAN	§	
RODRIGUEZ, NOEMI LONGORIA,	§	
AS NEXT FRIEND OF MINOR	§	
CHILDREN G.R.R. AND G.N.R., AND	§	
JOSE GUADALUPE RODRIGUEZ	§	
VEGA,	§	
PLAINTIFFS,	§	
VS.	§	CIVIL ACTION NO. 1:16-cv-262
ROLANDO TRUJILLO JR.,	§	
DEFENDANT.	§	

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs CARMEN TREVINO, Individually, as Representative of the Estate of Jose Roman Rodriguez, Deceased, and on behalf of all those entitled to recover under the Texas Wrongful Death Act for the death of Jose Roman Rodriguez and NOEMI LONGORIA, as Next Friend of Minor Children G.R.R. and G.N.R., complain of Defendant ROLANDO TRUJILLO JR., showing as follows:

I.
PARTIES

1. Plaintiff CARMEN TREVINO brings suit individually for the death of her son, Jose Roman Rodriguez, as Representative of the Estate of Jose Roman Rodriguez,

and on behalf of all those entitled to recover under the Texas Wrongful Death Act for the death of Jose Roman Rodriguez. Carmen Trevino is the surviving mother of Jose Roman Rodriguez. There is no need to administer the estate of Jose Roman Rodriguez, as the Estate held fewer than two debts and any assets of the Estate, namely any proceeds from this action, have been agreed to a division among the Estate's heirs through a Family Settlement Agreement. At all times relevant to this suit, Carmen Trevino and Jose Roman Rodriguez have been residents of the State of Texas.

2. Plaintiff NOEMI LONGORIA brings suit as Next Friend of Minor Children R.G.R and G.N.R. Minor Children R.G.R. and G.N.R. are the surviving children of Jose Roman Rodriguez, Deceased. At all times relevant to this suit, Noemi Longoria and Minor Children R.G.R. and G.N.R. have been residents of the State of Texas.

3. Defendant ROLANDO TRUJILLO JR. is an Officer with the Brownsville Police Department. He is sued in his individual capacity, as he was acting under the color of state law at all relevant times to this suit. Counsel for Rolando Trujillo Jr. has appeared and filed an Answer on his behalf. This Second Amended Complaint will be served upon his counsel of record.

II.

JURISDICTION and VENUE

4. As this case is brought pursuant to 42 U.S.C. § 1983, this Court has federal question subject matter jurisdiction, pursuant to 28 U.S.C. § 1331.

5. This Court has general personal jurisdiction over Defendant Rolando Trujillo Jr., as he resides and works in Brownsville, Cameron County, Texas.

6. This Court has specific *in personam* jurisdiction over Defendant, because this case arises out of conduct that occurred in Brownsville, Cameron County, Texas, and which caused the death of Jose Roman Rodriguez.

7. Venue is proper in the Southern District of Texas - Brownsville Division, pursuant to 28 U.S.C. § 1391(b), because a substantial portion of the events or omissions giving rise to Plaintiffs' claims occurred in Brownsville, Cameron County, Texas.

III. CONDITIONS PRECEDENT

8. All conditions precedent have been performed or have occurred.

IV. STATEMENT OF THE CASE

9. At approximately 2:06 am on July 17, 2015, Jose Roman Rodriguez sat in a waiting vehicle while Jaime Gomez entered a convenience store located at 1725 International Boulevard in Brownsville, Texas. Jaime Gomez, exhibiting no weapon, shoplifted three 18-packs of Bud Light beer and ran out of the store.¹ Mr. Rodriguez drove Mr. Gomez away from the scene. The store's clerk characterized the incident as a "routine beer run." Brownsville Police Department requested dispatch to the suspected Class C misdemeanor theft.

10. Defendant Rolando Trujillo Jr., a patrol officer with the Brownsville Police Department, responded to the convenience store and spoke to a clerk. The clerk, without fear or increased nerves, provided Officer Trujillo a description of the person

¹ Pursuant to the Texas Penal Code, theft of property with a value of less than \$100 is a Class C misdemeanor and can be enhanced by prior convictions only to a Class B misdemeanor. See TEX. PENAL CODE § 31.03(e)(1)&(e)(2)(B). A Class C misdemeanor is punishable only by a fine not to exceed \$500. See TEX. PENAL CODE § 12.23. A Class B misdemeanor is punishable by a fine of not more than \$2,000 and/or confinement in jail for a term of no more than 180 days. See TEX. PENAL CODE § 12.22.

involved who left the scene in a brown sports utility vehicle. At no time did the store clerk advise Officer Trujillo that the suspect exhibited a weapon at any time during the commission of the misdemeanor shoplifting.

