

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**Michelle Haake, Administrator of  
the Estate of Walter Edward  
Haake, Jr.,**  
1008 East 73<sup>rd</sup> Street  
Kansas City, Missouri 64121

**and**

**Patricia J. Haake, Individually,**  
1432 E. 902 Road.  
Lawrence, Kansas 66049

**and**

**Michelle Haake, Individually,**  
1008 East 73<sup>rd</sup> Street  
Kansas City, Missouri 64121

**and**

**Matthew Haake, Individually,**  
2609 Winterbrook  
Lawrence, Kansas 66047

**and**

**Marshall Haake, Individually,**  
1432 E. 902 Road  
Lawrence, Kansas 66049

**Plaintiffs,**

**v.**

**The County of Shawnee County, Kansas**  
Serve: Cyndi Beck  
Shawnee County Clerk  
200 SE 7<sup>th</sup> Street  
Topeka, Kansas 66603

**Sheriff Richard Barta,**  
**in his Individual and Official Capacity,**  
Serve at: 320 South Kansas Avenue  
Topeka, Kansas 66603

**Deputy Jason B. Mills,**

**Case No.** 08-CV-2537 KHV/DJW

**JURY TRIAL DEMANDED**

**in his Individual and Official Capacity,**  
Serve at: 320 South Kansas Avenue  
Topeka, Kansas 66603

**Deputy Shayna Johnson,**  
**in her Individual and Official Capacity,**  
Serve at: 320 South Kansas Avenue  
Topeka, Kansas 66603

**TASER International, Inc.**  
Serve: Registered Agent  
The Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

**Defendants.**

**COMPLAINT**  
**(Violations of Civil Rights Under U.S. Constitution)**

Plaintiffs Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., Patricia J. Haake, Individually, Michelle Haake, Individually, Matthew Haake, Individually, and Marshall Haake, Individually (hereinafter collectively “Plaintiffs”) demand a jury trial on all claims stated in this Complaint.

Plaintiffs, for their causes of action against Defendants The County of Shawnee County, Kansas, Sheriff Richard Barta, in his Individual and Official Capacity, Deputy Jason B. Mills, in his Individual and Official Capacity, Deputy Shayna Johnson, in her Individual and Official Capacity (hereinafter collectively the “Shawnee County Defendants”) and TASER International, Inc. (hereinafter the “TASER Defendant”), state as follows:

### NATURE OF CLAIM

1. Plaintiffs bring suit under 42 U.S.C. § 1983, pursuant to Kansas Common Law and K.S.A. §§ 60-1901, *et seq.* The Plaintiffs are the Administrator of the Estate of Walter E. Haake, Jr., and the heirs at law of Walter E. Haake, Jr., who was killed by a Shawnee County, Kansas Sheriff's

Deputy using excessive force including, without limitation, a TASER gun manufactured by the TASER Defendant. The Shawnee County Defendants, while acting under color of state law, deprived Walter E. Haake, Jr. of his rights under the Constitution of the United States and violated the laws of the State of Kansas. The TASER Defendant designed and manufactured an unreasonably dangerous product, the TASER gun used by the Shawnee County Defendants in causing the death of Walter E. Haake, Jr.

### **PARTIES**

2. Plaintiff Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., brings this suit on behalf of the Estate of Walter E. Haake, Jr.

3. Plaintiff Patricia J. Haake, Individually, was the wife of the decedent Walter E. Haake, Jr.

4. Plaintiffs Michelle Haake, Individually, Matthew Haake and Marshall Haake, were the natural children of the decedent Walter E. Haake, Jr.

5. Defendant, the County of Shawnee County, Kansas was created by, and established under, the laws of the State of Kansas. It is authorized to sue or be sued in its corporate name.

