

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

WAYNE B. LYNCH, Administrator of the
Estate of Donovan W. Lynch, Deceased,

Plaintiff,

v.

SOLOMON D. SIMMONS, III,
a/k/a, SOLOMON D. SIMMONS,
Individually And In His Official Capacity
As A Police Officer For The City Of
Virginia Beach, Virginia,

Serve: Solomon D. Simmons, III
a/k/a, Solomon D. Simmons
3558 Brigita Court
Virginia Beach, VA 23453

CITY OF VIRGINIA BEACH,

Serve: Mark D. Stiles, Esq.
Office of City Attorney
2401 Courthouse Drive
Building 1, Room 260
Virginia Beach, VA 23456

Defendants.

COMPLAINT

Case No. 2:21-cv-00341

Jury Trial Demanded

COMES NOW the Plaintiff, Wayne B. Lynch, Administrator of the Estate of Donovan W. Lynch, Deceased, by counsel, and moves this Court for judgment against Defendants, Solomon D. Simmons, III, a/k/a, Solomon D. Simmons, individually and in his official capacity as a police officer for the City of Virginia Beach, and the City of Virginia Beach, on the following grounds:

INTRODUCTION

1. This civil rights case arises from the unlawful shooting and killing of Donovan W. Lynch, (“Mr. Lynch”), a young, innocent, Black man, by a Virginia Beach Police Officer. He stood six feet, five inches tall, and weighed 305 pounds at the time of his death. He was a youth volunteer and member of Faith World Ministries and a Youth Volunteer Coordinator for the “Something in the Water” music festival. He was a gentle giant – and a man who could not be mistaken for another.
2. But on March 26, 2021, Virginia Beach Police Officer Solomon D. Simmons shot Mr. Lynch twice, killing him on the streets he grew up on.
3. When Officer Simmons shot Mr. Lynch, he was walking to his car with a friend. Officer Simmons was on his way to respond to an incident in which Mr. Lynch was not a suspect and not involved. Mr. Lynch posed no threat to Officer Simmons or anyone else.
4. Mr. Lynch’s father, Wayne B. Lynch, brings this action in his capacity as the Administrator of his son’s estate to vindicate Mr. Lynch’s rights under state and federal law to be free of arbitrary, deadly violence by the police.

JURISDICTION

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as it involves claims under federal law, namely 42 U.S.C. § 1983.
6. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a) over the state law claims, including claims alleged pursuant to Virginia Code § 8.01-50, *et seq.* (wrongful death statute), or, alternatively, pursuant to Virginia Code § 8.01-25, *et seq.* (survival statute).

7. Pursuant to Virginia Code § 15.2-209, written notice of this claim was timely provided to the City Attorney's Office for the City of Virginia Beach within six months after the cause of action accrued. A copy of the Notice of Claim is attached hereto as Exhibit A.

VENUE

8. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in this district.
9. Assignment to the Norfolk Division of the Eastern District of Virginia is proper pursuant to Eastern District of Virginia Local Rules 3(B)(4) and 3(C) because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in this division.

PARTIES

10. Plaintiff Wayne B. Lynch, Administrator of the Estate of Donovan W. Lynch, Deceased, at the time of the incident described herein, was an adult over the age of 18 and a resident of the Commonwealth of Virginia.
11. Plaintiff is the father of Mr. Lynch, who was an adult over the age of 18 and a resident of the Commonwealth of Virginia at the time of his death on March 27, 2021. A copy of Mr. Lynch's Death Certificate is attached hereto as Exhibit B.
12. Mr. Lynch was a twenty-five year old Black man. He was six feet, five inches tall and weighed 305 pounds at the time of his death.
13. Plaintiff was qualified and duly appointed as Administrator of the Estate of Donovan W. Lynch, Deceased, by the Virginia Beach Circuit Court on June 17, 2021. A copy of the Certificate of Qualification is attached hereto as Exhibit C.
14. Defendant Solomon D. Simmons, III, a/k/a, Solomon D. Simmons ("Officer Simmons") was at the time of the incident described herein an adult resident of the Commonwealth of

Virginia. At all relevant times, Officer Simmons was employed by the Virginia Beach Police Department (“VBPD”), a division of the City of Virginia Beach.

