

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Case No. 1:21-cv-394**

**HERMENA MILES BUMPASS,** )  
**as Administratrix of the Estate of** )  
**J'Mauri Jysha Bumpass and in her** )  
**individual capacity, and** )  
**JERRY JEROME BUMPASS, JR.** )  
**in his individual capacity,** )

**Plaintiffs,** )

**vs.** )

**CLARENCE F. BIRKHEAD,** )  
**in his individual capacity and** )  
**in his official capacity as Sheriff** )  
**of Durham County, DURHAM** )  
**COUNTY, ANTHONY L.** )  
**SHARP, JR., in his individual** )  
**capacity, ROBERT W. OSBORNE,** )  
**III, in his individual capacity,** )  
**BRENT CRIDER, in his individual** )  
**capacity, BRYCE D. MEYERS,** )  
**in his individual capacity, JIMMY D.** )  
**BUTLER, in his individual capacity,** )  
**and TRAVELERS CASUALTY** )  
**AND SURETY COMPANY** )  
**OF AMERICA,** )

**Defendants.** )

**AMENDED COMPLAINT  
(Jury Trial Demanded)**

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NOW COME Plaintiffs, complaining of Defendants, and allege and say as follows:

## **INTRODUCTORY STATEMENT**

1. On the early morning of December 15, 2019, J'Mauri Bumpass, an eighteen-year old black man with no history of depression, was driving his Chevrolet Impala in Durham, North Carolina on his way to pick up his sister when he was pulled over on Meriwether Drive by Durham County Deputy Sheriff Anthony Sharp and trainee Robert Osborne.
2. During the traffic stop, Mr. Bumpass suffered a single fatal gunshot wound to his head. No one was present at the time of the shooting other than Mr. Bumpass, Deputy Sharp and trainee Osborne.
3. Deputy Sharp and trainee Osborne reported "shots fired" to Durham Communications.
4. According to Deputy Sharp's incident report, after the shooting, Mr. Bumpass' car accelerated forward, hit a light pole, and overturned.
5. Mr. Bumpass was in the overturned car and still breathing. His upper torso and head were blocked from view by a backpack.
6. Deputy Sharp and trainee Osborne delayed responders from speaking to Mr. Bumpass first by misrepresenting that he was an active shooter and then by misrepresenting that he was dead.
7. Before Mr. Bumpass was removed from the car by EMS, with his head still blocked from view with a backpack, Deputy Sharp, while knowing Mr.

Bumpass was alive, told a responding lieutenant at the scene, “I think he killed himself. Shot himself in the head.”

8. At the scene, Deputy Sharp represented to EMS the person in the wrecked car was possibly “DOA,” or dead on arrival.
9. While Mr. Bumpass was still in the wrecked car, EMS discovered he was in fact still breathing.
10. Durham Fire Department personnel eventually removed Mr. Bumpass from the car, after which EMS personnel discovered he had suffered a gunshot wound to his head.
11. Mr. Bumpass was transported to Duke Hospital, where he died from the gunshot wound some five hours later.
12. At the scene, Deputy Sharp stated Mr. Bumpass never pulled over, but instead kept driving while firing shots that shattered the back windshield.
13. In his incident report, however, Deputy Sharp stated that Mr. Bumpass complied with the stop, pulled over, and that as Deputy Sharp was exiting his patrol car, he heard a single shot fired and saw the glass of the driver’s side window shatter before the car accelerated forward and crashed into a light pole.
14. In his incident report, Defendant Sharp stated after the single shot was fired, he called for backup units to respond, drove forward to the scene of the

crash, waited for backup units to arrive, and then approached the overturned Impala, where he found Mr. Bumpass with a Glock firearm between his legs the barrel of which was “expelling smoke as if it had just been fired.”

15. Sheriff Birkhead has not produced any recording from the incident, maintaining that Deputy Sharp’s in-car camera was broken.
16. In fact, the wiring to the uploading system of Deputy Sharp’s in-car camera system had been tampered with.
17. Despite knowing the suspicious circumstances, Sheriff Birkhead refused to investigate and acted to prevent any independent investigation, insisting from the outset that J’Mauri Bumpass committed suicide.
18. Sheriff Birkhead and his deputies intentionally issued misleading press releases, made false statements and reports, destroyed evidence, provided false information to the medical examiners and to the State Bureau of Investigation, withheld crucial information from Mr. Bumpass’ family while knowingly misrepresenting what had been produced, and made material misrepresentations and omissions to Mr. Bumpass’ family and to the Superior Court.
19. While the Sheriff’s Office’s feigned investigation of the death of J’Mauri Bumpass was purportedly ongoing, Sheriff Birkhead promoted trainee Osborne to deputy and promoted Deputy Sharp to corporal and then to

sergeant, and the investigator assigned to Mr. Bumpass' death investigation resigned.

20. The revealing, conflicting, and false statements of Deputy Sharp and trainee Osborne, their actions and statements to delay approach of the overturned car and rendering of medical treatment, the tampered wires to Deputy Sharp's in-car camera system, and the absence of evidence of suicide lead to the conclusion that Deputy Sharp and trainee Osborne fatally shot J'Mauri Bumpass.
21. The actions and misrepresentations by Defendant Sheriff Birkhead and his deputies to conceal evidence and to block any investigation lead to the conclusions that Defendant Sheriff Birkhead and his deputies knew that that the suspicious circumstances required an investigation and acted deliberately to prevent investigation and to shield Defendants Sharp, Osborne and Sheriff Birkhead from liability.

### **JURISDICTION AND VENUE**

22. Plaintiff Hermena Bumpass as Administratrix of the Estate of J'Mauri Bumpass brings this civil rights action pursuant to 42 U.S.C. § 1983 for acts committed by Defendants under color of state law which violated Mr. Bumpass' Fourth Amendment right against the unreasonable seizure of his person and Mr. Bumpass' Fourteenth Amendment right to due process of

law.

23. Plaintiff Hermena Bumpass as Administratrix of the Estate of J'Mauri Jysha Bumpass also brings this wrongful death action pursuant to N.C.G.S. § 28A-18-2 to recover damages for Mr. Bumpass' wrongful death.
24. Plaintiff Hermena Bumpass as Administratrix of the Estate of J'Mauri Jysha Bumpass also brings this action pursuant to North Carolina common law for obstruction of justice.
25. Plaintiffs Hermena Bumpass, individually, and Jerry Bumpass, individually, also bring this action pursuant to North Carolina common law for reckless infliction of emotional distress.
26. Plaintiffs Hermena Bumpass, as Administratrix of the Estate of the Estate of J'Mauri Jysha Bumpass and individually, and Jerry Bumpass, individually, also bring this action pursuant to N.C.G.S. § 58-76-5 on the official bond of Defendant Sheriff Birkhead.
27. Plaintiffs' action arises under the Constitution and laws of the United States and under the Constitution and laws of North Carolina.
28. The Court has original jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3).
29. The Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1376(a).

30. Under 28 U.S.C. § 1391(b), venue is proper in the United States District Court for the Middle District of North Carolina because all of the events giving rise to this action occurred in Durham County, North Carolina.

### **PARTIES**

31. Plaintiff Hermena Miles Bumpass is a citizen and resident of Durham County, North Carolina.

32. Plaintiff Hermena Miles Bumpass is the Administratrix of the Estate of J'Mauri Jysha Bumpass. Plaintiff was duly appointed Administratrix by the Clerk of Superior Court in Durham County file no. 20-E-255.

33. Plaintiff Hermena Miles Bumpass is the mother of J'Mauri Jysha Bumpass ("J'Mauri Bumpass" or "Mr. Bumpass").

34. Plaintiff Jerry Jerome Bumpass, Jr. is a citizen and resident of Durham County, North Carolina.

35. Plaintiff Jerry Jerome Bumpass, Jr. is the father of J'Mauri Bumpass.

36. "Plaintiff" herein refers to Hermena Miles Bumpass as the Administratrix of the Estate of J'Mauri Jysha Bumpass. "Plaintiffs" herein refers to Hermena Miles Bumpass and Jerry Jerome Bumpass, Jr. as individuals.

37. Defendant Sheriff Clarence F. Birkhead is a citizen and resident of Durham County, North Carolina, and was at all times relevant to this action the duly

elected Sheriff of Durham County, having been sworn into office in December 2018.

38. Defendant Sheriff Birkhead is sued in his individual capacity and in his official capacity as the Sheriff of Durham County.
39. Defendant Durham County is a North Carolina county organized and existing under N.C.G.S. § 153A-10.
40. Defendant Durham County has all of the corporate powers set forth in N.C.G.S. § 153A-11, including the power to be sued.
41. At all times relevant to this action, Defendant Sheriff Birkhead was acting as the final decision-maker for Durham County and Durham County therefore may be held liable under 42 U.S.C. § 1983.
42. Defendant Anthony L. Sharp, Jr. is a citizen and resident of Durham County, North Carolina and was at all times relevant to this action a deputy sheriff of Durham County, North Carolina, acting under color of state law.
43. Defendant Sharp became a Durham Police officer on July 18, 2011. His employment terminated on December 22, 2011.
44. On April 30, 2012, Defendant Sharp was hired as a Durham County deputy sheriff.
45. Defendant Sharp is sued in his individual capacity.



46. Defendant Robert W. Osborne, III is a citizen and resident of Durham County, North Carolina and was at all times relevant to this action a Durham County deputy sheriff trainee or deputy sheriff, acting under color of state law.
47. Defendant Osborne became a Durham County deputy sheriff trainee on May 6, 2019 and became a Durham County deputy sheriff on February 10, 2020.
48. Defendant Osborne is sued in his individual capacity.
49. Defendant Brent Crider is a citizen and resident of Person County, North Carolina and was at all times relevant to this action a Durham County deputy sheriff acting under color of state law.
50. Defendant Crider is sued in his individual capacity.
51. Defendant Bryce D. Meyers is a citizen and resident of Durham County, North Carolina and was at all times relevant to this action a Durham County deputy sheriff with the rank of lieutenant acting under color of state law.
52. Defendant Meyers is sued in his individual capacity.
53. Defendant Jimmy D. Butler is a citizen and resident of Wake County, North Carolina and was at all times relevant to this action a Durham County deputy sheriff with the rank of captain acting under color of state law.
54. Defendant Butler is sued in his individual capacity.

