

**STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT**

**DENNIS MURPHY, as Personal Representative
of the Wrongful Death Estate of Monica Leann Dale,
LETTIE PIERCE, as Legal Guardian and Next Friend
of minor children N.A.Y. and S.A.D., and
CRISTOBAL PENA, as Parent and Next Friend
of minor children Y.D.P. and N.D.P.,
Plaintiff,**

**D-1116-CV-2025-00963
No. D-1116-CV-2025-**

v.

**CITY OF FARMINGTON,
FARMINGTON POLICE DEPARTMENT,
ROBERT SHUTTLEWORTH, and
ALONZO GARNENEZ**

Defendants.

PLAINTIFFS' ORIGINAL COMPLAINT FOR DAMAGES

COMES NOW the Plaintiffs, Dennis Murphy, as Personal Representative of the Wrongful Death Estate of Monica Leann Dale, Lettie Pierce, as Legal Guardian and Next Friend of Monica Leann Dale's minor children, N.A.Y. and S.A.D., and Cristobal Pena, as Parent and Next Friend of Monica Leann Dale's minor children, Y.D.P. and N.D.P., by and through their attorneys, Richard J. Parmley Jr., Esq and Shellie A. Patscheck, Esq., and bring this Complaint for Damages. As grounds in support of this Complaint, Plaintiffs state:

GENERAL ALLEGATIONS

1. The decedent, Monica Leann Dale, was a resident of San Juan County when she died on or about July 17, 2023, at the age of 30.
2. Plaintiff Dennis Murphy is an attorney residing and practicing law in Santa Fe, New Mexico. Mr. Murphy has been duly appointed the Personal Representative of the Wrongful Death Estate of Monica Leann Dale in Cause Number D-101-CV-2023-02848.

3. Plaintiff, Lettie Pierce, is the Legal Guardian and Next Friend of Ms. Dale's minor children, N.A.Y. and S.A.D., who each have individual claims herein. Ms. Pierce, N.A.Y. and S.A.D. are residents of San Juan County, New Mexico.
4. Plaintiff, Cristobal Pena, is the Parent and Next Friend of Ms. Dale's minor children, Y.D.P. and N.D.P., who each have individual claims herein. Mr. Pena, Y.D.P. and N.D.P. are residents of Dona Ana County.
5. Defendants City of Farmington and Farmington Police Department are local governmental entities organized and existing under the laws of the State of New Mexico, and are subject to liability under the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1 *et seq.*) and New Mexico Civil Rights Act (NMSA 1978 §§ 41-4A-1 *et seq.*).
6. Defendant Robert Shuttleworth was a certified peace officer, working for the Farmington Police Department in July of 2023. Upon information and belief, he is a resident of San Juan County, New Mexico.
7. Defendant Alonzo Garnenez was a certified peace officer working for the Farmington Police Department in July of 2023. Upon information and belief, he is a resident of San Juan County, New Mexico.
8. The events described herein occurred on or about July 17, 2023 in San Juan County, New Mexico.
9. A notice of potential tort and constitutional claims was timely sent to the City of Farmington and the Farmington Police Department on January 12, 2024, thus alerting all Defendants to this claim under the New Mexico Tort Claims Act and the New Mexico Civil Rights Act.
10. This Court has subject matter jurisdiction of this action.

11. Venue is appropriate in San Juan County, New Mexico.
12. All claims made herein are brought under New Mexico law and nothing herein is intended to assert a federal claim or cause of action.

