

DISTRICT COURT, JEFFERSON COUNTY  
STATE OF COLORADO  
500 Jefferson County Parkway  
District Attorney Building  
Golden, CO 80401

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THE ESTATE OF JOHN HURLEY, by and through personal  
representative Kathleen Boleyn; and  
KATHLEEN BOLEYN, individually,

Plaintiffs,

v.

Officer **KRAIG BROWNLOW**, in his individual capacity;  
Arvada Chief of Police **LINK STRATE**, in his individual capacity.

Defendants.

Case Number:

Div.:

Courtroom:

*Attorneys for the Plaintiffs:*

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**COMPLAINT AND JURY DEMAND**

Plaintiffs The Estate of John Hurley and Kathleen Boleyn, by and through their counsel, Matthew Cron, Siddhartha Rathod, Omeed Azmoudeh, and Crist Whitney of RATHOD | MOHAMEDBHAI LLC, allege as follows:

## Introduction

On June 21, 2021, John “Johnny” Hurley was shopping inside of a store in Olde Town Arvada when he heard gunshots ring out. Instead of worrying about self-preservation, Mr. Hurley sprang into action—he drew a concealed carry pistol, ran toward the active shooter, and stopped the threat. Mr. Hurley’s heroism saved countless lives that day, but it cost him his own.

Three Arvada Police Department (“APD”) officers were inside a police administrative office also in Olde Town Arvada when they too heard gunshots. Looking out the window of the front door, the APD officers observed and identified Ronald Troyke as the active shooter. Mr. Troyke, a heavy-set man, carried a long gun and wore a black short-sleeve shirt, a wide-brimmed hat, shorts, black boots, and white calf-high socks. Unlike Mr. Hurley, the three APD officers did not spring into action. Rather, they cowered inside, choosing self-preservation over defense of the civilian population.

After Mr. Hurley shot Mr. Troyke, he picked up the assault rifle and began removing the magazine to make the weapon safe. A civilian witness, Mark Wise, observed Mr. Hurley shoot Mr. Troyke, pick up the assault rifle, and “tak[e] the mag out” of the rifle. The threat, it seemed, was over.

But little did Mr. Hurley know, the APD officers were still watching from inside the administrative office. The APD officers had not seen Mr. Hurley shoot Mr. Troyke, and observed Mr. Hurley for the first time after he had picked up the assault rifle. APD Officer Kraig Brownlow later explained that he thought Mr. Hurley might have been the active shooter, but no reasonable person could mistake the two men because of their very different body types and clothing:



*Mr. Troyke on the left in black shirt; Mr. Hurley on the right in red shirt.*

For approximately eleven seconds, Officer Brownlow watched Mr. Hurley removing the magazine of the rifle while he holstered his own concealed carry pistol. Officer Brownlow had the time and opportunity to carefully assess Mr. Hurley's actions because Mr. Hurley was stationary, hunched over, had the rifle pointed down, was not making any verbal threats, and there were no third persons in the vicinity. Officer Brownlow considered whether to issue any warning. But instead, finally feeling safe enough to leave his place of hiding, Officer Brownlow opened the door and fatally shot Mr. Hurley from behind without providing any warning.

Officer Brownlow later explained that he made a deliberate and intentional choice not to provide Mr. Hurley with warning or command. But he made this deliberate choice despite knowing that Mr. Hurley was not the active shooter whom Officer Brownlow had earlier identified. And he made this choice despite the fact that no reasonable officer could have perceived a threat from Mr. Hurley's actions. Mr. Hurley's death was not the result of a misfortunate split-second judgment call gone wrong, but the result of a deliberate and unlawful use of deadly force.

Officer Brownlow's use of deadly force violated Mr. Hurley's rights under the Colorado Constitution to be "secure . . . from unreasonable searches and seizures." Colo. Const. art. II, § 7. Chief Link Strate also bears legal responsibility because he oversees and approves of Arvada's unlawful policies and training that led to Officer Brownlow's unconstitutional conduct. In addition to the constitutional claims, Officer Brownlow is also liable under state law for wrongful death.