55. Defendant Travelers Casualty and Surety Company of America is a corporation with a principal office in Hartford, Connecticut. Travelers Casualty and Surety Company of America is the surety on the Durham County Sheriff's official bond pursuant to N.C.G.S. § 162-8.

### **FACTUAL ALLEGATIONS**

56. The allegations of the preceding paragraphs are incorporated herein by reference.

#### **A. Defendant Sheriff Birkhead**

57. Defendant Sheriff Birkhead previously was a deputy sheriff of Randolph County, the Chief of Police for Duke University, the Chief of Police for the Town of Hillsborough, and a "safety/security consultant" in "the private sector."

58. Upon information and belief, Defendant Birkhead left his former positions of law enforcement leadership following allegations of falsifying official reports and allegations of sexual harassment.

59. Defendant Sheriff Birkhead ran unsuccessfully for Sheriff of Orange County in 2012 and unsuccessfully for Sheriff of Durham County in 2014.

60. Defendant Sheriff Birkhead ran again for Sheriff of Durham County in 2018, this time successfully, on a campaign platform which promised "leadership that is transparent, accessible and accountable."

61. When Defendant Sheriff Birkhead became Sheriff of Durham County, he hired Defendant Butler at the rank of captain as head of his Criminal Investigations Division.

62. After Defendant Sheriff Birkhead became Sheriff of Durham County, he hired in-house counsel, Keisha Lovelace.

**B. Defendant Sharp's history with Bumpass men**

63. On or about August 4, 2016, Defendant Sharp arrested Timothy Bumpass, Jr. on drug charges after conducting a traffic stop purportedly for an inoperable license plate light.

64. After pulling him over, Defendant Sharp pointed a gun at Timothy Bumpass, Jr.'s head. After arresting him, Defendant Sharp stated to Timothy Bumpass, Jr., "The Bumpasses — y'all have a drug ring going on. I'm fixing to bring you motherfuckers down. None of y'all motherfuckers are shit."

65. On or about August 3, 2017, Defendant Sharp chased Timothy Bumpass, Jr., after which Mr. Bumpass crashed his car. Defendant Sharp then jumped on him and punched him repeatedly in the face, after which Mr. Bumpass was arrested and charged with fleeing to elude arrest and other charges.

66. On or about March 29, 2017, Defendant Sharp arrested Timothy Bumpass, Sr. on gun and drug charges after conducting a traffic stop purportedly for

speeding.

67. Timothy Bumpass, Sr. and Timothy Bumpass, Jr., father and son, are distant cousins of J'Mauri Bumpass. J'Mauri Bumpass never met either of the two men.

68. At the time Defendants Sharp and Osborne pulled J'Mauri Bumpass over, Timothy Bumpass, Jr. was serving a prison sentence for the drug case involving Defendant Sharp. Timothy Bumpass, Sr. was being held in the Durham County jail on the gun and drug charges brought against him by Defendant Sharp.

69. When Defendants Sharp and Osborne pulled J'Mauri Bumpass over, Defendant Sharp was scheduled to testify at a suppression hearing in Durham County Superior Court that upcoming week of December 16, 2019 in the criminal case of State v. Timothy Bumpass, in which Timothy Bumpass, Sr. was challenging the legality of the March 2017 traffic stop conducted by Defendant Sharp which led to his gun and drug charges.

### **C. J'Mauri Bumpass**

70. J'Mauri Bumpass was born on January 24, 2001 in Durham, North Carolina. He had four sisters and five brothers.

71. Mr. Bumpass attended Hillside High School, where he received good grades and had no problems in school. His favorite subject was history. He graduated in the winter of 2018, one semester early.
72. In December 2019, Mr. Bumpass was living in Durham with his mother and six of his siblings and working at FedEx while preparing to apply to college. He planned to study sports medicine.
73. Mr. Bumpass also regularly spent time at his father's home in Durham.
74. Mr. Bumpass was actively involved in the everyday lives of his siblings, several of whom he often drove to and from school.
75. J'Mauri Bumpass had no criminal record.
76. On December 15, 2019, Mr. Bumpass had no warrant for his arrest, no contraband on his person or in his car, and no drugs or alcohol in his system.
77. Mr. Bumpass had no history of depression, suicidal threats or expressions, other mental health issues, violence, or drug or alcohol dependence.
78. The below photo was taken just hours before Mr. Bumpass was pulled over and fatally shot and is alleged by Defendants to have committed suicide:



#### **D. The stop, seizure and shooting of J'Mauri Bumpass**

79. On the early morning of Sunday, December 15, 2019, J'Mauri Bumpass was on his way to his mother's home on Keystone Place in Durham, where he also lived, to pick up his sister.

80. Mr. Bumpass was driving a Chevrolet Impala owned by him, bearing the license plate to a Honda Accord which had also been owned by him.

81. Mr. Bumpass recently had traded in the Accord for the Impala and was waiting for the title to the Impala to arrive in the mail so he could register the Impala with the license plate from the Accord.

82. The driver's side window of the Impala was inoperable.

83. At 12:16 a.m. Mr. Bumpass sent a text message to his sister Jazmen stating he was at McDonald's looking for something to do. Jazmen replied that she

didn't have gas to drive anywhere.

84. At 12:31 a.m. Mr. Bumpass sent a text message to Jazmen indicating he was on his way: "Get dressed jaz."

85. While he was driving to his mother's house to pick up his sister, Mr. Bumpass was talking on the phone with a friend.

86. Mr. Bumpass told his friend that law enforcement officers had been following him for a while and questioned whether they were going to pull him over.

87. According to Defendant Sharp's incident report, at or about 12:39 a.m., Mr. Bumpass was pulled over by Defendants Sharp and Osborne, stopping on Meriwether Drive, just half a mile from home.

88. When he was pulled over, Mr. Bumpass told his friend something didn't feel right. His friend told him if he did not trust the situation to keep his car in drive.

89. Mr. Bumpass' friend heard Defendants Sharp and Osborne speak to Mr. Bumpass, heard a gunshot, heard the car crash, and then heard either Defendant Sharp or Defendant Osborne tell the other deputy: "Oh shit, he was on the phone."

**E. The statements and actions of Defendants Sharp and Osborne at the scene**

90. Defendants Sharp and Osborne reported “shots fired” to Durham Communications.
91. Defendant Sharp called for backup units, claiming the “car is overturned multiple times,” a “subject on foot” was “going back toward Keystone” and requesting K-9 units “get a perimeter set.”
92. Defendant Sharp specifically requested Defendant Crider at the scene, stating, “I don’t need any other units to come on scene . . . Crider once you get here I’ll be good.”
93. Defendants Sharp and Osborne claimed not to have approached Mr. Bumpass’ car until after backup units arrived. Defendant Sharp communicated, “I can’t tell if he’s pinned in or not. I can’t tell. I’m gonna wait to get some more units to clear.”
94. When backup arrived, Defendants Sharp and Osborne were behind their patrol car with guns drawn and pointed at the overturned car.
95. Defendant Sharp yelled to Mr. Bumpass in the overturned car, “Show me your hands!” and “Do not move!”
96. To Durham Communications, Defendant Osborne had given the code for the stop of a suspicious vehicle.



97. At the scene, however, Defendant Osborne claimed the reason for the stop was that Mr. Bumpass' driver's license was inactive.
98. At the scene, Defendant Osborne did not know the license plate to Mr. Bumpass' Impala did not match the car.
99. At the scene, Defendant Osborne stated to another officer, "We ran the tag, and, uh, someone Bumpass was associated with it, inactive license, that's why we were stopping him."
100. Defendant Osborne explained that he and Defendant Sharp had not had a chance to run the license plate number through DCI (Division of Criminal Information).
101. At the scene, Defendant Sharp made no statements regarding either a fictitious license plate or an inactive driver's license and did not respond when another officer ran the license plate on Mr. Bumpass' car at the scene and announced it came back to a Honda Accord.
102. Immediately before EMS arrived, Defendant Meyers commented to Defendant Sharp that Mr. Bumpass was moving inside the wrecked car.
103. EMS workers responded to the scene at 12:48 a.m., where Defendant Sharp immediately approached them as they were exiting the ambulance and began speaking with them.
104. The EMS records reflect, "Upon arrival, EMS was approached by a

DCSD officer and advised that there was a possible DOA inside the vehicle with a possible GSW to the head . . . DCSD also advised that a firearm was visible under occupant's leg and a gunshot was heard from the vehicle after it had crashed.”

105. Based on Defendant Sharp's representation this was a possible “DOA,” or if not, he was armed and dangerous, no one at the scene showed any urgency in removing Mr. Bumpass from the wrecked car to render emergency medical treatment.

106. Responders eventually realized Mr. Bumpass was in fact still breathing. Durham Fire workers cut the front windshield out of the car. Defendant Osborne then removed the gun from Mr. Bumpass' car, and then Durham Fire Department personnel removed Mr. Bumpass from the car.

107. Based on Defendants Sharp's and Osborne's statements at the scene, other officers referred to Defendant Osborne as “the guy he was shooting at.”

108. Durham police officers at the scene assumed aloud that Defendants Sharp and Osborne had fired shots back at Mr. Bumpass and speculated that Mr. Bumpass had been driving a stolen car in their efforts to make sense of what had occurred.

109. At the scene, after claiming Mr. Bumpass had fired a shot through the

back windshield while driving without pulling over, with a backpack covering Mr. Bumpass' head concealing his injury, Defendant Sharp told Defendant Meyers, his supervising lieutenant: "I think he killed himself. Shot himself in the head."

110. Despite no one being able to see the head wound J'Mauri Bumpass had suffered, Defendant Sharp was able to identify both the location and the mortality of Mr. Bumpass' injury.

111. Defendant Sharp later stated at the scene, "He slowed to stop, boom! I don't know if he was trying to throw it or what or it ricocheted or what but this gun's underneath his leg and there's blood all in that car. So I don't know if he was poppin' a shot back at us and it ricocheted or what. I don't know . . . but the glass broke."