11. At 2:09:06 am, Officer Trujillo encountered Mr. Rodriguez's brown sports utility vehicle at a red light at the intersection of US Highway 77 and East University Boulevard. As Mr. Rodriguez began a left-hand turn onto East University Boulevard, Officer Trujillo activated his siren for less than a second. With his overhead lights flashing, Officer Trujillo followed closely behind Mr. Rodriguez along East University Boulevard. Mr. Rodriguez proceeded at a speed slower than the flow of traffic, before safely pulling his vehicle over to the side of the roadway, approximately 900 feet from Officer Trujillo's initial siren.

12. As Officer Trujillo approached Mr. Rodriguez's stopped vehicle, Jaime Gomez, who met the clerk's description, exited the vehicle through the passenger door and fled towards a lit Veterans Plaza. Officer Trujillo's dash-cam video shows Officer Trujillo looking in the direction of the fleeing, unarmed and shoeless Jaime Gomez. Officer Trujillo calmly radioed to dispatch, "we've got one running." Officer Trujillo then shined his flashlight into Mr. Rodriguez's vehicle as he spoke to him through the driver's door. Officer Trujillo opened Mr. Rodriguez's driver's side door. With the car door open, Officer Trujillo holstered his flashlight and began a radio call via his portable radio.

13. Mr. Rodriguez then closed his car door and attempted to flee the traffic stop. Because Mr. Rodriguez mistakenly placed the vehicle in neutral instead of drive, his vehicle's engine revved but his vehicle did not immediately move. Officer Trujillo

unholstered his weapon and targeted Mr. Rodriguez. Mr. Rodriguez used his right hand to move the gearshift into drive, immediately thrusting the revving vehicle forward. 1.22 seconds after Mr. Rodriguez closed his car door in an attempt to evade arrest for a Class C Misdemeanor, Officer Trujillo fired four shots into a moving vehicle. Two bullets mortally wounded Mr. Rodriguez with projectile paths confirming Mr. Rodriguez was in a moving vehicle. His vehicle came to a slow stop approximately 100 feet away.

14. Exhibiting no signs of life, Mr. Rodriguez was removed from the vehicle and handcuffed before being taken to the emergency room. After failed life-reviving efforts, Mr. Rodriguez was pronounced dead gunshot wounds at 3:15 am - slightly more than one hour after the shooting. Dr. Elisabeth J. Miller, Cameron County Forensic Pathologist, determined Mr. Rodriguez's manner of death was homicide. The unreasonable, unnecessary, and excessive force used by Officer Trujillo caused Mr. Rodriguez's death.

15. No weapon was found inside Mr. Rodriguez's vehicle. Officer Trujillo never saw a deadly weapon inside Mr. Rodriguez's vehicle. Officer Trujillo never received information from Brownsville Police Department dispatch concerning a weapon. The convenience store clerk, calm and unnerved, never told Officer Trujillo the beer-run suspect Jaime Gomez displayed a weapon as he was shoplifting beer, exiting the store, or entering the Rodriguez vehicle. Officer Trujillo knew that he was pursuing an unarmed suspect on suspicion of committing a non-violent Class C Misdemeanor.

16. After Officer Trujillo activated his overhead flashing lights, Mr. Rodriguez drove slower than the flow of traffic and safely brought his vehicle to a stop along the side of the roadway. As he approached the Rodriguez vehicle, Officer Trujillo

witnessed an unarmed and shoeless Jaime Gomez running toward Veterans Plaza. When Officer Trujillo shined his flashlight into the Rodriguez vehicle, he confirmed Mr. Rodriguez was alone and unarmed. Because Mr. Rodriguez exhibited no behavior that would suggest an altercation, Officer Trujillo, with the situation seemingly under control, holstered his flashlight and began to radio dispatch.

17. Mr. Rodriguez closed his car door and attempted to leave the traffic stop. With Officer Trujillo standing three feet from the driver's door, there was no possibility of Mr. Rodriguez using his vehicle as a weapon against Officer Trujillo. Officer Trujillo was under no threat to serious bodily injury before deciding to apprehend a misdemeanor suspect with deadly force. Brownsville Police Department Sergeant Avitia, who was in charge of the scene, testified that Officer Trujillo was under no threat when Mr. Rodriguez began driving away from the traffic stop. Sergeant Avitia testified that Officer Trujillo was not justified in firing his weapon four times at a fleeing misdemeanor suspect.

