

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

SHAWN R. HAKE and CYNTHIA L. LOYA,
Personal representatives of the
ESTATE OF SEAN MARIE HAKE,

Plaintiff,

NO.

v.

JUDGE:

CITY OF SHARON POLICE DEPARTMENT;
JOHN DOE NUMBER 1, in his capacity
As a police officer of Sharon Police Department
and in his individual capacity;
JOHN DOE NUMBER 2, in his capacity
As a police officer of Sharon Police Department
and in his individual capacity;
JOHN DOE NUMBER 3, in his capacity
As a police officer of Sharon Police Department
and in his individual capacity;

Defendants.

CIVIL COMPLAINT

Filed on behalf of Plaintiff:

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JURY TRIAL DEMANDED

PARTIES

1. Plaintiff-Decedent, Sean Marie Hake, (hereinafter “decedent”) was an adult individual residing in Sharon, Pennsylvania. The within action is brought by Shawn R. Hake and Cynthia L. Loya, personal representatives of the Estate of Sean Marie Hake.

2. Defendant, John Doe Number 1, (hereinafter "John Doe No. 1") at all times relevant to this matter, was a duly appointed law enforcement officer acting in such capacity as an agent, servant and/or employee of City of Sharon municipality. He is sued individually as a private citizen and in his official capacity.

3. Defendant, John Doe Number 2, (hereinafter "John Doe No. 2") at all times relevant to this matter, was a duly appointed law enforcement officer acting in such capacity as an agent, servant and/or employee of City of Sharon municipality. He is sued individually as a private citizen and in his official capacity.

4. Defendant, John Doe Number 3, (hereinafter "John Doe No. 3") at all times relevant to this matter, was a duly appointed law enforcement officer acting in such capacity as an agent, servant and/or employee of City of Sharon municipality. He is sued individually as a private citizen and in his official capacity.

5. Defendant, CITY OF SHARON POLICE DEPARTMENT, (hereinafter "Sharon Police Department") at all times relevant to this matter, organized and existing under the laws of the Commonwealth of Pennsylvania, authorized to and maintaining a police force to provide protection and law enforcement to the citizens of the township and as such conducts business in the said in the County of Mercer, Commonwealth of Pennsylvania, and at all times relevant hereto was the employer of Defendants John Doe No. 1, John Doe No. 2, and John Doe No. 3, as police officers.

6. At all times relevant hereto, the Defendants, John Doe No. 1, John Doe No. 2, and John Doe No. 3, were acting under color of law pursuant to their authority and grants of power under the United States Constitution and statutes of the Commonwealth of Pennsylvania and under color of their authority as law enforcement officers/employees of the Defendant, Sharon Police Department. Alternatively, at all times relevant hereto, Defendants John Doe No. 1, John Doe, No. 2, and John Doe No. 3 were acting as private citizens outside the scope of their duties as law enforcement officers/employees of the Defendant, Sharon Police Department.

7. For purposes of all asserted constitutional civil rights violations alleged in Plaintiff's Complaint, this action is brought against the Defendants, John Doe No. 1, John Doe No. 2, and John Doe No. 3 individually and in their official capacity as law enforcement officers/employees for the Sharon Police Department. Alternatively, for all non-constitutional civil rights violations brought under pendent state law, said Defendants, John Doe No. 1, John Doe No. 2, and John Doe No. 3 were acting as private citizens outside the scope of their duties as law enforcement officers/employees of the Sharon Police Department.

JURISDICTION

8. The right to bring this action is conferred upon the Plaintiff by virtue of operation of the following statutes:

- a. The *Federal Civil Rights Acts*, 42 U.S.C. §§ 1981, 1983, 1985, 1986 and the Amendments to the United States Constitution, including the First, Fourth, and Fourteenth Amendments;

STATEMENT OF FACTS

9. The events herein complained of occurred on or about January 6, 2017, in the City of Sharon, Mercer County Pennsylvania.

10. On January 6, 2017, at approximately 11:45 PM, Decedent's Mother, Cynthia L. Loya, called 911 to report a domestic in her home located at 369 Tamplin Street in Sharon, Pennsylvania. Decedent daughter was 23 years of age and resided at the Tamplin Street residence with her parents.

11. At approximately 11:48 PM, Defendants John Doe No. 1, John Doe No. 2, and John Doe No. 3 of the Sharon Police Department responded to the domestic 911 call and arrived at 369 Tamplin Street, Sharon Pennsylvania.

