

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY FLORIDA

ANTHONY CULPEPPER, as Personal
Representative of the Estate of JUANITA
CHILDS-HUGHES, deceased,

Case No.

Plaintiff,

v.

ORANGE COUNTY SHERIFF'S OFFICE;
ORANGE COUNTY FIRE RESCUE DEPARTMENT;
SHERIFF JERRY L. DEMINGS,
in his official capacity,

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, ANTHONY CULPEPPER, as Personal Representative of the Estate of JUANITA CHILDS-HUGHES, by and through undersigned counsel, as for their causes of action, states as follows:

JURISDICTION

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00), exclusive of interests and costs.
2. Plaintiff, ANTHONY CULPEPPER, as shown in **Exhibit A**, has been approved as the Personal Representative of the Estate of Juanita Childs-Hughes and is the proper party in bringing the instant action.
3. Plaintiff, ANTHONY CULPEPPER, is a resident of Orlando, Orange County, Florida, is over the age of eighteen (18), and is otherwise sui juris.

4. At all times hereto, Defendant, ORANGE COUNTY SHERIFF'S OFFICE, is located in and authorized to do business within Orlando, Orange County, Florida.

5. At all times hereto, Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, is located in and authorized to do business within Orlando, Orange County, Florida.

6. At all times material hereto, Defendant, SHERIFF JERRY L. DEMINGS, as Sheriff of Orange County, was acting under color of state law, to wit; statutes, ordinances, regulations, customs and policies of the State of Florida and is subject to the jurisdiction of this court.

7. Defendant, SHERIFF JERRY L. DEMINGS, is a citizen of the State of Florida, residing in Orange County, Florida, is over the age of eighteen (18), and is otherwise sui juris.

8. Venue for this action is proper in Orange County, Florida due to the acts giving rise to this action having occurred in Orange County, Florida.

9. All conditions precedent to Florida Statutes §768.28 to the bringing of this action have occurred or have been performed.

STATEMENT OF FACTS

10. On September 16, 2017, Plaintiff, JUANITA CHILDS-HUGHES, placed a call to the Orange County Sheriff's Office.

11. During the September 16, 2017 phone call, Plaintiff, JUANITA CHILDS-HUGHES, stated that she smelled something burning in the home.

12. Immediately following the statement by Plaintiff, what are clear and unambiguous gun shots can be heard on the 911 phone call and then the phone is disconnected.

13. The 911 operator then attempts to call Plaintiff, JUANITA CHILDS-HUGHES, and several more clear and unambiguous gun shots are heard on the 911 phone call.

14. However, when the 911 operator relays the message to responding officers and the fire department, no mention of the clear and unambiguous gunshots are even mentioned.

15. On September 16, 2017, when the Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, arrived on the scene, after having knowledge of the smoke within the home, they knocked, noticed nobody was answering, and made no further attempts at gaining access into the home. The same was done by the Orange County Sheriff's Office.

16. Later, on September 20, 2017, Plaintiff, ANTHONY CULPEPPER, placed a phone call to Defendant, ORANGE COUNTY SHERIFF'S OFFICE, out of concern for his mother as he has not heard from her in days which was very uncommon and requested a wellness check be performed.

17. On September 20, 2017, Defendant, ORANGE COUNTY SHERIFF'S OFFICE, sent an officer out to the home of Plaintiff, JUANITA CHILDS-HUGHES, where it was discovered that the mail had piled up and their only car was in the garage. However, the officer concluded that there were not enough exigent circumstances to enter the home.

18. At that point, Plaintiff, ANTHONY CULPEPPER, determined that the only way to gain entry into the home would be to contact 911 and request the Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, and declare it a medical emergency; and that is exactly what Plaintiff did.

19. Once Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, arrived on scene, they noticed a hole in one of the windows. They chose to gain access through this hole

and located the bedroom door which was locked. Once they opened it, they found Plaintiff, JUANITA CHILDS-HUGHES deceased inside.

**COUNT I – NEGLIGENCE AGAINST ORANGE
COUNTY SHERIFF’S OFFICE**

Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, re-alleges, reincorporates, and reiterates each and every allegation contained in paragraphs 1-19 as is fully set forth herein and further states:

1. On or about September 16, 2017, Plaintiff, JUANITA CHILDS-HUGHES, placed a phone call to Defendant, ORANGE COUNTY SHERIFF’S OFFICE, stating that she heard a loud “boom” and smelled smoke.

2. Immediately following the above statement, multiple clear and unambiguous gunshots can be heard on the 911 phone call and the call is then dropped.

3. The 911 operator makes contact with Plaintiff again and several other clear and unambiguous gunshots are heard on the 911 phone call.

4. When informing responding officer, the 911 operator fails to make any mention of the clear and unambiguous gun shots heard on the 911 phone call which would have provided clear exigent circumstances for officers to enter the home of Plaintiff, JUANITA CHILDS-HUGHES, which could have saved her life.

5. Defendant, ORANGE COUNTY SHERIFF’S OFFICE, owed a duty to the Plaintiff, JUANITA CHILDS-HUGHES, to exercise reasonable care and prudence and to train each and every 911 operator in a fashion that would provide competent service to the general public and to provide public safety.

6. Defendant, ORANGE COUNTY SHERIFF’S OFFICE, breached their duty in the following ways:

- a. Failing to properly train its 911 operators in a manner that would provide efficient and competent service to its citizens;
- b. Failing to train its officers in what amount to exigent circumstances in order to properly enter the home of a citizen;
- c. Failing to ensure that each call is properly supervised in order to ensure that the matter is handled effectively and accurately;
- d. Failing to relay to responding officers that the sounds heard on the original 911 phone call were that of gunshots; and
- e. Failing to take any administrative action regarding the individuals involved in the incident.

