

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JULIE V. DEGRAW,
as Personal Representative of the
ESTATE OF DONALD C. DEGRAW,
Deceased

Plaintiff,

CASE NO. 8:18-cv-2116-WFJ-SPF

vs.

BOB GUALTIERI, in his individual and supervisory capacity as
Pinellas County Sheriff, and GREGORY GOEPFERT,
in his individual capacity as a Pinellas County
Deputy Sheriff,

Defendants,

FIRST AMENDED COMPLAINT

Plaintiff, JULIE V. DEGRAW, individually and as Personal Representative of the Estate of Donald C. DeGraw, Deceased, sues Bob Gualtieri, in his individual and supervisory capacity as Pinellas County Sheriff, and Gregory Goepfert, in his individual capacity as a Pinellas County Deputy Sheriff, and alleges:

1. This is an action for damages and attorneys' fees arising under 42 U.S.C. §1983 and 1988 and for damages arising under the laws of the State of Florida.

2. This action alleges violations of the U.S. Constitution, including violation of the Fourth and Fourteenth Amendments, which forbid the unnecessary and excessive use of force against persons, and also alleges violations of Article 1, Section 12 of the Florida Constitution.

3. This Court has original jurisdiction over this action and the parties pursuant to 42 U.S.C. §§ 1983 and 1988, under the US Constitution and the provisions in 28 U.S.C. §§, et seq.; and the ancillary jurisdiction of this Court is pursuant to 29 U.S.C. § 1367 for all state law claims.

State law claims are brought under the provisions of Florida Statute § 768.16 of the Florida Wrongful Death Act, and pursuant to Florida Statute § 768.28 and Florida Statute § 943.1717. Such claims arise from a common nucleus of operative fact with violation(s) of 42 U.S.C. § 1983 as set forth above.

4. Venue is proper pursuant to M.D. Fla. Loc. R. 1.02 (b)(4).

5. The acts, omissions, and practices described in this Complaint occurred within the jurisdiction of the United States District Court in and for the Middle District of Florida.

6. Julie V. DeGraw is the Personal Representative of the Estate of Donald C. DeGraw, deceased. Letters of Administration, Order Appointing Personal Representative and Order Granting Petition to Reopen Estate are attached, as Composite Exhibit 1.

7. The beneficiaries of this action and their relationship to the decedent are:

a). Julie V. DeGraw, as personal representative of the Estate of Donald C. DeGraw, for medical and funeral expenses, and for any other damages recoverable to the Estate, including loss of net accumulations reduced to present value.

b). Julie V. DeGraw, as surviving spouse of the decedent, for all damages recoverable under Florida law, including mental pain and suffering and anguish, loss of future support and services and loss of companionship of her spouse.

8. Plaintiff Julie V. DeGraw has retained the services of the undersigned attorneys and is obligated to pay a reasonable attorneys fee for such services in pursuing the claims asserted herein.

COUNT I
CIVIL RIGHTS VIOLATION UNDER 42U.S.C. § 1983
INDIVIDUAL CAPACITY USE OF EXCESSIVE FORCE- DEFENDANT GOEPFERT

9. Plaintiff, Julie V. DeGraw, individually and as Personal Representative of the Estate, seeks an award of compensatory damages, costs and expenses, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1983, more specifically described below. Fee entitlement is as alleged pursuant to 42 U.S.C. § 1988.

10. At all times material hereto, the acts, omissions, practices and the other conduct of Defendant Goepfert were committed under the color of state law or local law.

11. At all times material hereto, the acts and omissions of Defendant Goepfert was within the scope of his employment as a deputy sheriff in Pinellas County, Florida.

12. At all times material hereto, Plaintiff Julie V. DeGraw and decedent were married and resided at 1739 Split Fork Drive, in Oldsmar, Pinellas County and were citizens of the United States and the State of Florida.

13. At all times material hereto, Defendant, Gregory Goepfert, was a deputy sheriff employed by the Pinellas County Sherriff and was a person subject to suit under 42 U.S.C. §1983. He is sued in his individual capacity.

