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CASE NUMBER: 17-2-23731-1 SEA

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6 IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

7 Commissioner Eric Watness, as Personal
8 Representative of the Estate of Charleena
9 Lyles; Karen Clark, as Guardian Ad Litem
10 on behalf of the four minor children of
11 decedent,

12 Plaintiffs,

13 v.

14 The City of Seattle, a Municipality; Jason M.
15 Anderson and Steven A. McNew,
16 individually; Solid Ground, A Washington
17 non-profit corporation,

18 Defendants.

NO. 17-2-23731-1 SEA

SECOND AMENDED COMPLAINT
FOR CIVIL RIGHTS VIOLATIONS,
WRONGFUL DEATH ACTION, AND
NEGLIGENCE

19 COME NOW Plaintiffs and allege as follows:

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Charleena Chavon Lyles
April 24, 1987 - June 18, 2017



SECOND AMENDED COMPLAINT FOR CIVIL RIGHTS
VIOLATIONS, WRONGFUL DEATH ACTION,
AND NEGLIGENCE - 1

STRITMATTER KESSLER WHELAN
KOEHLER MOORE KAHLER
3600 15th Ave W, #300, Seattle, WA 98119
Tel: 206-448-1777

1 **I. PLAINTIFFS**

2 1.1 Charleena Chavon Lyles was born on April 24, 1987 in Seattle, King County,
3 Washington, to Sadaria Teresa Sorrells, previously deceased, and Charles Elden Lyles. She was
4 the only issue of their union. At the time of her death, Charleena was 30 years old and lived in
5 Seattle, Washington along with her four minor children. Charleena was also four months
6 pregnant.

7 1.2 Charleena’s minor children are: J.L. born April 3, 2005; Q.L. born May 22, 2006;
8 Za.C. born March 7, 2013; and Zy.C. born May 27, 2016. All four children are now dependents
9 of the Department of Social and Health Services of the State of Washington.

10 1.3 On November 1, 2017, Commissioner Eric Watness, was substituted and
11 appointed as the Personal Representative of the Estate of Charleena Lyles, King County Superior
12 Court Cause No. 17-4-04905-8 SEA.

13 1.4 On August 8, 2017, the Court appointed Attorney Andrea Nicolaisen as Probate
14 Guardian Ad Litem for the four minor children.

15 **II. DEFENDANTS**

16 2.1 The City of Seattle is a first class city as described in [RCW 35.22.010](#) and is
17 governed and organized in accordance with the Washington State Constitution [Article 11,](#)
18 [Section 10, Amendment 40](#). The Seattle Police Department is established according to the City
19 Charter Article VI.

20 2.2 Jason M. Anderson works for the Seattle Police Department.

21 2.3 Steven A. McNew works for the Seattle Police Department.

1 2.4 Defendants Anderson and McNew were employees of Defendant City of Seattle.
2 All actions described in this complaint were in the course and scope of the employment
3 relationship. The City is vicariously liable for all of its employees' acts.

4 2.5 The City of Seattle is located in King County, Washington and the incident
5 occurred in King County, Washington.

6 2.6 On August 11, 2017, Plaintiffs filed a Claim for Damages with the City of Seattle.
7 The claim was assigned Claim #C-94765. More than 60 days have elapsed since the claim was
8 filed with Defendant City of Seattle.

9 2.7 The filing of the Claim for Damages properly satisfied the notice requirements to
10 the City of Seattle.

11 2.8 Solid Ground is a Washington non-profit corporation, duly licensed and operating
12 from its headquarters located in Seattle, Washington.

13 Plaintiffs reserve the right to identify additional defendants at a later date.

14 **III. JURISDICTION AND VENUE**

15 3.1 Jurisdiction and venue are proper in King County as all acts and omissions by
16 Defendants occurred in Seattle, King County, Washington.

17 **IV. STATEMENT OF FACTS**

18 4.1 Defendant City of Seattle's Police Department (SPD) has been under a Federal
19 Consent Decree since 2012 after a [Department of Justice investigation](#) concluded SPD officers
20 violated the U.S. Constitution and Federal Law by engaging in institutional, routine and
21 widespread excessive use of force, most often against people with mental illness or substance-
22 abuse problems. Federal investigators also found evidence of racially biased policing.

