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GREGORY T. IRELAND
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STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO

KATHERINE HAN-NOGGLE, as daughter
and next of kin to **MARY Y.C. HAN**, Deceased,
ELIZABETH WALLBRO, as personal
representative of the Estate of Mary Y.C. Han, individually
and on behalf of their decedent, **MARY Y.C. HAN**,

Plaintiff,

vs.

No. D-202-CV-2012-10367

THE CITY OF ALBUQUERQUE; DARREN WHITE, in his individual and official capacity
as Public Safety Director for the City of Albuquerque; **ROBERT PERRY**, in his individual
capacity and official capacity as the City Attorney; **CHIEF RAYMOND D. SCHULTZ**, in his
individual and official capacity as the Chief of Police of the Albuquerque Police Department for
municipal and supervisory claims; **DEPUTY CHIEF PAUL FEIST, DEPUTY CHIEF
ELIZABETH PAIZ, DEPUTY CHIEF ALLEN BANKS, COMMANDER RAE MASON**,
in their individual and official capacities as supervisors and trainers within the Albuquerque
Police Department; **MARC ADAMS**, in his individual and official capacity as Manager,
investigator, and trainer of the Albuquerque Police Department Crime Lab, **FIELD
INVESTIGATOR MICHAEL MUNIZ**, in his individual and official capacity, **OFFICER
TRICIA K. HOFFMAN**, in her individual and official capacity, and **TODD J. WILHAM**,
Albuquerque Police Department Public Information Officer in his individual and official
capacity; and **JOHN DOES 1-2**;

Defendants.

**VERIFIED SECOND AMENDED COMPLAINT FOR VIOLATIONS OF CIVIL
RIGHTS AND SUPPLEMENTAL CLAIMS UNDER STATE LAW**

COMES NOW the Plaintiff, Katherine Han-Noggle, as daughter and next of kin to Mary
Y.C. Han, Deceased, and Elizabeth Wallbro, as Personal Representative of the Estate of Mary
Y.C. Han, and Mary Y.C. Han by counsel, Vega Lynn Law Offices, LLC (Rosario D. Vega
Lynn), and for their complaint against the Defendants states as follows:

I. INTRODUCTION

Plaintiff, Katherine Han-Noggle, is the sole daughter and next of kin to Mary Y.C. Han,

deceased. Plaintiff, Elizabeth Wallbro, is Ms. Han's sister and the personal representative of the Estate of Mary Y.C. Han.

Since 1985, Ms. Han was a tireless, tenacious advocate for the rights of under-represented people and the Constitutional rights of all. During her long career, Ms. Han represented a wide variety of clients to include the homeless, victims of elder abuse, men accused of vagrancy, police officers, judges, and politicians.

Since her graduation from the University of New Mexico School of Law, Ms. Han frequently donated generously and anonymously to the law school, founded Susan's Legacy, a nonprofit foundation for battered women, and was on the board of Dismas House, a transitional living center for individuals on probation and parole. Shortly before she died, Ms. Han also filed suit against the Albuquerque Police Department ("APD") for the civil rights violations of several women charged with prostitution. The lawsuit was covered extensively by local media.

On November 18, 2010, APD Officers Tim Lonz and Jacob Welch were dispatched to Ms. Han's home after her law partner, Paul Kennedy, called 911 to report he found Ms. Han in her vehicle and that she had committed "accidental suicide". The 911 operator contacted an Albuquerque Fire Department paramedic who dispatched emergency medical services ("AFD EMS") to the home. Upon arrival to Ms. Han's home, Officers Lonz and Welch began to follow APD standard operating procedures ("SOPs") regarding an unattended death. AFD paramedics arrived on scene at the same time as Officers Lonz and Welch. After verifying that Ms. Han was deceased, AFD EMS personnel pulled back from the area immediately identifying the area as a possible crime scene.

After a short period of time, several high-ranking members of the APD and high-ranking civilian employees of the City of Albuquerque arrived on scene. Despite APD SOPs requiring

scene preservation and crime scene integrity, APD personnel as well as high-ranking civilian City of Albuquerque personnel allowed *at least twenty-six* individuals and *as many as fifty* individuals to trample the scene; thus, contaminating any evidence and preventing any party from conducting an effective investigation.

Within five minutes of his arrival, and without a factual or evidentiary basis, Defendant Paul Feist unilaterally declared Ms. Han's death a suicide. At that point, APD shut down the unattended death investigation begun by Officers Lonz and Welch and APD's homicide unit was not called to the scene. Ironically, Defendant Feist never officially assumed control of the scene. In fact, despite the omnipresence of a number of high-ranking civilian and police personnel, there was a clear absence of leadership by any specialized department and agency head.

Even though Defendant Feist declared Ms. Han's death a "suicide", numerous APD personnel went through Ms. Han's home, including her bedroom and office located on the second floor. APD made no effort to restrict access to Ms. Han's residence to only those with a legitimate reason for entering or to obtain a valid search warrant. In the interim, Ms. Han's diamond rings that she habitually wore on a daily basis went missing with no documentation.

Because of the rush to judgment in declaring Ms. Han's death a suicide, no investigation suitable for an unattended death was conducted: Neighbors, family, and close friends were not interviewed. Physical evidence was not collected. Fingerprints were not preserved. No effort was made to determine the identity nor interview the last person who may have seen Ms. Han alive.

This case concerns Defendants' interference with Ms. Han's ability to obtain justice in the courts, intentional deflection of investigative inquiry, refusal to investigate, refusal to acknowledge and avoid investigative conflict of interest and the fundamental right to know and

learn the truth.

APD should be deterred from similar action in future cases.

II. PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Katherine Han-Noggle, is the daughter and next of kin to her mother, Mary Y.C. Han and a resident of the State of New York.
2. Plaintiff, Elizabeth Wallbro, is the personal representative of the Estate of Mary Y.C. Han and a resident of Bernalillo County, State of New Mexico.
3. Mary Y.C. Han (hereinafter “Ms. Han”) died on or about November 18, 2010 in Bernalillo County, New Mexico.
4. Defendant City of Albuquerque is a political subdivision and governmental entity of the State of New Mexico that employs and is charged with exercising direct supervisory control over all APD Defendants during the time period relevant to this Complaint.
5. The City of Albuquerque is responsible for the hiring, retention, training, supervision, investigation, and discipline of its police officers and supervisors, and for the promulgation of policies and procedures that govern conduct of its police officers, both on and off duty. It also includes investigation and supervision of conduct unbecoming of officers of the law and violation(s) of the Code of Conduct by personnel.
6. On or about November 18, 2010, Defendant Darren White was employed by the City of Albuquerque as Public Safety Director and, upon information and belief, resides in Bernalillo County, New Mexico. It was White’s duty to oversee the police and fire chiefs and, as their boss, he had was the final authority and decision-maker regarding the conduct of APD’s highest-ranking officials. Unlike his predecessor, who as Public Safety Director, was overseen by the City’s Chief Administrative Officer, White was the only department director

in the city to operate with full autonomy.

7. On or about November 18, 2010, Defendant Robert Perry was employed as the City Attorney and, upon information and belief, resides in Bernalillo County, New Mexico.
8. Mr. Perry's duties as City Attorney include but are not limited to working closely with Mayor Berry and the City Council "on matters of concern to the governing body" and to "avoid all conflicts of interest."
9. Mr. Perry's duties as City Attorney did not include being present at unattended death scenes.
10. Defendant APD Chief Raymond D. Schultz (hereinafter "Chief Schultz") was appointed by Albuquerque Mayor Richard Berry and is directly responsible for the efficient conduct and operation of APD.
11. Chief Schultz is ultimately responsible for all hiring, retention, training, investigation, discipline and supervision of officers, promoting supervisors, as well as for the implementation and promulgation of all policies, procedures, customs and usages of APD or the "checking" and "correcting" of customs and usages that cause foreseeable harm or destruction.
12. For over 15 years, APD has been accredited through the Commission on Accreditation for Law Enforcement Agencies ("CALEA") which requires participating law enforcement agencies to achieve higher standards than nonaccredited departments to include submitting self-evaluations.
13. The policies and procedure promulgated by APD are contained in the Standard Operating Procedures and must be utilized by department personnel.
14. The APD SOPs are written directives issued by the Chief of Police as authorized by the City of Albuquerque, and remain in full force and effect until amended or rescinded directly by

the Chief. APD personnel do not have the discretion of choosing which SOPs to follow and which to ignore.