## **II. JURISDICTION AND VENUE**

1. This lawsuit arises under the Colorado Constitution and laws of the State of Colorado and is brought pursuant to Colo. Rev. Stat. § 13-1-131 and C.R.S. § 13-21-201, *et seq.* Jurisdiction is conferred on this Court pursuant to Colo. Rev. Stat. § 13-1-124. Jurisdiction supporting Plaintiff Estate's claim for attorneys' fees and costs is conferred by Colo. Rev. Stat. § 13-21-131(3).

2. Venue is proper pursuant to C.R.C.P. 98(c), in that all the events and omissions alleged herein occurred within the Jefferson County Colorado.

3. The Court has jurisdiction over the claims asserted herein pursuant to Colo. Rev. Stat. § § 13-1-124, 13-21-131, and other applicable law.

## **III. PARTIES**

4. At all times mentioned herein, the decedent, John Hurley was a resident of and domiciled in the State of Colorado. Mr. Hurley was an unmarried adult without descendants.

5. At all times relevant to the subject matter of this litigation, Plaintiff Kathleen Boleyn was and is the personal representative of the Estate of John Hurley.

6. Plaintiff Boleyn is Mr. Hurley's mother. At all times relevant to the subject matter of this Complaint, Plaintiff Boleyn was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

7. At all times relevant to the subject matter of this litigation, Defendant Kraig Brownlow was a citizen of the United States and resident of Colorado. At all times relevant, Officer Brownlow was acting under color of state law in his capacity as a law enforcement officer employed by the APD.

8. At all times relevant to the subject matter of this litigation, Defendant Chief of Police Link Strate was a citizen of the United States and a resident of and domiciled in the State of Colorado. At all times relevant, Defendant Chief Strate was acting in his capacity as Chief of Police employed by the APD and was responsible for the oversight, supervision, discipline, and training of the officers employed by the APD.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Mr. Hurley's Life and Loss to His Family**

9. John Hurley was born on August 9, 1980.

10. Mr. Hurley grew up in Colorado Springs, Colorado. He graduated from Air Academy High School and from Cook Street School of Fine Cooking in Denver, Colorado.

11. As a young man, Mr. Hurley had developed a passion for skateboarding, music, movies, and spending time in the mountains where he loved to fish, hike, and camp. He was particularly close with his younger sister and involved her in many of his adventures.

12. As Mr. Hurley matured, he grew to be an avid music fan and eventually performed as a disc-jockey under the stage name of "Johnny Verbal."

13. Mr. Hurley was particularly fond of music that had a positive, inspiring, or encouraging message and would often attend events, such as the Community Sharefest, intended to spread these messages and improve the lives of all members of the community.

14. Mr. Hurley was an accomplished chef who worked at such places as the Rocky Mountain Commissary, Cavemen Chefs, All Love, and One for One. He specialized in preparing organic, non-GMO dishes, almost always for people in need.

15. Mr. Hurley believed deeply in helping the less fortunate and spreading good will, spending time helping the homeless outside of the Denver Mission and participating in the "Love Police" where he and others offered "Free Hugs and Free Smiles" on the 16th Street Mall. He worked parttime for American Samaritan furniture, which is a charitable organization that offers help with donating or acquiring furniture and pianos.

16. Throughout his life, Mr. Hurley maintained a close relationship with his immediate family and enjoyed a wide circle of friends.

17. Mr. Hurley was in Olde Town Arvada on June 21, 2021 because he happened to be shopping at the Arvada Army Navy Surplus store for camping supplies for an upcoming trip with his younger sister.

## **B. Ronald Troyke's Murderous Mission**

18. Ronald Troyke had a seemingly normal childhood in Illinois before moving to Colorado in the 1980s with his girlfriend for better weather and better outdoor recreation. His brother soon followed him to Colorado.

19. Mr. Troyke worked various blue-collar jobs and enjoyed outdoor recreation activities with his brother and girlfriend.

20. By 2015, Mr. Troyke's girlfriend had left him, his brother had developed MS and moved back to Illinois, and his father, with whom he had a very close relationship, had passed away. Mr. Troyke's employment had become sporadic at best.

