

12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED
3/15/2022 11:50 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
17088741

ELIZABETH TOLEDO and)
MARCO TOLEDO, Individually and as)
Co-Independent Administrators of the)
Estate of ADAM TOLEDO, Deceased,)

Plaintiffs,)

vs.)

The CITY OF CHICAGO, Illinois,)
a Municipal Corporation and Chicago)
Police Officer, ERIC STILLMAN)
(#19277), Individually, and as Agent of)
CITY OF CHICAGO,)

Defendants.)

Case No. 2022 L 2022L002499

JURY TRIAL DEMANDED

Hearing Date: 5/17/2022 9:30 AM

COMPLAINT

PLAINTIFFS, ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Co-Independent Co-Administrators of the ESTATE OF ADAM TOLEDO, deceased, by and through their attorneys, WEISSORTIZ, P.C. & GRAYROBINSON, P.A., and complain against DEFENDANTS, CITY OF CHICAGO and CHICAGO POLICE OFFICER, ERIC STILLMAN (#19277), Individually and as agent of CITY OF CHICAGO, as follows:

INTRODUCTION

This action seeks to redress the significant physical, psychological, and emotional harm the Defendants caused ADAM Toledo and his family when, on March 29, 2021, Chicago Police Officer Eric STILLMAN chased, shot, and killed thirteen-year-old ADAM without justification.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action and personal jurisdiction over Defendants. 735 ILCS 5/2-209(a).

2. Venue is proper in Cook County because the causes of action accrued in Cook County, Illinois. 735 ILCS 5/2-101.

PARTIES

3. Prior to his death, ADAM Toledo (“ADAM”) was a resident of Chicago, Cook County, Illinois.

4. This suit is brought by ADAM’s parents, Elizabeth Toledo and Marco Toledo, individually and as the Co-Independent, Co-Administrators of the Estate of ADAM Toledo (“Plaintiffs”). Elizabeth Toledo and Marco Toledo are residents of Chicago, Cook County, Illinois.

5. Defendant CITY of Chicago (“CITY”) is an Illinois municipal corporation located in Cook County, Illinois. The CITY is organized into various departments, including the Chicago Police Department (“CPD”), its primary law enforcement agency. At all relevant times, the CITY exclusively operated CPD and employed police officers as its agents.

6. Defendant Eric STILLMAN (“STILLMAN”) was a police officer (#19277) employed by CPD during the relevant period.

FACTUAL ALLEGATIONS

A. THE DEATH OF ADAM TOLEDO

7. On March 29, 2021, at 2:35 A.M¹., ADAM was walking near the 2400 block of South Sawyer Avenue in Chicago with Ruben Roman (“Roman”), a twenty-one-year-old man. At

¹ All minute and second references are pursuant to the time stamps reflected on CPD generated footage and Axon Body Cameras.

2:36:14 a.m., ShotSpotter, a city mounted transmitter, which conducts audio surveillance, reported eight (8) gun shots in the vicinity.

8. At 2:38:20 A.M., STILLMAN and his partner, CPD Officer Corina Gallegos (“Gallegos”) arrived at the scene. The officers located ADAM and Roman near an alleyway, got out of their unmarked car, and immediately pursued the two on foot.

9. Within seconds, at 2:38:27 A.M., STILLMAN tackled Roman, who was then detained by Officer Gallegos. Contrary to the CPD February 2020 “Foot Pursuits Training Bulletin,” advisory, attached hereto as Exhibit A at 1, STILLMAN separated from his partner to continue his pursuit of ADAM.

10. STILLMAN, while in pursuit, unholstered his service weapon contrary to the advice provided in the CPD “Foot Pursuits Training Bulletin,” advisory attached hereto as Exhibit A at 4.

11. As instructed by STILLMAN, ADAM slowed down to surrender as he approached an opening in the alleyway fence. STILLMAN, however, failed to de-escalate the situation as required by the February 2020, CPD Use of Force Policy, III (B) (4), and by objectively reasonable police practices. Instead, STILLMAN shined a weapon-mounted strobe light at ADAM while simultaneously commanding ADAM to stop and show STILLMAN his hands. STILLMAN unreasonably failed to issue clear, direct commands that would have de-escalated and slowed down the situation.

[INTENTIONALLY LEFT BLANK]

12. ADAM complied: At 2:38:40 a.m., he stopped and immediately put his visibly empty hands in the air.



As ADAM turned and faced STILLMAN in the “surrender” position, STILLMAN shot ADAM once in the chest, causing ADAM to immediately collapse backwards.

