

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS

LORI BRAUN, as Administratrix of the
Estate of Estate of Cassandra Braun, deceased,
Individually and on behalf of all wrongful death
Beneficiaries of Cassandra Braun,

Plaintiff,

vs.

No. 4:18-cv-334 BRW
JURY DEMANDED

TROOPER BRIAN RAY BURKE, Individually and in his
official capacity as an officer of the Arkansas State Police
COLONEL BILL BRYANT, Individually, and in his
official capacity as the chief executive officer of the
Arkansas State Police,

Defendants.

AMENDED COMPLAINT

COMES NOW the Plaintiff, by and through her attorneys of record and as Administratrix of the Estate of Cassandra Braun, and Individually and on behalf of all wrongful death beneficiaries of Cassandra Braun and for cause of action against the Defendants, both jointly and severally, would respectfully state as follows:

INTRODUCTION

1. This lawsuit arises from fatal automobile crash occurring on October 10, 2016, when Defendant Trooper Burke was driving an Arkansas State Police (ASP) patrol car at excessive speeds, not in emergency pursuit or in emergency response, in a conscience shocking manner, and

drove his patrol car into a vehicle in which Cassandra Braun was a passenger, killing Cassandra and her driver.

2. Defendant Trooper Burke is sued because his conduct violated both the 4th Amendment (excessive force in connection with the seizure of Cassandra Braun) and the 14th Amendment (completely arbitrary use of governmental power which shock the conscience) to the U.S. Constitution.

3. Defendant Colonel Bryant is sued because his conduct violated the 14th Amendment to the U.S. Constitution by using his position as a final policymaker with authority to allow troopers to drive patrol vehicles at a high rate of speed when there was no underlying emergency, failing to train, and failing to impose necessary discipline (all of which illustrate his unconstitutional customs which both ratified and approved of the plainly unconstitutional conduct of Defendant Trooper Burke).

JURISDICTION AND VENUE

4. Plaintiff Lori Braun is an adult of Lee County, Florida. Plaintiff Lori Braun is the mother of Decedent Cassandra Braun.

5. Plaintiff Lori Braun is also the duly appointed Administratrix of the Estate of Cassandra Braun.

6. Plaintiff Lori Braun, as Administratrix of the Estate of Cassandra Braun, brings this action against the Defendants to recover for the Defendants' violation of the Cassandra Braun's

federal constitutional rights and the wrongful death of Cassandra Braun. Plaintiff Lori Braun seeks to recover all damages to which she, the beneficiaries of the estate of Cassandra Braun and the estate of Cassandra Braun may be entitled under all applicable laws.

7. Defendant Brian Ray Burke is a resident of Hot Springs, Garland County, Arkansas. At all times pertinent hereto, Defendant Trooper Burke was an officer with the Arkansas State Police (“ASP”), acting under the color of state law and within the course and scope of his employment with the ASP. Defendant Trooper Burke is sued individually. Defendant Brian Ray Burke is also sued in his official capacity in a separate proceeding before the Arkansas Claims Commission, as is required by the Eleventh Amendment to the U.S. Constitution (“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States...”)

8. Defendant Colonel Bill Bryant is a resident of Pulaski County, Arkansas. Defendant Colonel Bill Bryant is employed as the Director of the ASP. As Director of the ASP, Defendant Colonel Bryant is under both a constitutional duty and statutory duty pursuant to Ark. Code Ann. Section 12-8-104(f)(1) to run the ASP’s policing activities in a lawful manner so as to preserve the peace of the State of Arkansas and to preserve to its citizens the rights, privileges and immunities guaranteed and secured to them by the constitutions and the laws of the United States and the State of Arkansas. Defendant Colonel Bryant is responsible for ensuring that Arkansas State Police officers are properly trained and supervised to preserve citizens’ rights, privileges and

immunities guaranteed and secured to them by the constitution and laws of the United States and the State of Arkansas. Defendant Colonel Bryant is responsible for the day to day operation of the Arkansas State Police and is the final policymaker with respect to law enforcement operations for the ASP. Defendant Colonel Bryant is sued individually.

9. Defendant Colonel Bryant is also sued in his official capacity as Director of the ASP in a separate proceeding before the Arkansas Claims Commission, as is required by the Eleventh Amendment to the U.S. Constitution (“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States ...”) and as is required by the Arkansas Constitution, per the recent decision of the Arkansas Supreme Court in the *Board of Trustees of the University of Arkansas v. Matthew Andrews*, 2018 Ark. 12. (“[t]he State of Arkansas shall never be made a defendant in any of her courts” barred by sovereign immunity, pursuant to article 5, section 20 of the Arkansas Constitution).

10. Jurisdiction lies within this court pursuant to 28 U.S.C. Sec. 1331, 42 U.S.C. Sec. 1983, 42 U.S.C. Sec. 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Accordingly, this Honorable Court has jurisdiction over all of the claims asserted herein.

11. Each and all of the acts or omissions of Defendants were done under the color of state law, the United States Constitution, the Arkansas Constitution, the statutes of the State of

Arkansas and the ordinances, regulations, policies, practices, customs and usages of the State of Arkansas and under the authority of their office as law enforcement officers for the ASP.

12. All acts of wrongdoing complained of herein occurred within this jurisdiction and within three years of the date of the filing of the original action, and this court has proper jurisdiction.

GENERAL FACTUAL ALLEGATIONS

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

13. The events leading to the fatal crash that killed Cassandra Braun started with Defendant Trooper Burke observing a vehicle with its hazard lights flashing activated at a speed allegedly in excess of the speed limit while proceeding down Highway 70 going toward Hot Springs, all while Defendant Trooper Burke was talking to an unknown person in a parking area along Highway 70.

14. After briefly observing this vehicle, Defendant Trooper Burke first finished talking to the person in the parking lot and then *walked* to his patrol car, entered his patrol car, and left the parking area by entering Highway 70, proceeding in the same direction as the observed vehicle.

15. For the first 20 seconds of his trip, Defendant Trooper Burke turned on his blue lights and his vehicle emergency siren. After 20 seconds of travel time, Defendant Trooper Buke turned his lights and siren OFF.