15. At all relevant times, Officer Simmons was acting in the course and scope of his employment with VBPD; as an agent, servant and/or employee of VBPD; and under color of state law pursuant to 42 U.S.C. § 1983.

16. Defendant City of Virginia Beach (“Virginia Beach”) is a municipal corporation operating under the laws of the Commonwealth of Virginia.

17. At all relevant times, Virginia Beach operated and controlled the VBPD, and was the public employer of Officer Simmons.

FACTUAL ALLEGATIONS

18. On the evening of March 26, 2021, Mr. Lynch was socializing with his friend Darrion Marsh (“Mr. Marsh”) at the Virginia Beach Oceanfront Resort Area (the “Oceanfront”).



(Mr. Lynch and friends)

19. At approximately 11:20 p.m., Virginia Beach Police were called to the Oceanfront to investigate a report that gunshots had been fired.
20. When the gunshots were fired, Mr. Lynch and Mr. Marsh were in a restaurant. They had no involvement in that incident.
21. When Mr. Lynch and Mr. Marsh left the restaurant, they saw a throng of people and Virginia Beach Police Officers. They decided to leave the Oceanfront and began to walk away from the area and towards the cars in which they had arrived.
22. Upon information and belief, it was while Mr. Lynch and Mr. Marsh were walking towards their cars that they encountered Officer Simmons.
23. Immediately, unlawfully, and without warning, Officer Simmons fired his police-issued firearm at Mr. Lynch, shooting him twice and killing him.
24. At the time of his death, Mr. Lynch was 6'5" and weighed 305 lbs. A former offensive lineman for the University of Virginia College at Wise, he stood out due to his enormous size. He was unmistakable as anyone else.



(Mr. Lynch at a recent family event.)

25. At all relevant times, Mr. Lynch was not speaking or acting in a manner that would suggest that he posed *any* threat, let alone a *deadly* threat, to Officer Simmons or anyone else. He was neither resisting nor evading arrest.

26. Upon information and belief, Officer Simmons failed to identify himself or issue any warning prior to firing his police-issued firearm at Mr. Lynch.



(Mr. Lynch was an offensive lineman for the University of Virginia College at Wise.)

27. Upon information and belief, Officer Simmons failed to attempt to stop or otherwise determine the identity of Mr. Lynch prior to firing his police-issued firearm.
28. During the incident, Officer Simmons failed to make any reasonable effort to address and/or diffuse the situation in a non-violent or non-lethal manner.
29. During the incident, Officer Simmons failed to activate the body camera that he was wearing. Officer Simmons knew or should have known that his body camera needed to be activated pursuant to Virginia Beach Police policies, procedures, and/or protocols.

30. Upon information and belief, Officer Simmons failed to render life-saving medical aide and/or failed to cause others to render life-saving medical aide to Mr. Lynch after shooting him twice.

31. As a result of Officer Simmons's actions, Mr. Lynch died at or near the scene on or about March 27, 2021.

COUNT I – 42 U.S.C. § 1983 – EXCESSIVE FORCE

32. Plaintiff realleges and incorporates paragraphs 1 – 31, as if fully set forth herein.

33. Count I is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.

34. Officer Simmons used lethal force against Mr. Lynch, who was innocent, posed no danger to Officer Simmons or anyone else, and was unmistakable for another human being due to his enormous size and weight.

35. The shooting was motivated at least in part by Mr. Lynch's race as a Black man. The shooting further constituted an excessive and unreasonable use of force under the totality of the circumstances, and it deprived Mr. Lynch of remedies, privileges and immunities guaranteed to every citizen of the United States, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution.

36. At all relevant times, Officer Simmons was acting as an agent, servant, and/or employee of Virginia Beach. In his individual and official capacities, Officer Simmons acted within the scope of his employment as a VBPD officer and under pretense and color of state law.

37. As a direct and proximate result of Officer Simmons's unreasonable and wrongful use of force that violated Mr. Lynch's civil and constitutional rights, Mr. Lynch died on March 27, 2021.

38. Officer Simmons's acts were beyond the scope of his jurisdiction, without authority of law, and in abuse of his powers.
39. No reasonable officer in Officer Simmons's position would have acted in the wrongful manner Officer Simmons did, under the circumstances presented on the night in question.
40. Officer Simmons acted willfully, knowingly, and with specific intent to deprive Mr. Lynch of his constitutional rights secured by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution.