13. After shooting ADAM, STILLMAN radioed for medical assistance but failed to immediately render adequate lifesaving aid. Instead, while ADAM laid on the ground bleeding out in agony, STILLMAN kneeled over him for more than one minute, and prior to initiating CPR failed to apply a chest seal in order to stop the flow of blood.

14. The Chicago Fire Department emergency medical technicians (“EMT”) took over the resuscitation attempts from CPD at 2:45:25 am. Their attempts at resuscitation were

unsuccessful and ADAM was declared dead by the Chicago Fire Department EMTs at 2:46 am. Subsequently, the Cook County Medical Examiner's office declared ADAM's death a homicide.

15. STILLMAN's use of deadly force was unjustified, excessive, and violated CPD's policy on the use of force, attached hereto as Exhibit B at 4, which prohibits officers from using deadly force on a fleeing person unless the person poses an imminent threat.

16. ADAM never posed an imminent threat of death or great bodily harm to STILLMAN or any other person. ADAM never brandished, pointed, or otherwise threatened STILLMAN with a firearm or any other weapon whatsoever. STILLMAN's conduct and use of excessive and deadly force was not objectively reasonable.

17. ADAM's death was the direct and proximate result of STILLMAN's intentional and deadly act of firing his service weapon, his willful, wanton, and reckless disregard for CPD policies/procedures, his duty to preserve the safety of ADAM and the community, and the basic sanctity of human life.

B. THE CITY'S OPERATION OF CPD

18. The CITY's well-documented, years-long failure to address deficiencies in CPD's policies and training on the use of force and foot pursuits led to ADAM's death.

19. On December 7, 2015, the United States Department of Justice ("DOJ") began investigating CPD's policies, training methods, and internal review processes related to officer use of force. In the January 2017 report entitled "Investigation of the Chicago Police Department," by the United States Department of Justice Civil Rights Division and United States Attorney's Office for the Northern District of Illinois², the DOJ found that:

- a. CPD officers engage in a pattern or practice of using force, including deadly force, that is unreasonable.

² Available at: <https://www.justice.gov/opa/file/925846/download>

- b. CPD's pattern or practice of unreasonable force includes shooting at fleeing suspects who present no immediate threat.
- c. CPD officers exhibit poor discipline in discharging weapons.
- d. CPD officers make tactical decisions that unnecessarily increase the risk of deadly encounters, including "reckless foot pursuits."
- e. This pattern is largely attributable to systemic deficiencies within CPD and the CITY. CPD has not provided officers with adequate guidance to understand how and when they may use force, or how to safely and effectively control and resolve encounters to reduce the need to use force.

20. In August 2017, the Illinois Attorney General sued the CITY based on these findings. Pursuant to a Consent Decree³ the parties negotiated in 2019, CPD agreed, among many other things, that:

- a. "Officers are required to de-escalate potential and ongoing use of force incidents whenever safe and feasible...."
- b. "CPD officers will allow individuals to voluntarily comply with lawful orders whenever safe and feasible (e.g., allowing individuals the opportunity to submit to arrest before force is used)."
- c. "CPD officers are prohibited from using deadly force against fleeing subjects who do not pose an imminent threat of death or great bodily harm to an officer or another person."

21. The court-appointed Independent Monitor tracking CPD's compliance with the Consent Decree found that between 2019 and 2020, the CITY reached some level of compliance with only 27% of the requirements of the agreement and missed 70% of the deadlines.⁴ The Illinois

³ See Illinois v. City of Chicago, Case No. 17-cv-6260, ECF No. 703-1 (N.D.Ill. Jan. 31, 2019).

⁴ See "Comments on the Second Independent Monitoring Report," Office of the Attorney General (June 5, 2020) at 2. Available at: <http://chicagopoliceconsentdecree.org/wp-content/uploads/2020/06/2020.06.05-OAG-Comments-to-the-Second-Monitoring-Report-FINAL.pdf>

Attorney General acknowledged that the CITY and CPD's efforts "failed to demonstrate a commitment to culture change in use of force and transparency."

22. For years, as noted in the DOJ's report, CITY officials have known that CPD's "officers engage in tactically unsound and unnecessary foot pursuits, and these foot pursuits too often end with officers unreasonably shooting someone—including unarmed individuals."

