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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 MUSSALINA MUHAYMIN as Personal
13 Representative of the Estate of
14 MUHAMMAD ABDUL MUHAYMIN
15 JR.,

16 *Plaintiff,*

17 v.

18 CITY OF PHOENIX, an Arizona
19 Municipal Corporation; ANTONIO
20 TARANTO; Officer OSWALD GRENIER;
21 Officer KEVIN McGOWAN; Officer
22 JASON HOBE; Officer RONALDO
23 CANILAO; Officer DAVID HEAD;
24 Officer SUSAN HEIMBINGER; Officer
25 JAMES CLARK; Officer DENNIS
26 LEROUS; Officer RYAN NIELSON;
27 Officer STEVEN WONG; and DOE
28 Supervisors 1-5,

Defendants.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, MUSSALINA MUHAYMIN as Personal Representative of the Estate of MUHAMMAD ABDUL MUHAYMIN JR., brings this wrongful death and survival action (A.R.S. §§ 12-611, *et seq.* and 14-3110) pursuant to 42 U.S.C. §§ 1981, 1983, and 1988,

1 and Title II of the Americans with Disabilities Act (ADA), as well as various state law
2 claims, against Defendants, CITY OF PHOENIX, an Arizona Municipal Corporation;
3 ANTONIO TORONTO; Officer OSWALD GRENIER; Officer KEVIN McGOWAN;
4 Officer JASON HOBE; Officer RONALDO CANILAO; Officer DAVID HEAD; Officer
5 SUSAN HEIMBINGER; Officer JAMES CLARK; Officer DENNIS LEROUS; Officer
6 RYAN NIELSON; Officer STEVEN WONG; and DOE Supervisors 1-5, as follows:

7 **JURISDICTION AND VENUE**

8 1. This action arises under the United States Constitution and the laws of the
9 United States and is brought pursuant to 42 U.S.C. §§ 1981, 1983, and 1988, and Title II
10 of the Americans with Disabilities Act (ADA). The jurisdiction of this Court is invoked
11 pursuant to 28 U.S.C. §§ 1331 and 1343.

12 2. Plaintiff further invokes this Court’s supplemental jurisdiction, pursuant to
13 28 U.S.C. § 1367, over any and all state law claims and as against all parties that are so
14 related to claims in this action within the original jurisdiction of this Court that they form
15 part of the same case or controversy.

16 3. Venue is proper in this District under 28 U.S.C. 1391(b) in that the parties
17 reside, or at the time the events took place, resided in this judicial district and the events
18 giving rise to the Plaintiff’s claims occurred in this judicial district.

19 **PARTIES**

20 4. The decedent, MUHAMMAD ABDUL MUHAYMIN JR. (hereinafter
21 “MUHAYMIN” or “decedent”), at all relevant times, was a resident of Maricopa County,
22 Arizona.

23 5. The death of MUHAYMIN, at the hands of Defendants Officers, occurred in
24 Maricopa County, Arizona.

25 6. Plaintiff, MUSSALINA MUHAYMIN, was appointed as the Personal
26 Representative of the Estate of the decedent, by the Probate Division of the Maricopa
27 County Superior Court of Arizona on October 26, 2017.

28 7. Plaintiff, MUSSALINA MUHAYMIN, is a resident of Maricopa County,

1 Arizona and the sister of the decedent.

2 8. In her capacity as the Personal Representative of the Estate of MUHAYMIN,
3 Plaintiff seeks damages pursuant to the Arizona wrongful death and survival statutes,
4 codified in A.R.S. §§ 12-611, *et seq.*, and 14-3110 for each and every claim listed herein,
5 on behalf of the Estate of MUHAYMIN and on behalf of his surviving next of kin. Plaintiff
6 further seeks damages recoverable pursuant to 42 U.S.C. §§ 1981, 1983, 1988, and Title II
7 of the Americans with Disabilities Act (ADA) for any and all Constitutional and Federal
8 claims.

9 9. Plaintiff, AMIRAH MUHAYMIN, is a resident of Maricopa County,
10 Arizona.

11 10. Defendant Officers, at all relevant times, were duly appointed officers
12 employed by the CITY OF PHOENIX Police Department, acting within the scope of their
13 employment with the CITY OF PHOENIX and under the color of State Law. The
14 individual officers are being sued in their individual and official capacities: OSWALD
15 GRENIER, KEVIN McGOWAN, JASON HOBE, RONALDO CANILAO, DAVID
16 HEAD, SUSAN HEIMBINGER, JAMES CLARK, DENNIS LEROUS, RYAN
17 NIELSON, and STEVEN WONG (hereinafter “Defendant Officers”).