1 4.2 Specifically, the DOJ found reasonable cause to believe that SPD engaged in a
2 pattern or practice of excessive force, in violation of the Fourth Amendment of the U.S.
3 Constitution and the Violent Crime Control and Law Enforcement Act of 1994. Based on a
4 randomized, stratified and statistically valid sample of SPD's use of force reports from Jan. 1,
5 2009, to April 4, 2011, DOJ factual findings included:

- 6 • SPD officers used force in an unconstitutional manner nearly 20 percent of the time;
- 7 • SPD estimates that 70 percent of use of force encounters involved individuals with
8 mental illnesses or under the influence of alcohol or drugs. In those encounters, SPD
9 officers unnecessarily escalated situations and used excessive force when arresting
10 individuals for minor offenses.
- 11 • More than half of the excessive force cases involved minority populations supporting
12 allegations of discriminatory policing.

13 4.3 SPD was given the option of working with the DOJ to correct these institutional
14 failures or face a federal lawsuit. According to the DOJ report:

15 To create lasting reform, SPD must continue to develop and implement new force
16 policies and protocols, and to train its officers on how to conduct effective and
17 constitutional policing. In addition, SPD must implement systems that ensure
18 accountability, foster police-community partnerships, and eliminate unlawful bias.

19 4.4 SPD elected to work with the Department of Justice which negotiated and filed a
20 Consent Decree to address the departmental failures on July 27, 2012, and separately entered into
21 a settlement agreement on related issues on that same date. On September 21, 2012, Federal
22 Court Judge James L. Robart modified and entered the Consent Decree.

1 4.5 SPD’s mission, policies, and training emphasize: “the sanctity of all human life
2 and the importance of treating all persons with dignity and respect.”

3 4.6 At the core of SPD training is the requirement to use de-escalation tactics and
4 techniques.

5 4.7 The SPD Manual (SPM sec. 8.000 through 8.2000) highlights officers’
6 affirmative obligations to de-escalate prior to using force when reasonably safe and feasible.

7 4.8 Officers may only use force that is objectively reasonable, necessary, and
8 proportionate to effectively bring a person under control.

9 4.9 Tracking contacts with people in crisis or suffering from mental-health issues is
10 now supposed to be part of the [department’s crisis-intervention program](#) which was approved
11 Judge Robart in February 2014.

12 4.10 Recently, a Federal court-appointed monitor found [encouraging signs that the](#)
13 [department had made significant progress in its reforms](#). The case of what happened to
14 Charleena Lyles is therefore troubling.

15 4.11 In November 2015, with the help of Catholic Community Services, Charleena
16 Lyles and her, then, three children (ranging in age from 2 to 10) settled into the Brettler Family
17 Place in Magnuson Park which is operated by Solid Ground.

18 4.12 Solid Ground intake paperwork indicated that Charleena Lyles likely had mental
19 health problems.

20 4.13 Solid Ground assigned Flora Yancy to be Charleena Lyles’ initial case manager in
21 in November 2015. The contract documents between Charleena Lyles and Solid Ground
22

1 provided that: “a case manager will provide support services, resources, referrals, and access to
2 on-site activities which will help you with your personal goals and to maintain stable housing.”

3 4.14 The contract required that Charleena Lyles and the Solid Ground case manager
4 meet regularly at a minimum as follows: every week for the first month of tenancy, at least
5 monthly for the next five months, and then at least every 90 days thereafter. The case manager
6 was to look into every room in the apartment during these visits.

7 4.15 In about September 2016, Case Manager Yancy determined that Charleena Lyles
8 required additional services and referred her to Solid Ground’s counseling center where she was
9 paired with a child and family therapist.

10 4.16 By September 28, 2016, Case Manager Yancy was no longer working at Solid
11 Ground. No contingency plan had been implemented by Solid Ground to support Charleena
12 Lyles and her family.

13 4.17 Solid Ground assigned Natasha Hawkins to be Charleena Lyles’ next case
14 manager. On March 29, 2017, Ms. Hawkins sent an email introducing herself for the first time
15 to Charleena Lyles.

16 4.18 The approximately six month gap in Solid Ground’s re-assignment of a case
17 manager, contributed to Charleena Lyles’ becoming disconnected from the program.

18 4.19 By May 15, 2017, Solid Ground noted that Charleena Lyles and her family were
19 “falling through the cracks” and not getting the support necessary to thrive.

