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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

by and through his guardians ad
litem and in his capacity as guardian ad litem;
in her capacity as guardian
ad litem,

Plaintiffs,

vs.

City of Buckeye; Officer David Grossman,
individually and in his official capacity;
Lieutenant Charles Arlak, individually and
in his official capacity; Chief Larry Hall,
individually and in his official capacity;
Doe BPD Officers 1-10, individually and
in their official capacities,

Defendants.

Civil Action No.

**First Amended Complaint for Damages
for:**

1. 42 U.S.C. § 1983: Illegal Arrest.
2. 42 U.S.C. § 1983: Use of Excessive Force.
3. *Monell*: Failure to train and/or supervise.
4. ADA: Wrongful arrest.
5. Battery.
6. Negligent Training and Supervision.

Demand for Jury Trial.

INTRODUCTION

1. While playing at a public park, Plaintiff [REDACTED] a 14-year-old autistic teenager—was forcibly restrained, slammed against a tree, and pinned to the ground by Buckeye Police Department Officer David Grossman. [REDACTED] was doing nothing illegal; he was “stimming” with a piece of string, a common behavior that many people with autism use to cope with their environment. Defendant Grossman—who has a long record of serious disregard for the constitutional rights and safety of others—had never received training on autism, stimming, or even dealing with disabled persons generally. Defendant Grossman, a supposed “drug recognition expert,” took [REDACTED]’s innocent stimming for illegal drug use and forcefully seized him. [REDACTED] suffered serious injuries as a result. In addition to providing no meaningful training to Grossman, the City of Buckeye and supervisors within the Buckeye Police Department later refused to discipline him, instead defending and ratifying his illegal conduct.

This civil complaint can be summarized as follows:

Count	Claim	Defendants
1	42 U.S.C. § 1983 / Fourth Amendment (Illegal Arrest).	Officer Grossman.
2	42 U.S.C. § 1983 / Fourth Amendment (Excessive Force).	Officer Grossman.
3	Unconstitutional failure to train and/or supervise (<i>Monell</i> , 42 U.S.C. § 1983).	City of Buckeye.
4	Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 <i>et seq.</i> , (Wrongful arrest)	City of Buckeye, Buckeye Police Department, Officer Grossman.
5	Battery.	Officer Grossman.
6	Negligent Training and Supervision.	City of Buckeye, Buckeye Police Department, Lieutenant Arlak, Chief of

	Police Hall, Doe BPD Officers.
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Plaintiffs request a jury trial to pursue justice on these claims.

JURISDICTION AND VENUE

2. This is a civil action where jurisdiction is founded on a federal question under 28 U.S.C. § 1331.

3. Plaintiffs' claims arise in this judicial district where the events and omissions giving rise to this complaint occurred, namely the City of Buckeye in the County of Maricopa, which is situated in the District of Arizona.

4. Venue is proper in the United States District Court for the District of Arizona under 28 U.S.C. § 1391.

5. Plaintiffs filed a timely tort claim against the City of Buckeye and its employees under A.R.S. 12-821.01 on January 9, 2018 (City of Buckeye, Buckeye Police Department, Officer David Grossman, Chief of Police Larry Hall) and March 27, 2018 (Lieutenant Charles Arlak). Defendants never responded to any of Plaintiffs' claims.

PARTIES

6. Plaintiff [REDACTED] was, at all times relevant to this lawsuit, a minor and a resident of the State of Arizona, and a citizen of the United States.

7. Plaintiffs [REDACTED] and [REDACTED] [REDACTED] are Plaintiff's parents. They were, at all times relevant to this lawsuit, residents of the State of Arizona and citizens of the United States. Because Plaintiff is a minor, [REDACTED] and [REDACTED] [REDACTED] appear in this action as his guardians ad litem. *See* Exhibit A (Declaration of [REDACTED] and [REDACTED] [REDACTED]).

8. Defendant City of Buckeye is a governmental entity organized and existing under the laws of the State of Arizona and a municipality existing in the County of Maricopa, Arizona. At all times mentioned herein, the Buckeye Police Department ("BPD") was a

branch of the City of Buckeye and a governmental entity organized and existing under the laws of the State of Arizona.

9. Defendant BPD Officer David Grossman, at all times relevant herein, was an officer with the BPD. He was near the Verrado Town Square Park in the City of Buckeye on July 19, 2017. At all times mentioned herein, defendant Grossman was an employee of the BPD and acting in an official capacity and under color of law.