16. Over the next 5 minutes, covering approximately 8 miles, Defendant Trooper Burke drove his patrol vehicle, without blue lights and siren, at documented speeds as high as **113 miles per hour** in a 45 mile per hour zone and at an average speed of over 90 mph.

17. The actions and driving of Defendant Trooper Burke were without any legitimate governmental or law enforcement justification at all, for Defendant Trooper Burke was engaged in neither a high-speed pursuit nor an emergency response, because Defendant Trooper Burke purportedly was merely trying to "catch up" to an alleged speeder driving with hazard lights flashing.

18. Defendant Trooper Burke's operation of his patrol vehicle was done under color of law in a manner that was unlawful, arbitrary, conscience shocking, unconstitutional and outrageous.

19. Defendant Trooper Burke's conduct served no legitimate law enforcement or governmental purpose and was a completely arbitrary abuse of governmental power.

20. Defendant Trooper Burke's conduct constituted conscience shocking behavior that displayed both a deliberate indifference to and intentional disregard for human life.

21. Defendant Trooper Burke's conscience shocking behavior was only terminated when he drove his patrol car into the vehicle being driven by Tavon Desean Jenkins, killing Cassandra Braun and her driver.

22. Defendant Trooper Burke's conduct was so egregious, conscience shocking and so likely to cause serious harm and/or death that it violated Ms. Braun's federal constitutional rights

under the Fourth and Fourteenth Amendments.

23. At all times material hereto, Defendant Colonel Bryant was the Director of the Arkansas State Police and, as such, was the final policymaker with authority with respect to the matter of establishing the official policy of the Arkansas State Police, selecting the officers employed, training the officers employed, supervising the officers employed, and imposing warranted discipline on officers employed.

24. Plaintiff avers that Defendant Colonel Bryant allowed an unwritten official Arkansas State Police policy of allowing officers the discretion to illegally use Arkansas State Police vehicles in emergency status when there was no legitimate emergency and without following the rules and laws applicable to emergency vehicle operation.

25. As the Director of the Arkansas State Police, Defendant Colonel Bryant was under an affirmative duty to not be deliberately indifferent to a need to properly hire, train, supervise and discipline Arkansas State Police officers.

26. Plaintiff avers that Defendant Colonel Bryant was deliberately indifferent to his affirmative duty to properly hire, train, supervise and discipline Arkansas State Police officers, including Defendant Trooper Burke.

27. Plaintiff avers that Defendant Colonel Bryant is subject to individual liability under § 1983 as a final policymaker and as the supervisor of the Arkansas State Police and Defendant Trooper Burke: (1) having received notice of pattern of unconstitutional acts committed by

subordinates; (2) having demonstrated deliberate indifference to or tacit authorization of offensive acts; (3) having failed to take sufficient remedial action; and (4) such failure having proximately caused injury to Cassandra Braun. *Andrews v. Fowler*, 98 F.3d 1069, 1078 (8th Cir. 1996).

28. Existence of written policies of the Arkansas State Police are of no moment in the face of evidence that such policies are neither followed nor enforced; but, rather, the real official policy is to allow each individual officer the discretion to “catch up” to perceived speeders at high rates of speed, all without blue lights or siren engaged, in violation of both state law and accepted law enforcement standards.

29. Defendant Colonel Bryant is aware that there is indisputable evidence that Defendant Trooper Burke acted with no legitimate governmental purpose in driving at high speed with no lights or sirens and in response to neither a legitimate need for pursuit nor a legitimate emergency, placing innocent citizens at certain and substantial risk of serious harm or death.

30. Plaintiff has waited 19 months since the date Defendant Trooper Bryant killed Cassandra Braun in order to give Defendant Colonel Bryant ample time to take affirmative action in the face of the known need to take affirmative action to discharge his duty to not be deliberately indifferent to the constitutional rights of Cassandra Braun and Plaintiff.

31. Plaintiff avers that Defendant Colonel Bryant has imposed no discipline and has, thereby, both ratified the unconstitutional conduct by Defendant Trooper Burke and acquiesced in the unconstitutional conduct of Defendant Trooper Burke. Further, the failure to discipline

Defendant Burke by Defendant Colonel Bryant illustrates the underlying policy, practice and custom of Defendant Colonel Bryant at the time of the crash which allowed his subordinates to act in an unconstitutional manner with respect to vehicle operations in violation of state laws and policy which illustrates his deliberate indifference to certain, predictable and deadly consequences of these actions. *See also, Stewart v. Arkansas State Police*, Arkansas Claims Commission Docket # 12-0512-CC

32. Plaintiff avers that Defendant Colonel Bryant has imposed no additional training or policy additions to affirmatively supervise, manage or train officers in his charge – despite the fact that reported acts of misuse of Arkansas State Police vehicles is sufficient to compel increased supervision – and has, thereby, manifested deliberate indifference to the unconstitutional policy (custom) of allowing individual officers to drive vehicles in a non-emergency status in violation of the rules of the road without lights and siren engaged. *Ware v. Jackson County, Mo.*, 150 F.3d 873, 882-3 (8th Cir. 1998).

33. Because of the deliberate indifference to a need to train, supervise and discipline Arkansas State Police officers, including Defendant Trooper Burke, with respect to emergency vehicles operation, Defendant Colonel Bryant permitted, encouraged, and tolerated improper emergency vehicle operations by his officers with deliberate indifference to the constitutional rights of the public at large, including Cassandra Braun, all under color of law.

34. As the final policymaker with authority with respect to the matter of Arkansas State

Police vehicle policies and use, Defendant Colonel Bryant allowed and continues to allow an official pattern, practice or custom of allowing individual Troopers to misuse Arkansas State Police patrol cars to drive at excessive speeds in violation of the rules of the road without any legitimate governmental justification, without any legitimate underlying emergency, without any use of emergency lights and sirens, and all without any legitimate disciplinary consequences.

35. As a result of these actions, Plaintiff seeks recovery from the Defendants of all damages to which she may be entitled under both state and federal law.

SPECIFIC FACTUAL ALLEGATIONS

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

36. A fatal automobile crash which occurred in the City of Hot Springs, Garland County, Arkansas at Airport Road/US 70 at the intersection with Kleinshore Road on October 10, 2016, at approximately 9:23 p.m. between a vehicle being driven by Defendant Trooper Burke and a vehicle being driven by Tavon Desean Jenkins. As a result of the crash, both Jenkins and Cassandra Braun, his passenger, were killed.

