

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 13-04810-CA-01

SHANIKA A. GRAVES, as Personal )  
Representative of the Estate of )  
Travis McNeil, and on )  
behalf of the Estate of Travis McNeil )  
and the survivors of the Estate, )  
T.M. and K.J.P., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF MIAMI, a municipality )  
of the State of Florida, )  
 )  
 )  
Defendant. )  
\_\_\_\_\_ )

**FIRST AMENDED COMPLAINT AND JURY DEMAND**

(Fla. Bar No. 318371)

Plaintiff, Shanika A. Graves, as Personal Representative of the Estate of  
Travis McNeil, on behalf of the Estate of Travis McNeil, and on behalf of the sur-  
vivors of the Estate, T.M. (a minor) and K.J.P. (a minor), sues defendant, City of  
Miami, a municipality of the State of Florida, and alleges:

{07074737;1}

1. This is an action for damages in excess of \$15,000.

### **Parties**

2. Plaintiff, Shanika A. Graves, is the duly appointed Personal Representative of the Estate of Travis McNeil (the “decedent”), having been appointed Personal Representative by the Probate Division of the Circuit Court in and for Miami-Dade County on June 16, 2011. This action is brought by Shanika A. Graves in her capacity as Personal Representative of the Estate of Travis McNeil, on behalf of the Estate, and on behalf of the survivors, T.M and K.J.P. T.M. and K.J.P. are minors and are the son and daughter of the decedent. Today and at the time of his death, both were under the age of twenty-five, and were dependent on the decedent for support.

3. Defendant City of Miami is a municipality incorporated in the State of Florida. Defendant City of Miami operates and is responsible for its Police Department.

### **Factual Allegations**

4. On the night of February 10, 2011, law enforcement officers from the Department of Homeland Security Investigations, the Bureau of Alcohol, Tobacco, Firearms & Explosives, and the City of Miami’s and City of Hialeah’s Police Departments were positioned outside the Take One Lounge (“Take One”) located at

333 N.E. 79 Street in Miami, FL as part of a nationwide investigation into alleged gang activity.

5. While positioned outside the Take One, two patrons, Travis McNeil and his cousin Kareem Williams, were observed exiting the lounge and getting into a vehicle. Mr. McNeil was driving. Neither was suspected of any gang activity.

6. Shortly after Mr. McNeil drove off, several unmarked police vehicles pursued the vehicle Mr. McNeil was driving with their lights and sirens activated. Mr. McNeil immediately pulled over and waited for police.

7. In violation of proper protocol, Officer Reynaldo Goyos approached the vehicle with his gun drawn and yelled for Mr. McNeil to show his hands. Neither Mr. McNeil nor Mr. Williams did anything to threaten or provoke Goyos. Immediately thereafter, Goyos intentionally discharged his firearm three times, fatally wounding Mr. McNeil, and striking Mr. Williams twice. No weapons, drugs or contraband were found on either Mr. McNeil or Mr. Williams or in or around the vehicle.

8. Mr. McNeil's death was the result of a policy of improper police tactics implemented by the City of Miami, the City of Hialeah, Department of Homeland Security and Department of Justice to investigate felonious activity by inadequately trained federal and local law enforcement officers. It was also based on the

negligent training and supervision by federal agencies over the Defendant City of Miami and Hialeah Police Department. It was also based on the negligent training and supervision by the Cities of Miami and Hialeah Police Department.

9. Moreover, Mr. McNeil did not give the officers any reason to believe he had committed, was committing, or was about to commit a felony.

10. Mr. McNeil is survived by his now 13 year old son, T. M. and his 7 year old daughter, K.J.P.

11. Officer Reynaldo Goyos, at all times material to this action, was a police officer of the City of Miami, acting under color of state law and within the course and scope of his employment with Defendant City of Miami.

12. Plaintiff has complied with all applicable provisions of Section 768.28, Florida Statutes.

### **Count One**

#### **Defendant City of Miami for Wrongful Death: Negligence**

13. Plaintiff repeats and realleges Paragraphs 1 through 12 as if fully set forth herein.

14. This Count One is against the Defendant, City of Miami, for the wrongful death of Travis McNeil.

15. As the result of the actions of the Defendant City of Miami's police

officer Goyos of opening fire on the decedent, Travis McNeil was killed.