FACTS APPLICABLE TO ALL COUNTS

13. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
14. On July 17, 2023, at approximately 12:27 AM, a concerned citizen called 911 to report an emergency. The caller described nearly hitting a pedestrian who was walking “in the middle of the road,” forcing him to swerve to avoid a collision. The caller stated he believed the pedestrian was intoxicated and provided a detailed description of the pedestrian: the pedestrian wore black pants and a black and white striped shirt, had long black hair, and carried a backpack. According to the caller, this person was walking along the "main highway" near the 7-2-11 located on Troy King Road.
15. The 911 Operator immediately dispatched Officers Robert Shuttleworth and Alonzo Garnenez of the Farmington Police Department to conduct a welfare check on the pedestrian.
16. At approximately 12:33 AM, a second concerned citizen called 911 to report an emergency. The caller reported that he observed an intoxicated person “walking in the middle of the highway on the top of Troy King Hill.” The caller stated there were vehicles stopped in the highway, but he wasn’t sure if there was an accident.
17. The 911 Operators immediately dispatched this additional information to Farmington Police Officers.
18. Officer Garnenez responded and made initial contact with the pedestrian, later identified as Ms. Dale.

19. Ms. Dale was visibly intoxicated and stumbling as she walked.
20. Officer Garnenez told Ms. Dale about the report of her walking in the roadway. Ms. Dale responded “no, I got hit” and immediately showed him a bleeding wound on the back of her head.
21. At approximately 12:37 AM, Officer Garnenez contacted dispatch and asked for medics to respond to the scene to help Ms. Dale. Officer Garnenez stated “it looks like she was involved in a [domestic violence incident] and she has bleeding to her head and to her arm.”
22. Officer Shuttleworth responded moments later.
23. Officers asked Ms. Dale to have a seat on the curb while they waited for medics.
24. Ms. Dale was struggling to remember what happened, but stated that her cousin, Eric Etsitty, was drunk and beat her in Kirtland. She stated she left his home and was walking *to try to get help*.
25. Ms. Dale stated she was planning to walk to her sister’s home.
26. Ms. Dale was visibly upset and appeared scared. She stated that she didn’t call 911 “because they’re the ones that keep hurting me.” She further stated that she didn’t want assistance from medics because she feared she would be “victimized.”
27. Ms. Dale began recording officers with her phone and asked each of the officers for their badge number.
28. Ms. Dale stated that she refused medical services.
29. At 12:43 AM, Officer Garnenez asked Dispatch to cancel the response by medics.

30. Officer Garnenez asked Ms. Dale if she needed any assistance to which she requested “a ride.” Officer Garnenez and Officer Shuttleworth both told Ms. Dale they could not give her a ride.
31. After less than 10 minutes, Officers told Ms. Dale that she was free to leave and advised her to stay out of the roadway.
32. As Ms. Dale was sitting on the curb, with her feet on the roadway, Officers asked Ms. Dale numerous times to move out of the roadway so that they could leave.
33. At 12:48 AM, Officer Garnenez updated dispatch with the following information:
“subject denied services, was heavily ETOH. Out of the roadway.”
34. Ms. Dale took only one step off of the roadway as Officer Garnenez pulled away from the scene.
35. Officers left Ms. Dale on the side of the road, in the middle of the night, drunk, injured, wearing black clothing, and in poorly lit area.
36. Officers were aware of the risk that Ms. Dale posed to herself and the motoring public, but failed to do anything about it.
37. Tragically, but unsurprisingly, at 1:39 AM, Preston Clah called 911 to report an emergency. He told the 911 Operator that he was the passenger in a vehicle that struck a pedestrian who was walking in the roadway. He reported that the pedestrian, later identified as Ms. Dale, was deceased as a result of the collision.
38. Because Officer Garnenez was still in the area, he was the first officer on scene to the collision and confirmed that Ms. Dale died from injuries she sustained in the collision.
39. Ms. Dale was less than $\frac{3}{4}$ of a mile from the location where officers left her.

40. Legislation has been enacted in New Mexico to ensure the safety of victims of violence, as well as those who are unable to care for their own safety whether because of mental health or intoxication.
41. These statutes and Acts apply to Law Enforcement Officers acting on behalf of the Farmington Police Department.
42. Had Ms. Dale received appropriate intervention by Defendants, she would not have died.
43. Although another motorist accidentally struck and killed Ms. Dale, this accident would not have been possible but for dereliction of duty by Officers Garnenez and Shuttleworth.

