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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SUSAN D'ANDREA, individually and as special administratrix of the Estate of Brandon Charles Pickford; **JEFFREY PICKFORD**, individually; and **TYLER JORDAN ROSS**, individually;

Plaintiffs,

vs.

CITY OF LAS VEGAS; LAS VEGAS FIRE & RESCUE; WILLIAM L. MCDONALD, individually and in his capacity as Fire Chief; **BETSY FRETWELL**, individually and in her capacity as City Manager; and **JOHN DOES I through X**, inclusive;

Defendants.

CASE NO.:

COMPLAINT

[DEMAND FOR JURY TRIAL]

"The state cannot arbitrarily assert its power so as to cut short a person's life."

- *Ross v. United States, 910 F.2d 1422, 1433 (7th Cir. 1990).*

INTRODUCTION

1. This is an action for Constitutional violations suffered by Plaintiffs as a result of the deprivation of Plaintiffs' decedent, Brandon Charles Pickford. Plaintiffs bring this action for compensatory damages under 42 U.S.C. § 1983 because Defendants jointly and severally deprived

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1 Decedent of his federally-protected right to bodily security, life, and Equal Protection of Laws
2 secured to him by the Fourteenth Amendment. U.S. CONST. amend. XIV.
3

4 2. Plaintiffs are the relatives and the personal representative of the estate of Brandon
5 Charles Pickford and they bring this action on behalf of the estate pursuant to Nev. Rev. Stat.
6 41.085 and as applied through 42 U.S.C. § 1983 and § 1988. At the time of his death, Brandon
7 Charles Pickford was 43 years old and in good health. He died intestate, and Susan D’Andrea, his
8 sister, has been appointed the special administratrix of the estate. Plaintiffs bring this action as the
9 surviving family and sole heirs at law of their Decedent, and as the only persons entitled to recover
10 damages because of Decedent’s wrongful death. Nev. Rev. Stat. 41.085 and as applied through
11 and as applied through 42 U.S.C. § 1983 and § 1988.
12

13 3. Acting under the color of state law, Defendants implemented a 9-1-1 dispatch
14 policy for the City of Las Vegas whereby ambulances operated by private companies, including
15 but not limited to American Medical Response, *were prevented from responding to 9-1-1 calls*
16 *for emergency medical services* – a measure calculated to increase City of Las Vegas revenues by
17 automatically assigning all dispatch calls to Las Vegas Fire & Rescue. Privately operated
18 ambulances, which had previously handled the majority of all such calls, would thenceforth receive
19 notification from 9-1-1 dispatchers manually, and only “if necessary.”
20

21 4. That persons in need of emergency medical services would be subjected to
22 needlessly delayed ambulance response times as a result of this policy could not have been more
23 foreseeable. But with dollar signs in their eyes, Defendants recklessly disregarded common sense
24 and a chorus of public warnings that the Las Vegas Fire & Rescue was unequipped to handle the
25 majority of 9-1-1 calls, demonstrating deliberate indifference to the value of the lives that would
26 be lost as a result. No responsible municipal official would have implemented such a policy.
27

28 5. On April 17, 2014, Brandon Charles Pickford sustained a stab-wound to his neck

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1 within close proximity to an American Medical Response ambulance that was not dispatched to
2 his aid in response to a 9-1-1 call for help. Instead, pursuant to Defendants’ newly-adopted policy,
3 he was forced to wait critical, unnecessary, minutes for a Fire Department ambulance to arrive,
4 leading to his death from otherwise treatable injuries.
5

6 6. As a direct result of Defendants’ policies, practices, customs and procedures,
7 Brandon Charles Pickford was deprived of his rights to be bodily security and life guaranteed to
8 him by the Fourth Amendment to the United States Constitution.
9

10 **JURISDICTION AND VENUE**

11 7. The Jurisdiction of this Court is invoked pursuant to the Civil Rights Act, 42 U.S.C.
12 § 1983 et seq; the Judicial Code, §§ 1331 and 1343(a); and the Constitution of the United States.

13 8. Venue is proper in this District under 28 U.S.C. § 1391(b). The parties reside, or,
14 at the time the events took place, resided in this judicial district, and the events giving rise to

15 9. Plaintiffs’ claims also occurred in this judicial district.
16

17 **PARTIES**

18 10. Plaintiff Susan D’Andrea (“Susan”) is the sister of Decedent and is the duly-
19 appointed special administratrix for the estate of Estate of Brandon Charles Pickford. At all times
20 relevant hereto, Susan has been a resident of the State of Nevada, County of Clark. Plaintiff Susan
21 sues in her individual capacity and in her capacity as special administratrix of the Estate of Brandon
22 Charles Pickford.