14. Decedent, Donald C. DeGraw was honorably discharged and medically retired after he served in the United States Navy for over 17 years. He served as a Special Operations medical officer, attached to the United States Marine Corps, conducting clandestine combat and surveillance operations in Asia, the Middle East and in Central America.

15. As a result of his classified experiences in the military, he acquired post-traumatic stress disorder and developed nightmares and eventually developed seizures. After discharge, he

underwent Special Operations Group treatment and therapy in Hawaii and received continued treatment at the Veterans Administration hospitals in Florida after moving to Pinellas County with his wife and children.

16. Although he suffered from physical and psychological ailments as a result of his experiences in the military, Mr. DeGraw had never acted aggressively or violently to his family, to his neighbors or to any member of the public. He was generally known a friendly, warm and caring person to his family and to his acquaintances and neighbors.

17. At 05:21 a.m. on the morning of September 7, 2016, deputies from the Pinellas County Sheriff's office (PCSO) were dispatched to the DeGraw home. Mrs. DeGraw, who is a registered nurse, had called 911 for medical assistance because her husband had awakened in his upstairs bedroom and appeared to have had a seizure. He was not responsive to her assistance.

18. Upon arrival, the Pinellas County Sheriff's Office deputy asked Mr. DeGraw to come downstairs from his bedroom, which he did. Although he remained a little confused, he responded to triage treatment by the EMT's downstairs and reported to them that he suffered from PTSD that he and had a bad dream.

19. Mrs. DeGraw reported to the sheriff's deputy that her husband had a similar incident three-and-one-half years earlier. She stated that he had no history of violence, and that he was not a danger to her. Mr. DeGraw was evaluated medically, did not meet the Baker Act criteria, and appeared to need no further medical treatment. The responders departed.

20. At 15:43 p.m. on the afternoon of September 7, 2016, Mrs. DeGraw went to check on her husband who had awakened from a nap. After briefly talking with Mrs. DeGraw, Mr. DeGraw laid back down and the family pet dog, Kenzie, jumped on the bed and began nuzzling

him. After telling his wife that he wished that the dog would stay with him he began experiencing a seizure. Mrs. DeGraw called 911 for medical help.

21. In response to the 911 call, Deputies Eduardo Martinez and Gregory Goepfert arrived before the EMT's arrived and Mrs. DeGraw advised them that Mr. DeGraw had a seizure, was confused, and remained upstairs in his bed. When they advised Mrs. DeGraw that they were going upstairs to Mr. DeGraw's bedroom, she also advised them that he suffered from PTSD, and that he kept a gun under his pillow, although he had never threatened anyone with it nor ever used it in any threatening manner. Mrs. DeGraw had requested no police protection or intervention and the actions of the Sheriff's deputies in going upstairs to Mr. DeGraw's bedroom was voluntary and self-motivated.

22. Deputy Goepfert was armed with a Model X26P Taser, a dart firing stun gun designed to transmit up to 50,000 volts of electricity into its intended target, affecting sensory and motor functions of the peripheral nervous system. Deputy Goepfert armed his device at 15:58:05 before approaching the upstairs bedroom where Mr. DeGraw was having a medical emergency.

23. While also outside the bedroom before entering it, Deputy Martinez un-holstered and drew his service revolver but stayed outside of the bedroom in the hallway upstairs, unable to see Mr. DeGraw at that point.

24. When Deputy Goepfert deployed his Taser device at Mr. DeGraw a minute later, Deputy Martinez rushed the door and could see Mr. DeGraw struggling with the stun gun wires as he fell to the floor. Both Mr. Goepfert and Mr. Martinez repeatedly shouted "Get Down" at Mr. DeGraw as he struggled to get to his feet after being shocked. He appeared not to understand their commands to stay on the bedroom floor.