37. Defendant Trooper Burke was the driver of a 2016 Dodge Charger owned by the Arkansas State Police and had exclusive control over the operation of said vehicle. The vehicle being driven by Defendant Trooper Burke was a fully marked Arkansas State Police patrol vehicle equipped with emergency lights and sirens and a dash mounted camera. Defendant Trooper Burke

was acting in the course and scope of his employment with the Arkansas State Police and under color of state law.

38. Immediately prior to the events which led to the death of Cassandra Braun, Defendant Trooper Burke was involved an encounter with a citizen in a parking area off Highway 70, near 5219 Airport Road, in what is believed to be the parking lot of a U.S. Post Office. The exact nature of that encounter is currently unknown but it was not an emergency situation.

39. During that encounter, Defendant Trooper Burke appeared to speak with a citizen and use a flashlight to search the vehicle. The entire encounter lasted approximately 4 minutes.

40. Towards the end of that encounter, Defendant Trooper Burke may have observed a vehicle traveling Eastbound on Airport Road/U.S. 70, that he may have believed was speeding while driving with its hazard lights.

41. The unknown vehicle was visible for less than 10 seconds as it passed by the location where Defendant Trooper Burke was stopped. This brief observation of the unknown vehicle passing by represents the totality of Defendant Trooper Burke's knowledge and information pertaining to the unknown vehicle as he never observed the vehicle again. Defendant Trooper Burke did not receive any other information from dispatch or any other officer pertaining to this vehicle. Further, Defendant Trooper Burke was not dispatched or requested to engage in any law enforcement actions with respect to this vehicle by any other law enforcement officer or agency.

42. Based on his brief observation of the unknown vehicle, Defendant Trooper Burke obtained a vague description of the vehicle as a dark, newer model SUV and no information to specifically identify the vehicle such as a license plate number.

43. Defendant Trooper Burke did not have any objective confirmation of his assumption that this vehicle was speeding (i.e., no radar or other electronic means to determine vehicle speed).

44. Therefore, Defendant Trooper Burke did not have enough information to validly charge the driver of the unknown vehicle with even a traffic offense.

45. The brief observation by Defendant Trooper Burke did not provide articulable reasonable suspicion or probable cause to believe that the driver of the unknown vehicle had committed a crime or traffic offense.

46. After observing the unknown vehicle, Defendant Trooper Burke did not take any immediate law enforcement action to apprehend this suspected speeder such as immediately notifying dispatch of reportable criminal activity. Therefore, any claim that this represented a true emergency would be both preposterous and in bad faith.

47. Instead, Defendant Trooper Burke continued to complete his citizen encounter for approximately another minute. After Defendant Trooper Burke completed his citizen encounter, Defendant Trooper Burke walked to his police vehicle.

48. If there had been any objective evidence that the driver of the unknown vehicle was

involved in criminal activity, Defendant Trooper Burke would not have continued his encounter with the unknown citizen encounter and would not have walked back to his patrol vehicle. Therefore, any claim that this represented a true emergency would be both preposterous and in bad faith.

49. If there had been any objective evidence that the driver of the unknown vehicle was involved in criminal activity, Defendant Trooper Burke would have immediately reported the alleged criminal activity to dispatch, so other law enforcement officers could be advised of the particulars of the unknown vehicle (including the make, model, speed, direction and alleged crimes) and attempts could have been made to coordinate with other law enforcement officers to be on the lookout for the unknown vehicle. Therefore, any claim that this represented a true emergency would be both preposterous and in bad faith.

50. Defendant Trooper Burke entered his Arkansas State Police patrol vehicle and exited the parking area into the Eastbound lane of Airport Road/U.S. 70. Defendant Trooper Burke proceeded down the Eastbound lane of Airport Road/U.S. 70. in the direction of unknown vehicle in order to investigate **his hunch that** the driver of the unknown vehicle was speeding.

51. Based on the totality of the observations of the unknown vehicle by Defendant Trooper Burke, there was not sufficient information to specifically identify the unknown vehicle if encountered at a later time as the only information available to Defendant Trooper Burke was that the vehicle was a newer model, dark SUV – a very common vehicle.

52. When Defendant Trooper Burke first began his efforts to “catch up” to the unknown vehicle, the unknown vehicle had already traveled well past his location such that Defendant Trooper Burke had no further visual contact with the unknown vehicle.

53. Based on these facts, there was no emergency. Further, any claim that this represented an emergency situation would be preposterous and in bad faith.

54. Based on these facts, no emergency response vehicle operation was warranted either objectively or subjectively to Defendant Trooper Burke.

55. Based on these facts, no emergency vehicle pursuit vehicle operation was warranted either objectively or subjectively to Defendant Trooper Burke.

56. Based on these facts, no violation of the rules of the road was warranted or authorized either objectively or subjectively to Defendant Trooper Burke.

FIRST PORTION OF DEFENDANT TROOPER BURKE DRIVING ROUTE¹

57. Defendant Trooper Burke entered his Arkansas State Police patrol vehicle and exited the parking area into the Eastbound lane of Airport Road/U.S. 70. Defendant Trooper Burke proceeded down the Eastbound lane of Airport Road/U.S. 70. in the direction of unknown vehicle in order to investigate **his hunch that** the driver of the unknown vehicle was speeding.

¹ While the totality of the entire route driven by Defendant Trooper Burke must be considered in evaluating his actions, Plaintiff has broken the driving route down into two separate sections. First, the portion of his route that occurred on Airport Road/U.S. 70 which was outside the City of Hot Springs and which was primarily a dark, unlit, hilly, winding road which had a maximum speed limit of 55 mph. Second, the portion of US 70 which runs through the City of Hot Springs which was primarily city streets of two to four lanes where the speed limit was between 40 and 50 mph.

58. At first, Defendant Trooper Burke activated his lights and sirens. Defendant Trooper Burke let two vehicles pass by his location, traveling in the direction of the unknown vehicle.

59. Defendant Trooper Burke entered the highway and passed the two vehicles when those two vehicles pulled to the side of the road in response to Defendant Trooper Burke's patrol car's blue lights and siren.

