

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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C. BRYAN HARTMAN & MICHELE RENEE HARTMAN

COMPLAINT

Plaintiffs,

Civ. No.:

-vs-

STATE OF PENNSYLVANIA; PENNSYLVANIA STATE POLICE; TROOPER  
JEREMIAH R. MISTICK, In His Official and Individual Capacity; TROOPER  
SHAWN PANCHIK, In His Official and Individual Capacity,

Defendants.

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**JURY DEMAND**

Trial by jury on all issues is demanded.

**PRELIMINARY INTRODUCTION**

1. This is an action brought pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1985(3), and the Fourth Amendment of the United States Constitution for the interference with the Plaintiffs' property rights, i.e. the ownership of their dog, pursuant to the Fourth Amendment and for the use of excessive force in violation of the Fourteenth Amendment.

## **PARTIES**

2. Plaintiff C. Bryan Hartman resides at 853 Smith Drive, York, PA 17408.
  
3. Plaintiff Michele Renee Hartman resides at 853 Smith Drive, York, PA 17408.
  
4. Upon information and belief, the Pennsylvania State Police is an agency of the State of Pennsylvania and operates a Troop in York County, State of Pennsylvania, located at 110 Trooper Court, York, PA 17403.
  
5. Defendant Jeremiah Mistick is a Trooper hired and supervised by the Pennsylvania State Police, assigned to the York Barracks in the County of York, State of Pennsylvania, located at 110 Trooper Court, York, PA 17403.
  
6. Defendant Shawn Panchik is a Trooper hired and supervised by the Pennsylvania State Police, assigned to the York Barracks in the County of York, State of Pennsylvania, located at 110 Trooper Court, York, PA 17403

7. Defendants, Trooper Jeremiah Mistick, in his individual and official capacity, and Trooper Shawn Panchik, in his individual and official capacity, are members of the Pennsylvania State Police, assigned to the York Barracks in the County of York, State of Pennsylvania, and were present on the evening of March 19, 2013 during the events which form the basis of this Complaint.

### **JURISDICTION**

8. Plaintiffs' bring this action to recover damages for the violation of their civil rights under the Fourth and Fourteenth Amendments to the United States Constitution, codified at 42 U.S.C. § 1983 and 42 U.S.C. § 1985(3).

9. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 (federal question) and § 1343 (civil rights).

10. Declaratory, injunctive and equitable relief is sought pursuant to 28 U.S.C. §§2201 and 2202.

11. Compensatory and punitive damages are sought pursuant to 42 U.S.C. § 1983 and § 1985.

12. Costs and attorney's fees may be awarded pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. Rule 54.

13. As mandated by the Supremacy Clause, in relation to actions brought pursuant to 42 U.S.C. § 1983, plaintiffs do not have to comply with local laws with regard to filing a Notice of Claim with regard to federal causes of action.

### **VENUE**

14. This action properly lies in the Middle District of Pennsylvania, pursuant to 28 U.S.C. § 1343(3) because the claims arose in this judicial district and the defendants reside in and/or do business in York County.

### **FACTUAL BACKGROUND**

15. On March 18, 2013, at approximately 3:00-4:00 pm, Plaintiff Michele Renee Hartman let her pit bull-terrier mix dog, Lucy, out into the backyard of their home.

16. The yard is not fenced in, as the family lives on a large, multi-acre piece of land.
17. Lucy wandered out of the yard and became lost.
18. At approximately 5:30 pm, Darlene Myers discovered Lucy on her property.
19. Lucy was not causing a disturbance at the time Myers discovered her.
20. Lucy eventually began barking and attempted to come into the home by possibly chewing at the back door.
21. Myers yelled at Lucy in an effort to scare her away, but Lucy eventually returned to the home.
22. Myers was unable to make contact with the dog law officer and instead requested assistance from the Pennsylvania State Police-York.
23. Myers, by way of her calls to the Pennsylvania State Police, never indicated that Lucy was aggressive, out of control, or unapproachable.