10. Defendant BPD Lieutenant Charles Arlak, at all times relevant herein, was an officer with the BPD. On information and belief, he is a supervisor within the BPD and is defendant Grossman's brother-in-law. At all times mentioned herein, defendant Arlak was an employee of the BPD and acting in an official capacity and under color of law.

11. Defendant BPD Chief Larry Hall, at all times relevant herein, was the Chief of Police of the Buckeye Police Department. He is a supervisor within the BPD and the BPD's chief policy-maker. At all times mentioned herein, defendant Hall was an employee of the BPD and acting in an official capacity and under color of law.

12. Defendants Doe BPD Officers 1-10, individually and in their official capacities, at all times relevant herein, were officers and/or employees for the BPD, acting in their official capacity and under color of law. These defendants include officers in supervisory positions that participated in the supervision and ratification of Grossman's actions, and in the training and supervision of officers at the BPD.

FACTUAL ALLEGATIONS

13. Plaintiff [REDACTED] is 15 years old and has autism spectrum disorder.

14. Autism spectrum disorder, according to the National Institute of Mental Health, is a developmental disorder that affects communication and behavior.

15. According to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), people with autism have difficulty communicating and interacting with others, restricted interests and repetitive behaviors, and symptoms that impair the person's ability to function properly in school, work, and other areas of life.

16. Starting years before the incident involving Plaintiff [REDACTED] described in this Complaint, Defendant City of Buckeye had specific knowledge of the unique risks, up to and including serious injury and death, that law-enforcement contacts could pose to autistic members of the community.

17. Defendant Buckeye had knowledge of the need for specialized training on law-enforcement officers' encounters with autistic members of the community.

18. Defendant Buckeye had this knowledge through, among other sources, Robert Sanders, the Assistant Chief of Police at the Buckeye Police Department. By virtue of his job description and Buckeye policy, Asst. Chief Sanders is the final policymaker and authority on all matters relating to the training that officers of the Buckeye Police Department receive or do not receive.

19. Long before the incident involving [REDACTED] Asst. Chief Sanders and Defendant Buckeye knew that autism was a developmental disability, and that this developmental disability was not the same thing as a mental illness.

20. At least as early as April 2016, Asst. Chief Sanders and Defendant Buckeye had received specific notice—through either Google alerts, Police Executive Research Forum (PERF) updates, or events in the media—that law-enforcement contact with autistic persons posed unique risks to autistic members of the community.

21. Prior to the incident involving [REDACTED] Asst. Chief Sanders had personally viewed (but failed to disseminate) a training video that also highlighted, in even more detail, the special risks that law-enforcement contacts pose to the safety of autistic members of the community.

22. Asst. Chief Sanders sought out this video in response to news coverage, a Google alert, or some other “catalyst” notifying him about these safety issues involving autistic persons.

23. Through Asst. Chief Sanders, Defendant Buckeye understood, prior to the incident involving [REDACTED] that autism was becoming “more and more of an issue in society” in general—and with law-enforcement encounters in particular.

24. Through Asst. Chief Sanders, Defendant Buckeye knew, before the incident involving [REDACTED] that developmentally disabled people were 7 times more likely to come into contact with law enforcement.

25. Through Asst. Chief Sanders, Defendant Buckeye knew, before the incident involving [REDACTED] that 1 in 68 children are born with autism, and that boys are four times more likely to be autistic.

26. Through Asst. Chief Sanders, Defendant Buckeye knew, before the incident involving [REDACTED] that based on these trends, “the possibility of a law enforcement officer coming into contact with a person with autism, possibly a young man, [was] very high.”

27. Through Asst. Chief Sanders, Defendant Buckeye knew, before the incident involving [REDACTED] that an encounter with an autistic member of the community, “if approached the wrong way could lead to a potentially deadly outcome.”

28. Asst. Chief Sanders has testified that “these kinds of incidents . . . autistic kids being hurt in interactions with police would be the kind of thing that would come to [him] through [his] Google alerts or through [his] other kind of monitoring of the media” prior to the incident involving [REDACTED]

29. Asst. Chief Sanders saw specific headlines and news stories, prior to the incident involving [REDACTED] describing physical harm and death resulting to autistic people as a result of interactions with law enforcement officers.

30. Asst. Chief Sanders was specifically informed that the “best advice” was to “have a plan, train your people, and train them regularly”—specifically as to dealing with autistic people in the community.

31. Through Asst. Chief Sanders, Defendant Buckeye therefore had specific knowledge of prior incidents where autistic members of the community were killed or injured during encounters with law-enforcement officers, and had specific knowledge of the need for additional training.