16. In opening fire without provocation, Officer Goyos, an agent, servant and employee of the Defendant City of Miami's Police Department was negligent in one or more of the following ways:

- A. Goyos at best was making a driving while intoxicated (DUI) stop of a vehicle with his gun drawn without any provocation.
- B. Goyos opened fire without a clear field of vision. Goyos was unable to see the activity taking place in the vehicle.
- C. Goyos violated customary deadly force policy because neither Goyos nor anyone else was in imminent danger of death or serious physical injury when he fired and killed the decedent.
- D. Goyos should have never approached the decedent's vehicle, but should have retreated and followed all customary training protocols regarding felony stops involving armed subjects or vehicles.
- E. Goyos opened fire on a person who at best was suspected of driving while intoxicated.
- F. Goyos had no basis whatsoever to open fire on the decedent.
- G. Goyos opened fire despite the fact that no person had been injured and despite the fact that the decedent's car was "boxed-in" and

could not escape.

H. The senior police officer for the City of Miami at the scene failed to take command and failed to control the actions of Goyos and the other police officers who were present.

I. Goyos opened fire without any basis to assume that the driver was engaged in any criminal activity.

17. As the direct and proximate result of the negligence of the Defendant City of Miami's Police Officer Goyos as here alleged, Travis McNeil was wrongfully killed.

WHEREFORE, on this Count One, as a result of the tragic and untimely death of Travis McNeil, the Estate of Travis McNeil and his survivors claim damages as follows:

A. The Estate has sustained the following damages:

1. Funeral and burial expenses incurred as a result of the death of Travis McNeil that have become a charge against his estate or that were paid on his behalf;

2. Loss of prospective net estate accumulations; and

3. Interest and costs.

B. T.M. and K.J.P., children and dependents of the decedent, have sustained

the following damages:

1. Loss of support and services of their father from February 10, 2011 to the present, plus interest;
2. Loss of support and services of Travis McNeil which would have been received by them from their father in the future, with interest thereon, reduced to present value;
3. Loss of parental companionship, instruction and guidance, from February 10, 2011;
4. Great mental pain and suffering from on or about February 10, 2011, and for the remainder of their lives; and
5. Interest and costs.

**COUNT 2- Defendant City of Miami for Battery**

18. Plaintiff repeats and realleges paragraphs 1 through 12 and incorporates them by reference herein.

19. This Count Two is against Defendant, City of Miami, for the wrongful death of Travis McNeil under Florida state law which holds a government entity liable for the wrongful acts of its employees and agents acting within the course and scope of their employment and/or agency.

20. Officer Goyos was acting within the course and scope of his employment with Defendant City of Miami when he fatally shot Mr. McNeil on February 10, 2011. Defendant City of Miami is responsible for the actions of its employees while engaged within the course and scope of their employment.

21. Officer Goyos caused bodily harm to Mr. McNeil by shooting and killing Mr. McNeil while Mr. McNeil was sitting in his car. The shooting constituted excessive force and was accomplished without the consent and against the will of Mr. McNeil.

22. As a direct and proximate result of Officer Goyos's actions, for which Defendant City of Miami is responsible, Mr. McNeil died.

WHEREFORE, on this Count Two, as a result of the tragic and untimely death of Travis McNeil, the Estate of Travis McNeil and his survivors claim damages as follows:

A. The Estate has sustained the following damages:

1. Funeral and burial expenses incurred as a result of the death of Travis McNeil that have become a charge against his estate or that were paid on his behalf;

2. Loss of prospective net estate accumulations; and

3. Interest and costs.



B. T.M. and K.J.P., children and dependents of the decedent, have sustained the following damages:

1. Loss of support and services of their father from February 10, 2011 to the present, plus interest;
2. Loss of support and services of Travis McNeil which would have been received by them from their father in the future, with interest thereon, reduced to present value;
3. Loss of parental companionship, instruction and guidance, from February 10, 2011;
4. Great mental pain and suffering from on or about February 10, 2011, and for the remainder of their lives; and
5. Interest and costs.

**JURY TRIAL DEMAND**

Plaintiff demands trial by jury.

Respectfully submitted,

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