

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ELIZABETH GOODWIN, Administrator of	)	CASE NO. 1:15-CV-0027
the Estate of Tanisha Anderson, Deceased,	)	
	)	JUDGE DONALD NUGENT
Plaintiff,	)	
	)	ANSWER OF DEFENDANT CITY OF
vs.	)	CLEVELAND TO PLAINTIFF'S
	)	COMPLAINT
CITY OF CLEVELAND, <i>et al.</i> ,	)	
	)	**Jury Demand Endorsed Hereon**
Defendants	)	
	)	

Defendant City of Cleveland ("City"), by and through undersigned counsel, hereby submits its Answer to Plaintiff's Complaint. The City presents this Answer under Federal Civil Rule 12, without intending to waive and expressly preserving all rights, privileges, immunities, and defenses, as may be applicable to the City. For its Answer to Plaintiff's Complaint, the City responds as follows:

ANSWER

1. The City denies the allegations of Paragraph 1 of the Complaint.
2. The City admits only that a member of Tanisha Anderson's family called 911 on two separate occasions for assistance on November 12, 2014, but denies the remaining allegations of Paragraph 2 of the Complaint.
3. Upon on information and belief, the City admits the allegations of Paragraph 3 of the Complaint.
4. The City admits that Scott Aldridge was at all times relevant to the action employed as a police officer by the City of Cleveland, and that he is a "person" under 42 U.S.C. § 1983 who acted, at all relevant times, under color of law. The City further admits that Officer

Aldridge has been sued in both his individual and official capacities, but denies the validity of such claims. The City denies the remaining allegations of Paragraph 4 of the Complaint.

5. The City admits that Bryan Meyers was at all times relevant to the action employed as a police officer by the City of Cleveland, and that he is a “person” under 42 U.S.C. § 1983 who acted, at all relevant times, under color of law. The City further admits that Officer Meyers has been sued in both his individual and official capacities, but denies the validity of such claims. The City denies the remaining allegations of Paragraph 5 of the Complaint.

6. The City admits the allegations of Paragraph 6 of the Complaint.

7. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 7 of the Complaint.

8. The City denies the allegations of Paragraph 8 of the Complaint.

9. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 9 of the Complaint.

10. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 10 of the Complaint.

11. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 11 of the Complaint.

12. The City admits only that Joell Anderson placed a call to 911, but denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations of Paragraph 12 of the Complaint.

13. The City admits only that two Cleveland police officers arrived at 1374 Ansel Road located in Cleveland, Ohio at approximately 9:31 p.m., but denies the remaining allegations of Paragraph 13 of the Complaint.

14. The City admits only that the responding police officers left 1374 Ansel Road after speaking calmly with Tanisha Anderson and her family, but denies the remaining allegations of Paragraph 14 of the Complaint.

15. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 15 of the Complaint.

16. The City denies for lack of knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 16 of the Complaint.

17. The City admits only that a member of Tanisha Anderson's family placed another call to 911 at approximately 10:46 p.m., but denies the remaining allegations of Paragraph 17 of the Complaint.

18. The City admits only that Officer Aldridge and Officer Meyers arrived to 1374 Ansel Road at approximately 10:51 p.m., and were not the police officers who had previously responded to 1374 Ansel Road, but denies the remaining allegations of Paragraph 18 of the Complaint.

19. The City denies the allegations of Paragraph 19 of the Complaint.

20. The City admits that Tanisha Anderson voluntarily agreed to go to the hospital for an evaluation and that Officer Aldridge and Officer Meyers walked Tanisha Anderson to their zone car to take her to the hospital, but denies the remaining allegations of Paragraph 20 of the Complaint.

21. The City denies the allegations of Paragraph 21 of the Complaint.

22. The City denies the allegations of Paragraph 22 of the Complaint.

23. The City denies the allegations of Paragraph 23 of the Complaint.

24. The City denies the allegations of Paragraph 24 of the Complaint.

25. The City denies the allegations of Paragraph 25 of the Complaint.

26. The City denies the allegations of Paragraph 26 of the Complaint.

27. The City denies the allegations of Paragraph 27 of the Complaint.

28. The City denies the allegations of Paragraph 28 of the Complaint.

29. The City denies the allegations of Paragraph 29 of the Complaint.

30. The City admits only that EMS was called by police dispatch at approximately 11:35 p.m., but denies the remaining allegations of Paragraph 30 of the Complaint.

31. The City denies the allegations of Paragraph 31 of the Complaint.

32. The City denies the allegations of Paragraph 32 of the Complaint.

33. The City admits only that Tanisha Anderson was in handcuffs when EMS arrived on scene at approximately 11:41 p.m., but denies the remaining allegations of Paragraph 33 of the Complaint.

34. The City denies the allegations of Paragraph 34 of the Complaint.

35. The City admits only that EMS transported Tanisha Anderson to the Cleveland Clinic emergency room where she was subsequently pronounced dead, but denies the remaining allegations of Paragraph 35 of the Complaint.

36. The City admits only that the Office of the Cuyahoga County Medical Examiner ruled Tanisha Anderson's official cause of death as "sudden death associated with physical restraint in a prone position in association with ischemic heart disease and bipolar disorder with agitation" and the manner of death as "homicide (legal intervention)," but denies the remaining allegations of Paragraph 36 of the Complaint.

37. The City denies for lack of knowledge or information sufficient to form a belief as to the truth of the accuracy of the allegations of Paragraph 37 of the Complaint.