20 4.20 By May 29, 2017, Solid Ground staff noted that Charleena Lyles was exhibiting
21 erratic behavior such as paranoid behavior, angry outbursts, and an increase in arguments with
22

1 neighbors. Staff assumed that Charleena Lyles was engaging in substance use even though she
2 confirmed to them that she was not.

3 4.21 On May 30, 2017, Solid Ground received an incident report from another
4 resident. Over the holiday weekend at the Brettler place outdoor playground, a child asked
5 Charleena Lyles to return a video game that had been borrowed. She responded by yelling that
6 she would not give him anything until she got 12 rolls of toilet paper. She returned with a
7 garbage bag full of something along with a kitchen knife that she held up for the children at the
8 playground to see. She then said to all the children present: “do you want to die the way my ex-
9 boyfriend died?”

10 4.22 Solid Ground had previously asked for and received permission from Charleena
11 Lyles to communicate with the Dependency CASA Program regarding her minor children at all
12 material times. Solid Ground was aware that Charleena Lyles’ children’s safety and wellbeing
13 were directly affected by their mother’s mental health status and victimization by domestic
14 violence abusers.

15 4.23 After its intake of the May 30, 2017 incident report, Solid Ground failed to: a)
16 notify the police; b) notify CASA; c) notify DSHS; d) interview Charleena Lyles; e) interview all
17 other witnesses; f) consider whether Charleena Lyles’ conduct could be the result of a mental
18 health crisis; g) consider whether Charleena Lyles’ children were at risk; or h) take any
19 meaningful action at all to protect the health and safety of its residents (including Charleena
20 Lyles and her children) in light of the seriousness of the reported incident.

21 4.24 Solid Ground should have reported the playground incident to law enforcement
22 and/or mental health professionals so that they could have determined that Charleena Lyles was

1 suffering from a mental disorder and presented an imminent likelihood of serious harm or was in
2 imminent danger because of being gravely disabled pursuant to RCW 71.05.153.

3 4.25 If Solid Ground had properly reported the May 30, 2017 incident, it is probable
4 that Charleena Lyles would have been the subject of a police and/or mental health intervention at
5 that time including but not limited to being placed under a 72 hour hold (in addition to the
6 weekend) so that she could be fully evaluated pursuant to RCW 71.05.153; 71.05.180.

7 4.26 Charleena Lyles was the victim of repeated emotional and physical abuse partially
8 described in police incident reports generally summarized as follows:

9 a. November 11, 2015, Franklin Camphor (father of the two youngest
10 children) chased her into hallway and either struck her or she hit the wall. She was
11 noted to have bleeding above her left eye;

12 b. December 22, 2015, Camphor damaged a wall and refused to leave the
13 apartment;

14 c. December 28, 2015, Camphor threw a glass of juice into the ceiling,
15 breaking it and she retreated into the bedroom;

16 d. December 31, 2015, Camphor engaged in escalated behavior with her and
17 one of the children called the police to have him removed;

18 e. January 16, 2016, Camphor assaulted and threw a rock at her;

19 f. January 29, 2016, neighbor could hear a female being slammed into the
20 floor and two children screaming;

21 g. May 9, 2016, Camphor assaulted her while she was 34 weeks pregnant in
22 the presence of their two year old. He tried to strike her in the head with a closed

1 fist but missed and struck her shoulder. He then threw a shoe at her. He then
2 kicked in the bathroom door, punched holes in the apartment walls, broke dishes,
3 and threatened to slash her tires;

4 h. June 2, 2016, Camphor threw a baby bottle at her, pounded on the back
5 window of her vehicle and smashed it;

6 i. June 12, 2016, Camphor with all four kids in the car, began arguing with
7 her, leading to him smashing the passenger window with a rock and sending glass
8 into the car where the kids were. A protective order had been issued but not yet
9 served on Camphor;

10 j. July 30, 2016, Camphor was just released from jail, accosted her, grabbed
11 her keys out of her hand and took her car, all of which violated the no contact
12 order;

13 k. August 25, 2016, a neighbor called police as he could hear her screaming
14 for help in addition to arguing and thumping noises. Camphor was arrested for
15 violating the no contact order;

16 4.27 In June of 2016 when Charleena Lyles obtained a no contact order against
17 Camphor, she stated he had been violent for at least four of the eight years they had been
18 together and was known to punch holes in walls, even hitting her while she was pregnant. "I feel
19 so scared for my safety, and I just got out of the hospital from having our 6-days-old baby boy,
20 and I had a c-section. I think he ripped my stitches open," she wrote in her June 2nd petition for
21 an order for protection. She ended by noting that she "didn't see him changing." She asked the
22 court for help.