25. Prior to shocking Mr. DeGraw in the chest area with his Taser, Deputy Goepfert first saw Mr. DeGraw in his bedroom “just laying on the bed on his back, with his mouth all bloody (from the seizure), not doing anything, repeatedly uttering “ahhhh” or “yahaaa”. Deputy Goepfert ordered Mr. DeGraw to “come towards him” from his lying position in the bed. Mr. DeGraw had neither said anything or acted in any way that could be interpreted as a threat to the deputy sheriffs.

26. Mr. DeGraw sat up on the bed, then complied with the command by coming toward Deputy Goepfert. Deputy Goepfert then ordered Mr. DeGraw to “stay back on the bed”, which he did. Mr. DeGraw, in his post-seizure confused state, then stood up and took a step toward Deputy Goepfert at which time he was ordered to “stay there”.

27. After Mr. DeGraw took one more step, Deputy Goepfert deployed two darts from his dart-firing stun gun at 16:01:04 for two full seconds, into Mr. DeGraw’s bare chest from approximately three feet away, knocking him on his rear-end on the floor against the wall. At no time did Mr. DeGraw offer any resistance to the two deputies. He attempted, as best as he could in his confused medical state, to comply with their commands.

28. At 16:01:08, after Mr. DeGraw began yelling from the pain, and struggling with the wires on the floor, Deputy Goepfert applied the Taser voltage into Mr. DeGraw’s chest from the darts which had lodged into him, for three more full seconds. At 16:01:16, while Mr. DeGraw remained on the floor, Deputy Goepfert engaged the Taser for another full second, and then at 16:01:35, Deputy Goepfert deployed the Taser voltage for another five full seconds, and then at 16:01:37 the trigger was engaged for another full second.

29. Deputy Goepfert later stated that the purpose of the multiple deployments of the electric shock into Mr. DeGraw’s chest while he was on the floor was to “just try to control him, to allow us to grab him to get him onto his stomach so we could cuff him”, but at no time was

there any objective threat of flight or threat to the deputy sheriffs by Mr. DeGraw which could justify the repeated shocks administered by deputy Goepfert.

30. After the application of the electric shocks ended, Deputy Martinez and Deputy Street entered the room and tackled Mr. DeGraw. Deputy Street reported that Mr. DeGraw, prior to being pinned to the floor, had "kind of scooped and wiggled around" on the floor from his seated position, so that his head wound up against the wall next to the bed with his feet facing the door. The Deputies Martinez and Street then forced Mr. DeGraw face down onto the floor while he struggled, hand-cuffing him behind his back while putting their weight on him, while Deputy Goepfert knelt on the back of Mr. DeGraw's legs.

31. After securing Mr. DeGraw with hand-cuffs, all three deputies rolled him over onto his back. They noticed he was not moving. The EMT's were summoned from downstairs within a minute and a half, and efforts were begun to revive Mr. DeGraw, unsuccessfully. Mr. DeGraw had died from cardiac arrest which occurred as a result of the repeated applications of the Taser voltage to the chest by Deputy Goepfert in combination with the violent restraint tactics applied to Mr. DeGraw by deputies Martinez and Street.

32. At no time was the gun earlier reported by Mrs. DeGraw viewed or discovered by the deputies until after Mr. DeGraw's death, and at no time was it ever exposed to anyone's sight from under the pillow on the bed, until after the events described. At no time was the gun ever touched or used, or threatened to be used, by Mr. DeGraw who was at all times in a post-seizure confused state and who did not fully understand what was happening to him.

33. At no time during these events was there any reason for police action of any kind, for attempted custody and physical restraint of Mr. DeGraw, nor was there any suspicion of nor

the commission of a crime by Mr. DeGraw. Mrs. DeGraw had summoned medical responders because of her husband's medical condition.

34. Mr. DeGraw was not attempting to flee the deputies for any reason. He was simply a confused and sick man lying in his bed in a post-seizure state, who was being ordered around in his bedroom by deputies who voluntarily accosted him for no legitimate purpose and who determined to get physical control over him.