15. Even though Defendant White was the boss of APD Chief Schultz, White did not have any authority over the creation of or the carrying out of the SOPs including the process of investigating an unattended death.
16. Defendants Deputy Chiefs Paul Feist, Elizabeth Paiz, and Allen Banks were employed by APD on or about November 18, 2010 and, upon information and belief, reside in Bernalillo County, New Mexico.
17. As Deputy Chiefs, Banks and Paiz were required to possess excellent and personal working knowledge of the APD SOPs and APD Department policies.
18. When Paul Feist became deputy chief, he was also required to have knowledge of APD SOPs.
19. APD SOPs require “Personnel shall obey, and to the best of their abilities, protect the rights of the people as provided in the Constitution of the United States.”
20. APD SOPs require police officers to protect the rights of those persons with whom they have contact as provided for in the Constitution of the United States, the Statutes of the State of New Mexico, and the Ordinances of the City of Albuquerque.
21. Liability is sought in this case for violations of fundamental rights and the rights, privileges or immunities secured by the constitutions and laws of the United States and of New Mexico. At all times material hereto, all violations occurred as a result of conduct by public employees, peace officers, law enforcement officers, acting within the course and scope of their “duties” as defined in the Tort Claims Act and in case law.
22. The APD SOPs include procedures for scene investigations to include unattended death, and

the code of conduct for on and off duty officers.

23. The APD SOPs establish rules and procedures which affect Field Operations as well as specialized units to include Criminalistics, also known as the Scientific Evidence Division (“SED”) and the Metropolitan Forensic Sciences Center (“MFSC”).
24. SED policies and procedures require that field investigators dispatched to calls conduct preliminary investigations based on APD training, SOPs, policy, custom and practice.
25. Per the APD SOPs, Deputy Chiefs are responsible for the efficient operation of the functions of their assigned bureaus, divisions, sections, and units under their respective commands.
26. On or about November 18, 2010, Defendant Paiz was employed as Deputy Chief for the Investigations Bureau.
27. On November 18, 2010, Defendant Paiz was the supervisor for Defendants Feist and Adams.
28. On November 18, 2010, Defendant Banks was employed as Deputy Chief of the Administrative Bureau for APD and was responsible for the oversight of tactical units, homeland security and prisoner transport. On August 2, 2013 Defendant Banks was promoted to acting chief of the Albuquerque Police Department.
29. Defendant Banks did not supervise any of the personnel at Ms. Han’s home on November 18, 2010.
30. On November 18, 2010, Defendant Feist was the Commander of SED for APD.
31. As Commander, Defendant Feist assisted in drafting the SED policies and procedures for APD.
32. On behalf of APD, Defendant Feist approved the SED SOPs on or about August 6, 2009.
33. On November 18, 2010, Defendant Feist deliberately violated the SED guidelines he promulgated by, at least in part:

- (a) declaring that Ms. Han's death was a suicide,
- (2) ordering all personnel to proceed as if it were a suicide,
- (c) permitting unauthorized personnel to enter the home,
- (d) permitting unauthorized personnel to view Ms. Han in her deceased state,
- (e) not enforcing the SED procedures regarding investigations of unattended deaths,
- (f) failing to act in any official capacity.

34. On December 18, 2010, Defendant Feist was promoted to Deputy Chief of the Investigative Bureau which oversees SED.

35. APD SOPs state that Area Commanders are responsible for the direction, planning, and coordination of all functions of the division or section under their command.

36. On or about November 18, 2010, Commander Rae Mason was employed by APD and was the supervisor of the Valley Area Substation (Gerald Cline Substation) and, upon information and belief, resides in Bernalillo County, New Mexico.

37. Ms. Han's home located at 3022 Colonnade Court in Albuquerque is located within the Valley Area Command boundaries.

38. On November 18, 2010, Defendant Mason was the supervisor for all APD personnel assigned to the Valley Area Command.

39. On November 18, 2010, Defendant Tricia K. Hoffman was employed as a certified officer by APD and was assigned as a public information officer.

40. Defendant Marc Adams is a civilian employed by APD as the director of SED and, upon information and belief, resides in Bernalillo County, New Mexico.

41. On November 18, 2010, Defendant Adams had knowledge of proper crime scene procedure as the SED director.

42. APD SOPs state that the mission of SED is to provide high quality, modern scientific and technical support in the processing, collection, preservation and analysis of evidence to all areas of APD.
43. On November 18, 2010, Defendant Michael Muniz was employed as a certified officer by APD and assigned as a field investigator to SED.
44. On November 18, 2010, Defendant Todd J. Wilham (also known as “TJ Wilham”) was employed as a civilian public information officer for APD and, upon information and belief, resides in Bernalillo County, New Mexico.
45. Defendant White was Wilham’s supervisor on November 18, 2010.
46. Defendants John Does 1-2 are individuals who may have conspired to allow individuals to contaminate the crime scene and/or deprive Ms. Han and/or Ms. Han’s estate of due process and access to the courts as asserted in the allegations contained herein.
47. All of the acts complained of herein occurred in Bernalillo County, New Mexico.
48. Plaintiff has complied with the New Mexico Tort Claims Act, NMSA 1978, §41-4-1 *et seq.* and the public bodies had actual notice.
49. This Court has jurisdiction over the parties and subject matter. Venue is proper in this Court.

Previous Proceeding: Petition for Discovery

50. On October 4, 2011, Plaintiff filed a Petition for Discovery with the Second Judicial District Court, Cause Number 2011 CV 09975.
51. On November 3, 2011, the Honorable Nan Nash ordered “The City of Albuquerque and APD shall preserve all records, reports, documents, photographs, and any other record or evidence in their possession, custody, or control relating to an emergency call concerning Mary Y.C. Han on November 18, 2010, and any subsequent response or investigation. The City of

Albuquerque and APD shall not destroy, alter, amend, redact or issue new supplements to any records and/or documents, electronic or otherwise, to include but not limited to cellular phone records and/or texts and/or photographs relating in any manner to its response to an emergency call regarding Mary Y.C. Han on November 18, 2010 to include any investigation(s) or documents generated.”

Ms. Han’s Estate

52. Upon information and belief, Ms. Han had created a last will and testament prior to her death. However, at the time of her death and after, Ms. Han’s heirs have been unable to locate any will.
53. Plaintiff, Katherine Han-Noggle, is Ms. Han’s sole child and only statutory beneficiary of the Estate of Mary Y.C. Han, and should be the only beneficiary of her estate in the event this complaint results in any judgment or settlement against any Defendants on any theory of liability regardless of the results of the criminal or civil justice system’s examination of the role of any APD personnel known or unknown.
54. Mr. Paul Kennedy, Ms. Han’s law partner, without consultation with Ms. Han’s family, was appointed personal representative of the Estate on November 29, 2010. To the extent that any conveyances have taken place during the statutory time period contemplated in the New Mexico Fraudulent Conveyances Act, or other applicable law, and in the event of a judgment in this case, Plaintiffs will pursue all options available to them as the beneficiary and/or personal representative of the estate.
55. Plaintiff Han-Noggle was appointed the personal representative of the Estate on September 22, 2011.
56. Plaintiff Wallbro replaced Ms. Han-Noggle as personal representative of the Estate on

August 16, 2012.

III. GENERAL ALLEGATIONS

Death Scene

57. In the morning of November 18, 2010, Ms. Han's legal assistant informed Mr. Paul Kennedy (Ms. Han's law partner) that she had not heard from Ms. Han.
58. Either the night before or first thing in the morning, it Ms. Han's standard practice to send her assistant instructions along with a list of tasks to complete for the day via email.
59. On November 18, 2010, Mr. Kennedy went to Ms. Han's home and, at 12:37 p.m., let himself into Ms. Han's residence using a key he possessed of the home where he found Ms. Han dead in her car at which time he called the emergency line ("911") to report an "accidental suicide".
60. Mr. Kennedy with the assistance of the 911 operator informed emergency medical services personnel en-route to Ms. Han's residence that he had seen Ms. Han the night before, November 17, 2010.
61. APD SOPs do not list "accidental suicide" in its standard police code; rather, APD lists "DOA" also known as "dead on arrival" and "suicide". APD ranks both types of calls as "priority one".
62. Officers Lonz and Welch authored police incident reports and listed the offense/incident as "unattended death/dead on arrival."
63. APD SOPs require "unexplained death" to be both treated as and investigated in the same manner as a violent crime.
64. Ms. Han's death was "unexplained" and "unattended" on November 18, 2010 when Mr. Kennedy called 911.

65. At 12:39 p.m., APD personnel (Officers Lonz and Welch) were dispatched to the scene by APD Dispatch (also known as “radio”).
66. APD Dispatch coded Mr. Kennedy’s call as “10-31” which is a “suspicious person or car” and a “priority 2” call.
67. Officer Welch arrived at the scene at 12:44:56 p.m.
68. The Albuquerque Fire Department (“AFD”) personnel arrived at the scene at 12:45:05 p.m. and requested that they be advised once the scene was secure.
69. AFD requires APD to “secure the area, isolate, and deny entry”.
70. Upon arrival, APD and AFD personnel found Mr. Kennedy standing outside the home and the garage door open.
71. Mr. Kennedy admitted to the 911 operator that he opened garage door when he found Ms. Han in her vehicle, a BMW 330i.
72. Mr. Kennedy also told the 911 operator that he opened the driver’s side door to the BMW 330i to check on Ms. Han when he found her and that she was not breathing, was “in rigor” and “stiff”.
73. Mr. Kennedy told the 911 operator that “the vehicle was not running when I got here but I guess it had been.”
74. Mr. Kennedy told the 911 operator that, “it looks like an accidental suicide” and that Ms. Han had not been sick.
75. Mr. Kennedy also told the Albuquerque Fire Department (“Fire Rescue”) paramedic with whom he spoke via telephone that he last saw Ms. Han the night before.
76. Officer Welch encountered Mr. Paul Kennedy and an unknown number of AFD personnel at the scene.

