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8 **IN THE FEDERAL DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 Cora J. Waller, on her own behalf and as  
11 the personal representative of the estate  
12 of Glen Ray Cockrum, Jr.,

13 Plaintiff,

14 v.

15 City of Nogales (Arizona); Santa Cruz  
16 County (Arizona); Roy Bermudez, in his  
17 individual and official capacities; Joseph  
18 Bunting, in his individual capacity;  
19 Nicolas Acevedo, in his individual  
20 capacity; Guadalupe Villa, in his  
21 individual capacity; Robert Gallego, in  
22 his individual capacity; Mario Lopez, in  
23 his individual capacity; Gerardo Batriz,  
24 in his individual capacity; Jose Pimienta,  
25 in his individual capacity; Jesus Gomez,  
26 in his individual capacity,

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT FOR DAMAGES**

**(Jury Trial Demanded)**

**INTRODUCTION**

1. Long ago, the law enforcement community coalesced around the principle that officers should not shoot into moving vehicles. For example, the International

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Association of Chiefs of Police recommends prohibiting the practice “unless a person in the vehicle is *immediately* threatening the officer or another person . . . *by means other than the vehicle.*” Similarly, the Police Executive Research Forum – comprised of top professionals from the nation’s largest agencies – recommends banning the practice “unless someone in the vehicle is using or threatening deadly force *by means other than the vehicle itself.*” The notion that shooting into moving vehicles is more harmful than helpful was famously embraced by the nation’s largest municipal police department fifty years ago. In 1972, the NYPD banned the practice. Since then, most of the nation’s large police departments have followed suit, including: Boston, Cincinnati, Cleveland, Denver, Detroit, Houston, Los Angeles, Miami, Orlando, Philadelphia, Phoenix, Seattle, Tucson, Washington, DC.

2. Neither the Nogales Police Department nor the Santa Cruz County Sheriff’s Office heeded this advice. On May 24, 2021, local law enforcement shot and killed a long-distance truck driver who had led police on a slow-speed chase through Santa Cruz County. Apparently exasperated with the unknown mystery driver who never spoke to police and never gave a hint about his motivations, the shooting officers decided it was time to “stop this guy”, as Chief Bermudez stated.
3. Within a span of approximately 90 seconds, nine officers unleashed 122 bullets on the driver as he slowly maneuvered his empty semi-truck through a busy Walmart parking lot and onto Nogales’ main thoroughfare. Far from being in the path of a fast-moving vehicle, the shooting officers chased after the lumbering truck as it moved

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toward the Walmart parking lot exit. Other officers sped ahead of the truck and into its expected path of travel on Grand Avenue just seconds before opening fire.

4. As gunshots rang out in the parking lot, shoppers sought cover behind parked cars. An elderly woman and her granddaughter tripped and fell as they ran for cover. At least four police officers feared being struck by friendly fire.
5. Most of the nine shooting officers later admitted that they had no idea why their colleagues had initiated a vehicle chase in the first place. One year and hundreds of pages of investigative reports later, we are still left with a murky picture of why officers believed it necessary to engage in a lengthy police chase and shootout.
6. As the police chase commenced, the driver was suspected – at most – of misdemeanor trespass. The driver exchanged no words with law enforcement, made no verbal threats to officers or civilians, and at all times remained in the cab of his truck. As the day proceeded, the driver had racked up – at most – a few additional minor offenses: speeding in a construction zone, running two red lights, and a slow-speed fender bender in the parking lot.

**JURISDICTION AND VENUE**

7. This court has subject-matter jurisdiction under 42 U.S.C. §§ 1983; 28 U.S.C. §§ 1331 and 1343; the Fourth Amendment, and the Fourteenth Amendment to the U.S. Constitution.

- 1 8. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over all  
2 state law claims because each state law claim arose out of the same set of facts and is  
3 so related to the federal law claims that it forms part of the same case or controversy.  
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5 9. Plaintiff, through her previous counsel, timely served notices of claim related to her  
6 state-law claims, per A.R.S. § 12-821.01.  
7  
8 10. Venue is proper in the Tucson Division of the District of Arizona because all of the  
9 incidents and omissions giving rise to this suit occurred in Santa Cruz County.

10 **PARTIES**

11 **Plaintiff**

- 12 11. Plaintiff Cora J. Waller (hereafter “Waller”) is a resident of Shirley, Arkansas.  
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14 12. Waller is the biological mother of her deceased, unmarried, adult son, Glen Ray  
15 Cockrum, Jr. (hereafter “Cockrum”).  
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17 13. Cockrum died on May 24, 2021 in Santa Cruz County, Arizona.  
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19 14. At the time of his death, Cockrum was a resident of Volusia County, Florida.  
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21 15. Waller is the lawfully-designated personal representative of the estate of Glen Ray  
22 Cockrum, Jr., having been appointed by Volusia County Circuit Court Judge Margaret  
23 W. Hudson on May 12, 2022.  
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25 16. Pursuant to A.R.S. § 14-3110 and A.R.S. § 12-612, Waller has standing to bring the  
26 state-law claims and Section 1983 claims in this suit in her role as personal  
representative of the estate of the deceased.