THE FAMILY VIOLENCE PROTECTION ACT

44. After Ms. Dale reported to Defendants that she had been beaten by a family member, Defendants failed to take reasonable steps to protect her, as required by the Family Violence Protection Act (FVPA), NMSA 1978 § 40-13-7.
45. In relevant part, the FVPA requires:

“A local law enforcement officer responding to the request for assistance shall be required to take whatever steps are reasonably necessary to protect the victim from further domestic abuse, including:

 - (1) advising the victim of the remedies available under the Family Violence Protection Act; the right to file a written statement, a criminal complaint and a request for an arrest warrant; and the availability of domestic violence shelters, medical care, counseling and other services;
 - (2) **upon the request of the victim, providing or arranging for transportation of the victim to a medical facility or place of shelter;**
 - (3) upon the request of the victim, accompanying the victim to the victim's residence to obtain the victim's clothing and personal effects required for immediate needs and the clothing and personal effects of any children then in the care of the victim;
 - (4) upon the request of the victim, assist in placing the victim in possession of the dwelling or premises or otherwise assist in execution, enforcement or service of an order of protection;
 - (5) arresting the alleged perpetrator when appropriate and including a written statement in the attendant police report to indicate that the arrest of the alleged perpetrator was, in whole or in part, premised upon probable cause to believe that the alleged perpetrator committed domestic abuse against the victim and, when appropriate, indicate that the party arrested was the predominant aggressor; and

(6) advising the victim when appropriate of the procedure for initiating proceedings under the Family Violence Protection Act or criminal proceedings and of the importance of preserving evidence.”

46. Defendants refused to provide or arrange for transportation for Ms. Dale, despite her request and despite her apparent head injuries.
47. Defendants failed to investigate Ms. Dale’s allegations of battery.
48. Defendants failed to advise her of the remedies available under the FVPA.
49. Defendants failed to accompany Ms. Dale to her residence.
50. Defendants failed to advise Ms. Dale of the procedure for initiating proceedings under the FVPA or criminal proceedings and failed to advise her of the importance of preserving evidence.

DETOXIFICATION ACT

51. Defendants failed to take reasonable steps to protect Ms. Dale from harm, as required by the New Mexico Detoxification Act, NMSA 1978 § 43-2-8.
52. Defendants had justification, pursuant to the New Mexico Detoxification Act, NMSA 1978 § 43-2-8, to take Ms. Dale into protective custody as she was unable to care for her own safety and/or was incapacitated by alcohol or drugs. See also *State v. Phillips*, 2009-NMCA-021, 145 N.M. 615, 203 P.3d 146, cert. quashed, 2010-NMCERT-001, 147 N.M. 675, 227 P.3d 1057 (when “Defendant was intoxicated to the point that Defendant was stumbling and unable to keep his balance, a reasonable officer in Officer Roberts’ position would have had probable cause to believe that Defendant was unable to care for his own safety. Therefore, Officer Roberts had actual authority under the DRA to take Defendant into protective custody by placing him in the back of his patrol car...”))

53. “A refusal to undergo treatment does not constitute conclusive evidence of lack of judgment as to the need for treatment.” NMSA 1978 § 43-2-9.
54. The requirement for Law Enforcement Officers to take intoxicated persons into protective custody is reiterated in the City of Farmington’s Municipal Code: “Intoxicated persons as defined in NMSA 1978, § 43-2-2, shall be taken into protective custody or taken to a treatment facility, pursuant to the State Detoxification Reform Act, NMSA 1978 § 43-2-1.1 et al.” See City of Farmington Code 1969 Sec. 5-1-5 (c)(3). See also Sec. 5-1-7: Public Nuisances. (Intoxicated persons as defined in the Detoxification Act shall be treated as provided in the Detoxification Act, NMSA 1978, § 43-2-16 et seq.)
55. Ms. Dale had an obvious head injury, was clearly intoxicated, and was unable to follow the directives of officers to stay out of the highway.
56. Yet, Defendants did not take Ms. Dale into protective custody.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