112. Defendant Osborne then added, "Yeah, I saw the smoke come out from the window."

113. At the scene, in response to being asked by a Durham police officer, "Did y'all fire any shots off?" Defendant Osborne stated, "Never got — yeah, so, pulled up, vehicle still rolling slow, pop, back glass blew out, punched it, flipped."

114. When speaking with another Durham police officer, Defendant Osborne agreed with the officer that Mr. Bumpass had accidentally shot himself while

trying to shoot out the back window while driving, adding, “I think we were lucky as fuck.”

115. Defendant Osborne also claimed: “I saw the glass break and the smoke come out the bar—, the barrel, the barrel smoke come out that driver’s side window.”

116. When asked by the officer, “Where was he hit?” Defendant Osborne stated, “I [unintelligible] — we didn’t actually ever shoot him once. We never pulled the trigger.”

117. When Defendant Meyers explained to other officers at the scene in the presence of Defendant Sharp, “Soon as they turned the blue lights on him, he punched it. Then, well, back window broke out,” Defendant Sharp agreed, saying, “That’s why you see all the blood on the dashboard,” and, “All I did was turn my blue lights on him.”

118. At the scene, both Defendants Sharp and Osborne intentionally made false and misleading statements to Sheriff’s deputies, Durham police officers, and fire and emergency medical personnel who responded to the scene to delay the removal of J’Mauri Bumpass from the overturned car.

119. Mr. Bumpass was the only other eyewitness to their crime, who Defendants knew was still alive. Defendants’ false and misleading statements ensured Mr. Bumpass would not be revived to the point of being

able to tell anyone who had shot him.

#### **F. Death of J'Mauri Bumpass**

120. At 1:03 a.m., EMS transported Mr. Bumpass to Duke Hospital. Upon arrival in the parking lot, his pulses were lost and chest compressions were performed. Once in the hospital, Mr. Bumpass' pulses were again lost and regained. Mr. Bumpass was placed on life support.

121. Despite knowing Mr. Bumpass' home address, which was less than a mile from the scene, Defendants waited until around 4:20 a.m. to go to his home and tell his mother that Mr. Bumpass had suffered a gunshot wound and had been transported to the hospital.

122. Mr. Bumpass, who never regained consciousness, was taken off of life support when it was determined he would not recover. He died at 5:50 a.m.

123. The medical examiner later found J'Mauri Bumpass suffered a fatal contact gunshot wound to the head, a bullet having entered the right side of his skull and exited the left side.

#### **G. Defendant Sharp's incident report**

124. Despite claiming in his incident report that he began writing his report at the scene, Defendant Sharp's report is dated December 16, 2019, some twenty-four hours after the shooting of Mr. Bumpass.

125. In his incident report, Defendant Sharp now claimed the reason for the

stop of J'Mauri Bumpass was both a fictitious license plate and an inactive driver's license. He did not state any reason why he had reportedly inquired about Mr. Bumpass' license plate and driver's license.

126. Defendant Sharp, who reported "shots fired" at the scene, changed his story in his incident report to claim: "I heard one single gunshot and the glass on the driver side shattered."

127. Defendant Sharp, who claimed at the scene, "All I did was turn my blue lights on him" before the back windshield shattered now claimed in his report that Mr. Bumpass had in fact complied with the traffic stop, pulled over, and come to a stop on the side of Meriwether Drive, and that Defendant Sharp heard a gunshot "as I was beginning to exit my vehicle."

128. In his incident report, Defendant Sharp changed his story, now claiming Mr. Bumpass had complied with the traffic stop by pulling over, and claiming to have heard a single gunshot and seen the driver's side window — not the back windshield — shatter.

129. In his incident report, Defendant Sharp changed his story in an attempt to be more consistent with the blood found in Mr. Bumpass' car above the driver's side window and what he knew to be a contact wound to Mr. Bumpass' head.

130. Defendant Sharp titled his report "SUICIDE" because he knew before

anyone else did that Mr. Bumpass had suffered a contact wound to the head, which he knew was inconsistent with an accidental self-inflicted gunshot wound.

131. According to Defendant Sharp's incident report, after hearing a single gunshot:

I immediately got on the radio and notified communications of the gunshot that came from the Impala. Not knowing if the driver of the vehicle was firing upon Deputy Osborne and I, I drew my service weapon and took cover behind the a-frame of my vehicle. I then heard the engine of the vehicle rev and the driver in the vehicle accelerated. The vehicle traveled approximately 50 yards before striking the curve. There was then a loud noise which was consistent with that of a vehicle collision. Deputy Osborne and I then got back into my Patrol car and drove my patrol unit toward the direction where the vehicle had traveled. As Deputy Osborne and I rounded the curve on Meriwether, I discovered that the vehicle had struck a light pole and overturned.

132. Defendant Sharp, who reported to Communications, "car is overturned multiple times" now stated he had not seen the car wreck.

133. In his incident report, Defendant Sharp further stated:

Once additional units arrived on scene, I had Deputy Osborne drive my patrol car up toward the vehicle while we utilized my marked patrol vehicle to provide mobile cover so that we could clear the vehicle. Upon the approach I discovered a male occupant . . . lying torso down in the vehicle. In between his legs was a desert tan Glock semi-automatic handgun. The barrel of the handgun was expelling smoke as if it had just been fired.

134. The time from Defendants Sharp's and Osborne's call of "shots fired" until starting their approach of Mr. Bumpass' overturned car utilizing their patrol car as cover was several minutes.
135. A firearms expert consulted by Plaintiff has confirmed that a Glock semi-automatic handgun would not have been "expelling smoke as if it had just been fired" several minutes after being fired.
136. According to the firearms expert: "Some smoke may come out of the end of the barrel, but only a wisp and probably for no longer than 5 seconds."
137. Defendant Sharp stated in his incident report:
- The occupant's head and arms were covered by a backpack . . . The driver appeared to be faintly breathing but he was completely unresponsive to our commands. This made it difficult to determine the extent of the driver's injury . . . Once the bag was removed from near his head, it was apparent that the driver suffered self-inflicted a gunshot wound to his head.
138. Defendant Sharp's incident report conflicted with his statement at the scene while the backpack concealed Mr. Bumpass' injury: "I think he killed himself. Shot himself in the head."
139. In his report, Defendant Sharp claimed, "upon seeing his apparent physical state, I immediately notified communications to have EMS and Fire respond."
140. However, Durham Communications recordings include no transmission



from Defendant Sharp requesting EMS or Fire to respond.

141. In his report, Defendant Sharp claimed, “Once Detective Lounsberry arrived on scene he immediately checked the state of my weapon to determine that it had not been discharged.”

142. In fact, all Investigator Lounsberry determined was that the officers’ service magazines were fully loaded and that no Sheriff’s Office issued bullets appeared to be missing.

143. In his incident report, Defendant Sharp also stated: “Just below [Mr. Bumpass’] left foot was also a spent shell casing.”

#### **H. Ballistics and gunshot residue**

144. At the scene, a Durham Police officer identified the single spent shell casing seen in Mr. Bumpass’ car as “a .380.”

145. According to Defendant Sheriff Birkhead, a 9 millimeter shell casing was later found in a trash bag of debris swept up at the crash scene by the tow truck driver from Clayton’s Towing, who did not arrive on scene until 3:08 a.m., after forensics had responded to the scene and had not recovered a 9 millimeter shell casing.

146. According to a State Crime Lab report, the 9 millimeter shell casing had been fired from the Glock firearm which Defendant Osborne had removed from Mr. Bumpass’ car.

147. On the early morning of December 15, 2019, Defendants Sharp and Osborne were each carrying a Glock 17 service weapon, which uses 9 millimeter bullets.
148. Defendant Sharp was also issued an AR-15 rifle.
149. Additionally, Durham County deputies can get backup firearms qualified for on-duty use. Only certain types of firearms are acceptable for backup use qualification. A .380 is one of the acceptable firearms for backup use qualification.
150. The gun removed from Mr. Bumpass' car was swabbed for fingerprints and DNA.
151. Defendant Sheriff Birkhead has refused to compare the fingerprint or DNA evidence taken from the gun removed from Mr. Bumpass' car to that of Defendants Sharp and Osborne.
152. Before the gunshot residue test kits were administered by forensics technician J. Mark Bradford, Defendant Osborne both left the scene and put gloves on.
153. The gunshot residue test results produced by the State Crime Lab were inconclusive for both Defendants Sharp and Osborne.
154. According to Defendant Sheriff Birkhead, a gunshot residue test kit was administered on Mr. Bumpass' hands, but it has not been tested.

## **I. Defendant Sharp's in-car camera recording**

155. The Sheriff's General Orders require: "In-car MVR equipment shall be used on all traffic stops, pursuits, and emergency responses . . . The MVR recording shall not be interrupted until the incident is complete," and "All videos shall be uploaded prior to the end of a shift."

156. Although Defendant Sharp's vehicle was equipped with recording equipment, Defendant Sheriff Birkhead has claimed that no recording from Defendant Sharp's in-car camera for December 15, 2019 exists.

157. On December 16, 2019, Defendant Sheriff Birkhead's information technology employee James Doty determined that the wires to Defendant Sharp's uploading system had been damaged and covered in electrical tape.

158. Defendant Sheriff Birkhead produced to Plaintiff the below photo of Defendant Sharp's in-car camera system wiring:



159. In an email sent with the above photo, James Doty stated:

When I inspected the vehicle I saw the camera system had no network connection, I then inspected the groove access point which are [sic] located under the passenger seats, and which provide network connection for the camera system to upload recordings. The access point had no power. I unscrewed the plastic cover over the network cable and saw that the cable appeared to have been damaged and someone had tried to repair it with electrical tape. I attempted to reconnect the cable and reseal the connection but the access point still did not receive any power.

160. Defendant Sheriff Birkhead misrepresented to Plaintiff and the Superior Court that Piedmont Communications had put the electrical tape on Defendant Sharp's in-car camera wiring during a repair done by them in July 2019.