18 11. Defendant DOE SUPERVISORS 1-5 are being sued in their individual and
19 official capacities for failing to properly train, supervise, and hold accountable the
20 individual defendants. DOES SUPERVISORS 1-5 are persons whose names are presently
21 unknown to Plaintiff. When the true names of DOE SUPERVISORS 1-5 become known,
22 Plaintiff will move to amend this Complaint.

23 12. Defendant, ANTONIO TARANTO (hereinafter “TARANTO”), at all
24 relevant times, was an employee of the CITY OF PHOENIX Parks Department, acting
25 within the scope of his employment with the CITY OF PHOENIX. This individual
26 defendant is being sued in his individual and official capacity.

27 13. Defendant, CITY OF PHOENIX, a municipality duly incorporated under the
28 laws of the State of Arizona, is the employer and principal of the individual Defendant

1 Officers, DOE SUPERVISORS 1-5, and Defendant TARANTO (the “individual
2 defendants”). At all times relevant hereto, the CITY OF PHOENIX employed the
3 individual defendants. The CITY OF PHOENIX is responsible for the policies, practices,
4 and customs of its Police Department and Parks Department.

5 **NOTICE OF CLAIM**

6 14. Plaintiff timely filed a Notice of Claim pursuant to A.R.S. § 12-821.01,
7 setting forth the facts underlying Plaintiff’s claims against the Defendants named herein.

8 15. More than sixty days has passed since the filing of the Notice of Claim, no
9 answer has been received by Plaintiff, and no compensation has been offered by
10 Defendants in response to this claim.

11 16. This action has been commenced within one year of the date of the
12 occurrence giving rise to this Complaint.

13 **FACTS COMMON TO ALL COUNTS**

14 **The Decedent & His Service Dog**

15 1. At the time of his death, MUHAYMIN was a 43-year-old man suffering from
16 Post-Traumatic Stress Disorder, Acute Claustrophobia, and Schizophrenia.

17 2. In order to alleviate the symptoms of his mental disabilities, he carried a
18 service dog named “Chiquita” with him.

19 **The Community Center Incident**

20 3. On January 4, 2017, MUHAYMIN was at the Maryvale Community Center
21 with his service dog, “Chiquita.”

22 4. MUHAYMIN attempted to enter the public men’s restroom facilities.

23 5. Defendant TARANTO denied access to MUHAYMIN because he was
24 carrying his service dog with him.

25 6. TARANTO, in an effort to deny MUHAYMIN access to the bathroom,
26 intentionally and forcibly stepped in MUHAYMIN’s path and bumped him away from the
27 entrance.

28 7.

The False Report to Police

1
2 8. After the assault by TARANTO on MUHAYMIN, the Phoenix Police
3 received a call regarding an “assault.”

4 9. The call to the Phoenix Police falsely alleged that MUHAYMIN had entered
5 the Community Center and assaulted an employee.

6 10. The Defendant Officers responded to the call and arrived at the scene shortly
7 thereafter.

8 11. Upon information and belief, the initial responding officer, Defendant
9 Officer OSWALD GRENIER (“Officer GRENIER”), asked TARANTO if MUHAYMIN
10 had been removed from the premises.

11 12. Upon learning that MUHAYMIN was still at the Community Center, Officer
12 GRENIER approached MUHAYMIN.

13 13. Without regard for the federal or state laws specifically prohibiting
14 discrimination or other proof that an animal has been certified, trained, or licensed as a
15 service animal, Officer GRENIER asked MUHAYMIN to see his dog’s documentation.

16 14. MUHAYMIN pleaded with GRENIER to allow him to use the restroom.

17 15. GRENIER refused to allow MUHAYMIN to enter the restroom until
18 MUHAYMIN provided his personal information.

19 16. A second officer then approached MUHAYMIN, in a threatening and
20 aggressive matter escalating tensions as he shouted at MUHAYMIN.

21 17. After several conversations discussing what had transpired between
22 TARANTO and MUHYAMIN before the police arrived on scene, TARANTO admitted
23 that MUHAYMIN had not in fact assaulted him.

24 18. Defendant Officers eventually allowed MUHAYMIN to use the restroom
25 after he gave them his identification information.

The Arrest & Death of the Decedent

26
27 19. Upon information and belief, while MUHAYMIN was using the restroom,
28 Defendant Officers ran a check on MUHAYMIN in their database.

1 20. Defendant Officers then escorted MUHAYMIN and “Chiquita” out of the
2 building, and, as soon as they stepped outside, ordered MUHAYMIN to “Stop.”