57. Defendants failed to take reasonable steps to help Ms. Dale obtain an emergency mental health evaluation, as required by the Mental Health and Developmental Disabilities Code, NMSA 1978 § 43-1-10.
58. Defendants had justification to detain and transport Ms. Dale for an emergency mental health evaluation, pursuant to NMSA 1978 § 43-1-10. (A peace officer may detain and transport a person for emergency mental health evaluation and care in the absence of a legally valid order from the court only if ... (1) the person is otherwise subject to lawful arrest; (2) the peace officer has reasonable grounds to believe the person has just attempted suicide; (3) the peace officer, based upon the peace officer's own observation and investigation, has reasonable grounds to believe that the person, as a result of a

mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm; or (4) a physician, a psychologist or a qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency has certified that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person.)

59. Only one of the four elements is necessary to detain and transport a person for an emergency mental health evaluation.
60. Ms. Dale clearly presented a likelihood of serious harm to herself or to others.
61. Immediate detention was necessary to prevent such harm.
62. Further, in order to facilitate a mental health evaluation, Ms. Dale could have legally been the subject of lawful arrest for any number of offenses pursuant to the City of Farmington Municipal Code, including, but not limited to the following:
 - a. Sec. 18-3-15. - Trespass—Unlawful use or occupancy of public property, public vehicle or public facility;
 - b. Sec. 18-3-18. - Sitting or lying down on public sidewalks or sleeping outdoors prohibited.
 - c. Sec. 18-4-4. - Idling, loitering or prowling.
 - d. Sec. 18-4-1. - Disorderly conduct.
 - e. Sec. 18-5-2. - Interfering with traffic or pedestrians.
 - f. Sec. 18-5-3. - Obstruction of streets, sidewalks or entrances to public buildings.
 - g. Sec. 18-5-4. - Dispersion of persons obstructing streets, sidewalks or crosswalks by police officer.
 - h. Sec. 18-5-11. - Public nuisances.
 - i. Sec. 18-7-2. - Resisting or obstructing officer.
63. Defendants did not detain and transport Ms. Dale for an emergency mental health evaluation.

DUTIES OF LAW ENFORCEMENT TO INVESTIGATE CRIMINAL VIOLATIONS

64. “It is hereby declared to be the duty of every sheriff, deputy sheriff, constable and every other peace officer to investigate all violations of the criminal laws of the state which are called to the attention of any such officer or of which he is aware, and it is also declared the duty of every such officer to diligently file a complaint or information, if the circumstances are such as to indicate to a reasonably prudent person that such action should be taken, and it is also declared his duty to cooperate with and assist the attorney general, district attorney or other prosecutor, if any, in all reasonable ways.” NMSA 1978 § 29-1-1.
65. Defendants, acting in their official capacity as law enforcement officers, failed to comply with their duties under NMSA 1978 § 29-1-1 by failing to investigate Ms. Dale’s report that she was the victim of a violent crime.
66. Defendants, acting in their official capacity as law enforcement officers, failed to comply with their duties under NMSA 1978 § 29-1-1 by failing to investigate or detain Ms. Dale for violating numerous criminal laws and ordinances.
67. An arrest for any of these criminal law violations would have removed Ms. Dale from the dangerous roadway.

COUNT 1 – VIOLATION OF THE NEW MEXICO CIVIL RIGHTS ACT

68. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
69. The New Mexico Civil Rights Act, NMSA 1978 §§ 41-4A-1 *et seq.*, creates a cause of action against governmental bodies for the deprivation of rights secured under the Bill of Rights of the Constitution of New Mexico.
70. Article II, Section 4 of the New Mexico Bill of Rights guarantees that all persons have inherent and inalienable rights, including the rights of “enjoying and defending life and

liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.” Article II, Section 18 guarantees that no person shall be deprived of these rights without due process of the laws.