18. Just minutes after the officer-involved shooting, Officer Trujillo provided Sergeant Avitia his version of the circumstances surrounding his shooting of the unarmed Mr. Rodriguez - Officer Trujillo told Sergeant Avitia that Mr. Rodriguez placed the vehicle in drive, then reached into the vehicle's center console. This is not true. He told Sergeant Avitia that when Mr. Rodriguez's hand moved into the console, he shot him. This is not true. Officer Trujillo eventually conceded, "no, that's not what happened" and his account to Sergeant Avitia was "not true."

19. Six days later, Officer Trujillo, with the assistance of his lawyer, created a more developed story. Specifically, Officer Trujillo suggests that Mr. Rodriguez placed

his hand in the center console, grabbed a weapon and pulled it toward Officer Trujillo. Officer Trujillo maintains he shot Mr. Rodriguez twice; then, Mr. Rodriguez placed his vehicle into drive gear and drove away. By his own admission, dash cam video disproves Officer Trujillo's account. Nonetheless, Officer Trujillo said he found a screwdriver in Mr. Rodriguez's center console. But, Officer Trujillo cannot explain how Mr. Rodriguez's hand can be in two places at once: thrusting a weapon at Officer Trujillo while using the same hand to move the gearshift into the drive gear. Nor can Officer Trujillo explain why a mortally wounded man would use his final seconds of life to gently replace a construction tool back into his center console.

20. Officer Trujillo admits that the version of events he relayed to Sergeant Avitia was erroneous because of the order of Mr. Rodriguez's actions and incomplete because he never told Sergeant Avitia about Mr. Rodriguez using a weapon (gun, screwdriver, or otherwise). Officer Trujillo rationalized these startling omissions by explaining that he talked to Sergeant Avitia **before** he searched the vehicle and found a screwdriver. This is not true. Dash cam footage from Officer Trujillo's police unit demonstrates the opposite: Officer Trujillo spoke to Sergeant Avitia **after** he searched the Rodriguez vehicle.

21. Six days following the officer-involved shooting was the very first time Officer Trujillo told any peace officer about a weapon of any kind. In fact, Officer Trujillo never mentioned a gun or a weapon of any kind to any member of the Brownsville Police Department. Of course, no gun was found. Instead, Officer Trujillo and his lawyer, told Texas Rangers investigators about a screwdriver that was found in Mr. Rodriguez's vehicle, along with other tools like a paint can opener and painter's tape.

Under oath, Officer Trujillo testified that he found a screwdriver in the vehicle's center console. He testified that he picked up the screwdriver and placed it back in the center console. He testified repeatedly that he did not move any objects found in the Rodriguez vehicle. He acknowledged that moving objects in a crime scene before Crime Scene Investigators arrived to document the scene would be contrary to his training. Sergeant Avitia testified that Officer Trujillo had no authority to enter the Rodriguez vehicle because it was a crime scene created by Officer Trujillo. Sergeant Avitia testified that it would be "highly improper" and "imprudent" to allow a potential defendant to enter his own crime scene to possibly disturb objects found within the crime scene. Of course, that's exactly what happened with the subject crime scene. Officer Trujillo entered the crime scene he created and disturbed objects found inside the Rodriguez vehicle.

22. Officer Trujillo repeatedly testified that he never moved any objects found inside the Rodriguez crime scene. This is not true. After reviewing photographs of objects in the driver's seat, Officer Trujillo changed his story: from unequivocally testifying that he didn't move any objects to "I don't remember moving anything" to "I don't recall" to it's "possible". Officer Alex Ortiz was the only other Brownsville Police Department officer to enter the crime scene and he clearly and credibly testified that he moved no objects. Officer Trujillo, with no authority to enter the crime scene he created, disturbed the crime scene by moving objects and placing them on the driver's seat. Despite testifying that he only picked up a screwdriver and placed it back in the console, the screwdriver, along with several other items, were found in the driver's seat.