77. APD SOPs require officers dispatched to the scene to: (1) Observe all conditions, events, and remarks; (2) Locate, identify, and interview witnesses, victims, and suspect(s); (3) Protect the crime scene and the evidence. Ensure that necessary evidence is collected; (4) Effect the arrest of the suspect; (5) Report the incident fully and accurately.
78. APD SOPs also require officers to: (1) identify and isolate victims, suspects, and witnesses; (2) When possible, canvass areas to identify potential witnesses prior to Violent Crimes or Criminalistics arrival; (3) Be responsible for the crime scene until relieved by the dispatched field investigator or appropriate outside personnel; (4) Write the primary offense report, to include a supplementary report containing the names of all civilians and officers, regardless of rank, present at the scene and what tasks, if any, were assigned to them.
79. Officer Welch informed APD Dispatch that Ms. Han was deceased at 12:45:46.
80. Acting Sgt. Matthew Hoisington arrived at the scene at 12:45:50.
81. Officer Lonz arrived at the scene at 12:48:00.
82. Officer Lonz requested the phone number for OMI at 12:48:18.
83. Officers Lonz, Welch and Hoisington, along with AFD personnel, followed Mr. Kennedy into the garage to observe the scene.
84. AFD personnel indicated that Mr. Kennedy led them to the garage of the residence where the “individual was obviously expired. Individual’s seat was reclined moderately and the driver’s side window and door was open.”
85. AFD personnel determined Ms. Han was “obviously deceased” and the area was “identified immediately” as a possible crime scene and turned over to APD for investigation and preservation of evidence.
86. Albuquerque Fire Department Standard Operating Guidelines state, “APD determines the

cause and manner of deaths in cooperation with the Office of the Medical Investigator to whose office bodies are delivered at the direction of police.”

87. Mr. Kennedy abruptly left the scene without providing a recorded statement.
88. As acting sergeant, Officer Hoisington was the supervisor at the scene.
89. APD SOPs require the supervisor at a scene to: (1) Respond to all reports of unattended or unnatural death, and reports of serious injury; (2) Assign a sufficient number of officers to ensure the security of the crime scene, and that victims, suspects, and witnesses are identified and isolated; (3) Ensure that personnel at the crime scene are limited to those necessary to the investigation, and that everyone assigned to the investigation, regardless of rank, submits a report; (4) Assign personnel to canvass the area for witnesses...; (5) Assign a field investigator to the hospital to identify and collect pertinent information and evidence from victims or offenders; (6) Determine if additional specialized units are required, including Violent Crimes, Criminalistics, Internal Affairs, or Risk Management Division.
90. After AFD personnel exited the garage, Officers Lonz, Welch and Hoisington entered the home again and observed Ms. Han in her vehicle.
91. Officers Lonz, Welch and Hoisington indicated the interior door leading to the garage was ajar and the garage door from the kitchen area was open several inches when they entered.
92. APD photographs show the driver's door was open by a few inches and Ms. Han's body was located in the driver's seat of the vehicle with her feet crossed and propped on the dashboard to the left side of the steering wheel. All windows to the vehicle were rolled down and the garage door was open by several inches.
93. APD photographs also show that the headlamp switch was in the "off" position.
94. The BMW 330i was not operational at the time.

95. After Mr. Kennedy and AFD personnel departed the scene, Officers Lonz, Welch and Hoisington determined the home was otherwise clear of personnel.
96. While in the home, Lonz kept insisting he smelled vehicle emissions and that they needed to leave the home soon.
97. Despite complaining about the strong odors, at no time did APD personnel request that AFD personnel take a meter reading of the carbon monoxide levels.
98. Officers Lonz, Welch and Hoisington declared the scene “all safe” at 14:02:28.
99. Lonz informed Hoisington that the call to Ms. Han’s home was a “high priority” call and that he was concerned that the Chief and “DCs” (deputy chiefs) would be going to the home. Officer Lonz also said, “We don’t need too many people down here right now. We don’t need people tromping through the scene right now.”
100. Lonz also told Hoisington he was concerned that the DCs (deputy chiefs) would “push themselves in” the home and Hoisington agreed.
101. APD SOPs forbid access to any individual to include the chief of police and/or deputy chiefs and/or APD personnel to any “interior perimeter point of a crime scene where injury may occur and/or evidence destroyed” to preserve evidence.
102. At the scene, Hoisington commented to Lonz that Ms. Han’s vehicle and personal belongings appeared “expensive”. Hoisington also commented to Lonz that Ms. Han did not have the cherry red skin coloring regularly seen in carbon monoxide deaths via motor vehicle.
103. Lonz asked Hoisington if the redness on Ms. Han’s arm was the result of rigor and not carbon monoxide poisoning.
104. Lonz also asked Hoisington his opinion of what occurred at the home and the belt tape

was turned off before Hoisington's answer could be recorded.

105. APD SOPs require the dispatched field officers to be responsible for the crime scene until relieved by the field investigator.
106. Lonz requested radio "start FI" (field investigator) at 12:52:23.
107. Field Investigator Muniz ("FI Muniz") was not dispatched to the home until 13:01:34.
108. APD SOPs state the field investigator will "Have initial authority over the crime scene, and make the determination to call-out Violent Crimes personnel and Criminalistics personnel. The Field Investigator will confer with a Field Services supervisor and medical personnel to make the determination of the call-out."
109. At 1:02 PM Defendant Darren White received a telephone call from Fire Chief Breen. On information and belief Chief Breen had been briefed by his staff about the 911 call and his officers observations upon arriving at Ms. Han's residence.
110. At 1:20 PM Defendant Darren White received a call from an unavailable number, which lasted for two minutes.
111. Immediately after hanging up the call from the unavailable number, Defendant Darren White telephoned Defendant Rob Perry.
112. After finishing the call with Defendant Rob Perry, Defendant Darren White telephoned Defendant Albuquerque Police Chief Ray Schultz.
113. While on the telephone with Defendant Ray Schultz, Defendant Darren White received several incoming calls in rapid succession from Defendant TJ Wilham (3 calls) and Defendant Allen Banks (2 calls). Defendant White's flurry of activity occurred within 10 minutes of receiving the telephone call from the unavailable number.
114. Defendant Darren White did not often receive telephone calls from unavailable numbers,

having received one call from an unavailable number on 11/14/10 and then next receiving a call from an unavailable number on 11/24/10.

115. Subsequent to and during these phone calls high-ranking civilian and APD personnel began arriving at Ms. Han's residence.

116. Lonz and Welch were the lowest ranking law enforcement officers present and stayed outside the scene while the highest ranking officers; to wit, Public Safety Director White, Deputy Chiefs Paiz and Banks, Commander Feist, and Mr. Adams entered the home and stayed for several hours.

117. Lonz and Welch made initial contact with a couple of neighbors, but on information and belief, were directed to stop their efforts. Lonz and Welch did not list the neighbors contacted or their comments in any written report.

118. APD standard operating procedures require law enforcement officers to report to their immediate supervisor the neglect of duty or disobedience of orders of other department personnel which may come to their attention. The APD SOPs do not allow law enforcement officers to report SOP insubordination directly to Chief Schultz.

119. In his report, Welch noted that "[D]uring [his] investigation, other APD personnel arrived on scene and entered the home: D.C. A. Banks, D.C. B. Paiz, D. White, T.J. Wilam (sic), Commander A. Feist, Officer T. Grover, Officer R. Burge, PIO Sgt. T. Hoffman, Sgt. M. Meisinger, A/Sgt. M. Hoisington, FI Sgt. Lopez, FI M. Muniz, OMI T. Coaker (sic) and additional personnel that were not identified. I was not with them while they did a walk through of the scene."

120. Lonz wrote in his report that, "Several other personnel went inside Ms. Han's home while the investigation was still going on. I stayed outside while they did a walk through of the

residence.”