71. On July 17, 2023, Officers Garnenez and Shuttleworth acted under the direction of, on behalf of, under color of, or within the course and scope of the authority of the City of Farmington and the Farmington Police Department.
72. On July 17, 2023, Defendants violated Ms. Dale’s inherent rights when they intentionally deprived her of necessary intervention despite her obvious and critical need for help.
73. Instead of rendering aid to Ms. Dale, investigating the violence she had suffered, ensuring safe transportation, taking her into protective custody for detoxification, removing her from the dangerous roadway through arrest, or taking any other reasonable protective action, Defendants simply abandoned her on the side of the road.
74. Defendants found Ms. Dale in an incredibly dangerous situation. However, after less than a ten-minute encounter with her, they left her in the same dangerous situation.
75. It was foreseeable that Ms. Dale would be struck by a vehicle, causing her to lose her life and causing another motorist to experience a incredibly traumatic collision.
76. Defendants subjected Ms. Dale to a deprivation of rights, privileges, and immunities secured pursuant to the Bill of Rights of the Constitution of New Mexico.
77. The Defendants deprived Ms. Dale of her inherent rights under Section 4 of the Bill of Rights to the New Mexico Constitution.
78. The Defendants deprived Ms. Dale of inherent rights under Section 18 of the Bill of Rights to the New Mexico Constitution, namely that “no person shall be deprived of life, liberty, or property without due process of law.”

79. As a result of Defendants' actions and inactions on July 17, 2023, Ms. Dale was deprived of her life, liberty, safety, and happiness interests without due process of law.
80. Under New Mexico Civil Rights Act, NMSA 1978, Section 41-4A-3 (2021), Plaintiffs are entitled to an award of compensatory damages, reasonable attorney fees, and the costs of this action.

COUNT 2 – VIOLATION OF THE NEW MEXICO TORT CLAIMS ACT

81. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
82. Count 2 of this Complaint arises under the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1 *et seq.*).
83. The City of Farmington and the Farmington Police Department are “governmental entities” and “local public bodies” for purposes of the New Mexico Tort Claims Act. NMSA 1978 § 41-4-3(B) and (C).
84. Defendants Garnenez and Shuttleworth are “law enforcement officers” for purposes of the New Mexico Tort Claims Act. NMSA 1978 § 41-4-3(D).
85. Pursuant to the New Mexico Tort Claims Act, the principal duties of a law enforcement officer “are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes...” NMSA 1978 § 41-4-3(D).
86. The New Mexico Tort Claims Act waives sovereign immunity for wrongful death that results from “failure to comply with duties established pursuant to statute or law or any other deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties.” NMSA 1978 § 41-4-12.

87. For purposes of the waiver of immunity, "law enforcement officer" means "a public officer or employee vested by law with the power to maintain order, to make arrests for crime or to detain persons suspected of or convicted of committing a crime, whether that duty extends to all crimes or is limited to specific crimes." NMSA 1978 § 41-4-12.
88. Officers Garnenez and Shuttleworth, acting in their official capacity, failed to comply with their duties under NMSA 1978 § 29-1-1 by failing to investigate Ms. Dale's report that she was the victim of a violent crime, failing to investigate potential violations of criminal laws and municipal ordinances committed by Ms. Dale herself, and failing to take appropriate action to protect the public safety.
89. As established in *Weinstein v. City of Santa Fe ex rel. Santa Fe Police Dep't*, 1996-NMSC-021, 121 N.M. 646, 916 P.2d 1313, officers' failure to follow proper procedures and develop appropriate policies to protect victims constitutes a failure to exercise the care of reasonably prudent and qualified officers in an activity undertaken for the safety of others.
90. Defendants failed to follow statutory procedures and requirements under the FVPA, Detoxification Act, Mental Health Code, and statutory duties of law enforcement that were specifically designed to protect vulnerable individuals like Ms. Dale.
91. The actions of Officers Garnenez and Shuttleworth amounted to a violation of Ms. Dale's rights under the New Mexico Constitution.
92. The officers' deliberate abandonment of Ms. Dale despite knowing her vulnerable condition and their statutory duties constitutes more than mere negligent decision-making.
93. Officers Garnenez and Shuttleworth were acting in the scope of their employment with Farmington Police Department on July 17, 2023.

