

STATE OF INDIANA ) IN THE OHIO COUNTY SUPERIOR COURT  
 ) CIVIL DIVISION  
COUNTY OF \_\_\_\_\_ ) CAUSE NUMBER: \_\_\_\_\_

SAMANTHA HOLLAND, IN HER INDIVIDUAL CAPACITY )  
AND AS THE PERSONAL REPRESENTATIVE OF THE )  
ESTATE OF JUSTIN HOLLAND, )  
921 HARRY AVENUE )  
LAWRENCEBURG, INDIANA 47025 )

AND )

LAURA HOLLAND )  
662 ELLSBERRY, NO. 4 )  
GREENDALE, INDIANA 47025 )

AND )

ERIC HOLLAND )  
13345 WEST COUNTY LINE ROAD )  
MORRIS HILL, INDIANA 47032 )

Plaintiffs, )

-vs.- )

KYSTIE L. JAEHNEN )  
8351 STATE ROUTE 56 W )  
RISING SUN, In 47040 )

AND )

MICHAEL C. POWELL )  
c/o INDIANA DEPARTMENT OF )  
NATURAL RESOURCES )  
4850 SOUTH STATE ROAD 446 )  
BLOOMINGTON, INDIANA 47401 )

AND )

INDIANA DEPARTMENT OF NATURAL RESOURCES )

**ATTN: DIRECTOR CAMERON F. CLARK** )  
**402 WEST WASHINGTON STREET** )  
**INDIANAPOLIS, INDIANA 46204** )  
**Defendants.** )

## **COMPLAINT**

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### **I. INTRODUCTION**

1. The Plaintiffs, the Estate of Justin Holland, by and through Personal Representative, Samantha Holland; Eric Holland, Laura Holland and Samantha Holland in their individual capacities, seek monetary damages against the Defendants for the violation of the Plaintiff's decedent, Justin Holland's rights as guaranteed under the United States Constitution, the Indiana Constitution and/or Indiana common law.

### **II. JURISDICTION AND VENUE**

2. Jurisdiction and venue in this Court are proper because a substantial portion of the events and/or omissions giving rise to this Complaint occurred in Ohio County, Indiana.
3. A Notice of Tort Claim was filed on or about August 14, 2017.
4. Further, this Court has concurrent jurisdiction with the federal courts over federal civil rights claims under 42 U.S.C. § 1983.

### **III. THE PARTIES**

5. Plaintiff Estate of Justin Holland by and through, Personal Representative, Samantha Holland; Ms. Holland was approved by the Dearborn Circuit Court, Probate Division, as the Personal Representative for the Estate of Justin Holland, on October 03, 2017. [See Order Opening Supervised Estate and Appointing Personal Representative, attached as Exhibit 1; Personal

Representative's Letters, attached as Exhibit 2 and the Personal Representative's Oath, attached as Exhibit 3].

6. Plaintiff Eric Holland is the father of Justin Holland and resides at 13345 West County Line Road, in Morris Hill, Indiana 47032 also referred to as Moores Hill, Indiana.

7. Plaintiff Laura Holland is the mother of Justin Holland and resides at 662 Ellsberry, No. 4 in Greendale, Indiana 47025.

8. Plaintiff Samantha Holland is the sister of Justin Holland and resides at 921 Harry Avenue in Lawrenceburg, Indiana 47025.

9. Defendant Kystie L. Jaehnen is an individual who resided at 8351 State Route 56 W in Rising Sun, Ohio County, Indiana at all relevant times herein. Defendant Kystie L. Jaehnen, responded to an incident on February 20, 2017 at approximately 12:39 P.M. in which Defendant Michael C. Powell, an off-duty Conservation Officer for the Indiana Department of Natural Resources had engaged in an altercation with the subject of a 911 call; and Defendant Kystie L. Jaehnen used excessive and unjustified deadly force in shooting and killing, Plaintiffs' decedent, Justin Holland.

10. Defendant Michael C. Powell was neither equipped nor properly trained to respond to the 911 call, involving Plaintiff's decedent, Justin Holland.

11. Defendant Michael C. Powell acted willfully, wantonly and with reckless disregard for the welfare of the Plaintiff's decedent, Justin Holland, by engaging in a physical altercation with Plaintiff's decedent, Justin Holland.

12. Defendant Michael C. Powell knowingly and/or willfully and/or recklessly disregarded procedures and policies which govern the approach, search and seizure and use of force on a suspect.

13. Defendant Ohio Department of Natural Resources is the state agency, which had the obligation to properly supervise and properly train the Indiana Natural Resources officers, including, *inter alia.*, Defendant Michael C. Powell.