6. Defendants, Sheriff Richard Barta, Deputy Jason B. Mills and Deputy Shayna Johnson, at all times relevant to the conduct alleged in this Complaint, were sworn law enforcement officers in the State of Kansas. They are sued in their individual and official capacities. Sheriff Richard Barta, of the Shawnee County, Kansas Sheriff's Department, is sued in his individual and official capacity and is liable as a supervisor and final policy maker for the Shawnee County, Kansas Sheriff's Department. It is each Defendants' duty and responsibility to treat all persons, including Plaintiffs and decedent Walter E. Haake, Jr., in compliance with Constitutional and statutory requirements and in compliance with Defendant Shawnee County rules, regulations, policies and procedures, customs and/or practices relating to use of force. It is the duty and responsibility of Defendant Sheriff Barta to promulgate and implement policies and procedures prohibiting the use of excessive force, including deadly force, in

violation of minimum Constitutional and statutory requirements. It is further their responsibility to hire, fire, discipline, train and supervise deputies. It is further their duty and responsibility to not hire or retain deputies with a known propensity for misconduct.

7. All of the Shawnee County Defendants, at all times material to this Complaint, were acting under color of state law.

8. Defendant, TASER, is a corporation organized and existing under the laws of the State of Delaware.

### **JURISDICTION AND VENUE**

9. Jurisdiction is conferred by 28 U.S.C. § 1343, which provides for original jurisdiction of this Court in suits authorized by 42 U.S.C. § 1983, to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of any right, privilege, or immunity secured by the Constitution of the United States or by any act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

10. Pursuant to 28 U.S.C. § 1367, Plaintiffs further invoke the supplemental jurisdiction of this Court to hear and decide claims arising under state law.

11. Plaintiffs' actions for damages are authorized by:

- 42 U.S.C. § 1983, which provides for redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of any right, privilege, or immunity secured by the Constitution of the United States or by any act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
- The Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution;
- The laws of the State of Kansas; and

- 42 U.S.C. § 1988, which authorizes Plaintiffs' application for attorneys' fees and provides that a court may award a reasonable attorneys' fee as part of the costs in any action or proceeding to enforce a provision of 42 U.S.C. § 1983.

12. Venue is proper in the United States District Court for the District of Kansas under 28 U.S.C. § 1391(a)(2), as the events or omissions giving rise to Plaintiffs' claims occurred in Topeka, Shawnee County, Kansas.

13. Plaintiffs have filed and served the required notices pursuant to K.S.A. § 12-105(d) under the Kansas Tort Claims Act, have received no response to said notices as of the date of the filing of this Complaint and have otherwise exhausted their administrative remedies.

### **FACTUAL BACKGROUND**

14. On March 29, 2008, Walter E. Haake, Jr. went to work at the Goodyear Tire & Rubber Plant located at 1946 NW 24 Highway, Topeka, Shawnee County, Kansas (hereinafter "Goodyear"). During his shift at Goodyear, Mr. Haake's co-workers noticed that Mr. Haake was not feeling well and appeared to be confused and disoriented.

15. At the end of Mr. Haake's shift, Mr. Haake refused medical treatment from the Goodyear "in house" medical staff and indicated that he was going home. Several of Mr. Haake's co-workers walked with Mr. Haake toward Goodyear's employee parking lot. Mr. Haake's co-workers were able to convince Mr. Haake to accept a ride in a Goodyear "medical buggy" to his car.

16. Mr. Haake's co-workers contacted the Shawnee County Sheriff's Department and American Medical Response due to their concern about Mr. Haake's health and their belief that Mr. Haake intended to drive home in his confused and disorientated condition.

17. At 11:17 p.m. on March 29, 2008, Deputy Johnson arrived at Goodyear and observed Mr. Haake in the driver's seat of his vehicle, which was surrounded by his co-workers. When contacted by Deputy Johnson, Mr. Haake stated that he intended to drive home. Deputy Johnson asked

Mr. Haake's co-workers if he was acting normally and was informed that he seemed disorientated and was not acting like himself.