94. Defendants undertook specific activities that created duties for Ms. Dale's safety, including responding to welfare check calls, initiating medical response, and making contact with a domestic violence victim. Once Defendants undertook these activities, they had a duty to exercise reasonable care, and their statutory duties under the FVPA, Detoxification Act, and Mental Health Code created specific obligations to protect Ms. Dale.
95. Defendants had a duty to Ms. Dale and the motoring public to exercise reasonable care in ensuring public safety and protecting vulnerable individuals from foreseeable harm.
96. Defendants had a duty to Ms. Dale and the motoring public to exercise reasonable care in the performance of their law enforcement duties, including protecting intoxicated and injured individuals from harm and maintaining safe roadways.
97. Defendants had a duty to Ms. Dale and the motoring public to exercise reasonable care in responding to emergency situations involving vulnerable individuals and ensuring that their actions or inactions did not create or exacerbate dangerous conditions.
98. As established in *Cross v. City of Clovis*, 1988-NMSC-045, 107 N.M. 251, 755 P.2d 589, law enforcement officers have the duty in any activity actually undertaken to exercise for the safety of others that care ordinarily exercised by a reasonably prudent and qualified officer in light of the nature of what is being done.
99. No reasonably prudent and qualified officer would have abandoned an intoxicated, injured domestic violence victim on the side of a dangerous roadway in the middle of the night.
100. The Farmington Police Department is vicariously liable for the torts committed by Officer Garnenez and Officer Shuttleworth. *Weinstein v. City of Santa Fe ex rel. Santa Fe Police Dep't*, 1996-NMSC-021, 121 N.M. 646, 916 P.2d 1313.

101. As established in *Wachocki v. Bernalillo Cnty. Sheriff's Dep't*, 2010-NMCA-021, 147 N.M. 720, 228 P.3d 504, *aff'd*, 2011-NMSC-039, 150 N.M. 650, 265 P.3d 701, where law enforcement officers receive knowledge of dangerous traffic conditions and fail to enforce traffic laws as required by state law, such conduct falls within the waiver of immunity under the New Mexico Tort Claims Act.
102. Here, Defendants had actual knowledge that Ms. Dale posed a danger to herself and the motoring public by walking in the roadway while intoxicated and injured, yet failed to take any enforcement action to remove her from the dangerous situation.
103. Once they had knowledge of the dangerous condition Ms. Dale posed to herself and the motoring public, Defendants had a duty to protect Ms. Dale from foreseeable harm.
104. Defendants had a duty to enforce the traffic laws as required by state law.
105. Defendants had a duty to enforce the municipal ordinances as required by the City of Farmington Municipal Code.
106. Defendants breached these duties as described herein by failing to take Ms. Dale into protective custody, failing to investigate her report of domestic violence, failing to provide or arrange transportation to safety, and/or abandoning her in a dangerous location.
107. Defendants failed to exercise reasonable care in maintaining public safety and in doing so breached their duty of care towards Ms. Dale and the motoring public.
108. The negligent acts and omissions by Defendants were a direct and proximate cause of Ms. Dale's death and the resultant damages to Plaintiffs.
109. Defendants had actual or constructive notice of the dangerous conditions created by their officers' conduct for purposes of the notice provisions of the NMTCA. NMSA 1978 Section 41-4-16.

COUNT 3 – NEGLIGENT TRAINING AND SUPERVISION

110. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
111. The City of Farmington and the Farmington Police Department owe a duty to the general public to adequately train their peace officers.
112. Defendants are responsible for adopting policies and implementing adequate training for police officers on protocols involving dealing with intoxicated or emotionally unstable individuals, investigating incidents of domestic violence, and ensuring public safety through proper emergency response procedures.
113. Defendants breached this duty when they failed to adequately train Officers Garnenez and Shuttleworth on the requirements of the Family Violence Protection Act, the Detoxification Act, the Mental Health and Developmental Disabilities Code, and their statutory duties as law enforcement officers.
114. Defendants failed to establish and enforce standard protocols for dealing with intoxicated or mentally unstable individuals, for investigating incidents of domestic violence, and for protecting vulnerable persons from foreseeable harm.
115. Supervision includes the obligation to adopt and inculcate reasonable and proper operational policies and procedures concerning emergency response to vulnerable individuals, including appropriate policies and procedures concerning officer training, adequate monitoring and regulation of officers' activities, and other such policies and procedures as are reasonably necessary to ensure public safety and compliance with statutory duties.