21. During this period, Mr. Troyke became concerningly isolated, increasingly agitated, and depressed.

22. As his mental state deteriorated, Mr. Troyke developed a virulent hatred for the police.

23. After watching anti-police videos on a consistent basis, Mr. Troyke's hatred for the police came to a head on June 7, 2021, when he confronted Officer Brownlow, along with fellow APD Officers Sterling Boom and Michael Hall, while the three were making an arrest near the Arvada Library.

24. Mr. Troyke called them "terrible people" and "Sovereign Citizens," questioned why they did not wear body cameras, and otherwise groused about how he "lost respect" for the police.

25. In response, Officer Brownlow began to film Mr. Troyke and explained that the law permitted the search the arrestee's vehicle.

26. Following this incident, Mr. Troyke sent text messages indicating that the encounter had "set [him] on fire."

27. On June 21, 2021, the isolated and agitated Mr. Troyke decided it was time for him to take action.

28. To begin the day, Mr. Troyke called his sister and made several statements along the lines that "he can't do this no more" and "the police don't take me seriously."

29. As a result of the conversation, Mr. Troyke's sister called APD to request a welfare check, reporting Mr. Troyke's rising agitation with the police, his severe depression, the number of firearms he owned, and his alarming statements from that morning.

30. At 12:49 p.m., Officer Gordon Beesley was dispatched to Mr. Troyke's residence to complete the welfare check but was unsuccessful in locating him.

31. By that time, Mr. Troyke had already set out to Arvada's Olde Town Square in his pickup truck, armed to the teeth and planning to lure police officers into a lethal trap. Mr. Troyke wore a wide brimmed hat, a black balaclava over his face, a black short-sleeve shirt, shorts, white socks, and black boots.

32. Attempting to get passersby to contact the police, Mr. Troyke walked in circles around a fountain in the Square, made "weird noises" while approaching young women, and showed them a condom.

33. Unfortunately, Mr. Troyke's deadly plan worked, and someone called the police. Officer Beesley—the same officer who was dispatched to the welfare check just thirty minutes prior—was dispatched to the Square on reports of a suspicious person.

34. Shortly after, Officer Beesley walked westbound toward the Square, passing through a parking lot just north of the Arvada Library.



*Mr. Troyke (circled) exits his gray truck and begins following Officer Beesley (squared).*

35. Mr. Troyke parked his truck, exited his vehicle with a 12 gauge semi-automatic shotgun, and headed directly for Officer Beesley.

36. Mark Wise, an accountant, had just finished eating lunch with a co-worker and was walking eastbound in the same parking lot toward his car when he passed Mr. Troyke “shoulder to shoulder.”

37. Moments later, Mr. Wise heard Mr. Troyke exclaim, “Hey!” to get Officer Beesley’s attention.

38. As Officer Beesley turned around, Mr. Troyke fired at the defenseless officer, hitting him twice and killing him.

39. Mr. Troyke thereafter shot a few more rounds from his shotgun at parked police vehicles to the north, at nearby businesses, and in other unknown directions.



*Mr. Troyke raising his weapon toward Officer Beesley while Mr. Wise (squared) looks on.*

40. Following this succession of shots, Mr. Troyke walked briefly to the north then began walking eastbound back toward his truck.

41. Mr. Troyke put the shotgun into his truck and retrieved an AR-15 assault rifle. He then walked westbound through the parking lot back toward the Square.

**C. Mr. Hurley Stops Mr. Troyke before He Can Take More Life**

42. When Mr. Troyke fired his initial volley of shots, Mr. Hurley was shopping for camping supplies inside the Arvada Army Navy Surplus, just west of the Square across Old Wadsworth Boulevard.

43. Mr. Hurley immediately reacted to the shots, looked out the store’s front door, and pointed at Mr. Troyke.

44. An Army Navy Surplus employee heard Mr. Hurley say something along the lines of “he’s over there, the shooter is over there.”

45. Instead of concerning himself with self-preservation, Mr. Hurley hurried out the store, drew a concealed carry pistol from his waistband, and ran toward the shooter.

46. Pistol drawn, Mr. Hurley quickly walked in a low crouch eastbound toward the parking lot where he had last seen Mr. Troyke. Once he got about halfway across the Square, Mr. Hurley started running in order to reach a brick retaining wall adjacent to the parking lot.