18. At 11:26 p.m. on March 29, 2008, Deputy Mills arrived at Goodyear followed closely by Emergency Medical Technicians from American Medical Response. Deputy Johnson reported to Deputy Mills concerning the situation while the Emergency Medical Technicians made contact with Mr. Haake. Mr. Haake refused the medical assistance offered by the Emergency Medical Technicians.

19. Deputies Johnson and Mills noticed that Mr. Haake was rummaging through a black bag in the passenger's side seat of his vehicle. Deputies Johnson and Mills illuminated the black bag. At that time, Deputy Johnson went to the passenger's side of the vehicle while Deputy Mills remained on the driver's side of the vehicle. Deputy Johnson did not see any weapons or items to be concerned of inside the black bag or vehicle.

20. Deputies Johnson and Mills continued to talk with Mr. Haake in an effort to convince him to seek medical treatment, which he continued to refuse. During this discussion, Deputy Johnson noticed Mr. Haake's key ring, including the key to his vehicle, in the black bag and removed the key ring from the bag and gave them to Deputy Mills who placed them out of Mr. Haake's reach.

21. Deputy Johnson returned to the driver's side of the vehicle and Deputy Mills informed Mr. Haake that if he did not comply with his order that Mr. Haake leave the vehicle, force would be used due to his non-compliance.

22. Deputy Mills then grabbed Mr. Haake by his left arm in an effort to forcibly remove him from the vehicle using an "arm bar technique." Mr. Haake was gripping the vehicle's steering wheel with his right hand. One of the Emergency Medical Technicians attempted to pry Mr. Haake's right hand off the steering wheel from the passenger's side of the vehicle, while Deputy Johnson also tried to pry Mr. Haake's right hand off the steering wheel from the driver's side of the vehicle. All while Deputy Mills continued to use an "arm bar technique" in an effort to forcibly rip Mr. Haake from his vehicle.

23. Deputy Johnson and the Emergency Medical Technician were able to remove Mr. Haake's right hand from the steering wheel, however, Mr. Haake then hooked his right arm through the steering wheel.

24. Unable to forcibly rip Mr. Haake from his vehicle (so that he could receive medical attention) Deputy Mills ordered Deputy Johnson to "drive stun" Mr. Haake with her TASER.

25. At 11:44 p.m. on March 29, 2008, Deputy Johnson "drive stunned" Mr. Haake with her TASER on the top of his left thigh. When this did not allow Deputies Johnson and Mills to rip Mr. Haake from his vehicle, Deputy Johnson "drive stunned" Mr. Haake a second time with her TASER on the top of his left thigh.

26. Still unsuccessful in their efforts to rip Mr. Haake from his vehicle, Deputy Mills ordered Deputy Johnson to go to the passenger's side of the vehicle and "drive stun" Mr. Haake again, this time on his right arm.

27. At 11:45 p.m. on March 29, 2008, Deputy Johnson "drive stunned" Mr. Haake with her TASER for the third and final time on his right forearm.

28. The final shock with the TASER caused Mr. Haake to release the steering wheel at which time Deputy Mills ripped Mr. Haake from the vehicle and slammed him face first to the ground.

29. At 11:46 p.m. on March 29, 2008, the first cuff was placed on Mr. Haake's wrist while he was forcibly held face down by Deputies Johnson and Mills and an Emergency Medical Technician.

30. At 11:47 p.m. March 29, 2008, Mr. Haake was forcibly rolled over and sat in an upright position, Mr. Haake was dead as a result of the multiple electrocutions with the TASER by Deputy Johnson and/or being slammed to the ground and forcibly held down by Deputies Johnson and Mills and an Emergency Medical Technician.

31. Mr. Haake's face was already turning blue and after an Emergency Medical Technician checked for Mr. Haake's pulse, he announced that Mr. Haake had "coded."

32. Mr. Haake was placed on his back, still handcuffed, and CPR and other life saving efforts were begun. At 11:57 p.m. on March 29, 2008, Deputy Mills notified dispatch that Mr. Haake was “code red.”