COUNT II – 42 U.S.C. § 1983 – FAILURE TO PROPERLY TRAIN AND SUPERVISE

(Virginia Beach's Custom and Policy)

41. Plaintiff realleges and incorporates paragraphs 1 – 40, as if fully set forth herein.
42. Count II is brought against Virginia Beach.
43. Upon information and belief, prior to the death of Mr. Lynch, Virginia Beach had a custom or policy of failing to properly train, instruct, and/or supervise its police officers, including Officer Simmons, as to the proper circumstances under which to draw a firearm and/or use deadly force, or to as to the proper techniques for exhausting all reasonable alternatives before using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or non-lethal force.
44. Upon information and belief, Virginia Beach was aware that its inadequate policies and practices made it substantially more likely that innocent individuals like Mr. Lynch would be subjected to unreasonable and/or deadly force by Virginia Beach Police Officers.

45. Such inadequate training, instruction, and/or supervision constitutes deliberate indifference on the part of Virginia Beach to the rights of those persons, including Mr. Lynch, whom its police officers are likely to encounter.
46. As a direct and proximate result of Virginia Beach failing to perform its ministerial duties as stated above, Mr. Lynch was subjected to the unlawful use of deadly force by Officer Simmons, and was thereby deprived of his civil rights as guaranteed under the United States Constitution, and state and federal statutes.

COUNT III – GROSS NEGLIGENCE

47. Plaintiff realleges and incorporate paragraphs 1 – 46, as if fully set forth herein.
48. Count III is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.
49. During the incident in question, it was Officer Simmons's duty as a sworn police officer in the Commonwealth of Virginia to act with reasonable care and due regard for persons within the community, including Mr. Lynch.
50. Without limitation, Officer Simmons breached said duty in the following particulars:
- a. Failed to make a reasonable inquiry into Mr. Lynch's identity or motivation prior to using deadly force, even though Mr. Lynch was innocent of any offense, was not acting in a threatening manner, and was unmistakable for another human being due to his enormous size and weight;
 - b. Failed to identify himself as a Virginia Beach police officer prior to firing his weapon at Mr. Lynch;
 - c. Failed to attempt to stop or halt Mr. Lynch, or use other non-lethal force to ascertain the situation prior to using deadly force;

- d. Failed to make a reasonable effort to determine whether Mr. Lynch posed a viable threat prior to firing his weapon;
- e. Failed to exhaust all other reasonable alternatives before using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or less lethal force;
- f. Failed to use only that level of force necessary to successfully accomplish legitimate police functions and/or objectives and which was commensurate with the level of threat presented;
- g. Failed to use a reasonable type and degree of force based upon the facts of the situation and that was commensurate with the level of threat presented;
- h. Failed to render life-saving medical aide and/or failed to cause others to render life-saving medical aide to Mr. Lynch after shooting him twice; and
- i. Breached his duty to Mr. Lynch in such other respects that will become known through the course of discovery.

51. The aforesaid conduct and actions of Officer Simmons demonstrated such an indifference to Mr. Lynch as to constitute an utter disregard of caution or prudence, amounting to a complete neglect of the safety of Mr. Lynch. Officer Simmons's gross negligence, as described herein, is conduct that would shock the conscience of fair-minded people.

52. As a direct and proximate result of Officer Simmons's aforesaid conduct, Mr. Lynch died on March 27, 2021.

53. As a further direct and proximate result of the conduct of Officer Simmons, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental

anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

54. Plaintiff is a statutory beneficiary of Donovan W. Lynch, Deceased.

COUNT IV – ASSAULT AND BATTERY

55. Plaintiff realleges and incorporates paragraphs 1 – 54, as if fully set forth herein.

56. Count IV is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.

57. In the course of shooting Mr. Lynch on March 26, 2021, Officer Simmons committed an assault and battery against Mr. Lynch, i.e., by discharging at least two bullets from his police-issued weapon that struck Mr. Lynch in an offensive manner against his will, and/or by placing Mr. Lynch in reasonable fear that he may receive further imminent bodily harm and/or injury.