23 11. Plaintiff Jeffrey Pickford (“Jeffrey”) is the biological son of Decedent and sues as
24 an heir pursuant to N.R.S. 41.085. At all times relevant hereto, Jeffrey has been a resident of the
25 State of Nevada, County of Clark.
26

27 12. Plaintiff Tyler Jordan Ross (“Tyler”) is the biological son of Decedent and sues as
28 an heir pursuant to N.R.S. 41.085. At all times relevant hereto, Tyler has been a resident of the

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1 State of Nevada, County of Clark.

2
3 13. Defendant City of Las Vegas is a municipality existing under the laws of the State
4 of Nevada.

5 14. Defendant Las Vegas Fire & Rescue is a department of the City of Las Vegas.

6 15. Defendant William L. McDonald is the Fire Chief for the City of Las Vegas and at
7 all material times mentioned herein, was acting under the color of law when he engaged in conduct
8 that led to Plaintiffs' injuries. Defendant McDonald is sued in his individual capacity and in his
9 capacity as Fire Chief.

10
11 16. Defendant Betsy Fretwell is the City Manager for the City of Las Vegas and at all
12 material times mentioned herein, was acting under the color of law when she when she engaged in
13 conduct that led to Plaintiffs' injuries. Defendant Fretwell is sued in her individual capacity and in
14 her capacity as City Manager.

15 17. Plaintiffs do not know the true names and capacities or involvement, whether
16 individual, corporate, associate, partnership or otherwise of the Defendants named here in as John
17 Does I through X, inclusive. Plaintiffs pray leave to amend this Complaint to show their true
18 names and capacities when the same have been finally determined.

19
20 FACTS

21 18. For decades, Defendant City of Las Vegas ("City") responded to 9-1-1 calls for
22 emergency medical services by simultaneously dispatching ambulances operated by Defendant
23 Las Vegas Fire & Rescue ("LVFR") and by private contractors.

24 19. LVFR and private contractors charge patients for medical transports.

25 20. According to LVFR, it operates a fleet of 23 ambulances, while one of the City's
26 principal private ambulance contractors, American Medical Response ("AMR"), reports that it
27 operates a fleet of a fleet of approximately 70 ambulances. With its much larger fleet of
28

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1 ambulances, AMR handled the majority of medical transports – and had done so for many years.

2 21. The City’s “dual-response” system relied upon the use of a computer-aided dispatch
3 (“CAD”) system to automatically relay dispatch calls to ambulances operated by both LVFR and
4 private contractors.
5

6 22. In 2012, the International City/County Management Association issued a report
7 noting that the City could save up to \$14 million annually by assuming all responsibility for
8 emergency transport.

9 23. Citing this untapped source of revenue, Defendants came up with a plan to modify
10 the City’s 9-1-1 dispatch system so as to prevent private ambulances from automatically receiving
11 dispatch calls for emergency medical services. Defendant Betsy Fretwell (“Fretwell”), in her
12 capacity as Las Vegas City Manager, and Defendant William L. McDonald (“McDonald”), in his
13 capacity as Las Vegas Fire Chief, were the responsible decision-makers acting on behalf of the
14 City and LVFR.
15

16 24. McDonald thus abruptly announced on March 2, 2014, that effective *starting the*
17 *next day*, private ambulances would no longer receive automatic dispatch calls through the City’s
18 CAD system.
19

20 25. Blindsided by the announcement, AMR and others warned Defendants – including
21 in published media reports – that the City’s new policy would result in delayed emergency
22 response times, jeopardizing health and safety for those in need of emergency medical services.
23 Tragically, Defendants did not heed these warnings.

24 26. Plaintiffs are informed and believe, and upon such information and belief, allege that under
25 the newly-implemented policy, private contractors could still be dispatched in response to a 9-1-1 call, but
26 that call would have to be made by 9-1-1 dispatchers manually.

27 27. The decision-making process as to whether to dispatch a private ambulance has not been
28 publicly disclosed by Defendants.

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2 28. Sometime between 8:00 and 8:30 a.m. on April 17, 2014, Brandon Charles Pickford
3 (“Pickford”), aged 43, was stabbed in the neck in the parking lot of a fast-food restaurant at the
4 intersection of Sahara Avenue and Rancho Drive in Las Vegas, Nevada.

5 29. A 9-1-1 caller immediately reported Pickford’s injury.

6 30. Although an AMR ambulance was stationed and awaiting dispatch just 200 yards
7 away, it was not dispatched because of the City’s new 9-1-1 dispatch protocols.