24. In the early morning of March 19, 2013, Troopers Mistick and Panchik finally responded to the home at 2950 Seven Valleys Road for a report of a pit bull type dog attempting to gain entry to the home by barking and chewing at the door.
25. Upon arrival, the troopers were able to hear a dog barking behind the home.
26. Troopers Mistick and Panchik approached the rear of the home with their guns drawn while attempting to conceal their presence from the dog.
27. As the troopers made their way around the home, Lucy noticed them and ran in their direction.
28. Trooper Panchik yelled at Lucy, who stopped running before reaching the trooper's position.
29. As the dog stood where she stopped, no longer running towards the troopers, Trooper Panchik again began yelling at Lucy, who did not make any further motion towards the troopers.

30. When Lucy failed to run away, Trooper Panchik fired his gun, shooting Lucy in the head.
31. The troopers left Lucy outside and went to inform Myers of what had occurred.
32. When they returned, Trooper Mistick says he observed Lucy to have moved a short distance from where she was left and was breathing shallowly.
33. Trooper Mistick then shot Lucy once in the chest, killing her.
34. The defendants carried Lucy across the road and tossed her body over the guardrail.
35. No efforts were made to locate and/or contact the owners of the dog.
36. The next day, the Plaintiffs began hanging "Lost" posters in an attempt to find Lucy.
37. Myers saw the posters and contacted Plaintiff Michele Hartman and told her what had happened at her home on March 19, believing that Lucy was the dog involved.

38. Trooper Mistick spoke to Plaintiff and told her where she could find her dog's remains.
39. Lucy's body was recovered by Plaintiff C. Bryan Hartman down an embankment from the guardrail where she was left.
40. The discharge of a firearm, killing the family dog as she stood still, was plainly an irresponsible action on behalf of the defendants and constitutes gross negligence.
41. Further, the March 19, 2013 police report, authored by Trooper Jeremiah Mistick of the Pennsylvania State Police is totally devoid of any evidence that shooting the dog Lucy to death was necessary, i.e. there is *no written evidence* that Lucy attempted to hurt anyone or was anything other than a stray or lost dog trying to get home.
42. Defendants, acting under color of state law, violated Plaintiffs' Fourth and Fourteenth Amendment right against unreasonable searches and seizures in that defendants unreasonably interfered with Plaintiffs C. Bryan Hartman and Michele Renee Hartman's possessory interest in their dog Lucy when she was shot needlessly by defendants as her owners searched for her, desirous of retaining

custody of their dog Lucy.

43. Lucy presented no imminent danger, in that the dog stopped running when yelled at by the troopers, was not acting fiercely, and was not threatening anyone when she was killed as she stood still.
44. Non-lethal methods could have been used to restrain instead of killing Lucy, but were not exhausted, nor attempted.
45. In fact, both troopers had their weapons drawn before even coming into contact with the dog, which had not been reported as aggressive or threatening.
46. Defendants Troopers Mistick and Panchik acted unreasonably as judged objectively by the prospective of a reasonable police officer, and not the subjective intent of Troopers Mistick and Panchik.
47. Plaintiffs' interest in being free from such unreasonable searches and seizures unreasonably interfering with their dog outweigh any interest defendants may have to justify the interference with Plaintiffs' property rights in the ownership of their dog Lucy.

FIRST CAUSE OF ACTION FOR VIOLATIONS OF FOURTH AMENDMENT RIGHTS AS PER 42 U.S.C. § 1983 AGAINST PENNSYLVANIA STATE POLICE TROOPER JEREMIAH MISTICK, In His Official and Individual Capacity, and PENNSYLVANIA STATE POLICE TROOPER SHAWN PANCHIK, In His Official and Individual Capacity

48. Plaintiffs C. Bryan Hartman and Michele Renee Hartman repeat and reiterate each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.
49. As a result of the actions described in detail above, Defendants, acting under color of state law, violated Plaintiffs' Fourth Amendment right against unreasonable searches and seizures in that Defendants unreasonably interfered with Plaintiffs C. Bryan Hartman and Michele Renee Hartman's possessory interest in their dog Lucy when she was shot needlessly by defendants while her owners searched for her, desirous of retaining custody of their dog Lucy.
50. Lucy presented no imminent danger, in that she stopped running when yelled at by the troopers, was not acting fiercely, and was not threatening anyone when she was killed as she stood still.