1 17. Except as to Count IV, Waller brings each Count in her role as personal representative  
2 of the estate.

3 **Nogales Police Department Defendants**  
4

5 18. Defendant City of Nogales is a public entity established by the laws and Constitution  
6 of the State of Arizona. Through its council, mayor and city manager, Defendant City  
7 of Nogales operates, manages, directs, and controls the Nogales Police Department,  
8 which employs other defendants in this action.

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10 19. Defendant Nicolas Acevedo was employed as a Nogales Police officer on May 24,  
11 2021, with the rank of Sergeant. He is sued in his individual capacity.

12 20. At all relevant times, Defendant Acevedo acted under the color of state law.

13 21. Upon information and belief, during the years leading up to May 2021, Defendant  
14 Acevedo served as the primary firearms instructor for the Nogales Police Department.  
15 In addition to his regular duties, Defendant Acevedo was responsible for conducting  
16 periodic firearms trainings of his colleagues – periodic trainings that are required for  
17 ongoing law enforcement pursuant to the Arizona Peace Officer Standards and  
18 Training Council.  
19  
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21 22. Defendant Robert Gallego was employed as a Nogales Police officer on May 24,  
22 2021, with the rank of sergeant. He is sued in his individual capacity.

23 23. At all relevant times, Defendant Gallego acted under the color of state law.

24 24. Defendant Gerardo Batriz was employed as a Nogales Police officer on May 24,  
25 2021, with the rank of Corporal. He is sued in his individual capacity.  
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1 25. At all relevant times, Defendant Batriz acted under the color of state law.

2 26. Defendant Jose Pimienta was employed as a Nogales Police officer on May 24, 2021.

3 He is sued in his individual capacity.

4 27. At all relevant times, Defendant Pimienta acted under the color of state law.

5 28. Defendant Jesus Gomez was employed as a Nogales Police officer on May 24, 2021.

6 He is sued in his individual capacity.

7 29. At all relevant times, Defendant Gomez acted under the color of state law.

8 30. Defendant Roy Bermudez was employed as the chief of police of the Nogales Police

9 Department on May 24, 2021. He is sued in both his individual and official capacities.

10 31. At all relevant times, Defendant Bermudez acted under the color of state law.

11 32. Defendant Guadalupe Villa was employed as a Nogales Police officer on May 24,  
12 2021. He is sued in his individual capacity.

13 33. At all relevant times, Defendant Villa acted under the color of state law.

14 34. Defendant Mario Lopez was employed as a Nogales Police officer on May 24, 2021.

15 He is sued in his individual capacity.

16 35. At all relevant times, Defendant Lopez acted under the color of state law.

17 **Santa Cruz County Defendants**

18 36. Defendant Joseph Bunting was employed as a deputy with the Santa Cruz County  
19 Sheriff's Office on May 24, 2021, with the rank of detective. He is sued in his  
20 individual capacity.

21 37. At all relevant times, Defendant Bunting acted under the color of state law.

1 38. Defendant Santa Cruz County is a public entity established by the laws and  
2 Constitution of the State of Arizona. Santa Cruz County has been recognized by the  
3 courts of Arizona to be the appropriate jural entity when the actions and omissions of  
4 the Santa Cruz County Sheriff's Office are at issue. Santa Cruz County, through its  
5 Sheriff's Office, employed Defendant Bunting on May 24, 2021.  
6

7 **FACTUAL ALLEGATIONS**

8 **Nogales Police Department has a History of Excessive Force**

9  
10 39. During the fifteen years leading up to Cockrum's death, the Nogales Police  
11 Department had maintained a longstanding practice or custom of needlessly escalating  
12 interactions with members of the public who were non-violent, posed no imminent  
13 threat to the general public, suspected only of minor offenses, and whose behavior  
14 suggested they may be experiencing a mental health crisis. The Nogales Police  
15 Department appears to have developed a habit of reflexively relying on excessive  
16 force when confronted with such non-violent situations.  
17

18 40. In 2008, for example, an unarmed 60-year-old Hilda Bojorquez was physically  
19 assaulted and Tased three times by Nogales police officers while visiting her daughter  
20 at Holy Cross hospital, requesting that the hospital staff explain her daughter's  
21 medical diagnosis. Ms. Bojorquez's suspected offense? Misdemeanor trespassing and  
22 disorderly conduct.  
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24 41. In 2011, for example, an unarmed Diego Lerma was disoriented and hiding in a  
25 restricted, employee-only section of the La Cinderella store moments after  
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experiencing an epileptic seizure. Although multiple eyewitnesses reported to police that Mr. Lerma appeared harmless and in need of medical assistance, Nogales Police officer Jose Pimienta – also sued here – Tased Mr. Lerma five times. Mr. Lerma’s suspected offense? Misdemeanor trespassing.

