

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

ROXANNE WILLIAMS, Individually and as the
Administrator of the Estate of HAYDEN BLACKMAN
Deceased,

Plaintiff,

v.

CITY OF ROCHESTER, ROCHESTER CITY POLICE
POLICE OFFICERS “JOHN DOE 1-10”,
(last ten names being fictitious, true names unknown, said
persons being police officers who were involved in
incidents occurring on or about October 14, 2011, which
are the subject of this action) Individually and in their
Official Capacities

Defendants.

NOTICE OF REMOVAL

Index No.: 2013-2240

Case No.:

Defendants City of Rochester, Rochester City Police, Police Officers “John Doe 1-10” (“Defendants”) file this Notice of Removal to the United States District Court for the Western District of New York, pursuant to 28 U.S.C. §1441, based on the following grounds:

1. On February 28, 2013, the Summons and Complaint (Index No. 2013-2240) was filed by the Plaintiff in the Monroe County Supreme Court. A copy of the Summons and Complaint is attached as **Exhibit A**.
2. No other pleading or orders have been filed in this action before the filing of this Notice of Removal; Defendants’ Answer is enclosed with this Notice of Removal.
3. The Defendant City of Rochester was served with the Summons and Complaint on or about March 4, 2013, and the Defendant Rochester Police Department was served with the Summons and Complaint on or about March 8, 2013.

4. This is a civil action. The Plaintiff alleges a number of causes of action against the Defendants involving the death of the Decedent, Hayden Blackman, and the action involves claims pursuant to 42 U.S.C. § 1983. Plaintiff alleges that the Decedent was deprived of his life and liberty in violation of 42 U.S.C. § 1983. In addition, Plaintiff makes state law claims for wrongful death, assault and battery, conscious pain and suffering and other state law causes of action.
5. This Court has original federal question jurisdiction pursuant to 28 U.S.C. §1331 because the action arises under federal statutory law, specifically 42 U.S.C. § 1983.
6. The Complaint was filed in the Monroe County Supreme Court, which is within the District of this Court.
7. This Notice of Removal is being filed with thirty (30) days of the Defendants' receipt of the Summons and Complaint.
8. Written notice of the filing of this Notice of Removal will be provided to the Plaintiff, and a copy of this Notice will be filed in the appropriate State Court, as required by U.S.C. § 1446(d).

WHEREFORE, the Defendants respectfully request that this action be removed from the Monroe County Supreme Court to this Court for all further proceedings.

ROBERT J. BERGIN
CORPORATION COUNSEL

Dated: March 20, 2013
Rochester, New York

s/ Adam M. Clark
Adam M. Clark, Esq., Of Counsel
Attorneys for Defendants
Office and Post Office Address
City Hall Room 400A, 30 Church Street
Rochester, NY 14614-1295
Telephone: (585) 428-6699
clarka@cityofrochester.gov

TO: Michael Cobbs, Esq.
Tiffany L. D'Angelo, Esq.
BROWN & HUTCHINSON
Attorneys for the Plaintiff
925 Crossroads Building
Two State Street
Rochester, New York 14614
Telephone: (585) 454-5050
Fax: (585) 454-5066

Exhibit A

Exhibit A

[Handwritten Signature]
RECEIVED

STATE OF NEW YORK COUNTY OF MONROE
SUPREME COURT

2013 FEB 28 AM 9:45

MONROE COUNTY CLERK

ROXANNE WILLIAMS, Individually and as the
Administrator of the Estate of HAYDEN BLACKMAN,
Deceased,

Plaintiff,

SUMMONS

v.

Index No: 2013-2240

CITY OF ROCHESTER, ROCHESTER CITY
POLICE, POLICE OFFICERS "JOHN DOE 1-10",
(last ten names being fictitious, true names
unknown, said persons being police officers,
who were involved in incidents occurring on or about
October 14, 2011 which are the subject of this action)
Individually and in their Official Capacities,

Defendants.

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action, and to serve a copy of your Answer, on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Plaintiff designates Monroe County as the place of trial. The basis of venue is the Plaintiff's residence.

LAW DEPARTMENT
CITY OF ROCHESTER

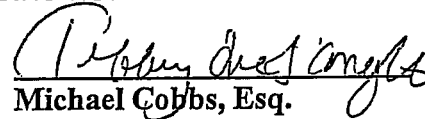
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Dated: February 26, 2013
Rochester, New York

BROWN & HUTCHINSON

By:



Michael Cobbs, Esq.

Tiffany L. D'Angelo, Esq.