121. No explanation or procedural justification was provided to explain why the majority of these individuals entered the residence.
122. Defendant Hoffman was the public information officer at the scene.
123. APD SOPs state that, “The department public information officer (PIO) is to provide an information liaison between the department and the general public. Information disseminated from this department is to be accurate, and timely. Every effort will be made to release information to the news media with impartiality.”
124. FI Muniz’s supervisor, Sgt. Tim Lopez, was also at Ms. Han’s home on November 18, 2010.
125. None of these deputy chiefs, commanders, or sergeants are considered “necessary” and their presence interfered with Defendants’ Muniz’s investigation.
126. APD SOPs require field investigators, in part, to: (a) Upon arrival, the Field Investigator/Crime Scene Specialist will contact the initial officer to determine the circumstances, in order to establish the property boundaries and secure all evidence associated with the crime scene. (b) All unauthorized personnel will be cleared from within the crime scene boundaries. The Field Investigator/Crime Scene Specialist may request additional assistance from other officers in securing the boundaries.
127. Defendant Muniz failed to preserve the integrity of the scene and should have forbidden any unauthorized and unnecessary personnel from entering the residence.
128. APD SOPs require field investigators, in part, (a) to photograph the evidence at the scene, preserve those things that may be moved, contaminated, or destroyed; (b) photograph the entire scene at long, medium, and close range; (c) photograph witness’s viewpoints; (d)

process the scene for latent prints; (e) create a diagram to clarify any points of the investigation that cannot be covered in the report and (f) identify, collect, and properly package and preserve all evidence, including blood, clothing, weapons, etc.

129. Defendant Muniz also failed to completely and thoroughly photograph the evidence, process fingerprints or collect and identify and preserve evidence.

130. Defendant Muniz did tag into evidence a CD containing photographs that he took at the scene.

131. Ms. Elizabeth Wallbro, Ms. Han's biological sister showed up at the scene at approximately 2 p.m. and immediately asked APD personnel about Ms. Han's diamond rings.

132. Officers Robbin Burge and Thomas Grover were not involved in the investigation and showed up at the scene.

133. Mr. Kennedy abruptly left the scene without permission from APD personnel. Sometime later that afternoon, Mr. Kennedy returned and APD again allowed him inside the residence.

134. It was not until after Mr. Kennedy returned to the scene that Officer Lonz recorded a brief statement (rather than a full interview) in person.

135. Defendant Banks instructed FI Muniz to release a laptop computer, found in close proximity to Ms. Han, to Mr. Kennedy.

136. At FI Muniz's instruction, Officer Burge placed the laptop at the foot of the stairs and called out to Mr. Kennedy that the computer was ready for him to pick up.

137. Ms. Han habitually, frequently, and routinely used the laptop computer for personal and business purposes.

138. On November 17, 2010, Ms. Han used the computer to send an email to a local bank

asking for a personal loan and notified the bank that she would be settling her previous personal loan account.

139. At 1:34 PM Defendant Rob Perry telephoned Ms. Han's mobile phone. Defendant Rob Perry already knew that Ms. Han was deceased at the time he made the phone call to Ms. Han's telephone.

140. Ms. Han was known for her frequent use of her mobile phone. On information and belief Defendant Rob Perry telephoned Ms. Han's number because her phone was not located by APD at Ms. Han's residence.

141. Mr. Kennedy also had possession of Ms. Han's mobile phone. Ms. Han would frequently use her mobile phone to call, text and email other individuals to include her legal assistant.

142. On November 17, 2010, Ms. Han sent Mr. Kennedy a text message telling him that she was no longer interested in staying with the law firm and that he could have the firm.

143. Ms. Han's call records show regular activity in the months leading up to November 18, 2010.

144. Mr. Kennedy is not an immediate member of the Han Family and did not have permission from the family to take any items, including her telephone, from the home.

145. Upon information and belief, Mr. Kennedy left Ms. Han's residence with her mobile phone.

146. Within minutes of his arrival, Defendant Feist ordered personnel to treat the "unattended death" as a suicide and not as a homicide and forbade personnel from calling out the criminalistics unit.

147. In doing so, Defendant Feist ignored that at 6:39 PM on 11/17/10, an unknown individual arrived at Ms. Han's front door, causing Ms. Han to discontinue a phone conversation she

was having with her sister Liz Wallbro in which they were discussing driving to San Francisco to visit Ms. Han's daughter Katherine Han-Noggle for the upcoming Thanksgiving holiday.

148. The visitor to Ms. Han's residence that evening was likely the last person to have seen Ms. Han alive and as such would have been a critical person to identify and interview.

149. To reach Ms. Han's front door, a visitor must first pass through a locked front gate.

150. On information and belief, the front gate was locked at the time Paul Kennedy entered Ms. Han's residence through the front door and found her deceased in the garage.

151. APD is a para-military organization. Despite SOPs, APD has developed an unwritten "blue code of silence" under which law enforcement officers are expected to lie or keep silent in situations where their supervisors order them to perform duties that would conflict with SOPs. Once Defendant Feist ordered the scene to be processed as a suicide, lower ranking personnel had no choice but to follow his order.

152. APD SOPs require the Field Investigator/Crime Scene Specialist sergeant to determine if the Major Crime Scene Team and Homicide Detectives need to be notified.

153. On November 18, 2010, Defendant Feist was neither fulfilling the position as field investigator nor was he the crime scene specialist sergeant.

154. APD did not advise Defendant Feist that he was in charge of the potential crime scene; thus, Defendant Feist did not have authority to make any decisions regarding the scene.

155. In violation of its SOPs, APD did not conduct an investigation into the "unattended death" nor was the APD SED criminalistics unit (otherwise known as the "Major Crime Scene Team") called out to the scene.

156. The duty of the Major Crime Scene Team is, in part, to respond and take charge of crime

scenes involving unexplained deaths.

157. The Major Crime Scene Team is responsible for all documentation, collection, preservation of evidence, and for reconstruction of the crime scene if possible.

158. Though lacking a cause of death determination from OMI, APD still did not process the home as a crime scene.

159. In violation of APD SOPs, none of the many law enforcement personnel present created a crime scene log.

160. In violation of APD SOPs, none of the many law enforcement personnel present recorded any interviews with any suspects nor did they take written statements from neighbors.

161. Officers Welch and Lonz conducted preliminary interviews with a couple of neighbors believing that the death should be investigated as a crime scene. However, their efforts were thwarted after only speaking with two neighbors. As a direct result, a full neighborhood canvass typically associated with an unattended death was not conducted.

162. Because Defendant Feist declared Ms. Han's death a suicide, APD also failed to interview Ms. Han's family and close personal friends.

163. On November 18, 2010, Chief Schultz was in telephone communication with Defendants Adams, Banks, White and Hoffman as well as Mayor Richard J. Berry while Defendants Banks, Adams, White and Hoffman were in Ms. Han's home.

164. Chief Schultz also made at least one phone call to Albuquerque Police Officer Association ("APOA") President, Joey Sigala, on November 18, 2010 at 3:12 p.m.

165. Defendant Perry communicated with Mr. Kennedy by telephone at least twice while he was in Ms. Han's home.

166. Defendants Schultz and Perry also communicated with APD legal counsel, Kathryn

Levy, several times in the afternoon of November 18, 2010.

167. Defendant White called Mr. Kennedy by telephone at least once while he was in Ms. Han's home.

168. On November 18, 2010, Defendants Perry and White were also at the Kennedy & Han law offices located at 201 12th Street in Albuquerque.

169. On November 18, 2010 at 16:14 hours, Lonz typed on the mobile data terminal ("MDT") "DON'T WANNA TYPE ANYTHING ON THE KDT TO GET SUED FOR." in response to an inquiry from another police officer who was "JUS CURIOUS ABOUT THE MARY HAN CALL."

170. APD SOPs require personnel to write timely reports on suicides or attempted suicides, and death calls.

171. APD SOPs also require personnel to write reports of "any incident that is of great importance where the officer is at the scene, at the scene of a crime, or any incident where a citizen/victim requests a report."

172. Defendant Paiz filed a type-written supplemental report on March 16, 2011 admitting she knew the decedent to be Ms. Han and walked through the interior of the home to view Ms. Han in the garage. Paiz noted the original offense was "unattended death/DOA".

173. Defendants Hoffman, Adams, Feist and Officer Burge all filed type-written supplemental reports on March 28, 2011 admitting they were present at the scene because they knew that Ms. Han was the decedent. All indicated that the original offense was "unattended death/DOA".

174. Defendants Perry, White and Wilham submitted hand-written supplemental reports on March 28, 2011, March 29, 2011 and March 31, 2011 respectively noting the original offense

as “apparent suicide”. None of these individuals were employed by APD in any law enforcement capacity on November 18, 2010.

175. Defendants Mason, and Banks failed to submit supplemental reports.

176. Sgts. Tim Lopez and Michael Meisinger, who were at Ms. Han’s home, did not submit reports.

177. On August 10, 2011, the Mayor’s office released the following statement: “Due to the high profile nature of Ms. Han and the fact that all personnel recognized that the confidentiality of Ms. Han’s legal work-product should be protected, many City personnel responded to the scene. Public information personnel and police administrators were present to address questions from the local media. The City Attorney was present to address issues surrounding legal documents, computers and other sensitive legal items present at the scene. The City Attorney worked with Ms. Han’s law partner, Paul Kennedy at the premises after it was released by investigators, to ensure confidentiality of any legal items present.”

