

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>THE ESTATE OF DESTINEE THOMPSON, by and through personal representative Virginia Frazer-Abel; K.T., a minor, by and through her legal guardian, Francis Thompson Sr.; and N.B., a minor, by and through his legal guardian, Megan Beechley;</p> <p>Plaintiffs,</p> <p>v.</p> <p>Arvada Police Department Officer ANTHONY BENALLO; Arvada Police Department Officer C.J. BICKMORE; Arvada Police Department Sergeant JEFF ORNDOFF; Arvada Police Department Officer CHRIS DENNEHY; and Arvada Police Department Officer IAN GOHLKE;</p> <p>Defendants.</p> <hr/> <p><i>Attorneys for the Plaintiffs:</i> Felipe Bohnet-Gomez, #53013 Virginia Hill Butler, #55187 Matthew Cron, #45685 RATHOD MOHAMEDBHAI, LLC 2701 Lawrence St., Suite 100 Denver, CO 80205 (303) 578-4400 fbg@rmlawyers.com vb@rmlaywers.com mc@rmlawyers.com</p>	<hr/> <p>Case Number:</p> <p>Div.:</p> <p>Courtroom:</p>
<p>COMPLAINT AND JURY DEMAND</p>	

Plaintiffs The Estate of Destinee Thompson, K.T., and N.B., by and through their counsel, Felipe Bohnet-Gomez, Virginia Hill Butler, and Matthew Cron, of RATHOD | MOHAMEDBHAI LLC, allege as follows:

I. INTRODUCTION

1. On August 17, 2021, Destinee Thompson and her unborn son were shot and killed by Arvada Police Department (“APD”) Officer Anthony Benallo in a case of mistaken identity when she posed no risk of harm to any police officer or other person.

2. Police had earlier responded to the American Motel looking for a woman who allegedly brandished a knife while shoplifting from a nearby Target store. That woman was described as having a chest tattoo and wearing a white tank top and blue jeans.

3. At the motel, the police encountered Ms. Thompson, who was uninvolved with the Target shoplifting. She was not the person the police were looking for. Unlike the suspect, Ms. Thompson did not have a chest tattoo, was not wearing blue jeans, and did not have any stolen Target merchandise. All that Ms. Thompson had in common with the suspect was that they were both women wearing white tank tops.

4. Even though the officers noticed that Ms. Thompson did not match the description of their suspect, they decided to detain her anyway, in violation of Ms. Thompson’s constitutional rights. Ms. Thompson left the motel and proceeded outside to her minivan, where seconds later, a police vehicle blocked her in, and officers approached her and began yelling at her from both sides and trying to force open the minivan’s doors.

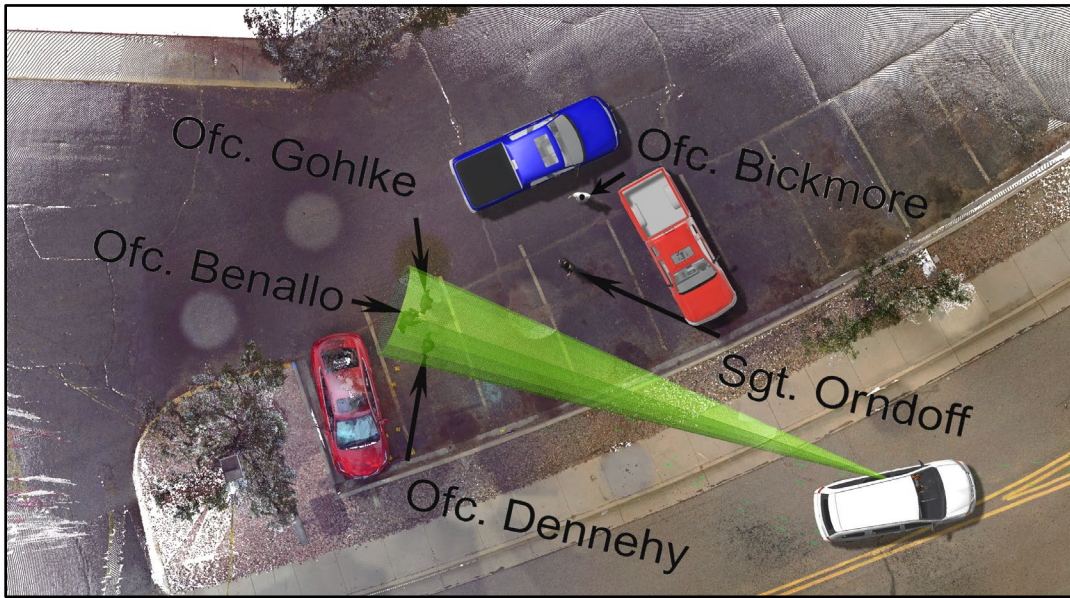
5. The officers continued to escalate the encounter. Without any justification, Officer Chris Dennehy pulled out his police baton and violently swung at the passenger window of Ms. Thompson’s minivan, shattering it.

6. Ms. Thompson was terrified. She attempted to back out of her parking space, but police had blocked her exit. Ms. Thompson then drove forward over the curb, towards the road. After she was past the officers and posed no risk to anyone, Officer Benallo opened fire on the minivan.

7. Officer Benallo fired a total of eight shots. Only the final shot struck Ms. Thompson, killing her and her unborn son. By the time Officer Benallo fired the fatal shot, Ms. Thompson had already pulled her minivan onto the road and had driven about 25 yards away from the officers.

8. Officer Benallo’s stated reason for killing Ms. Thompson was because he thought another officer, Sergeant Jeff Orndoff, was being dragged under Ms. Thompson’s van. But Sergeant Orndoff was standing in plain view a few feet away, safe and sound. Anyone in Officer Benallo’s position could and should have seen him. It was also obvious that no one was being dragged under Ms. Thompson’s minivan as it drove away from the officers.