33. Sometime after Deputy Mills’ call to dispatch, the handcuffs were finally removed from Mr. Haake’s body. Mr. Haake’s body was transported to Stormont Vail Hospital in Topeka, Kansas where he was pronounced dead.

34. Deputies Johnson and Mills’ use of objectively unreasonable, excessive and deadly force as set out above is in accordance with Shawnee County and Sheriff Barta’s policies, procedures, practices and customs relating to the use of force, including deadly force. Specifically, Shawnee County and Sheriff Barta have a custom and practice, either actual or constructive, which provides their officers with too broad discretion in determining whether to use excessive or deadly force without considering less drastic alternatives.

35. The Shawnee County Defendants’ deficient customs and practices relating to the use of force amount to a conscious disregard of and deliberate indifference to citizens’ rights not to be subjected to excessive force. Further, the deficient customs and practices are proximate cause of the unwarranted use of deadly force complained of herein. Deputies Johnson and Mills’ use of force was objectively unreasonable and excessive under the circumstances.

36. Deputies Johnson and Mills’ actions were in accordance with Shawnee County and Sheriff Barta’s customs and practices relating to the use of deadly force. Specifically, Shawnee County and Sheriff Barta provide their officers with too broad discretion when determining when to use a TASER and the manner of its use.

37. Shawnee County and Sheriff Barta breached their duty to adequately train officers regarding the use of deadly force, which failure amounts to deliberate indifference to the rights of individuals to be free from deprivation of their constitutional rights. Such inadequate training policies, customs and/or practices were the direct cause of the death of Walter E. Haake, Jr.



38. Shawnee County and Sheriff Barta breached their duty to provide Deputies Johnson and Mills with adequate supervision. The supervisors' actions and/or omissions can be characterized as supervisory encouragement or acquiescence in the use of excessive force and/or gross negligence amounting to deliberate indifference. This grossly inadequate supervision resulted from and was caused by Shawnee County and Sheriff Barta's deliberate indifference to the rights of individuals not to be subjected to deprivation of their constitutional rights. Such inadequate supervision was the direct and proximate cause of the death of Walter E. Haake, Jr.

39. Deputies Johnson and Mills killed Mr. Haake. During the events leading up to his death, Mr. Haake suffered extreme pain and anguish. Shawnee County and Sheriff Barta's acts, omissions, policies, procedures and/or customs as set forth above are the direct and proximate cause of substantial damage to Plaintiffs, including severe pain and suffering, psychological trauma and lost income.

40. The acts of the Shawnee County Defendants were wanton, malicious and done in conscious disregard of and with deliberate indifference to the rights and needs of Walter E. Haake, Jr., rendering appropriate the award of punitive damages against them.

### **COUNT I**

**BROUGHT BY MICHELLE HAAKE, AS ADMINISTRATOR OF THE ESTATE OF  
WALTER E. HAAKE, JR.**

**UNCONSTITUTIONAL USE OF EXCESSIVE FORCE  
IN VIOLATION OF THE FOURTH, FIFTH, SIXTH, EIGHTH  
AND FOURTEENTH AMENDMENTS AND 42 U.S.C. § 1983**

41. All allegations contained in paragraphs 1 through 40 above are hereby incorporated into Count I of Plaintiffs' Complaint by reference as though fully set forth herein.

42. The Shawnee County Defendants, separately and in concert, acting under color of state law, acted willfully, knowingly and purposefully with specific intent to deprive Walter E. Haake, Jr. of

his rights, and/or with reckless and callous disregard to Walter E. Haake, Jr.'s rights including his rights to:

- (a) freedom from illegal confinement and imprisonment;
- (b) freedom from physical abuse, coercion and intimidation;
- (c) timely and effective assistance that should have been afforded to Walter E. Haake, Jr. through appropriate intervention; and
- (d) substantive due process to be free from being killed and free from violation of his bodily integrity.