60. After passing the two vehicles, Defendant Trooper Burke inexplicably turned off his blue lights and siren. Defendant Trooper Burke activated his lights and sirens for no more than 20 seconds and only at the very beginning of his driving.

61. By continuing his journey without blue lights and siren, Defendant Trooper Burke objectively and subjectively prevented the motoring public from being warned that Defendant Trooper Burke was engaged in high speed, outrageous, reckless and shocking driving.

62. Defendant Trooper Burke continued Eastbound on Airport Road/U.S. 70. without lights and siren in excess of the speed limits and other rules of the road in violation of Arkansas state law that every reasonable officer is duty bound to know and follow. The failure to comply with this law made Defendant Trooper Burke's conduct illegal, evinced an evil motive and served no law enforcement purpose. Further, the failure to follow these laws that every reasonable officer is duty bound to know and follow illustrates that Defendant Trooper Burke was plainly incompetent.

63. Defendant Trooper Burke drove without lights and siren (excluding the first 20 seconds) for over five minutes over a distance of approximately 8.7 miles at documented speeds of over 100 miles per hour and at an average speed of over 90 m.p.h. This conduct is so outrageous and without legal justification that it illustrates the actions Defendant Burke were committed in bad faith and are such that they are not to be tolerated in a civilized society.

64. Before entering the streets of the City of Hot Springs, Defendant Trooper Burke travelled eastbound on Airport Road/U.S. 70 which is a dark, unlit, two-lane, winding and hilly road which runs into the City of Hot Springs.

65. Defendant Trooper Burke drove in an intentional, conscience shocking and willful and wanton manner that included excessive speeds, failing to maintain his vehicle in its proper lane of traffic, passing vehicles at excessive speeds, crossing the double yellow lines and traveling in the oncoming traffic lane, among other illegal and improper driving actions.

66. Defendant Trooper Burke encountered over 20 vehicles travelling on this portion of his route before entering the City of Hot Springs, including passing at least 5 cars into oncoming traffic and across double yellow line.

67. Defendant Trooper Burke's excessive speeds during this portion of the route led him to be unable to maintain his patrol car in his lane of traffic, swerving across the double yellow lines approximately 15 times.

68. The speed limit on this portion of the route is 55 mph.

69. Defendant Trooper Burke drove without lights and sirens in violation of state law causing extreme danger to the motoring public.

70. Defendant Trooper Burke had no justification for emergency driving, emergency pursuit or emergency response and therefore, acted in bad faith and without any legitimate law enforcement objective or purpose.

71. Defendant Trooper Burke had no justification to disregard state traffic laws – the rules of the road. Further, Defendant Trooper Burke failure to activate his lights and sirens while violating the rules of the road was unlawful, conscience shocking and served no legitimate law enforcement purpose.

72. Defendant Trooper Burke had no justification for utilizing his lights and sirens to drive at an excessive rate of speed as there was no emergency which illustrated that he subjectively did not believe that he was involved in an emergency as, in fact, there was no emergency.

73. Despite no emergency, Defendant Trooper Burke had no justification for, nevertheless, not using his blue lights and siren when violating the rules of the road so as to at least warn the motoring public of his extremely dangerous conduct. Both his conscience shocking driving actions and complete failure to warn the public of his dangerous and criminal recklessness, illustrated his intentional, complete and total disregard of human life and willful bad faith, which created a significant danger of death or serious bodily injury to all in his path.

74. In choosing turn off his blue lights and siren, Defendant Trooper Burke made a

intentional and conscious choice to subject the motoring public to his use of deadly force and arbitrary governmental activity which served no legitimate law enforcement purpose in driving his patrol vehicle in an illegal and conscience shocking manner and created dangers of death that otherwise did not exist.

75. Defendant Trooper Burke's conduct is so outrageous that it manifests an intentional and conscious intent to harm, recklessness and deliberate indifference to a known need to warn the motoring public that he was driving at an illegal and excessive rate of speed.

76. Because there was no legitimate governmental reason for his conduct, Defendant Trooper Burke acted under color of law in a manner that is completely arbitrary governmental conduct which shocks the conscience of a civilized society.

77. Defendant Trooper Burke's conduct is an abuse of governmental power – for no legitimate governmental or law enforcement purpose – and violates the Substantive Due Process Clause of the Fourteenth Amendment.

78. Given the facts observed by Defendant Trooper Burke, he had a duty to follow all rules of the road while traveling in the direction of the unknown vehicle to investigate and look for the unknown vehicle.

79. Defendant Trooper Burke had ample time to make a deliberate choice as to how to proceed. Further, Defendant Trooper Burke had an affirmative duty to deliberate with respect to his actions. Further, Defendant Trooper Burke had absolutely no discretion to violate state law

and drive his patrol car in an illegal and conscience shocking manner. Finally, Defendant Trooper Burke was not responding to any emergency request for assistance from dispatch, any other officer, any other law enforcement agency or any other citizen.

80. Defendant Trooper Burke did not attempt to balance the high-speed threat to everyone within stopping range with any perceived need to stop a suspect (even though, in this case, there was no “suspect” or no crime). Alternatively, Defendant Trooper Burke did balance these factors and intentionally chose to violate state law and engage in illegal, unconstitutional and conscience shocking behavior which is conduct which only a plainly incompetent officer would perform and illustrates both bad faith and an evil motive.

81. Since Defendant Trooper Burke had ample time to deliberate and weigh the considerations, an affirmative duty to deliberate and no discretion to act illegally, Defendant Trooper Burke made the completely arbitrary, bad faith, unjustifiable and deliberate decision to drive over 100 miles per hour in a non-emergency, non-chase scenario with complete disregard to human life and the certain dangers obviously inherent in his conduct.