9. Officer Benallo’s decision to kill Ms. Thompson was patently unreasonable, as shown by law enforcement’s own reconstruction of the scene at the time Officer Benallo shot and killed Ms. Thompson:



10. The following visual reconstruction, based on law enforcement scene data, shows how Sergeant Orndoff was clearly visible to Officer Benallo at the time Officer Benallo fired the shot that killed Ms. Thompson:



11. The Defendant officers detained an innocent woman, shattered the window of her car, and ultimately shot and killed her as she drove away. Their conduct violated Ms. Thompson's constitutional rights, and has irreparably injured not only her family, but the community they swore to protect and serve.

II. JURISDICTION AND VENUE

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

13. Venue is proper pursuant to C.R.C.P. 98(c), in that the Estate of Destinee Thompson was established in and resides in the City and County of Denver, Colorado.

14. The Court has jurisdiction over the claims asserted herein pursuant to C.R.S. §§ 13-1-124, 13-21-131, and other applicable law.

III. PARTIES

15. At all times mentioned herein, the decedent, Destinee Thompson, was a resident of and domiciled in the State of Colorado.

16. Ms. Thompson's last known domicile and residence was in the City and County of Denver.

17. Ms. Thompson was an unmarried adult with three children: K.T., N.B., and A.T.¹

18. The Estate of Destinee Thompson was formed in the City and County of Denver on June 11, 2023.

19. Virginia Frazer-Abel is the personal representative of the Estate of Destinee Thompson.

20. Plaintiff K.T. is Destinee Thompson's minor child. K.T. is represented through her great-grandfather and legal guardian, Francis Thompson, Sr. At all times relevant to the subject matter of this Complaint, Plaintiff K.T. was a citizen of the United States of America and a resident of and domiciled in the State of South Dakota.

21. Plaintiff N.B. is Destinee Thompson's minor child. N.B. is represented through his legal guardian, Megan Beechley. At all times relevant to the subject matter of this Complaint, Plaintiff N.B. was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

22. At all times relevant to the subject matter of this litigation, Defendant Anthony Benallo was a citizen of the United States and resident of Colorado. At all times relevant,

¹ A.T. was placed in adoption services prior to Ms. Thompson's death. It is unknown if A.T. are her current initials.

Defendant Benallo was acting under color of state law in his capacity as a law enforcement officer employed by the APD.

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

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

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

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

IV. FACTUAL ALLEGATIONS

Ms. Thompson's Life

27. Ms. Thompson was the beloved daughter of Francis Thompson, Jr. and Antoinette Delara.

28. Ms. Thompson grew up surrounded by the love of her father and his family, frequently spending time with her grandparents.

29. When Ms. Thompson was ten, her father married Carmela Delgado.

30. Ms. Thompson loved Ms. Delgado and started calling her "mom" within a short period of time.

31. Mr. Thompson and Ms. Delgado had three children. Ms. Thompson was a loving and dedicated big sister to each of these children.

32. Ms. Thompson was a voracious reader, and she passed this love on to her younger siblings.

33. Mr. Thompson and Ms. Delgado read to the children every night before bed, but Ms. Thompson's siblings always preferred it when she read to them because she made the books come alive with fun voices for each of the characters.

34. Ms. Thompson is pictured here with her younger siblings:



35. In addition to being a prolific reader, Ms. Thompson was a talented writer, primarily of poetry.

36. Ms. Thompson also had a silly side. She loved to dress up, always coming up with elaborate costumes for Halloween. She was a Steven King enthusiast who enjoyed scary movies.

37. Ms. Thompson's life changed forever when she welcomed her first child, K.T. Ms. Thompson loved being a mother and wanted nothing more than to be the best mother possible.

38. Ms. Thompson sought parenting advice from her step-mom, Ms. Delgado, and they developed an even closer bond as Ms. Thompson got older.

39. Ms. Thompson had two more children, dedicating herself to being as present for them as she could be. Ms. Thompson is pictured below after giving birth to her third child:



40. Ms. Thompson frequently found work as a housekeeper, utilizing cleaning skills that Ms. Delgado had taught her.

41. Ms. Thompson's death has devastated her family. They miss her loving, silly, enthusiastic, presence. Ms. Thompson was pregnant with a son when she was killed.

42. Ms. Thompson was on her way to get lunch with Ms. Delgado when Officer Benallo shot and killed her for no reason.

Shawna Colby Shoplifts from Target and the Police are Called

43. On August 17, 2021, Shawna Colby was shopping at a Target store in Arvada. The Target loss prevention personnel recognized Ms. Colby as a person who had shoplifted two days earlier from the store. Ms. Colby was loading a shopping cart with merchandise at the time.

44. Target loss prevention personnel decided to confront Ms. Colby while she was still in the store shopping because they suspected she was going to shoplift again.

45. When the Target employees confronted Ms. Colby, she allegedly argued with them and displayed a folded knife.

46. With the knife displayed, Ms. Colby left the store with the unpaid-for merchandise in her cart and started walking south through the Target parking lot.

47. A Target employee called 911 and reported that Ms. Colby had threatened Target employees with a knife.

48. The Target employee described Ms. Colby as a white or Hispanic female with a tattoo on her chest, wearing a black tank top and blue jeans.

49. Ms. Colby's chest tattoo was plainly visible, as shown in security camera footage taken as she exited the Target on August 17, 2021:



50. A jail booking photo of Ms. Colby shows her large and distinctive tattoo on her upper chest:



51. Loss prevention personnel followed Ms. Colby until they reached the southern edge of the Target property.

52. During the 911 call, the Target employee reported that Ms. Colby had taken off her black tank top and now had a white tank top on.

53. Shay Miller, who was also shopping at Target, encountered loss prevention personnel talking to Ms. Colby inside the store.

54. Mr. Miller decided to follow Ms. Colby as she left the store.

55. Ms. Colby walked south across 50th Avenue and 49th Avenue and into the southern entrance of the American Motel (the “motel”), taking a red Target shopping cart with her.

56. Mr. Miller called 911 as he followed Ms. Colby to the American Motel and began to report his observations to Dispatch.

57. As Ms. Colby entered the motel, Mr. Miller followed her, still on the phone with 911.

58. Ms. Colby got in the west elevator bay, and Mr. Miller followed her in. Mr. Miller continued to provide a description to 911 while in the elevator, attempting to make it sound like

he was on the phone with an Uber driver or friend who was coming to pick him up from the motel.