32. But Defendant Buckeye did not have—and still does not have—any formal training program to help officers interact with autistic members of the community safely.

33. Asst. Chief Sanders has testified that had it so chosen, Defendant Buckeye had adequate time to provide additional training to its police officers how to interact with autistic people—before the incident involving [REDACTED]

34. Defendant Buckeye chose not to provide any formal training on how law enforcement officers should interact with autistic members of the community before the incident involving [REDACTED] and in so doing, was deliberately indifferent to known risks that this lack of training posed to autistic people—up to and including serious bodily injury or death.

35. Through Asst. Chief Sanders, Defendant Buckeye also knew that “Crisis Intervention Training,” which deals with mental-health crises, was not an adequate substitute to specific training on autism, and that “further training is necessary to raise awareness as to this condition [autism].”

36. But Defendant Buckeye still did not provide any meaningful training to Defendant Grossman or other members of the Buckeye Police Department regarding autism before the incident with [REDACTED]

37. The only “training” touching upon autism specifically, prior to the incident involving [REDACTED] that Defendant Grossman received was being emailed a 2016 newspaper article published by CNN, and being shown a brief video about autistic kids going missing during a shift-change roll call meeting.

38. Defendant Buckeye’s own policies and procedures require training courses to have written lesson plans.

39. Defendant Buckeye’s own policies and procedures also state that training courses should include a testing component as well, to ensure learning and comprehension on the part of trainees.

40. Neither the CNN article nor the brief video contained a lesson plan, a testing component, or any other mechanism designed to ensure learning and comprehension.

41. Neither the CNN article nor the brief video constituted “training” under Buckeye’s own policies and procedures.

42. The results were inevitable. In the afternoon of July 19, 2017, [REDACTED] arrived at the Verrado Town Square—a public park within the City of Buckeye—in the company of his caregiver [REDACTED].

43. Ms. [REDACTED] allowed [REDACTED] to remain in the park and play while she crossed the street to inquire about a music lesson for [REDACTED]'s younger sister.

44. Ms. [REDACTED] felt comfortable momentarily leaving [REDACTED] at the park by himself, given the fact that [REDACTED] had never behaved aggressively towards others, had never been mistaken for a drug user or criminal, and had played alone at that same park many times without incident.

45. [REDACTED]'s brief moment of independence constituted a small step toward the outside world and toward his integration into the community—an important goal for many people with autism and their families.

46. Shortly after Ms. [REDACTED] left the area, defendant Grossman drove by the park in an unmarked black pickup truck.

47. Grossman saw [REDACTED] playing and noticed [REDACTED]'s “stimming.”

48. “Stimming,” or “self-stimulatory behavior,” is the repetition of physical movements and sounds, or the repetitive movement of objects, common in individuals with developmental disabilities, and most prevalent in people with autism. *See* www.cdc.gov/ncbddd/autism/signs.html (last visited May 8, 2018) (“people with an ASD might spend a lot of time repeatedly flapping their arms or rocking from side to side. . . . These types of activities are known as self-stimulation or ‘stimming.’”)

49. “Stimming” provides people with autism with a sense of calm and helps them cope with their surroundings. *Id.*

50. “Stimming” is a well-known and common symptom of autism. *Id.*

51. Grossman saw [REDACTED] “stimming” and claims that he mistook that behavior for illegal drug use.

52. Grossman says he mistook this innocent behavior for illegal drug use despite purportedly being qualified as a “drug recognition expert.”

53. The Buckeye Police Department (“BPD”) considers Grossman a “drug recognition expert” despite never having trained him on behavior, like stimming, that *does not* constitute a sign or symptom of drug use.

54. The BPD considers Grossman a “drug recognition expert” despite keeping no logs, records, or documents regarding Grossman’s ability or reliability (or lack thereof) in recognizing controlled substances or drug-related behavior.

55. Grossman saw [REDACTED] stimming, stopped his truck, and quickly approached [REDACTED]

56. Grossman was wearing a body camera at the time of his approach.

57. Grossman’s body camera recorded his interaction with [REDACTED]

58. The BPD has possession of the entire unredacted footage of the incident.

59. Upon reaching [REDACTED] Grossman asked him what he was doing.

60. [REDACTED] responded, “Me? Good.”

61. Grossman again asked [REDACTED] what he was doing.

62. [REDACTED] answered accurately: “I’m stimming.”

63. Grossman answered: “What?”

64. [REDACTED] again told Grossman that he was stimming, stating accurately: “I stim with this,” while holding up a piece of string for Grossman to see.