23. CPD has long had detailed policies regarding vehicle pursuits, however, did not have a formal foot pursuit policy. Additionally, CPD has not taken corrective action to address problematic foot pursuits. Despite having notice of the urgent need for a viable foot pursuit policy and meaningful training to reduce the number of incidents involving the unreasonable use of force against civilians, the CITY and CPD waited almost two months after ADAM's death to take action. See CPD General Order G03-07: Foot Pursuits, attached hereto as Exhibit C, at 1 (issued May 26, 2021).

24. But for the CITY's willful failure to timely implement an appropriate foot pursuit policy, and adequately train and supervise its police officers, ADAM would still be alive today.

25. ADAM left surviving him as his only heirs, Elizabeth Toledo (mother), Marco Toledo (father), Anthony Toledo, Andres Toledo, and Marco Toledo, Jr. (brothers), and Esmeralda Toledo (sister), each of whom has suffered injuries as a result of ADAM'S death, including, but not limited to, present and future grief, sorrow, mental and emotional pain and suffering, and the profound loss of ADAM's love, affection, care, attention, society, companionship, comfort, support, guidance and protection and other damages that would not have occurred, but for the unlawful conduct of Defendant STILLMAN. Plaintiffs are the duly appointed Independent Co-Administrators of the Estate of ADAM, and bring this action pursuant to all applicable laws,

including the Illinois Wrongful Death Act, 740 ILCS 180/1, and the Illinois Survival Act, 755 ILCS 5/27-6.

COUNT I
WRONGFUL DEATH-BATTERY

26. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 26 of Count I, as though fully set forth herein.

27. Plaintiffs bring this action pursuant to 740 ILCS 180/1 *et. seq.*, commonly known as the Illinois Wrongful Death Act.

28. Defendants intended to cause harmful and offensive contact to and with ADAM without his consent or legal justification.

29. Defendants knowingly made harmful and offensive contact with ADAM by fatally shooting him in the chest which caused his death.

30. Defendants contact with ADAM demonstrated an actual or deliberate intention to harm ADAM'S life, health, safety and well-being.

31. As the direct and proximate cause of the conduct described above, Defendants committed a battery upon ADAM as a result of which ADAM sustained severe and fatal injuries, including, but not limited to grave, painful, physical, mental and emotional injuries.

32. Defendants are liable to Plaintiffs pursuant to the Illinois Wrongful Death Act.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators of the ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall

deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT II
ILLINOIS SURVIVAL ACT CLAIM- BATTERY

33. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 33 of Count II, as though fully set forth herein.

34. Plaintiffs brings this action pursuant to 755 ILCS 5/27-6 *et. seq.*, commonly known as the Illinois Survival Act.

35. Defendants intended to cause harmful and offensive contact to and with ADAM without his consent or legal justification.

36. Defendants knowingly made harmful and offensive contact with ADAM by fatally shooting him in the chest which caused his death.

37. Defendants contact with ADAM demonstrated an actual or deliberate intention to harm ADAM'S life, health, safety and well-being.

38. As the direct and proximate cause of the conduct described above, Defendants committed a battery upon ADAM as a result of which ADAM sustained severe and fatal injuries, including, but not limited to grave, painful, physical, mental and emotional injuries prior to his death.

39. Defendants are liable to Plaintiffs pursuant to the Illinois Survival Act.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO**, Individually and as Independent Co-Administrators of the **ESTATE OF ADAM TOLEDO**, Deceased, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall

deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT III
WRONGFUL DEATH ACT - WILLFUL AND WANTON

40. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 40 of Count III, as though fully set forth herein.

41. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 740 ILCS 180/1 *et. seq.*, commonly known as the Illinois Wrongful Death Act.

42. At all times relevant, Defendants owed a duty to ADAM to exercise due care in his interaction with ADAM, and a duty to refrain from willful and wanton conduct in his interaction with ADAM.

43. At all times relevant, Defendants breached their duty to ADAM by acting in a willful and wanton, and/or in utter indifference and/or conscious disregard, for ADAM's life, safety and well-being in one or more of the following ways:

- a. Engaged in a reckless foot pursuit contrary to the advice of CPD training by (i) separating from his partner, and (ii) failing to keep his weapon holstered while chasing ADAM;
- b. Failed to utilize proper de-escalation techniques before using deadly force;
- c. Failed to issue proper verbal commands before using deadly force;
- d. Failed to allow ADAM to comply with orders before using deadly force;
- e. Failed to warn ADAM of the impending use of deadly force;
- f. Used deadly force without lawful justification;
- g. Failed to promptly and properly administer first aid after shooting ADAM;