3 21. Defendant Officers explained to MUHAYMIN that he had an outstanding
4 warrant and was being arrested.

5 22. MUHAYMIN asked several times what the warrant was for.

6 23. Defendant Officers ignored his requests for information regarding the
7 outstanding warrant.

8 24. Defendant Officers then told MUHAYMIN to put his dog down.

9 25. MUHAYMIN explained that he did not have anyone to watch her.

10 26. MUHAYMIN then asked Defendant Officers to call his sister, who was his
11 legal guardian.

12 27. Defendant Officers told MUHAYMIN they would not call his sister and that
13 he should just let the dog go.

14 28. Defendant Officers warned MUHAYMIN that the dog would get hurt if he
15 didn’t let her go.

16 29. Defendant Officers refused to listen to MUHAYMIN’s requests, knocked his
17 service dog out of his arms and forced him to the ground.

18 30. Throughout the altercation, MUHAYMIN can be heard yelling, “Okay!”
19 and “I can’t breathe” as multiple Defendant Officers placed the weight of their bodies on
20 his head, back, arms, and legs.

21 31. After wrestling MUHAYMIN to the ground, one of the Defendant Officers
22 placed his knee on MUHAYMIN’s head while another Defendant Officer placed him in
23 handcuffs.

24 32. After placing MUHAYMIN in handcuffs, Defendant Officers took
25 MUHAYMIN out to the parking lot towards one of the police SUVs.

26 33. At the vehicle, Defendant Officers again wrestle MUHAYMIN, who had
27 already been restrained, back down to the ground.

28 34. Several Defendant Officers placed their weight on top of MUHAYMIN,

1 while one Defendant Officer requested “hobbles” in order to restrict MUHAYMIN’s
2 ability to walk.

3 35. Upon information and belief, due to the excessive force used by Defendant
4 Officers, MUHAYMIN went into cardiac arrest and began vomiting.

5 36. Thereafter, Defendant Officers were unable to find MUHAYMIN’s pulse.

6 37. After MUHAYMIN was deceased, one of the Defendant Officers began
7 CPR.

8 **FEDERAL CLAIMS**

9 **COUNT I – 42 U.S.C. § 1983**

10 **EXCESSIVE FORCE**

11 38. Plaintiff incorporates by reference all other paragraphs in this Complaint as
12 though fully alleged herein.

13 39. At all relevant times, MUHAYMIN enjoyed and possessed a right under the
14 Fourth and Fourteenth Amendments to the United States Constitution to be free from
15 unreasonable seizure and the use of excessive, unreasonable, and unjustified force.

16 40. At all relevant times, the individual Defendant Officers and/or DOE
17 SUPERVISORS 1-5 were acting under the color of state law in their capacity as Phoenix
18 police officers, and their acts or omissions were conducted within the scope of their official
19 duties or employment.

20 41. Defendant Officers and/or DOE SUPERVISORS 1-5 applied unreasonable,
21 excessive, and conscious-shocking physical force to the person of MUHAYMIN, causing
22 his death, as set forth above, without legal justification or excuse.

23 42. Defendants’ actions and use of deadly force were objectively unreasonable
24 in light of the facts and circumstances confronting them at the time and violated the
25 Constitutional rights of MUHAYMIN.

26 43. Defendants engaged in the conduct described in this Complaint willfully,
27 maliciously, in bad faith, in reckless disregard of MUHAYMIN’s federally protected
28 rights.

1 from the objectively unreasonable and conscience shocking force of each other Defendant
2 Officer and/or DOE SUPERVISOR.

3 52. Defendants engaged in the conduct described in this Complaint willfully,
4 maliciously, in bad faith, in reckless disregard of MUHAYMIN's federally protected
5 rights.

6 53. As a result of Defendants' failure to protect MUHAYMIN from the
7 application of unreasonable force and/or failure to take reasonable steps to prevent the
8 harm from occurring, MUHAYMIN's estate and his statutory beneficiaries suffered
9 harm.

10
11 **COUNT III – Title II ADA**
12 **DISCRIMINATION**

13 54. Plaintiff incorporates by reference all other paragraphs in this Complaint as
14 though fully alleged herein.

15 55. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*
16 (“ADA”), prohibits a public entity from discriminating against disabled persons in the
17 provision of the entity's services, programs, and activities.

18 56. The Maryvale Community Center is a public entity within the meaning of
19 the ADA.

20 57. At all relevant times, MUHAYMIN was disabled within the meaning of the
21 ADA.

22 58. To alleviate the symptoms of his mental impairment, MUHAYMIN carried
23 a service dog named “Chiquita.”

