

Stanley O. King, Esquire
Sharon A. King, Esquire
KING & KING, LLC
231 S. Broad Street
Woodbury, NJ 08096
856-845-3001
856-845-3079 (fax)
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY

JUDITH MINCEY, as Administratrix and
Administratrix *ad Prosequendum* of the ESTATE
of MOSHOWON LEACH, Deceased, and as
guardian of M [REDACTED] L [REDACTED]; S [REDACTED]
M [REDACTED], a minor, by and through her guardian,
Audrey George; N [REDACTED] L [REDACTED], a minor, by
and through her guardian, CHEMERE TAYLOR,
E [REDACTED] P [REDACTED], a minor, by and through her
guardian CAROLYN PEARSON,

Plaintiffs,

v.

BOROUGH OF PENNS GROVE, PENNS
GROVE POLICE CHIEF GARY DOUBLEDEE,
RAYMOND RINNIER, JOSEPH SCHULTZ,
CARNEYS POINT TOWNSHIP, CARNEYS
POINT POLICE CHIEF EDMUND SPINELLI, JR.
JOSEPH JOHNSON, ANDREW KLEBAN, and
JOHN DOES 1 through 10, individually and/or in
their official capacities, jointly, severally, and/or
in the alternative,

Defendants.

JEROME B. SIMANDLE, U.S.D.J.

Civil Action No. 11-1727

**AMENDED COMPLAINT
and DEMAND FOR JURY**

Plaintiffs, by and through their attorneys, bring this Amended Complaint against Defendant, Borough of Penns Grove, and in support thereof allege as follows:

PARTIES

1. MoShowon Leach (“Leach”) died on March 21, 2010 at the age of 31, while in the custody of police officers from Defendant Borough of Penns Grove.

2. Plaintiff, Judith Mincey, is the mother of Leach. At the time of Leach’s death, Mincey resided with Leach in New Castle County, Delaware. Letters of Administration upon the Estate of MoShowon Leach were granted to Mincey on June 2, 2010 by the New Castle County Register of Wills, Delaware. On March 15, 2011, Mincey was also appointed Administratrix *ad Prosequendum* of Leach’s estate by New Jersey’s Salem County Surrogate Court. Mincey brings this action in her capacity as Administratrix and Administratrix *ad Prosequendum* of the Estate of MoShowon Leach. Mincey resides in New Castle County in the State of Delaware.

3. At the time of his death, Leach had four dependents and minor daughters—Plaintiff M [REDACTED] L [REDACTED], Plaintiff B [REDACTED] P [REDACTED], Plaintiff N [REDACTED] L [REDACTED] and Plaintiff S [REDACTED] M [REDACTED]. At the time of his death, Leach lived with M [REDACTED] L [REDACTED] and N [REDACTED] L [REDACTED], in addition to his mother and his girlfriend—Chimere Taylor. Leach contributed to the care of all four minors.

4. Defendant Borough of Penns Grove is a municipal corporation organized and existing under the laws of the State of New Jersey. Its offices are located at 1 State Street, Penns Grove, Salem County, New Jersey 08069.

JURISDICTION

5. Plaintiffs invoke jurisdiction pursuant to 28 U.S.C. §1331 as the claims raise federal questions under 42 U.S.C. §1983. Plaintiffs further invoke supplemental jurisdiction pursuant to 28 U.S.C. §1367 for claims arising under state law as these claims form part of the same case and controversy as the claims brought under 42 U.S.C. §1983.

6. Venue is appropriately laid in the District of New Jersey pursuant to 28 U.S.C. §1391(b) as it is the judicial district in which the claims asserted herein arose.

FIRST CAUSE OF ACTION
(Deprivation of Federally Protected Right)
Excessive Force

7. On the evening of March 21, 2010, Penns Grove police officers, Raymond Rinnier and Joseph Schultz, arrived at the Penns Village Apartments in Penns Grove, New Jersey in response to a call that someone was “fighting the air” and waving his hands in a disorderly manner at vehicles coming into the parking lot.

8. Upon entering the Penns Village parking lot, the officers observed MoShowon Leach, 31 years old, walking in the parking lot.

9. The officers called out to Leach, telling him to stop.

10. Leach appeared disoriented to Officer Rinnier and continued walking despite the officer’s request for him to stop.

11. Leach arrived at the residence of his aunt in the apartment complex. As he reached for the handle to her door, Officers Rinnier and Schultz descended upon him, maced him and took him to ground.