42. In 2019, for example, an unarmed Luis Contreras had attracted police attention when he peacefully sat at an IHOP restaurant for an extended period of time without ordering a meal. When questioned by police while seated at his restaurant table, Mr. Contreras spoke with slurred speech and displayed signs of hallucinations. Shortly after, and without provocation, Nogales police officers Tased Mr. Contreras twice, took him to the ground, and beat him. His suspected offense? Misdemeanor trespassing.

43. Upon information and belief, the command staff of the Nogales Police Department prior to May 24, 2021 were aware of these three incidences, as well as other examples, where line officers resorted to excessive force when confronted with nonviolent individuals who, at most, had committed misdemeanor offenses.

**Cockrum is Working as a Long-Haul Truck Driver**

44. Thanks to its strategic location along a major north-south corridor connecting the United States with Mexico, Santa Cruz County boasts approximately 85 fresh produce warehouses. Produce is trucked north from Mexican farm fields, crossed through the international land port, temporarily stored in refrigerated warehouses in Santa Cruz



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County, and loaded onto new trucks bound for grocery stores and restaurants throughout the United States.

45. On May 24, 2021, Cockrum was one of thousands of long-haul truck drivers who are daily dispatched to the region's fresh produce warehouses with the task of carrying food to end consumers.

46. Cockrum drove a truck for the Iowa-based A&B Logistics trucking company.

47. The truck that Cockrum drove was owned by and registered to A&B Logistics.

48. On May 24, 2021, a law enforcement officer inputting the vehicle's license plate number into a law enforcement database would identify only the name and address of the trucking company.

49. On May 24, 2021, the weather conditions in Santa Cruz County were clear.

50. Early in the morning on May 24, 2021, Cockrum delivered cargo to a Phoenix warehouse. Cockrum was then instructed to pick up fresh produce at a warehouse in Rio Rico, Arizona.

51. Upon arriving to Rio Rico, Cockrum parked his truck at a produce warehouse where he was not scheduled to pick up a load. Despite having no business at this particular warehouse, Cockrum parked his truck in front of the loading bays and remained in the cab of his truck.

52. At approximately 11:45am, a warehouse employee observed Cockrum's truck blocking the loading bays. He approached Cockrum's truck and requested that Cockrum move.

1 53. In response, Cockrum remained seated in the cab of his truck and displayed a knife  
2 while the warehouse employee remained standing on the pavement below.

3 54. Upon information and belief, Cockrum never made verbal threats to the employee,  
4 never spoke to the employee, never climbed down from the elevated truck cab, and  
5 never approached the employee on foot.  
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7 55. At 11:54am, the warehouse employee sent a text message to a family member who  
8 worked as a 911 dispatcher, seeking advice about the proper course of action.  
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10 56. A Santa Cruz County Sheriff's deputy was dispatched to the scene and, while the  
11 deputy was en route, Cockrum moved his truck off of the warehouse property.  
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### **Law Enforcement Officers First Engage with Cockrum**

13 57. A Sheriff's deputy with the Santa Cruz County Sheriff's Office responded to the call  
14 and discovered that Cockrum had moved his truck to a neighboring produce  
15 warehouse.  
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17 58. Upon information and belief, no employee from the neighboring produce warehouse  
18 reported concern about Cockrum's presence on their property. Nevertheless, the  
19 Sheriff's deputy pursued Cockrum to the neighboring warehouse.  
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21 59. The Sheriff's deputy approached Cockrum's truck on foot. Cockrum remained seated  
22 in the driver's seat of his truck, saying nothing to the Sheriff's deputy. While seated in  
23 his truck, Cockrum displayed a knife and made a gesture as if slitting his own throat.  
24

25 60. An additional Sheriff's deputy arrived to the scene, as well as two Border Patrol  
26 agents.

1 61. Failing to recognize that Cockrum's behavior was consistent with a mental health  
2 crisis, the two Sheriff's deputies aimed their guns at Cockrum and used a PA system  
3 to order Cockrum out of the truck.  
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5 62. In this moment, officers had probable cause to believe that Cockrum had committed  
6 only one misdemeanor offense: trespassing.

7 63. That one misdemeanor offense had concluded, as Cockrum had voluntarily exited the  
8 first warehouse property.  
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10 64. Shortly after the two Sheriff's deputies began pointing their guns, Cockrum put his  
11 truck into gear and began driving away. Civilian cell phone footage shows Cockrum's  
12 truck moving at a slow rate of speed, intentionally avoiding the parked law  
13 enforcement vehicles and officers. The cell phone footage also shows a Border Patrol  
14 agent standing next to his marked vehicle with his hands at his side, apparently  
15 unconcerned with Cockrum's behavior.  
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17 65. Up to this moment, neither of the two Sheriff's deputies had attempted to ascertain the  
18 owner of Cockrum's truck, for example, by reporting the license plate number to  
19 dispatch.  
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21 66. Around this time, Defendant Joseph Bunting of the Santa Cruz County Sheriff's  
22 Office received word that someone had barricaded himself inside a vehicle.