23. Officer Trujillo admits that firing a weapon into the moving vehicle of a fleeing misdemeanor suspect is not a justified use of deadly force. Indeed, Sergeant

Avitia testified that when Mr. Rodriguez was leaving the scene in his vehicle, Mr. Rodriguez posed no threat to Officer Trujillo. Officer Trujillo agrees that without Mr. Rodriguez attempting to use deadly force against Officer Trujillo, he would not be justified in using deadly force against Mr. Rodriguez. Sergeant Avitia testified that Officer Trujillo's use of deadly force against Mr. Rodriguez was not justified. But, Officer Trujillo maintains that his use of force was justified because Mr. Rodriguez grabbed an object from the center console and pulled his right hand across his body while rotating his shoulders – a recreation of Officer Trujillo's suggested version of the truth is a ballistic impossibility. It was this movement, according to Officer Trujillo, that caused him to fear for his life. Dash cam video footage, the laws of physics, and general principals of common sense confirm Officer Trujillo's story is untrue.

24. Officer Trujillo testified that he fired his weapon twice at Mr. Rodriguez while the Rodriguez vehicle was stationary. This is not true. Officer Trujillo shot his first bullet **after** the vehicle was in motion. He testified that he fired his weapon twice more as the vehicle began moving away. This is not true – all four bullets were fired at a moving vehicle. Dash cam video footage contradicts Officer Trujillo's more developed story. .89 seconds after Mr. Rodriguez closed his car door, his vehicle moved forward. A quarter second later, Officer Trujillo fired four shots at Mr. Rodriguez.

25. Officer Trujillo eventually admitted that dash cam footage reveals that he shot Mr. Rodriguez **after** his vehicle began to move away from the traffic stop. Officer Trujillo admits that when Mr. Rodriguez began to move away from the scene in his vehicle, Mr. Rodriguez posed no threat to Officer Trujillo's safety. Sergeant Avitia testified that Officer Trujillo was not justified in using deadly force. Officer Trujillo

admits that his own dash cam footage contradicts his perception of the events. Officer Trujillo admits that according to the dash cam footage, he was not justified in using deadly force against Mr. Rodriguez.

26. Mr. Rodriguez closed his car door and attempted to place his vehicle in drive to flee the scene. Instead, Mr. Rodriguez mistakenly placed the vehicle in neutral, revving his engine. Mr. Rodriguez, with his right hand, then placed his vehicle into the drive gear and began to move away. From the time Mr. Rodriguez closed his car door until the time the vehicle began to move, .89 seconds elapsed – the precise amount of time it takes someone to place a vehicle in neutral (revving the engine), then the drive gear. All credible evidence leads to the conclusion that Mr. Rodriguez closed his car door, moved the gearshift to neutral, attempted to accelerated (revving the engine), moved the gear shift to drive, squealing the tires as the vehicle moved forward.

27. Officer Trujillo's story, told six days later, strains the imagination. Officer Trujillo maintains, in the span of 1.22 seconds, Mr. Rodriguez closed the car door, Officer Trujillo ordered Mr. Rodriguez to "turn off the car" and "exit the vehicle", Mr. Rodriguez leaned against his car door in an effort to strike Officer Trujillo, Officer Trujillo stepped back, Mr. Rodriguez, while looking at Officer Trujillo, placed his hand in the space between his car seat and the console, revved his engine (interpreted by Officer Trujillo as an attempt to flea the scene) and said "no pos no", Officer Trujillo actively targeted Mr. Rodriguez and ordered "salte de caro", Mr. Rodriguez looked at Officer Trujillo, then his duty weapon and said "pos nombre", Mr. Rodriguez opened the center console, placed his hand inside, grabbed a dull gray object and pulled his hand across his chest in Officer Trujillo's direction, Officer Trujillo bladed his body and shot

Mr. Rodriguez twice, Mr. Rodriguez placed his vehicle into drive and began to move away. Of course, 19 separate actions cannot occur within 1.22 seconds. Officer Trujillo is heard on his dash cam footage giving orders to a deceased Mr. Rodriguez after the shooting, but dash cam footage does not reflect Officer Trujillo giving commands to a living Mr. Rodriguez like “turn off the car”, “exit the vehicle”, nor “salte de caro”. Nothing from the dash cam footage suggests Mr. Rodriguez attempted to use his car door to strike Officer Trujillo. Although Officer Trujillo states that he stepped back, video footage shows Officer Trujillo stepping **toward** Mr. Rodriguez. Instead of “actively targeting” Mr. Rodriguez as Officer Trujillo suggests, dash cam footage clearly shows Officer Trujillo unholstering his duty weapon, thrusting it in Mr. Rodriguez’s direction and firing four times.