1 4.28 That same summer, Charleena began treatment at Sound Mental Health after a
2 domestic violence arrest in Auburn involving an altercation with one of her half-sisters.
3 Charleena Lyles acknowledged she needed counseling and thought she was suffering from
4 depression. She was stressed that she would lose her home and that the state would take her
5 children.

6 4.29 Between January 2017 and June 2017, twenty three (23) calls were made from
7 Charleena Lyles' apartment, including: 10 domestic disturbances; 4 domestic assaults, 3 reports
8 of burglary, 2 child abuse/neglect, 1 threat, 1 welfare check, 1 missing child, and 1 follow up on
9 a prior disturbance.

10 4.30 The 23 calls in a six month period were extraordinary in number and placed the
11 Seattle Police Department (SPD) and other City agencies, as well as Solid Ground on notice that
12 Charleena Lyles and her children were in an at risk situation.

13 4.31 On May 28, 2017, Jeffrey Butts, father of the two eldest children, grabbed her
14 phone and smashed it when she tried to call 911. He then placed her in a chokehold and struck
15 her with a closed fist. This date coincides with Charleena's outburst at the Brettler Place
16 playground.

17 4.32 Both the SPD and Solid Ground were aware of multiple domestic violence
18 incidents involving Charleena Lyles and the two fathers of her children.

19 4.33 One week after the incident involving Charleena Lyles and children at the Brettler
20 Place playground, on June 5, 2017, another physical domestic disturbance was reported to the
21 SPD. Charleena Lyles told police she had been the victim of domestic violence. Shortly after
22 arrival two officers (Legg and Bauer) requested immediate assistance. Charleena Lyles armed

1 herself with extra-long, metal shears. She was making unusual comments such as wanting to
2 “morph into a wolf” and talked about “cloning her daughter.” She was sure the police officers
3 were devils and also members of the KKK. The officers drew their guns in the presence of her
4 young children. The officers engaged in de-escalation techniques. She was instructed to drop
5 the shears and move away from them. She did so. It was apparent to the officers that she had a
6 mental health condition.

7 4.34 Some of Charleena Lyles’ family members were later consulted and told the
8 police that she had experienced a recent sudden and rapid decline in her mental health.

9 4.35 Solid Ground by that time should have been able to confirm to police that in the
10 days leading up to this latest incident, Charleena Lyles’ mental health was presenting a danger to
11 herself and others.

12 4.36 Again Solid Ground failed to inform the officers of the playground incident that
13 occurred just days before.

14 4.37 The officers arrested Charleena Lyles after recognizing that she was suffering
15 from a mental health crisis.

16 4.38 The officers did not send Charleena Lyles to the Crisis Solutions Center. She was
17 not sent for a 72 hour hold under RCW 7.05.153 which provides that: a peace officer may take or
18 cause such person to be taken into custody and immediately delivered to a triage facility, crisis
19 stabilization unit, evaluation and treatment facility, or the emergency department of a local
20 hospital under the following circumstances when he has reasonable cause to believe that such
21 person is suffering from a mental disorder and presents an imminent likelihood of serious harm
22 or is in imminent danger because of being gravely disabled.

1 4.39 Instead the SPD booked Charleena Lyles into jail on charges of harassment and
2 obstruction.

3 4.40 Attorney Ashwin Kumar, public defender, appeared at the bail hearing in Seattle
4 Municipal Court for the harassment and obstruction charges. He noted how fundamentally
5 wrong it was that Charleena Lyles had called for help for domestic violence but was arrested
6 instead. Specifically officers pulled their guns on her in the presence of her children and even
7 though she was experiencing a mental health episode at the time.

8 4.41 Charleena Lyles pleaded not guilty and was jailed. It is unknown if she received
9 mental health treatment or other mental health intervention during this time. However, she was
10 taken while in custody to the hospital due to abdominal complaints. On June 9, 2017,
11 Harborview noted her to be a “nontoxic individual” who was 14 weeks pregnant according to
12 ultrasound. She was then returned to jail.

13 4.42 Charleena Lyles appeared in Mental Health Court on Tuesday, June 13, 2017
14 where she was ordered to be released from jail the next day with conditions. She was ordered to
15 possess no weapons and check-in with the court’s Day Reporting Program every Tuesday and
16 Thursday and submit to random drug and alcohol testing. Her next court appearance was set for
17 June 27.