23 67. Defendant Bunting later told investigators that, as he prepared to assist his colleagues,  
24 he didn't "know quite what was going on" and that he "didn't know the back story."  
25 At most, Defendant Bunting had a vague understanding that the subject may have  
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possessed a knife. Upon information and belief, Defendant Bunting didn't learn the back story until after Cockrum was dead.

**Cockrum Leads Officers on a Slow-Speed Chase**

68. Cockrum began driving southbound and then shortly after, he turned northbound on the I-19 frontage road. Law enforcement followed close behind.

69. One of the pursuing Sheriff's deputies reported on the radio that Cockrum's truck was traveling at 40 m.p.h. along the frontage road.

70. Defendant Bunting left his office in Nogales to catch up to the pursuit. At that moment, he still didn't "know anything besides that there's a pursuit northbound."

71. For the first time, one of the Sheriff's deputies radioed the license plate number to dispatch. No results ever came back.

72. For the next hour, no one on any police radio frequency radioed back the identity of the truck's owner. No one called the company in whose name the truck was registered.

73. Approximately ten minutes later, Cockrum had entered the interstate, continuing northbound. Sheriff's deputies continued trailing him, reporting a maximum speed of 69 m.p.h.

74. Up to this point, three law enforcement agencies had been alerted to Cockrum's flight: the Border Patrol, Santa Cruz County Sheriff's Office, and the Arizona Department of Public Safety (ie, highway patrol). The Nogales Police Department was yet unaware of what was transpiring approximately 30 miles north of its jurisdiction.

1 75. The U.S. Border Patrol checkpoint was situated in Cockrum's path of travel. On the  
2 radio frequency, law enforcement expressed momentary concern about how Cockrum  
3 may respond upon arriving to this bottleneck. For example, would the mystery driver  
4 attempt to ram vehicles in his path?  
5

6 76. These concerns dissipated. Voices on the radio frequency reported that Cockrum had  
7 reduced his speed well in advance of the checkpoint.  
8

9 77. At this moment, Defendant Bunting approached the Border Patrol checkpoint, having  
10 rushed north from Nogales. Not yet knowing a description of the vehicle, Bunting  
11 looked straight at Cockrum's truck for several moments as it approached the  
12 checkpoint. Nothing about Cockrum's truck appeared out of the ordinary, and  
13 Bunting believed he was searching for a smaller vehicle.  
14

15 78. Also at this moment, Defendant Officers Jose Pimienta and Gerardo Batriz of the  
16 Nogales Police Department happened to be traveling north on I-19, completely  
17 unaware of the events that had transpired at the produce warehouses. Neither had  
18 heard radio transmissions about the police chase then underway.  
19

20 79. As they approached the I-19 Border Patrol checkpoint at approximately 1:13pm,  
21 Defendants Pimienta and Batriz saw law enforcement vehicles from their sister  
22 agencies with emergency lights activated. Moments later, they observed Cockrum's  
23 truck slowly crossing over the median that divides the northbound and southbound  
24 lanes of I-19, in an apparent effort to circumvent the Border Patrol checkpoint.  
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1 80. As the truck prepared to make the U-turn, several Border Patrol agents approached  
2 with guns drawn. Cockrum began to make the U-turn, causing the trailer to cut at an  
3 angle and forcing the Border Patrol agents to quickly step back from the trailer's path.  
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5 81. Still riding in the southbound lanes of I-19, Defendant Batriz observed a Santa Cruz  
6 County Sheriff's deputy standing outside his patrol vehicle, firing several shots at the  
7 tires of Cockrum's truck as it maneuvered into the southbound lanes of I-19.  
8

9 82. At this point, Defendants Pimienta and Batriz made a U-turn of their own. They  
10 joined the growing law enforcement pursuit of the vehicle operated by an unknown  
11 driver who posed an unknown risk.

12 83. For a brief time, four law enforcement agencies followed Cockrum southbound. The  
13 Border Patrol disengaged shortly after, leaving a long procession comprised of the  
14 Santa Cruz County Sheriff's Office, the Department of Public Safety, and the duo  
15 from the Nogales Police Department.  
16

17 84. Beginning at approximately 1:14pm, Defendant Pimienta narrated the events for the  
18 benefit of his Nogales Police Department colleagues.  
19

20 85. But there wasn't much for Defendant Pimienta to report: Defendants Pimienta and  
21 Batriz knew only that *something* caused their law enforcement partners to take interest  
22 in Cockrum and that *something* motivated Cockrum to evade the Border Patrol  
23 checkpoint. Even the speed of the 'chase' was not particularly noteworthy: Cockrum's  
24 speed ranged from 60 mph to 67 mph as he traveled southbound.  
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1 86. Around this time, Nogales Police Chief Roy Bermudez was becoming aware of the  
2 situation. He later recalled to investigators, however, that he “had no idea why the  
3 truck was being chased.” He knew only that “the truck didn’t wanna stop.”  
4

5 87. Around this time, Defendant Officer Mario Lopez was becoming aware of the  
6 situation. He later recalled to investigators that he understood only that “the vehicle  
7 was being chased” and that he didn’t know why it was being chased.