47. An off-duty Jefferson County Deputy saw Mr. Hurley move across the Square “in a shooting stance” and thought he “might have been a task force type guy” given the way he was moving directly toward the threat.

48. A server at a nearby restaurant saw Mr. Hurley “chasing the shooter” and assumed he had “some sort of training” because of the way he jumped into action.

49. Once Mr. Hurley found cover behind the retaining wall, he spotted Mr. Wise who was hiding behind a parked car in the parking lot. Mr. Wise had been using the car as cover ever since the time he watched Mr. Troyke shoot Officer Beesley.

50. Mr. Wise also saw Mr. Hurley and later reported:

And I see, from [the west], a person in a – not dark but not white, so a colored shirt of some kind, like, in the red family . . . Running diagonally through that courtyard area . . . Weapon. H- handgun drawn, lowered, pointed down, in a, not a walk, not a run, but a crouched, very speedy, very purposeful walk. The reason, I – I mean, I made an instant decision that that was friend, not foe.

51. Mr. Hurley tried to get information from Mr. Wise using hand signals, but Mr. Wise “visually communicated” to Mr. Hurley, “I got nothin’. I can’t see him.”

52. With no actionable intelligence from Mr. Wise, Mr. Hurley peered around the corner of the retaining wall to locate Mr. Troyke.

53. At that moment, he saw Mr. Troyke returning westbound to the Square with an AR-15 rifle.

54. Mr. Hurley raised his pistol and began shooting at Mr. Troyke.

55. Mr. Hurley fired six rounds and hit Mr. Troyke five times.





*Mr. Hurley (squared) shoots Mr. Troyke five times. Officer Beesley on the ground.*

56. After he shot Mr. Troyke, Mr. Hurley picked up the AR-15 because Mr. Troyke was still alive, and the weapon thus presented a threat. Mr. Hurley began removing the magazine to make the weapon safe.

57. Mr. Hurley's actions were obvious to accountant Mr. Wise, who stated that he observed Mr. Hurley "tak[e] the mag out of" Mr. Troyke's rifle.

58. While Mr. Hurley unloaded the weapon, he held the rifle "pointing down."

59. Mr. Hurley was hunched over the rifle in a non-ready position.

60. Mr. Hurley was stationary.

61. Mr. Hurley's position was not consistent with what a reasonably trained officer would expect from an active shooter.



*Mr. Hurley (squared) hunched over while unloading the assault rifle*

#### **D. Officer Brownlow Unreasonably Ambushes Mr. Hurley with Deadly Force**

62. On the morning of June 21, 2021, Officers Brownlow, Boom, and Hall (the same three APD officers who had the heated verbal exchange with Mr. Troyke during an arrest two weeks prior) reported for duty at the APD administrative office just north of the Square.

63. The three officers were part of Arvada's Community Outreach Resource and Enforcement ("CORE") unit, which acts as a liaison between the APD and the community—for instance, members of the CORE unit patrol the Square on bicycles, perform outreach to the homeless community, and conduct safety briefings for local businesses.

64. CORE officers carry firearms. Officer Brownlow had a Glock 34 pistol.

65. Officer Brownlow had been an Arvada Police Officer for six and a half years on the date of this fatal incident.

66. Around 1:00 pm, the three CORE officers were eating lunch together inside the administrative office and chatting in a common area.

67. When they heard two quick successions of gunshots, the three officers huddled inside the building around a metal door with a window that looks east toward the parking lot north of the Arvada Library.

68. From their vantage point, the three officers recognized that there was an active shooter just outside of their building.

69. Officer Brownlow identified the shooter as a white man who was "wearing shorts so I saw his white legs . . . [and was wearing] a black hoodie with the hood on . . . holding a big fucking rifle."

70. While the other two officers spread out to different vantage points, Officer Brownlow continued watching Mr. Troyke through the door window.

71. When Mr. Troyke returned to his pickup truck to grab the AR-15, he walked out of Officer Brownlow's view.

72. Rather than step out of the building to keep track the shooter, Officer Brownlow thought to himself: "I don't have a rifle in here. We have handguns so we're kind of inside, still not really sure."