82. During this portion of his route, Defendant Burke drove without light and sirens in violation of state law at excessive speeds through dark, unlit, two-lane, hilly, winding roads causing extreme danger to the motoring public. Each time Defendant Burke passed an innocent motorist represented a serious and foreseeable risk of injury or death to the innocent motoring public. Given the time and distance traveled during this portion of the route and the obvious

dangers created by his driving represented by each vehicle passed, Defendant Burke had sufficient time to deliberate and consider his actions but intentionally chose to continue the driving at high speeds, consciously disregarding the foreseeable risk of injury or death to the motoring public. Instead of continuing to drive in a willful and wanton manner, Plaintiff avers Defendant Burke should have never even attempted to “catch up” to the unknown vehicle without complying the all traffic laws. In any event, faced with innocent third parties exposed to the danger of his reckless driving in violation of state law and policy, each and every motorist encountered represented an opportunity for a serious crash and an obligation to reconsider his actions. However, Defendant Burke continued with his egregious driving and intentionally exposed the public to a grave and foreseeable risk of death or serious injury as a result of a high-speed crash. This constitutes arbitrary and conscious shocking governmental behavior that serves no legitimate law enforcement purpose both objectively and subjectively to Defendant Trooper Burke.

SECOND PORTION OF DEFENDANT TROOPER BURKE’S ROUTE

83. While the first portion of Defendant Trooper Burke’s driving route exposed the public to an unjustified risk death of risk, the danger grew exponentially as his driving traveled from dark, two lane roads of eastbound Airport/US 70 towards and into the City of Hot Springs.

84. As Defendant Trooper Burke traveled closer to the City of Hot Springs, the number of motorists exposed to grave danger by his driving actions significantly increased.

85. As Defendant Trooper Burke traveled closer to the City of Hot Springs, the speed

limits during this section of his route decreased from 55 mph to 40-50 miles per hour in certain places on his route.

86. During this portion of his route, Defendant Burke encountered approximately 40 vehicles travelling on the road, including passing at approximately 10 vehicles travelling in his same direction. In addition, it appeared that Defendant Burke's excessive speeds during this portion of the route led him to be unable to maintain his patrol car in his lane of traffic approximately 20 times. This does not even include numerous persons who were in town patronizing business, all of which could have been exposed to immediate danger from his unlawful conduct. The increasing dangers posed by his actions are so obvious that his continued egregious driving through the City of Hot Springs at speeds in excess of 100 miles per hour constituted unquestionably conscience shocking behavior, especially because Defendant Burke is supposed to be a properly trained law enforcement officer duty bound to protect the public.

87. As Defendant Trooper Burke traveled into the City of Hot Springs, Defendant Trooper Burke's conscience shocking driving ended when Defendant Trooper Burke rammed the vehicle which Braun was riding in at a speed close to 100 mph, killing her and the driver Tavon Jenkins. Significantly, the black box recorder from Defendant Trooper Burke's patrol car documented that he was travelling 113 miles per hour just five seconds before he drove his vehicle into the vehicle in which Cassandra Braun was riding and 98 miles per hour at the time of impact. The speed limit at the location of the crash was 45 miles per hour. Therefore, Defendant Trooper

Burke was traveling 2.5 times the posted speed limit, without his lights and sirens, when he drove his vehicle into the vehicle which Cassandra Braun was riding in, killing both Ms. Braun and Tavon Jenkins.

88. When Defendant Trooper Burke rammed the Braun vehicle, Defendant Trooper Burke effected a “seizure” of the rammed vehicle.

89. Immediately before the crash, Cassandra Braun's vehicle was traveling on Airport Road and started a left-hand turn onto Kleinshore Road.

90. As Ms. Braun's vehicle was in the turn lane, Defendant Trooper Burke's vehicle approached, driving at 113 mph in a 45-mph speed zone, violently crashing into her vehicle.

91. The impact was so massive that it ejected both Cassandra Braun and the driver, Tavon Jenkins ... killing them.

92. Had Defendant Trooper Burke been driving with blue lights and siren engaged, his 100+ miles-per-hour speeding vehicle would have been visible to approaching motorists.

93. With no blue lights and no siren, there was really no way to perceive that Defendant Trooper Burke was driving over 100 miles per hour in a 45 MPH zone.

94. Defendant Trooper Burke intentionally concealed his crazy speed in the dark in bad faith and subjected Tavon Jenkins and Cassandra Braun to a situation where they could not defend themselves from Defendant Trooper Burke’s unjustified use of deadly and excessive force.

95. By crashing into the vehicle in which Cassandra Braun was a passenger, Defendant

Trooper Burke seized Cassandra Braun with deadly force and violated her constitutional rights.

96. Cassandra Braun and her driver, Tavon Jenkins, were not guilty of any crime, did not pose any threat to the public or officers and were not attempting to evade arrest or attempting to flee.

97. Defendant Trooper Burke violated the objective reasonableness requirement of the Fourth Amendment.

98. Defendant Trooper Burke's use of force, judged from the perspective of a reasonable officer on the scene, was unconstitutionally excessive.

99. Defendant Trooper Burke was not in a situation where he was forced to make split-second decisions about the apprehension of a suspected traffic offender and/or the amount of force necessary in the particular situation. Defendant Trooper simply, and without legal justification, used his patrol car to engage in a prolonged and dangerous conscience shocking joy ride in a fully marked patrol car without even utilizing his lights and sirens.

100. Viewed prospectively, "standing in the officer's shoes," Defendant Trooper Burke's use of "excessive" and "deadly force" force was not used to protect but was used to punish and had the effect of arbitrarily punishing Cassandra Braun by killing her.

101. Defendant Trooper Burke's "seizure" conduct went beyond the Fourth Amendment's limitation of objective unreasonableness as it was completely arbitrary and also a violation of the Substantive Due Process Clause of the Fourteenth Amendment and constituted

conscience shocking behavior.

102. The intent-to-harm standard that normally applies to a Fourteenth Amendment evaluation of a high-speed automobile chase aimed at apprehending a suspected offender does not apply in this case because there was no chase of a suspected offender. Further, even if the intent-to-harm standard applies to this case, Defendant Trooper Burke's conduct was so egregious as to display an intent to injure Cassandra Braun and her driver and conscience shocking behavior.

103. The conduct of Defendant Trooper Burke violated the Fourteenth Amendment because it was completely arbitrary governmental action that makes no sense whatsoever and served no law enforcement purpose. Defendant Trooper simply, and without legal justification, used his patrol car to engage in a prolonged and dangerous conscience shocking joy ride in a fully marked patrol car without even utilizing his lights and sirens. His actions clearly amounted to bad faith and evinced an evil motive and complete and total disregard to human life.