18 4.43 Upon Charleena Lyles’ release from Court and return to her apartment, Solid
19 Ground did not follow up with a visit by her case manager or other staff. Solid Ground made no
20 attempt to speak to Charleena Lyles.

21 4.44 Four days after she was released from jail, on Father’s Day Sunday June 18, 2017,
22 at 8:55 a.m. in the morning, Charleena Lyles called 911 for help stating that “an Xbox was
23

1 missing” from her house and the door was open. She said the incident had occurred about three
2 hours earlier.

3 4.45 Defendant Anderson who was hired by SPD in 2015 and had eight hours of crisis
4 training responded to this call. When he arrived he recalled that he had been to the unit before.
5 He was not told by dispatch that there was an officer caution on Charleena Lyles. But because
6 he recalled her, he reviewed the police file and noted that Charleena Lyles had been flagged as
7 an officer safety caution. He called for additional assistance.

8 4.46 Defendant McNew then arrived. Defendant McNew was hired by the SPD in
9 2008 and had received forty hours of advanced crisis training (CIT). Defendant McNew asked if
10 she had been “flagged mental” and Defendant Anderson replied: no - just an officer safety
11 caution. This was incorrect. She had been flagged “mental”.

12 4.47 There appears to be a question as to whether the SPD was dilatory in updating the
13 caution screen or if Defendant Anderson did not properly read it. The screen disseminated by
14 SPD after the incident clearly read: “caution: assaultive to officers, mental, threats to officers,
15 weapon.”

16 4.48 The defendants were not responding to a burglary in process. There was no
17 imminent threat to life or safety involved at that point. Three hours had passed since the alleged
18 break in.

19 4.49 Defendant Anderson told Defendant McNew what he knew about the June 5,
20 2017 incident:

21 “She called for a DV. She let them in and then she started talking all
22 crazy about how she, the officers weren’t gonna leave. And she had a
23 giant pair of scissors and then started talking about her... So this gal, she
was the one making all these weird statements about how her and her

1 daughter are gonna turn into wolves, and this was on the 5th...Cause they
2 said she was fine at first and then they were inside with her and she had
3 this giant pair of scissor and wouldn't put them down.”

4 4.50 Defendants McNew and Anderson spent a total of about 1 minute 15 second
5 inside the vehicle before exiting and approaching the apartment building. While walking they
6 briefly discussed Charleena Lyles, her prior concerning behavior and that she had four children
7 living with her.

8 4.51 In discussing the details of the June 5 incident – including that Charleena Lyles
9 believed she would morph into a wolf - both officers were alerted to the issue of mental illness.
10 Officer McNew failed to utilize his special training at that point. Both officers should have
11 recognized the risk that Charleena might again act inappropriately due to mental illness.

12 4.52 In the few minutes between defendants meeting up and arriving at Charleena
13 Lyles' door – zero time was spent coming up with any strategy or plan, in terms of interacting
14 with her or to ensure her safety and that of her young children. Defendants McNew and
15 Anderson simply agreed that they would make sure she was not between them and the door.
16 Defendant Anderson took the lead in interacting with her. But because he was CIT certified,
17 Defendant McNew should have taken lead.

18 4.53 At 9:36 a.m., according to the building surveillance camera, the officers were
19 welcomed by Charleena Lyles into her family's apartment. She described what had happened
20 and began showing them around. The police interaction with her mirrored the events of two
21 weeks before. Everything started off fine and low key. The children were playing and rolling
22 around on the floor. No distress was noted.

23 4.54 Charleena Lyles was not under the influence of drugs or alcohol.

1 4.55 Then Charleena Lyles changed completely in terms of her interaction with
2 Defendants McNew and Anderson. She made no threats or overtures towards her children. Her
3 sole focus was on Defendants McNew and Anderson. It didn't take a mental health expert to
4 instantly comprehend that Charleena was experiencing some sort of an involuntary mental-
5 illness outburst just like what happened with the scissors two weeks before.

6 4.56 Charleena Lyles was five foot three inches tall, 100 pounds, and four months
7 pregnant. She held a small knife and may have had a second one. She waved them around. The
8 two defendants were quite large. Defendant McNew is six foot two inches and 250 pounds.