116. Defendants have a duty to train and supervise their law enforcement officers to protect the general public, including vulnerable individuals such as Ms. Dale who are unable to care for their own safety.
117. Defendants further had a duty to supervise their employees in order to ensure that they did not act negligently in the administration of their duties as law enforcement officers.
118. Defendants breached their duty of care towards Plaintiffs by failing to properly train, supervise, screen, monitor, and discipline Officers Shuttleworth and Garnenez.
119. Defendants failed to exercise reasonable care when they failed to properly supervise, screen, train, monitor, and discipline Officers Shuttleworth and Garnenez, resulting in the officers' failure to comply with their statutory duties and constitutional obligations.
120. The inadequate training and supervision provided by Defendants was a direct and proximate cause of the officers' misconduct and Ms. Dale's resulting death.
121. Had Defendants properly trained and supervised their officers regarding their duties under New Mexico law, Ms. Dale would not have died.

COUNT 4 – LOSS OF CONSORTIUM

122. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
123. At the time of her death, Ms. Dale had established mutually dependent relationships with her minor children, N.A.Y., S.A.D., Y.D.P., and N.D.P.
124. Ms. Dale's minor children relied on their relationship with their mother and cannot enjoy life in the same way since her death.
125. As a result of Defendants' conduct, Ms. Dale's minor children have been deprived of the love, affection, care, guidance, companionship, and society of their mother.

126. Ms. Dale's minor children have suffered and will continue to suffer the loss of their mother's emotional support, nurturing, and parental guidance throughout their minority and beyond.
127. The loss of consortium damages include the deprivation of the benefits that naturally flow from the parent-child relationship, including but not limited to emotional support, guidance, protection, training, and companionship.
128. Ms. Dale's death has caused her minor children to suffer significant emotional distress and psychological harm that will continue throughout their lives.
129. The loss of their mother's consortium is permanent and irreplaceable, causing ongoing harm to the minor children's emotional well-being and development.
130. Plaintiffs Lettie Pierce, as Legal Guardian and Next Friend of N.A.Y. and S.A.D., and Cristobal Pena, as Parent and Next Friend of Y.D.P. and N.D.P., seek damages for the loss of consortium suffered by the minor children as a result of Defendants' conduct.

RELIEF REQUESTED

131. Plaintiffs incorporate all of the preceding paragraphs as if fully stated herein.
132. Plaintiffs seek all damages recoverable under common law, the New Mexico Tort Claims Act and the New Mexico Civil Rights Act, including reasonable attorney's fees and the costs of this action.
133. Plaintiffs also seek punitive damages, for the wanton, willful, reckless, and malicious conduct of the Defendants.

WHEREFORE Plaintiffs pray for judgment against Defendants as follows:

A. Award Plaintiffs compensatory damages, including:

1. The reasonable expenses for funeral and burial;
2. The pain and suffering experienced by decedent between the time of injury and death;

3. The lost earnings, the lost earning capacity, and the value of the lost household services of decedent considering her age, earning capacity, health, habits, and life expectancy;
4. The value of decedent's life apart from her earning capacity;
5. The mitigating or aggravating circumstances attending the wrongful act, neglect, or default;
6. The loss of guidance and counselling to decedent's minor children;
7. The loss to the beneficiaries of other expected benefits that have a monetary value;
8. Loss of consortium damages for the deprivation of love, affection, care, guidance, companionship, and society suffered by decedent's minor children;

B. Award Plaintiffs the costs and expenses of this action;

C. Award Plaintiffs reasonable attorneys' fees;

D. Award pre-judgment and post-judgment interest; and

E. Grant such further relief as the Court deems proper.

TRIAL BY JURY IS HEREBY DEMANDED.

RESPECTFULLY SUBMITTED,

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