104. Defendant Trooper Burke had no legitimate emergency reason for violating normal rules of the road, even if he used his lights and sirens both objectively and subjectively. Further, Defendant Trooper Burke had absolutely no discretion to violate the rules of the road without using his lights and sirens and drive in an illegal and conscience shocking manner. Therefore, Defendant Trooper Burke's actions in driving in a conscience shocking manner, in a non-emergency situation, without lights and sirens, in violation of the rules of the road and state law, were illegal, non-discretionary, performed in bad faith and were plainly incompetent.

105. Defendant Trooper Burke intentionally disregarded his affirmative duty to drive with due regard for the safety of all persons using the street and with reckless disregard for the safety of the public. Therefore, Defendant Trooper Burke violated Ark. Code Ann. 27-51-202, entitled "Restrictions not applicable to emergency vehicles."

106. Defendant Trooper Burke did not even subjectively believe that he was responding to a true emergency, as evidenced by the fact that Defendant Trooper Burke made a conscience decision to NOT use his lights and sirens and turned them off.

107. Since Defendant Trooper Burke acted in a manner that was completely arbitrary governmental action (NO Legitimate Emergency + NO Lights + NO Sirens), Defendant Trooper Burke acted with in bad faith, with an Intent-to-Harm and with no legitimate law enforcement purpose.

108. "Intent to harm the victim" is shown by "conscience shocking" conduct and the conduct of Defendant Trooper Burke does in fact "shock the conscience" both objectively and subjectively to Defendant Trooper Burke.

109. Defendant Trooper Burke drove without lights and siren (excluding the first 20 seconds) for over five minutes over a distance of approximately 8.7 miles at documented speeds of over 100 miles per hour and at an average speed of over 90 m.p.h. This conduct is so outrageous and without legal justification that it illustrates the actions Defendant Burke were committed in bad faith and are such that they are not to be tolerated in a civilized society both objectively and

subjectively to Defendant Trooper Burke.

110. Based on Defendant Trooper Burke's conduct set forth herein, Defendant Trooper Burke actions specifically created a danger to the motoring public, including Cassandra Braun. Defendant Trooper Burke's conduct in driving in a conscience shocking manner, in a non-emergency situation, without lights and sirens, in violation of the rules of the road and state law, were illegal and specifically and affirmatively placed Cassandra Braun in a direct position of danger from his actions and prevented her ability to defend herself from the impending dangers of his actions as he failed to utilize his lights and sirens which are designed to warn the motoring public of the impending dangers of his illegal actions.

111. Defendant Trooper Burke's conduct was so egregious as to not be protected by qualified immunity. Qualified immunity applies to "government officials performing **discretionary functions**" and generally shields governmental officials "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). Defendants Trooper Burke's actions in driving in a conscience shocking manner, in a non-emergency situation, without lights and sirens, in violation of the rules of the road and state law, were illegal, non-discretionary and were plainly incompetent, precluding any assertion of the defense of qualified immunity.

112. Further, Defendant Trooper Burke's conduct violated clearly established law by

engaging in illegal conduct which served no legitimate law enforcement purpose when he drove his patrol car in a conscience shocking manner, in a non-emergency situation, without lights and sirens, in violation of the rules of the road and state. *See generally, Lewis v. Sacramento*, 118 S.Ct. 1708 (1998); *Deshaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989). *Checki v. Webb*, 785 F.2d 534 (5th Cir. 1986).

113. At the ASP, once the crash investigation is complete, it is forwarded up the chain of command for review to determine:

- 1) if further investigation needs to be performed;
- 2) if the crash was avoidable or unavoidable;
- 3) if a violation of department policy had occurred; and
- 4) if a violation of traffic or criminal law occurred.

114. Once the investigation is reviewed by persons in the chain of command, Defendant Colonel Bryant has the final policymaking authority to decide what action to take in furtherance of his affirmative duty to not be deliberately indifferent to a need for supervision, training and discipline.

115. Plaintiff has made FOIA requests for investigations of this collision and for actions taken, including disciplinary action. Plaintiff has not been provided all of the documents requested in her FOIA request and will need additional discovery to obtain these documents.

116. The Arkansas State Police has not provided Plaintiff with any information regarding any affirmative action taken, including disciplinary action as a result of the investigation of the conduct of Defendant Trooper Burke. Upon information and belief, Defendant Trooper

Burke was allowed to retire without any discipline being imposed.

117. The limited documentation provided by Arkansas State Police in response to Plaintiff's FOIA request indicates:

- a. Arkansas State Police Officers have been involved in 139 previous crashes since 2013.
- b. A claim was filed in the Claims Commission by Melissa Stewart against the Arkansas State Police, Claim No. 12-0512-AC for \$8,000,000.00. This claim arose from conduct of Arkansas State Trooper Rhew who was responding to a non-emergency sirens. As a Commission incident, it was noted as follows:

“Mr. Rhew did not have an unblemished employment history with the Arkansas State Police and was terminated by the Arkansas State Police after this wreck. For some unexplained reason Mr. Rhew was subsequently rehired by the Arkansas State Police. He later resigned his position following his arrest on driving while intoxicated charge.

The Respondent in investigating this incident directed/strongly suggested, according to the testimony of the officer assigned to do this investigation, that Mr. Rhew be asked on two questions by the investigating officer.

The questions were (paraphrased);

1. Did you have your lights and sirens on? Answer: “No.” and
2. Were you traveling at a speed of approximately 100 m.p.h.? Answer: “I don't know.”

Why the Respondent sought to restrict a thorough investigation of the wreck in unclear to the Claims Commissioners.”

118. As Director of the ASP, Defendant Colonel Bryant is liable in his supervisory

capacity for:

- a. failing to establish and/or enforce a non-pursuit and non-emergency driving policy that affirmatively requires all officers to not exceed speed limits without lights and sirens engaged, obey the rules of the road and drive with due regard to the motoring public.
- b. failing to implement training necessary to inform all troopers of the state law and policy requirement regarding non-pursuit and non-emergency driving that affirmatively requires all officers to not exceed speed limits without lights and sirens engaged, obey the rules of the road and drive with due regard to the motoring public.
- c. failing to impose discipline any time an officer violates state law and the policy requirement regarding non-pursuit and non-emergency driving that affirmatively requires all officers to not exceed speed limits without lights and sirens, obey the rules of the road and drive with due regard to the motoring public.
- d. allowing officers to violate state law by exceeding the speed limit and other rules of the road, without utilizing lights and sirens, without an underlying and legitimate law enforcement emergency which creates an official custom of allowing troopers to engage in illegal, high-speed catch-up of motorists.