35. At all times material hereto, Defendant Goepfert had legal duty to use only the amount and degree of force in the legitimate apprehension of any person as was reasonable under the circumstances, of a proper and efficient arrest, or for supervision, and control of such persons for a legitimate reason. He had an equal duty not to arrest and attempt to exercise custodial control over any person without probable cause for doing so. Deputy Goepfert must have known that the repeated tasing of a man incapable of following commands, and who offered no resistance, was beyond acceptable force and wrongful.

36. During the events in which he was confronted, taken into custody and suffered the loss of his life, Mr. DeGraw was as compliant with the officer's instructions as his mental state permitted him to be. He posed no immediate threat to the safety of Deputy Goepfert or the other deputies in his home, and was not accused of nor suspected of any crime, and there existed no reason for custodial action over him, nor for arrest of him.

37. Well prior to the events which are recited herein, manufacturers of dart firing stun guns had recommended that they not be used in the head or chest area because of the likelihood that deployment in that area of the body can result in death or serious bodily injury, turning a weapon designed for non-lethal use into a lethal weapon.

38. Since 2006, Florida criminal justice standards for use of dart firing stun guns require that all law enforcement officers complete a basic skills course and annual training course in which the lethal nature of deployment in the chest area is recognized, and in which it is noted that the chest area should be avoided when possible. Specific targeting only in the low middle belt buckle area or the low back, legs and buttocks are recommended for targeting by training. Since at least 2015, the manufacturer's bulletins do not recommend use in the head or chest area.

39. Section 943.1717 Florida Statutes limits the use of dart firing stun guns by the sheriff and deputies to situations in which an arrest or custodial situation involves escalation of resistance with apparent physical ability to threaten the officer, or in which the person is attempting to flee. Mr. DeGraw's situation involved none of the above.

40. The force applied by Deputy Goepfert in applying prolonged electric shocks to Mr. DeGraw to the bare chest in a manner that constituted lethal force, and in assisting Deputies Martinez and Street to forcibly restrain him and handcuff him face down on the floor while applying weight to his body was excessive, unreasonable and totally unnecessary under the circumstances, causing Mr. DeGraw's death by cardiac arrest.

41. By his actions, Deputy Goepfert deprived Donald C. DeGraw of his right to be free from excessive force under the circumstances in violation of his rights under 42 U.S.C. §1983 and the Fourth and Fourteenth Amendment to the U.S. Constitution. The violation of Mr. DeGraw's constitutional rights by the conduct of Deputy Goepfert was either clearly established in law at the time of his death under the circumstances recited herein, or was established with obvious clarity under the case law applicable to the facts recited herein.

42. As a direct, proximate and foreseeable result of Deputy Goepfert's actions, Donald C. DeGraw suffered traumatic injuries, pain, and death.

43. As a direct, proximate and foreseeable result of Deputy Goepfert' s use of unreasonable and excessive force resulting in the death of Donald C. DeGraw, Plaintiff Julie V. DeGraw has suffered mental anguish, pain and suffering, loss of ability to enjoy life and other economic losses. The injuries are permanent and continuing and Plaintiff will suffer such losses in the future.

44. The decedent's estate has lost medical and funeral expenses and loss of net accumulations due to the decedent's injury and death.

WHEREFORE, Plaintiff Julie V. DeGraw, as Personal Representative for the Estate of Donald C. DeGraw prays that this Court grant the following relief on her civil rights claim brought pursuant to 42 U.S.C. §§ 1983 and 1988:

- a) Judgment for compensatory damages against Defendant Goepfert;
- b) Judgment for attorneys' fees pursuant to 42 U.S.C. § 1988, together with the costs and expenses of this civil rights action;
- c) Judgment for pre-judgment interest on all economic losses and pre-judgment interest on attorney's fees for delay in payment;
- d) A trial by jury on all issues so triable; and
- e) Such other and further relief that this Court may deem just; proper, and appropriate.