65. Grossman responded, “What is that?” while sternly commanding [REDACTED] to “stop walking away from me.”

66. [REDACTED] stopped moving and answered, “It’s a string,” and again held the string up for Grossman to see.

67. Grossman responded, “Ok. So why are you bouncing around that way,” or words to that effect, and immediately asked [REDACTED] if “he had any ID on him.”

68. At that point, Grossman had no probable cause or reasonable suspicion to suspect that [REDACTED] was involved in any illegal or criminal activity.

69. Grossman’s conversation and interaction with [REDACTED] should have dispelled any concern that [REDACTED] had drugs or contraband in his hand. Specifically, [REDACTED] had twice shown Grossman that he had a piece of string in his hand—not paraphernalia or any

1 illegal substance—and had succinctly and accurately told Grossman that he was
2 stimming.

3 70. At that point, Grossman knew or should have known that [REDACTED] was disabled and
4 should have adjusted his interaction with [REDACTED] accordingly.

5 71. At that point, a properly-trained officer would have realized that [REDACTED] was
6 disabled and would have proceeded accordingly in any further interactions with [REDACTED]

7 72. But Grossman had not received any training in dealing with persons with autism.

8 73. Grossman did not recognize [REDACTED]'s disability and did not know what “stimming”
9 meant.

10 74. Grossman instead continued to interact with [REDACTED] as if he was involved in criminal
11 activity.

12 75. After Grossman asked if he had ID, [REDACTED] answered “No” and turned to leave.

13 76. Grossman immediately grabbed [REDACTED]'s right wrist and began bending [REDACTED]'s right
14 arm behind [REDACTED]'s back, telling him: “Don’t go anywhere.”

15 77. Grossman proceed to grab both of [REDACTED]'s arms, forced them behind [REDACTED]'s back,
16 and began to handcuff [REDACTED]

17 78. Predictably, [REDACTED] began screaming and tried to move away from Grossman.

18 79. This was predictable because people with autism often have hypersensitivity to
19 sounds or touch, a condition known as tactory or sensory defensiveness. Many people
20 with autism often do not like being grabbed or touched, as even a slight touch can cause
21 great anxiety, discomfort, and even physical pain due to their disability. *See*
22 www.autismspeaks.org/what-autism/symptoms (last visited May 8, 2018) (“Many
23 persons with autism have unusual responses to sensory input. They have difficulty
24 processing and integrating sensory information, or stimuli, such as sights, sounds smells,
25 tastes and/or movement. They may experience seemingly ordinary stimuli as painful,
26 unpleasant or confusing.”)

80. Grossman knew or should have known that forcefully grabbing and touching a person with autism could cause significant physical harm, anxiety, stress, and emotional distress to that person.

81. A properly-trained officer would have known that forcefully grabbing and touching a person with autism could cause significant physical harm, anxiety, stress, and emotional distress to that person.

82. But because Grossman was not properly trained, he continued to escalate the encounter. He immediately slammed [REDACTED] against a nearby tree and wrestled him to the ground, pinning [REDACTED] down with his full body weight.

83. [REDACTED] continued to scream and suffer emotional trauma, repeatedly trying to calm himself by pleading in an emotional tone, "I'm ok, I'm ok."

84. As Grossman continued to pin [REDACTED] down, [REDACTED] told him, "I need help," and "I can't breathe."

85. Grossman responded by telling [REDACTED] not to move and asking him: "Why are you acting like this [REDACTED]"

86. At that point, Ms. [REDACTED] returned to the park and informed Grossman that [REDACTED] is autistic.

87. Grossman initially ignored the statement and told Ms. [REDACTED] that [REDACTED] was "doing something with his hands," to which she answered: "He's stimming."

88. Grossman responded: "Yeah. I don't know what that is."

89. Ms. [REDACTED] replied: "It's when you have autism. It's his nerves."

90. Grossman answered only, "Uh huh, okay," and remained on top of [REDACTED] continuing to pin him down with his full body weight.

91. At that point, Grossman knew or should have known that [REDACTED] was autistic, that he was not engaged in any criminal activity, and that there was no reason to continue to detain and restrain [REDACTED] in a forceful manner.

92. At that point, Grossman knew or should have known that continuing to forcefully restrain [REDACTED] only worsened [REDACTED]'s physical pain, fear, anxiety, and emotional distress.

93. As Grossman continued to pin down [REDACTED] Ms. [REDACTED] told Grossman that [REDACTED]
[REDACTED]'s hand was "turning white."