119. Defendant Colonel Bryant failed in these constitutional duties by failing to properly train, investigate and discipline members of the ASP, including Trooper Burke for his clearly outrageous and unconstitutional conduct, thereby ratifying his conduct and illustrating Defendant Colonel Bryant's underlying customs in force at the time of the events, all of which displayed deliberate indifference and reckless disregard for Cassandra Braun's and Plaintiff's constitutional rights.

120. The actions of Defendant Trooper Burke and Defendant Colonel Bryant were a

direct and proximate cause of the violation of Cassandra Braun's and Plaintiff's constitutional rights and was a direct and proximate cause of Plaintiff's injuries and damages.

LIABILITY

COUNT I

FEDERAL CONSTITUTIONAL VIOLATIONS BY DEFENDANT TROOPER BURKE

Objectively Unreasonable Seizure and Completely Arbitrary Governmental Action

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

121. Defendant Trooper Burke committed actions and/or omissions described above under the color of law and by virtue of his authority as a law enforcement official of the Arkansas State Police and deprived Plaintiff and Plaintiff's decedent of their clearly established rights guaranteed to her by the Fourth and Fourteenth Amendment of the United States Constitution, in violation of 42 U.S.C § 1983 and 1988 including, but not limited to:

- a. Freedom from unreasonable seizure of her person;
- b. Freedom from the use of deadly, unreasonable, unjustified and excessive force;
- c. Freedom from deprivation of liberty without due process of law;
- e. Freedom from arbitrary state created dangers; and
- d. Freedom from completely arbitrary government actions so outrageous as to shock the conscience of a civilized society.

122. As a direct and proximate result of Defendant Trooper Burke's actions and

omissions, Cassandra Braun was killed and the constitutional rights of Cassandra Braun and the Plaintiff were violated.

COUNT II
FEDERAL CONSTITUTIONAL VIOLATIONS BY DEFENDANT COLONEL BRYANT

Deliberate Indifference to Necessary Hiring, Training, Supervision, Discipline

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

123. At all times material hereto, Colonel Bill Bryant was the Director of the Arkansas State Police. Defendant Colonel Bryant is responsible for the day to day operation of the Arkansas State Police and is the final policymaker with respect to law enforcement operations of the Arkansas State Police. Pursuant to Ark. Code Ann. Section 12-8-104(f)(1), Defendant Colonel Bill Bryant is charged with the responsibility of executing “supervision and control [of the ASP] for the purposes of discipline and proper management” of the Arkansas State Police.

124. As the Director of the Arkansas State Police, Defendant Colonel Bryant has an affirmative constitutional duty to "not be deliberately indifferent to a need for" necessary training, hiring, supervision or discipline as the "failure to provide proper training may fairly be said to represent a policy for which the [government] is responsible" if "the need for more or different training" is "so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of the city can reasonably be said to have been deliberately indifferent to the need." *City of Canton v. Harris*, 489 U.S. 378 (1989).

125. The Director of the Arkansas State Police has been put on notice of a need for additional training of troopers with respect to operating patrol vehicles in excess of the speed limit and/or in disregard of the rules of the road. The Arkansas State Police had been previously found liable for this conduct through prior investigations and by a judgment for almost \$3,000,000 entered against the ASP by the Arkansas Claims Commission in *Melissa Stewart v. Arkansas State Police*, Claim No. 12-0512-AC (2012). Despite these facts, Defendant Colonel Bryant failed to provide additional training or otherwise make efforts to prevent this unconstitutional and deadly conduct of ASP troopers.

126. Defendant Colonel Bryant has been deliberately indifferent to his affirmative duty to not be deliberately indifferent to a necessary training and supervisory obligations.

127. Discovery will tell whether Defendant Colonel Bryant was deliberately indifferent to a necessary hiring need but Plaintiff avers such, so that Defendant Colonel Bryant will be on notice that such is an issue in this matter and will be a subject of this litigation. A law enforcement agency director will be considered to be "deliberately indifferent" to a necessary hiring need "where adequate scrutiny of an applicant's background would lead a reasonable policymaker to conclude that the plainly obvious consequence of the decision to hire the applicant would be the deprivation of a third party's federally protected rights." *Board of County Commissioners of Bryan County v. Brown*, 520 U.S. 397 (1997).

128. Where a law enforcement agency director knows of a particular officer's "exuberant

and reckless background" and "his record" then "§ 1983 liability can attach for a single decision not to train an individual officer even where there has been no pattern of previous constitutional violations . . . [where there is] . . . evidence that would support a finding that it was obvious that the offending officer . . . was highly likely to inflict the particular injury suffered by the plaintiff" and a jury could conclude that "it was obvious to [the law enforcement agency director] that his policy decision not to train [the particular officer in question] would result in a constitutional deprivation." *Brown v. Bryant County*, 219 F.3d 450 (5th Cir. 2000).

129. "[Law enforcement supervisors] may be subject to individual liability under § 1983 as supervisors for failing adequately to receive, investigate, or act upon complaints of ... misconduct by ... department employees if they: (1) received notice of pattern of unconstitutional acts committed by subordinates; (2) demonstrated deliberate indifference to or tacit authorization of offensive acts; (3) failed to take sufficient remedial action; and (4) such failure proximately caused injury. *Andrews v. Fowler*, 98 F.3d 1069, 1078 (8th Cir. 1996).

130. Defendant Colonel Bryant knew of misconduct involving his troopers, including Defendant Trooper Burke, but has failed to properly investigate and discipline his troopers. In fact, in one particular case involving Trooper Rhew, despite initially terminating an officer for conduct similar to Defendant Trooper Burke, Trooper Rhew was inexplicably rehired and the investigation was specifically restricted and amount to a farce as found by the Arkansas Claims Commission in *Melissa Stewart v. Arkansas State Police*, Claim No. 12-0512-AC (2012).