58. Said conduct on the part of Officer Simmons was committed without legal justification or excuse.

59. As a direct and proximate result of Officer Simmons's aforesaid conduct, Mr. Lynch was injured on March 26, 2021, and died on March 27, 2021.

60. As a further direct and proximate result of the conduct of Officer Simmons, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

61. Plaintiff is a statutory beneficiary of Donovan W. Lynch, Deceased.

COUNT V - SURVIVORSHIP

62. Plaintiff realleges and incorporates paragraphs 1 – 61, as if fully set forth herein.

63. Count V is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.

64. The aforesaid acts and omissions of Officer Simmons proximately caused Mr. Lynch to suffer great pain and anguish from the time he was shot by Officer Simmons until the time of his death on March 27, 2021.

65. As a direct and proximate cause of the aforesaid acts and omissions of Officer Simmons, the Estate of Donovan W. Lynch is entitled to damages for the significant pain and suffering that Mr. Lynch endured while still alive.

COUNT VI – VIRGINIA CODE § 8.01-50, et seq. – WRONGFUL DEATH

66. Plaintiff realleges and incorporates paragraphs 1- 61, as if fully set forth herein.

67. Count VI is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.

68. Mr. Lynch's death was caused by the wrongful, reckless, grossly negligent, and/or excessive use of force by Officer Simmons.

69. Had Mr. Lynch survived Officer Simmons's wrongful, reckless, grossly negligent, and/or excessive use of force, he would have been entitled to maintain an action against him and recover damages in respect thereof.

70. As a further direct and proximate result of Officer Simmons's aforesaid acts and omissions, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort,

guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

71. Plaintiff is a statutory beneficiary of Donovan W. Lynch, Deceased.

COUNT VII - PUNITIVE DAMAGES

72. Plaintiff realleges and incorporates paragraphs 1 – 71, as if fully set forth herein.

73. Count VII is brought against Officer Simmons in his individual capacity and in his official capacity as a police officer of the VBPD.

74. The acts and omissions of Officer Simmons that directly and/or proximately caused the death of Mr. Lynch, including but not limited to the application of deadly force against Mr. Lynch, constituted acts and omissions which under the circumstances amounted to a willful, wanton, reckless, malicious, brutal, and violent disregard of the rights and safety of Mr. Lynch and for which an award of punitive damages is warranted.

75. As a direct and proximate result of the aforesaid conduct, Mr. Lynch was deprived of his civil rights as guaranteed under the United States Constitution, and state and federal statutes; and Mr. Lynch died on March 27, 2021.

76. As a further direct and proximate result of the conduct of Officer Simmons as aforesaid, plaintiff claims an award of punitive damages pursuant to Virginia Code § 8.01-52.

77. Plaintiff is a statutory beneficiary of Donovan W. Lynch, Deceased.

WHEREFORE, Plaintiff, Wayne B. Lynch, Administrator of the Estate of Donovan W. Lynch, Deceased, by counsel, demands judgment against Defendants, Solomon D. Simmons, III, a/k/a, Solomon D. Simmons, individually and in his official capacity as a police officer for the City of Virginia Beach and the City of Virginia Beach, jointly and severally, for damages in the amount of Fifty Million Dollars (\$50,000,000.00), together with the cost of this action, attorneys'

fees, prejudgment interest from March 26, 2021, and any other relief this Court deems just, proper and equitable. Plaintiff further requests punitive damages be awarded against Defendant, Solomon D. Simmons, III, a/k/a, Solomon D. Simmons, individually and in his official capacity as a police officer for the City of Virginia Beach, in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00).

Finally, Plaintiff demands a trial by jury.

**WAYNE B. LYNCH,
ADMINISTRATOR OF THE ESTATE
OF DONOVON W. LYNCH, DECEASED**

By: /s/
Joshua J. Coe, VSB# 80236
Anthony M. Gantous, VSB# 78186
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Email: alexspiro@quinnemanuel.com

Counsel for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Wayne B. Lynch, Administrator of the Estate of Donovan W. Lynch, Deceased

(b) County of Residence of First Listed Plaintiff Virginia Beach City
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Anthony M. Gantous, Anchor Legal Group, PLLC, 5101
Cleveland St., Virginia Beach, VA 23462, 757-529-0000