178. On November 18, 2011, *Albuquerque Journal* reporter, Scott Sandlin, was standing in Ms. Han’s driveway, while the garage door was open and Ms. Han’s body was visible to anyone.

179. Ms. Sandlin covered Ms. Han’s death for the *Albuquerque Journal* on November 19, 2010, “Talented Attorney Found Dead” and quoted Defendant Hoffman.

180. APD Defendants failed to properly secure the residence for investigation - allowing unauthorized and nonessential personnel to improperly enter and remain in Ms. Han’s home, allowing them to walk through the scene, contaminate the scene, and remove items.

181. Unknown APD personnel rifled through Ms. Han’s purse and removed her wallet.

182. Defendant Muniz photographed Ms. Han’s identification card.

183. Unknown APD personnel moved a memo pertaining to a recent complaint for discrimination filed by Ms. Han against Defendant Banks.
184. At no time did APD personnel request a Court order that would have prevented APD personnel from rifling through Ms. Han's belongings, walking through her home, or protected her belongings from theft.
185. If the scene was declared a suicide, APD personnel lacked authority, reasonable suspicion, or probable cause to search Ms. Han's home or remove property.
186. At no time did APD request permission from Ms. Han's sister, Elizabeth Wallbro, to rummage through Ms. Han's belongings or to be in Ms. Han's home.
187. APD SOPs also state, "The victim will not be removed from the scene prior to the investigation if he/she is declared dead by medical personnel."
188. Ms. Han's body was moved and was photographed outside of the vehicle while lying on the floor. An individual wearing standard APD uniform pants can be seen standing over Ms. Han's body.
189. Ms. Han's body was placed in a body bag and onto a gurney. While OMI personnel were moving Ms. Han's body through the home, Defendant Wilham informed OMI personnel that they were not to show Ms. Wallbro her sister's body. OMI personnel refused.
190. Defendant Wilham is a civilian employee and did not have authority to be at the scene nor to issue orders.
191. The BMW's engine was not running at the time Officers Lonz, Welch and Hoisington entered the garage with Mr. Kennedy. APD reports are conflicting: one report indicates the engine was warm while another states the engine was cold.
192. Welch wrote in his report that, "[A]fter OMI and the responding FI arrived on scene and

removed the body a second check of the vehicle was conducted, the battery was in fact dead and the vehicle would not start or function any of the internal electronics.”

193. Welch contacted a technician from the local BMW dealership to inquire about the 330i.

The technician informed Welch that, “[T]he only way the vehicle would turn off was if it was out of gas or physically turned off at the ignition point. I provided this information to the field investigator.”

194. At the direction of Defendant Muniz, APD had the BMW 330i jump-started. APD failed to report the manner in which the vehicle was jump-started, or take photographs of the dials after the vehicle was jump-started. APD failed to report if the BMW 330i was in proper working condition when it was jump-started.

195. The 2006 BMW 330i was fully functioning on or about November 18, 2010 and it was Ms. Han’s custom and habit to have it regularly maintained. Ms. Han did not own or drive any other vehicle.

196. On November 19, 2010, Defendant Muniz contacted OMI and falsely informed the OMI investigator that the BMW dealership informed him that the 330i “has a carbon monoxide sensor that shuts the vehicle off with the level is high. It would not shut the electrical off. The vehicle had 1/2 tank of gas in it. We talked that either the sensor or the exclusion of oxygen in the garage would cause the vehicle to shut down. He advised that the battery was completely dead and when they got the vehicle started the radio didn't come on but [] it is unclear whether it would or not.”

197. Defendant Muniz knew or should have known that his statement to OMI was contrary to the information provided to him by Officer Welch on November 18, 2010.

198. At all times leading up to November 18, 2010, Ms. Han’s custom and habit was to work

out at a local gym every morning.

199. At all times leading up to November 18, 2010, Ms. Han's custom and habit also included running several miles in the early morning.

200. Ms. Han did not deviate from her custom and habits for physical fitness at any time.

201. On November 18, 2010, Ms. Han was found wearing clothing that she would typically wear to the gym or to run.

202. On November 24, 2010, Defendant Feist informed OMI investigator, Amy Wyman, that Ms. Han had stopped going to the gym to work out in the mornings. It was not within Defendant Feist's authority or official duties to provide personal information about Ms. Han when he lacked any firsthand knowledge.

203. This statement was false since Ms. Han had continued to exercise up to the time of her death and Defendant Feist knew or should have known the statement was false and is a direct violation of the APD SOPs requiring honesty in all investigations.

204. On November 24, 2010, OMI investigator, Amy Wyman, attempted to speak with Mr. Kennedy about the laptop computer. Mr. Kennedy did not respond to the request for information.

205. On November 24, 2010, Ms. Wyman again contacted Defendant Feist and informed him of the difficulty getting the computer from Mr. Kennedy. Defendant Feist informed Ms. Wyman that, "He does not think Paul Kennedy will turn it over to APD because the decedent was involved in many civil law suits against APD, and Mr. Kennedy made comments on scene that the information on the computer was attorney-client priveledged (sic). I asked if APD would be willing to get a search warrant. He advised me to contact Mr. Kennedy first, and if that did not work we would work on getting a warrant."

206. Defendant Feist never assisted OMI in obtaining either the warrant or the computer.
207. OMI records show that Ms. Han died with 84.8% carboxyhemoglobin saturation levels in her system.
208. A level of 84.8 percent is incredibly high and an improbable cause of death from ambient air contaminated with carbon monoxide. This high level should have alerted Defendant Muniz that further investigation into Ms. Han's death was needed.
209. At no point did APD conduct carbon monoxide testing in order to determine the carbon monoxide levels emitted from Ms. Han's vehicle nor did they obtain vehicle emissions testing data from the New Mexico Motor Vehicle Division that could provide information about carbon monoxide levels.
210. Such testing could have provided information on the amount of time it would have taken for Ms. Han's carbon monoxide level to reach that high a level of concentration and whether Ms. Han's death would have occurred rapidly or would have required several hours to occur.
211. APD SOPs allow internal affairs investigations under the direction of the Chief of Police "To conduct thorough investigations, which will protect innocent personnel and identify personnel guilty of misconduct, so that proper administrative action can be taken."
212. At no time did Chief Schultz order an internal affairs investigation despite being in constant communication with personnel at Ms. Han's home and knowing that the scene was contaminated by APD personnel.
213. In November 2010, the SED criminalistics unit was called out "seven times and were exceptionally busy preparing for the officer-involved cases that [were] imminent" to include processing "1,883 fingerprints into AFIS".
214. In contrast to these property calls, APD failed to process even one fingerprint in Ms.

Han's home, check for ring marks on her fingers for her missing diamond rings, thoroughly process the BMW 330i, examine the contents of the glass found in Ms. Han's vehicle, test a plastic bag found under Ms. Han's leg for DNA or chemicals, check for the missing property, or collect any of the prescription medication found in Ms. Han's home.

215. On November 18, 2010, many detectives assigned to the APD homicide unit were attending a training conference in Albuquerque conducted by the Federal Bureau of Investigation. However, homicide detectives did not leave the conference to even attempt to investigate circumstances of Ms. Han's death though they discussed her death.

216. Defendants received inadequate training by the City of Albuquerque and/or APD regarding proper SOPs at the scene of an unattended, unexplained death, preservation of evidence and entering private property.

217. The APD SOPs do not allow APD personnel to deviate from the procedures set forth.

Stolen Rings

218. On November 18, 2010, Ms. Han's sister, Elizabeth Wallbro, informed law enforcement personnel that Ms. Han's diamond rings were missing.

219. It was Ms. Han's habit and custom to wear a 5 carat diamond ring set in platinum bands and a 3 carat diamond ring set in white gold band. Ms. Han would wear one ring on each hand every day.