8 88. Around this time, Defendant Officer Nicolas Acevedo was learning more about the  
9 unfolding events. A few minutes earlier, Defendant Acevedo had spoken by phone  
10 with a Sheriff’s deputy who informed him only that a chase was underway. As the  
11 procession neared the City of Nogales, Acevedo pieced together only that the driver  
12 was “not pulling over” and that the driver “threw a couple bags out the window” as he  
13 continued south.  
14

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16 89. Over the radio, Defendant Acevedo issued commands for Nogales officers to block  
17 the various interstate exits dumping onto city streets.

18 90. Traveling south on I-19, Exit 8 is the first exit into the City of Nogales. Cockrum  
19 approached Exit 8 driving under the speed limit. He slowed further and exited. He  
20 carefully maneuvered his truck around the two parked, unoccupied police vehicles  
21 that had been placed there to block his exit. The two officers watched from a nearby  
22 embankment as Cockrum intentionally avoided crashing into their vehicles.  
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24 91. Now traveling south on Grand Avenue, Cockrum ran two stop lights at approximately  
25 35 mph. Perplexingly, however, he came to a complete stop at a third stop light.  
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Nogales police were notified over the radio that Cockrum had come to a stop at one of the red lights.

92. As Cockrum passed the intersection at Mariposa Road, Chief Bermudez was helping to direct traffic. Bermudez explained his brief interaction with the driver this way: “As he passed by . . . I just raised my hands like ‘what the hell?’ . . . we locked eyes and the guy just flips me off and keeps driving south.”

93. Shortly after locking eyes with Chief Bermudez, Cockrum turned into the Walmart parking lot.

**Officers Shoot at Cockrum at least 18 Times in the Walmart Parking Lot**

94. Cockrum brought his truck to a complete stop in the Walmart parking lot and remained in the cab of his truck.

95. Dozens of shoppers were at the Walmart that day.

96. Deputy Bunting and two others from the Santa Cruz County Sheriff’s Office, along with more than a dozen Nogales police officers, converged on the Walmart parking lot. Some of them exited their vehicles with guns in hand. Some of them took shooting stances.

97. Defendant Pimienta radioed asking for authorization to use deadly force. There was no response.

98. Although Defendant Acevedo was the on-duty incident command and Chief Bermudez was on scene, neither asserted his authority to coordinate the chaotic scene



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in these moments. In the absence of direction, various officers made their own decisions – often without communicating their plans through the radio.

99. For example, one police officer approached the stationary trailer and cut one of the brake lines, hoping to lock up the rear tires.

100. For example, at least one officer rushes to the truck to place spike strips in front of the tires.

101. For example, Defendants Bunting and Pimienta hatched a plan to break out one of the truck windows and deploy a non-lethal flash bang grenade inside the truck cab. Defendant Pimienta successfully broke the window but was unable to activate the flash bang.

102. Almost immediately after Defendant Pimienta broke the window, Cockrum put the truck into gear. Because some of the rear tires were now locked up, the truck and trailer began bouncing in an unnatural way.

103. Defendant Pimienta jumped down from the rig. Shots began to ring out.

104. Officers and civilians alike were confused.

105. Unknown officers yelled “crossfire, crossfire.”

106. Defendant Pimienta pulled Defendant Bunting out of the way, fearing crossfire.

107. Defendant Batriz grabbed Defendant Acevedo, also fearing crossfire.

108. Defendant Villa fell down as shots were going off. Defendant Gomez pulled him up, not knowing whether he had been hit.

- 1 109. Immediately after hearing gunshots, Chief Bermudez saw two women and a  
2 little girl running and then tripping. He helped them up, and pulled them behind his  
3 car for cover.  
4
- 5 110. Chief Bermudez – the highest ranking police officer on scene – later told  
6 investigators that he “had no idea what was happening” in that moment.  
7
- 8 111. Various officers reported seeing the windshield of Cockrum’s truck begin to  
9 crack.  
10
- 11 112. In total, six officers fired shots while standing in the Walmart parking lot. No  
12 officers were injured.  
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- 14 113. While standing in the Walmart parking lot, Defendant Acevedo fired two shots  
15 at the cab of Cockrum’s truck.  
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- 17 114. While standing in the Walmart parking lot, Defendant Gallego fired at least  
18 two shots at the cab of Cockrum’s truck.  
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- 20 115. While standing in the Walmart parking lot, Defendant Villa fired six shots at  
21 the cab of Cockrum’s truck.  
22
- 23 116. While standing in the Walmart parking lot, Defendant Lopez fired four shots at  
24 the cab of Cockrum’s truck.  
25
- 26 117. While standing in the Walmart parking lot, Defendant Gomez fired three shots  
at the cab of Cockrum’s truck.  
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118. While standing in the Walmart parking lot, Defendant Batriz fired at least two  
shots into the driver’s side window of Cockrum’s truck.