94. Grossman ignored that statement and continued to forcefully hold [REDACTED] down. Ms.
[REDACTED] then asked him: "You don't know anything about autism, huh?"

95. Grossman replied: "No."

96. Another officer then arrived at the scene, at which point Grossman allowed [REDACTED]
to get off the ground.

97. As Ms. [REDACTED] and [REDACTED] sat on the ground nearby, Grossman told another officer
that he detained [REDACTED] because [REDACTED] "started backing away from me while I was
identifying him and trying to figure out what was in his hand," despite the fact that [REDACTED]
had twice shown Grossman the piece of string in his hand *before* Grossman slammed him
against the tree and wrestled him to the ground.

98. Grossman also told other officers that he had been watching [REDACTED] for a while
before approaching him and that he had no idea what [REDACTED] meant when he told him that
he was "stimming."

99. [REDACTED] suffered significant injuries as a result of Grossman's actions.

100. [REDACTED] suffered scratches, cuts, and bruises to his face, back, and arms. *See* Exhibit
B.

101. [REDACTED] suffered a serious ankle injury that has required numerous draining
procedures with a heavy gauge needle as well as a surgical intervention. Additional
surgeries may be required to address the injury. *Id.*

102. These injuries have caused and will continue to cause [REDACTED] significant pain and
suffering.

103. [REDACTED] also suffered significant emotional damages as a result of Grossman's
conduct.

104. Due to his autism, [REDACTED] relives past grievances over and over, without an
appreciation of how far in the past they occurred. As a result, over the past year, [REDACTED]
has continued to relive Grossman's assault on him in excruciating detail.

105. And while [REDACTED]'s parents always taught him to trust law enforcement, [REDACTED] now fears police officers. He randomly makes statements such as "are the police going to hurt me?" and asks if he is going to be hurt again when he sees a police car.

106. [REDACTED] also expresses a fear of meeting new adult men in general, something he had not expressed before the incident with Grossman.

107. Plaintiffs [REDACTED] and [REDACTED] [REDACTED] have suffered economic damages as a result of Grossman's actions, including medical expenses incurred in caring for [REDACTED]'s injuries. [REDACTED] and [REDACTED] [REDACTED] will to continue to incur additional expenses to address [REDACTED]'s recovery after the incident.

108. Plaintiffs [REDACTED] and [REDACTED] [REDACTED] have also suffered emotional damages due to the negative changes in their son's behavior, attitude, and conduct following the incident with Grossman.

109. Following the incident, Plaintiffs [REDACTED] and [REDACTED] [REDACTED] filed a complaint against Grossman with the BPD.

110. In responding to the complaint, the BPD admitted that Grossman "has not been trained in handling special needs people or mentally ill persons."

111. Nevertheless, the BPD concluded that Grossman "acted within the law and did not abuse his power as a sworn officer and was not negligent as an officer during this incident."

112. In a press conference following the incident, the BPD justified Grossman's actions as those of "an officer who encountered a subject who was displaying behavior that he believed may have been of a subject who was under the influence of an inhalant." In that same press conference, the BPD stated that Grossman's actions were justified because Grossman "had reasonable suspicion" to "detain the juvenile" and "the juvenile began to walk away." The BPD made these statements despite knowing that the body camera footage showed [REDACTED] twice showing Grossman the piece of string in his hand and informing Grossman that he was "stimming."

1 113. The BPD did not impose any discipline on Grossman despite his actions against [REDACTED]

2 [REDACTED]
3 114. Worse, the BPD reached its conclusions and ratified Grossman's actions despite
4 having repeated and clear evidence that Grossman is unfit for duty as a law-enforcement
5 officer.

6 115. The BPD knew that, before the incident with Plaintiff, Grossman had been
7 disciplined for a host of misconduct, from illegal arrests to false reports to failure to act,
8 and abandoning his duty as a police officer.

9 116. One incident involved Grossman driving away from a high-speed pursuit of
10 carjacking suspects from Avondale. After that incident, the BPD notified Grossman that
11 "this type of call requires that you respond directly to the threat and utilize all possible
12 tools at your disposal to deal with the situation at hand."

13 117. Another incident involved Grossman "running from" an incident involving a
14 "female armed with two machetes." Grossman was seen running "around a corner" away
15 from the woman. After that incident, Grossman claimed that he "never heard or saw
16 anything about any knives" and "did not hear" fellow officers "commanding the woman
17 to drop the knives." In response, the BPD admitted that it "is worrisome...if you did not
18 hear these same commands" and advised him that it was "concerned that your situational
19 awareness may not be adequate enough for the rigors of law enforcement."