51. Non-lethal methods could have been used instead of killing the dog Lucy, but were not exhausted, nor attempted.
52. In fact, both troopers had their weapons drawn before even coming into contact with the dog, which had not been reported as aggressive or threatening.
53. Defendants Troopers Mistick and Panchik acted unreasonably as judged objectively by the perspective of a reasonable police officer, and not the subjective intent of Troopers Mistick and Panchik.
54. Plaintiffs' interest in being free from such unreasonable searches and seizures unreasonably interfering with their dog outweigh any interest defendants may have to justify the interference with Plaintiffs' property rights in the ownership of their dog Lucy.
55. The shooting of Lucy by the defendants Troopers Mistick and Panchik constituted or was brought about because of the grossly negligent act by the troopers in shooting Lucy to death, which constitutes an official policy of Defendants to shoot and kill dogs under the factual circumstances described herein, while knowing of and fully disregarding the constitutional rights of the Plaintiffs under

the Fourth Amendment of the United States Constitution.

56. As a result of Defendant Troopers Mistick and Panchik's deprivation of Plaintiffs' civil rights, Plaintiff has been damaged in an amount to be determined at trial.

57. That Plaintiffs demand costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

SECOND CAUSE OF ACTION FOR PLAINTIFFS C. BRYAN HARTMAN  
AND MICHELE RENEE HARTMAN, FOR VIOLATIONS OF THE FOURTH  
AMENDMENT AS PER 42 U.S.C. § 1983 AGAINST THE STATE OF  
PENNSYLVANIA AND THE PENNSYLVANIA STATE POLICE

58. Plaintiffs C. Bryan Hartman and Michele Renee Hartman repeat and reiterate each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

59. As a result of the actions described in detail above, the defendants, acting under color of state law, violated Plaintiffs' Fourth Amendment right against unreasonable searches and seizures in that Defendants unreasonably interfered with Plaintiffs C. Bryan Hartman and Michele Renee Hartman's possessory interest in their dog Lucy when she was shot needlessly by defendants while her owners searched for her, desirous of retaining custody of said dog.

60. Lucy presented no imminent danger, in that she stopped running when yelled at by the troopers, was not acting fiercely, and was not threatening anyone when she was killed as she stood still.
61. Non-lethal methods could have been used instead of killing the dog Lucy, but were not exhausted.
62. In fact, both troopers had their weapons drawn before even coming into contact with the dog, which had not been reported as aggressive or threatening.
63. Defendants Troopers Mistick and Panchik acted unreasonably as judged objectively by the perspective of a reasonable police officer, and not the subjective intent of Troopers Mistick and Panchik.
64. Plaintiffs' interest in being free from such unreasonable searches and seizures unreasonably interfering with their dog outweighs any interest defendants may have to justify the interference with Plaintiffs' property rights in the ownership of their dog Lucy.

65. The shooting of Lucy by the defendants Troopers Mistick and Panchik constituted or was brought about because of the grossly negligent act by the troopers in shooting Lucy to death, which constitutes an official policy of defendants to shoot and kill dogs under the factual circumstances described herein, while knowing of and fully disregarding the constitutional Rights of the Plaintiffs under the Fourth and Fourteenth Amendments of the United States Constitution.

66. The Pennsylvania State Police and State of Pennsylvania caused Plaintiffs to be subjected to Fourth Amendment violations because Troopers Mistick and Panchik's actions were part of the customary practices of the Pennsylvania State Police, a Pennsylvania state agency. Such repeated Fourth Amendment violations amount to the Pennsylvania State Police's deliberate indifference to an obvious need for training of its officers, including and especially, Troopers Mistick and Panchik. This failure to adequately train resulted in the trooper's actions that caused the Plaintiffs harm, and will continue to do so if nothing is done by the Pennsylvania State Police.

67. The aforementioned misuse of authority and power by Defendants Troopers Mistick and Panchik was egregious and shocking to the conscience. As a direct result, Plaintiffs were caused and will continue to undergo and endure

severe mental anguish, humiliation and economic hardship as a consequence thereof.