COUNT II
INDIVIDUAL AND SUPERVISORY EXCESSIVE FORCE
CLAIM-SHERIFF BOB GUALTIERI

45. Plaintiff, Julie V. DeGraw, individually and as Personal Representative of the Estate, seeks an award of compensatory damages, costs and expenses, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1983, more specifically described below. Fee entitlement is as alleged pursuant to 42 U.S.C. § 1988.

46. At all times material hereto, the acts, omissions, practices and the other conduct of Defendant, Sheriff Bob Gualtieri, were committed under the color of state law or local law.

47. At all times material hereto, the acts and omissions of Defendant, Sheriff Bob Gualtieri, were committed within the scope of his office as Sheriff of Pinellas County Florida, a Pinellas County office constitutionally created by Article VIII, §1 (d) of the Florida Constitution.

48. At all times material the, Defendant Sheriff Bob Gualtieri was a person subject to legal action under 42 U.S.C § 1983. Sheriff Bob Gualtieri operated the Pinellas County Sheriff's office in his constitutional capacity a Sheriff of Pinellas County, Florida. He is sued in his individual capacity for his history of supervisory acts which caused or contributed to Mr. DeGraw's death, and in his supervisory capacity, as he is responsible for enforcing customs and policies in the Pinellas County Sheriff's Office which allowed the acts of his deputies to result in deliberate indifference to constitutional rights of citizens, acts which the Sheriff had the ability to stop by exercising his supervisory authority.

49. As Sheriff of Pinellas County, a constitutional office of Pinellas County, a subdivision of the state of Florida, Defendant, Bob Gualtieri had a duty to implement rules and procedures for Taser use by his employed deputies to ensure that his deputies did not act with

deliberate indifference to the rights of citizens by employing the device in a manner that results in lethal force to citizens which was foreseeable to him as a result of manufacturers' and professional industry warnings regarding such use.

50. As Sheriff of Pinellas County, Defendant, Bob Gualtieri, had a custom and policy prior to the events alleged herein, of delegating to his deputy sheriffs the discretion to use their dart-fired stun guns in the chest area, under the circumstances presented to them in the field, without forbidding their use in the chest area whenever reasonably possible.

51. The Sheriff had available to him, and had known since at least 2015, that his sheriff's deputies engaged in the practice of using stun guns in the chest area which resulted in deliberate indifference to the rights of victims who may die as a result of tasing of persons in the chest area, as more fully described in paragraphs 22, 27 and 28 herein.

52. As a direct and foreseeable result of Sheriff Gualtieri's custom and policy of delegating to his deputies the discretion to use dart fired stun guns in the chest area and failing to forbid the practice, Sheriff Gualtieri in his individual and supervisory capacity caused or contributed to the death of Donald C. DeGraw by not prohibiting his deputies from enforcing the prolonged use of a dart fired stun gun into the chest area, a practice that had been previously discouraged, by manufacture's bulletins, sent to the Sheriff since 2015, because it often resulted lethal force.

53. As a direct, proximate and foreseeable result of Sheriff Gualtieri's actions and inaction, Plaintiff Julie V. DeGraw has suffered mental anguish, pain and suffering, loss of ability to enjoy life and other economic losses. The injuries are permanent and continuing and Plaintiff will suffer such losses in the future.

54. The decedent's estate has lost medical and funeral expenses and loss of net accumulations due to the decedent's injury and death.

WHEREFORE, Plaintiff Julie V. DeGraw, as Personal Representative for the Estate of Donald C. DeGraw prays that this Court grant the following relief on her civil rights claim brought pursuant to 42 U.S.C. §§ 1983 and 1988:

- a) Judgment for compensatory damages against Defendant Gualtieri;
- b) Judgment for attorneys' fees pursuant to 42 U.S.C. § 1988, together with the costs and expenses of this civil rights action;
- c) Judgment for pre-judgment interest on all economic losses and pre-judgment interest on attorney's fees for delay in payment;
- d) A trial by jury on all issues so triable; and
- e) Such other and further relief that this Court may deem just, proper, and appropriate.