DEFENDANTS

Solomon D. Simmons and the City of Virginia Beach

County of Residence of First Listed Defendant Virginia Beach City
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		INTELLECTUAL PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	IMMIGRATION	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 443 Housing/Accommodations			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
	PRISONER PETITIONS			
	<input type="checkbox"/> 463 Alien Detainee			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	Other:			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

Brief description of cause:

Civil rights case (excessive force) arising from the unlawful shooting and killing of Donovan Lynch by a Virginia Beach police officer.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
50,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/21/2021

SIGNATURE OF ATTORNEY OF RECORD

A. Gantous

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



Joshua J. Coe, Esq.
Anthony M. Gantous, Esq.*
Stephen D. Lentz, Esq.^
Macayla M. Nicolaison, Esq.
Shannon B. Bayona, Esq.
Jason Head, Esq. †
* Also licensed in OH
^ Also licensed in TN
† Of Counsel, licensed in TX & VA

April 26, 2021

Joshua J. Coe, Esq.
jcoe@anchorlg.com

Via Hand Delivery and U.S. Certified Mail Return Receipt Requested

Mark D. Stiles, Esquire
Virginia Beach City Attorney
City Attorney's Office
2401 Courthouse Drive, Bldg. 1
Virginia Beach, Virginia 23456

Re: Notice of Claim, Litigation Hold of Tangible Items, Documents and Digital/Electronic Evidence

Claimant's Name/Our Client: The Estate of Donovan Lynch (the "Estate")
Date of Loss: March 26, 2021 at or about 12:00 am
Location of Homicide: Southwest Corner of 20th Street and Pacific Avenue,
Virginia Beach, VA.

Dear Mr. Stiles,

Please be advised that our firm, Anchor Legal Group, PLLC, has been retained to represent the Estate of Donovan Lynch, deceased (hereinafter "the Estate"), in a claim for personal injuries and the wrongful death of Donovan Lynch (hereinafter "Donovon") occurring on March 26, 2021. Donovan was wrongfully and intentionally shot with a firearm by Officer Solomon D. Simmons, of the Virginia Beach Police Department. Please accept this letter as the Estate's Notice of Claim pursuant to §15.2-209 of the Code of Virginia.

The nature of this claim is for personal injury and wrongful death as a direct and a proximate result of the actions of the City of Virginia Beach Police Department and its agents and/or employees. Specifically, in the early morning hours of March 26, 2021, at approximately 12:00 am, Donovan was shot and killed by a Virginia Beach Police Officer, believed to be Officer Solomon D. Simmons. As a result of the actions of the City of Virginia Beach and its agents and/or employees, Donovan was caused great physical injury and death. At all times relevant hereto, the Virginia Beach Police Officer who shot Donovan, and other officers/agents/employees of the Virginia Beach Police Department acted with a high degree of reckless disregard for the safety, well-being, and life of the public.

As noted, this letter is to first advise you of our firm's representation in this matter. You and your liability insurance carrier are hereby instructed to make all further contacts concerning this matter through our office(s). If a representative of the Estate has previously provided the City



The Estate of Donovan Lynch

of Virginia Beach or its representatives with any authorizations for the release of medical, employment, or any other information, please be advised that such authorizations are hereby wholly revoked. Additionally, if the City of Virginia Beach or its representatives have obtained or taken a recorded statement from Officer Solomon D. Simmons or any witness to the incident, please forward a transcript of such statement to this office within thirty (30) days of your receipt of this letter.

Preservation of Evidence/Litigation Hold

Further, this letter serves as notice of our demand for the City of Virginia Beach and its agents and representatives to fully preserve any and all evidence relevant and material to this incident and that such evidence be maintained and preserved and not destroyed, modified, altered, repaired or changed in any manner. Further, pursuant to the Virginia Freedom of Information Act, Va. Code §2.2-3700 et seq., I hereby request you provide me with the information and documents described below.