43. All of these rights, as stated above, are secured to Walter E. Haake, Jr. by the provisions of the Due Process Clause of the Fifth and Fourteenth Amendments to the United State Constitution and of the Fourth, Eighth and Sixth Amendments of the United States Constitution, pursuant to 42 U.S.C. §§ 1983 & 1985 and 18 U.S.C. § 245.

44. The Shawnee County Defendants knowingly or recklessly endangered the life of Walter E. Haake, Jr. All of these actions were taken in conscious disregard for the safety and well being of Walter E. Haake, Jr. and the public at large.

45. At no time during the events described herein did Walter E. Haake, Jr. pose a danger or threat of serious harm to himself or to anyone else. At the time he was shot with the TASER, Walter E. Haake, Jr. did not have the keys to his vehicle. Making it impossible for Walter E. Haake, Jr. to operate his vehicle in such a manner as to pose a danger or threat of any harm to himself or to anyone else.

46. Deputies Johnson and Mills' use of objectively unreasonable, excessive and deadly force as set out above is in accordance with Shawnee County and Sheriff Barta's policies, procedures, practices and customs relating to the use of force, including deadly force.

47. At all material times, Deputies Johnson and Mills were following the policies, procedures, customs and practices of Shawnee County and Sheriff Barta and were acting under color of state law.

48. At all material times, Deputies Johnson and Mills were servants, agents and employees of Defendant Shawnee County (persons for purposes of Section 1983) so that their acts are imputed to Shawnee County.

49. Deputies Johnson and Mills were acting pursuant to specific orders, directions and policies from Shawnee County provided to each of them and provided an official badge and identification card, which designated and described its bearer as a deputy sheriff of Shawnee County.

50. At all material times, Deputies Johnson and Mills were acting under color of their official capacity as officers of the department and as persons for purposes of Section 1983 and their acts complained of were performed under color of law. Defendants Shawnee County and Sheriff Barta breached their duty to provide Deputies Johnson and Mills with adequate supervision. These actions and/or omissions can be characterized as supervisory encouragement or acquiescence in the use of excessive force and/or gross negligence amounting to deliberate indifference. This grossly inadequate supervision resulted from and was caused by the Shawnee County Defendants' deliberate indifference to the rights of individuals not to be subjected to deprivation of their Constitutional rights. Such inadequate supervision was the direct and proximate cause of the death of Walter E. Haake, Jr.

51. Deputies Johnson and Mills' use of objectively unreasonable excessive and deadly force as set out above is in compliance with Defendants Shawnee County and Sheriff Barta's actual policies, procedures, practices and customs relating to the use of force, including deadly force. Specifically, Defendants Shawnee County and Sheriff Barta provide their officers with too much broad discretion in determining whether to use excessive or deadly force without considering less drastic alternatives. The deficient actual policies, procedures, practices and/or customs relating to the use of force are caused by and amount to the conscious disregard of and deliberate indifference to citizens' rights not to be

subjected to force except where the use is objectively reasonable. Further, the deficient actual policies, procedures, practices and/or customs are a producing and proximate cause of the unwarranted use of deadly force complained of herein. The Shawnee County Defendants' conduct under the circumstances was outrageous at all material times. The Shawnee County Defendants' officers were duly appointed and were acting within the scope of their appointed authority.

52. Defendants Shawnee County and Sheriff Barta breached their duty to provide adequate training to deputies regarding the use of deadly force, amounting to deliberate indifference to the rights of individuals not to be subjected to deprivation of their Constitutional rights. Such inadequate training policies, customs and/or practices were the direct and proximate cause of the death of Walter E. Haake, Jr.

53. The Shawnee County Defendants are liable to Plaintiff, Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., for compensatory damages, together with statutory attorneys' fees as authorized by 42 U.S.C. § 1988. In addition, the Shawnee County Defendants are liable for punitive damages.