1 119. Cockrum's truck slowly moved through the parking lot as gunfire erupted.

2 120. Because the trailer's brakes had been engaged after an officer cut the brake  
3 lines moments earlier, the trailer was being dragged.  
4

5 121. Cockrum sought to escape as officers opened fire on him, but two unoccupied  
6 police vehicles had been strategically parked to block him in. As gunfire continued,  
7 Cockrum nudged the two police SUVs out of the way.

8 122. One of the two police vehicles sustained only cosmetic damage when  
9 Cockrum's truck pushed past. The second vehicle lost either a bumper or front quarter  
10 panel. Cockrum traveled at between 5 mph and 10 mph at that moment.  
11

12 123. During interviews with investigators, none of the officers who fired in the  
13 Walmart parking lot could identify an *imminent* threat posed by Cockrum's vehicle in  
14 that moment.  
15

16 124. None of the officers observed civilians in the path of Cockrum's truck.

17 125. None of the officers stood in the path of Cockrum's vehicle.

18 126. If officers expressed any concern at all while standing in the Walmart parking  
19 lot, it was concern born out of their colleagues' gunfire.  
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### 21 **Cockrum is Fatally Shot**

22 127. Cockrum managed to exit the parking lot, turning southbound onto Grand  
23 Avenue.  
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25 128. Despite the fact that Cockrum had – at most – committed nonviolent  
26 misdemeanor offenses and demonstrated no intention of using his truck as a deadly

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weapon during the two hours leading up to this moment, various officers had become resolute. They had decided to kill Cockrum.

129. Chief Bermudez explained his thinking in that moment, as Cockrum’s truck exited the parking lot: “that truck needed to be stopped at all costs.”

130. Defendant Bunting recalled thinking to himself: “I needed to stop this vehicle.”

131. Defendant Gallego recalled thinking to himself that Cockrum was willing to do just about anything because he ran at least one stop light and because Cockrum flipped off Chief Bermudez.

132. Defendant Bunting drove his Sheriff vehicle onto Grand Avenue, ahead of the slow-moving, partially-disabled truck. Bunting parked in the center median of Grand Avenue, exited, took position behind his vehicle, raised up his rifle, and yelled out a command for the truck to stop.

133. The truck traveled in the far-right lane and at a safe distance from where Defendant Bunting had positioned himself. Cockrum’s truck slowly approached, staying in the same lane at all times.

134. Defendant Bunting does not recall seeing any civilian pedestrians in Cockrum’s immediate path of travel.

135. Defendant Bunting does not recall seeing any civilian vehicles in Cockrum’s immediate path of travel.

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136. Defendant Bunting was the first law enforcement officer to fire rounds at the Grand Avenue location, and he initially fired two or three bullets into the driver's side window.

137. Defendant Bunting recalls thinking to himself that the driver appeared to be ducking the windshield shots. So Defendant Bunting changed his tactic. He began firing at the driver's side door, with the hope that his bullets would pierce the door's metal and strike Cockrum.

138. In total, Defendant Bunting fired 28 bullets on Grand Avenue.

139. Defendant Bunting recalls thinking that his gunshots were effective, as he believes that the truck was coming to a stop before any additional officers opened fire on Grand Avenue.

140. As Defendant Bunting stopped shooting, four other officers from the Nogales Police Department started their assault on Cockrum.

141. By this time, Defendants Batriz, Pimienta, Bermudez, and Gallego had caught up to the approximate location where Defendant Bunting had positioned himself moments earlier.

142. At this location, Defendant Gallego fired approximately 28 rounds at the cab of Cockrum's truck.

143. At this location, Defendant Batriz fired 18 rounds at the cab of Cockrum's truck.

1 144. At this location, Defendant Pimienta fired 15 rounds at the cab of Cockrum's  
2 truck.

3 145. At this location, Chief Bermudez fired 13 rounds at the cab of Cockrum's  
4 truck.

5 146. Approximately 90 seconds elapsed from the first volley of gunfire in the  
6 Walmart parking lot until the final gunshot was fired along Grand Avenue.