28. Officer Trujillo is “certain” that he fired the first two bullets at a stationary Mr. Rodriguez. This is not true. Dash cam footage irrefutably shows Officer Trujillo fired his weapon four times at a moving Rodriguez vehicle. Because Officer Trujillo knows and admits that firing all four bullets at a moving Rodriguez vehicle would be an unjustified use of force as Mr. Rodriguez posed no threat to Officer Trujillo’s safety, Officer Trujillo maintains that his “perception” was that the Rodriguez vehicle moved only after he fired two shots. His perception is contrary to reality - Officer Trujillo fired all four bullets into a moving vehicle, driven by an unarmed misdemeanor suspect.

29. Mr. Rodriguez never opened his center console. He never reached inside his center console. He never grabbed a dull gray object, and he never pulled any object across his chest in Officer Trujillo’s direction. Mr. Rodriguez never attempted to use deadly force against Officer Trujillo. Mr. Rodriguez, a misdemeanor suspect, attempted

to flee a lawful traffic stop - he closed his car door and attempted to place his vehicle in drive. After he mistakenly placing his vehicle into neutral, he accelerated, revving the engine, before moving the gearshift into drive. The revving vehicle caused a squeal of the tires before lurching the vehicle forward.

30. Officer Trujillo initiated a traffic stop to investigate a person he suspected of participating in a misdemeanor "routine beer run". From the time Officer Trujillo first effectuated his traffic stop until the time he fired four shots at Mr. Rodriguez, absolutely no cars passed the scene of the traffic stop. When Mr. Rodriguez began to drive away from the traffic stop, there were no other drivers in the vicinity of the traffic stop. Mr. Rodriguez drove away from the traffic stop at a speed slower than 25 miles per hour, before bringing his vehicle to a complete stop approximately 100 feet from the initial traffic stop. There is no indication that Mr. Rodriguez posed a threat of serious bodily injury to any member of the Brownsville Police Department or the public at large. Faced with no threat to his safety or to any others, Officer Trujillo made the unreasonable decision to apprehend a fleeing misdemeanor suspect with deadly force.

IV.

COUNT 1 - 42 U.S.C. § 1983: EXCESSIVE FORCE CLAIM AGAINST OFFICER TRUJILLO IN INDIVIDUAL CAPACITY

31. Plaintiffs incorporate by reference paragraphs 1 - 30.

32. Acting under color of state law, Defendant Officer Trujillo subjected Mr. Rodriguez to an unlawful seizure during the course of their encounter on July 17, 2015, which deprived Mr. Rodriguez of rights guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution. In the course of that unconstitutional seizure, Mr. Rodriguez suffered fatal gunshot wounds that resulted directly and only from

the use of a force that was clearly excessive to the need presented by the circumstances. Defendant Officer Trujillo's use of such force was not objectively reasonable; it was objectively unreasonable, unnecessary, and excessive given the circumstances that existed at the time of the shooting.

33. Defendant Officer Trujillo acted under the color of state law when he shot and killed Jose Roman Rodriguez, who posed no threat of serious bodily injury to Officer Trujillo, to any member of the Brownsville Police Department or to any member of the public. At the time Officer Trujillo initiated a traffic stop of Mr. Rodriguez's vehicle, he had no reason to suspect either Mr. Rodriguez or Mr. Gomez possessed a deadly weapon. Defendant Officer Trujillo knew only that a suspect had shoplifted beer from a nearby convenience store - a misdemeanor offense - and he knew that there was no report of a weapon used during that misdemeanor. Defendant Officer Trujillo also received no report from the Brownsville Police Department informing him that either suspect was dangerous. As Defendant Officer Trujillo approached the Rodriguez vehicle, he watched an unarmed Jaime Gomez exit the Rodriguez vehicle and flee into an open field. As Defendant Officer Trujillo shined his flashlight into Mr. Rodriguez's vehicle, Defendant Officer Trujillo saw no weapon in Mr. Rodriguez's possession nor located anywhere in the Rodriguez vehicle. Indeed, Jose Roman Rodriguez was unarmed when he attempted to flee in his vehicle.