9 4.57 When Charleena Lyles started waving the knife/knives around Defendants
10 McNew and Anderson completely lost their composure. This was complicated by the fact that
11 Defendant Anderson violated SPD rules by leaving his taser in his locker.

12 4.58 Defendants McNew and Anderson did not use de-escalation techniques with
13 Charleena Lyles.

14 4.59 At the outset of the knife/knives appearing, Defendant McNew instructed
15 Defendant Anderson to tase Charleena Lyles. Defendant Anderson responded that he didn't
16 have his taser. Later Defendant Anderson would try to cover up this breach (SPM 8.300.2) by
17 saying he would not have used his taser anyway. That excuse fails in light of Defendant
18 McNew's clear direction for Defendant Anderson to use the taser during their interaction with
19 Charleena Lyles.

20 4.60 Defendant McNew didn't ask Defendant Anderson if he had a taser. Defendant
21 McNew knew Defendant Anderson was issued a taser and that he was required to have it on his
22

1 person at all times. Defendant McNew instructed Defendant Anderson to use his taser precisely
2 because Charleena Lyles was so tiny. It would quickly subdue her.

3 4.61 Caught off guard by Defendant Anderson’s lack of a taser, Defendant McNew
4 mentally ran out of other options and pulled his gun. So did Defendant Anderson. They shouted
5 a few times for Charleena Lyles to “get back.” But forgot to tell her to drop her weapon. Officer
6 McNew was so rattled he forgot what to say.

7 4.62 Since the officers were not standing in the same place but rather on different sides
8 of Charleena Lyles – their instructions to “get back” did not constitute a meaningful warning.

9 4.63 After making no physical attempt to disarm Charleena Lyles, Defendants McNew
10 and Anderson shot and killed her in front of two of her children and within the hearing of a third
11 child.

12 4.64 The Medical Examiner determined that Charleena Lyles was shot seven times
13 both from the front and from the back.

14 ///

17 ///

20 ///



Case Number: 17-1206

Name: _____

Date: 6-19-17

Pathologist: BM

A Gunshot exit wound:
0.5x0.5" defect ±
0.2x0.2" abrasion ±
irreg margin.
3.25" @ L mid,
49" sup to heel.

B Gunshot entrance wound:
0.3" circ defect ±
conc. 0.1" abrasion margin.
lateral @ arm 45"
sup to heel. No scab/shedding.

C Gunshot exit wound:
0.8x0.6" stellate defect
on posterior
@ arm, 45" sup
to heel.

D Gunshot entrance wound:
0.5x0.5" defect ±
conc. 0.1" abrasion
margin. Centered 0.5"
@ mid, 46.25" sup to heel.
No scab/shedding.

E Gunshot entrance wound:
0.5x0.5" defect ±
conc. 0.1" abrasion
margin, extends up to
0.5" above center.
Centered 1.75" @ mid,
42" sup to heel. No scab/
shedding.

F Gunshot entrance wound:
0.35" circ defect ±
conc. 0.05" abrasion
margin, concent sup.
Centered midline,
40.5" sup to heel.

G Gunshot exit wound:
0.6" diam.
irreg defect on
@ ant axillary line,
42.5" sup to heel.

H Gunshot entrance wound:
0.35" circ defect ±
conc. 0.05" abrasion margin.
Ext @ hip 34.5" sup to heel.
No scab/shedding.

I Gunshot entrance wound:
0.5x0.5" defect ±
conc. 0.1" abrasion
margin, extends up to
0.5" above center.
Centered 1.75" @ mid,
42" sup to heel. No scab/
shedding.

J Gunshot entrance wound:
0.5x0.5" defect ±
conc. 0.1" abrasion
margin, extends up to
0.5" above center.
Centered 1.75" @ mid,
42" sup to heel. No scab/
shedding.

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1 4.65 The bullets struck Charleena Lyles as follows:

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Bullet 1	Shot from front to back	Enters middle of her stomach grazing the uterus lodging in the right pelvis
Bullet 2	Shot from front to back	Enters right side of her stomach entering the uterus and the almost 4 month old fetus lodging in the left pelvis
Bullet 3	Shot from back to front	Right side of her chest is grazed
Bullet 4	Shot from front to back	Enters her right hip lodging in the right buttock
Bullet 5	Shot from back to front	Enters right side of her back through a heart vein into the lung and exiting the right chest
Bullet 6	Shot from back to front	Enters left side of her back exits on the left side of her abdominal wall
Bullet 7	Shot from back to front	Enters her right arm and exits on the front

15 4.66 Defendants McNew and Anderson watched as the baby crawled on top of his
16 dying mother and clung to her. The four year old daughter with developmental delays remained
17 seated in the living room. The eleven year old son emerged from the bedroom and was told to go
18 to back inside.