59. Ms. Colby exited the elevator on the third floor, and Mr. Miller exited behind her.

60. Ms. Colby wheeled her shopping cart east down the hallway to Room 303 and pounded on the door. Mr. Miller observed this behavior and then walked past Ms. Colby to the east stairwell.

61. When no one answered the door at Room 303, Ms. Colby pushed the button for the east elevator bay, which was next to Room 303. Mr. Miller thought Ms. Colby was going back to the ground floor, so he ran down the east stairwell to the main lobby of the motel.

62. The description of Ms. Colby that Dispatch had provided to officers was that of a Hispanic or white female, with a chest tattoo, wearing a white tank top and blue jeans.

Police Wrongly Seize Ms. Thompson

63. By the time Mr. Miller returned to the main lobby of the motel, police officers had arrived.

64. Mr. Miller told the police officers that Ms. Colby was upstairs but probably coming down the elevator.

65. Wheat Ridge Police Department (“WRPD”) Officer Marc Fisher, APD Officer Sterling Boom, and APD Officer Benjamin Marshall walked to the west side of the motel to watch the western elevator bay. APD Officers Chris Dennehy, Ian Gohlke, and Anthony Benallo remained in the lobby and watched the eastern elevator bay.

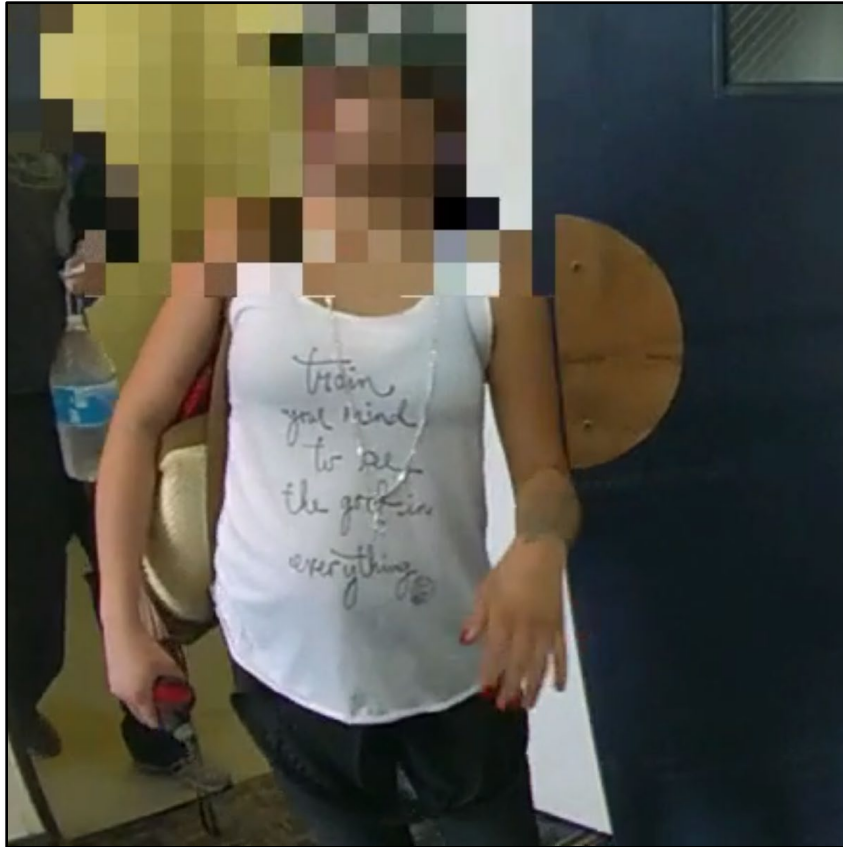
66. While this was taking place, APD Sergeant Jeff Orndoff and APD Officer C.J. Bickmore of the Community Response Impact Team (“CRIT”) arrived in an unmarked grey Ford F-150 truck and parked in the northwest corner of the motel parking lot in order watch the north and west doors for Ms. Colby. They were in plainclothes.

67. While Officers Fisher, Boom, and Marshall were watching the west elevator bay, Ms. Thompson exited the stairwell.

68. Ms. Thompson was dressed in a white tank top and black pants, with a canvas tote bag.

69. Ms. Thompson’s outfit was as shown in Officer Fisher’s BWC footage:²

² The video footage was blurred by Arvada before it was provided to Plaintiffs in response to open records requests.



70. Ms. Thompson did not match the description of Ms. Colby.
71. Ms. Thompson did not have a chest tattoo.
72. Ms. Thompson was not wearing blue jeans.
73. Ms. Thompson did not have a Target shopping cart and was also not carrying any Target bags or merchandise.
74. Ms. Thompson was not involved with Ms. Colby's conduct at Target.
75. Law enforcement did not have a legal justification to stop or otherwise detain Ms. Thompson.
76. Nonetheless, Officer Marshall stepped in front of Ms. Thompson, put up his hand and said, "Stop!"
77. Ms. Thompson stopped, said, "yes, sir" and responded, "I'm not the girl you're looking for... umm it's the, the... I seen the little guy with the mustache right, he's looking for his girlfriend, right? She at room 303."

78. Officer Marshall responded, “303.” Ms. Thompson continued, “she’s coming down the elevator. That, that chubbier officer was looking for her” and pointed to the hallway leading toward the main lobby, where the east elevator bay was located.

79. Officer Marshall said, “Ok,” and stepped part of the way aside.

80. Ms. Thompson started to walk east down the hallway toward the lobby, but Officer Marshall stepped back in front of her to block her way.

81. An unidentified woman the officers had been speaking with before Ms. Thompson came down the stairs said, “303? You’re in room 303?”

82. Ms. Thompson responded, “No, I’m not, I’m in 417.”

83. Ms. Thompson did not hesitate before supplying her room number.

84. Ms. Thompson turned toward the hotel outdoor exit given that Officer Marshall continued to block her entry into the lobby.

85. Officer Marshall again approached Ms. Thompson and said, “do you have an ID I can see?” Ms. Thompson responded, “I don’t have an ID, I’m sorry.”