12. Upon arrival, John Doe No. 1, John Doe No. 2, and John Doe No. 3 encountered Decedent's Mother, Cynthia Loya who met police officers near her home. Decedent's Mother entered her home with officers and tried to locate her daughter, Sean. The three defendant officers eventually walked to the rear of the residence and discovered Decedent sitting in the driver's seat of a parked vehicle behind the home.

13. Decedent was well known to defendants as a person with mental health issues and had been involuntarily committed in the past due to suicidal ideations and attempts to harm herself by inflicting wounds on her body.

14. Defendants told her to exit the vehicle.

15. Decedent at some point did exit the vehicle.

16. Defendants did not attempt to use reasonable means to extract Decedent from the parked vehicle or arrest the Decedent.

17. At some point a defendant officer drew his gun and shot at Decedent Sean Marie Hake three times in the chest area, which resulted in her death. It is not known which officer fired his service weapon, but for the purposes herein it is believed that the same officer fired three shots from his service weapon.

16. Defendants John Doe No. 1, John Doe No. 2, and John Doe No. 3, used unreasonable, excessive, illegal, and unjustified force against Decedent without provocation or acting in self-defense and for the purposes herein acted both individually and in concert in killing Decedent Sean Marie Hake.

18. By taking these actions of unreasonable force, as described above, Defendants directly violated the rules, regulations, and policies of the Sharon Police Department regarding the use of force.

19. As a direct and proximate result of the above described unlawful and malicious acts of the Defendants, all committed under the color of their authority as Sharon Police Department officers and/or in their individual capacity, Decedent was shot to death, all of which is in violation of her rights under the Constitution of the United States, in particular the First, Fourth, and Fourteenth Amendments thereof and 42 U.S.C. sections 1981, 1983, 1985(3) and 1986.

20. As a further result of the above described acts, Decedent was deprived of rights and immunities secured to her under the Constitution and laws of the United States and of the Commonwealth of Pennsylvania including, but not limited to, her rights under the Fourth and Fourteenth Amendments to be secure in her person, to be free from punishment without due process, and to equal protection of the laws.

21. The infliction of physical harm by John Doe No. 1, John Doe No. 2, and John Doe No. 3, was carried out negligently, willfully, wantonly, maliciously and with such reckless

disregard of the consequences as to reveal a conscious indifference to the clear risk of serious bodily injury or death.

COUNT 1

VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983

Plaintiff v. John Doe No. 1 (Excessive Force)

22. Plaintiff incorporates by reference paragraphs one to twenty-one of this Complaint.

23. At no time was the Defendant John Doe No. 1, reasonably in fear of his life or acting in self-defense.

24. Defendant John Doe No. 1 used unreasonable, excessive, illegal, and unjustified force against the Decedent without provocation or acting in self-defense.

25. By taking these actions of unreasonable force, as described above, Defendant John Doe No. 1 directly violated the rules, regulations, and policies of Sharon Police Department regarding the use of force.

26. Defendant Sharon Police Department through its police department policy makers, including its chief of police, failed to promulgate and/or enforce, and Defendant John Doe No. 1 failed to comply with, the appropriate standards and procedures for use of force in seizing and detaining citizens, and the use of physical force.

27. As a direct and proximate result of the above described unlawful and malicious acts of the Defendant John Doe No. 1, all committed under the color of his authority as a Sharon police officers, Sean Marie Hake suffered grievous bodily harm, all of which is in violation of her rights under the Constitution of the United States, in particular the First, Fourth, and Fourteenth Amendments thereof and 42 U.S.C. sections 1981, 1983, 1985(3) and 1986.

WHEREFORE, Plaintiff demands damages in a sum in excess of \$75,000 including costs, attorney's fees, compensatory damages and punitive damages.

JURY TRIAL DEMANDED.

COUNT 2

VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983

Plaintiff v. John Doe No. 2 (Excessive Force)

28. Plaintiff incorporates by reference paragraphs one to twenty-seven of this Complaint.

29. At no time was the Defendant John Doe No. 2, reasonably in fear of his life or acting in self defense.

30. Defendant John Doe No. 2 used unreasonable, excessive, illegal, and unjustified force against the Decedent without provocation or acting in self defense.

31. By taking these actions of unreasonable force, as described above, Defendant John Doe No. 2 directly violated the rules, regulations, and policies of Sharon Police Department regarding the use of force.

32. Defendant Sharon Police Department through its police department policy makers, including its chief of police, failed to promulgate and/or enforce, and Defendant John Doe No. 2 failed to comply with, the appropriate standards and procedures for use of force in seizing and detaining citizens, and the use of physical force.