7 147. Cockrum was struck with three bullets. At least one of those three bullets was  
8 fatal.  
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10  
11 **COUNT I**  
12 **42 U.S.C. § 1983 – Fourth Amendment**  
13 **Unreasonable Seizure (Excessive Force)**  
14 **Against Defendants Acevedo, Gallego, Batriz, Gomez, Villa, Lopez, Pimienta, Bunting,**  
15 **and Bermudez in his individual capacity**

16 148. The allegations above are incorporated by reference in this Count.

17 149. Defendants Acevedo, Gallego, Batriz, Gomez, Villa, and Lopez first seized  
18 Cockrum by firing at him while his vehicle was moving toward the exit of the  
19 Walmart parking lot at approximately 1:41pm on May 24, 2021. The Defendants'  
20 actions amounted to a seizure because they fired their weapons with the intent of  
21 restraining Cockrum's movement and with the object of apprehending Cockrum.

22 150. The shots fired from the Walmart parking lot were unreasonable even if they  
23 did not strike Cockrum, as they placed Cockrum in reasonable apprehension for his  
24 safety. In that moment, there was no justifiable reason to use deadly force.  
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1 151. Defendants Gallego, Batriz, Pimienta, Bermudez, and Bunting seized Cockrum  
2 by firing at him while his vehicle was traveling southbound on Grand Avenue at  
3 approximately 1:42pm on May 24, 2021. The Defendants' actions amounted to a  
4 seizure because they fired their weapons with the intent of restraining Cockrum's  
5 movement and with the object of apprehending Cockrum.  
6

7 152. The shots fired from Grande Avenue were unreasonable, as there was no  
8 imminent threat to the officers or to other bystanders.  
9

10 153. The nine Defendants named in this Count fired a total of 122 bullets at  
11 Cockrum. At least three of those shots struck Cockrum, causing Cockrum's death.  
12

13 154. The actions of the Defendants named in this Count were intentional, malicious,  
14 willful, wanton, and/or callously indifferent to Cockrum's constitutionally protected  
15 rights, thereby entitling Plaintiff to an award of punitive damages.

16 155. Under this Count, Plaintiff is entitled to:

- 17 a. compensatory damages;
  - 18 b. damages for loss of life (also sometimes called hedonic damages);
  - 19 c. damages for pain and suffering of the decedent prior to death; and
  - 20 d. punitive damages
- 21

22 **COUNT II**  
23 **42 U.S.C. § 1983 – *Monell***  
24 **Unconstitutional Policy/Custom in Violation of the Fourth & Fourteenth Amendment**  
25 **Against Defendants City of Nogales and Roy Bermudez in his official capacity**

26 156. The allegations above are incorporated by reference in this Count.

1 157. Upon information and belief, the City of Nogales, through the Nogales Police  
2 Department, maintained a written policy and/or unwritten custom permitting the firing  
3 into moving vehicles.  
4

5 158. At all relevant times, command staff within the Nogales Police Department  
6 knew of the heightened risk to both suspects and members of the public in shooting  
7 into moving vehicles.  
8

9 159. Upon information and belief, in May 2021 the City of Nogales maintained a  
10 policy and/or unwritten custom of allowing its officers to resort to excessive force  
11 when faced with nonviolent individuals who may be acting erratically but who  
12 otherwise pose no imminent threat to officers, to civilians, or to the general public.  
13 This custom and practice is evidenced, among other things, by examples cited in this  
14 Complaint of instances where Nogales police officers used Tasers on individuals who  
15 were suspected of – at most – nonviolent misdemeanor offenses.  
16

17 160. Such a policy or custom is unconstitutional because it:  
18 e. presents a substantial risk of serious harm to the seized individuals;  
19 f. presents a substantial risk of serious harm to innocent bystanders;  
20 g. leads to a Fourth Amendment excessive force violation.  
21

22 161. As of May 2021, command staff within the Nogales Police Department were  
23 aware that shooting into moving vehicles was linked to police-involved shooting  
24 deaths throughout the United States.  
25  
26



1 162. The maintenance of the above written policies and/or unwritten customs were  
2 the moving forces behind the constitutional violation suffered by Cockrum.

3 163. Because this is a claim against the municipality, Defendant is not entitled to the  
4 defense of qualified immunity as to this Count.  
5

6 164. Under this Count, Plaintiff is entitled to:

7 h. compensatory damages;

8 i. damages for loss of life (also sometimes called hedonic damages); and

9 j. damages for pain and suffering of the decedent prior to death  
10

11 **COUNT III**  
12 **42 U.S.C. § 1983 – Fourth Amendment**  
13 **Failure to Intervene/Intercede**  
14 **Against All Individual Defendants**

15 165. The allegations above are incorporated by reference in this Count.

16 166. Each of the Defendants named in this Count had an opportunity to intercede  
17 (also sometimes referred to as intervene) between the first volley of gunshots that  
18 took place in the Walmart parking lot and the second volley of gunshots that caused  
19 Cockrum's death.