7. As a direct and proximate result of the negligence of Defendant, ORANGE COUNTY SHERIFF'S OFFICE, Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, has sustained mental anguish, loss of services and support, mental pain and suffering and pre and post judgment interest from the date of JUANITA CHILDS-HUGHES'S death and will continue to suffer the same into the future.

WHEREFORE, the Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, demands judgment against the Defendant, ORANGE COUNTY SHERIFF'S OFFICE, for damages in excess of Fifteen Thousand Dollars (\$15,000.00), and for costs incurred herein.

**COUNT II – NEGLIGENCE AGAINST ORANGE
COUNTY FIRE RESCUE DEPARTMENT**

Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, re-alleges, reincorporates, and reiterates each and every allegation contained in paragraphs 1-19 as is fully set forth herein and further states:

8. Following the initial September 16, 2017 911 phone call made by Plaintiff, JUANITA CHILDS-HUGHES, as a result of the call indicating smoke was in the home, Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, was notified and dispatched to the home.

9. Once they arrived, Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, attempted only a few times to make contact and ignored the severity of the situation and left the scene knowing the medical possibilities that could occur after inhalation of smoke for a period of time.

10. Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, owed a duty to the Plaintiff, JUANITA CHILDS-HUGHES, to exercise reasonable care and prudence and to train each and every employee in a fashion that would provide competent service to the general public and to provide public safety.

11. Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, breached their duty in the following ways:

- a. Failing to properly train its employees in a manner that would provide efficient and competent service to its citizens;
- b. Failing to train its employees in what amount to exigent circumstances in order to properly enter the home of a citizen;
- c. Failing to ensure that each call is properly supervised in order to ensure that the matter is handled effectively and accurately;
- d. Failing to ensure that proper efforts are undertaken to ensure the safety of the homeowners prior to leaving the scene; and

- e. Failing to take any administrative action regarding the individuals involved in the incident.

12. As a direct and proximate result of the negligence of Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, has sustained mental anguish, loss of services and support, mental pain and suffering and pre and post judgment interest from the date of JUANITA CHILDS-HUGHES'S death and will continue to suffer the same into the future.

WHEREFORE, the Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, demands judgment against the Defendant, ORANGE COUNTY FIRE RESCUE DEPARTMENT, for damages in excess of Fifteen Thousand Dollars (\$15,000.00), and for costs incurred herein.

COUNT III – NEGLIGENCE AGAINST
SHERIFF JERRY L. DEMINGS

Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, re-alleges, reincorporates, and reiterates each and every allegation contained in paragraphs 1-19 as is fully set forth herein and further states:

13. On or about September 16, 2017, Plaintiff, JUANITA CHILDS-HUGHES, placed a phone call to Defendant, ORANGE COUNTY SHERIFF'S OFFICE, stating that she heard a loud "boom" and smelled smoke.

14. Immediately following the above statement, multiple clear and unambiguous gunshots can be heard on the 911 phone call and the call is then dropped.

15. The 911 operated makes contact with Plaintiff again and several other clear and unambiguous gunshots are heard on the 911 phones call.

16. When informing responding officer, the 911 operator fails to make any mention of the clear and unambiguous gun shots heard on the 911 phone call which would have provided clear exigent circumstances for officers to enter the home of Plaintiff, JUANITA CHILDS-HUGHES, which could have saved her life.

17. Defendant, SHERIFF JERRY L. DEMINGS, owed a duty to the Plaintiff, JUANITA CHILDS-HUGHES, to exercise reasonable care and prudence and to train each and every 911 operator in a fashion that would provide competent service to the general public and to provide public safety.

18. Defendant, SHERIFF JERRY L. DEMINGS, breached their duty in the following ways:

- a. Failing to properly train its 911 operators in a manner that would provide efficient and competent service to its citizens;
- b. Failing to train its officers in what amount to exigent circumstances in order to properly enter the home of a citizen;
- c. Failing to ensure that each call is properly supervised in order to ensure that the matter is handled effectively and accurately;
- d. Failing to relay to responding officers that the sounds heard on the original 911 phone call were that of gunshots; and
- e. Failing to take any administrative action regarding the individuals involved in the incident.

19. As a direct and proximate result of the negligence of Defendant, SHERIFF JERRY L. DEMINGS, Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, has sustained mental anguish, loss of services and

support, mental pain and suffering and pre and post judgment interest from the date of JUANITA CHILDS-HUGHES'S death and will continue to suffer the same into the future.

WHEREFORE, the Plaintiff, ANTHONY CULPEPPER, as personal Representative of THE ESTATE OF JUANITA CHILDS-HUGHES, deceased, demands judgment against the Defendant, SHERIFF JERRY L. DEMINGS, for damages in excess of Fifteen Thousand Dollars (\$15,000.00), and for costs incurred herein.

JURY DEMAND

Plaintiff demands trial by jury as to all issues triable to a jury under any statute or under common law.

Dated this 7th day of November, 2018.

/s/ Casey J. Williams
**GARY, WILLIAMS, PARENTI,
WATSON & GARY, P.L.L.C**
Lorenzo Williams, Esquire
Florida Bar No.: 249874
Casey J. Williams, Esquire
Florida Bar No.: 103199
Counsel for Plaintiff
221 East Osceola Street
Stuart, Florida 34994
Phone: (772) 283-8260
Fax: (772) 219-3365
lw@Williegary.com
cjw@Williegary.com
tcp@williegary.com