33. As a direct and proximate result of the above described unlawful and malicious acts of the Defendant John Doe No. 2, all committed under the color of his authority as a Sharon police officer, Sean Marie Hake suffered grievous bodily harm, all of which is in violation of her rights under the Constitution of the United States, in particular the First, Fourth, and Fourteenth Amendments thereof and 42 U.S.C. sections 1981, 1983, 1985(3) and 1986.

WHEREFORE, Plaintiff demands damages in a sum in excess of \$75,000 including costs, attorney's fees, compensatory damages and punitive damages.

JURY TRIAL DEMANDED.

COUNT 3

VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983

Plaintiff v. John Doe No. 3 (Excessive Force)

34. Plaintiff incorporates by reference paragraphs one to thirty-three of this Complaint.

35. At no time was the Defendant John Doe No. 3, reasonably in fear of his life or acting in self-defense.

36. Defendant John Doe No. 3 used unreasonable, excessive, illegal, and unjustified force against the Decedent without provocation or acting in self-defense.

37. By taking these actions of unreasonable force, as described above, Defendant John Doe No. 3 directly violated the rules, regulations, and policies of Sharon Police Department regarding the use of force.

38. Defendant Sharon Police Department through its police department policy makers, including its chief of police, failed to promulgate and/or enforce, and Defendant John Doe No. 3 failed to comply with, the appropriate standards and procedures for use of force in seizing and detaining citizens, and the use of physical force.

39. As a direct and proximate result of the above described unlawful and malicious acts of the Defendant John Doe No. 3, all committed under the color of his authority as Sharon police officers, Sean Marie Hake suffered grievous bodily harm, all of which is in violation of her rights under the Constitution of the United States, in particular the First, Fourth, and Fourteenth Amendments thereof and 42 U.S.C. sections 1981, 1983, 1985(3) and 1986.

WHEREFORE, Plaintiff demands damages in a sum in excess of \$75,000 including costs, attorney's fees, compensatory damages and punitive damages.

JURY TRIAL DEMANDED.

Count 4

VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983

Plaintiff v. Sharon Police Department (Custom and Practice)

40. Plaintiff incorporates by reference paragraphs one through thirty-nine of this Complaint.

41. At all material times hereto, Defendant, Sharon Police Department pursued defacto policies, practices, and customs that were the direct and proximate cause of the unconstitutional injuries of Decedent.

42. Said policies, practices, and customs include, inter alia:

- a. failure to properly screen, supervise, discipline, transfer, or counsel police officers who are known to engage in the use of excessive or deadly force; and
- b. ratification of acts of improper use of force with knowledge of their illegality;
- b. failure to set proper standards regarding the use of deadly force;

43. Defendant Sharon Police Department through its police department policy makers, including its chief of police, maintains a policy, custom or practice of failing to train and/or supervise police officers properly and adequately in the appropriate standards and procedures of seizing and detaining citizens, and the use of force.

44. Defendant Sharon Police Department through its police department policy makers, including its chief of police, failed to promulgate and/or enforce, and Defendants John Doe No. 1, John Doe No. 2, and John Doe No. 3, failed to comply with, the appropriate standards and procedures for arresting citizens via motor vehicle, seizing and detaining citizens, and the use of force.

45. Defendant Sharon Police Department through its police department policy makers, including its chief of police, maintains a policy, custom or practice of grossly inadequate training pertaining to the permissible use of force and deadly force in that it continues to allow its officers to employ techniques which involve excessive use of deadly force and unjustified use of a force, and such a program fails to meet standard police training principles and criteria regarding use of a force in the line of duty.

46. These police department policies and customs of the Defendant Sharon Police Department caused the police officers of Sharon, Pennsylvania, to be unaware of the rules, laws and standards governing the permissible use of force and to believe that use of a firearm was entirely within the discretion of the officer and that improper use of such excessive would not be honestly and properly investigated, all with the foreseeable result that the officers are more likely to use force in a situation where such force is not necessary, reasonable or legal.

47. As a direct and proximate result of the above described unlawful and malicious acts of Defendants John Doe No. 1, John Doe No. 2, and John Doe No. 3, all committed under the color of their authority as Sharon police officers, Decedent suffered grievous bodily harm, all of which is in violation of her rights under the Constitution of the United States, in particular the First, Fourth, and Fourteenth Amendments thereof and 42 U.S.C. sections 1981, 1983, 1985(3) and 1986.

48. As a further result of the above described acts, Decedent was deprived of rights and immunities secured to her under the Constitution and laws of the United States and the Commonwealth of Pennsylvania including, but not limited to, her rights under the Fourth and Fourteenth Amendments to be secure in her person, to be free from punishment without due process, and to equal protection of the laws.