12. Once on the ground, Leach was calm and offered no resistance to the officers. Nevertheless, as Leach was laying face-down, one officer got on his back, while the other grabbed his neck. Schultz told Rinnier to “choke” Leach, and repeated that Schultz should “choke him out.”

13. The officers proceeded to maliciously choke Leach, repeatedly exert their knees into Leach’s back, neck, torso and other areas of his body. They kicked, struck and punched him. They also maced him again, causing him to gag.

14. Observing the police activity in front of their door, Leach's aunt and uncle opened their door to ask the officers to stop.

15. The officers ordered Leach's aunt to get back inside. As she moved back in compliance with the officers' command, one of the officers maced her in the face.

16. This officer then grabbed Leach's uncle, spun him around, threw him into the house and told the couple to stay inside.

17. The officers continued to beat and choke Leach.

18. An individual observing the activities called 911 and stated that Penns Grove police officers were "killing people."

19. As Leach lay motionless on the ground, the officers radioed for police backup and an ambulance. They informed police dispatch that they needed backup because there was a large group of people with knives. The officers also requested an ambulance purportedly because Leach had a cut on his lip that was bleeding.

20. Officer Joseph Johnson and Andrew Kleban of Carneys Point Police Department were the first to arrive. At the time, Rinnier was on Leach's back, holding Leach's head in a headlock. Both Johnson and Kleban jumped on Leach's back and joined the attack on Leach. Eventually, all four officers were on top of Leach at the same time.

21. By the time the ambulance arrived, Leach was nonresponsive. His face was lying in a puddle of blood.

22. Schultz told another officer at the scene that "Ray [Rinnier] had to put [Leach] to sleep."

23. Leach was taken to Salem Memorial Hospital, where he was pronounced dead.

24. Dr. Gerald Feigin, Gloucester County Medical Examiner, performed an autopsy on Leach's body and determined that Leach's cause of death was "blunt neck trauma" and declared his death a homicide.

25. Leach's neck organ was fractured and contained hemorrhage. His body also contained abrasions to his right elbow, left forearm, and left hand. His face and head were bruised.

26. The conduct of the officers constituted excessive use of force by the Borough of Penns Grove, through its agents and employees, depriving Leach of his right to be secure in his person against unreasonable searches and seizures as guaranteed by the Fourth Amendment to the United States Constitution.

27. By reason of the aforesaid violation of Leach's rights, Plaintiffs are entitled to damages under 42 U.S.C. § 1983.

SECOND CAUSE OF ACTION
(Deprivation of Federally Protected Right)
False Arrest/False Imprisonment

28. Plaintiffs adopt and incorporate by reference, paragraphs 1 through 27 as if set forth herein at length.

29. The Borough of Penns Grove, through its agents and employees, violated clearly established law by falsely arresting and falsely imprisoning Leach in violation of his Fourth Amendment right to be secure in his person against unreasonable searches and seizures and not to be arrested without probable cause, and his Fourteenth Amendment right not to be deprived of liberty without due process of law.

30. As a direct and proximate result of the aforesaid acts of the Borough of Penns Grove, through its agents and employees, Leach and the Plaintiffs suffered economic losses, grievous bodily harm and emotional pain and suffering.

31. By reason of the aforesaid violation of Leach's rights, Plaintiffs are entitled to recover damages under 42 U.S.C. § 1983.

THIRD CAUSE OF ACTION
(Deprivation of Federally Protected Rights)

32. Plaintiffs adopt and incorporate by reference, paragraphs 1 through 31 as if set forth herein at length.

33. Defendant Borough of Penns Grove is liable for the deprivation of Leach's federally protected rights by Officers Rinnier and Schultz, as described in the First and Second Causes of Action.

34. At all relevant times, Borough of Penns Grove, through its police chief, Gary Doubledee, was responsible for the training of all police officers in the Borough of Penns Grove in the proper and lawful use of force and in the execution of lawful arrests.

35. Defendant Borough of Penns Grove has repeatedly and knowingly failed to enforce the laws of the United States, the State of New Jersey and the regulations of the Borough of Penns Grove pertaining to the use of force and lawful arrests, thereby creating within Penns Grove Police Department, an atmosphere of lawlessness in which police officers employ excessive and illegal force and violence and engage in illegal arrests, and such acts are condoned and justified by their superiors.

36. At the time of the incidents described above, the Borough of Penns Grove had developed and maintained policies or customs exhibiting deliberate indifference to the

constitutional rights of persons in the Borough of Penns Grove, which caused the Leach's rights to be violated.