COUNT III
STATE LAW WRONGFUL DEATH CLAIM- PINELLAS COUNTY SHERIFF

55. Plaintiffs have complied with all conditions precedent to bringing this action, including, but not limited to, compliance with Fla. Statute § 768.28. Notice pursuant to that statute is attached as composite Exhibit 2.

56. The Sheriff of Pinellas County is a constitutionally created office of Pinellas County, a political subdivision of the State of Florida. He has waived sovereign immunity for the operational acts of his officers and employees pursuant to Section 768.28 Florida Statutes (2018).

57. Acting in the course and scope of their employment by the Pinellas County Sheriff, in responding to a call for medical assistance to a person who had just suffered a seizure, Defendants, Goepfert, Martinez and Street negligently attempted to gain custody of and control over Donald C. DeGraw in his own home under circumstances where he was medically disabled, had committed no crime, and posed no immediate threat to the officers or to others, by inappropriately administering a Model X26P Taser to his chest area and for an inappropriate period of time, and by violently restraining him after he was shocked, causing Mr. DeGraw to go into cardiac arrest and die while in the custody of the officers prior to receiving any medical attention.

58. As a direct and proximate result of tasing Mr. DeGraw in the chest and thereafter forcibly accosting him and placing him in handcuffs while holding him face down on his bedroom floor with the weight of their bodies, deputies Goepfert, Martinez and Street, in combination, negligently caused or contributed to Mr. DeGraw's death.

59. As a direct and proximate result of the negligent actions of Defendants Goepfert, Martinez and Street, the Estate of DeGraw lost his net accumulations and was obligated for the cost of his funeral expenses and Julie V. DeGraw lost his support and services, his companionship and suffered mental pain and suffering and anguish over the loss of her spouse.

Wherefore, Plaintiff Julie V. DeGraw prays for compensatory damages against the Pinellas County Sheriff's Office, together with all economic losses allowed by law, and a trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing has been furnished via e-portal by using the CM/ECF system which will send a notice of electronic filing to Nicole E. Durkin, Esq., 10750 Ulmerton Road, Largo FL 33778, ndurkin@pcsonet.com and amarcott1@pcsonet.com.

Dated: October 22, 2018.

/s/ Michael T. Callahan
MICHAEL T. CALLAHAN
Fla. Bar ID No.: 0160940
mcallahan@clfttrialattorneys.com
Callahan Law Firm, LLC
449 Central Ave., Suite 203
St. Petersburg, FL 33701
Telephone: (727) 209-1504
Facsimile: (727) 289-4800
Attorney for Plaintiff

Filing # 69199687 E-Filed 03/13/2018 02:51:30 PM

FILED 04/27/2018 10:48:33 KEN BURKE, CLERK OF THE CIRCUIT COURT AND COMPTROLLER, PINELLAS COUNTY FLORIDA

**IN THE CIRCUIT COURT FOR PINELLAS COUNTY,
FLORIDA**

PROBATE DIVISION

IN RE: ESTATE OF

DONALD C. DEGRAW,

File No. 16-008562-ES

Deceased.

Division: 3

**LETTERS OF ADMINISTRATION
(single personal representative)**


TO ALL WHOM IT MAY CONCERN

WHEREAS, Donald C. Degraw, a resident of Pinellas County, Florida, died on September 7, 2016, owning assets in the State of Florida, and

WHEREAS, Julie V. Degraw has been appointed personal representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare Julie V. Degraw duly qualified under the laws of the State of Florida to act as personal representative of the estate of Donald C. Degraw, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

ORDERED 04/25/2018 11:07:07 AM


Lauren C. Laughlin, Circuit Judge
04/25/2018 11:07:08 522016CP008562XXESXX

Copies furnished to:

Sabrina L. Casagrande, Esquire
Julie V. Degraw

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Filing # 70647833 E-Filed 04/12/2018 04:34:22 PM

FILED 04/27/2018 10:48:23 KEN BURKE, CLERK OF THE CIRCUIT COURT AND COMPTROLLER, PINELLAS COUNTY FLORIDA

**IN THE CIRCUIT COURT FOR PINELLAS COUNTY,
FLORIDA** **PROBATE DIVISION**

IN RE: ESTATE OF

DONALD C. DEGRAW,

File No. 16-008562-ES

Deceased.