19 **V. Causes of Action**

20 5.1 Charleena Lyles' death was unnecessary, horrifying and preventable.

21 5.2 The actions of the defendants were:

- 22
- Unreasonable
 - Negligent
- 23

- In violation of the State Constitution
- In violation of the Washington Law Against Discrimination

A. Negligence of the City and Officers

5.3 Defendants acted objectively unreasonably and negligently when they: a) responded to Charleena Lyles' call for help without planning for her known mental illness including her belief that officers were devils and members of the KKK; b) failed to plan for de-escalation procedures should she experience a mental health outburst as she did two weeks before; c) failed to consider possible danger to children by a police visit; and d) shot and killed Charleena Lyles in the presence of her small children.

5.4 Defendants did not have probable cause to believe that Charleena Lyles posed a significant threat of death or serious physical injury to themselves or others at the time they used deadly force. Deadly force is not appropriate simply because a person is armed. Charleena Lyles had made no movements or threats towards her children. She did not cut anyone.

5.5 Defendants acted unreasonably and were negligent in responding to Charleena Lyles' call for help without first developing a plan based upon her known mental health problems and prior actions which required de-escalation.

5.6 Defendants failed to exercise reasonable care to perform their duties in responding to Charleena Lyles' call for help given her known mental health condition and in doing so increased Charleena Lyles' risk of harm and death.

5.7 Defendants acted unreasonably and were negligent for failing to command Charleena Lyles to stand still or otherwise move in an appropriate direction. The command to

1 “get back” was inadequate where Defendants McNew and Anderson were both in front of and in
2 back of her.

3 5.8 Defendants acted unreasonably when they negligently failed to command
4 Charleena Lyles to drop the knife/knives.

5 5.9 Defendants acted unreasonably when they negligently failed to warn Charleena
6 Lyles that they would shoot her.

7 5.10 Defendants acted unreasonably when they negligently failed to engage in de-
8 escalation techniques.

9 5.11 Defendants unreasonably and negligently failed to consider that Charleena Lyles’
10 mental illness weighed against the use of deadly force. Specific less-intrusive methods of
11 subduing her had been made available to the officers. In particular the use of a taser was
12 requested but unavailable due to one officer’s direct violation of SPD rules.

13 5.12 Defendants unreasonably and negligently went into Charleena Lyles’ home with
14 guns but no taser.

15 5.13 Defendants had the duty to exercise the degree of skill, care and training expected
16 of a reasonably prudent police officer in the State of Washington acting under the same or
17 similar circumstances at the times in question.

18 5.14 Defendants failed to exercise that degree of skill, care and training expected of a
19 reasonable and prudent police officer and were therefore negligent.

20 5.15 Defendant Anderson acted unreasonably and negligently in failing to carry his
21 mandated taser.

1 5.16 Defendant McNew acted unreasonably and negligently in failing to first ensure
2 that weapons other than guns were available should de-escalation be necessary.

3 5.17 Defendants acted unreasonably and negligently in shooting Charleena Lyles seven
4 times in her own home, until she was dead, in the presence of three of her minor children.

5 5.18 Defendants McNew and Anderson assaulted Charleena Lyles.

6 5.19 Defendant City of Seattle was negligent for its actions as described above.

7 5.20 Defendant City of Seattle is vicariously liable for the acts and/or omissions of
8 Defendants McNew and Anderson.

9 5.21 As a direct and proximate result of Defendants' tortious conduct, Charleena Lyles
10 was killed.

11 5.22 As a direct and proximate result of Defendants' tortious conduct, Charleena
12 Lyles' three present children suffered severe emotional distress.

13 5.23 As a direct and proximate result of Defendants' tortious conduct, Charleena
14 Lyles' children suffered survivor injuries and damages in an amount to be proven at the time of
15 trial.

16 **B. Negligence of Solid Ground**

17 5.24 Defendant Solid Ground had contractual, statutory, and other duties to provide
18 services, and assistance to Charleena Lyles and her four minor children, including but not limited
19 to engaging in home visits, providing individual and family therapy, communicating with
20 governmental entities concerning the safety and wellbeing of the children, reporting behavior
21 that indicated that Charleena Lyles' mental health was a threat to herself and others.