161. When emailed the above photograph by Plaintiff's attorney, Piedmont Communications explained they did not put the electrical tape on Defendant Sharp's in-car camera wiring:

This is not a repair we at Piedmont would have let leave the building in this condition. When we repaired these connectors we would properly dress the cable so the wires and jacket were properly housed in the RJ45 connector. We would not leave that much wire to be taped up.

162. Defendant Sheriff Birkhead has refused to answer Plaintiff's questions regarding the condition of the wiring to Defendant Sharp's camera uploading system underneath the electrical tape and whether the wire had been cut.

163. The questions regarding who put the electrical tape on the wiring and the condition of the wiring under the electrical tape remain unanswered.

164. Defendant Sheriff Birkhead submitted to the Superior Court affidavits from two of his employees regarding Defendant Sharp's in-car camera system.

165. Vincent Ritter, who Defendant Sheriff Birkhead hired as his Technology Director, swore in his affidavit that a video recording uploaded on December 17, 2019 from Defendant Sharp's in-car camera system had been recorded ten months earlier in February 2019, that "prior to December 17, 2019, the last upload . . . was on March 14, 2019," and that no other recordings from Defendant Sharp's in-car camera system were uploaded "between February

2019 and January 2020.”

166. Mr. Ritter’s affidavit did not explain why, in violation of the Sheriff’s General Orders, no other recordings from Defendant Sharp’s in-car camera system were uploaded between February 2019 and January 2020, or why “the last upload . . . on March 14, 2019” had not uploaded the recording from February 2019.
167. Defendant Sheriff Birkhead would not allow counsel for Plaintiff to speak with Vincent Ritter.
168. While Defendant Sheriff Birkhead has maintained that no recording from Defendant Sharp’s in-car camera for December 15, 2019 exists, Defendant Sheriff Birkhead has never answered — and the affidavits submitted do not address — Plaintiff’s repeated questions regarding the working order of Defendant Sharp’s in-car camera on December 15, 2019 and whether it was on and recording at the time Mr. Bumpass was pulled over and was shot.
169. The Sheriff’s General Orders require: “Deputy’s [sic] assigned MVR equipment will perform all function tests at the beginning of each shift. Any problems shall be reported to the deputy’s immediate supervisor and forwarded to the VR Coordinator to be addressed.”
170. Defendant Sheriff Birkhead represented to Plaintiff and the Superior Court that Defendant Sharp most likely did report that his in-car camera

system was inoperable at the beginning of his December 15, 2019 shift but has refused to produce any confirmation or documentation of such reports.

171. On December 23, 2019, Plaintiff sent a letter to Defendant Sheriff

Birkhead requesting information regarding the shooting death of J'Mauri Bumpass in which she also requested "all items related to this incident be preserved, to include all vehicle cameras and body worn cameras."

172. Defendant Sheriff Birkhead represented to Plaintiff and the Superior

Court that his office did not have body cameras but that it would receive \$1 million in July 2020 which he would use to purchase body cameras for all of his officers and new in-car cameras for all law enforcement vehicles as part of the county's capital improvement plan.

173. As of the filing of this Amended Complaint, Defendant Sheriff

Birkhead's deputies still do not wear body cameras.

174. Defendant Sheriff Birkhead did not preserve Defendant Sharp's in-car

camera system or remove it from his patrol car. Defendant Sharp continued to use it, even though according to Defendant Sheriff Birkhead the system continued to have issues uploading recordings.

#### **J. Defendant Osborne**

175. Prior to becoming a deputy sheriff trainee, Defendant Osborne was a

manager at Longhorn Steakhouse at Briar Creek in Raleigh, North Carolina.

176. Former employees of Defendant Osborne recalled he would enforce certain rules against only his black employees and threaten them with termination for minor violations.
177. A former Longhorn Steakhouse employee, a black woman who worked for Defendant Osborne, reported Defendant Osborne to the general manager for racially discriminating against her and other black employees.
178. The same former employee recalled that upon hearing Defendant Osborne had decided to become a deputy sheriff, “We told him, you should not become a cop, you would shoot an unarmed black man.”
179. Another former Longhorn Steakhouse employee who worked for Defendant Osborne, a black man, described Defendant Osborne as “racist as hell,” “always talking about his guns,” and “not the type of person that should have been a police officer.”
180. Another former employee, a black woman, stated: “When we as employees heard he was going to be an officer, we said . . . this is a horrible thing, this is a racist white man that’s now being given power. He’s the last person you would ever want as a cop.”
181. On Defendant Osborne’s last day at Longhorn Steakhouse, when another former employee, a black man, jokingly put whipped cream in Defendant Osborne’s face, Defendant Osborne announced, “Just wait, I’m gonna pull



him over once I'm a sheriff for what he did to me."

182. On February 5, 2020, Defendant Osborne sent a text message to a friend with only a link to a newspaper article titled, "What Happened to J'Mauri Bumpass?" The friend replied, "jesussss." Defendant Osborne then stated, "They're digging but first article that actually has my name on it. Lol."

183. Defendant Osborne's friend then stated, "how do u guys not have body cams? and the car's dashboard cam is broken. fuck man. none of that is good."

184. Defendant Osborne replied: "We get paid in Skittles and bubblegum . . ."

185. "Skittles and bubblegum" were references to the 2012 shooting of Trayvon Martin and the 1955 lynching of Emmett Till.



**K. Defendants' other acts to prevent investigation**

**a. Defendants' immediate actions in response to shooting**

186. The Sheriff's General Orders require: "... the wireless microphone will be used when the MVR system is activated. The microphone will remain activated until the completion of the recording."

187. In the recordings from the two responding Sheriff's vehicles at the scene produced pursuant to a court order, Defendants Crider and Meyers both manually muted the wireless microphones to their in-car recording systems when speaking with Defendant Sharp or with Defendant Osborne about what had just occurred.

188. Despite an officer-involved shooting having just occurred, Defendant Meyers, the responding lieutenant in charge, made no efforts to secure the scene from Defendants Sharp and Osborne or to preserve evidence from Defendants Sharp and Osborne.

189. Defendant Meyers allowed Defendant Osborne to leave the scene, to put gloves on, to guard Mr. Bumpass' backpack, and to remove the gun from Mr. Bumpass' car and put it in Defendant Crider's car.

190. Defendant Meyers allowed for Mr. Bumpass' backpack to be placed in Defendant Sharp's patrol vehicle.

191. While still at the scene, before speaking with Defendant Osborne,

Defendant Crider asked Defendant Meyers if he could turn off his in-car camera. Defendant Meyers told him he could.

192. While Defendant Osborne waited at Defendant Meyers' patrol car, Defendant Meyers instructed him to "give me just one sec," then went into his car and turned off his in-car camera system before speaking with Defendant Osborne.

193. Defendant Meyers called Investigator Lounsberry — the on-call investigator with the Sheriff's Criminal Investigations Division — to the scene, but preemptively told Investigator Lounsberry over the phone before his arrival to the scene that "the driver of the vehicle fired a shot and then sped off from the traffic stop" and "the driver appears to have shot himself in the head."

**b. Defendant Sheriff Birkhead's press releases**

194. Defendant Sheriff Birkhead issued press releases on December 15 and 16, 2019 which both reported that while patrolling, deputies observed a vehicle with a fictitious tag, after which "the deputies attempted to conduct a traffic stop. During the stop the vehicle struck a power pole. Deputies called for EMS and the driver was taken to Duke Medical Center where he later died."

195. Defendant Sheriff Birkhead stressed to the media, "This was not a chase,"

adding, "I have zero tolerance for that," and preemptively stated he did not believe there was any wrongdoing on the part of the deputy conducting the traffic stop.

196. On December 18, 2019, Defendant Sheriff Birkhead issued a press release which finally revealed the gunshot wound, while simultaneously claiming: "After receiving the preliminary autopsy results from the N.C. Medical Examiner's Office, the Sheriff's Office can now release that 18-year-old J'Mauri J. Bumpass of Durham died as the result of a 'close-range gunshot wound, consistent with suicide.'"
197. Despite claiming "The Sheriff's Office investigation is ongoing," none of Defendant Sheriff Birkhead's press releases ever requested anyone who witnessed or had information regarding what occurred to contact the Sheriff's Office.

**c. Defendants' misrepresentations to the medical examiners**

198. Defendants told local medical examiner Lacie Evans, who then passed the information to the Office of the Chief Medical Examiner: "Girlfriend called police to report decedent was suicidal, driving around with a gun. At the same time, police pulled over decedent for suspicious tags."
199. In fact, no such call was made.
200. The medical examiner's preliminary conclusion that the gunshot wound

was “consistent with suicide” and subsequent classification of the manner of death as suicide were based on Defendants’ claim of what had occurred — including a fabricated call to police — despite Defendants’ failure to produce a dash-camera recording of the incident, a 911 recording, or any other evidence to support their claim.

201. A pathologist consulted by Plaintiff stated the medical examiner’s report does not rule out the possibility that the manner of death is in fact homicide, explaining that medical examiners are not criminal investigators and do not run parallel investigations to law enforcement so rely heavily on law enforcement officers for information, and that issues can arise where there is no independent investigation performed by an agency such as the SBI to provide unbiased findings to the medical examiner.

202. In response to Plaintiff’s request to the North Carolina Department of Health and Human Services for “documents or communications from the Durham County Sheriff’s Office in the OCME file” relating to the death of J’Mauri Bumpass, legal communications specialist Charles Epstein responded: “I have checked with DHHS staff, and they have identified records from the Durham County Sheriff’s Office as personnel records (*as part of a use of force investigation*), and therefore cannot produce them. You would need to request them from the Durham County Sheriff’s Office”

(emphasis added).

