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September 19, 2019

By Hand

Thomas J. Fountaine
Borough Manager
Borough of State College, PA
243 S Allen Street
State College, PA 16801

Re: Notice of Claim re Wrongful Death of Osaze Osagie

Dear Mr. Fountaine:

This firm, along with Kathleen Yurchak and Andy Shubin, represents Iyunolu and Sylvester Osagie, the Putative Representatives of the Estate of Osaze Osagie. They live at [REDACTED], but all notices should be sent to the attention of this firm.

The Nature of the Claims: The Wrongful Death of Osaze Osagie

On March 20, 2019, a State College Police Department (“SCPD”) officer fired three shots into the back of Osaze Osagie (“Osaze”) killing him in a hallway in front of his apartment. At the time of his death, Osaze was not suspected of a crime, and he was not a fugitive from justice. He was a 29-year-old, African American man suffering a serious, medication-related, mental health crisis and in need of treatment. The night before his death, Osaze’s father, Pennsylvania State University administrator and professor Sylvester Osagie, requested that the SCPD help find his son, who had expressed a desire to kill himself and potentially harm others in the process, to ensure his safety until he could receive mental health treatment. Instead of helping Osaze, the police killed him without justification.

Osaze struggled with mental illness throughout his life. He was diagnosed as suffering from paranoid schizophrenia, anxiety, and Asperger syndrome. With the assistance of psychotropic medication and the guidance and support of mental health professionals, Osaze was

a calm and loving family member and friend and a devoted and devout Christian. Without medication and in the absence of professional counselling, he sometimes threatened to hurt himself or others.

During the evening of March 19, 2019, Sylvester Osagie reported concerns regarding his son's well-being to the SCPD. He told them that he had not been able to locate his son and feared that he had stopped taking his psychotropic medications and was suicidal. With the assistance of a SCPD officer, Sylvester Osagie filled out a Pennsylvania Mental Health Act application for a Section 302 warrant in which he wrote: "Osaze has been acting erratically for about two weeks; the way he typically acts when he is off his medication. Today he sent me a very long incoherent text threatening to kill himself and hurt others. He cut off the call I had with him, ended the call by saying that he was going to die."

A 302 warrant authorizes the police to take a mentally ill person into custody where there is a risk that the person may hurt himself or others. Such warrants are generally sought with the assistance of mental health professionals, who are trained in both the law and the needs of the mentally ill. Indeed, in the past, the SCPD typically included mental health treatment professionals when serving 302 warrants.

Sylvester Osagie showed a night-duty SCPD officer a text message Osaze sent him earlier in the day saying "goodbye" to him. Sylvester Osagie showed the officer another text in which Osaze asked God to "forgive" the "sins" of any "poor soul whose life [he] take[s] today" and that "soon . . . hopefully . . . [he, Osaze, would] be dead also." That officer later reported that the "clarity" of Osaze's text message was "concern[ing] to him." Notwithstanding their full knowledge of Osaze's impaired mental state and the clarity and urgency of the threat, the SCPD failed to involve a mental health professional in the case.

During the course of the evening, Sylvester Osagie advised the police that he would continue to look for his son and that he would let them know if he found him. The police advised Sylvester Osagie that they would let him know if they found Osaze. On March 20, 2019, Osaze's prior "peer support specialist" notified Strawberry Fields, a State College community and residential disability support service organization, that he had seen Osaze at a local grocery store. Strawberry Fields, in turn, notified a Can Help county crisis intervention caseworker who contacted the SCPD, who sent out a dispatch call advising that Osaze had been seen at the grocery store. Officer John Doe #1 asked the dispatch operator to find out what Osaze was wearing and drove to Osaze's apartment. Officer John Doe #2 also responded to the dispatch by meeting Officer John Doe #1 at Osaze's apartment complex so that he could provide backup to Officer John Doe #1. Officer John Doe #3, a SCPD supervisor who had interacted with Osaze in the past, arrived a few minutes later. No one notified Sylvester Osagie that his son had been spotted, even though he was driving around the neighborhood at the time looking for Osaze.