24 59. At all relevant times, Defendant TARANTO was acting under color of state
25 law as an employee of Defendant CITY OF PHOENIX, specifically, the Maryvale
26 Community Center, and his acts or omissions were conducted within the scope of his
27 official duties or employment.

28 60. At all relevant times, the Defendant Officers and/or DOE SUPERVISORS

1 1-5 were acting under the color of state law in their capacity as Phoenix police officers,
2 and their acts or omissions were conducted within the scope of their official duties or
3 employment.

4 61. Under Title II of the ADA, Defendant TARANTO, the Defendant Officers,
5 and/or DOE SUPERVISORS 1-5, were prohibited from discriminating against
6 MUHAYMIN on the basis of his disability and were required to allow MUHAYMIN to
7 enter and use the community center with his service dog without requiring proof that his
8 dog was a certified or otherwise licensed service animal.

9 62. Defendant TARANTO, the Defendant Officers, and/or DOE
10 SUPERVISORS 1-5 knew or should have known that they had a duty to accommodate
11 MUHAYMIN under the ADA after they were made aware that “Chiquita” was a service
12 dog used by MUHAYMIN to alleviate his mental disabilities.

13 63. Nonetheless, Defendant TARANTO discriminated against MUHAYMIN
14 when Defendant TARANTO attempted to force MUHAYMIN to leave the Maryvale
15 Community Center because of his dog and falsely reported to the police that MUHAYMIN
16 had assaulted him in an attempt to force MUHAYMIN to leave the Community Center.

17 64. Nonetheless, Defendant Officers and/or DOE SUPERVISORS 1-5
18 discriminated against MUHAYMIN when they required proof that MUHAYMIN’s dog
19 was a certified or licensed service animal in violation of ADA § 32.206(c)(6), and forced
20 MUHAYMIN to leave the Maryvale Community Center because of his dog.

21 65. Defendant CITY OF PHOENIX breached its obligations under the ADA by,
22 among other things, failing to train its employees and police officers to deal with
23 individuals with disabilities and the use of service dogs, and/or failing to implement
24 policies with respect to dealing with individuals with mental disabilities and the use of
25 service dogs.

26 66. As a direct and proximate result of Defendant TARANTO, the Defendant
27 Officers, Defendant DOE SUPERVISORS 1-5, and Defendant CITY OF PHOENIX’s
28 breach of MUHAYMIN’s statutory rights as described herein, MUHAYMIN was killed.

1 Both MUHAYMIN's estate, and the statutory beneficiaries and family of MUHAYMIN,
2 have sustained economic and psychological injuries and loss.

3 67. In addition to the monetary damages sought herein, Plaintiff also seeks
4 injunctive relief compelling Defendant CITY OF PHOENIX to provide the training
5 required by law so that the individual defendants are better equipped to deal with mentally
6 disabled individuals and the use of service dogs in the future.

7
8 **COUNT IV – 42 U.S.C. § 1983**
9 **SUPERVISOR LIABILITY**

10 68. Plaintiff incorporates by reference all other paragraphs in this Complaint as
11 though fully alleged herein.

12 69. At all relevant times, the Defendant DOE SUPERVISORS 1-5 were acting
13 under the color of state law, and their acts or omissions were conducted within the scope
14 of their official duties or employment.

15 70. The acts and omissions of the individual defendants, as set forth above,
16 deprived MUHAYMIN of his Constitutional and federally protected rights and ultimately
17 caused his death.

18 71. Defendant DOE SUPERVISORS 1-5 failed to prevent the individual
19 defendants from – and/or otherwise directed them to – use unreasonable, excessive and/or
20 deadly force where not objectively reasonable or necessary, refuse to protect MUHAYMIN
21 from the application of unreasonable, excessive and/or deadly force at the hands of their
22 fellow officers, and disregard the federally mandated requirement not to discriminate
23 against individuals with disabilities and/or require proof that an animal is a certified or
24 licensed service animal.

25 72. Defendant DOE SUPERVISORS 1-5's failure to prevent the individual
26 defendants from depriving MUHAYMIN of his Constitutional and federally protected
27 rights was so closely related to the deprivation of MUHAYMIN's rights as to be the
28 moving force that caused his death.

1 73. As a result of Defendant DOE SUPERVISORS 1-5's conduct,
2 MUHAYMIN's estate and his statutory beneficiaries suffered harm.

3
4 **COUNT V – 42 U.S.C. § 1983**
5 **MUNICIPAL LIABILITY**
6 **[FAILURE TO TRAIN]**

7 74. Plaintiff incorporates by reference all other paragraphs in this Complaint as
8 though fully alleged herein.