**COUNT ONE: CIVIL RIGHTS VIOLATIONS OF 42 USC § 1983**

**[Adv. Defendants Michael C. Powell and Kystie Jaehnen]**

14. Plaintiffs reallege and restate the allegations contained in Paragraphs One through Thirteen, with the same force and effect, as though fully rewritten herein.

15. Defendant Michael C. Powell, an improperly trained Conservation Officer, is defined as a “person” under 42 U.S.C. § 1983.

16. The actions and/or omissions of Defendant – Officer Michael C. Powell, were taken under color of state law based on his authority and official position as a Conservation Officer. Defendant Kystie Jaehnen, was acting under color of state law and/or under color of the authority of state law.

17. The Fourth Amendment to the United States Constitution provides that the people shall be secure in their persons against unreasonable searches and seizures.

18. The actions or omissions of Defendant Michael C. Powell and/or Kystie Jaehnen violated Mr. Holland’s rights to be free from the excessive use of force, the unlawful use of deadly for and constituted a violation and a deprivation of his constitutional rights under the Fourth Amendment and the Fourteenth Amendment to the United States Constitution.

19. The actions, omissions and/or failures of Defendants Michael C. Powell and/or Kystie Jaehnen were made knowingly, intentionally, and/or with reckless disregard for rights of Justin Holland.

**COUNT TWO: CONSPIRACY TO VIOLATE CIVIL RIGHTS – 42 U.S.C. § 1983**

**[Adv. Defendants Michael C. Powell and Kystie Jaehnen]**

20. Plaintiffs reallege and restate the allegations contained in Paragraphs One through nineteen, (1-19) with the same force and effect, as though fully rewritten herein.

21. Defendant Michael C. Powell and Defendant Kystie Jaehnen reached an understanding, engaged in a sequence of events or course of conduct, and otherwise agreed and conspired together to violate the constitutional rights of the Plaintiff.

22. Each defendant did reach this understanding and agreement, and did engage in this course of conduct with the mutual purpose, objective, and knowledge that it would deprive Justin Holland of his rights, privileges and immunities, as guaranteed by the Constitution and laws of the United States.

23. Further, said conspiracy/joint action violated Plaintiffs' Fourth Amendment rights, under color of law, in violation of 42 U.S.C. Section 1983, and was a direct and proximate cause of their pain, suffering and mental anguish. Acting in Furtherance of this plan and conspiracy, each of the Defendants committed overt acts, including, but not limited to an unjustifiable beating and false arrest as fully alleged in paragraphs

24. This course of conduct by the Defendants was done willfully, maliciously, intentionally, or with reckless disregard, and directly and proximately caused serious injury to the Plaintiffs.

### **COUNT THREE: WRONGFUL DEATH**

**[Adv. All Defendants]**

25. Plaintiffs restate and reallege the allegations contained in Paragraphs One through Twenty-four, (1-24) with the same force and effect, as though fully rewritten herein.

26. Indiana Code § 34-23-1-1 states “[w]hen the death of one is caused by the wrongful act or omission of another, the personal representative of the former may maintain an action therefor

against the latter, if the former might have maintained an action had he or she, as the case may be, lived, against the latter for an injury for the same act or omission.”

27. The actions, omissions and/or failures of some or all of the Defendants caused Mr. Holland’s death.

#### **COUNT FOUR: SURVIVAL ACT**

##### **[ Adv. All Defendants]**

28. Plaintiffs restate and reallege the allegations contained in Paragraphs One through twenty-seven (1-27), with the same force and effect, as though fully rewritten herein.

29. Indiana Code § 34-9-3-4 states “[t]he personal representative of the decedent who was injured may maintain an action against the wrongdoer to recover all damages resulting before the date of death from those injuries that the decedent would have been entitled to recover had the decedent lived.”

30. The actions, omissions and/or failures of some or all of the Defendants caused injuries to Mr. Holland, that he would have been entitled to recovery under, had he lived.

#### **COUNT FIVE: BATTERY**

##### **[Adv. Defendants Michael C. Powell and Kystie Jaehnen]**

31. Plaintiffs restate and reallege the allegations contained in Paragraphs One through Thirty, (1-30), with the same force and effect, as though fully rewritten herein.

32. A person who knowingly or intentionally touches another person in a rude, insolent or angry manner, commits Battery, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it results in bodily injury to any other person. I.C. § 35-42-2-1.

33. The actions of the Defendants Michael C. Powell and Kystie Jaehnen constituted battery in violation of I.C. § 35-42-2-1.

34. Mr. Holland suffered harm and damages as a result of some or all of the Defendants' illegal and unlawful actions.

**COUNT SIX: NEGLIGENCE**

**[ Adv. All Defendants ]**

35. Plaintiffs restate and reallege the allegations contained in Paragraphs One through Thirty-Four, (1-34), with the same force and effect, as though fully rewritten herein.