34. Defendant Officer Trujillo was personally involved in the deprivation of Mr. Rodriguez's rights secured by the Constitution of the United States.

a. Specifically, at the time Defendant Officer Trujillo stopped the brown sports utility vehicle, Jose Roman Rodriguez possessed a Fourth Amendment right to be

free from unlawful seizure. Under the color of state law, Defendant Officer Trujillo unreasonably shot Mr. Rodriguez and caused Mr. Rodriguez's death, depriving him of his Fourth Amendment rights.

b. Additionally, at the time Defendant Officer Trujillo attempted to investigate a suspected misdemeanor, Jose Roman Rodriguez possessed a Fourteenth Amendment right of due process. By apprehending Mr. Rodriguez through the use of deadly force, Defendant Officer Trujillo deprived Mr. Rodriguez of his constitutionally protected right of life without due process. Defendant Officer Trujillo knew his actions would present a risk of serious bodily injury to Mr. Rodriguez but, with deliberate indifference to that risk, he fired four bullets at a fleeing unarmed misdemeanor suspect. Defendant Officer Trujillo's arrest by gunfire caused the death of Mr. Rodriguez, depriving him of his Fourteenth Amendment rights.

35. Defendant Officer Trujillo's actions were objectively unreasonable in light of the facts and circumstances confronting him at the time he pulled the trigger four times to arrest a fleeing unarmed misdemeanor suspect. With deliberate indifference, Defendant Officer Trujillo, under no threat of his safety, the safety of any member of the Brownsville Police Department or the public at large, shot and killed a fleeing, unarmed misdemeanor suspect.

36. Defendant Officer Trujillo was trained, supervised, and monitored by the Brownsville Police Department. At no time did Defendant Officer Trujillo receive training, instruction, or direction to shoot a non-dangerous fleeing suspect, particularly one who was unarmed and suspected of committing a non-violent misdemeanor. Mr. Rodriguez posed no risk of serious bodily harm to Officer Trujillo as he attempted to flee

the scene of the arrest. Additionally, as he attempted to flee the scene of a traffic stop, no evidence exists that suggests Mr. Rodriguez posed a threat of serious bodily harm to any other member of the Brownsville Police Department or to any member of the public at large.

37. As a direct and proximate result of Defendant Officer Trujillo's actions, Jose Roman Rodriguez suffered pain and mental anguish, before succumbing to his gunshot wounds. Additionally, Defendant Officer Trujillo's actions were a direct and proximate cause, or an affirmative link, of Jose Roman Rodriguez's death, depriving his surviving mother, father, and children of a life with their loving son and father, respectively.

38. Defendant Officer Trujillo acted willfully, deliberately, maliciously, or with reckless disregard for Mr. Rodriguez's established constitutional rights by firing his weapon four times at a fleeing, unarmed Jose Roman Rodriguez, hitting him twice, and causing his death.

V. DAMAGES

39. Plaintiffs incorporate by reference paragraphs 1 – 38.

40. Defendant Officer Trujillo deprived Jose Roman Rodriguez of his civil rights under the United States Constitution and under federal law. Defendant Officer Trujillo's actions resulted in the death of Jose Roman Rodriguez.

41. Carmen Trevino, as Representative of the Estate of Jose Roman Rodriguez, seeks monetary damages to compensate the Estate of Jose Roman Rodriguez for:

- physical pain and mental anguish suffered before he died,
- past medical expenses incurred before he died, and

- funeral and burial expenses.

42. As a result of Defendant's actions, Jose Roman Rodriguez's surviving mother, Carmen Trevino, and children, Minor Children R.G.R and G.N.R. seek monetary damages for:

- past and future medical expenses,
- past and future mental anguish, and
- past and future loss of companionship, society, services, and affection for the loss of their son and father, respectively.

43. As a result of Defendant's gross negligence, Plaintiffs seek punitive damages.

VI. ATTORNEYS FEES AND COSTS

44. Plaintiffs are entitled to an award of attorney's fees and litigation expenses under 42 U.S.C. § 1988(b).

VII. JURY DEMAND

45. Pursuant to Federal Rule of Civil Procedure 48, Plaintiffs hereby request a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Premises Considered, Plaintiffs pray that this cause proceed to trial before a jury, and that Plaintiffs recover a judgment against Defendant for actual damages in such amount as the evidence may show and the jury may determine to be proper, for punitive damages, for reasonable attorneys fees and litigation expenses, and that the Court award proper pre-judgment and post-judgment interest on the sums

awarded to Plaintiffs, along with all other and further relief, at law or in equity to which the Plaintiffs may show themselves to be justly entitled and deemed appropriate by the Court.

Dated: October 18, 2017

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 18th day of October 2017, with a copy of this document via the Court's CM/ECF system pursuant to Local Rule 5.1.

/s/ Guy Watts
GUY L. WATTS