9 75. At all relevant times, the individual defendants, including Defendant
10 TARANTO, the Defendant Officers and/or DOE SUPERVISORS 1-5, were acting under
11 the color of state law in their capacity as Phoenix police officers and/or City employees,
12 and their acts or omissions were conducted within the scope of their official duties or
13 employment.

14 76. The acts or omissions of the individual defendants, including Defendant
15 TARANTO, the Defendant Officers and/or DOE SUPERVISORS 1-5, as described above,
16 deprived MUHAYMIN of his federally protected rights and ultimately caused his death.

17 77. Defendant CITY OF PHOENIX has the authority and responsibility to
18 establish policy for the City's Police and its Community Center employees, to train and
19 oversee operations of the Police and its Community Center employees and the services
20 provided by them, and to evaluate, certify, and maintain the Police Department and the
21 Community Center's compliance with applicable standards.

22 78. The training policies of Defendant CITY OF PHOENIX, including the
23 Phoenix Police Department and the Community Center, were not adequate to prevent the
24 gross violation of MUHAYMIN's federally protected rights, which led to his death.

25 79. Defendant CITY OF PHOENIX, including the Phoenix Police Department
26 and the Community Center, were deliberately indifferent to the substantial risk that its
27 policies were inadequate to prevent violations by its employees and/or were otherwise
28 deliberately indifferent to the known or obvious consequences of its failure to train its
police officers and employees adequately.

1 force.

2 91. Nonetheless, Defendant Officers and/or DOE SUPERVISORS 1-5 applied
3 unreasonable excessive force to the person of MUHAYMIN, causing his death, as set forth
4 above, without legal justification or excuse.

5 92. Defendants' actions and use of deadly force, as described herein, were
6 objectively unreasonable in light of the facts and circumstances confronting them at the
7 time.

8 93. As a result of Defendants' unlawful conduct, MUHAYMIN's estate and his
9 statutory beneficiaries suffered harm.

10
11 **COUNT VIII – A.R.S. §§ 12-611 et seq., 14-3110**
12 **[WRONGFUL DEATH AND SURVIVAL ACTION]**
13 **BATTERY**

14 94. Plaintiff incorporates by reference all other paragraphs in this Complaint as
15 though fully alleged herein.

16 95. As described herein, Defendant TARANTO intentionally denied
17 MUHAYMIN access to the Community Center bathroom because of his service dog, by
18 stepping in his path and bumping him away from the entrance, causing a harmful or
19 offensive contact with MUHAYMIN.

20 96. As described herein, Defendant Officers and/or DOE SUPERVISORS 1-5
21 intentionally pinned MUHAYMIN down, putting unreasonable pressure on
22 MUHAYMIN's head, back, arms and legs, after he was already restrained, causing a
23 harmful or offensive contact with MUHAYMIN. As a direct and proximate result of this
24 harmful or offensive contact, MUYAMIN died.

25 97. Defendant TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-
26 5's acts constituted a battery upon MUHAYMIN in that the above described bodily contact
27 was intentional, unauthorized, or grossly offensive in nature.

28 98. The actions of Defendant TARANTO, Defendant Officers and/or DOE

1 SUPERVISORS 1-5 were intentional, reckless, and unwarranted, and without any just
2 cause or provocation.

3 99. As a direct and proximate result of Defendant TARANTO, Defendant
4 Officers and/or DOE SUPERVISORS 1-5's conduct, MUHAYMIN was subjected to great
5 physical and emotional pain and humiliation, was deprived of his liberty, and was
6 ultimately killed.

7 100. The conduct described in this Complaint was undertaken by Defendant
8 TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-5 within the scope of their
9 employment and under color of law such that their employer, Defendant CITY OF
10 PHOENIX, is vicariously liable for their actions.

11 101. As a result of Defendants' unlawful conduct, MUHAYMIN's estate and his
12 statutory beneficiaries suffered harm.

13
14 **COUNT IX – A.R.S. §§ 12-611 et seq., 14-3110**
15 **[WRONGFUL DEATH AND SURVIVAL ACTION]**
16 **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

17 102. Plaintiff incorporate by reference all other paragraphs in this Complaint as
18 though fully alleged herein.

19 103. Defendant TARANTO's conduct, in denying MUHAYMIN access to the
20 Community Center bathroom because of his service dog, stepping in his path and bumping
21 him away from the entrance, and making a false report to the police that MUHAYMIN had
22 assaulted him in order to force MUHAYMIN to leave the Community Center, without
23 provocation or justification, was extreme, outrageous and utterly intolerable in a civilized
24 society; conduct which exceeded all reasonable bounds of decency.