86. Ms. Thompson walked towards the exit. Officer Marshall raised his voice and said, “Ma’am, hold up.” Ms. Thompson continued to walk towards the exit but turned her head back towards him while she walked saying, “It’s not me, it’s not me. I’m going, I’m leaving. It’s not me.”

87. Ms. Thompson exited the motel.

88. Ms. Thompson was correct that she was not the person the police were looking for. Ms. Thompson was not Shawna Colby.

89. The officers knew, or should have known, that Ms. Thompson did not match the description of Ms. Colby.

90. Officer Marshall “did not see a chest tattoo which [Officer Marshall] remember[ed] thinking would be a fairly distinct characteristic of the suspect.”

91. Officer Fisher assumed the suspect would have a prominent and visible chest tattoo, because Dispatch typically only gave a tattoo description for a suspect if it was very prominent or remarkable.

92. When Officer Fisher saw Ms. Thompson, he observed that she did not have a chest tattoo, and therefore did not match the suspect’s description.

93. Officer Boom had previously told Officer Marshall that the Dispatch notes of a white or Hispanic female in a white or black tank top were “unactionable,” meaning that the descriptors were too generic to form an identification.

94. Nonetheless, Officer Boom told Officer Fisher, “we should stop her and get a witness, just to rule her out.”

95. Officers Fisher, Boom, and Marshall decided to detain Ms. Thompson after she left the motel. They had no legal basis to do so.

96. Officer Fisher and Boom’s stated reason for detaining Ms. Thompson was for “witness identification.”

97. By the time the officers exited the motel’s west doors, Ms. Thompson was moving east across the motel parking lot toward her vehicle.

98. Officer Boom aired through his radio that Ms. Thompson was running outside.

99. Sergeant Orndoff and Officer Bickmore saw Ms. Thompson and drove towards her in the unmarked CRIT truck.

100. Ms. Thompson did not know the identity of the two men driving speedily toward her in a truck. Officer Bickmore turned on the emergency lights and briefly sounded the siren.

101. When the CRIT truck caught up to Ms. Thompson, Sergeant Orndoff jumped out as soon as Officer Bickmore stopped. Sergeant Orndoff ran towards Ms. Thompson, attempting to catch her before she got into her vehicle.

102. Ms. Thompson ran and got into her minivan and locked the doors before the unknown man in plainclothes who was running towards her attempting to grab her before she got in her minivan was able to do so.

103. Right after Ms. Thompson got in her minivan, Officer Bickmore parked the unmarked truck behind her in order to block her in. Officer Bickmore then got out of the truck and approached Ms. Thompson’s driver’s side door.

104. The parking spots on either side of Ms. Thompson’s minivan were unoccupied.

105. Sergeant Orndoff attempted to open the driver’s side door of Ms. Thompson’s minivan, but it was already locked.

106. Sergeant Orndoff told Ms. Thompson to open the door but she refused.

107. While Ms. Thompson was hurrying across the parking lot toward her minivan, she was visible from the motel lobby.

108. Mr. Miller was in the lobby with Officers Gohlke, Dennehy, and Benallo.

109. Officer Benallo looked outside from the lobby and saw Ms. Thompson moving through the parking lot.

110. Officer Benallo heard Officer Boom air on the radio something to the effect of, “that’s her.”

111. Officer Benallo got Officer Gohlke and Dennehy's attention by saying, "there she is, she's outside."

112. Mr. Miller never identified Ms. Thompson as the suspect from Target.

Officers Escalate the Encounter and Shatter Ms. Thompson's Window Without Justification

113. Officers Gohlke, Dennehy, and Benallo ran outside to the passenger side of Ms. Thompson's minivan.

114. At the same time as Sergeant Orndoff and Officer Bickmore were yelling at Ms. Thompson from the driver's side of the minivan, Officers Gohlke, Dennehy, and Benallo began shouting commands at Ms. Thompson from the passenger side.

115. According to Officer Benallo, "everyone was giving commands to her."

116. Officer Gohlke heard Officer Dennehy extend his collapsible baton.

117. Officer Gohlke got out of the way so that Officer Dennehy could smash Ms. Thompson's passenger side window.

118. Officer Gohlke watched as Officer Dennehy broke the front passenger window with his baton.

119. Officer Dennehy had no legal basis to break Ms. Thompson's window.

120. Officer Gohlke had an opportunity to intervene before Officer Dennehy broke Ms. Thompson's window and failed to do so.

121. Officer Dennehy was aware that officers on the driver's side were yelling "police" and "exit the car" at Ms. Thompson. He told investigators that he felt Ms. Thompson was "distracted" by the two officers yelling at her on the driver's side door, so he broke her passenger side window with his baton to "test compliance." Officer Dennehy felt that he "had the element of surprise" and that he "could change [Ms. Thompson's] thought process" by smashing her window for no reason.

122. Each police officer at the scene escalated the encounter by acting aggressively, yelling over one another, and creating a scene of "commotion" (as described by Officer Benallo) while Ms. Thompson sat frightened in her minivan.

123. After Officer Dennehy broke Ms. Thompson's window, Officer Benallo could see through the window of Ms. Thompson's minivan, and saw Sergeant Orndoff.

124. Through the window of Ms. Thompson's minivan, Officer Benallo could also see that the parking space on the driver's side was empty.

125. Sergeant Orndoff flinched when Officer Dennehy broke Ms. Thompson's window.

126. The Jefferson County Critical Incident Response Team ("CIRT") investigation into Ms. Thompson's death concluded that the position of the officers and vehicles at the time Officer Dennehy broke Ms. Thompson's window was as follows:



Officer Benallo Shoots and Kills Ms. Thompson as She Drives Away from the Officers

127. Ms. Thompson was terrified. Five officers had surrounded her minivan, yelling, creating a commotion, and attempting to gain entry. Now, without warning, an officer violently smashed her passenger side window.