20 118. Another incident involved Grossman turning his body, retreating, and running into
21 another officer during a "year-end decision shoot" in which a role-player pointed a gun at
22 him. In response, the BPD informed Grossman that "you constantly have to assess
23 situations for appropriate response." The BPD further admitted that "when [Grossman]
24 blindly retreated, you effectively removed your cover officer response from being able to
25 assist you with the situation you are now dealing with and you are empowering the
26 suspect to persevere over this situation."

27 119. Another incident involved Grossman failing to secure the rear area of a residence
28 in which a "subject known to have a valid felony warrant for his arrest" was hiding.

After the subject ran into his house, Grossman advised that he was “in position behind the residence with a view of the back door.” But after officers did not find the subject upon entering the house, they consulted with Grossman about the subject’s whereabouts, with Grossman advising “that no one came out.” A “subsequent search show[ed] where the suspect went over the wall and landed in the neighbor’s yard.” The BPD officers knew “about his performance (or lack thereof) in not apprehending or seeing the suspect run from the back door of the residence you were watching.”

120. Each of these incidents occurred within seven years of the incident with [REDACTED]

121. Aside from the incidents mentioned above, at the time it ratified Grossman’s actions, the BPD also knew that defendant Grossman had engaged in numerous other serious disciplinary violations as a law-enforcement officer.

122. The BPD knew that Grossman had chased down an alleged suspect, wrestled him to the ground, and pepper-sprayed him, *despite having no legal grounds to deploy force in that manner*. After the incident, the BPD advised Grossman: “As we have previously discussed, ‘seizing’ a person requires articulation which you could not provide when you performed these actions. Adding to the situation, you used chemical agents against the person. *Looking for charges after an arrest is made is unacceptable and unconstitutional.*”

123. The BPD knew that Grossman had previously searched a car, found and seized a set of “brass knuckles” after claiming that they were illegal, and then logged them into evidence for destruction. After that incident, the BPD admitted that “*this is another example of making a decision that has you operating against current law.*”

124. The BPD had previous knowledge of Grossman writing defective police reports, telling him that “your reports that are of a substantive nature continually have to be returned for extensive modification.”

125. The BPD knew Grossman was a reckless driver, telling him that “your driving has been observed and reported by fellow officers to be unsafe, ie, driving too fast, following others too closely, and inappropriate response to calls for service.” The BPD knew that

Grossman “continued to operate your police vehicle in disregard of policy during response to non-life-threatening calls for service.”

126. Despite these numerous and serious disciplinary, regulatory, and constitutional violations, the BPD continued to employ and failed to appropriately discipline Grossman, thereby sanctioning and ratifying his unconstitutional behavior.

127. In fact, supervisors within the BPD—including defendants Charles Arlak and Chief of Police Larry Hall—actively protect Grossman, minimizing and covering-up Grossman’s illegal behavior.

128. On information and belief, defendant Arlak is Grossman’s brother-in-law and a close friend of defendant Chief of Police Larry Hall.

129. As a supervisor within the BPD, defendant Arlak has helped Grossman retain his employment by minimizing or covering-up Grossman’s numerous disciplinary violations.

130. Other BPD officers have specifically heard defendant Arlak saying that he has needed to “protect” Grossman due to his repeated illegal conduct.

131. Arlak has used his position as a supervisor and his relationship with defendant Hall to order other members of the BPD to “quit targeting” Grossman.

132. Defendant Larry Hall has protected Grossman in other ways.

133. Hall runs a private-security business named Blue Knights Securities Group LLC with one of Grossman’s supervisors, Lieutenant Gary McGeough.

134. With Hall’s approval, McGeough ratified Grossman’s illegal conduct against [REDACTED] and imposed no meaningful punishment on Grossman.

135. Hall and McGeough have “targeted” supervisors who have attempted to discipline Grossman for his repeated illegal conduct.

136. In protecting Grossman and ratifying his illegal and unconstitutional behavior, Defendants Buckeye, BPD, Hall, and Arlak acted egregiously, reprehensibly, and with an evil mind.

137. In protecting Grossman and ratifying his illegal and unconstitutional behavior, Defendants Buckeye, BPD, Hall, and Arlak consciously pursued a course of conduct knowing that it created a substantial risk of harm to [REDACTED] and others like him.