WHEREFORE, Plaintiff, Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., prays for judgment against the Shawnee County Defendants for actual damages, punitive damages, compensatory damages, all costs expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

## **COUNT II**

**BROUGHT BY MICHELLE HAAKE, AS ADMINISTRATOR  
FOR THE ESTATE OF WALTER E. HAAKE, JR.**

### **TORT OF OUTRAGE**

54. All allegations contained in paragraphs 1 through 53 above are hereby incorporated into Count II of Plaintiffs' Complaint by reference as though fully set forth herein.

55. The Shawnee County Defendants' actions as described above are reasonably regarded as so extreme and outrageous as to permit recovery.

56. The emotional distress suffered by Walter E. Haake, Jr. was of such an extreme degree that no reasonable person should be expected to endure it.

57. The Shawnee County Defendants' conduct was so outrageous in character and so extreme in degree as to go beyond the bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized society.

58. The Shawnee County Defendants' actions were willful, wanton and/or malicious, and/or in conscious disregard of Walter E. Haake, Jr.'s rights.

WHEREFORE, Plaintiff, Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., prays for judgment against the Shawnee County Defendants for actual damages, punitive damages, compensatory damages, all costs expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

### **COUNT III**

#### **BROUGHT BY MICHELLE HAAKE, AS ADMINISTRATOR OF THE ESTATE OF WALTER E. HAAKE, JR.**

### **NEGLIGENCE**

59. All allegations contained in paragraphs 1 through 58 above are hereby incorporated into Count III of Plaintiffs' Complaint by reference as though fully set forth herein.

60. The Shawnee County Defendants breached a duty owed to Walter E. Haake, Jr. by committing the acts and/or omissions complained of herein. The Shawnee County Defendants' negligence includes, but is not limited to, negligently and unreasonably causing the death of Walter E. Haake, Jr. by using unreasonable and unwarranted force, using a TASER on him when such force was

unreasonable and unwarranted, failing to adequately train and supervise officers and failing to follow proper procedures.

61. As a direct and proximate result of the Shawnee County Defendants' breach of their duties, Walter E. Haake, Jr. suffered physical and mental pain and ultimately death.

62. The Shawnee County Defendants are liable to Plaintiffs for compensatory and punitive damages caused by their negligence.

WHEREFORE, Plaintiff, Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., prays for judgment against the Shawnee County Defendants for actual damages, punitive damages, compensatory damages, all costs expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

**COUNT IV**  
**BROUGHT BY MICHELLE HAAKE, AS ADMINISTRATOR**  
**OF THE ESTATE OF WALTER E. HAAKE, JR.**

**ASSAULT AND BATTERY**

63. All allegations contained in paragraphs 1 through 62 above are hereby incorporated into Count IV of Plaintiffs' Complaint by reference as though fully set forth herein.

64. Deputies Johnson and Mills unlawfully and unreasonably assaulted and battered Walter E. Haake, Jr. by committing the acts complained of herein. Deputies Johnson and Mills' assault and battery of Walter E. Haake, Jr. included, but is not limited to, grabbing, pulling and attempting to unlawfully and unreasonably remove Walter E. Haake, Jr. from his vehicle, using a TASER on Walter E. Haake, Jr. in an effort to remove him from his vehicle and unlawfully and unreasonably slamming Walter E. Haake, Jr. to the ground and handcuffing him.

65. As a direct and proximate result of Deputies Johnson and Mills' assault and battery, Walter E. Haake, Jr. suffered physical and mental pain and ultimately death.

66. The Shawnee County Defendants are liable to Plaintiffs for compensatory and punitive damages caused by their negligence.

WHEREFORE, Plaintiff, Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., prays for judgment against the Shawnee County Defendants for actual damages, punitive damages, compensatory damages, all costs expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

### **COUNT V**

**BROUGHT BY PATRICIA HAAKE, MICHELLE HAAKE, MATTHEW HAAKE AND MARSHALL HAAKE AS THE HEIRS AT LAW OF WALTER E. HAAKE, JR.**

### **WRONGFUL DEATH**

67. All allegations contained in paragraphs 1 through 66 above are hereby incorporated into Count V of Plaintiffs' Complaint by reference as though fully set forth herein.