High-ranking SCPD supervisors knew that Osaze was suffering a mental health crisis, that he was likely off of his medications, that he was suicidal, and that he had expressed in a recent text his hope that "God" would "forgive [the] sins" of any "poor soul" whose life he would take. Nonetheless, Officer John Doe #1, the only officer who verbally interacted with Osaze, reported that: he believed the circumstances to be "routine"; he and Officers John Doe #2 and #3 (collectively "Subject Officers") made no "plan" for the contact; and, he and Officer John Doe #2

were unaware of the “concerning” text messages. Instead of initiating basic and standard mental health crisis training techniques, Officer John Doe #1 decided to attempt to surprise Osaze, treating the engagement as if he were serving a drug trafficking search warrant.

The Subject Officers hid their patrol cars so that Osaze could not see them from his apartment. Contrary to common sense and training, the Subject Officers entered the apartment building and positioned themselves in a hallway outside Osaze’s apartment door that they knew from prior unrelated calls to be cramped, small and not allowing for safe egress. In essence, the Subject Officers cornered Osaze, leaving no means for themselves or Osaze to avoid a potential confrontation. Officer John Doe #1 exacerbated the circumstances by choosing not to announce the police presence when he knocked multiple times on Osaze’s door. Instead of calmly introducing himself and safely engaging Osaze from the hallway, Officer John Doe #1 covered the peep hole, ensuring that Osaze would be startled when he opened the door.

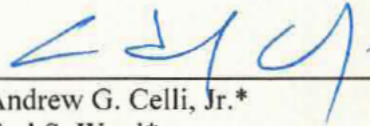
Confronted by three armed officers, and with no access to his family or to other supports, it is not surprising that Osaze was scared and felt trapped when he ultimately opened his door. The Subject Officers claim that Osaze had a knife and refused to drop it despite repeated demands. They claim that he said “shoot me” and “I want to die.” The Subject Officers state that Osaze then retreated further back into his apartment and was out of view.

The Subject Officers should have worked to gain Osaze’s trust – not deceived him. They should have attempted to talk to him from behind a closed door, rather than aggressively and deceptively confronting him. Rather than taking steps to deescalate the encounter and gain Osaze’s trust, their actions quickly and predictably escalated the situation. The entirely-foreseeable and tragically-avoidable result was that Officer John Doe #1 shot Osaze three times in the back, killing him a few feet from the front door of his apartment. Minutes after the shooting, Sylvester Osagie, who had been continuing his search for his son, arrived at the apartment building only to be advised that the police, whom he had entrusted with Osaze’s safety, had killed him.

Osaze died because of a systemic breakdown in the operation of the SCPD and their failure to follow basic safety procedures for interacting with mentally ill people. They never contacted Osaze’s parents to inform them that they were confronting Osaze or to seek their assistance, and they never consulted with a mental health provider or professional despite their involvement in reporting Osaze’s whereabouts and their ready accessibility. These failures are more shocking because the SCPD had already been in close contact with Osaze’s parents (especially his father, Sylvester), Strawberry Fields (where Osaze had been successfully treated) and Can Help (whose mission is to deal with people in crisis). Basic training should have taught the Subject Officers to ask a mental health professional or a family member – an expert or someone who Osaze trusted – to meet them at the apartment to help deescalate the situation. Instead, the Subject Officers simply rolled up to Osaze Osagie’s apartment as if responding to a crime scene or a fugitive report.

The Subject Officers' actions constituted willful misconduct. They are liable for the wrongful death of Osaze Osagie, as well as assault, battery, violation of civil rights, and survival claims. Osaze Osagie's death was a tragedy that should never have happened. Had the conduct of the SCPD, and specifically the Subject Officers, been different, Osaze Osagie would be alive today.

Very truly yours,



Andrew G. Celli, Jr.*

Earl S. Ward*

Elizabeth S. Saylor*

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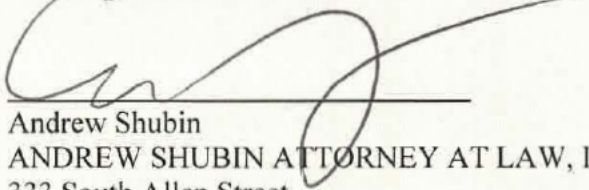
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** Not admitted to practice in Pennsylvania*

cc. John Gardner, Chief of Police, State College Police Department