128. Ms. Thompson backed up her minivan after Officer Dennehy smashed her passenger side window.

129. Ms. Thompson was trying to get away from the officers.

130. Sergeant Orndoff backed away from the minivan when Ms. Thompson placed the vehicle in reverse.

131. The unmarked CRIT truck was blocking Ms. Thompson's minivan.

132. Ms. Thompson turned the minivan to avoid hitting the CRIT truck.

133. She grazed the rear truck's rear bumper and briefly stopped the minivan.

134. The Jefferson County CIRT investigation into Ms. Thompson’s death concluded that the position of the officers and vehicles at the time Ms. Thompson’s minivan hit the CRIT truck was as follows:



135. From where Officer Benallo stood, he could see—through the front windows of the minivan—Sergeant Orndoff standing next to the vehicle on the other side of Ms. Thompson’s minivan.

136. Ms. Thompson then started driving forward toward the empty street.

137. When Ms. Thompson began driving forward, Officer Benallo drew his firearm.

138. Officer Benallo then fired his gun at Ms. Thompson’s minivan.

139. Officer Benallo did not provide any warning that he was going to shoot.

140. None of the officers, nor any other persons, were in any danger when Officer Benallo began firing.

141. Officer Benallo’s first shot struck the passenger side.

142. This was the position of Ms. Thompson’s white minivan when Officer Benallo fired his first shot:³

³ APD officers did not wear bodyworn cameras (“BWCs”) at the time, but WRPD officers did. Accordingly, the only BWC footage that exists of the shooting is from Officer Fisher.



143. After the first shot, Ms. Thompson continued to drive forward toward the street and away from the officers.

144. There was a slight pause between Officer Benallo's first and second shots.

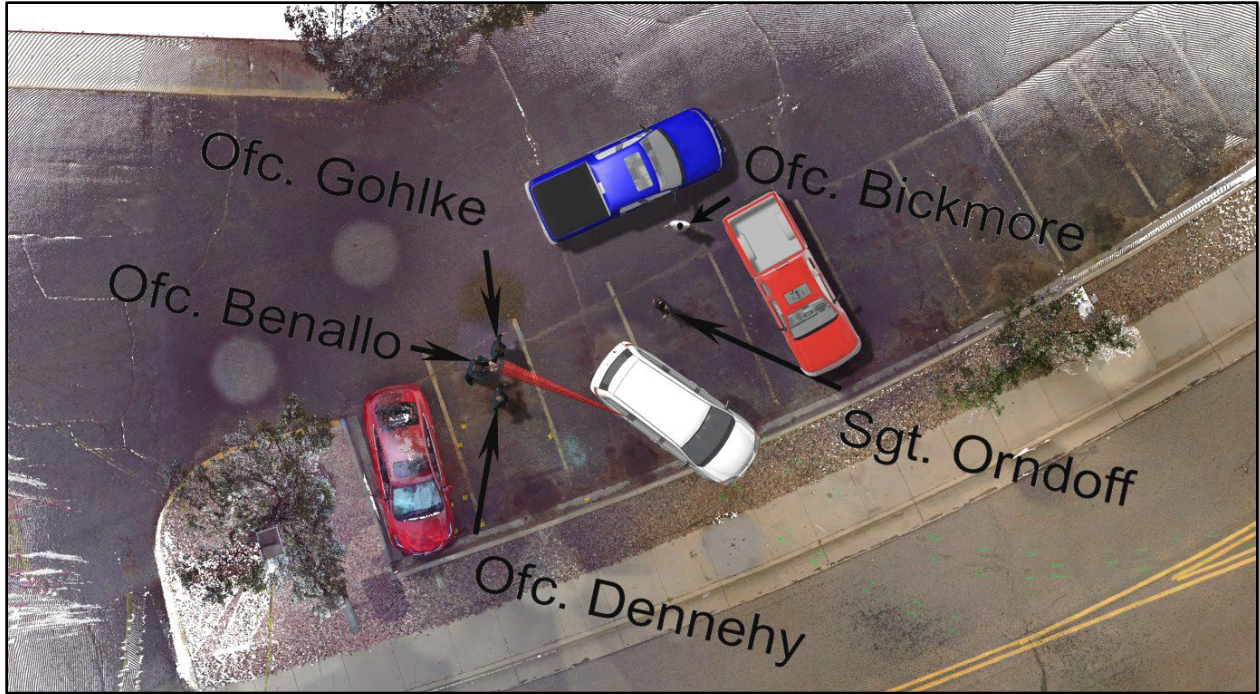
145. By the time Officer Benallo fired the second shot, Ms. Thompson's vehicle was already over the curb and sidewalk, even further away from the officers.

146. This was the view from Officer Fisher's BWC when Officer Benallo fired the second shot:



147. By the time Officer Benallo fired the second shot, he had an unobstructed view of Sergeant Orndoff who was directly to his left.

148. The Jefferson County CIRT investigation concluded that the position of the officers and vehicles at the time was as follows:



149. Sergeant Orndoff was wearing a bright blue shirt.

150. Sergeant Orndoff stood behind the cab of a truck that had parked two spaces away from the driver's side of Ms. Thompson's minivan.

151. Officer Benallo fired the second through seventh shots while Ms. Thompson was driving away from the officers and turning left onto the road.