**d. Defendants' prevention of independent investigation**

203. Defendant Sheriff Birkhead deliberately did not ask the State Bureau of Investigation to conduct an independent investigation of the potential use of force by Defendants Sharp and Osborne against Mr. Bumpass.
204. After responding to the scene at 1:35 a.m., Investigator Ryan Lounsberry, the on-call investigator assigned to investigate the shooting death of J'Mauri Bumpass, told Defendant Butler, head of the Criminal Investigations Division, that this investigation needed to be handled by the SBI and asked Defendant Butler to call the SBI to the scene. Defendant Butler told Investigator Lounsberry no.
205. On the morning of December 16, 2019, Mr. Bumpass' family met with Defendant Butler and Investigator Lounsberry at the Durham County Sheriff's Office.
206. Immediately before the December 16, 2019 meeting, Defendant Butler instructed Investigator Lounsberry to "just say something so the family is comforted."
207. During the December 16, 2019 meeting, Investigator Lounsberry expressed concerns to the Bumpass family about Defendants' accounts conflicting with the physical evidence at the scene.

208. On January 14, 2020, Plaintiff sent a letter to Defendant Sheriff Birkhead expressing her concern about the Sheriff's Office investigating the conduct of its own officers and requesting he refer the case to the SBI to investigate.
209. When he finally did reach out to the SBI, at Plaintiff's insistence, the SBI declined to accept the case for investigation due to the time that had passed since the shooting and due to Defendant Sheriff Birkhead's misrepresentation that this was a clear case of suicide.
210. By letter from the SBI to the Sheriff dated February 4, 2020, the SBI, based on documents provided by Defendant Sheriff Birkhead, "respectfully decline[d] to review the Durham County Sheriff's Office (DCSO) *suicide investigation* regarding J'mauri Jysha Bumpass (DCSO case#1912-0361)" (emphasis added).

**e. Defendants' feigned investigation and concealment of evidence**

211. Instead of investigating whether a crime was committed in the shooting of J'Mauri Bumpass, Defendant Sheriff Birkhead's investigators, knowing suicide is not a crime, obtained search warrants for Mr. Bumpass' car, cell phones, and medical records seeking "evidence of a crime and the identity of a person participating in a crime, (Name crime) Suicide."

212. The search warrant for Mr. Bumpass' medical records, dated December 17, 2019, sought only "medical records pertaining to the visit of J'Mauri Mysha Bumpass (DOB: 01/24/2001) for the date of 12/14-15/2019."
213. Rather than seek historical medical records to determine whether Mr. Bumpass had any history of depression, Defendant Sheriff Birkhead sought only records from the early morning in question.
214. The search warrant affidavit stated: "I believe that having the medical records will attest to the actions and injury sustained in regards to this incident."
215. Mr. Bumpass' medical records following the shooting would only provide information about "the actions" if Mr. Bumpass had made any statements to anyone at the hospital about who had shot him.
216. Evidently, Defendant Sheriff Birkhead was seeking Mr. Bumpass' medical records not for evidence of suicide but to determine whether they contained any evidence contradicting the Defendants' claim of suicide.
217. On January 13, 2020, in response to a records request by Plaintiff, Defendant Sheriff Birkhead replied by letter that most of the records would not be produced because Mr. Bumpass' death was under investigation, while simultaneously in the email to which the letter was attached referring to "Mr. Bumpass' suicide."



218. In response to Plaintiff's request for all in-car camera recordings of responding vehicles and communications recordings, Defendant Sheriff Birkhead sent a thumb drive which he claimed contained in-car camera recordings from the responding Sheriff's vehicles and the communications recordings.
219. The thumb drive produced contained only the recordings from Defendant Meyers' vehicle — the fourth to arrive at the scene — and no communications recordings. Defendant Sheriff Birkhead ignored multiple requests made by Plaintiff for production of what he had claimed was on the thumb drive.
220. Plaintiff was forced to file a petition for production of law enforcement recordings in Superior Court, which was heard on June 3, 2020 and subsequently granted by the Superior Court.
221. In the recordings of the two additional vehicles obtained by petition and court order, other Sheriff's vehicles are visible at the scene. Despite the court order to produce all vehicle recordings, those in-car camera recordings have not been produced.
222. The vehicle recordings of Deputy Peter Lilje, who communicated with both Defendants Sharp and Osborne at the scene, are among those Defendant Sheriff Birkhead has not produced.

223. In Superior Court, Defendant Sheriff Birkhead acknowledged Defendant Osborne had given a written statement about what occurred on the early morning of December 15, 2019, but stated he would not produce it because it was part of the investigation file.
224. In Superior Court on June 3, 2020, in response to Plaintiff's question regarding whether the gunshot residue test results were back, Defendant Sheriff Birkhead represented that they were not. In fact, the inconclusive gunshot residue test report by the State Crime Lab was dated January 30, 2020.
225. In a subsequent filing in Superior Court, Defendant Sheriff Birkhead represented that the gunshot residue tests of Deputy Sharp and Osborne were negative.
226. In fact, the State Crime Lab report — with the heading “Type of Case: Suicide Investigation” — expressly noted for both Defendants Sharp and Osborne: “this does not eliminate the possibility that the subject could have fired a gun.”
227. Defendant Sheriff Birkhead has refused to produce the underlying data from the State Crime Lab regarding the detected amounts of barium, antimony and lead, indicative of gunshot residue.
228. In Superior Court, Defendant Sheriff Birkhead represented that

Defendant Sharp's and Defendant Osborne's service weapons had been tested at the scene and it was determined that neither had been fired.

229. In fact, it was determined only that the magazines for their service weapons were full — not that the service weapons had not been fired.

230. On December 16, 2019, the day after the shooting of Mr. Bumpass, several Sheriff's vehicles returned to the scene, reportedly to search for a spent bullet.

231. In Superior Court, in response to Plaintiff asking whether a spent bullet had been recovered, Defendant Sheriff Birkhead represented that no spent bullet had been recovered, and that only a 9 millimeter shell casing had been found at the scene.

232. In fact, as previously alleged, forensics found no 9 millimeter shell casing at the scene and the shell casing seen under Mr. Bumpass' foot was identified as a .380.

233. In response to Defendant Butler stating Defendant Sheriff Birkhead is "all about transparency" and "we have nothing to hide," when counsel for Plaintiff asked Defendant Butler why the Sheriff's Office had not removed the electrical tape on Defendant Sharp's in-car camera uploading system wires to determine whether the wires had been cut, Defendant Butler replied, "I'm not feeling this conversation."

234. At a meeting on June 9, 2020, the purpose of which was supposed to be to give the family of Mr. Bumpass an update regarding the Sheriff's investigation into his death, only selected documents and items were displayed.
235. Neither Defendant Sheriff Birkhead nor Investigator Lounsberry attended the meeting.
236. The forensics technician, J. Mark Bradford, who had responded to the scene of the shooting on December 15, 2019, attended the meeting but did not bring his file so could not answer questions which were asked.
237. At the meeting on June 9, 2020, in response to questions and concerns regarding the death of Mr. Bumpass, Defendant Butler asked whether Plaintiff had considered hiring an investigator.
238. At the meeting, Defendant Butler and counsel for Defendant Sheriff Birkhead denied that Defendant Sharp had been scheduled to testify in a suppression hearing in the criminal prosecution of Timothy Bumpass during the week of December 16, 2019.
239. Defendant Sharp did in fact testify at that hearing.
240. Defendant Butler also claimed that a Glock semi-automatic handgun could still have been expelling smoke from the barrel five minutes after firing a single shot.

241. Corporal Eric Campen, head of Defendant Sheriff Birkhead's forensics unit, suggested that perhaps Defendant Sharp had mistaken smoke from the car accident for smoke from the Glock, notwithstanding Defendant Sharp's report claiming to have seen "the *barrel of the handgun* was expelling smoke" (emphasis added).
242. Counsel for Defendant Sheriff Birkhead falsely stated the time between the firing of a gun and when Defendant Sharp claimed he saw the barrel of the Glock firearm expelling smoke was a minute and a half.
243. Investigator Lounsberry, who had expressed concerns about Defendants' accounts conflicting with the physical evidence at the scene, while assigned to investigate the shooting death of Mr. Bumpass, resigned from the Sheriff's Office, quit working in law enforcement and moved to New York.
244. The exact timing of Investigator Lounsberry's resignation is unknown. Defendant Sheriff Birkhead has refused to produce his and other employees' public personnel records to Plaintiff despite multiple requests and has misrepresented that they were previously produced.
245. Defendant Sheriff Birkhead represented to Plaintiff that Defendant Butler would replace Investigator Lounsberry as the lead investigator assigned to Mr. Bumpass' death investigation. However, Defendant Butler was then promoted to Chief Deputy of the Detention Facility.

246. While purportedly investigating the shooting death of Mr. Bumpass during the traffic stop conducted by Defendant Sharp, who made revealing and conflicting statements at the scene, who clearly fabricated evidence of a smoking gun, and whose in-car camera system wiring was discovered the day after the shooting to have been tampered with, Defendant Sheriff Birkhead twice promoted Defendant Sharp, first to corporal and then to sergeant.
247. Defendant Sheriff Birkhead has made his hiring, promotional and termination decisions based not on professional qualifications or job performance but instead on his personal relationships and who he believed he could control and trust to cover for him and shield him from liability.
248. After multiple requests from Plaintiff for the CAD (computer-aided dispatch) report of the incident, Defendant Sheriff Birkhead finally responded that the CAD report is not a public record, citing N.C.G.S. § 132-1.4.
249. Meanwhile, Plaintiff was able to obtain a copy of the CAD report directly from the Sheriff's communications department through a public records request.
250. The CAD report showed that additional Sheriff's vehicles had responded to the scene, confirming that not all recordings were produced, in violation

of the Order of the Superior Court.

251. In response to requests by Plaintiff for Mr. Bumpass' cell phone to be returned to his estate, Defendant Sheriff Birkhead initially responded that once the Medical Examiner's Office and the Sheriff's Office had completed their investigations, the personal property of Mr. Bumpass would be turned over to the estate administrator.

252. On June 3, 2020, in Superior Court, Defendant Sheriff Birkhead represented the investigations were complete, other than the pending extraction from Mr. Bumpass' cell phone.

253. In a letter dated July 30, 2020, the Sheriff represented that Mr. Bumpass' cell phone had been analyzed pursuant to a search warrant but that it would not be returned to the estate at that time.