68. Plaintiffs, Patricia Haake, Michelle Haake, Matthew Haake and Marshall Haake, are the surviving heirs at law of Walter E. Haake, Jr. Plaintiffs bring this wrongful death action pursuant to K.S.A. §§ 60-1901, *et seq.* The injuries sustained by Walter E. Haake, Jr. as a result of the acts or omissions of the Shawnee County Defendants, as described herein, resulted in his death.

69. Decedent Walter E. Haake, Jr. would have been entitled to bring an action for his injuries should he have survived the incident.

70. Plaintiffs sustained the damages herein as a result of the Shawnee County Defendants' wrongful acts, as described herein, and are entitled to recovery. These damages include, but are not limited to, mental anguish, suffering or bereavement, loss of society, companionship, comfort or protection, loss of marital care, attention, advice or counsel, loss of parental care, training, guidance or education, reasonable funeral expenses for the decedent, lost income and pain, suffering and emotional distress.

71. The Shawnee County Defendants' actions were willful, wanton and/or malicious, and/or in conscious disregard of Plaintiffs' rights.

WHEREFORE, Plaintiffs Patricia Haake, Michelle Haake, Matthew Haake and Marshall Haake, as the heirs at law of Walter E. Haake, Jr., deceased, pray for judgment against the Shawnee County Defendants for actual damages, punitive damages, compensatory damages, all costs expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

### **COUNT VI**

**BROUGHT BY MICHELLE HAAKE, AS ADMINISTRATOR OF THE ESTATE OF  
WALTER E. HAAKE, JR.**

### **PRODUCTS – STRICT LIABILITY – DEFECT IN DESIGN, MANUFACTURING and WARNINGS**

72. All allegations contained in paragraphs 1 through 71 above are hereby incorporated into Count VI of Plaintiffs' Complaint by reference as though fully set forth herein.

73. Plaintiffs complain herein that the TASER that was used was a proximate cause of the death of Walter E. Haake, Jr. The TASER was an unreasonably dangerous product at the time the TASER left the Defendant TASER's control. The TASER was dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases and/or uses it, with the ordinary knowledge common to the community as to its characteristics. The defect that existed within the TASER at the time that it left the TASER Defendant's control was a defect in design, manufacturing and warnings. The warnings that accompanied the TASER rendered the product defective because the warnings did not allow for the safe use of the product.

74. A manufacturer or seller that knows or should know that a product is potentially dangerous to users has a duty to give adequate warnings of such danger where injury can be reasonably anticipated if an adequate warning is not given. The TASER Defendant failed to provide adequate



warnings of such danger inherent in the use of this product on another human being. Such failure to provide adequate warnings was a proximate cause of Plaintiff's death.

75. The TASER Defendant's TASER was defective in design in that it allowed for an excessive amount of electricity to be delivered into Walter E. Haake, Jr. thereby causing his death. Specifically, the TASER is marketed and intended to be designed to deliver non-lethal electrical shock to a subject, which did not occur here. Either through a lack of research and/or testing, that the TASER Defendant is required to perform, a lethal dose was given to Walter E. Haake, Jr. This defect in design rendered the product unreasonably dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it and/or uses it, with the ordinary knowledge common to the community as to its characteristics.

76. As a direct and proximate result of the design defect in the TASER Defendant's TASER, Walter E. Haake, Jr. was injured.

77. The TASER Defendant's TASER was defective in its manufacturing in that it was manufactured in a way that would allow a lethal dose of electricity to be delivered into an individual, thereby causing an individual's death. This defect in manufacturing rendered the product unreasonably dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it and/or uses it, with the ordinary knowledge common to the community as to its characteristics.