37. It was the policy and/or custom of the Borough of Penns Grove and its police chief to inadequately and improperly supervise and train its police officers and to inadequately and improperly investigate citizen complaints of police misconduct. Civilian complaints were routinely dismissed and officers' misconduct were instead tolerated and condoned by the Borough of Penns Grove and its police chief. For example, out of 22 complaints of excessive force investigated by the police department between 2003 and 2009, only one complaint was sustained. The remaining twenty-one complaints (95 percent) were determined to be "not sustained," "unfounded," "administratively closed" or the officer was exonerated. Additionally, three complaints of excessive force received during this period were simply not investigated or otherwise accounted for in the police department's annual Internal Affairs report. Similarly, out of nine complaints of improper arrest investigated during the same period, only two were sustained. The remaining seven complaints were determined to be "not sustained," "unfounded," "administratively closed" or the officer exonerated. Moreover, one complaint of improper arrest received during this period was simply not investigated or otherwise accounted for in the police department's annual Internal Affairs report.

38. Officers engaging in misconduct were therefore not disciplined nor provided with appropriate in-service training or retraining. Further constitutional violations on the part of its police officers were therefore not discouraged, but condoned. As a result of the policies and practices, citizens were routinely subjected to police misconduct, including false arrests, excessive use of force and civil conspiracies.

39. As a result of the above-described policies and customs, police officers of the Borough of Penns Grove, believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated.

40. The above-described policies and customs demonstrate a deliberate indifference on the part of policymakers of the Borough of Penns Grove to the constitutional rights of the plaintiff alleged herein.

41. Defendant Borough of Penns Grove failed to provide training and supervision regarding lawful arrests to police officers which constitutes negligence, gross negligence and deliberate indifference to the safety and lives of its citizens. The said negligence, gross negligence and deliberate indifference were the proximate cause of the plaintiff's injuries.

42. By reason of the aforesaid violation of Leach's rights, Plaintiffs are entitled to recover damages under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
(Violation of New Jersey Civil Rights Act)

43. Plaintiffs adopt and incorporate by reference, paragraphs 1 through 42 as if set forth at length herein.

44. This cause of action arises under New Jersey Civil Rights Act, N.J.S.A. §10:6-1, *et seq.* Supplemental jurisdiction is established pursuant to 28 U.S.C. §1367 as the claim forms part of the same case and controversy as the claims brought under the First through Third Causes of Action.

45. The acts committed by the Borough of Penns Grove constitute a violation of rights secured by the United States Constitution, as alleged above, and a further violation of the New Jersey Constitution, as follows:

Article I, Section 7 of the New Jersey Constitution prohibiting arrest without probable cause and guaranteeing Leach the right to be secure in his person against unreasonable searches and seizures; and

Article I, Section 7 of the New Jersey Constitution guaranteeing Leach the right to be secure in his person against unreasonable searches and seizures, including the excessive use of force.

46. As a direct and proximate result of the aforesaid acts of Defendant, Leach and the plaintiffs suffered economic losses, grievous bodily harm and emotional pain and suffering.

47. By reason of the aforesaid violation of Leach's rights, Plaintiffs are entitled to damages under *N.J.S.A.* §10:6-1, *et seq.*, including costs, attorney fees and expenses pursuant to *N.J.S.A.* §10:6-2(f).

FIFTH CAUSE OF ACTION
(Assault & Battery)

48. Plaintiffs adopt and incorporate by reference paragraphs 1 through 47 as if set forth herein at length.

49. The conduct of the Borough of Penns Grove, as described above, resulted in an unprovoked, unpermitted, harmful and offensive contact with Leach and thus constitutes assault and battery.

50. As a direct and proximate result of Defendant's assault and battery, Leach and the plaintiffs suffered economic losses, grievous bodily harm and emotional pain and suffering.

SIXTH CAUSE OF ACTION
(False Arrest/False Imprisonment)

51. Plaintiffs adopt and incorporate by reference paragraphs 1 through 50 as if set forth herein at length.

52. The conduct of the Borough of Penns Grove as described above, resulted in the false arrest and false imprisonment of Leach, directly and proximately causing Leach and the plaintiffs physical, economic and emotional damages.

SEVENTH CAUSE OF ACTION
(Negligence)

53. Plaintiffs adopt and incorporate by reference paragraphs 1 through 52 as if set forth herein at length.

54. The Borough of Penns Grove, through its agents, servants and employees, acted with a lack of cautious regard for Leach's right to be free from unnecessary bodily harm or from the threat of such harm and without the due care that prudent police officers would use under the circumstances.