25 104. Defendant Officers and/or DOE SUPERVISORS 1-5's conduct, in
26 disregarding MYUHAYMIN's pleas to get someone to watch his dog before placing him
27 under arrest, threatening MNUHAYMIN, telling him his dog would "get hurt" if he did let
28 her go, and pinning MUHAYMIN down, putting unreasonable pressure on MUHAYMIN's

1 head, back, arms and legs, after he was already restrained, without provocation or
2 justification, was extreme, outrageous and utterly intolerable in a civilized society; conduct
3 which exceeded all reasonable bounds of decency.

4 105. Defendant TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-
5 5's conduct, as described above, was intended to and did cause severe emotional distress
6 to MUHAYMIN.

7 106. The conduct of Defendant TARANTO, Defendant Officers and/or DOE
8 SUPERVISORS 1-5 was the direct and proximate cause of injury and damage to
9 MUHAYMIN and violated MUHAYMIN's statutory and common law rights as
10 guaranteed by the laws and Constitution of the State of Arizona.

11 107. As a result of the foregoing, MUHAYMIN was deprived of his liberty, was
12 subjected to serious physical and emotional pain and suffering, and was ultimately killed.

13 108. As a result of Defendants' unlawful conduct, MUHAYMIN's estate and his
14 statutory beneficiaries suffered harm.

15
16 **COUNT X – A.R.S. §§ 12-611 et seq., 14-3110**
17 **[WRONGFUL DEATH AND SURVIVAL ACTION]**
18 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

19 109. Plaintiff incorporates by reference all other paragraphs in this Complaint as
20 though fully alleged herein.

21 110. Defendant TARANTO's conduct, in denying MUHAYMIN access to the
22 Community Center bathroom because of his service dog, stepping in his path and bumping
23 him away from the entrance, and making a false report to the police that MUHAYMIN had
24 assaulted him in order to force MUHAYMIN to leave the Community Center, without
25 provocation or justification, was careless and negligent as to the emotional health of
26 MUHAYMIN, and caused severe emotional distress to MUHAYMIN.

27 111. Defendant Officers and/or DOE SUPERVISORS 1-5's conduct, in
28 disregarding MYUHAYMIN's pleas to get someone to watch his dog before placing him

1 under arrest, threatening MNUHAYMIN, telling him his dog would “get hurt” if he did let
2 her go, and pinning MUHAYMIN down, putting unreasonable pressure on MUHAYMIN’s
3 head, back, arms and legs, after he was already restrained, without provocation or
4 justification, was careless and negligent as to the emotional health of MUHAYMIN, and
5 caused severe emotional distress to MUHAYMIN.

6 112. The conduct of Defendant TARANTO, Defendant Officers and/or DOE
7 SUPERVISORS 1-5 was the direct and proximate cause of injury and damage to
8 MUHAYMIN and violated MUHAYMIN’s statutory and common law rights as
9 guaranteed by the laws and Constitution of the State of Arizona.

10 113. As a result of the foregoing, MUHAYMIN was deprived of his liberty, was
11 subjected to serious physical and emotional pain and suffering, and was ultimately killed.

12 114. As a result of Defendants’ unlawful conduct, MUHAYMIN’s estate and his
13 statutory beneficiaries suffered harm.

14 **COUNT XI – A.R.S. §§ 12-611 et seq., 14-3110**
15 **[WRONGFUL DEATH AND SURVIVAL ACTION]**
16 **NEGLIGENCE**

17 115. Plaintiff incorporates by reference all other paragraphs in this Complaint as
18 though fully alleged herein.

19 116. Defendant Officers and/or DOE SUPERVISORS 1-5, while acting as agents
20 and employees for Defendant CITY OF PHOENIX, owed a duty to MUHAYMIN to
21 perform their duties as officers of the law without the use of excessive force.

22 117. Defendant TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-
23 5, while acting as agents and employees for Defendant CITY OF PHOENIX, owed a duty
24 to MUHAYMIN not to discriminate against him in the provision of public services because
25 of his service dog.

26 118. Defendant Officers and/or DOE SUPERVISORS 1-5’s use of force upon
27 MUHAYMIN when they had no lawful authority to use excessive and/or deadly force
28 against MUHAYMIN, constitutes negligence for which Defendant Officers and/or DOE

1 SUPERVISORS 1-5 are individually liable.

2 119. Defendant TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-
3 5's actions, in forcing MUHAYMIN to leave the Community Center because of his service
4 dog or provide proof that his service dog was otherwise licensed or certified, constitutes
5 negligence for which Defendant TARANTO, Defendant Officers and/or DOE
6 SUPERVISORS 1-5 are individually liable.