73. A few seconds later, Officer Brownlow saw Mr. Troyke returning westbound "carrying a rifle" toward the Square.

74. But again, Officer Brownlow (nor the other two APD officers) did not leave the safety of the administrative office and again "lost sight of [Mr. Troyke]."

75. About ten seconds later, Officer Brownlow heard another series of shots (Mr. Hurley shooting Mr. Troyke).

76. By this point, Officer Brownlow had backed up “eight or nine” feet away from the window.

77. Officer Brownlow then saw a man in “a red t-shirt” step into view.

78. Officer Brownlow carefully observed the man wearing the red t-shirt for approximately eleven seconds.

79. Officer Brownlow told CIRT investigators that he did not know who the “guy in red” was and speculated that the “guy in black ditched his hoodie.”

80. In addition to the different upper body clothing, Mr. Troyke was wearing shorts, whereas Mr. Hurley was clad in blue jeans.

81. Mr. Hurley also wore a baseball cap whereas Mr. Troyke wore a wide-brimmed hat. Mr. Hurley wore sneakers whereas Mr. Troyke wore black boots and white socks.

82. Mr. Hurley had a thin, athletic build, whereas Mr. Troyke was heavy-set.

83. Any reasonable officer would have known that Mr. Hurley and Mr. Troyke were different people.

84. Other law enforcement officers on the scene did not confuse the two men.

85. For example, Officer Boom told investigators that “I hate to say it but the guy in the red shirt is not the guy I saw with the AR15. The guy with the AR15 was wearing black . . . and my immediate thought was the shooter is still out there.”

86. Nor did Officer Brownlow have reason to believe that Mr. Hurley was an accomplice or a second shooter at the time he decided to use deadly force.

87. During his interview for the post-shooting investigation, all of Officer Brownlow’s statements and those that he attributed to other officers refer to the shooter in the singular.

88. For example, Officer Brownlow explained that he heard Officer Boom say something to the effect of, “Holy shit, there’s an active shooter.”

89. Officer Brownlow described that he saw “a guy in a black hoodie carrying a – a rifle [w]alking [] east. And I see him . . . .”

90. Based on his own statements to investigators, Officer Brownlow did not raise the

possibility of a second shooter until after he shot Mr. Hurley.

91. Immediately after Officer Brownlow shot Mr. Hurley, Officer Boom yelled at him to take cover.

92. Officer Brownlow explained that he understood Officer Boom's instruction to mean that "either the man in red was the man in black or there's another shooter."

93. Officer Brownlow had no reason to believe there was a second active shooter, nor did he consider that possibility until after he shot Mr. Hurley.

94. During his eleven seconds of observation, Officer Brownlow claimed that he saw Mr. Hurley "manipulating the [rifle] . . . reloading or clearing a jam or something."

95. However, Mr. Hurley was removing the magazine from the rifle, an action that was clearly discernible to lay witness Mark Wise.

96. Officer Brownlow also stated that he observed Mr. Hurley simultaneously trying to holster his handgun as he "manipulated" his weapon. Because Mr. Hurley was trying to "manipulate" the rifle while holstering his handgun, he was struggling with both tasks.

97. During these eleven seconds of observation, Mr. Hurley had the AR-15 pointing at the ground and never raised it.

98. During these eleven seconds of observation, Officer Brownlow saw that Mr. Hurley was hunched over in a 'non-ready' position as he 'manipulated' the weapon. An active shooter, in contrast, would likely have maintained their rifle in a ready-to-fire position while reloading or clearing a jam.

99. During these eleven seconds of observation, Officer Brownlow saw that Mr. Hurley was completely stationary. An active shooter would have likely been moving toward targets.

100. At the time he was shot and killed, Mr. Hurley's actions demonstrated that he had no intent to cause harm. Mr. Hurley was stationary, hunched over, unloading the AR-15 rifle (which was pointed down), while holstering his pistol. Furthermore, there were no third persons visible to Officer Brownlow so he could not have seen Mr. Hurley actively threatening anyone. Nor was Mr. Hurley making any verbal threats.

101. Officer Brownlow nevertheless determined that he needed to immediately eliminate the man in the red t-shirt without even providing a warning.

102. Notably, Officer Brownlow had remained inside the administrative office while Mr. Troyke had murdered Officer Beesley and sprayed bullets in the surrounding area.