- h. Discharged a service weapon in such a manner as to shoot ADAM;
- i. Discharged a service weapon in such a manner as to shoot ADAM without justification;
- j. Failed to use the level of force that was reasonable, necessary and proportional under the circumstances;
- k. Failed to exercise the proper level of force that was warranted under the circumstances;
- l. Failed to provide adequate medical care to ADAM after causing his injuries;
- m. Failed to summon paramedics in a timely fashion to administer medical treatment;
- n. Failed to provide the proper individual first aid kit equipment to STILLMAN;
- o. Failed to adequately train STILLMAN with regard to use of verbal commands and warnings, deadly force, excessive force, foot pursuits, strobe light use, de-escalation tactics, rendering proper first aid, use of verbal commands and warnings, including identifying himself as a law enforcement officer;
- p. Failed to modify deadly use of force despite ADAM'S compliance; and
- q. Engaged in other willful and wanton acts and omissions.

44. As the actual and proximate cause of Defendants willful and wanton conduct described above, ADAM sustained injuries including, but not limited to, a fatal gunshot wound to the chest, extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

45. ADAM's heirs have suffered and, in the future, will continue to suffer damages, including but not limited to pain and suffering, as the proximate result of the Defendants' willful and wanton acts and/or omissions.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO,** Individually and as Independent Co-Administrators of the **ESTATE OF ADAM TOLEDO,**

Deceased, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT IV
ILLINOIS SURVIVAL ACT- WILLFUL AND WANTON

46. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 46 of Count IV, as though fully set forth herein.

47. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 755 ILCS 5/27-6, commonly known as the Illinois Survival Statute.

48. At all times relevant, Defendants owed a duty to ADAM to exercise due care in his interaction with ADAM, and a duty to refrain from willful and wanton conduct in his interaction with ADAM.

49. At all times relevant, Defendants breached their duty to ADAM by acting in a willful and wanton, and/or in utter indifference and/or conscious disregard, for ADAM's life, safety and well-being in one or more of the ways, as set forth in paragraph 43, (a)-(q), *supra*, and adopted and incorporated as though fully set forth herein.

50. As the actual and proximate cause of Defendants willful and wanton conduct described above, ADAM sustained injuries including, but not limited to, a fatal gunshot wound to the chest, extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

51. ADAM's heirs have suffered and, in the future, will continue to suffer damages, including but not limited to pain and suffering, as the proximate result of the Defendants' willful and wanton acts and/or omissions.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators** of the **ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT V
WRONGFUL DEATH ACT - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

52. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 52 of Count V, as though fully set forth herein.

53. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 740 ILCS 180/1 *et. seq.*, commonly known as the Illinois Wrongful Death Act.

54. As described above, Defendants engaged in conduct that was extreme and outrageous.

55. Defendants intended to cause severe emotional distress or recklessly disregarded the probability that the conduct set forth in paragraph 43, (a)-(q), *supra*, and adopted and incorporated as though fully set forth herein, would cause ADAM to suffer severe emotional distress.

56. Defendants' conduct caused severe emotional distress to ADAM prior to his death.

57. As a further direct cause of Defendants' intentional or reckless conduct described above, ADAM sustained damages, including but not limited to, a fatal gunshot wound to the chest, extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO**, Individually and as Independent Co-Administrators of the **ESTATE OF ADAM TOLEDO**, Deceased, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT VI
ILLINOIS SURVIVAL STATUTE - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

58. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 58 of Count IV, as though fully set forth herein.

59. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 755 ILCS 5/27-6 commonly known as the Illinois Survival Statute.

60. As described above, Defendants engaged in conduct that was extreme and outrageous.

61. Defendants intended to cause severe emotional distress or recklessly disregarded the probability that the conduct set forth in paragraph 43, (a)-(q), supra, and adopted and incorporated as though fully set forth herein, would cause ADAM to suffer emotional distress.

62. Defendants' conduct caused severe emotional distress to ADAM prior to his death.

63. As a further direct cause of Defendants' intentional or reckless conduct described above, ADAM sustained damages, including but not limited to, a fatal gunshot wound to the chest, extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators of the ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT VII
ILLINOIS WRONGFUL DEATH ACT - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

64. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 64 of Count VII, as though fully set forth herein.

65. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 740 ILCS 180/1 *et. seq.*, commonly known as the Wrongful Death Act.

66. At all relevant times, Defendants owed a duty to avoid causing emotional distress to ADAM.

67. At the time and place herein alleged, Defendants breached their duty to ADAM by creating a foreseeable risk of physical injury to ADAM by subjecting him to physical impact or threat of impact. Defendants further breached their duty to ADAM by acting in a willful and wanton manner, and/or in utter indifference and/or conscious disregard, for ADAM's life, safety and well-being.