Specifically, we request that you preserve and provide, **at a minimum**:

- a. Any and all information, documents, data video and audio recordings, including, but not limited to traffic cameras, security cameras, police body cameras, all footage obtained from all businesses/entities, and photographs depicting the incident giving rise to the above claim, whether such information is electronically or otherwise stored in any other format;
- b. All information, documents, and electronic data containing any information pertaining to the incident that occurred on or about March 25 - 26, 2021 involving Donovan Lynch;
- c. Any and all written, audio, video or otherwise recorded statements of witnesses, employees, independent contractors, police officers, including Officer Solomon D. Simmons, and/or my client's representative(s) concerning the incident giving rise to this claim;
- d. Any and all incident reports, investigative reports, or accident reports involving the incident or claim;
- e. All information, documents and electronic data containing any information whatsoever about Officer Solomon D. Simmons and any/all officers/agents/employees of the City of Virginia Beach involved with this incident;
- f. All information, documents, and electronic data containing information about complaints, and/or claims pertaining to Officer Solomon D. Simmons;

The Estate of Donovan Lynch

- g. All information, documents and electronic data containing information about applications, background information, evaluations, and information which would otherwise be stored in personnel file(s), relating to Officer Solomon D. Simmons;
- h. All information, documents and electronic data containing any information pertaining to any and all incidents that occurred within a 1-mile radius of the Southwest Corner of 20th Street and Pacific Avenue in the City of Virginia Beach, from 10:00 pm, March 25, 2021, to 12:00 pm March 26, 2021;
- i. Any e-mails, electronic messages, letters, memos, or other documents concerning the shooting and death of Donovan Lynch that occurred on or after March 26, 2021;
- j. Any and all e-mails, electronic messages, letters, memos, recordings, and/or other documents that in any way relate to Solomon D. Simmons and any/all officers/agents/employees of the City of Virginia Beach involved with this incident.

As you know, electronic documents are subject to discovery in litigation arising out of this incident under applicable state and federal law. Rules prohibiting the destruction of evidence apply to electronic data in the same manner as they apply to other forms of evidence.

Our client views electronic data, video and/or camera footage as vitally important and irreplaceable sources for discovery and/or evidence in this case. In the event this matter proceeds to litigation, we intend to submit discovery requests to access your computer systems and video and/or camera surveillance equipment to seek the production of certain evidence the City of Virginia Beach is believed to possess in either electronic and/or hard copy form. We ask you to take the broadest view of your obligations under applicable rules to preserve relevant electronic, cell phone, smart phone, computer, traffic cameras, police body cameras, and/or hard copy video and/or camera surveillance footage and to take steps to prevent the destruction of evidence in this case.

To minimize the risk of spoliation of relevant electronic and/or hard copy video and/or camera surveillance footage, you should:

Not modify or delete any electronic data files that are maintained in on-line storage and/or direct access storage devices which exist as of the delivery of this letter and meet the criteria of the above ¶¶ (a)-(j), unless a true and correct copy of each such electronic data file has been made and steps have been taken to ensure that such copy will be preserved and accessible.

Stop any activity that may result in the loss of such electronic data meeting the criteria of ¶¶ (a)-(j) in electronic media used for off-line storage, including magnetic tapes and cartridges and other media. This activity includes rotation, destruction, overwriting and/or erasure of such media in whole or in part.

The Estate of Donovan Lynch

Preserve any electronic data storage devices and/or media that may contain electronic data meeting the criteria of ¶¶ (a)-(j) which may be replaced due to failure and/or upgrade or for any other reason.

Not alter or erase such electronic data meeting the criteria of ¶¶(a)-(j) and should not perform any other procedures (such as data compression and disk de-fragmentation or optimization routines) which may impact such data on any stand-alone microcomputers and/or network workstations, unless a true and correct copy had been made of such active files and of completely restored versions of such deleted electronic files and file fragments and unless copies have been made of all directory listings (including hidden files) for all directories and subdirectories containing such files, and unless arrangements have been made to preserve copies.

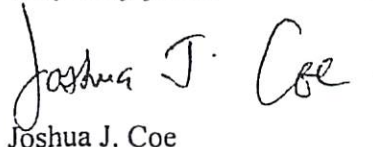
Preserve copies of all application programs and utilities that may be used to process electronic data described in ¶¶ (a)-(j).

Maintain an activity log that documents all modifications made to any electronic data processing system that may affect the system's capability to process any electronic data meeting the criteria described in ¶¶ (a)-(j).

In order to assure that your obligation to preserve documents and things is met, please immediately forward a copy of this letter to all persons and entities with custodial responsibility for the items referred to in this letter.