220. Ms. Han had been seen wearing the rings regularly to include on November 17, 2010.

221. The rings are family heirlooms, are valued at over \$100,000, and remain missing.

222. Mr. Kennedy informed Ms. Wallbro that "the cops took the rings".

223. On November 18, 2010, at no time did any APD personnel investigate or search for the missing rings.

224. Because of APD's inactions, Ms. Wallbro was forced to file a police report with APD on February 1, 2011 about the missing rings.
225. APD assigned the investigation to Sgt. John Sullivan.
226. On March 15, 2011, Sgt. Sullivan sent an email to Paul Feist, Harold Prudencio, and Elizabeth Paiz informing them that he needed "to interview the following APD personnel at Ms. Han's home on November 18, 2010: Officer Jacob Welch, Officer, Mike Muniz, Officer Tom Grover."
227. In the March 15, 2011 email, Sgt. Sullivan informed the following individuals that they needed to write supplemental reports to APD's file concerning Ms. Han's unattended death call of November 18, 2010: Public Safety Director Darren White, CAO Robert Perry, Deputy Chief Elizabeth Paiz, Deputy Chief Allen Banks, Deputy Chief Paul Feist, Crime Laboratory Director Marc Adams, Officer Tricia K. Hoffman and TJ Wilham.
228. After Sgt. Sullivan sent his email, all individuals, except for Deputy Chief Banks, submitted supplemental reports.
229. In his investigation, Sgt. Sullivan attempted to interview various individuals who were also at Ms. Han's home on November 18, 2010 to include but not limited to: Ms. Wallbro, Defendants Tom Grover, Robbin Burge, Beth Paiz, Rob Perry, TJ Wilham, Darren White, Trish Hoffman, Tim Lonz, and Jacob Welch.
230. Ultimately, Sgt. Sullivan only interviewed Ms. Wallbro, Defendants Lonz, Welch, Grover, Burge and Muniz.
231. When Sgt. Sullivan interviewed Defendant Lonz on February 11, 2011, Lonz was accompanied by the APOA President, Joey Sigala, and counsel, Fred Mowrer.
232. When Sgt. Sullivan interviewed Defendant Welch on March 16, 2011, Welch was

accompanied by APOA President Joey Sigala.

233. Officer Welch confirmed being present when Ms. Wallbro inquired about the rings on November 18, 2010.

234. When Sgt. Sullivan interviewed Officers Grover and Burge on March 17, 2011 and March 24, 2011 respectively, he commented that criminalistics should have been called to the home on November 18, 2010 and, if they had, everyone would be sleeping better at night.

235. Sgt. Sullivan also stated that the number of APD personnel and brass at Ms. Han's home was unheard of, highly improper and that, at the very least, the individuals at the scene should have automatically filed supplemental reports to note their presence at the home.

236. On March 29, 2011, Sgt. Sullivan interviewed Paul Kennedy via telephone because Mr. Kennedy "refused to meet [] in person".

237. In the interview, Mr. Kennedy "would only tell me that he did not see if Mary was wearing the rings or not when he discovered the body" and that Ms. Han "almost always wore them."

238. Mr. Kennedy then refused to answer any questions "on his knowledge of Mary's personal habits."

239. Mr. Kennedy did confirm to Sgt. Sullivan that he took Ms. Han's laptop from the scene on November 18, 2010.

240. On April 22, 2011, Officer Burge asked Sgt. Sullivan if he would be willing to submit a request to test the plastic bag found in Ms. Han's vehicle for DNA. Sgt. Sullivan responded that it was a "great idea" but he was "not authorized to do any sort of investigation into the death" and he was limited to "theft of the rings."

241. On April 22, 2011, Defendant Banks was Sgt. Sullivan's supervisor.

242. On May 3, 2011, Ms. Wallbro sent a letter to Defendant Feist personally requesting his assistance into the investigation of Ms. Han's death and the missing rings.

243. In the letter, Ms. Wallbro informed Defendant Feist that "given Mary's standing within the community and the numerous on-going lawsuits her office has against your department, APD would work diligently and transparently to reinforce its credibility to its mission in solving crimes given an opportunity such as this. I noticed that there were so many people both uniformed and not [] go through her house, and am wondering if this [is] the normal practice of APD to do so in every death."

244. Defendant Feist did not respond to Ms. Wallbro's request for assistance.

245. On March 15, 2012, APD's counsel, Kathryn Levy, informed Judge Nash that APD would not provide the photographs taken by FI Muniz at the scene in digital form but assured the Court that all photographs had been provided. However, the photographs produced by APD were reformatted as .pdf files with all metadata removed.

246. On or about October 29, 2012, Defendant Feist issued an oral directive to the SED photo lab personnel prohibiting personnel from allowing anyone access to the photographs taken by FI Muniz without Defendant Feist's express authorization.

Prostitution cases

247. On January 12, 2010, Ms. Han filed a complaint against Chief Schultz and the City of Albuquerque for civil rights violations, tort claims, damages and injunctive relief for the unlawful search, seizure and arrest of several prostitutes by the APD vice unit ("prostitute complaint").

248. On October 31, 2010, Ms. Han added Michael Callaway to the prostitute complaint. At that time, Mr. Callaway was employed by APD as a Deputy Chief.

249. On November 18, 2010, Deputy Chief Callaway was in the direct line of supervisors for Officers Welch, Lonz, Hoisington, Meisinger, Burge and Grover as well as Defendants Mason and Hoffman.
250. Mr. Kennedy settled the prostitution complaint against all individual named defendants on April 8, 2011.
251. On May 16, 2011, Mr. Kennedy, purportedly acting on behalf of twelve individuals who claimed they were falsely arrested by the same APD Vice Unit, filed a Petition for Relief from Judgment in Lieu of Writ of Error Coram Nobis Under Rule 1-060(B) NMRA 2011 in the matter of *Earl Begay, et al. v. State of New Mexico, et al.*, CV-2011-05273.
252. On January 9, 2013, certain individuals filed a separate lawsuit in the United States District Court against the same defendants claiming they were not informed of the Petition for Relief and Mr. Kennedy acted without their knowledge or consent. *See M.G., L.J. AND F.C. v. Young, Smith, Hudson, Callaway, Schultz and City of Albuquerque*, No. 1:13-cv-00023-RHS-LFG.

Political Appointments and Appearance of Conflict of Interest

253. On November 3, 2010, Susana Martinez was elected as Governor of the state of New Mexico.
254. From the primary onward, Paul Kennedy provided legal services to the Martinez campaign.
255. Defendant Darren White starred in a campaign commercial for the Martinez campaign.
256. On November 5, 2010, Governor-elect Susana Martinez announced the names of the core members of her transition team and named Paul Kennedy as her chief legal counsel.
257. On November 9, 2010, Governor-elect Susana Martinez announced the selection of

Defendants White and Perry to her transition team.

258. A full investigation into Ms. Han's death was necessary because Ms. Han's law partner, Paul Kennedy, found her deceased, admitted that he saw Ms. Han the night before and insisted that Ms. Han died of "accidental suicide."
259. In 2008, Defendant Darren White ran for the US House of Representatives.
260. Paul Kennedy contributed the maximum contributions to Defendant Darren White's primary and general election campaigns.
261. Paul Kennedy was the last New Mexico Supreme Court judge appointed by a Republican governor prior to the election of Susana Martinez.
262. On July 15, 2011, Defendant White resigned his position as Director of Public Safety for the City of Albuquerque after he appeared at the scene of a car accident involving his wife and was accused of preventing law enforcement and officers from following SOPs to include testing Defendant White's wife for drugs and/or other impairments. Defendant White stated his decision to resign was in an effort to "end distraction surrounding his wife's recent accident." Defendant White hired Paul Kennedy to represent him and his wife as well as to deal with the fallout of his actions at the scene of his wife's accident.
263. Both Darren White and Paul Kennedy were mentioned in media coverage surrounding the New Mexico GOP's efforts to have New Mexico's United States Attorney David Iglesias fired. Paul Kennedy represented the accountant who brought the allegations forward in the Metropolitan Courthouse scandal, and also represented plaintiffs from Chaves County suing on behalf of the NM GOP's push to enforce stricter voter ID laws at the same time that, according to the US Department of Justice, Darren White headed the Republican Party's Voter Fraud Working Group.

264. In 2006, Paul Kennedy and Rob Perry formed a political action committee to push for the election of a Republican for the position of New Mexico Attorney General.
265. Defendants White and Perry had (a) enough of a personal relationship with Mr. Kennedy that their presence at the scene, communications with Mr. Kennedy (including visiting his office on the day that Ms. Han was found dead), and (b) the failure to request another agency investigate that it created an apparent conflict of interest regarding the handling of the investigation into Mary Han's death.
266. Utilizing the services of another law enforcement agency, one not subject to Defendant White's supervision or control, would have prevented a conflict of interest and allowed a full and complete investigation into the circumstances of Ms. Han's death.
267. Defendant Darren White had a previous situation where he failed to conflict out a police department that he oversaw involving another unattended death, and that his refusal to do so, later led to extensive criticism from the media and a judge.

Investigation by New Mexico Attorney General

268. On March 13, 2013, The New Mexico Attorney General, Gary King, announced his office was looking into Ms. Han's death.
269. As of this date, the Attorney General's office is conducting an active, on-going investigation into the circumstances of Ms. Han's death and the conduct of Defendants and APD personnel at the scene on November 18, 2010, as well as the conduct of Defendants after November 18, 2010.

IV. CAUSES OF ACTION

1.