38. The City denies the allegations of Paragraph 38 of the Complaint.

39. The City denies the allegations of Paragraph 39 of the Complaint.

40. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies the remaining allegations of Paragraph 40 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

41. The City admits only that General Police Order (“GPO”) 3.2.06 titled “Handling the Mentally Ill” speaks for itself, and denies the remaining allegations as contained in Paragraph 41 of the Complaint.

42. The City denies the allegations of Paragraph 42 of the Complaint.

43. The City denies the allegations of Paragraph 43 of the Complaint.

44. The City denies the allegations of Paragraph 44 of the Complaint.

45. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies the remaining allegations of Paragraph 45 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

46. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies the remaining allegations of Paragraph 46 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

47. The City denies the allegations of paragraph 47 of the Complaint.

48. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies

the remaining allegations of Paragraph 48 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

49. The City denies the allegations of Paragraph 49 of the Complaint.

50. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies the remaining allegations of Paragraph 50 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

51. The City admits only that the United States Department of Justice issued on December 4, 2014, a report on its investigation of the Cleveland Division of Police, but denies the remaining allegations of Paragraph 51 of the Complaint as being an incomplete and inaccurate summary of the DOJ report.

52. The City denies the allegations of Paragraph 52 of the Complaint.

53. The City denies the allegations of Paragraph 53 of the Complaint.

54. The City denies the allegations of Paragraph 54 of the Complaint.

55. The City denies the allegations of Paragraph 55 of the Complaint.

56. The City denies the allegations of Paragraph 56 of the Complaint.

57. The City denies the allegations of Paragraph 57 of the Complaint.

58. The City denies the allegations of Paragraph 58 of the Complaint.

59. The City denies the allegations of Paragraph 59 of the Complaint.

60. The City denies the allegations of Paragraph 60 of the Complaint.

61. The City denies the allegations of Paragraph 61 of the Complaint.

62. The City denies the allegations of Paragraph 62 of the Complaint.

63. The City denies the allegations of Paragraph 63 of the Complaint.

64. With respect to Plaintiff's jury demand, the City denies that Plaintiff has alleged any claims with sufficient merit to warrant a trial, but admits only that Plaintiff has demanded a trial by jury if any claim or issue proceeds to a trial in this civil action.

65. With respect to Plaintiff's Prayer for Relief, the City denies that Plaintiff is entitled to any of the relief requested in the Complaint, including compensatory damages, attorneys' fees, expert fees, interest, and costs.

66. The City denies each and every remaining allegation not explicitly admitted to in this Answer.

AFFIRMATIVE DEFENSES

67. Plaintiff fails to state a claim upon which relief can be granted.

68. The City is entitled to all absolute, qualified, statutory, or common law immunities or privileges granted by Ohio Revised Code Chapter 2744 and Ohio common law, including immunity granted to the City by Ohio Revised Code § 2744.02(A)(1).

69. The City is entitled to all other full and qualified immunities available under federal law and or state law or both.

70. Plaintiff's claims and damages may be limited or barred, in whole or in part by the common law defenses of contributory negligence, comparative negligence, assumption of risk, and lack of direct and proximate cause.

71. Plaintiff's claims and damages may be limited or barred, in whole or in part by any statutory or common law defenses or limitations on compensatory damages, including set-off, collateral source, contribution, and indemnity.

72. Plaintiff's request for attorney fees and costs may be limited or barred, in whole or part, by the limitations on attorney fee awards under 42 U.S.C. § 1988, Rule 54 of the Federal Rules of Civil Procedure, and Ohio law.

73. Plaintiff's claims and damages may be limited or barred, in whole or in part, by any statutory or common law defenses or limitations on wrongful death actions, including the limitations and requirements set forth in Ohio Revised Code §§ 2125.01 and 2125.02.

74. Plaintiff's claims and damages may be limited or barred, in whole or in part, by any statutory or common law defenses or limitations for survivorship actions.

75. Plaintiff's claims and damages may be limited or barred, in whole or in part, by any statutory or common law defenses or limitations governing joint and several liability, including the statutory defenses and limitations on joint and several liability set forth in Ohio Revised Code §§ 2307.22 and 2307.23.

76. Plaintiff's claims and damages may be limited or barred, in whole or in part, by failing to join all necessary and indispensable parties.

77. Plaintiff's damages were not the proximate result of an unconstitutional policy, practice, custom, or the deliberate indifference of the City.

78. The City reserves the right to file an Amended Answer and assert additional defenses as may be revealed through discovery.

WHEREFORE, having fully answered Plaintiff's Complaint, the City respectfully request that this Court enter judgment in the City's favor, dismissing all claims with prejudice, and awarding the City costs and reasonable attorneys' fees incurred in defending this action under Fed. R. Civ. P. 54 and 42 U.S.C. § 1988. The City further request that the Court grant any relief that may be just and appropriate under the circumstances.

Dated: March 26, 2015

Respectfully Submitted,

BARBARA A. LANGHENRY (0038838)
Director of Law

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Attorneys for Defendant City of Cleveland

JURY DEMAND

Defendant City of Cleveland demands a trial by jury comprised of the maximum number of jurors permitted under the law on all issues.

s/ Alejandro V. Cortes

ALEJANDRO V. CORTES (0079806)

Assistant Director of Law

CERTIFICATE OF SERVICE

I certify that on March 26, 2015 a copy of the **Answer of Defendant City of Cleveland to Plaintiff's Complaint** was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Alejandro V. Cortes

ALEJANDRO V. CORTES (0079806)

Assistant Director of Law