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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
CINCINNATI

JANE MCMULLEN,
ADMINISTRATOR OF THE ESTATE OF
SHIRLEY T. ANDREWS, DECEASED
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

Case No. **1:07 CV 172**

and

WEBER, J.

JANE MCMULLEN
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

Judge _____

and

MACK A. ANDREWS
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

COMPLAINT
(Jury Demand Endorsed Hereon)

and

RICHARD L. ANDREWS
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

and

ROBERT L. ANDREWS
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

and

VALERIE D. SHANK-ANDREWS
c/o Kenneth L. Lawson & Associates, LPA
1008 Race Street, 2nd Floor
Cincinnati, Ohio 45202

Plaintiffs

II. JURISDICTION AND VENUE

4. This action is being filed pursuant to 42 U.S.C. § 1983 to redress injuries suffered by Plaintiffs for deprivations under color of state law of rights secured by the Fourth and Fourteenth Amendments to the United States Constitution.

5. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction of the state law claims pursuant to 28 U.S.C. § 1367.

6. Venue in the United States District Court, Southern District of Ohio, Western Division, at Cincinnati is proper pursuant to 28 U.S.C. § 1391. Additionally, Plaintiffs bring their state statutory and tort claims against the individual Defendants pursuant to Ohio law.

III. PARTIES

7. Plaintiff Jane McMullen is a resident of Cincinnati, Ohio and is the Administrator of the Estate of Shirley T. Andrews. Ms. McMullen is an African American. Mrs. Andrews was an African American. Ms. McMullen brings the civil rights action on behalf of the Estate of Shirley T. Andrews, and the wrongful death action on behalf of herself as Mrs. Andrews's daughter, and on behalf of Mrs. Andrews's other children: Mack A. Andrews, Richard L. Andrews, Robert L. Andrews, and Valerie D. Shank-Andrews.

8. Plaintiff Mack A. Andrews is a resident of Cincinnati, Ohio. He is an African American.

9. Plaintiff Richard L. Andrews is a resident of Chicago, Illinois. He is an African American.

10. Plaintiff Robert L. Andrews is a resident of Cincinnati, Ohio. He is an African American.

11. Plaintiff Valerie D. Shank-Andrews is a resident of Cincinnati, Ohio. She is an African American.

12. Defendant City of Cincinnati is a municipal corporation organized and existing under the laws of the State of Ohio. Cincinnati has the power to sue and be sued. At all times relevant to this action the City of Cincinnati employed, controlled or had the right to control Defendants John and Jane Does 1-10. At all times throughout this Complaint, it is alleged and reincorporated, that Defendants John and Jane Does 1-10's action of tazing and killing Mrs. Andrews was part of a continuing pattern of civil rights abuses by City of Cincinnati police officers against persons who live within the City. It is further alleged that the pattern of abuses result from the Defendant City's deliberate conduct in establishing policy and custom that encourages and acquiesces in Fourth and Fourteenth Amendment rights violations. In addition, Defendant police officers' action of tazing and killing Mrs. Andrews was a direct result of the deliberate indifference on the City's part in failing to adequately train, supervise and discipline police officers.

13. Defendants John and Jane Does 1-10 are unidentified members of the Cincinnati Police Department who acted in concert with other law enforcement officers to deprive Plaintiffs of their civil rights.

IV. FACTS

14. On or about February 24, 2005, Shirley Andrews was at home taking a shower.

15. Upon information and belief, someone from the group home that Mrs. Andrews lived at called the Cincinnati Police Department and asked them to respond to the site.

16. Mrs. Andrews was committing no crime.

17. Upon information and belief, the Cincinnati Police officers who responded were told that Mrs. Andrews was mentally impaired.

18. The Cincinnati Police officers entered the bathroom where Mrs. Andrews was completely naked and taking a shower and accosted her, pulled out their TASER GUNS, and, for no reason whatsoever, discharged multiple five-second blasts of 50,000 volts of electricity into her wet body.

19. After the Cincinnati Police officers humiliated, assaulted, and tazed Mrs. Andrews, they arrested her and charged her with felonious assault.

20. Mrs. Andrews died in the Hamilton County jail on March 3, 2005.

V. FIRST CLAIM AGAINST ALL DEFENDANTS

21. Plaintiffs incorporates each and every allegation of the Complaint and further states as follows:

22. The City of Cincinnati failed to provide proper training for their police officers, thereby resulting in the violation of Plaintiffs constitutional rights as described herein.

23. The City of Cincinnati failed to promulgate policies, plans and procedures designed to protect the civil rights of citizens, thereby resulting in violations of Plaintiffs' constitutional rights as described herein.

24. On the contrary, the City of Cincinnati has a custom, policy, and practice where officers are allowed and encouraged to taze unarmed, nonviolent citizens without penalty.

25. The City of Cincinnati has a custom, policy, and practice where police officers are allowed to falsely accuse citizens of breaking the law and then proceed to violate the citizen's Fourth Amendment right to be free from unreasonable searches and seizures, and false arrest.

26. The City of Cincinnati has a custom, policy, and practice where police officers are allowed to falsely accuse citizens of breaking the law and then proceed to falsely arrest and maliciously prosecute them.

27. Plaintiff is entitled to declaratory relief that such customs, policies and practices by the City of Cincinnati are unconstitutional and must cease.

28. Upon information and belief, because of the unconstitutional customs, policies and practices of the City of Cincinnati, officers have repeatedly violated citizen's rights to be free from unreasonable searches and seizures, false arrest and other violations as outline above knowing that the City of Cincinnati will assist them in covering up these violations. Officers also know that the City of Cincinnati will not properly discipline officers who violate citizen's constitutional rights, like the case described herein.

VI. SECOND CLAIM AGAINST THE CITY OF CINCINNATI: MUNICIPAL LIABILITY

29. Plaintiff incorporates each and every allegation of the Complaint and further states as follows:

30. The City of Cincinnati's Use of Force Policy places the use of potentially-deadly Tasers at the lowest level of the use of force continuum and encourages, sanctions, and authorizes police officers to use Tasers on unarmed, nonviolent individuals.

31. The City of Cincinnati has a policy, practice and custom of teaching police officers to taze people for any reason or no reason at all.

32. The City of Cincinnati's Use of Force Policy, along with the City's policy, practice and custom of teaching police officers to taze people for any reason or no reason at all, resulted in Plaintiffs being assaulted and tazed by Defendants Dennis Zucker, Jeffery Zucker, and Thomas Haas.

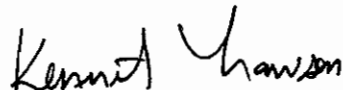
33. As a direct result of the City's policies, practices, and customs, Plaintiffs were seriously injured.

XIV. PRAYER AND RELIEF

Wherefore, Plaintiffs respectfully request that this Court:

1. Assume jurisdiction of this action;
2. Declare the Defendants' actions violate the Constitution and Laws of the United States and the Constitution and Laws of the State of Ohio;
3. Enter judgment against the Defendants in favor of the Plaintiffs;
4. Award to Plaintiffs compensatory damages in an amount to be determined at trial, jointly and severally against Defendants for the matters alleged in the Complaint;
5. Award the Plaintiff punitive damages in an amount to be determined at trial, jointly and severally against all Defendants;
6. Award Plaintiff all costs incurred in the prosecution of this action, including reasonable attorney fees under 42 U.S.C. § 1988 and other statutes, and;
7. Enter such other relief as the Court deems just and proper.

Respectfully submitted,



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JURY DEMAND

Plaintiffs demands a trial by jury on all issues.