78. As a direct and proximate result of the defective manufacturing of the TASER Defendant's TASER, Walter E. Haake, Jr. was injured.

WHEREFORE, Plaintiff Michelle Haake, as Administrator of the Estate of Walter E. Haake, Jr., prays for judgment against TASER International, Inc. for actual damages, punitive damages, compensatory damages, all costs and expenses, expert witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other and further relief as the Court deems just and proper.

## **COUNT VII**

**BROUGHT BY PATRICIA HAAKE, MICHELLE HAAKE, MATTHEW HAAKE AND  
MARHALL HAAKE AS THE HEIRS AT LAW OF WALTER E. HAAKE, JR.**

### **WRONGFUL DEATH PREDICATED ON PRODUCTS – STRICT LIABILITY – DEFECTS IN DESIGN, MANUFACTURING and WARNINGS**

79. All allegations contained in paragraphs 1 through 78 above are hereby incorporated into Count VII of Plaintiffs' Complaint by reference as though fully set forth herein. Specifically, the allegations contained in Count VI concerning Defendant TASER are incorporated herein by reference as though fully set forth herein.

80. Plaintiffs, Patricia Haake, Michelle Haake, Matthew Haake and Marshall Haake, are the surviving heirs at law of Walter E. Haake, Jr. Plaintiffs bring this wrongful death action pursuant to K.S.A. §§ 60-1901, *et seq.* The injuries sustained by Walter E. Haake, Jr. as a result of the acts or omissions of the TASER Defendant, as described herein, resulted in his death.

81. Decedent Walter E. Haake, Jr. would have been entitled to bring an action for his injuries should he have survived.

82. Plaintiffs sustained the damages herein as a result of the TASER Defendant's wrongful acts, as more fully described in Count VI herein, and are entitled to recovery. These damages include, but are not limited to, mental anguish, suffering or bereavement, loss of society, companionship, comfort or protection, loss of marital care, attention, advice or counsel, loss of parental care, training, guidance or education, reasonable funeral expenses for the decedent, lost income and pain, suffering and emotional distress.

83. The TASER Defendant's actions or omissions as more fully described in Count VI herein were willful, wanton and/or malicious, and/or in conscious disregard of Plaintiffs' rights.

WHEREFORE, Plaintiffs Patricia Haake, Michelle Haake, Matthew Haake and Marshall Haake, as the heirs at law of Walter E. Haake, Jr., deceased, pray for judgment against the TASER Defendant for actual damages, punitive damages, compensatory damages, all costs expenses, expert

witness fees and attorneys' fees incurred herein, appropriate equitable relief, for pre and post judgment interest at the highest level rate, and for such other and further relief as the Court deems just and proper.

### **DEMAND FOR JURY**

Plaintiffs request a trial by jury with respect to all counts set forth herein.

### **DESIGNATION OF PLACE OF TRIAL**

Plaintiffs designate the Federal Courthouse in Kansas City, Kansas as the place of trial.

Respectfully submitted,

**COCHRAN, OSWALD & ROAM, LLC**

/s/ Erik P. Klinkenborg  
Erik P. Klinkenborg (KS Bar #20187)  
601 NW Jefferson Street  
Post Office Box 550  
Blue Springs, Missouri 64013-0550  
Phone: 816-229-8121  
Fax: 816-229-0802  
[eklinkenborg@cochranoswaldlaw.com](mailto:eklinkenborg@cochranoswaldlaw.com)

-and-

**PROVOST UMPHREY, LLP**

Joe J. Fisher, II  
(To Be Admitted Pro Hac Vice)  
490 Park Street  
P.O. Box 4905  
Beaumont, Texas 77704  
(409) 835-6000 – Phone  
(409) 838-8888 – Fax  
[jfisher@provostumphrey.com](mailto:jfisher@provostumphrey.com)

**ATTORNEY FOR PLAINTIFFS**