We appreciate your prompt attention to these matters. Please contact me if you have any questions or concerns. With kind regards, I remain

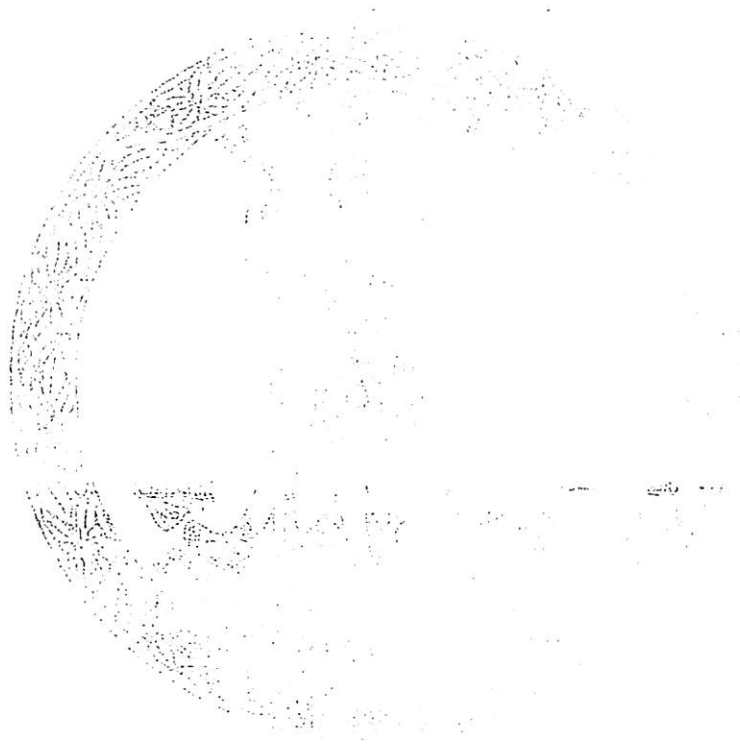
Very truly yours,

A handwritten signature in black ink that reads "Joshua J. Coe". The signature is written in a cursive, flowing style. The first name "Joshua" is written with a large, prominent "J". The middle initial "J." is written in a smaller, more compact script. The last name "Coe" is written with a large, stylized "C" and a period at the end.

Joshua J. Coe

JJC/zjc

cc: Jeffrey Reichert, Esq.
Wayne Lynch



Dear Sir or Madam,

This document is a record of the information provided at the time of the event. This certificate is a legal document and all information should be reviewed for accuracy.
If you have any questions or concerns please return the certificate (if necessary) with a letter of explanation to:

State Health Department
Division of Vital Records
P.O. Box 1000
Richmond, VA 23218

VIRGINIA: IN THE VIRGINIA BEACH CIRCUIT COURT CLERK'S OFFICE

CERTIFICATE/LETTER OF QUALIFICATION FOR SMALL ASSET ESTATE

I, the duly qualified clerk/deputy clerk of this Court, **CERTIFY** that on JUNE 17, 2021

WAYNE B. LYNCH

duly qualified in this Office under applicable provision of law as ADMINISTRATOR of the
Estate of

DONOVON WAYNE LYNCH, DECEASED

Bond \$ 25,000.00 without surety - none required by Va. Code § 64.2-1411

The powers of the fiduciary(ies) named above continue in full force and effect

The maximum amount of estate assets that may be collected pursuant to this certificate shall not
exceed \$25,000.00

ANY PERSON MAY PAY OR DELIVER TO THE FIDUCIARY NAMED IN THIS
CERTIFICATE ANY ASSET, BELONGING, OWED, OR DISTRIBUTABLE TO THE
SPECIFIED DECEASED PERSON, INCAPACITATED WARD, OR MINOR HAVING A
VALUE, ON THE DATE OF PAYMENT OR DELIVERY, OF NO MORE THAN \$25,000.00.

This certificate may only be used once and is not effective if it does not have an impression seal
of the court clerk. Photocopies of this certificate are not effective. The payor shall retain
possession of this certificate.

DATE: June 17, 2021

TINA E. SINNEN, CLERK

By: 

Deputy Clerk

revised 7/15

EXHIBIT

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