68. Defendants were willful and wanton in creating a risk of physical injury in one or more of the ways set forth in paragraph 43, (a)-(q), *supra*, and adopted and incorporated as though fully set forth herein.

69. Defendants' conduct was the actual and proximate cause of the physical injury which resulted in ADAM's death.

70. ADAM's heirs have suffered and, in the future, will continue to suffer damages, including but not limited to pain and suffering, as the proximate result of the Defendants' willful and wanton acts and/or omissions.

71. As the further direct and proximate cause of Defendants' willful and wanton conduct described above, ADAM sustained damages including, but not limited to, a fatal gunshot wound to the chest, and extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO** and **MARCO TOLEDO**, **Individually and as Independent Co-Administrators** of the **ESTATE OF ADAM TOLEDO**, Deceased, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT VIII
ILLINOIS SURVIVAL ACT - NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS

72. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 72 of Count VIII, as though fully set forth herein.

73. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 755 ILCS 5/27-6 755 *et. seq.*, commonly known as the Illinois Survival Statute.

74. At all relevant times, Defendants owed a duty to avoid causing emotional distress to ADAM.

75. At the time and place herein alleged, Defendants breached their duty to ADAM by creating a foreseeable risk of physical injury to ADAM by subjecting him to physical impact or threat of impact. Defendants further breached their duty to ADAM by acting in a willful and wanton, and/or in utter indifference and/or conscious disregard, for ADAM's life, safety and well-being.

76. Defendants were willful and wanton in creating a risk of physical injury in one or more of the ways set forth in paragraph 43, (a)-(q), *supra*, and adopted and incorporated as though fully set forth herein.

77. Defendants' conduct was the actual and proximate cause physical injury to ADAM, and his resulting death.

78. ADAM's heirs have suffered and, in the future, will continue to suffer damages, including but not limited to pain and suffering, as the proximate result of the Defendants' willful and wanton acts and/or omissions.

79. As the further direct and proximate cause of Defendants' willful and wanton conduct wanton conduct described above, ADAM sustained damages including, but not limited to, a fatal gunshot wound to the chest, extreme and excruciating pain and suffering, physical and emotional injuries, and death. ADAM would have been entitled to receive compensation from Defendants for these injuries had he survived. Further, ADAM'S estate was diminished by reason of expenses that were incurred.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators of the ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT IX
WRONGFUL DEATH ACT-FAILURE TO SUPERVISE AS TO CITY OF CHICAGO

80. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 80 of Count IX, as though fully set forth herein.

81. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 740 ILCS 180/1 *et. seq.*, commonly known as the Illinois Wrongful Death Act.

82. At all relevant times, the CITY, through its agents, had a duty to (1) properly supervise and adequately train its employees, including Defendant STILLMAN, and (2) prevent its employees from engaging in willful and wanton acts or omissions that would cause ADAM harm.

83. The CITY breached its duty by acting in a willful and wanton, and/or in utter indifference and/or conscious disregard, for ADAM's life, safety and well-being as follows:

a. Failed to address CPD's well-known of police officers use of unreasonable force, including deadly force on fleeing subjects who do not pose an imminent threat to an officer or another person;

b. Failed to abide by the terms of the 2019 Consent Decree as set forth in paragraph 20;

c. Failed to timely implement a formal and effective foot pursuit policy outlining appropriate use of force protocols;

d. Failed to adequately supervise and train its agents/employees, including but not limited to, the proper use of force during foot pursuits; and

e. Engaged in otherwise willful and wanton acts and/or omissions.

84. The CITY's willful and wanton conduct, by the acts and omissions of its agents, was the actual and proximate cause of ADAM's severe physical and emotional injuries, and pain and suffering, and his death.

85. ADAM left surviving him as his only heirs, Elizabeth Toledo (mother), Marco Toledo (father), Anthony Toledo, Andres Toledo, and Marco Toledo, Jr. (brothers), and Esmeralda Toledo (sister), each of whom have suffered, and will continue to suffer, pecuniary injuries as a result of ADAM's death, including damages for loss of society, present and future grief, sorrow, mental and emotional pain and suffering, and the profound loss of ADAM's love, affection, care,

attention, society, companionship, comfort, support, guidance, and protection, and other damages that they would not have suffered but for the CITY’s significant failures to supervise and train its employees.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators** of the **ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT X
ILLINOIS SURVIVAL ACT-FAILURE TO SUPERVISE AS TO CITY OF CHICAGO

86. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 86 of Count X, as though fully set forth herein.