138. BPD employees have brought these and other serious concerns to the attention of Buckeye City Manager Roger Klingler. Defendant Buckeye has done nothing to address defendants' conduct.

I.

FIRST CAUSE OF ACTION

Violation of constitutional rights under color of law (42 U.S.C. § 1983)

(False arrest)

139. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs.

140. Defendant Grossman, during all times relevant herein was acting under color of state law. This defendant is being sued in his individual capacity for the purposes of this cause of action.

141. [REDACTED] had a Fourth Amendment right to freedom of movement, and to be free from illegal and unreasonable arrest.

142. Defendant Grossman violated this right by detaining and arresting [REDACTED] for alleged drug use without reasonable suspicion or probable cause. This defendant was not acting in good faith, was acting under color of law, and violated [REDACTED]'s Fourth Amendment rights.

143. Defendant Grossman's actions in illegally detaining and arresting [REDACTED] caused damage to Plaintiffs, in an amount to be proven at trial.

II.

SECOND CAUSE OF ACTION

Violation of constitutional rights under color of law (42 U.S.C. § 1983)

(Use of excessive force)

144. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs.

145. Defendant Grossman, during all times relevant herein was acting under color of state law. This defendant is being sued in his individual capacity for the purposes of this cause of action.

146. [REDACTED] had a Fourth Amendment right to be free from being subjected to the use of excessive force by an arresting officer.

147. Defendant Grossman violated this right by slamming [REDACTED] against a tree, tackling him to the ground, and pinning him down for an extended amount of time, despite having no reasonable suspicion or probable cause to believe that any crime had been committed. This defendant was not acting in good faith, was acting under color of law, and violated [REDACTED]'s Fourth Amendment rights to be free from excessive force.

148. Defendant Grossman's actions in tackling [REDACTED] to the ground and pinning him down as part of an illegal and unreasonable arrest caused damage to Plaintiffs, in an amount to be proven at trial.

III.

THIRD CAUSE OF ACTION

Failure to train and / or supervise (42 U.S.C. § 1983, *Monell*)

149. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs in general, and in particular paragraphs 17-41.

150. Defendants City of Buckeye, as a matter of custom, practice, or policy, failed to institute, require, and enforce proper and adequate training and supervision on interacting and dealing with individuals with disabilities—and in particular individuals with autism—when the need for such training and supervision was obvious. Defendant's failure to properly train and supervise its employees was a substantial cause in the injury that resulted to [REDACTED] and constituted a violation of [REDACTED]'s Fourth and Fifth Amendment rights.

1 151. The City of Buckeye had specific notice—including from media accounts,
2 industry publications, training videos (which were not timely disseminated) and other
3 sources that: 1) police encounters with autistic persons like [REDACTED] were “highly likely” 2)
4 that these encounters could result in death or serious bodily injury if not handled
5 appropriately; 3) that specific training as to autism (and distinct from general mental-
6 health training) was necessary; and 4) that Buckeye’s existing training program was
7 insufficient to address the risks of death or serious bodily injury that police encounters
8 with autistic persons presented.

9 152. Defendants Buckeye failed to train their employees on how to identify an
10 individual with autism and on how to distinguish such an individual from a common drug
11 user.

12 153. Defendants Buckeye failed to train their employees to recognize “stimming” as a
13 common and recurrent tool used by autistic individuals to cope with their surroundings.

14 154. Defendants Buckeye failed to train their employees to avoid unwarranted and
15 unnecessary touching of an autistic individual, when that touching could result in
16 substantial harm and anxiety to the autistic person as a result of their condition.

17 155. Defendants Buckeye failed to train their employees on techniques for
18 communicating with an autistic person, including using a reasonable tone of voice and
19 making requests that account for the person’s condition.

20 156. Defendants Buckeye failed to supervise their employees on their knowledge and
21 adherence to the practices outlined above, and others, and on the proper procedures and
22 practices used by its employees generally in interacting with disabled individuals.

23 157. Defendants’ failure to properly train and supervise their officers, as a matter of
24 policy, custom, and practice, was deliberately indifferent to [REDACTED]’s Fourth and Fifth
25 Amendment rights and done with conscious disregard for the dangers of harm and injury
26 to [REDACTED] and others similarly situated.

158. Defendants' failure to train and supervise their employees was the moving force behind the violation of [REDACTED]'s Fourth Amendment rights, and proximately, foreseeably, and actually caused Plaintiffs to suffer damages in an amount to be proven at trial.

IV.

FOURTH CAUSE OF ACTION

Americans with Disabilities Act (42 U.S.C. § 12132)

(Wrongful arrest)

159. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs.