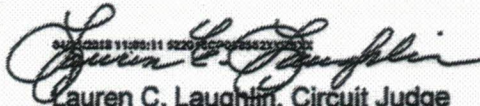
Division 3

ORDER APPOINTING PERSONAL REPRESENTATIVE

The instrument presented to this court on October 4, 2016, as the last will of Donald C. Degraw, deceased, having been established by the Proof of Will of Julie V. Degraw, the surviving spouse, on October 20, 2016, as being the last will of the decedent, and no objection having been made to its probate, the court finding that the decedent died on September 7, 2016, and that the will was admitted to probate, it is

ADJUDGED that Julie V. Degraw is appointed personal representative of the estate of the decedent, and that upon taking the prescribed oath, filing designation of resident agent and acceptance, and entering into bond in the sum of \$18,000, Letters of Administration shall be issued.

ORDERED 04/25/2018 11:06:12 AM


Lauren C. Laughlin, Circuit Judge
04/25/2018 11:06:11 022018CP008562JCLXX

Copies furnished to:

Sabrina L. Casagrande, Esquire
Julie V. Degraw

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Filing # 69199687 E-Filed 03/13/2018 02:51:30 PM

FILED 04/27/2018 10:48:45 KEN BURKE, CLERK OF THE CIRCUIT COURT AND COMPTROLLER, PINELLAS COUNTY FLORIDA

IN THE CIRCUIT COURT FOR PINELLAS COUNTY,
FLORIDA PROBATE DIVISION

IN RE: ESTATE OF

DONALD C. DEGRAW, File No. 16-008562

Deceased.

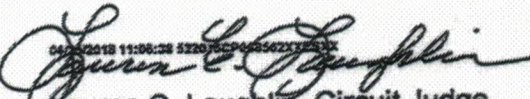
Division 3

**ORDER GRANTING PETITION TO REOPEN
ESTATE FOR SUBSEQUENT ADMINISTRATION**

On the Petition to Reopen Estate for Subsequent administration by Julie V. Degraw, on behalf of the Estate of Donald C. Degraw, deceased, and the court finding that there is good cause to reopen said estate to allow petitioner to proceed with a wrongful death action for the benefit of said estate, it is therefore,

ADJUDGED that the probate of Donald C. Degraw, Deceased is hereby reopened, that the Order of Discharge is revoked, and that Letters of Administration are hereby reinstated for Julie V. Degraw, as Personal Representative.

ORDERED 04/25/2018 11:06:38 AM


Lauren C. Laughlin, Circuit Judge
04/25/2018 11:06:38 522016CP68562XX

Copies furnished to:

Sabrina L. Casagrande, Esq.
Julie V. Degraw

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Abrahamson & Uiterwyk

900 W. Platt Street Tampa, FL 33606
Toll Free: (800) 698-4846
Phone: (813) 222-0500
Fax: (813) 221-4738

Hendrik Uiterwyk, P.A. *
Erik G. Abrahamson, P.A. **

* Also Admitted in Louisiana
** Also Admitted in Colorado
*** Also Admitted in New York
+ Board Certified Civil Trial Attorney
by the Florida Bar and the National
Board of Trial Advocacy

Mary Jane Arbutine
Andrew M. Bennett***
Paul E. Berg
George H. Brown
Anna Fredricksen-Cherry
Tomas L. Gacio+
Dana P. Hoffman
Christopher R. Pavlik
Justin W. Pimenta+