103. Officer Brownlow engaged Mr. Hurley at the moment he did precisely because Officer Brownlow determined that he could do so safely, in light of Mr. Hurley's hunched-over and stationary position, his holstering of the pistol, and his 'manipulating' *i.e.*, unloading of the rifle.

104. Mr. Hurley did not react to Officer Brownlow opening the door of the administrative office.

105. With his service weapon out and pointed directly at Mr. Hurley's backside, Officer Brownlow considered whether to issue any commands.

106. Despite all the indicia that Mr. Hurley was not the "guy in black," nor was Mr. Hurley posing any immediate threat, Officer Brownlow made a calculated and intentional decision **not** to provide Mr. Hurley with a warning or command.

107. Crouched behind the parked car, Mr. Wise heard Officer Brownlow's final series of shots but did not know immediately who they struck. He later recounted (referring to Mr. Hurley as 'Good Sam'):

And just doing the math in my head, if 'Good Sam' is still there, officers would have engaged 'Good Sam' in dialogue – 'Put the gun down,' or, 'On your hands and knees,' or something to that effect. And there was none of that. It - it got real quiet.

108. Had Officer Brownlow attempted to resolve any of the incongruities in his observations, or had he reasonably assessed the level of threat, or had he announced his presence with a few short words, the Arvada community could have celebrated Mr. Hurley instead of mourning his loss.

#### **E. Chief Link Strate is Responsible for Arvada's Deficient Policies and Training**

109. Chief Link Strate is the highest-ranking police official in Arvada and responsible for Arvada's policies and training.

110. Chief Strate has approved a deadly force policy that is unconstitutional on its face.

111. Arvada's policy permits deadly force when an officer believes it necessary to defend himself or a third person from the "imminent use of deadly physical force."

112. However, Arvada's deadly force policy explains that "[i]mmminent does **not** mean immediate or instantaneous." (emphasis added)

113. The United States Supreme Court has held that a suspect **must** pose an **immediate** threat to an officer or others to justify deadly force. *Tennessee v. Garner*, 471 U.S. 1, 11 (1985) (emphasis added).

114. Accordingly, Arvada's deadly force policy lowers the threshold for when its officers may use deadly force. Contrary to the constitutional standard, Arvada officers may employ deadly force even when the suspect does not pose any immediate threat to the safety of the officers or others.

115. Under Chief Strate's guidance and approval, Arvada compounds its unlawful deadly force policy by training its officers not to provide verbal commands during any active shooter situation.

116. Whereas the Supreme Court has instructed that commands should be given "if feasible," Arvada trains its officers that commands should **never** be given in any active shooter scenario. Arvada thus unconstitutionally trains its officers not to make an individualized assessment in active shooter scenarios.

117. Arvada's unconstitutional policies and training, as approved by Chief Strate, contributed to the shooting death of Mr. Hurley.

118. Officer Brownlow used deadly force against Mr. Hurley even though he was not presenting an immediate threat to an officer or others.

119. Officer Brownlow decided not to issue a command or warning to Mr. Hurley, even though it was feasible, because he had been trained not to provide warnings in any active shooter scenario.

## **V. CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

#### **Colo. Const. Art. II, Section 7 — C.R.S. § 13-21-131 – Excessive Force (Plaintiff Estate of John Hurley Against Officer Brownlow and Chief Strate)**

120. Plaintiff Estate of John Hurley hereby incorporates all other paragraphs of this Complaint as if set forth herein.

121. Defendants Officer Brownlow and Chief Strate are "peace officers" under C.R.S. § 24-31-901(3) and therefore, subject to C.R.S. § 13-21-131.

122. Defendant Officer Brownlow, at all relevant times hereto, was acting under color of state law in his capacity as an Arvada law enforcement officer.

123. At the time of his death, Mr. Hurley had a protected interest under Colo. Const. Art. II, Section 7 to be secure in his person against unreasonable searches and seizures, including the use of deadly force.

124. Defendant Officer Brownlow unlawfully seized Mr. Hurley by the use of deadly force.

125. Officer Brownlow's use of deadly force without a warning or command was objectively unreasonable under the circumstances of this case.