87. Plaintiffs bring this action on behalf of the Estate of ADAM TOLEDO, Deceased, pursuant to 755 ILCS 5/27-6, commonly known as the Illinois Survival Statute.

88. At all relevant times, the CITY, through its agents, owed a duty to (1) properly supervise and adequately train its employees, including Defendant STILLMAN, and (2) prevent its employees from engaging in willful and wanton acts or omissions that would cause ADAM harm.

89. The CITY breached its duty by acting in a willful and wanton, and/or in utter indifference and/or conscious disregard, for ADAM’s life, safety and well-being as set forth in paragraph 82, (a)-(e), *supra*, and adopted and incorporated as though fully set forth herein.

90. The CITY’s willful and wanton conduct, by the acts and omissions of its agents,

was the actual and proximate cause of ADAM's severe physical and emotional injuries, and pain and suffering before his death.

91. ADAM left surviving him as his only heirs, Elizabeth Toledo (mother), Marco Toledo (father), Anthony Toledo, Andres Toledo, and Marco Toledo, Jr. (brothers), and Esmeralda Toledo (sister), each of whom have suffered, and will continue to suffer, pecuniary injuries as a result of ADAM's death, including damages for loss of society, present and future grief, sorrow, mental and emotional pain and suffering, and the profound loss of ADAM's love, affection, care, attention, society, companionship, comfort, support, guidance, and protection, and other damages that they would not have suffered but for the CITY's significant failures to supervise and train its employees.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators** of the **ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT XI
RESPONDEAT SUPERIOR

92. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 92 of Count XI, as if fully set forth herein.

93. At all relevant times, Defendant STILLMAN was acting within the scope of his employment as an agent or employee of the CITY of Chicago.

94. Defendant CITY of Chicago, in its capacity as a principal, is liable for the actions

of its agents under the doctrine of *respondeat superior*.

95. Should Defendant STILLMAN be found liable for the acts alleged herein, both STILLMAN and the CITY would be liable to Plaintiffs for any judgment obtained against Defendant STILLMAN.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO, Individually and as Independent Co-Administrators** of the **ESTATE OF ADAM TOLEDO, Deceased**, respectfully request that judgment be entered against Defendants **CITY OF CHICAGO & ERIC STILLMAN**, individually and as agent of CITY OF CHICAGO, in a sum in excess of the jurisdictional limits, and such other additional amounts as the jury and Court shall deem proper, as more fully set forth in Count XII, costs of said suit, and for any other relief this Court finds just and appropriate.

COUNT XII
INDEMNIFICATION CLAIM -745 ILCS 10/9-102 AS TO CTY OF CHICAGO

96. Plaintiffs adopt and incorporate paragraphs 1 through 25 as and for paragraph 96 of Count XII, as if fully set forth herein.

97. In the State of Illinois, by statute, public entities are required to pay any tort judgment for compensatory damages for which its employees are held liable while acting within the scope of their employment.

98. Defendant STILLMAN was acting within the scope of his employment when he caused the wrongful death of ADAM Toledo.

99. Defendant CITY is liable for those damages by statute as a matter of indemnification.

WHEREFORE, Plaintiffs, **ELIZABETH TOLEDO and MARCO TOLEDO**, as Independent Co-Administrators of the **ESTATE OF ADAM TOLEDO**, Deceased, respectfully request this Honorable Court enter the following judgment against Defendant **CITY OF CHICAGO**, on all the claims set forth above, and specifically:

A. That Defendants be required to pay Plaintiffs' general compensatory damages, including, but not limited to, damages for grief and emotional pain and suffering, loss of comfort, love, affection, support, protection and society, and all the economic loss that ADAM's heirs have suffered and will continue to suffer as a result of ADAM's death, in sums to be ascertained at a trial of this matter, but in any event exceeding the jurisdictional limits;

B. That Defendants be required to pay Plaintiffs' general compensatory damages for the physical and emotional pain and suffering endured by ADAM prior to his death, in sums to be ascertained at a trial of this matter, but in any event exceeding the jurisdictional limits;

C. That Defendants be required to pay Plaintiffs' special damages, including but not limited to expenses, and other computable damages, in sums to be ascertained at a trial of this matter;

D. That Plaintiffs be granted such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all counts so triable.

Respectfully submitted,
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