8 31. Instead, an LVFR ambulance stationed farther from Pickford was dispatched,
9 critically delaying Pickford’s treatment and causing Pickford’s needless and painful death from
10 his injuries.

11 32. Defendants implemented a policy preventing private ambulances from being
12 dispatched to 9-1-1 emergencies knowing well the substantial risk that delayed ambulance
13 response times would result. Further, Defendants perpetuated the policy for months despite their
14 actual knowledge that response times were being delayed.

15 33. Defendants acted with deliberate indifference to the bodily security and lives of
16 persons in need of emergency medical services.

17 34. Defendants’ implementation of this policy prevented Pickford from receiving the
18 immediate medical treatment that would otherwise have been dispatched to his aid, resulting in his
19 wrongful death.

20 35. Defendants’ actions and inactions constituted a stunning abuse of government
21 power, asserted by them so as to cut short the life of Pickford and, doubtlessly, many others.

22 36. Plaintiffs have therefore had to retain the services of CALLISTER & ASSOCIATES to
23 prosecute this action and is entitled to reasonable award of attorneys’ fees and costs therefore under
24 42 U.S.C. § 1988.

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FIRST CLAIM FOR RELIEF
Violation of Civil Rights to Life and Security of Person
42 U.S.C. § 1983 - Custom and Policy/Monell Liability

37. Plaintiffs repeat and reallege each and every allegation set forth above as though fully set forth herein.

38. 42 U.S.C. § 1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory subjects, or causes to be subjected, any person of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit at equity or other proper proceeding for redress.

39. At all times material hereto, Defendants, and each of them, acted under the color of state law.

40. Defendants made, modified and carried out the policies of the City and LVFR.

41. Defendants, and each of them, subjected Pickford to violations of his rights to personal security, bodily integrity, and Equal Protection of Laws guaranteed by the Fourteenth

Amendment by:

- (a) adopting and implementing a policy of preventing private ambulances from responding to 9-1-1 calls for emergency medical services;
- (b) failing to provide an adequate replacement for the private emergency medical services displaced as a result of the policy;
- (c) directly and proximately causing emergency medical services to Pickford to be critically delayed resulting in his wrongful death.

42. The aforementioned policies, practices, and customs of Defendants were the driving force behind said constitutional violations.

43. As a proximate result of Defendants' wrongful acts, Plaintiffs have been deprived

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1 of the society, love, comfort, companionship, financial support, emotional support and support
2 services of decedent Pickford.

3
4 44. As a further proximate result of the Defendants' wrongful acts as alleged above,
5 Decedent Pickford has lost the enjoyment of life.

6 45. The wrongful acts perpetrated by Defendants in intentionally disregarding the
7 constitutional rights of the Plaintiffs and the Decedent were willful, oppressive, malicious and
8 performed with a wanton disregard for the established and constitutionally protected rights of the
9 Plaintiffs and the Decedent.

10 46. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered
11 damages in an amount in excess of \$10,000.00

12 47. Plaintiffs have therefore had to retain the services of CALLISTER & ASSOCIATES to
13 prosecute this action and is entitled to reasonable award of attorneys' fees and costs therefore under
14 42 U.S.C. § 1988.

15
16 **SECOND CLAIM FOR RELIEF**
17 *Violation of Civil Rights to Life and Security of Person*
18 *42 U.S.C. § 1983 - Deliberate Indifference*

19 48. Plaintiffs repeat and reallege each and every allegation set forth above as though
20 fully set forth herein.

21 49. 42 U.S.C. § 1983 provides in part:

22 Every person who, under color of any statute, ordinance, regulation,
23 custom, or usage of any State or Territory subjects, or causes to be
24 subjected, any person of the United States or other person within the
25 jurisdiction thereof to the deprivation of any rights, privileges, or
26 immunities secured by the Constitution and laws shall be liable to the party
injured in an action at law, suit at equity or other proper proceeding for
redress.

27 50. Defendants implemented the new 9-1-1 dispatch policy knowing well the
28 substantial likelihood that emergency medical services to those in need would be unnecessarily

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1 delayed.

2
3 51. Despite Defendants' actual knowledge that ambulance response times were, in fact,
4 being delayed as a result of the implementation of the new 9-1-1 policy, Defendants kept it in place
5 through the time of Pickford's death and afterwards.

6 52. Defendants directly and proximately caused Pickford to be deprived of private
7 emergency medical services resulting in his suffering and wrongful death.

8 53. Defendants, and each of them, acted with deliberate indifference to Pickford's
9 rights to bodily security, life, and Equal Protection of the laws guaranteed by the Fourteenth
10 Amendment.

11 54. The aforementioned policies, practices, and customs of Defendants were the
12 driving force behind said constitutional violations.