126. At the time he was shot, Mr. Hurley did not present an immediate threat to officers or to others.

127. Officer Brownlow's use of deadly force against Mr. Hurley was unnecessary and unreasonable under the circumstances.

128. Defendant Brownlow's conduct, as described herein, was attended by circumstances of malice, or willful and wanton conduct, which he must have realized was dangerous, and/or he acted heedlessly and recklessly without regard to Mr. Hurley's constitutionally protected rights.

129. By failing to sufficiently train, supervise, and discipline Arvada officers regarding the proper use of force, and by approving unconstitutional policies, Defendant Chief of Police Link Strate caused Mr. Hurley to be subjected to a deprivation of his civil rights.

130. As a direct and proximate cause and consequence of Defendant Brownlow and Defendant Strate's unconstitutional acts and omissions, Plaintiff Estate of John Hurley suffered injuries, damages, and losses.

131. As a direct result of Defendant's unlawful actions described here, Plaintiff Estate of John Hurley suffered actual physical and emotional injuries.

**SECOND CLAIM FOR RELIEF**  
**Colo. Rev. Stat. § 13-21-201 *et seq.***  
**Battery Causing Wrongful Death**  
**(Plaintiff Boleyn against Officer Brownlow)**

132. Plaintiff Boleyn hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

133. Pursuant to Colo. Rev. Stat. §§ 24-10-105(1) and 24-10-118(2)(a), public employees are not immune under the Colorado Governmental Immunity Act ("CGIA") for willful or wanton acts or omissions.

134. Pursuant to the CGIA, Plaintiff Boleyn provided Defendants with timely notice of claim on December 10, 2021.

135. Officer Brownlow intentionally used force against Mr. Hurley with the intent to inflict harmful contact on Mr. Hurley, and such contact caused injury to Mr. Hurley, namely his death.

136. As described in detail above, the use of force against Mr. Hurley was not reasonable because the force was more than the amount of force that an officer in Brownlow's position would have reasonably believed necessary to protect himself or others from any risk of harm posed by Mr. Hurley.

137. Officer Brownlow's intentional infliction of physical harm upon Mr. Hurley, causing his death, was without legal authorization, privilege, or consent.

138. In using excessive force against Mr. Hurley, Officer Brownlow consciously disregarded a substantial and unjustifiable risk of danger of death or serious bodily injury to Mr. Hurley.

139. Officer Brownlow's willful and wanton conduct caused Mr. Hurley's death and Plaintiff Boleyn's damages.

140. Officer Brownlow's conduct was attended by circumstances of malice, or willful and wanton conduct, which he must have realized was dangerous, and/or he acted heedlessly and recklessly, without regard to the consequences to Mr. Hurley or his family.

141. Officer Brownlow's conduct constituted a felonious killing under C.R.S. §§ 13-21-203 and 15-11-803, in that his conduct caused the death of Mr. Hurley and that he consciously disregarded a substantial and unjustifiable risk that his conduct would cause the death of Mr. Hurley.

142. Plaintiff Boleyn, as the biological mother of Mr. Hurley, suffered and continues to suffer economic and non-economic damages due to Officer Brownlow's tortious conduct, including but not limited to economic damages for medical and funeral expenses and financial losses due to the financial benefits she would have reasonably expected to receive from Mr. Hurley had he lived, and non-economic damages for grief, loss of Mr. Hurley's companionship, impairment in the quality of her life, inconvenience, pain and suffering, extreme emotional stress, and all other damages as allowed under the Colorado Wrongful Death Act.

#### **RELIEF REQUESTED**

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in its favor, and against each Defendant, for the following relief:

1. All declaratory relief and injunctive relief, as appropriate;
2. Actual economic damages, including but not limited to lost earnings and medical related expenses, as established at trial;
3. Compensatory damages, including but limited to those for future pecuniary and non-pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses;



4. Punitive damages on all claims allowed by law and in an amount to be determined at trial;
5. Pre-judgment and post-judgment interest at the highest lawful rate;
6. The maximum tax-offset permitted by law;
7. Attorneys' fees and costs; and
8. Such further relief as justice requires, and any other relief as allowed by law.

**PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE**

DATED: June 22, 2022

RATHOD | MOHAMEDBHAI LLC



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