254. On September 1, 2020, at a meeting at the Sheriff's Office to review the cell phone data which was extracted from the cell phone of Mr. Bumpass pursuant to the search warrant, records revealed there was no cell phone evidence to support Defendants' claim of suicide.

255. At the September 1, 2020 meeting, when counsel for Plaintiff asked the cell phone data analyst present which analyst had performed the extraction from the cell phone of Mr. Bumpass, counsel for Defendant Sheriff Birkhead told him, "Don't answer that."

256. Despite the cell phone extraction having been completed, Defendant Sheriff Birkhead has refused to return the cell phone of Mr. Bumpass to his estate.
257. Instead of investigating what occurred on the early morning of December 15, 2019, Defendant Sheriff Birkhead has sought only evidence to corroborate the Defendants' claim of suicide — finding none — while acting to prevent Plaintiff from learning the truth about how Mr. Bumpass was shot to death.
258. In Superior Court, Defendant Sheriff Birkhead has maintained that if Plaintiff wishes to obtain information about what occurred she should bring a wrongful death action.
259. Plaintiff's requests for meetings with the Sheriff have been ignored; the meeting six months after the shooting failed to include Defendant Sheriff Birkhead, the lead investigator, or the forensic file; and Defendant Sheriff Birkhead has been choosing which documents to produce while simultaneously using the claim that the case is "under investigation" to withhold others.
260. When asked for a document from the Sheriff's file from which counsel for Defendant Sheriff Birkhead had just read in open court, counsel replied that it was part of "the criminal investigation file." When then asked, "Is



there a criminal investigation?” counsel replied, “It’s a death investigation, and until that closes we have to keep everything. It’s not public record until it closes . . .”

261. More than a year and a half after the shooting death of J’Mauri Bumpass, Defendant Sheriff Birkhead continues to refuse to provide information to Plaintiff in an effort to run out the two-year statute of limitations for wrongful death actions.

262. Defendants’ acts to prevent the investigation of Mr. Bumpass’ death, as alleged above, were implementation of a policy of Defendant Sheriff Birkhead to cover up the use of excessive force by his deputies.

## **K. Conclusion**

263. This case of a young black man with no history of depression fatally shot at a vehicle stop purportedly for a minor traffic violation — the two deputies who stopped him being the only surviving eyewitnesses, their intentional delay of medical aid to J’Mauri Bumpass, the conflicting statements of the two deputies at the scene, the written statement of one containing known falsehoods while the written statement of the other having been concealed by Defendant Sheriff Birkhead, Defendant Osborne having both left the scene and put gloves on before having his hands tested for gunshot residue, a photograph of a tampered wiring system produced in place of the in-car

camera recording of the incident, the deputy whose camera system was tampered with having been twice promoted while the investigator assigned to the death investigation having resigned after expressing concerns, Defendants at the scene having immediately begun efforts to conceal what had occurred, and Defendant Sheriff Birkhead having refused to investigate, blocked an independent investigation and made material misrepresentations and omissions regarding the shooting and his purported investigation — leads to the inescapable conclusions that Defendants Sharp and Osborne fatally shot J’Mauri Bumpass and Defendants have acted deliberately to cover it up.

**FIRST CLAIM FOR RELIEF:**  
**EXCESSIVE FORCE BY DEFENDANTS SHARP AND OSBORNE**  
**RESULTING IN THE DEATH OF J’MAURI BUMPASS IN**  
**VIOLATION OF THE FOURTH AMENDMENT**

264. The allegations of the preceding paragraphs are incorporated herein by reference.

265. The Fourth Amendment to the United States Constitution guarantees:  
“the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

266. Defendant Osborne reported the stop to communications with the code for a suspicious vehicle. Defendants Sharp and Osborne gave conflicting justifications for the stop.

267. Defendant Sharp knew the driver was J'Mauri Bumpass and knew when he pulled him over that Mr. Bumpass was almost home.
268. Defendant Sharp assumed from his last name that Mr. Bumpass was connected with other Bumpass men whom Defendant Sharp suspected were selling drugs, Defendant Sharp having told one of them, "The Bumpasses — y'all have a drug ring going on. I'm fixing to bring you motherfuckers down. None of y'all motherfuckers are shit."
269. Even if the stop were lawful, "The Fourth Amendment prohibits police officers from using excessive force to seize a free citizen." Hupp v. Cook, 931 F.3d 307, 321 (4th Cir. 2019).
270. Defendants Sharp and Osborne willfully and maliciously used excessive force when one intentionally put a gun to Mr. Bumpass' head and then either intentionally or recklessly pulled the trigger while the other provided cover.
271. The force used by Defendants Sharp and Osborne against Mr. Bumpass was objectively unreasonable.
272. By Defendants Sharp's and Osborne's own statements, Mr. Bumpass did nothing to justify Defendants Sharp and Osborne putting a gun to Mr. Bumpass' head.
273. By Defendants Sharp's and Osborne's own statements, there was no justification whatsoever for Defendants Sharp and Osborne to use deadly

force against Mr. Bumpass.

274. Defendants Sharp's and Osborne's use of excessive force against Mr.

Bumpass caused Mr. Bumpass' death.

275. Defendants Sharp and Osborne, while acting under color of state law,

violated Mr. Bumpass' rights guaranteed by the Fourth Amendment by their

use of excessive force, causing Mr. Bumpass' death.

276. As such, Defendants Sharp and Osborne are liable to Plaintiff pursuant to

42 U.S.C. § 1983, for violating Mr. Bumpass' right to be free from the use of

excessive force guaranteed by the Fourth Amendment to the United States

Constitution.

**SECOND CLAIM FOR RELIEF:**  
**THE COVER UP OF USE OF EXCESSIVE FORCE BY DEFENDANTS**  
**BIRKHEAD, SHARP, OSBORNE, CRIDER, MEYERS AND BUTLER**  
**WHICH SHOCKS THE CONSCIENCE IN VIOLATION OF THE**  
**FOURTEENTH AMENDMENT**

277. The allegations of the preceding paragraphs are incorporated herein by

reference.

278. J'Mauri Bumpass had the clearly established right under the Fourteenth

Amendment Due Process Clause not to be deprived of life, liberty or

property without the due process of law.

279. "Historically, this guarantee of due process has been applied to

*deliberate* decisions of government officials to deprive a person of life,

liberty, or property.” County of Sacramento v. Lewis, 523 U.S. 833, 849

(1998) (quoting Daniels v. Williams, 474 U.S. 327, 331 (1986)).

280. The United States Supreme Court recognized in County of Sacramento v.

Lewis:

“The touchstone of due process is protection of the individual against arbitrary action of government,” Wolff v. McDonnell, 418 U.S. 539, 558 (1974), whether the fault lies in a denial of fundamental procedural fairness ... or in the exercise of power without any reasonable justification in the service of a legitimate governmental objective, *see, e.g.*, Daniels v. Williams, 474 U.S., at 331 (the substantive due process guarantee protects against government power arbitrarily and oppressively exercised).

523 U.S. at 845-846.

281. “For half a century now we have spoken of the cognizable level of executive abuse of power as that which shocks the conscience.” Id. at 846.

282. Defendants Sharp and Osborne acted to cover up that they had fatally shot Mr. Bumpass by:

- a. Falsely reporting to Communications “shots fired,” “car is overturned multiple times,” and “subject on foot . . . going back toward Keystone”;
- b. Directing officers (other than Defendant Crider) to set a perimeter rather than respond to the scene;
- c. Intentionally delaying aid to Mr. Bumpass, the only other eyewitness

to what had occurred, to prevent him from telling anyone what they had done, by:

- i. Declining to request emergency medical personnel to respond;
  - ii. Approaching the wrecked car after backup units arrived as if Mr. Bumpass were armed and dangerous;
  - iii. Reporting to Defendant Meyers at the scene, “I think he killed himself” despite knowing Mr. Bumpass in fact was still alive; and
  - iv. Telling emergency medical personnel when they did respond that Mr. Bumpass was a “possible DOA”;
- d. Falsely telling responders at the scene that Mr. Bumpass shot at them through the back windshield;
- e. Concocting the story of smoke coming from a gun they falsely claimed Mr. Bumpass had fired;
- f. Destroying evidence, including gunshot residue;
- g. Tampering with the wiring to their in-car camera system to prevent the uploading of the recording of their shooting of Mr. Bumpass; and
- h. Producing false written law enforcement reports.
283. Defendants Sheriff Birkhead, Captain Butler, Lieutenant Meyers and Deputy Crider acted to cover up that Defendants Sharp and Osborne had

fatally shot Mr. Bumpass by:

- a. Muting and allowing the muting of the microphones at the scene, in violation of their general orders;
- b. Turning off their in-car camera systems before speaking with Defendant Osborne at the scene, in violation of their general orders;
- c. Declining to secure the crime scene and evidence from Defendants Sharp and Osborne;
- d. Allowing Defendant Osborne to leave the scene, to put gloves on, to guard evidence, and to remove the gun from Mr. Bumpass' car and put it in Defendant Crider's car;
- e. Calling Investigator Lounsberry to the scene to investigate while simultaneously telling him "the driver of the vehicle fired a shot and then sped off from the traffic stop" and "the driver appears to have shot himself in the head";
- f. Instructing Investigator Lounsberry to: "just say something so the family is comforted";
- g. Concealing the condition of the tampered wiring to Defendant Sharp's in-car camera system;
- h. Withholding evidence by refusing to produce Deputy Sharp's in-car camera recording of the shooting of J'Mauri Bumpass in violation of

the order of the Superior Court;

- i. Withholding evidence by refusing to produce in-car camera recordings of other responding vehicles in violation of the order of the Superior Court;
- j. Destroying evidence by refusing to preserve Defendant Sharp's in-car camera system;
- k. Issuing misleading press releases;
- l. Providing false information to the State Bureau of Investigation;
- m. Providing false information to the medical examiners, including a fabricated call to police reporting that Mr. Bumpass was suicidal;
- n. Refusing to compare the fingerprint and DNA evidence from the gun retrieved from Mr. Bumpass' car to that of Defendants Sharp and Osborne;
- o. Refusing to test Mr. Bumpass' hands for gunshot residue;
- p. Repeatedly making misrepresentations to Plaintiff and the Superior Court about the feigned investigation, the evidence, and what had been produced to Plaintiff;
- q. Selectively disclosing information believed not to be inconsistent with Defendants' false claim of suicide while refusing to produce other information under the guise it was confidential;



- r. Refusing to return Mr. Bumpass' cell phone to his estate;
- s. Falsely claiming the death of Mr. Bumpass was under investigation;  
and
- t. Promoting Defendant Osborne from trainee to deputy and promoting Defendant Sharp to corporal and then to sergeant while investigation of the death of J'Mauri Bumpass was purportedly ongoing.