131. Defendant Colonel Bryant's failure to discipline Defendant Trooper Burke is a ratification of Defendant Trooper Burke's misconduct and is evidence that the "official policy" of the Arkansas State Police is the tacit authorization of Defendant Trooper Burke's misconduct and illustrate the unconstitutional customs maintained by Defendant Colonel Bryant. Failure to act on a known complaint of employee misconduct can rise to the level of official policy or custom if there is evidence of a prior pattern of unconstitutional conduct that is so 'persistent and widespread' as to have the effect and force of law or occurs in a situation where there is such an obvious need for appropriate training, supervision and discipline that a single act can amount to deliberate indifference. Plaintiff avers that Defendant Colonel Bryant both maintained a custom of persistent and widespread abuse by ASP troopers driving in an unconstitutional manner and that this is an area where the lack of effective training, supervision and discipline is so obvious as to amount to deliberate indifference to constitutional rights.

132. Existence of written policies of the Arkansas State police are of no moment in the face of evidence that such policies are neither followed nor enforced.

133. Deliberate indifference to the real official policy, evidenced by Defendant Trooper Burke's conduct and Defendant Colonel Bryant's ratification and acquiescence in that conduct, is evidenced by Defendant Colonel Bryant's failure to discipline adequately Defendant Trooper Burke knowing full well that Defendant Trooper Burke acted in a manner that is both completely arbitrary governmental action and objectively unreasonable use of force.

134. Defendant Colonel Bryant's failure to impose adequate discipline evidences the custom of laxness or inaction toward allegations of misconduct by troopers who engage in the use of patrol vehicles at an excessive speed without justification, and said custom is a moving force or cause of the death of Plaintiff's decedent, such that Defendant Colonel Bryant is personally liable for the Fourteenth and Fourth Amendment violations presented in this § 1983 action.

135. Pursuant to Arkansas State Police policies, all crashes involving serious bodily injury are required to be investigated which includes drug and alcohol testing of the officer involved and a complete crash investigation.

136. Once the crash investigation is complete, it is forward of the chain of command to for review to determine: 1) if further investigation needs to be performed; 2) if the crash was avoidable or unavoidable; 3) if a violation of department policy had occurred; and 4) if a violation of traffic or criminal law occurred.

137. Once the investigation is reviewed by persons in the chain of command, Defendant Colonel Bryant has the final policymaking authority to impose sanctions and/or discipline.

138. The actions of Defendant Trooper Burke regarding this incident were conscience shocking and outrageous.

139. Defendants Burke was not terminated or properly disciplined for his egregious misconduct and, therefore, Defendant Colonel Bryant ratified, condoned, acquiesced in or approved of his conduct in all respects.

140. The aforementioned actions of Defendant Trooper Burke which were proximately caused by the operation of the policies, practices and customs established by Defendant Colonel Bryant as Director of the Arkansas State Police and was the underlying cause of the Plaintiffs' injuries and damages.

**COUNT III
PUNITIVE DAMAGES**

Plaintiff hereby incorporate, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

141. The actions and omissions of Defendants complained of herein were unlawful, conscience shocking and unconstitutional and performed maliciously, recklessly, fraudulently, performed in bad faith, sadistically, intentionally, willfully, wantonly and in such a manner as to entitle the Plaintiff to a substantial award of punitive damages.

142. As a direct and proximate result of the Defendants' acts and omissions, Plaintiff Cassandra Braun was injured and damaged.

DAMAGES

Plaintiff hereby incorporate, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

143. Pursuant to Ark. Code Ann. § 16-62-102, Plaintiff submits that the Estate is the proper party to pursue on behalf of its Decedent.

144. Plaintiff seeks recovery pursuant to 42 U.S.C. Section 1983 & 1988, and applicable

state law per 42 U.S.C. Section 1988.

145. Plaintiff seeks recover of damages stemming from Cassandra Braun is constitutional deprivation including the pecuniary value of her life, pain and suffering, loss of enjoyment of life and any other benefits to which she may be entitled.

146. Plaintiff also seeks recovery of all damages to which she may be entitled as Administrator of the Estate of Cassandra Braun including medical bills, funeral bills, property damage and any of benefit to which the est

147. As a direct and proximate result of the aforementioned actions and omissions of the Defendants, Cassandra Braun's constitutional rights were violated and she was killed, resulting in significant damages. Plaintiff seeks recovery from the Defendants, both jointly and severally, of all damages to which of the Estate of Cassandra Braun may be entitled under both state and federal law in all capacities for the injuries and death of Cassandra Braun and which include, but are not limited to, the following:

- a. Physical Pain and Suffering;
- b. Emotional Pain and Suffering;
- c. Funeral Expenses;
- d. Loss of Enjoyment of Life;
- e. Loss of Wages;
- f. Loss of Earning Capacity;
- g. Hedonic Damages;
- h. The full pecuniary value of the life of Cassandra Braun as defined by Arkansas law;
- i. Punitive damages against the applicable Defendants;
- j. Statutory and Discretionary Costs;
- k. Attorney's fees and costs;
- l. A declaratory judgment that the acts and conduct herein was

- unconstitutional;
- m. Injunctive relief precluding the Defendants from engaging in the conduct complained of herein in the future and requiring the Defendants to provide proper policy, training, supervision and discipline of its employees and holding them accountable for their misconduct;
- n. All such further relief, both general and specific, to which she may be entitled under the premises.

PRAYERS FOR RELIEF

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said paragraphs a part hereof, as if fully set forth herein.

148. WHEREFORE, PREMISES CONSIDERED, Plaintiff sues the Defendants, for her injuries, damages and the death of Cassandra Braun and prays for a judgment against the Defendants for compensatory damages in an amount to be determined by a jury as reasonable and for all such further relief, both general and specific, to which she may be entitled under the premises.

149. WHEREFORE, PREMISES CONSIDERED, Plaintiff sues the Defendants and prays for a judgment against them for punitive damages in an amount to be determined by a jury as reasonable and for all such further relief, both general and specific, to which she may be entitled under the premises.

150. A JURY IS RESPECTFULLY DEMANDED TO TRY THE ISSUES ONCE JOINED.

RESPECTFULLY SUBMITTED,

/s/ Andrew C. Clarke

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