160. [REDACTED] is an individual with a disability under the law.

161. Specifically, [REDACTED] has autism spectrum disorder, a physical and mental impairment that substantially limits one or more of [REDACTED]'s major life activities, including caring for himself, performing manual tasks, learning, concentrating, communicating, and interacting with others.

162. [REDACTED] as an individual with autism spectrum disorder, is qualified under the ADA to be free from discrimination by any public entity.

163. The BPD is a public entity within the meaning of the ADA.

164. The BPD, through defendant Grossman, discriminated against [REDACTED] by wrongfully arresting him because of [REDACTED]'s disability.

165. Defendant Grossman knew or should have known that [REDACTED] was disabled.

166. Defendant Grossman arrested [REDACTED] because of conduct related to [REDACTED]'s disability.

167. Specifically, Grossman arrested [REDACTED] after purportedly mistaking [REDACTED]'s "stimming"—an innocent activity commonly associated with and directly related to [REDACTED]'s disability—for drug use.

168. Grossman's actions amounted to a wrongful arrest under the ADA, constituted discrimination for reason of [REDACTED]'s disability in violation of the ADA, and proximately and foreseeably caused damages to Plaintiffs in an amount to be proven at trial.

V.

FIFTH CAUSE OF ACTION

Battery

169. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs.

170. Defendant Grossman acted with an intent to cause harmful or offensive contact with the person of [REDACTED] and the intended harmful or offensive contact did in fact occur.

171. Defendant Grossman slammed [REDACTED] against a tree, tackled him to the ground, and pinned him down by use of his full body weight.

172. Defendant Grossman acted in his official capacity and in the scope of his employment as officer of the BPD.

173. The harmful or offensive contact was not privileged nor consented to and was excessive, unreasonable, and done with deliberate indifference to the rights and safety of [REDACTED]

174. As a result of Defendant Grossman's intent to cause harmful or offensive contact with the person of [REDACTED] and the fact that the intended harmful or offensive contact did in fact occur, Plaintiffs suffered damages according to proof at the time of trial. Said damages are currently in excess of the jurisdictional minimum of this court and include general and special damages according to proof at the time of trial.

VI.

SIXTH CAUSE OF ACTION

Negligent Training and Supervision

175. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the preceding paragraphs.

176. Defendants Buckeye had a duty to use reasonable care in the training and supervision of its employees, including Defendant Grossman. Defendants had a duty to train their officers in the proper means of interacting with people with disabilities, including individuals with autism spectrum disorder. Defendants Buckeye had a duty to properly train their officers to avoid exposing disabled citizens to illegal arrests and avoid exposing them to the risk of excessive force. Defendants Buckeye had a duty to ensure that incidents of use of force by their employees are properly investigated, supervised, and if necessary, disciplined. Defendants Buckeye had a duty to supervise their employees to ensure that disabled citizens are not exposed to harm from an officer that has shown repeated disregard for the Constitution and the rights and safety of others.

177. Defendants Arlak and Hall had a duty to properly investigate incidents of use of force and impose discipline on employees that violate BPD regulations and state and federal laws. Defendants Arlak and Hall had a duty to ensure that their employees are adequately trained to interact with individuals with disabilities. Defendants Arlak and Hall had a duty to adequately supervise their employees to protect against violations of the constitutional rights of disabled individuals and citizens generally.

178. These defendants breached their duty of care and caused harm to Plaintiffs, including physical pain and suffering, terror, mental anguish, humiliation, degradation, damage to reputation, and financial loss.

179. As a direct, proximate, and foreseeable result of these defendants' breach of their duty of care, Plaintiffs suffered damages in an amount according to proof at the time of trial.

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PRAYER FOR RELIEF

Plaintiffs pray for judgment against defendants as follows:

1. General and compensatory damages in an amount according to proof;
2. Punitive and exemplary damages;
3. Civil penalties as provided by law;
4. Declaratory and injunctive relief remedying the continued policies, customs and practices governing how the Buckeye Police Department interacts with individuals with disabilities;
5. Attorney fees under 42 U.S.C. § 12205 and 42 U.S.C. § 1983;
6. Costs of suit;
7. And for such other and further relief as the Court may deem proper.

Dated: October 11, 2019

Respectfully Submitted,

s/ Timothy A. Scott

s/Nicolas O. Jimenez

TIMOTHY A. SCOTT
NICOLAS O. JIMENEZ

SCOTT TRIAL LAWYERS, APC
Attorneys for Plaintiffs