55. The injury to and death of Leach were a direct and proximate result of the negligence of Defendant Borough of Penns Grove.

56. As a result of Defendant's negligence, Leach and the plaintiffs suffered economic losses, grievous bodily harm and emotional pain and suffering.

EIGHTH CAUSE OF ACTION
(Gross Negligence)

57. Plaintiffs adopt and incorporate by reference paragraphs 1 through 56 as if set forth herein at length.

58. The assault and battery, use of excessive force, and other acts unnecessarily subjecting Leach to danger, were carried out with such willful, malicious, wanton and reckless disregard of the consequences as to Borough of Penns Grove, through its agents, servants and employees' conscious indifference to the danger of harm and injury to Leach and the intent to inflict harm and injury on Leach.

59. The injury to and death of Leach were a direct and proximate result of the gross negligence of the defendant.

60. As a result of Defendant's negligence, Leach and the plaintiffs suffered economic losses, grievous bodily harm and emotional pain and suffering.

NINTH CAUSE OF ACTION
(Wrongful Death)

61. Plaintiffs adopt and incorporate by reference paragraphs 1 through 60 as if set forth herein at length.

62. By reason of the death of the decedent, Plaintiffs M [REDACTED] L [REDACTED], B [REDACTED] P [REDACTED], N [REDACTED] L [REDACTED] and S [REDACTED] M [REDACTED] have been deprived of decedent's support, comfort, society and services, all to their damages.

63. As a result of the actions of the Borough of Penns Grove, the plaintiffs are entitled to recover pecuniary damages pursuant to *N.J.S.A. 2A:31-1, et seq.*

TENTH CAUSE OF ACTION
(Survivorship)

64. Plaintiffs adopt and incorporate by reference paragraphs 1 through 63 as if set forth herein at length.

65. As a direct and proximate result of the wrongful act of Defendant Borough of Penns Grove as described above, Leach suffered severe physical and mental pain, shock and agony, including pain and suffering stemming from multiple application of mace, fractures to the neck organ, abrasions to right elbow, left forearm, and left hand and bruises to the face and head, causing him an inability to breathe, great pain and suffering until his death.

66. As a proximate result of the wrongful acts of the defendants, Leach died.

67. By reason of the injury and death of the decedent, the decedent's estate has become liable for hospital bills, doctor bills and funeral expenses of MoShowon Leach, deceased.

68. As a result of the actions of Defendant Borough of Penns Grove as described above, Plaintiffs are entitled to recover damages pursuant to *N.J.S.A. 2A:15-3, et seq.*

WHEREFORE, Plaintiffs demand judgment against the defendant on all causes of action as follows:

- (1) Compensatory damages in the amount of \$25,000,000;
- (2) Punitive damages;
- (3) Attorney's fees and costs of this action; and
- (4) Such other and further relief as the court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedures, Plaintiff demands a trial by jury of this action.

TRIAL ATTORNEY DESIGNATION

Stanley O. King is hereby designated as trial attorney.

Dated: March 28, 2014

KING & KING, LLC
Attorneys for Plaintiffs

By /s/ Stanley O. King
STANLEY O. KING

By /s/ Sharon A. King
SHARON A. KING

Stanley O. King, Esquire
Sharon A. King, Esquire
KING & KING, LLC
231 S. Broad Street
Woodbury, NJ 08096
856-845-3001
856-845-3079 (fax)
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY

JUDITH MINCEY, as Administratrix and
Administratrix *ad Prosequendum* of the
ESTATE of MOSHOWON LEACH,
Deceased, and as guardian of M.L.; S.M.,
a minor, by and through her guardian,
AUDREY GEORGE; N.L., a minor, by and
through her guardian, CHEMERE
TAYLOR, B.P., a minor, by and through
her guardian, CAROLYN PEARSON,

Plaintiffs,

v.

BOROUGH OF PENNS GROVE, PENNS
GROVE POLICE CHIEF GARY
DOUBLEDEE, RAYMOND RINNIER,
JOSEPH SCHULTZ, CARNEYS POINT
TOWNSHIP, CARNEYS, POINT POLICE
CHIEF EDMUND SPINELLI, JR., JOSEPH:
JOHNSON, ANDREW KLEBAN, and
JOHN DOES 1 through 10, individually
and/or in their official capacities, jointly,
severally, and/or in the alternative,

Defendants.

JEROME B. SIMANDLE, U.S.D.J.