36. The Defendants owed Mr. Holland a duty.

37. The Defendants breached their respective duty or duties by allowing their conduct and/or their inaction to fall below the standard of care that they owed to Mr. Holland by using an excessive amount of physical deadly force against Justin Holland.

38. The Defendants' breach of their respective duties owed to Mr. Holland, proximately caused compensable injury and damages to Mr. Holland.

39. Mr. Holland suffered compensable harm as a direct and proximate result of the Defendant's conduct and/or their inaction.

**COUNT SEVEN: NEGLIGENT FAILURE TO TRAIN AND SUPERVISE**

**[Adv. Indiana Department of Natural Resources]**

40. Plaintiffs restate and reallege the allegations contained in Paragraphs One through Thirty-nine, (1-39), with the same force and effect, as though fully rewritten herein.

41. The Defendant Indiana Department of Natural Resources owed Mr. Holland a duty to train and supervise its conservation officers, including, inter alia., Defendant Michael C. Powell.

42. The Defendants breached their respective duty or duties by allowing their conduct and/or their inaction to fall below the standard of care that they owed to Mr. Holland.

43. The Defendants' breach of their respective duties owed to Mr. Holland, proximately caused compensable injury and damages to Mr. Holland.

44. Mr. Holland suffered compensable harm as a direct and proximate result of the Defendant's conduct and/or their inaction.

**RELIEF REQUESTED**

45. Plaintiffs respectfully request the following relief against each of the named Defendants:

- a. Damages including compensatory and punitive damages;
- b. An award of reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
- c. All appropriate interest on all amounts that are recovered;
- d. All appropriate injunctive relief;
- e. An award of costs and expenses incurred in the prosecution of this action;
- f. All further additional relief, which the Court may deem proper and just.

**JURY DEMAND**

46. Plaintiffs demand a trial by jury pursuant to the Seventh Amendment to the United States Constitution and Article 1, Section 20 of the Indiana Constitution for all claims.

Respectfully submitted,



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**Thomas J. Dall, Jr. [3115215]**  
**Trial Attorneys for Plaintiffs**  
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STATE OF INDIANA )  
 ) SS:  
COUNTY OF DEARBORN )

IN THE DEARBORN CIRCUIT COURT  
PROBATE DIVISION  
CAUSE NUMBER:

**FILED**

IN RE: THE ESTATE OF  
JUST IN HOLLAND

OCT 03 2017

) 15001-1709-ES-34  
) ORDER OPENING SUPERVISED  
) ESTATE AND APPOINTING  
) PERSONAL REPRESENTATIVE

*R. M. [Signature]*  
CLERK OF DEARBORN CIRCUIT COURT

Petition to open supervised estate and for Appointment of Personal Representative is approved. The Court orders the appointment of Samantha Holland as personal representative of the estate of Justin Holland who died intestate, as a supervised estate for the sole purpose of pursuing a personal injury/wrongful death claim. The Clerk is directed to issue Letters to the Personal Representative upon the filing of an oath.

Date: 10-2-17

  
\_\_\_\_\_  
Judge, Dearborn Circuit Court

STATE OF INDIANA )  
COUNTY OF DEARBORN )

IN THE DEARBORN CIRCUIT COURT  
PROBATE DIVISION  
CAUSE NUMBER:

**FILED**  
OCT 03 2017  
*Rm NT*  
CLERK OF DEARBORN CIRCUIT COURT

IN RE: THE ESTATE OF  
JUST IN HOLLAND

PERSONAL REPRESENTATIVE'S  
LETTERS

This is to certify that the Probate Judge of the Dearborn Circuit Court, Dearborn County, Indiana has this day granted to Samantha Holland;

**The authority to administer the estate of Justin Holland;**

who died intestate, as a supervised estate, according to the law for the sole purpose of pursuing a personal injury/wrongful death claim.

WITNESS my hand and the seal of said Court, this 3rd day of October,  
2017.

Date: 10-3-2017

*Rm NT*  
Clerk, Dearborn Circuit Court

STATE OF INDIANA )  
COUNTY OF DEARBORN )

IN THE DEARBORN CIRCUIT COURT  
PROBATE DIVISION  
CAUSE NUMBER:

**FILED**

OCT 03 2017

*R. A. T.*  
CLERK OF DEARBORN CIRCUIT COURT

IN RE: THE ESTATE OF  
JUST IN HOLLAND

PERSONAL REPRESENTATIVE'S  
OATH

I, Samantha Holland, accept my appointment as personal representative of the estate of:  
Justin Holland;

and affirm under the penalties for perjury that I will faithfully discharge the duties of my trust,  
according to the law.

Date: 09.08.2017

*Samantha Holland*  
Samantha Holland

Samantha Holland  
Printed Name