284. Defendant Sheriff Birkhead is the chief law enforcement officer of Durham County.

285. As law enforcement officers, Defendant Sheriff Birkhead, Defendant Sharp, Defendant Osborne, Defendant Crider, Defendant Meyers and Defendant Butler each swore to the oath mandated by law:

I ... do solemnly swear (or affirm) that I will be alert and vigilant to enforce the criminal laws of this State; that I will not be influenced in any matter on account of personal bias or prejudice; that I will faithfully and impartially execute the duties of my office as a law enforcement officer according to the best of my skill, abilities, and judgment; so help me, God.

N.C.G.S. § 11-11.

286. Instead of being alert and vigilant to enforce the criminal laws as they had sworn to do, each of the Defendants, in the ways set forth above, deliberately obstructed investigation of the fatal shooting of J'Mauri Bumpass — not for any legitimate governmental purpose, but in order to

cover up the use of excessive force by Defendants Sharp and Osborne.

287. Defendants Sharp and Osborne knew they had fatally shot J'Mauri

Bumpass and acted under color of state law to cover up what they had done to protect themselves from criminal and civil liability.

288. Defendants Birkhead, Crider, Meyers and Butler knew that the suspicious circumstances required an investigation and acted deliberately under color of state law to prevent investigation to protect Defendants Sharp, Osborne and Sheriff Birkhead from liability.

289. Defendants' actions to cover up the fatal shooting of J'Mauri Bumpass and to prevent investigation of his death are an abuse of power which shocks the conscience.

290. As such, Defendants Birkhead, Sharp, Osborne, Crider, Meyers and Butler are liable to Plaintiff pursuant to 42 U.S.C. § 1983 for their deliberate abuse of power which shocks the conscience in violation of the Fourteenth Amendment to the United States Constitution.

**THIRD CLAIM FOR RELIEF:**  
**DEFENDANT SHERIFF BIRKHEAD'S AND DURHAM COUNTY'S**  
**POLICY OF COVERING UP USE OF EXCESSIVE FORCE CAUSED**  
**THE FOURTH AMENDMENT VIOLATION BY DEFENDANTS**  
**SHARP AND OSBORNE**

291. The allegations of the preceding paragraphs are incorporated herein by reference.

292. Municipal liability results “when execution of a government’s policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury.” Monell v. Department of Social Services Of New York, 436 U.S. 658, 694 (1978).

293. Starting with Defendant Sharp’s and Defendant Osborne’s conflicting accounts, Defendant Meyers and Defendant Crider both muting their microphones and turning off their cameras before speaking with them at the scene, Defendant Meyers preemptively telling the assigned investigator Mr. Bumpass had shot himself, Defendant Butler’s response to the assigned investigator’s request that the SBI would not be called to the scene, and Defendant Sheriff Birkhead’s false and misleading press releases, the actions of Defendant Sheriff Birkhead and his deputies, agents, and employees set forth above demonstrate a policy to cover up the use of excessive force by sheriff’s deputies in violation of the Fourth Amendment which was in place at the time of the shooting of J’Mauri Bumpass.

294. In spite of all the suspicious circumstances, at no point did anyone — other than Investigator Lounsberry, whose advice was not followed and who resigned and was replaced by Defendant Butler as lead investigator — entertain the possibility of actually investigating the shooting or calling for an independent investigation by another agency.

295. The actions of Defendant Sheriff Birkhead and his deputies, agents and employees to cover up the use of excessive force by Defendant Sharp and Defendant Osborne have been continuous and consistent and are ongoing.
296. On the early morning of December 15, 2019, Defendant Sharp and Defendant Osborne acted with knowledge that any use of excessive force would be covered up by Defendant Sheriff Birkhead and his deputies, agents and employees.
297. Accordingly, Defendant Sheriff Birkhead's policy of covering up the use of excessive force was a direct and proximate cause of Defendant Sharp's and Defendant Osborne's use of excessive force against J'Mauri Bumpass in violation of the Fourth Amendment.
298. At all times relevant to this action, Defendant Sheriff Birkhead was the chief law enforcement officer of Durham County and as such was the chief policymaker for Durham County regarding the use of force by employees of the Durham County Sheriff's Office.
299. As such, Defendants Sheriff Birkhead and Durham County are liable to Plaintiff pursuant to 42 U.S.C. § 1983 for the use of excessive force by Defendants Sharp and Osborne which caused J'Mauri Bumpass' death in violation of the Fourth Amendment to the United States Constitution.

**FOURTH CLAIM FOR RELIEF:**  
**DEFENDANT SHERIFF BIRKHEAD'S AND DURHAM COUNTY'S  
POLICY OF COVERING UP USE OF EXCESSIVE FORCE CAUSED  
THE FOURTEENTH AMENDMENT VIOLATION BY DEFENDANTS  
BIRKHEAD, SHARP, OSBORNE, CRIDER, MEYERS AND BUTLER**

300. The allegations of the preceding paragraphs are incorporated herein by reference.

301. In Pembaur v. City of Cincinnati, 475 U.S. 469 (1986), the United States Supreme Court recognized:

... it is plain that municipal liability may be imposed for a single decision by municipal policymakers under appropriate circumstances. No one has ever doubted, for instance, that a municipality may be liable under § 1983 for a single decision by its properly constituted legislative body whether or not that body had taken similar action in the past or intended to do so in the future — because even a single decision by such a body unquestionably constitutes an act of official government policy ... a government frequently chooses a course of action tailored to a particular situation and not intended to control decisions in later situations. If the decision to adopt that particular course of action is properly made by that government's authorized decisionmakers, it surely represents an act of official government "policy" as that term is commonly understood. More importantly, where action is directed by those who establish governmental policy, the municipality is equally responsible whether that action is to be taken only once or to be taken repeatedly. To deny compensation to the victim would therefore be contrary to the fundamental purpose of § 1983.

475 U.S. at 480 - 481.

302. In spite of all the suspicious circumstances of the shooting of J'Mauri Bumpass, Defendant Sheriff Birkhead and his deputies, agents and employees acted deliberately to prevent investigation — by the SBI, by the medical examiners, by Plaintiff, and even by Investigator Lounsberry — as set forth above.
303. Defendant Sheriff Birkhead approved and ratified the policy of covering up the use of excessive force — by participating himself beginning with his first press release, by directing others to participate, and by promoting Defendants Sharp, Osborne and Butler following their participation.
304. At all times relevant to this action, Defendant Sheriff Birkhead was the chief law enforcement officer of Durham County and as such was the chief policymaker for Durham County regarding investigation of the use of force by employees of the Durham County Sheriff's Office.
305. As such, Defendants Sheriff Birkhead and Durham County are liable to Plaintiff pursuant to 42 U.S.C. § 1983 for the cover up and the prevention of investigation of the use of excessive force by Defendants Sharp and Osborne in violation of the Fourteenth Amendment to the United States Constitution.

**FIFTH CLAIM FOR RELIEF:**  
**WRONGFUL DEATH BY INTENTIONAL ASSAULT AND BATTERY**  
**COMMITTED BY DEFENDANTS SHARP AND OSBORNE**  
**AGAINST J'MAURI BUMPASS WITHOUT CAUSE**

306. The allegations of the preceding paragraphs are incorporated herein by reference.
307. The facts alleged above lead to the conclusion that Defendants Sharp and Osborne, acting in concert, willfully and maliciously committed an assault and battery against J'Mauri Bumpass without his consent when one intentionally put a gun to Mr. Bumpass' head while the other provided cover.
308. In putting the gun to Mr. Bumpass' head, Defendants Sharp and Osborne acted with conscious and intentional disregard of and indifference to the rights and safety of Mr. Bumpass, which they knew or should have known was reasonably likely to result in the injury or death of Mr. Bumpass.
309. The facts alleged above lead to the conclusion that Defendants Sharp and Osborne, acting in concert, willfully and wantonly committed an assault and battery against J'Mauri Bumpass by one either intentionally or recklessly pulling the trigger while the other provided cover.
310. The intentional assault and battery committed by Defendants Sharp and Osborne caused Mr. Bumpass physical and emotional pain and suffering and ultimately caused his death.
311. By Defendants Sharp's and Osborne's own statements, Mr. Bumpass did

nothing to justify the actions of Defendants Sharp and Osborne in intentionally putting a gun to Mr. Bumpass' head and then pulling the trigger.

312. As such, Defendants Sharp and Osborne are liable to Plaintiff for damages caused by their intentional assault and battery committed against J'Mauri Bumpass causing his death.