20 167. Specifically, Defendants failed to intercede by communicating face-to-face and  
21 via radio when it became clear that gunfire was being resorted to. In particular,  
22 Defendants Acevedo, Batriz, Bermudez, and Gallego were supervisory employees  
23 who failed to interject on the radio after the first shots were fired. Indeed, three of  
24 these Defendants – Batriz, Bermudez, and Gallego – rushed from the Walmart  
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parking lot to Grand Avenue to take part in the final volley of gunshots. Far from intervening to prevent a foreseeable violation of Cockrum’s Fourth Amendment rights, these three officers set an example by giving social permission to the other officers.

168. Approximately 90 seconds elapsed from the moment that the first gunshot was fired until the final gunshot. Thus, there was ample opportunity and time to intervene, had any of the Defendants wished to do so.

169. In May 2021, this duty to intercede in such circumstances was clearly established within the Ninth Circuit.

170. Plaintiff is entitled to compensatory and punitive damages under this Count.

**COUNT IV**  
**42 U.S.C. § 1983 – Fourteenth Amendment Due Process Clause**  
**Substantive Due Process: Liberty Interest in Familial Association**  
**Against all Individual Police Defendants**

171. Plaintiff re-alleges each allegation contained in the above paragraphs.

172. Plaintiff is the biological mother of Cockrum. Plaintiff brings this Count in her personal capacity, and not in her capacity as the personal representative of the estate.

173. The Ninth Circuit recognizes that a parent has a constitutionally protected liberty interest under the Fourteenth Amendment in the companionship and society of her child, sometimes referred to as a protected liberty interest in familial association.

174. In the Ninth Circuit, this protected liberty interest is recognized even when the child is an adult at the time of his or her death.

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175. Defendants' behavior shocks the conscience.

176. Defendants exercised their power in an arbitrary manner.

177. Defendants' shocking behavior in firing more than 100 rounds at a fleeing Cockrum was the legal, direct, and proximate cause of his death.

178. Plaintiff is entitled to damages for the loss of companionship of her son.

**COUNT V**  
**A.R.S. §§ 12-611**  
**State-Law Battery and Negligence Causing Wrongful Death**  
**Against all Defendants**

179. Plaintiff re-alleges each allegation contained in the above paragraphs.

180. Under Arizona law, when death of a person is caused by an intentional tort, the persons who would have been liable if death had not ensued, shall be liable in an action for damages.

181. For the reasons explained in other counts, the individual Defendants named in this Count each committed the intentional tort of battery on Cockrum by firing at him. This amounted to battery because each of the named Defendants in this Count desired to cause a harmful and offensive contact with Cockrum and each believed that a battery was the likely consequence.

182. This battery was the direct, proximate, and legal cause of Cockrum's death.

183. The individual Defendants named in this Count are not entitled to state-law qualified immunity, as state-law qualified immunity is available to law enforcement

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officers only when they are alleged to have acted in a negligent manner. The individual defendants, by contrast, are sued here on an intentional tort theory.

184. The individual Defendants named in this Count are not entitled to a state-law justification defense, as there was no imminent threat to officers or any third parties at the time the deadly force was deployed.

185. The City of Nogales and Santa Cruz County are sued for the wrongful death of Cockrum on two bases: 1) *respondeat superior* liability as the employers of the individual defendants who committed intentional torts; and 2) negligence liability on the basis that the City of Nogales and Santa Cruz County negligently failed to:

- a. Establish proper communication to ensure that the employees of Santa Cruz County Sheriff's Office and employees of the Nogales Police Department all had access to the relevant information during the approximately two hours leading up to the shooting death;
- b. Train and supervise their employees on the proper circumstances in which to engage in lengthy law enforcement chases, where the suspect neither poses an immediate threat nor is wanted for a serious crime;
- c. Train and supervise their employees on the proper use of deadly force, particularly in the context of shooting into moving vehicles.

186. Plaintiff is entitled to compensatory damages and punitive damages under this Count.

1 **PRAYER FOR RELIEF**

2  
3 **WHEREFORE**, Plaintiff requests that this Court grant her the following relief:

- 4  
5 A. Compensatory damages, including consequential, general, and special damages, in an  
6 amount to be determined at trial;
- 7 B. Loss of Life Damages, also called Hedonic damages, as defined by the federal  
8 common law and 42 U.S.C. § 1983;
- 9 C. Pain and Suffering damages as permitted under 42 U.S.C. § 1983;
- 10 D. Punitive damages pursuant to 42 U.S.C. § 1988;
- 11 E. Compensatory and punitive damages, as allowed in state law;
- 12 F. Attorney’s fees under 42 U.S.C. § 1988 and 29 U.S.C. § 794a;
- 13 G. Costs of this action;
- 14 H. Any other relief that this Court deems appropriate.
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18 Respectfully submitted this 23<sup>rd</sup> day of May, 2022 by:

19 /s Paul Gattone  
20 Paul Gattone  
21 Arizona Bar # 012482  
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