(COUNT I)

TORT CLAIMS ACT NEGLIGENT SUPERVISION AND/OR NEGLIGENT

**INVESTIGATION CAUSING VIOLATION OF PROPERTY RIGHTS TO WIT,
STOLEN RINGS**

270. Plaintiffs restate the allegations above as if fully set forth herein.
271. At all material times, the Tort Claims Act, § 41-4-12, waived immunity for “violation of property rights or deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties.”
272. At all material times, the individual Defendants were law enforcement officers acting within the scope of their duties, and/or officials with supervisory authority over law enforcement officers.
273. At all material times, all defendants had actual notice of the likelihood of litigation arising from their negligent supervision and/or investigation. Some individual Defendants expressly remarked during the course of the investigation that they did not want to be sued for statements typed on the “KDT”, and the City Attorney was dispatched to the scene to personally supervise the disposition of documents or items relating to Ms. Han’s work as an attorney.
274. Defendants have a duty to investigate all violations of the criminal laws of which they are aware pursuant to NMSA 1978, § 29-1-1. Defendants here deliberately violated numerous standards of conduct pertinent to this statutory duty, set forth more specifically herein as “Standard Operating Procedures” or “SOP”.
275. On November 18, 2010, Defendants knew or should have known that deliberately disobeying APD SOPs would prejudice any full, fair, complete, unbiased, competent and professional investigation into Ms. Han’s death.

276. On November 18, 2010, Defendants knew or should have known that their actions would impede an investigation by interfering with communications among necessary personnel and any follow up investigations.
277. Instances of failures to perform a competent investigation included, but may not be limited to, failures to:
- a. dispatch the criminalistics unit,
 - b. prevent APD personnel who were not at the scene in any official and necessary capacity from trampling the scene;
 - c. measure and diagram the crime scene,
 - d. photograph the interior of the home,
 - e. completely photograph the scene,
 - f. section off the garage or the home to preserve the scene,
 - g. attempt to prevent other personnel from entering the garage,
 - h. check the mechanics of the vehicle,
 - i. fingerprint the vehicle or any of the contents therein,
 - j. request AFD to take a meter reading of the air in the home,
 - k. wait until the carbon monoxide test was complete in February 2011 before declaring it a suicide;
 - l. to show that Ms. Han left a suicide note;
 - m. prevent personnel from giving Mr. Kennedy the computer from Ms. Han's vehicle which contained communications from Ms. Han;
 - n. to investigate whether Ms. Han had any serious health concerns at the time of her death;

- o. to investigate the missing diamond rings Ms. Han habitually wore; and
- p. request the investigative assistance of another law enforcement agency.

251. Property lost or damaged includes, but may not be limited, property described herein as Stolen Rings, to wit, “a 5 carat diamond ring set in platinum bands and a 3 carat diamond ring set in white gold band”. Upon information and belief, said property was stolen during the course of police investigation of Ms. Han’s death. Alternatively, Defendants failed to investigate the possibility that Ms. Han's death occurred in connection with a robbery.

2.
(COUNT II)
TORT CLAIMS ACT
NEGLIGENT SUPERVISION AND/OR NEGLIGENT INVESTIGATION
CAUSING DEPRIVATION OF CONSTITUTIONAL RIGHTS

252. Plaintiffs reinstate the allegations above as if fully set forth herein.
253. Defendants violated, or their negligence caused the violation of, the Fourth Amendment of the United States Constitution to be free from unlawful searches by entering Ms. Han’s home, inspecting and moving items contained in the home without a warrant and without probable cause.
254. Defendants violated, or their negligence caused the violation of, Article II, Sections 4 and 18 of the New Mexico Constitution that guarantees citizens the right to petition the Courts as well as substantive and procedural due process in state proceedings.
255. Defendants’ actions in trampling the scene, contaminating evidence and failing to preserve evidence, prevented Plaintiffs from seeking any judicial redress against any third party that may have harmed or caused harm to Ms. Han.
256. Defendants thus deprived Plaintiffs of privileges extended by the Constitution of the State of New Mexico to seek redress in the Courts of New Mexico thereby depriving her of Civil

Rights guaranteed by the Constitution, including adequate, effective and meaning access to the courts. Article II, Sections 4 and 18 of the New Mexico Constitution guarantee citizens the right to petition the Courts as well as substantive and procedural due process in this State's proceedings.

257. Upon information and belief, at least some Defendants deliberately and maliciously deprived either Ms. Han of her liberty and property interests by interfering with the investigation into Ms. Han's cause of death by violating APD SOPs, failing to investigate the lost property at the time Ms. Han was found, and depriving her of her Civil Rights guaranteed by the New Mexico Constitution by entering the property without a warrant, out of personal animus toward Ms. Han.

3.
(COUNT III)
TORT CLAIMS ACT
NEGLIGENT SUPERVISION AND/OR NEGLIGENT INVESTIGATION
CAUSING VIOLATION OF PROPERTY RIGHTS
TO WIT, SPOILIATION OF EVIDENCE

258. Plaintiffs restate the allegations above as if fully set forth herein.

259. APD distributed and maintained the mobile phones used by certain personnel who were at Ms. Han's home on November 18 2010, to include but not limited to: Defendants Robert Perry, Darren White, Chief Ray Schultz, Officers Timothy Lonz and Jacob Welch, Sgt. Timothy Lopez, Sgt. Michael Meisinger, Sgt. Matthew Hoisington, Defendants Feist, Paiz, Banks, Mason, Adams, and Wilham.

260. On August 8, 2011, Plaintiffs' counsel did inform Chief Raymond Schultz about the possibility of a claim against APD and requested that APD preserve any and all documents electronic and otherwise relating to Ms. Han in any manner.

261. Despite Judge Nash's verbal order of November 3, 2011 and filed on November 23, 2011, APD failed to preserve the mobile phones of APD personnel to include but not limited to: Defendants Adams, Banks, Hoffman, Paiz, and White that these individuals used on November 18, 2010.
262. The mobile phones may contain potential evidence bearing on the Plaintiffs' legal claims.
263. The mobile phones may contain information sent by APD personnel at Ms. Han's home on November 18, 2010 to include photos of Ms. Han in her deceased state.
264. APD has spoliated the potential evidence contained in the mobile phones by losing, destroying, mutilating, misplacing or significantly altering the following, but not limited to, certain mobile phones in June 1, 2011 (Banks and Adams), and September 2, 2011 (Paiz).
265. By doing so, APD intentionally disrupted or defeated Plaintiffs' legal claims.
266. APD's spoliation of the evidence inhibits either Plaintiffs' ability to prove their legal claims in this lawsuit.
267. Moreover, the negligent supervision of, and negligent investigation by, APD personnel at the scene caused the loss of certain physical evidence forever, leaving the fact finder in this case to rely heavily on circumstantial evidence yet to be discovered. Said negligence merits sanctions to be determined by the Court, but which may include adverse inferences against the Defendants.

4.

(COUNT IV)

**VIOLATION OF CIVIL RIGHTS PURSUANT TO 42 U.S.C. § 1983 BY DEFENDANTS
CITY OF ALBUQUERQUE, WHITE, PERRY, SCHULTZ, FEIST, PAIZ, BANKS,
MASON, ADAMS, MUNIZ, HOFFMAN**

268. Plaintiffs reinstate the allegations above as if fully set forth herein.
269. Defendant APD is a local government agency of the municipality of the City of

Albuquerque.

270. Defendants are state actors who are and were at all times pertinent hereto employees of Defendant APD.

271. Defendants controlled the scene at Ms. Han's home on November 18, 2010 and prevented other law enforcement personnel from following proper procedure for an unattended death.

272. The Plaintiffs have a substantive and due process right of access to the courts as a privilege and immunity under Article IV of the United States Constitution and the Fourteenth Amendment Due Process Clause, and the right to petition the government as granted by the First Amendment.

273. APD operates as a para-military organization. APD has unwritten, but official policies and/or customs in place, that require lower ranking officers to allow higher ranking officers to assume control of a crime scene without question.

274. The actions of Defendants, under the color of state law, intentionally, willfully and maliciously destroyed evidence from the scene such that their actions resulted in concealing the perpetration of a wrong in a manner that denied Ms. Han and/or her heirs the ability to seek redress by the court.

275. To the extent any evidence was gathered, APD lower ranking personnel were so mis-directed that further obfuscation was the only result, effectively and permanently ending the prospect of anyone, including Plaintiffs, from ever being able to find a cause and manner of Ms. Han's death.

276. Defendant Perry, as counsel for Defendant APD, knew or should have known that APD had an obvious conflict of interest in being in Ms. Han's home; yet, Defendants White,

Schultz, Banks, Feist, Paiz, Mason, Adams insisted on staying in the home, allowing at least twenty-six unknown individuals to enter the home, invade Hs. Han's privacy and maintained presence at the scene.