49. The failure of Defendant Sharon Police Department to provide training and supervision regarding the lawful use of force amounts to gross negligence and deliberate indifference for the lives and safety of the citizens of Sharon, Pennsylvania. This gross negligence was a proximate cause of the injuries of Decedent.

50. Defendant, Sharon Police Department's failure to adequately train, supervise, discipline or in any other way control their respective police officers in the exercise of their police functions, and their failure to enforce the laws of the Commonwealth of Pennsylvania and the police department regulations of Sharon within its police force is evidence of a lack of cautious regard of the rights of the public, including the Decedent's, and exhibits a lack of degree of due care which prudent and reasonable individuals would show in executing the duties of a police department.

51. Further, the aforementioned failures were carried out negligently, willfully, wantonly, maliciously and with such reckless disregard of the consequences as to display a deliberate indifference to the danger of harm and injury, including death, and the intention to inflict harm and injury, including death, on the citizens of the public at large, including Decedent.

WHEREFORE, Plaintiff demands judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 5 – ASSAULT (Pendent State Claim)

Plaintiff v. John Doe No. 1

52. Plaintiff incorporates by reference paragraphs one through fifty-one of this Complaint.

53. By means of the conduct described above, Defendant John Doe No. 1 willfully, maliciously and without justification or provocation did attempt, with force or violence to do injure Decedent.

54. Defendant John Doe No. 1's conduct, as described above, did actually and proximately cause the Decedent's reasonable apprehension, fear and belief that physical harm to her would result from said conduct.

55. Said conduct constitutes an assault upon the Decedent for which Defendant John Doe No. 1 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff demands judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 6 – ASSAULT (Pendent State Claim)

Plaintiff v. John Doe No. 2

56. Plaintiff incorporates by reference Paragraphs one through fifty-five of this Complaint.

57. By means of the conduct described above, Defendant John Doe No. 2 willfully, maliciously and without justification or provocation did attempt, or with force or violence to do injury to the Decedent.

58. Defendant John Doe No. 2's conduct, as described above, did actually proximately cause the Decedent's reasonable apprehension, fear and belief that physical harm to him would result from said conduct.

59. Said conduct constitutes an assault upon the Plaintiff for which Defendant John Doe 2 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiffs demand judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 7 – ASSAULT (Pendent State Claim)

Plaintiff v. John Doe No. 3

60. Plaintiffs incorporates by reference Paragraphs one through fifty-nine of this Complaint.

61. By means of the conduct described above, Defendant John Doe No. 3 willfully, maliciously and without justification or provocation did attempt, with force or violence to do injury to the Decedent.

62. Defendant John Doe No. 3's conduct, as described above, did actually and proximately cause the Decedent's reasonable apprehension, fear and belief that physical harm to her would result from said conduct.

63. Said conduct constitutes an assault upon the Decedent for which Defendant John Doe 3 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiffs demand judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 8 - BATTERY (Pendent State Claim)

Plaintiff v. John Doe No. 1

64. Plaintiff incorporates by reference Paragraphs one through sixty-three of this Complaint.

65. By means of the conduct described above, Defendant John Doe 1 willfully, maliciously and without justification or provocation did with force or violence have contact with Decedent.

66. Said conduct constitutes a battery upon the Decedent for which Defendant John Doe 1 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff demands judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 9 - BATTERY (Pendent State Claim)

Plaintiff v. John Doe No. 2

67. Plaintiff incorporates by reference Paragraphs one through sixty-six of this Complaint.

68. By means of the conduct described above, Defendant John Doe No. 2 willfully, maliciously and without justification or provocation did with force or violence have contact with Decedent.

69. Said conduct constitutes a battery upon the Decedent for which Defendant John Doe 2 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff demands judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

COUNT 10 - BATTERY (Pendent State Claim)

Plaintiff v. John Doe No. 3

70. Plaintiff incorporates by reference paragraphs one through sixty-nine of this Complaint.

71. By means of the conduct described above, Defendant John Doe No. 3 willfully, maliciously and without justification or provocation did with force or violence have contact with Decedent.

72. Said conduct constitutes a battery upon the Decedent for which Defendant John Doe 3 is liable under the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff demands judgment in a sum in excess of \$75,000 including costs, attorney's fees, and punitive damages.

JURY TRIAL DEMANDED.

Submitted by:

/s/ Francis M. Moore

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JURY TRIAL DEMANDED