7 120. In taking the actions as described above, Defendant TARANTO, Defendant
8 Officers and/or DOE SUPERVISORS 1-5 breached their duty to refrain from such
9 unreasonable and indifferent conduct.

10 121. As a direct and proximate result of Defendant TARANTO, Defendant
11 Officers and/or DOE SUPERVISORS 1-5's conduct, MUHAYMIN was subjected to great
12 physical and emotional pain and humiliation, was deprived of his liberty, and was
13 ultimately killed.

14 122. The conduct described in this Complaint was undertaken by Defendants
15 within the scope of their employment and under color of law such that their employer,
16 Defendant CITY OF PHOENIX, is vicariously liable for their actions.

17 123. As a result of Defendants' unlawful conduct, MUHAYMIN's estate and his
18 statutory beneficiaries suffered harm.

19 **COUNT XII – A.R.S. §§ 12-611 et seq., 14-3110**
20 **[WRONGFUL DEATH AND SURVIVAL ACTION]**
21 **GROSS NEGLIGENCE**

22 124. Plaintiff incorporates by reference all other paragraphs in this Complaint as
23 though fully alleged herein.

24 125. Defendant Officers and/or DOE SUPERVISORS 1-5, while acting as agents
25 and employees for Defendant CITY OF PHOENIX, owed a duty to MUHAYMIN to
26 perform their duties as officers of the law without the use of excessive force.

27 126. Defendant TARANT, Defendant Officers and/or DOE SUPERVISORS 1-5,
28 while acting as agents and employees for Defendant CITY OF PHOENIX, owed a duty to

1 MUHAYMIN not to discriminate against him in the provision of public services because
2 of his service dog.

3 127. Defendant Officers and/or DOE SUPERVISORS 1-5's use of force upon
4 MUHAYMIN when they had no lawful authority to use excessive and/or deadly force
5 against MUHAYMIN constitutes reckless and/or gross negligence for which Defendant
6 Officers and/or DOE SUPERVISORS 1-5 are individually liable.

7 128. Defendant TARANTO, Defendant Officers and/or DOE SUPERVISORS 1-
8 5's actions, in forcing MUHAYMIN to leave the Community Center because of his service
9 dog or provide proof that his service dog was otherwise licensed or certified, constitutes
10 reckless and/or gross negligence for which Defendant TARANTO and Defendant Officers
11 are individual liable.

12 129. The actions of Defendant TARANTO, Defendant Officers and/or DOE
13 SUPERVISORS 1-5, as described above, were taken with such reckless disregard for the
14 life and safety of MUHAYMIN so as to be a conscious violation of MUHAYMIN's rights
15 to life and liberty.

16 130. As a direct and proximate result of Defendant TARANTO, Defendant
17 Officers and/or DOE SUPERVISORS 1-5's conduct, MUHAYMIN was subjected to great
18 physical and emotional pain and humiliation, was deprived of his liberty, and was
19 ultimately killed.

20 131. The conduct described in this Complaint was undertaken by Defendants
21 within the scope of their employment and under color of law such that their employer,
22 Defendant CITY OF PHOENIX, is vicariously liable for their actions.

23 132. As a result of Defendants' unlawful conduct, MUHAYMIN's estate and his
24 statutory beneficiaries suffered harm.

25 **COUNT XIII – ARIZONA CIVIL RIGHTS ACT (“ACRA”)**

26 **DISCRIMINATION**

27 133. Plaintiff incorporates by reference all other paragraphs in this Complaint as
28 though fully alleged herein.

1 134. The Arizona Civil Rights Act, (“ACRA”), A.R.S. §§ 41-1492, *et seq.*,
2 incorporates by reference the provisions of its analogous federal statute, the ADA.

3 135. The Maryvale Community Center is a public entity within the meaning of
4 the ACRA, as incorporated by the ADA.

5 136. At all relevant times, MUHAYMIN was disabled within the meaning of the
6 ACRA, as incorporated by the ADA.

7 137. To alleviate the symptoms of his mental impairment, MUHAYMIN carried
8 a service dog named “Chiquita.”

9 138. To alleviate the symptoms of his mental impairment, MUHAYMIN carried
10 a service dog named “Chiquita.”

11 139. At all relevant times, Defendant TARANTO was acting under color of state
12 law as an employee of Defendant CITY OF PHOENIX, specifically, the Maryvale
13 Community Center, and his acts or omissions were conducted within the scope of his
14 official duties or employment.