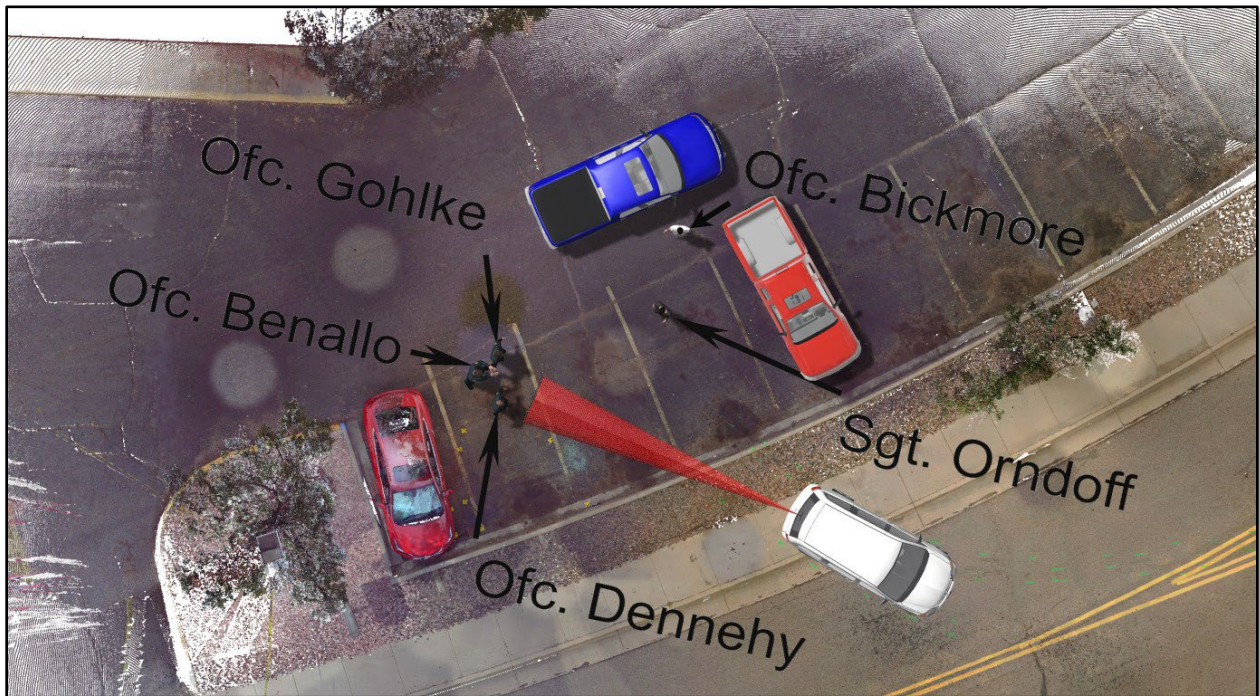
152. While Officer Benallo was firing, the position of Ms. Thompson's minivan was as follows:





153. As Officer Benallo fired his gun, he continued to have an unobstructed view of Sergeant Orndoff, who was standing nearby.

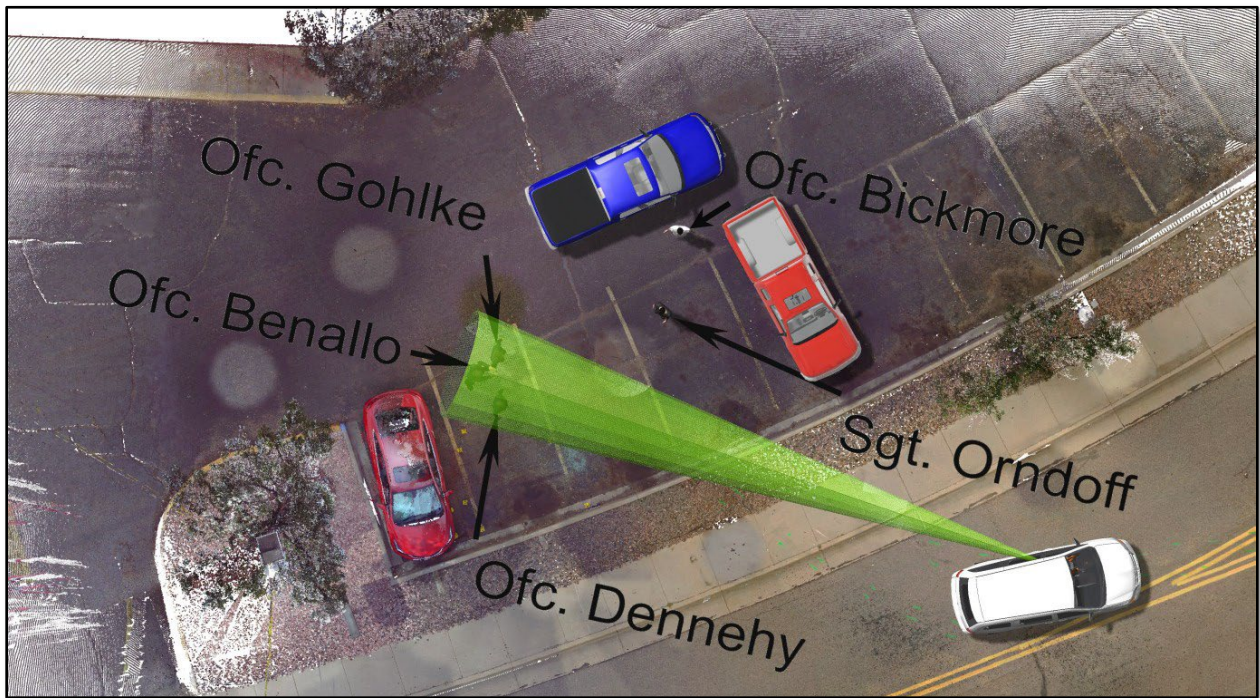
154. The Jefferson County CIRT investigation concluded that the position of the officers and vehicles at the time was as follows:



155. This was the position of the vehicle when Officer Benallo fired his eighth, final, and fatal shot, as shown on Officer Fisher's BWC:



156. The Jefferson County CIRT investigation concluded that the position of the officers and vehicles at the time of Officer Benallo's final and fatal shot was as follows:



157. Officer Benallo's eighth shot was the only one that struck Ms. Thompson.

158. Officer Benallo's eighth shot entered through the driver's side window and traveled through Ms. Thompson's torso from left to right, puncturing her heart and both of her lungs, killing her.

159. Officer Benallo heard Ms. Thompson scream when she was struck with his bullet.

160. Officer Benallo fired his lethal round after Ms. Thompson had turned her minivan left onto the road and had driven approximately 25 yards away.

161. Before he fired the fatal shot, Officer Benallo claimed to have a “good sight picture” of the side of Ms. Thompson’s minivan as it drove away on the road.

162. No other officers fired their weapons.

Sergeant Orndoff Was in Plain Sight, Safe and Sound, as Officer Benallo Continued Firing at Ms. Thompson

163. Officer Benallo’s stated reason for killing Ms. Thompson was that he believed Sergeant Orndoff was under the minivan being dragged.

164. Sergeant Orndoff was not being dragged under the minivan. He had not been struck by the minivan, and he was in no danger of being struck by the minivan.