February 2, 2017

CERTIFIED MAIL RETURN RECEIPT REQUESTED

VIA CERTIFIED MAIL NO.: 7016 2140 00004619 4696 &
USPS NO.: 9590 9402 2320 6225 6193 89

Robert A "Bob" Gualtieri
Pinellas County Sheriff's Office
10750 Ulmerton Road
Largo, FL 33778
(16-16260-PI)

WRITTEN NOTICE OF
CLAIM PURSUANT TO
FLORIDA STATUTE
§ 768.28 (6)(a)

VIA CERTIFIED MAIL NO.: 7016 2140 0000 4619 4702 &
USPS NO.: 9590 9402 2320 6225 6193 72

Jeff Atwater
Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399
(16-16260-PI)

RE: *Julie Degraw as Personal Representative of the Estate of Donald Degraw vs.
Pinellas County Sheriff's Office*

Dear Sir or Madam:

Julie Degraw, Claimant, hereby gives notice of a tort claim to Jeff Atwater, Chief Financial Officer, Florida Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0301, and to Robert A "Bob" Gualtieri, Pinellas County Sheriff's Office, 10750 Ulmerton Road, Largo, FL 33778, pursuant to Section 768.28 Florida Statutes, for her loss of services and consortium damages that she sustained as a result of her husband's death that he sustained due to an incident wherein Mr. Degraw was tasered on or about September 7, 2016.

Julie Degraw as Personal Representative of the Estate of Donald Degraw was born on [REDACTED] 1960, in Manapla, Philippines and her social security number is [REDACTED]-5740. Donald Degraw, decedent was born on [REDACTED], 1958, in Pequannock, New Jersey and his social security number is [REDACTED]-1152. There have been no judgments, liens, or adjudicated unpaid claims

EXHIBIT

2

against Julie Degraw in excess of \$200 owed by her to the state, its agencies, officers or subdivisions.

On September 7, 2016, Donald Degraw was involved in an incident wherein Mr. Degraw was tasered and subsequently died thereafter. As a direct and proximate result of the negligence of the Pinellas County Sheriff's Office, Donald Degraw sustained injuries and subsequently died. In addition, Julie Degraw has sustained damages for loss of services and consortium damages.

Demand is hereby made for settlement for the statutory limits of \$200,000.00.

This Notice of Tort Claim is intended to fully satisfy the requirements of Section 768.28, Florida Statutes, as a condition precedent to suit against the Pinellas County Sheriff's Office. Should you believe this notice is deficient in either form or substance, kindly notify me in writing of the specific deficiency. Your failure to promptly notify me in writing of a deficiency shall be deemed an estoppel to a subsequent objection or affirmative defense based on the form or substance of said Notice of Tort Claim.

Pursuant to Section 768.28, Florida Statutes, the Notice of Tort Claim is served by certified mail to the above named addressees on this ____ day of February, 2017.

Sincerely,


Tomas L. Gacio

TG/hn


SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>[Signature]</i></p>	
<p>1. Article Addressed to:</p> <p>Robert A. "Bob" Gualtieri Pinellas County Sheriff's Office 10750 Ulmerton Road Largo, FL 33778</p>		<p>B. Received by (Printed Name) <i>P. Newson</i></p> <p>C. Date of Delivery</p>	
<p>2. Article Number (transfer from service label)</p> <p>7016 2140 0000 4619 4696</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>9590 9402 2320 6225 6193 89</p>		<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 <i>Dejraw 14-16260</i> Domestic Return Receipt</p>	

11/15/18

☒ Complete it
☒ Print your name and address on the reverse so that we can return the card to you.
☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeff Atwater
 Department of Financial Services
 200 East Gaines Street
 Tallahassee, FL 32399


 9590 9402 2320 6225 6193 72

2. Article Number (Transfer from service label)

7016 2140 0000 4619 4702

Received by: *Sara Bode*
 A. DEPT OF FINANCIAL SERVICES
 B. Received by (Printed Name) *Sara Bode* C. Date of Delivery
 D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 *Degraw 16-16260* Domestic Return Receipt

2018-11-15 10:15 AM
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11/15/18 10:15 AM 010000