22 5.25 Defendant Solid Ground breached its contractual duties.

1 5.26 Defendant Solid Ground’s actions as above described were negligent.

2 5.27 As a result of Solid Ground’s breaches and negligence, Charleena Lyles’
3 declining mental status was not properly addressed and contributed to further escalation and
4 exacerbation of her mental health crisis culminating in the incidents involving the police as
5 above described.

6 5.28 As a direct and proximate result of Defendant Solid Ground’s tortious conduct,
7 Charleena Lyles’ four children suffered severe emotional distress.

8 5.29 As a direct and proximate result of Defendants’ tortious conduct, Charleena
9 Lyles’ children suffered survivor injuries, personal injuries and damages in an amount to be
10 proven at the time of trial.

11 **C. Violation of the WLAD, and State Constitution**

12 5.30 Defendants were acting under color of State law.

13 5.31 Charleena Lyles had a constitutionally protected right to life under the
14 Washington State Constitution Article 1 Section 3. Defendants McNew and Anderson violated
15 that right as described above.

16 5.32 Charleena Lyles was entitled to be treated without discrimination on the basis of
17 race under RCW 49.60.

18 5.33 Charleena Lyles was entitled to be treated without discrimination on the basis of
19 mental health disability under RCW 49.60.

20 5.34 The acts and omissions of Defendants McNew and Anderson in responding to
21 Charleena Lyles’ non-urgent potential burglary call for help and ultimately shooting her dead
22

1 constitute recklessness, deliberate indifference and/or wanton and willful misconduct in regard to
2 her constitutional rights.

3 5.35 Defendants acted in a manner that deprived Charleena Lyles of her
4 constitutionally protected rights to be free of discrimination and to life; all in violation of the
5 WSLAD and Washington State Constitution.

6 5.36 These rights are long-standing, were clearly established, and were at all times
7 relevant.

8 VI. DAMAGES

9 6.1 As a direct and proximate result of the tortious conduct of the Defendants as
10 described above, the Plaintiffs have suffered past and future economic and non-economic
11 damages in an amount to be proven at trial as described below.

12 6.2 The Estate of Charleena Chavon Lyles, by and through Commissioner Eric
13 Watness, as Personal Representative, suffered economic and non-economic damages, including
14 pre-death pain and suffering, fear of death, loss of future potential earnings, and loss of
15 enjoyment of life, in an amount to be proved at trial, including all damages as provided under
16 RCW 4.20.010, RCW 4.20.046 and RCW 4.20.060.

17 6.3 The minor children, as the natural children of Decedent and according to RCW
18 4.20.020, suffered damages in an amount to be proven at trial, including the destruction of the
19 parent/child relationship and all other damages as provided under RCW 4.20.010, RCW 4.20.046
20 and RCW 4.20.060.

CERTIFICATION

I hereby certify that on December 27, 2017, I delivered a copy of the document to which this certification is attached for delivery to all counsel of record as follows:

<p>Robert L. Christie, WSBA #10895 Christie Law Group 2100 Westlake Ave N, Ste 206 Seattle, WA 98109-5802 Counsel for Defendants McNew and Anderson bob@christielawgroup.com; megan@christielawgroup.com; maureen@christielawgroup.com; stefanie@christielawgroup.com</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> Electronic Delivery (per agreement/KCLR 30 via KCSC efile system)</p>
<p>Ghazal Sharifi, WSBA 47750 Jeff Wolf, WSBA 20107 Seattle City Attorney's Office 701 5th Ave Suite 2050 Seattle, WA 98104 Counsel for City of Seattle Ghazal.sharifi@seattle.gov; Jeff.wolf@seattle.gov; kelly.nakata@seattle.gov; autumn.derrow@seattle.gov; belen.johnson@seattle.gov;</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> Electronic Delivery (per agreement/KCLR 30 via KCSC efile system)</p>
<p>Andrea Ostrovsky Calfo Eakes & Ostrovsky, PLLC 1301 2nd Ave Ste 2800 Seattle, WA 98101-3808 Counsel for Defendant Solid Ground andreao@calfoeakes.com</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> Electronic Delivery (per agreement/KCLR 30 via KCSC efile system)</p>

s/ Elodie Daquila
Elodie Daquila
Paralegal
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