13 55. As a proximate result of Defendants' wrongful acts, Plaintiffs have been deprived
14 of the society, love, comfort, companionship, financial support, emotional support and support
15 services of decedent Pickford.

16 56. As a further proximate result of the Defendants' wrongful acts as alleged above,
17 Decedent Pickford has lost the enjoyment of life.

18 57. The wrongful acts perpetrated by Defendants in intentionally disregarding the
19 constitutional rights of the Plaintiffs and the Decedent were willful, oppressive, malicious and
20 performed with a wanton disregard for the established and constitutionally protected rights of the
21 Plaintiffs and the Decedent.

22 58. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered
23 damages in an amount in excess of \$10,000.00

24 59. Plaintiffs have therefore had to retain the services of CALLISTER & ASSOCIATES to
25 prosecute this action and is entitled to reasonable award of attorneys' fees and costs therefore under
26
27
28

1 42 U.S.C. § 1988.
2

3 **THIRD CLAIM FOR RELIEF**
4 *Violation of Civil Rights to Familial Relationships*
5 *42 U.S.C. § 1983*

6 60. Plaintiffs repeat and reallege each and every allegation set forth above as though
7 fully set forth herein.

8 61. 42 U.S.C. § 1983 provides in part:

9 Every person who, under color of any statute, ordinance, regulation,
10 custom, or usage of any State or Territory subjects, or causes to be
11 subjected, any person of the United States or other person within the
12 jurisdiction thereof to the deprivation of any rights, privileges, or
immunities secured by the Constitution and laws shall be liable to the party
injured in an action at law, suit at equity or other proper proceeding for
redress.

13 62. Defendants, and each of them, acting under color of state law, deprived Plaintiff
14 Jeffrey, Plaintiff Tyler, and Decedent Pickford of their constitutional right to a familial relationship
15 without due process of law by implementing the policy as alleged above.

16 63. The aforementioned policies, practices, and customs of Defendants were the
17 driving force behind said constitutional violations.

18 64. As a proximate result of Defendants' wrongful acts, Plaintiffs have been deprived
19 of the society, love, comfort, companionship, financial support, emotional support and support
20 services of decedent Pickford.
21

22 65. The wrongful acts perpetrated by Defendants in intentionally disregarding the
23 constitutional rights of the Plaintiffs and the Decedent were willful, oppressive, malicious and
24 performed with a wanton disregard for the established and constitutionally protected rights of the
25 Plaintiffs and the Decedent.
26

27 66. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered
28 damages in an amount in excess of \$10,000.00

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76. NRS 41.085(2) provides:

When the death of any person [...] is caused by the *wrongful act* or *neglect* of another, the heirs of the decedent and the personal representatives of the decedent may each maintain an action for damages against the person who caused the death . . . *Id.* (Emphasis added).

77. Defendants owed Pickford a duty not to implement a policy so as to prevent him from receiving emergency medical services.

78. Defendants breached this duty by implementing the new 9-1-1 policy as alleged above.

79. Pickford suffered a painful death as a direct and proximate result of Defendants' negligence and wrongful acts as alleged above.

80. Plaintiffs have suffered grief and sorrow, loss of probable support, companionship, society, and comfort as a result of Pickford's wrongful death.

81. Prior to his death, Decedent Pickford received severe emotional trauma and great pain and suffering resulting in disfigurement and loss of enjoyment of life.

82. That as a direct and proximate result of the Defendants' conduct, the estate of Brandon Pickford incurred damages and is entitled to recover damages for medical expenses, medical care and treatment, and for burial expenses on behalf of the decedent.

83. That as a further direct and proximate result of the Defendants' conduct, Plaintiffs are entitled to recover damages for the pain, suffering, and disfigurement of Decedent Pickford.

84. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered damages in an amount in excess of \$10,000.00

85. Plaintiffs have therefore had to retain the services of CALLISTER & ASSOCIATES to prosecute this action and is entitled to reasonable award of attorneys' fees and costs therefore.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- A. Compensatory damages in an amount in excess of \$10,000.00;
- B. Punitive damages;
- C. Injunctive relief requiring Defendants to take affirmative steps to eliminate any existing policies resulting in the arbitrary denial of emergency services and to prevent the adoption of such policies in the future.
- D. General damages in an amount in excess of \$10,000.00;
- E. Special damages in an amount in excess of \$10,000.00;
- F. Statutory interest;
- G. Costs of suit incurred herein;
- H. Reasonable attorney fees.
- I. For such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated this 9th day of July, 2015.

Respectfully submitted,

CALLISTER & ASSOCIATES

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