Attorneys for Plaintiff

925 Crossroads Building

Two State Street

Rochester, New York 14614

Telephone: (585) 454-5050

Fax: (585) 454-5066

RECEIVED

STATE OF NEW YORK COUNTY OF MONROE
SUPREME COURT

2013 FEB 28 AM 9:45

MONROE COUNTY CLERK

ROXANNE WILLIAMS, Individually and as the
Administrator of the Estate of HAYDEN BLACKMAN,
Deceased,

Plaintiff,

VERIFIED
COMPLAINT

v.

Index No:

CITY OF ROCHESTER, ROCHESTER CITY
POLICE, POLICE OFFICERS "JOHN DOE 1-10",
(last ten names being fictitious, true names
unknown, said persons being police officers,
who were involved in incidents occurring on or about
October 14, 2011 which are the subject of this action)
Individually and in their Official Capacities,

Defendants.

Plaintiff, Roxanne Williams, individually and on behalf of the Estate of Hayden Blackman, by and through her attorneys Brown & Hutchinson, Michael Cobbs, Esq., *Of Counsel*, as and for her Verified Complaint alleges upon information and belief as follows:

1. Plaintiff Roxanne Williams (hereinafter referred to as "plaintiff") is and was at all times mentioned herein a resident of the City of Rochester, County of Monroe, State of New York.
2. Plaintiff is the surviving spouse of decedent, Hayden Blackman.
3. On or about December 15, 2011, plaintiff was appointed the Administrator of Estate of Hayden Blackman by the Monroe County Surrogate's Court.

4. At all times mentioned herein, decedent resided with plaintiff in the City of Rochester, County of Monroe.

5. Defendant City of Rochester is a municipal corporation formed in and under the laws of the State of New York.

6. At all times mentioned herein defendant Rochester Police Department (hereinafter referred to as "RPD") is, and was a department and/or subdivision of defendant City of Rochester.

7. Each of the individually named defendants are sued individually and in their official capacities.

8. At all times relevant mentioned herein the individually named police officers were acting under color of state law and on behalf of RPD.

9. Plaintiff timely filed a Notice of Claim with the City of Rochester pursuant to General Municipal Law §50(e).

10. More than thirty (30) days have elapsed since the filing of said Notice of Claim and plaintiff's claims have not been compromised or settled by defendants.

FACTUAL ALLEGATIONS

11. On or about October 13, 2011, several officers of the RPD responded to a 911 call placed by plaintiff's daughter regarding a verbal dispute between decedent and plaintiff's son at the plaintiff's residence at 181 Columbia Drive, Rochester, New York.

12. The plaintiff, her husband (the decedent) and her two children resided at the time in the upstairs apartment of the residence located at 181 Columbia Drive, Rochester, New York.

13. By the time the police arrived at said residence, the decedent and plaintiff's son's verbal dispute had ceased and the decedent was walking back towards the kitchen.

14. When RPD officers arrived, the officers ran up the stairs and into the entranceway to plaintiff's apartment and opened fire on the decedent, shooting the decedent at least four (4) times.

15. After the officers entered the apartment, they handcuffed all of the occupants of the apartment including plaintiff and the decedent.

16. One of the paramedics noticed that the decedent was having difficulty breathing and told the police to remove the handcuffs from decedent.

17. The decedent was then transferred to Strong Memorial Hospital and the plaintiff, her son and her daughter were all taken to the RPD station in separate police cars.

18. Plaintiff was not able to see her children until seven o'clock the next morning, approximately nine (9) hours after the shooting.

19. The decedent was pronounced dead at 12:30 a.m. on October 14, 2011. He survived for approximately thirty (30) minutes after being shot.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST THE INDIVIDUAL
DEFENDANTS FOR DEPRIVATION OF DECEDENT'S LIFE AND LIBERTY
VIOLATION OF 42 USC SECTION 1983**

20. Plaintiff repeats and re-alleges paragraphs 1-19 as if fully restated herein.

21. The individually named defendants were acting under color of state law in their capacities as officers of the RPD when they shot the decedent.

22. The defendants without justification used unreasonable, excessive and deadly force against the decedent.

23. The excessive and deadly force used against decedent who was retreating from the altercation was in violation of his Constitutional rights to life and liberty.

24. The illegal, excessive conduct by the defendants caused decedent's death and caused decedent to endure over thirty (30) minutes of conscious pain and suffering and eventual death.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST THE DEFENDANTS
FOR WRONGFUL DEATH**

25. Plaintiff repeats and re-alleges paragraphs 1-24 as if more fully set forth herein.

26. Decedent Hayden Blackman died as a result of the aforementioned, unjustified and illegal actions of the RPD and its officers in that they unlawfully shot Hayden and then proceeded to place him in handcuffs while he was in need of immediate medical attention from his gunshot wounds and defendants failed to provide and denied decedent proper and timely medical attention for his injuries, which led to his death.