Civil Action No. 11-1727 (JBS/ KMW)

**ORDER APPROVING SETTLEMENT
AND ALLOCATION/DISTRIBUTION
OF SETTLEMENT FUNDS**

THIS MATTER having been brought before the Court by King & King, LLC, attorneys for all Plaintiffs, upon motion with notice to (1) Todd J. Gelfand, Esquire, Counsel for Defendants Borough of Penns Grove and Penns Grove Police Chief Gary Doubledee, (2) Allan E. Richardson, Esquire, Counsel for Defendants Carneys Point Township, Carneys Point Police Chief Edmund Spinelli, Joseph Johnson and Andrew Kleban, (3) Robert A. Baxter, Esquire, Counsel for Defendant Raymond Rinnier, (4) James R. Birchmeier, Esquire, Counsel for Defendant Joseph Schultz, (5) Plaintiff Judith Mincey, as Administratrix *ad Prosequendum* and as legal guardian of M.L., a minor, (6) Plaintiff Audrey George, as legal guardian of S.M., a minor, (7) Plaintiff Carolyn Pearson, as legal guardian of B.P., a minor, (8) Plaintiff Chemere Taylor, as legal guardian of N.L., a minor, and (9) Alicia James, as residential custodian of N.L., a minor, for an Order approving the settlement and allocation/distribution of the settlement funds; and the Court having considered the moving papers, and for good cause shown,

IT IS on this 18th day of June, 2014, hereby ORDERED that the Plaintiffs' motion is GRANTED as follows:

- (1) The gross settlement of \$2,000,000.00 is approved;
- (2) Settlement funds of \$2,00,000.00 shall be distributed as follows:
 - (a) King & King, LLC shall be awarded reasonable attorney's fee in the amount of \$492,660.89 and reimbursement of litigation expenses in the amount of \$29,356.44.
 - (b) Of the remaining funds, \$738,991.34 shall be allocated to the wrongful death claim and \$738,991.33 shall be allocated to the survivorship claim.
 - (c) The wrongful death proceeds shall be further distributed as follows:
 - i. \$184,747.83 shall be payable to M.L., a minor;
 - ii. \$184,747.83 shall be payable to S.M., a minor;
 - iii. \$184,747.82 shall be payable to N.L., a minor; and
 - iv. \$184,747.82 shall be payable to B.P., a minor.

(d) As to the survivorship proceeds of \$738,999.33, Plaintiff Mincey, in her capacity as Personal Representative of the Estate of MoShowon Leach, shall open an Estate account and deposit proceeds of \$738,999.33 into this account. Plaintiff Mincey shall further pay the following Estate expenses:

- i. \$3,715.00 to Bagwell Funeral Home for outstanding funeral expenses;
- ii. \$2,491.00 to Judith Mincey as reimbursement of partial funeral expenses;
- iii. \$606.72 to Inspira Health Network for payment of medical expenses;
- iv. \$2,334.75 to Memorial Hospital of Salem County for payment of medical expenses;
- v. \$9,246.02 to Monmouth County Probation Department in satisfaction of MoShowon Leach's child support judgment;
- vi. Reasonable attorney fees to the law firm of Morris James, LLP for legal services associated with closing the probate account at the New Castle County Register of Wills;
- vii. Probate taxes owed to the State of Delaware;
- viii. Reasonable fee to Judith Mincey, as approved by New Castle County Register of Wills, for Ms. Mincey's services as Personal Representative of the Estate of MoShowon Leach.

(e) Of the funds remaining after payment of Estate expenses described in Paragraph 2(d) above, Plaintiff Mincey shall distribute these funds equally to minors, S.M., N.L., and B.P. only.

(f) The trust agreements between Evolve Bank and Trust and the following minor plaintiffs are approved:

- i. Agreement dated April 2, 2014 on behalf of minor beneficiary, M.L.
- ii. Agreement dated April 2, 2014 on behalf of minor beneficiary, S.M.
- iii. Agreement dated April 2, 2014 on behalf on minor beneficiary, N.L.

- iv. Agreement dated April 4, 2014 on behalf of minor, beneficiary B.P.
- (g) Distribution of the proceeds described in Paragraphs 2(c) and 2(e) above shall be made directly to Evolve Bank and Trust on behalf of the respective minor beneficiaries.
- (h) Evolve Bank and Trust, as trustee of the trusts created for the minors, shall pay the Begley Law Group reasonable attorneys fees associated with the creation of the respective trusts.


HONORABLE JEROME B. SIMANDLE, U.S.D.J.