**SIXTH CLAIM FOR RELIEF:**  
**COMMON LAW OBSTRUCTION OF JUSTICE BY DEFENDANTS**  
**BIRKHEAD, SHARP, OSBORNE, CRIDER, MEYERS AND BUTLER**

313. The allegations of the preceding paragraphs are incorporated herein by reference.

314. Defendants Sharp and Osborne intentionally acted to obstruct justice in covering up that they had fatally shot Mr. Bumpass by:

- a. Falsely reporting to Communications "shots fired," "car is overturned multiple times," and "subject on foot . . . going back toward Keystone";
- b. Directing officers (other than Defendant Crider) to set a perimeter rather than respond to the scene;
- c. Intentionally delaying aid to Mr. Bumpass, the only other eyewitness to what had occurred, to prevent him from telling anyone what they had done, by:



- i. Declining to request emergency medical personnel to respond;
  - ii. Approaching the wrecked car after backup units arrived as if Mr. Bumpass were armed and dangerous;
  - iii. Reporting to Defendant Meyers at the scene, “I think he killed himself” despite knowing Mr. Bumpass in fact was still alive; and
  - iv. Telling emergency medical personnel when they did respond that Mr. Bumpass was a “possible DOA”;
- d. Falsely telling responders at the scene that Mr. Bumpass shot at them through the back windshield;
  - e. Concocting the story of smoke coming from a gun they falsely claimed Mr. Bumpass had fired;
  - f. Destroying evidence, including gunshot residue;
  - g. Tampering with the wiring to their in-car camera system to prevent the uploading of the recording of their shooting of Mr. Bumpass; and
  - h. Producing false written law enforcement reports.
315. Defendants Sheriff Birkhead, Captain Butler, Lieutenant Meyers and Deputy Crider intentionally acted to obstruct justice by aiding and abetting Defendants Sharp and Osborne in covering up that they had fatally shot Mr. Bumpass by:

- a. Muting and allowing the muting of the microphones at the scene, in violation of their general orders;
- b. Turning off their in-car camera systems before speaking with Defendant Osborne at the scene, in violation of their general orders;
- c. Declining to secure the crime scene and evidence from Defendants Sharp and Osborne;
- d. Allowing Defendant Osborne to leave the scene, to put gloves on, to guard evidence, and to remove the gun from Mr. Bumpass' car and put it in Defendant Crider's car;
- e. Calling Investigator Lounsberry to the scene to investigate while simultaneously telling him "the driver of the vehicle fired a shot and then sped off from the traffic stop" and "the driver appears to have shot himself in the head";
- f. Instructing Investigator Lounsberry to: "just say something so the family is comforted";
- g. Concealing the condition of the tampered wiring to Defendant Sharp's in-car camera system;
- h. Withholding evidence by refusing to produce Deputy Sharp's in-car camera recording of the shooting of J'Mauri Bumpass in violation of the order of the Superior Court;

- i. Withholding evidence by refusing to produce in-car camera recordings of other responding vehicles in violation of the order of the Superior Court;
- j. Destroying evidence by refusing to preserve Defendant Sharp's in-car camera system;
- k. Issuing misleading press releases;
- l. Providing false information to the State Bureau of Investigation;
- m. Providing false information to the medical examiners, including a fabricated call to police reporting that Mr. Bumpass was suicidal;
- n. Refusing to compare the fingerprint and DNA evidence from the gun retrieved from Mr. Bumpass' car to that of Defendants Sharp and Osborne;
- o. Refusing to test Mr. Bumpass' hands for gunshot residue;
- p. Repeatedly making misrepresentations to Plaintiff and the Superior Court about the feigned investigation, the evidence, and what had been produced to Plaintiff;
- q. Selectively disclosing information believed not to be inconsistent with Defendants' false claim of suicide while refusing to produce other information under the guise it was confidential;
- r. Refusing to return Mr. Bumpass' cell phone to his estate;

- s. Falsely claiming the death of Mr. Bumpass was under investigation;  
and
  - t. Promoting Defendant Osborne from trainee to deputy and promoting Defendant Sharp to corporal and then to sergeant while investigation of the death of J'Mauri Bumpass was purportedly ongoing.
316. Defendants' actions to try to shield Defendants Sharp, Osborne and Birkhead from liability for the shooting death of J'Mauri Bumpass constitute obstruction of justice.
317. As such, Defendants are liable to Plaintiff for damages caused by the wrongful shooting death of J'Mauri Bumpass as well as the additional expenses caused Plaintiff in her efforts to obtain information and in bringing and maintaining this action.

**SEVENTH CLAIM FOR RELIEF:**  
**RECKLESS INFLICTION OF EMOTIONAL DISTRESS BY**  
**DEFENDANTS BIRKHEAD, SHARP, OSBORNE, CRIDER,**  
**MEYERS AND BUTLER**

318. The allegations of the preceding paragraphs are incorporated herein by reference.
319. Defendants' deliberate coverup of the shooting of J'Mauri Bumpass by Defendants Sharp and Osborne and false claim that J'Mauri Bumpass committed suicide have caused Plaintiffs Hermena Bumpass and Jerry Bumpass severe emotional distress, including but not limited to confusion,

post-traumatic stress, chronic depression, loss of sleep, inability to trust law enforcement and fear for their own safety.

320. Defendants' coverup of the shooting of J'Mauri Bumpass by Defendants Sharp and Osborne and false claim that Mr. Bumpass committed suicide are extreme and outrageous conduct exceeding all bounds which can be tolerated by decent society.

321. In covering up the shooting of J'Mauri Bumpass by Defendants Sharp and Osborne and falsely claiming that Mr. Bumpass committed suicide, Defendants acted with reckless indifference to the likelihood their conduct would cause severe emotional distress to Plaintiffs.

322. Defendants are therefore liable to Plaintiffs, individually, for damages relating to their emotional distress which resulted from Defendants' extreme and outrageous conduct.

**EIGHTH CLAIM FOR RELIEF:**  
**ACTION ON OFFICIAL BOND AGAINST DEFENDANTS**  
**SHERIFF BIRKHEAD AND TRAVELERS CASUALTY**  
**AND SURETY COMPANY OF AMERICA**

323. The allegations of the preceding paragraphs are incorporated herein by reference.

324. On November 30, 2018, Defendant Sheriff Birkhead procured an official bond as principal from Defendant Travelers Casualty and Surety Company of America in the sum of \$25,000.

325. Defendant Sheriff Birkhead has waived governmental immunity for Plaintiffs' claims under N.C.G.S. § 58-76-5 to the extent of the bond.
326. Defendant Sheriff Birkhead's official bond was in full force and effect on December 15, 2019 and through the present.
327. Defendants Sheriff Birkhead, Sharp, Osborne, Crider, Meyers and Butler were acting within the course and scope of their employment as Durham County Sheriff and deputy sheriffs and under color of the Durham County Sheriff's Office when Defendants Sharp and Osborne stopped, seized and shot J'Mauri Bumpass and when Defendants covered up that Defendants Sharp and Osborne had shot him.
328. The acts of Defendants Sharp, Osborne, Crider, Meyers and Butler, as alleged herein and imputed to Defendant Sheriff Birkhead, constitute misconduct, misbehavior, and a breach of their official duties as deputy sheriffs.
329. The acts of Defendant Sheriff Birkhead as alleged herein constitute misconduct, misbehavior, and a breach of his official duties as sheriff.
330. Defendants Sheriff Birkhead and Travelers Casualty and Surety Company of America are liable to Plaintiffs, pursuant to N.C.G.S. § 58-76-5, for the unlawful acts committed by Defendants Sheriff Birkhead, Sharp,

Osborne, Crider, Meyers and Butler against J'Mauri Bumpass and Plaintiffs under color of the Durham County Sheriff's Office.

### **DAMAGES**

1. As the direct and proximate result of the wrongful acts of Defendants Sharp and Osborne, as alleged herein, J'Mauri Bumpass was stopped, seized, shot and killed.
2. As the direct and proximate result of the wrongful acts of Defendants Sheriff Birkhead, Sharp, Osborne, Crider, Meyers and Butler, as alleged herein, the shooting of J'Mauri Bumpass was covered up and misrepresented as suicide.
3. As the direct and proximate result of Defendants' violations of the rights of J'Mauri Bumpass, Mr. Bumpass suffered physical and emotional pain and suffering; the loss of his life; loss of future wages; and such other damages as may be shown by the evidence.
4. As the direct and proximate result of Defendants' actions, Plaintiff as Administratrix of the Estate of J'Mauri Jysha Bumpass has suffered funeral and burial expenses, the costs of seeking information about J'Mauri Bumpass' death, and the costs of this action.
5. As the direct and proximate result of Defendants' actions, Plaintiffs Hermena Bumpass and Jerry Bumpass individually have suffered loss of society and companionship as well as severe emotional distress, including

but not limited to confusion, post-traumatic stress, chronic depression, loss of sleep, inability to trust law enforcement and fear for their own safety.

6. Plaintiff as Administratrix of the Estate of J'Mauri Jysha Bumpass is entitled to recover compensatory damages from Defendants, jointly and severally, for the claims of Mr. Bumpass under 42 U.S.C. § 1983.
7. Plaintiff as Administratrix of the Estate of J'Mauri Jysha Bumpass is entitled to recover punitive damages from Defendants, individually, for the claims of Mr. Bumpass under 42 U.S.C. § 1983.
8. Plaintiffs, individually and as Administratrix of the Estate of J'Mauri Jysha Bumpass, are entitled to recover compensatory damages from Defendants, jointly and severally, for the state law claims of Mr. Bumpass and Plaintiffs.
9. Plaintiffs, individually and as Administratrix of the Estate of J'Mauri Jysha Bumpass, are entitled to recover punitive damages from Defendants for the state law claims of Mr. Bumpass and Plaintiffs.
10. Plaintiffs are entitled to recover damages from Defendants Sheriff Birkhead and Travelers Casualty & Surety Company of America, jointly and severally, to the extent of the Sheriff's official bond for Plaintiffs' claims under N.C.G.S. § 58-76-5.



### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray the Court for the following relief:

1. Compensatory damages from Defendants, jointly and severally;
2. Punitive damages from Defendants in their individual capacities;
3. Reasonable attorney's fees and litigation expenses under 42 U.S.C. § 1988  
and under N.C.G.S. § 1D-45.
4. Costs of court and interest as allowed by law;
5. A trial by jury on all contested issues of fact; and
6. Such other and further relief as the Court may deem just and proper.

This the 28<sup>th</sup> day of June, 2021.

/s/ L. Allyn Sharp

L. Allyn Sharp

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N.C. State Bar No. 43195

Counsel for Plaintiff

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document entitled, **Amended Complaint**, was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of the filing to the following person:

Larissa S. Williamson  
N.C. State Bar No. 31504  
Durham County Attorney's Office  
Counsel for Defendants

This the 28<sup>th</sup> day of June, 2021.

/s/ L. Allyn Sharp  
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