27. The actions of defendants were done negligently, and/or recklessly, and/or intentionally and in reckless disregard for decedent's life.

28. Defendants' aforesaid actions caused the wrongful death of plaintiff's decedent.

29. As such, the defendants are liable for the wrongful death of Hayden Blackman.

AS AND FOR A THIRD CAUSE OF ACTION FOR ASSAULT AND BATTERY

30. Plaintiff repeats and re-alleges paragraphs 1-29 as if fully restated herein.

31. The actions of defendants by detaining, shooting and handcuffing decedent constituted an offensive physical contact resulting in assault and battery.

32. The decedent in no way consented to the physical contact.

33. The actions thereby constitute assault and battery in violation of New York common law.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST THE CITY OF ROCHESTER AND RPD FOR INADEQUATE TRAINING AND SUPERVISION

34. Plaintiff repeats and re-alleges paragraphs 1-34 as if fully restated herein.

35. Defendants City of Rochester and RPD failed to adequately train, supervise and discipline their police officers, including the individually named officers so as to prevent the violation of Hayden Blackman's constitution rights as set forth throughout this Complaint and to prevent the unnecessary and unjustified shooting of Hayden Blackman.

36. The deficiency in the training, supervision and discipline of the RPD officers, was an actual and direct cause of the constitutional deprivations and injuries suffered by decedent.

37. As a direct result of the negligence of the City of Rochester as well as RPD's negligence, Hayden Blackman was subjected to physical harm and deprived of his life and liberty without the benefit of due process.

38. Defendants City of Rochester and RPD have a duty to identify, investigate and discipline, when and where appropriate, Rochester police officers who are involved

in wrongful conduct including, but not limited to violation of police procedure, unlawful pursuits and unreasonable seizures, as well as unjustified and unlawful shootings of citizens.

39. Defendants City of Rochester and RPD, with reckless disregard of the consequences, failed to adequately train and supervise the officers involved in the incident on October 13, 2011 in the appropriate methods of, among other things, seizures, detentions, confinements, arrests, deadly force and discharge of their firearms, and such lack of training and supervision was the cause of the violations of decedent, Hayden Blackman's constitutional rights.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST THE DEFENDANTS
FOR THE PECUNIARY LOSS SUFFERED BY PLAINTIFF**

40. Plaintiff repeats and re-alleges paragraphs 1-39 as if fully restated herein.

41. As a result of the individually named defendants' deprivation of decedent's constitutional rights including the unlawful and unjustified shooting of Hayden Blackman, causing his death, Roxanne Williams has suffered pecuniary loss and harm.

42. As a result of the events underlying this action, plaintiff has suffered the loss of her husband's present and future support and services.

43. Decedent was working full time at the time of the incident and contributed economically to the household expenses.

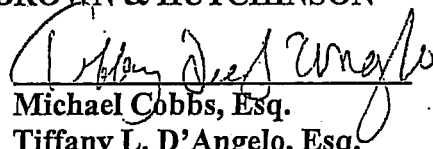
44. The amount of damages in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction in this matter.

WHEREFORE, plaintiff demands judgment against the defendants in an amount to be determined upon the trial of this action, together with the costs and disbursements of this action.

Dated: February 26, 2013
Rochester, New York

BROWN & HUTCHINSON


By:


Michael Cobbs, Esq.
Tiffany L. D'Angelo, Esq.
Attorneys for Plaintiff
925 Crossroads Building
Two State Street
Rochester, New York 14614
Telephone: (585) 454-5050
Fax: (585) 454-5066

VERIFICATION

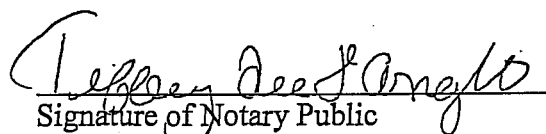
STATE OF NEW YORK) ss:
COUNTY OF MONROE)

Roxanne Williams, being duly sworn, deposes and says that she is the plaintiff and administrator of the estate in the above-referenced action; that she has read the Verified Complaint and knows the contents thereof; that the same is true to her own knowledge except as to the matters therein stated to be on information and belief; and that, as to those matters, she believes the same to be true.



Roxanne Williams

Subscribed and Sworn to Before Me This
27th day of December, 2012



Signature of Notary Public

TIFFANY LEE DANGELO
NOTARY PUBLIC, State of New York
No. 02DA6258624
Qualified in Monroe County
Commission Expires March 26, 2016