277. Defendants' interference with any investigation, constant presence at the scene, and refusal to relieve the obvious conflict of interest all taken together are tantamount to a "cover up", even if some Defendants were unaware exactly of what or who they were protecting with their efforts.

278. Other Defendants, to include John Does 1-2, actively participated in deflecting inquiry by adopting and promulgating the "accidental suicide" as the explanations for Ms. Han's death.

279. Plaintiffs allege that, in doing the foregoing acts and things above complained of, the defendants were conspirators engaged in a scheme and conspiracy designed and intended to deny and deprive Ms. Han and/or Plaintiffs of rights guaranteed to Ms. Han under the Constitution and laws of the United States and particularly those enumerated above.

280. Plaintiffs were therefore denied meaningful access to the courts.

281. The denial of access to the courts caused damages to Plaintiffs and to the estate of Plaintiffs' decedent.

5.
(COUNT V)
VIOLATION OF 42 U.S.C. § 1985(2) BY DEFENDANTS

282. Plaintiffs reinstate the allegations above as if fully set forth herein.

283. Defendants' conduct impeded, hindered, obstructed and defeated the due course of justice with the intent to deny plaintiffs equal protection, or to injure their attempts to enforce equal protection on behalf of their decedent.

284. Defendants' conduct was intentional.

285. Plaintiff and their decedent were injured as a result of conduct interfering with the judicial process.

6.
(COUNT VI)
VIOLATION OF 42 U.S.C. § 1985(1)

286. Plaintiffs reinstate the allegations above as if fully set forth herein.

287. Plaintiffs bring a good faith claim that they have standing to allege that Defendants interfered with the duties of federal officials, which caused them damages.

288. Defendants conspired to tell misinform the OMI about the decedent and/or deliberately misstated they would assist in the OMI investigation when it was not true and/or refused to provide a statement to OMI or any other agency inquiring into Ms. Han's death.

289. A Section 1985(1) conspiracy does not require a discriminatory animus to support liability regarding race or gender, and none is alleged in this count.

290. Proof of force or intimidation is not necessary when the conspiracy intends to injure the person or property of Plaintiff.

291. Defendants (or some of them) met with Plaintiffs and knew from personal meetings with one or both Plaintiffs that they were inquiring into Ms. Han's death. Defendants intentionally acted to prevent Plaintiffs from pursuing any independent investigations knowing Plaintiffs would be injured, punished and incur private investigative fees as a means to force Plaintiffs to drop the matter altogether.

292. Defendants' acts included affirmative steps to prevent any investigation into any other means of death other than "accidental suicide".

293. The interference with the duties of other agencies in this case by Defendants caused injury to the person and property of Plaintiffs.

7.
(COUNT VII)
VIOLATION OF 42 U.S.C. § 1985(3)

294. Plaintiffs reinstate the allegations above as if fully set forth herein.
295. Defendants conspired to intentionally deflect official inquiry into the circumstances surrounding the death of Ms. Han whom had actively litigated against Defendants for many years, or otherwise conspired to protect the department and/or the special interests of other individuals from any scrutiny.
296. Defendants conspired for the purpose of depriving, directly or indirectly, Plaintiffs and other relatives who might wish to bring a claim in court, of the equal protection of the laws, or of equal privileges and immunities under the laws, to bring meaningful claims in court.
297. Defendants' conspiracy was motivated by class-based, invidiously discriminatory animus, was in violation of federal laws that guarantee meaningful access to the courts and the violence against women statutes. In this case the invidious discriminatory animus that was class-based included racially invidious and women.
298. Defendants dismissed Ms. Han as a woman who stopped exercising and engaging in any regular physical activity to belie their claim that she was depressed and suicidal and/or she committed "accidental suicide".
299. At the scene, Defendants engaged in deliberate actions meant to deflect any purposeful or meaningful investigative resources and reflects class-based invidiously discriminatory animus behind the conspirators' actions.
300. Defendants committed various acts in the furtherance of the objects of the conspiracy, including but not limited to Defendant Feist ordering personnel to proceed as a "suicide" which resulted in the loss of any and all evidence.

301. As a result, Ms. Han was injured, and was deprived of rights or privileges of being a United States citizen.

8.
(COUNT VIII)
PLAINTIFFS' CLAIM AGAINST CHIEF SCHULTZ
FOR SUPERVISORY LIABILITY UNDER 42 U.S.C. SECTIONS 1985(3), 1984, 1986

302. Plaintiffs reinstate the allegations above as if fully set forth herein.

303. Chief Schultz was one conspirator in the Section 1985(3) claims described herein.

304. In addition or in the alternative, Chief Schultz was in communication with APD personnel in Ms. Han's home to include but not limited to Defendant Banks and Adams as well as Albuquerque Fire Department Chief Breen and had knowledge of a conspiracy and had the power to prevent and/or stop it.

305. Chief Schultz knew of Ms. Han's multiple litigation against APD, knew that his employees should not be at the scene, and knew or should have known that SOPs require unattended deaths to be fully investigated and knew or should have known that the allegations of "accidental suicide" should have investigated by an agency without the history with Ms. Han.

306. The conspiracy included deliberate plans, practices, patterns, customs and efforts to prevent any meaningful investigation into Ms. Han's death scene to include any follow up inquiry into the conduct of APD personnel at the scene as well as the conduct of Defendants Perry and Wilham.

307. Chief Schultz failed to utilize his power to prevent a Section 1985 conspiracy aimed at deflecting inquiry, and therefore, is liable under 42 U.S.C. Section 1986.

308. Chief Schultz's failure to act and supervise amounts to callous, deliberate indifference to

the constitutional rights of Plaintiffs.

309. Chief Schultz's supervisory response to the obvious need for an independent and immediate investigation in this case as well as the immediate need to prevent further trampling of Ms. Han's death scene was so inadequate as to show a deliberate indifference to or tacit authorization of the alleged offensive practices of deflecting and controlling the investigation in a "cover up".

310. Chief Schultz is liable for supervisory omissions in this case and under these facts for at least the following reasons:

a) there has been a failure of training in the face of obvious need to recognize conflicts of interest with taxpayer investigatory dollars and act accordingly;

b) those individuals who were responsible for drafting, implementing and enforcing the SOPs were violating the SOPs by intimidating lower ranking officers;

c) there has been a failure of training in the face of obvious need to adequately and professionally investigate;

d) there has been a statutory violation of 42 U.S.C. §1986;

e) there has been a failure to correct the unconstitutional practices and conditions described in this complaint intentional deflection of investigative inquiry;

311. An affirmative causal link exists between Chief Schultz's supervisory inactions and the particular constitutional injuries suffered by Plaintiffs.

312. Plaintiffs were damaged as a result, and their rights were violated.

V. REQUEST FOR RELIEF

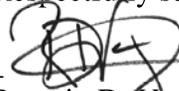
WHEREFORE, Plaintiffs seek the following relief:

1. compensatory damages sufficient to make the Estate of Mary Y.C. Han whole for the

actions by APD personnel to include replacement value of the personal property taken from the scene;

2. punitive damages against all defendants in their individual capacities if it is found they were acting beyond their scope of duties and in any individual capacity;
3. costs, expenses and interest as allowed by law;
4. equitable relief including but not limited to (a) an order precluding Defendants from asserting any defenses which may have been disproved by the destruction or loss of evidence; and/or (b) an instruction to the jury that it may consider that the lost evidence would be unfavorable to the Defendants; or (c) an instruction that supervisory liability is proven as a matter of law;
5. such other and further relief as the Court deems just and proper.

Respectfully submitted,



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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail to counsel of record on this 16th day of August, 2013:

Mr. Stephen G. French
French & Associates PC
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Albuquerque, NM 87102-5302

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Molly Schmidt-Nowara
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A handwritten signature in black ink, appearing to read 'Rosario D. Vega Lynn', written over a horizontal line.

Rosario D. Vega Lynn

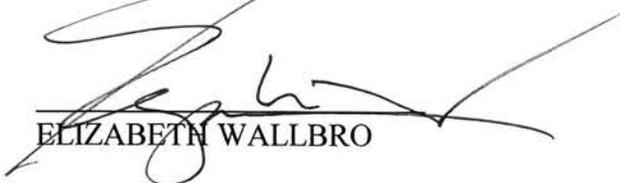
VERIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The undersigned affiant, being first duly sworn, upon oath, deposes and says:

My name is Elizabeth Wallbro and I am the Personal Representative of the Estate of Mary Y.C. Han and Ms. Han's biological sister. I am familiar with the claim at issue in this matter.

I have read over, know and understand the contents of the foregoing Second Amended Complaint for Violations of the New Mexico Tort Claims Act and for Violations of Civil Rights, and the statements therein made are true of my own knowledge, except those statements that are made upon information and belief, and as to those I believe them to be true.


ELIZABETH WALLBRO

SUBSCRIBED AND SWORN TO before me this 6th day of August, 2013.


Notary Public

My commission expires:

05/31/2017