165. At the time he shot and killed Ms. Thompson, it was objectively unreasonable for Officer Benallo to believe that Sergeant Orndoff was in any danger, let alone that he was being dragged under Ms. Thompson’s minivan.

166. Sergeant Orndoff was clearly visible to Officer Benallo standing up in the parking lot before Officer Benallo fired any shots.

167. Officer Benallo never heard or saw Ms. Thompson’s minivan hit Sergeant Orndoff.

168. Officer Benallo never heard or saw any sign that Sergeant Orndoff had been pinned to the hood of Ms. Thompson’s minivan.

169. Officer Benallo never heard or saw any sign that Sergeant Orndoff had been dragged under Ms. Thompson’s minivan.

170. Sergeant Orndoff did not scream or otherwise communicate that he was in danger or that he had been injured by Ms. Thompson’s minivan.

171. As Ms. Thompson’s minivan drove away from the officers and turned left onto the road, Officer Benallo could see that no one was on the hood of Ms. Thompson’s minivan, and that no one was being dragged underneath the minivan.

172. Any reasonable officer in Officer Benallo’s position would have seen Sergeant Orndoff standing unharmed a few feet away as Ms. Thompson’s minivan turned left onto the road.

173. Any reasonable officer in Officer Benallo’s position would have seen that no one was pinned to the hood of Ms. Thompson’s minivan as it drove away on the road, and that no one was being dragged underneath the minivan.

174. Sergeant Orndoff did not think he was going to be hit by Ms. Thompson and thought she only wanted to get away.

175. Sergeant Orndoff thought he had sufficient room to move away from Ms. Thompson's vehicle if she came towards him, but he did not think she wanted to hit him.

176. Instead, it was clear to Sergeant Orndoff that Ms. Thompson was trying to leave the parking lot, not trying to hit him with her vehicle.

177. Sergeant Orndoff was "shocked" when Officer Benallo started firing shots.

178. Shortly after he killed Ms. Thompson, Officer Benallo noticed that "Sergeant Orndoff was standing there alive and well."

179. The Jefferson County CIRT investigation concluded that, "in order for a left to right injury to have been sustained by [Ms. Thompson], the vehicle would **necessarily** have been traveling eastbound away from the officers. Based on the information, again obtained through statements and reports, **in order for the fatal shot to have occurred, the vehicle was well on the roadway and continuing eastbound.**" (emphasis added).

180. Ms. Thompson was pronounced dead at the scene.

181. Officer Benallo shot and killed Ms. Thompson.

182. Ms. Thompson was pregnant when Officer Benallo killed her.

183. Officer Benallo's fatal shot also killed Ms. Thompson's unborn son.

184. Ms. Thompson was not the person the officers had been called to the American Motel about.

185. Ms. Thompson was on her way to get lunch with her step-mother when police officers attempted to detain her with no legal basis, harassed her, surrounded her, and eventually shot and killed her.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Colo. Const. art. II, § 7 – C.R.S. § 13-21-131 – Excessive Force
(Plaintiff Estate of Destinee Thompson against Defendant Benallo)

92. Plaintiff Estate of Destinee Thompson hereby incorporates all other paragraphs of this Complaint as if set forth herein.

93. Defendant Benallo is a "peace officer" under C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

94. Defendant Benallo, at all relevant times hereto, was acting under color of law in his capacity as an Arvada Police Department Officer.

95. At the time of her death, Destinee Thompson had a protected interest under Colo. Const. art. II, § 7 to be secure in her person against unreasonable searches and seizures, including the use of excessive force.

96. Defendant Benallo unlawfully seized Ms. Thompson through his use of excessive force.

97. At the time she was shot, Ms. Thompson did not present an immediate threat to officers or to others.

98. Defendant Benallo's use of deadly force against Ms. Thompson was unnecessary and unreasonable under the circumstances.

99. Defendant Benallo'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 Ms. Thompson's constitutionally protected rights.

100. As a direct and proximate cause and consequence of Defendant's unconstitutional acts and omissions, Plaintiff Estate of Destinee Thompson suffered injuries, damages, and losses.

101. As a direct result of Defendant's unlawful actions and omissions described here, Plaintiff Estate of Destinee Thompson suffered actual physical and emotional injuries.

SECOND CLAIM FOR RELIEF

Colo. Const. art. II, § 7 – C.R.S. § 13-21-131 – Unlawful Seizure
(Plaintiff Estate of Destinee Thompson against Defendants Orndoff, Bickmore, Benallo, Dennehy, and Gohlke)

102. Plaintiff Estate of Destinee Thompson hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

103. Defendants Orndoff, Bickmore, Benallo, Dennehy, and Gohlke are "peace officers" under C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

104. Defendants Orndoff, Bickmore, Benallo, Dennehy, and Gohlke, at all relevant times hereto, were acting under color of law in their capacities as law enforcement officers.

105. The interaction between Ms. Thompson and law enforcement began as a consensual encounter when she exited the motel stairs.

106. However, when Ms. Thompson exited the motel's western doors, officers decided to detain her.

107. As Ms. Thompson crossed the motel parking lot, Sergeant Orndoff and Officer Bickmore chased her in an unmarked CRIT police truck.

108. When Ms. Thompson got into her minivan, the interaction between Ms. Thompson and law enforcement became a seizure as a reasonable person in Ms. Thompson's circumstances would not have believed she was free to leave.

109. Among other factors, the CRIT police parked perpendicularly to Ms. Thompson's minivan so as to block her into her parking spot; Officer Bickmore activated the emergency lights on the truck; Officer Bickmore "chirped" the siren on the truck; Sergeant Orndoff ran out of the truck to attempt to grab Ms. Thompson before she got into her minivan and locked it; Sergeant Orndoff immediately started giving commands to Ms. Thompson when he arrived at her driver's side window; and Officers Dennehy, Benallo, and Gohlke ran up to Ms. Thompson's passenger side window and started yelling commands at her.