68. Such deprivations were in violation of the rights secured to Plaintiffs by the Fourth Amendment of the United States Constitution and by Title 42 U.S.C. § 1983.

69. As a direct result of the Pennsylvania State Police's policies and procedures, their lack of training, and Defendant Troopers Mistick and Panchik's deprivation of Plaintiffs' civil rights, Plaintiff has been damaged in an amount to be determined at trial.

70. That Plaintiffs demand costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

**THIRD CAUSE OF ACTION FOR PLAINTIFFS C. BRYAN HARTMAN  
AND MICHELE RENEE HARTMAN FOR VIOLATIONS OF THE  
FOURTEENTH AMENDMENT AS PER 42 U.S.C. § 1983 AGAINST  
PENNSYLVANIA STATE POLICE, TROOPER JEREMIAH MISTICK, In  
His Official and Individual Capacity, TROOPER SHAWN PANCHIK, In His  
Individual and Official Capacity**

71. Plaintiffs repeat the allegations contained in the above stated paragraphs of the Complaint as if fully set forth herein in this cause of action.

72. As a result of the actions described in detail above, Defendants, acting under color of state law, violated Plaintiffs' Fourteenth Amendment right in that Defendants unreasonably interfered with Plaintiffs C. Bryan Hartman and Michele Renee Hartman's possessory interest in their dog Lucy when she was shot needlessly by defendants as her owners searched for her, desirous of retaining custody of said dog.

73. Lucy presented no imminent danger, in that she stopped running when yelled at by the troopers, was not acting fiercely, and was not threatening anyone when she was killed as she stood still.

74. Non-lethal methods could have been used instead of killing the dog Lucy, but were not exhausted, nor attempted.

75. In fact, both troopers had their weapons drawn before even coming into contact with the dog, which had not been reported as aggressive or threatening.

76. Defendants Troopers Mistick and Panchik acted unreasonably as judged objectively by the perspective of a reasonable police officer, and not the subjective intent of Troopers Mistick and Panchik.

77. Plaintiffs' interest in being free from such unreasonable searches and seizures and unreasonably interfering with their dog outweighs any interest defendants may have to justify the interference with Plaintiffs' property rights in the ownership of their dog Lucy.

78. The shooting of Lucy by the defendants Troopers Mistick and Panchik constituted or was brought about because of the grossly negligent act by the troopers in shooting Lucy to death, which constitutes an official policy of defendants to shoot and kill dogs under the factual circumstances described herein, while knowing of and fully disregarding the constitutional rights of the Plaintiffs under the Fourteenth Amendment of the United States Constitution.

79. The aforementioned misuse of authority and power by Defendants Troopers Mistick and Panchik was egregious and shocking to the conscience. As a direct result, Plaintiffs were caused and will continue to undergo and endure severe mental anguish, humiliation and economic hardship as a consequence thereof.

80. Such deprivations were in violation of the rights secured to Plaintiffs by the Fourteenth Amendment of the United States Constitution and by Title 42 U.S.C. § 1983.

81. As a result of Defendant Troopers Mistick and Panchik's deprivation of Plaintiffs' civil rights, Plaintiff has been damaged in an amount to be determined at trial.

82. Plaintiffs demand costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

FOURTH CAUSE OF ACTION FOR PLAINTIFFS C. BRYAN HARTMAN and  
MICHELE RENEE HARTMAN FOR VIOLATIONS OF THE FOURTEENTH  
AMENDMENT AS PER 42 U.S.C. § 1983 AGAINST THE STATE OF  
PENNSYLVANIA AND PENNSYLVANIA STATE POLICE

83. Plaintiffs repeat the allegations contained in the above stated paragraphs of the Complaint as if fully set forth herein in this cause of action.

84. As a result of the actions described in detail above, the defendants, acting under color of state law, violated Plaintiffs' Fourteenth Amendment right against unreasonable searches and seizures in that Defendants unreasonably interfered with Plaintiffs C. Bryan Hartman and Michele Renee Hartman's possessory interest in their dog Lucy when she was shot needlessly by defendants as her

owners searched for her, desirous of retaining custody of said dog.