15 140. At all relevant times, the Defendant Officers and/or DOE SUPERVISORS
16 1-5 were acting under the color of state law in their capacity as Phoenix police officers,
17 and their acts or omissions were conducted within the scope of their official duties or
18 employment.

19 141. Nonetheless, Defendant TARANTO discriminated against MUHAYMIN
20 when Defendant TARANTO attempted to force MUHAYMIN to leave the Maryvale
21 Community Center because of his dog and falsely reported to the police that MUHAYMIN
22 had assaulted him in an attempt to force MUHAYMIN to leave the Community Center.

23 142. Nonetheless, Defendant Officers and/or DOE SUPERVISORS 1-5
24 discriminated against MUHAYMIN when they required proof that MUHAYMIN’s dog
25 was a certified or licensed service animal in violation of the ACRA and forced
26 MUHAYMIN to leave the Maryvale Community Center because of his dog.

27 143. Defendant CITY OF PHOENIX breached its obligations under the ACRA
28 by, among other things, failing to train its employees and police officers to deal with

1 individuals with disabilities and the use of service dogs, and/or failing to implement
2 policies with respect to dealing with individuals with mental disabilities and the use of
3 service dogs.

4 144. As a direct and proximate result of Defendant TARANTO, the Defendant
5 Officers, Defendant DOE SUPERVISORS 1-5, and Defendant CITY OF PHOENIX's
6 breach of MUHAYMIN's statutory rights as described herein, MUHAYMIN was killed.
7 Both MUHAYMIN's estate, and the statutory beneficiaries and family of MUHAYMIN,
8 have sustained economic and psychological injuries and loss.

9 145. In addition to the monetary damages sought herein, Plaintiff also seeks
10 injunctive relief compelling Defendant CITY OF PHOENIX to provide the training
11 required by law so that the individual defendants are better equipped to deal with mentally
12 disabled individuals and the use of service dogs in the future.

13 **COUNT XIV – A.R.S. §§ 12-611 et seq., 14-3110**

14 **[WRONGFUL DEATH AND SURVIVAL ACTION]**

15 **NEGLIGENT HIRING, SUPERVISION, RETENTION, AND/OR TRAINING**

16 146. Plaintiff incorporates by reference all other paragraphs in this Complaint as
17 though fully alleged herein.

18 147. As described herein, CITY OF PHOENIX and/or DOE Supervisors 1-5 were
19 negligent in their hiring, supervision, retention, and/or training of one or more Defendant
20 Officers and Defendant TARANTO.

21 148. The acts and conduct of Defendant Officers and Defendant TARANTO as
22 described in this Complaint were the direct and proximate cause of the injuries and
23 damages to MUHAYMIN, and violated MUHAYMIN's statutory and common law rights
24 as guaranteed by the law and Constitution of the State of Arizona.

25 149. As a result of the conduct described herein, MUHAYMIN's estate and his
26 statutory beneficiaries suffered harm.

PRAYER FOR RELIEF

1
2 WHEREFORE, the Plaintiff demands judgment against the Defendants, and each
3 of them, for the violations of MUHAYMIN's Constitutional and statutory rights as
4 follows:

- 5 1. For compensatory damages recoverable under A.R.S. §§ 12-611, *et seq.*, and 14-
6 311 in an amount of not less than Ten Million Dollars (\$10,000,000) or such other
7 amount as may be deemed fair and just by the trier of fact;
- 8 a. Special damages include, but are not limited to, loss of income and
9 services, medical fees and expenses, and funeral and burial expenses,
10 incurred on behalf of MUHAYMIN;
- 11 b. General damages include, but are not limited to, loss of consortium, pain
12 and suffering, loss of enjoyment of life, and wrongful death;
- 13 2. For punitive damages against the individual Defendants in an amount to be
14 determined by the trier of fact;
- 15 3. For pre-judgment and post-judgment interest;
- 16 4. For attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
- 17 5. For such other and further relief as the Court deems just and proper.

18 Respectfully submitted this 8th day of December 2017,

19
20 **PRICE LAW GROUP, APC**

21 /s/ David Chami
22 David Chami, AZ #027585
23 david@pricelawgroup.com
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JURY DEMAND

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2 Plaintiff hereby demands trial by jury for all issues and claims raised in this
3 Complaint.

4 Respectfully Submitted,

5 Dated: December 8, 2017

PRICE LAW GROUP, APC

6
7 /s/ David Chami
8 David Chami, AZ #027585
9 david@pricelawgroup.com
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