110. Defendants did not have a reasonable suspicion that criminal activity had occurred.

111. There were no exigent circumstances or any other legal basis that permitted Defendants to seize Ms. Thompson.

112. Defendants' acts and omissions, as described herein, were attended by circumstances of malice, or willful and wanton conduct, which they must have realized was dangerous, and/or they acted heedlessly and recklessly without regard to Ms. Thompson's constitutionally protected rights.

113. As a direct and proximate cause and consequence of Defendants' unconstitutional acts and omissions, Plaintiff Estate of Destinee Thompson suffered injuries, damages, and losses.

114. As a direct result of Defendants' unlawful actions and omissions described here, Plaintiff Estate of Destinee Thompson suffered actual physical and emotional injuries.

THIRD CLAIM FOR RELIEF

Colo. Const. art. II, Section 7 – C.R.S. § 13-21-131 – Destruction of Property
(Plaintiff Estate of Destinee Thompson against Defendant Dennehy)

115. Plaintiff Estate of Destinee Thompson hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

116. Officer Dennehy is a "peace officer" under C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

117. At all times relevant to this claim, Defendant Dennehy was acting under color of law in his capacity as a law enforcement officer.

118. At the time of her death, Ms. Thompson had a protected interest under Colo. Const. art. II, § 7 to be secure in her property against unreasonable searches and seizures.

119. Defendant Dennehy smashed Ms. Thompson's passenger side window with his baton. Officer Dennehy had no legal basis to smash Ms. Thompson's window.

120. Defendant Dennehy had no reasonable suspicion or probable cause that a crime had been, would be, or was being committed.

121. No other exigent circumstances existed that would have permitted Defendant Dennehy to break into Ms. Thompson's minivan.

122. By breaking the windows of Ms. Thompson's vehicle without any legal basis for breaching the vehicle, Defendant Dennehy unreasonably and unnecessarily destroyed Ms. Thompson's property.

123. The unreasonable and unnecessary destruction of property violated Ms. Thompson's rights under Colo. Const. art. II, § 7.

124. Defendant Dennehy's acts and omissions, as described herein, were 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 Ms. Thompson's constitutionally protected rights.

125. As a direct and proximate cause and consequence of Defendant Dennehy's unconstitutional acts and omissions, Plaintiff Estate of Destinee Thompson suffered injuries, damages and losses.

126. As a direct result of Defendant's unlawful actions and omissions described here, Plaintiff Estate of Destinee Thompson suffered actual physical and emotional injuries.

FOURTH CLAIM FOR RELIEF

Colo. Const. art. II, § 7 – C.R.S. § 13-21-131 – Failure to Intervene in Destruction of Property
(Plaintiff Estate of Destinee Thompson against Defendant Gohlke)

127. Plaintiff Estate of Destinee Thompson hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

128. Officer Gohlke is a "peace officer" under C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

129. At all times relevant to this claim, Defendant Gohlke was acting under color of law in his capacity as a law enforcement officer.

130. At the time of the unlawful destruction of property as described above, in Claim Three, Ms. Thompson had a protected interest under the Colo. Const. art. II, § 7 to be secure in her property against unreasonable seizures.

131. Defendant Gohlke heard Defendant Dennehy extend his baton and backed away from Ms. Thompson's passenger side window in order to allow Defendant Dennehy to break the window. Defendant Gohlke had an opportunity to intervene to prevent Defendant Dennehy from breaking Ms. Thompson's window.

132. Defendant Gohlke unlawfully failed to intervene to prevent the actions described in the Fourth Claim for Relief that violated Ms. Thompson's right to be free of unlawful seizure of her property, and is therefore liable for such failure to intervene.

133. Defendant Gohlke's acts and omissions, as described herein, were 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 Ms. Thompson's constitutionally protected rights.

134. As a direct and proximate cause and consequence of Defendant Gohlke's unconstitutional acts and omissions, Plaintiff Estate of Destinee Thompson suffered injuries, damages, and losses.

135. As a direct result of Defendant Gohlke's unlawful actions and omissions described here, Plaintiff Estate of Destinee Thompson suffered actual physical and emotional injuries.

FIFTH CLAIM FOR RELIEF

Colo. Rev. Stat. § 13-21-201 *et seq.* – Battery Causing Wrongful Death
(Plaintiffs K.T and N.B. against Defendant Benallo)

136. Plaintiffs K.T and N.B. hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

137. 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.

138. Pursuant to the CGIA, Plaintiffs K.T. and N.B. provided Defendants with timely notice of claim on February 9, 2022.

139. Defendant Benallo intentionally used force against Ms. Thompson with the intent to inflict harmful contact on her, and such contact caused injury to Ms. Thompson, namely her death.

140. As described in detail above, the use of force against Ms. Thompson was not reasonable because the force was more than the amount of force that a law enforcement officer in Defendant Benallo's position would have reasonably believed necessary to protect himself or others from any risk of harm posed by Ms. Thompson.

141. Defendant Benallo's intentional infliction of physical harm upon Ms. Thompson, causing her death, was without legal authorization, privilege, or consent.

142. In using excessive force against Ms. Thompson, Defendant Benallo consciously disregarded a substantial and unjustifiable risk of danger of death or serious bodily injury to Ms. Thompson.

143. Defendant Benallo's willful and wanton conduct caused Ms. Thompson's death and Plaintiffs K.T. and N.B.'s damages.

144. Defendant Benallo'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 Ms. Thompson or her family.

145. Defendant Benallo'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 Ms. Thompson and that he consciously disregarded a substantial and unjustifiable risk that his conduct would cause the death of Ms. Thompson.

146. Plaintiffs K.T and N.B., as the biological children of Ms. Thompson, suffered and continue to suffer economic and non-economic damages due to Defendant Benallo's tortious conduct.

RELIEF REQUESTED

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

- a. All declaratory relief and injunctive relief, as appropriate;
- b. Actual economic damages, including but not limited to lost earnings and medical related expenses, as established at trial;
- c. 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;
- d. Punitive damages on all claims allowed by law and in an amount to be determined at trial;

- e. Pre-judgment and post-judgment interest at the highest lawful rate;
- f. The maximum tax-offset permitted by law;
- g. Attorneys' fees and costs; and
- h. 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: August 15, 2023

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