85. Lucy presented no imminent danger, in that she stopped running when yelled at by the troopers, was not acting fiercely, and was not threatening anyone when she was killed as she stood still.

86. Non-lethal methods could have been used instead of killing the dog Lucy, but were not exhausted, nor attempted.

87. In fact, both troopers had their weapons drawn before even coming into contact with the dog, which had not been reported as aggressive or threatening.

88. Defendants Troopers Mistick and Panchik acted unreasonably as judged objectively by the perspective of a reasonable police officer, and not the subjective intent of Troopers Mistick and Panchik.

89. Plaintiffs' interest in being free from such unreasonable searches and seizures unreasonably interfering with their dog outweighs any interest defendants may have to justify the interference with Plaintiffs' property rights in the ownership of their dog Lucy.

90. The shooting of Lucy by the defendants Troopers Mistick and Panchik constituted or was brought about because of the grossly negligent act by the troopers in shooting Lucy to death, which constitutes an official policy of defendants to shoot and kill dogs under the factual circumstances described herein, while knowing of and fully disregarding the constitutional rights of the Plaintiffs under the Fourteenth Amendment of the United States Constitution.

91. The Pennsylvania State Police and the State of Pennsylvania caused Plaintiffs to be subjected to Fourteenth Amendment violations because Troopers Mistick and Panchik's actions were part of the customary practices of the Pennsylvania State Police, a Pennsylvania state agency. Such repeated Fourteenth Amendment violations amount to the Pennsylvania State Police's deliberate indifference to an obvious need for training of its officers, including and especially, Troopers Mistick and Panchik. This failure to adequately train resulted in the trooper's actions that caused the Plaintiffs harm, and will continue to do so if nothing is done by the Pennsylvania State Police.

92. The aforementioned misuse of authority and power by Defendants Troopers Mistick and Panchik was egregious and shocking to the conscience. As a

direct result, Plaintiffs were caused and will continue to undergo and endure severe mental anguish, humiliation and economic hardship as a consequence thereof.

93. Such deprivations were in violation of the rights secured to Plaintiffs by the Fourteenth Amendment of the United States Constitution and by Title 42 U.S.C. § 1983.

94. As a direct result of the Pennsylvania State Police's policies and procedures, their lack of training, and Defendant Troopers Mistick and Panchik's deprivation of Plaintiffs' civil rights, Plaintiff has been damaged in an amount to be determined at trial.

95. That Plaintiffs demand costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

PUNITIVE DAMAGES AGAINST DEFENDANT PENNSYLVANIA  
STATE POLICE; THE STATE OF PENNSYLVANIA; TROOPER  
JEREMIAH R. MISTICK, In His Official and Individual Capacity;  
TROOPER SHAWN PANCHIK, In His Official and Individual Capacity

96. Plaintiffs incorporate herein by reference all of the allegations set forth herein in this Complaint as if fully set forth herein.

97. Defendants Troopers Mistick and Panchik were deliberately indifferent to Plaintiff Hartmans' constitutional rights as a result of their indifference and malice by shooting the dog Lucy as she stood still and while her owners searched for her.
98. The Pennsylvania State Police, a Pennsylvania state agency, has deliberately failed to institute appropriate policies and procedures and/or properly train its officers in the handling of cases involving dogs.
99. Punitive damages are justified against the above stated defendants for their deliberate indifference and malice towards the Plaintiffs herein.

**WHEREFORE,** Plaintiffs demand judgment on the above counts against defendants, their units, their officers, employees, agents, and other persons acting in concert or participation with them as stated above, and award the following amounts:

- A. Compensatory damages in favor of Plaintiffs in an amount to be determined by a jury;
- B. Exemplary damages in favor of each Plaintiff;

- C. Costs of this action, including reasonable attorney fees to the Plaintiff  
Pursuant to the Civil Rights Attorney's Fees Awards Act of 1976, U.S.C.  
§ 1988 (1976); and
- D. Such other and further relief as the court may deem appropriate.

Dated: March 16, 2015

/s/Jenna M. Fliszar, Esq.  
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