

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTHTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 2024-CP-26-
JENNIFER SPIVEY FOLEY, as Personal Representative of the Estate of SCOTT RYAN SPIVEY,)	
)	
Plaintiff,)	
)	
v.	)	SUMMONS
	)	(Jury Trial Demanded)
CHARLES WELDON BOYD and KENNETH WILLIAMS,	)	(Personal Injury/Wrongful Death/Survival)
)	
Defendants.)	
_____)	

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office at 265 Barnwell Highway, Allendale, South Carolina, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiffs will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

GOODING AND GOODING, P.A.

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-and-

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June 3, 2024

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTHTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 2024-CP-26-
JENNIFER SPIVEY FOLEY, as Personal Representative of the Estate of SCOTT RYAN SPIVEY,)	
)	
Plaintiff,)	
)	
v.	)	COMPLAINT
	)	(Jury Trial Demanded)
CHARLES WELDON BOYD and KENNETH WILLIAMS,	)	(Personal Injury/Wrongful Death/Survival)
)	
Defendants.)	
_____)	

The Plaintiff alleges:

PARTIES

1. That she is the duly appointed Personal Representative of the Estate of Scott Ryan Spivey and that she is the sister of Scott Ryan Spivey (hereinafter “Spivey”).
2. That she and decedent were at all times relevant herein residents of the State of North Carolina.
3. Upon information and belief, Defendant Charles Weldon Boyd (hereinafter “Boyd”) is a citizen and resident of Horry County, South Carolina.
4. Upon information and belief, Defendant Kenneth Williams (hereinafter “Williams”) is a citizen and resident of Horry County, South Carolina.

JURISDICTION

5. The most substantial part of the acts and/or omissions herein complained of occurred in Horry County, South Carolina.

6. That this Court has jurisdiction over the parties hereto and in the subject matter hereof.

FACTUAL ALLEGATIONS

7. That on or about September 9, 2023, Spivey while driving 2021 black Chevrolet Silverado begins to be followed by Boyd and Williams who are occupying Boyd's 2022 Dodge Ram TRX.

8. Upon information and belief, Boyd was driving the 2022 white Dodge Ram TRX at the time with Williams as a passenger in Boyd's vehicle.

9. Upon information and belief, at approximately 5:48 p.m., Spivey was driving on or near the intersection of Highway 57 and Highway 9 in Little River, South Carolina when some sort of altercation occurred between him and Boyd and Williams causing Boyd to be enraged and begin to pursue Spivey. At times, Boyd drives his vehicle dangerously close to the rear of Spivey's vehicle.

10. Upon information and belief, Spivey attempted to "brake check" Boyd in order to discourage the pursuit and Boyd's dangerously close distance.

11. Upon information and belief, Boyd along with Williams then began, without imminent threat to their persons or anyone else to threaten and to unlawfully pursue Spivey even more vigorously.

12. At approximately 5:54 p.m., Boyd calls 911 and tells the dispatcher "if I see the gun again, I'm going to take him/the mother f***** down/out. He's speeding up. Trying to get away from me." At that time and all others, Spivey was not threatening any specific person nor was there any such imminent threat. Instead of discontinuing their pursuit of Spivey or waiting

for law enforcement to intervene, Boyd and Williams continued to chase Spivey along Highway 9 into the Longs Section of Horry County, South Carolina for an extended length of time.

13. Ultimately, after an extended unlawful pursuit, Spivey turned on Camp Swamp Road while Boyd and Williams followed him relaying this information to the 911 operator. Shortly thereafter, shots are fired.

14. Upon information and belief, Spivey stopped his vehicle and screamed at Boyd, “Why the f*** are you following me? Leave me the f*** alone!”

15. Upon information and belief, Boyd and Williams started shooting at Spivey killing him in a hail of gunfire.

16. Upon information and belief, law enforcement arrived at the scene shortly thereafter.

17. Upon information and belief, Spivey injuries and subsequent death were a result of Boyd and Williams’ unlawful pursuit of him.

18. At all times relevant hereto, Williams was an active participant in the unlawful and unjustified chase and shooting of Spivey.

19. Spivey’s injuries and subsequent death were foreseeably identifiable within the normal use of Boyd’s vehicle, occurring during the use of Boyd’s vehicle which played an integral role in the the chase, harassment, keeping up with, and eventually killing of Spivey.

20. Upon information and belief, Boyd’s use of his vehicle was connected to the shooting of Spivey, and but for or without the use of the vehicle, Boyd and Williams would not have been able to unlawfully chase, shoot, and kill Spivey.

21. Furthermore, Boyd used his vehicle as an active accessory and there was no act of independent significance which broke the causal link connecting Boyd's use of his vehicle and the shooting of Spivey.

22. That the injuries and subsequent death of Spivey was due to and proximately caused by the negligent, careless, reckless, willful, intentional, wanton and grossly negligent conduct of Boyd and Williams, in the following particulars:

AS TO DEFENDANT BOYD

- a. in operating a motor vehicle, a dangerous instrumentality, in an unsafe manner;
- b. in operating a motor vehicle in an unlawful pursuit of another;
- c. in instigating a pursuit on the roadway with no imminent threat to himself;
- d. in chasing Plaintiff's vehicle;
- e. in failing to yield the pursuit of Plaintiff to law enforcement once 911 was notified of Plaintiff's actions and location;
- f. in attempting to make an unlawful citizen arrest;
- g. in driving too fast for conditions;
- h. in following too closely;
- i. in brandishing a firearm in the commission of a violent crime;
- j. in shooting and killing another person;
- k. in failing to stop the pursuit of Spivey;
- l. in failing to use the degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances; and
- m. in such other and further particulars as the evidence in trial may show.

AS TO DEFENDANT WILLIAMS

- a. in knowingly and willingly engaging in the unlawful pursuit of another;
- b. in instigating a pursuit on the roadway with no imminent threat to himself;
- c. in encouraging Boyd to give chase to Spivey;
- d. in attempting to make an unlawful citizen arrest;
- e. in participating in the chase of Plaintiff's vehicle;
- f. in failing to stop pursuing Plaintiff once 911 was notified of Plaintiff's actions and location;
- g. in knowingly and intentionally brandishing his weapon;
- h. in knowingly and willingly being an active participant in the shooting and death of another person;
- i. In failing to use the degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances; and
- j. In such other and further particulars as the evidence in trial may show.

all of which combined and concurred as a direct and proximate cause of the injuries and damages suffered by Spivey herein, said acts being in violation of the statute and common laws of the State of South Carolina.

23. Boyd and Williams owed Spivey and the public at large common law and/or statutory duties of care or undertook these duties of care.

24. Boyd and Williams breached their duties as aforesaid.

FOR A FIRST CAUSE OF ACTION
(Civil Assault)

25. Plaintiff incorporates all paragraphs above as if fully stated herein.

26. Defendants' actions in chasing and shooting Plaintiff without his consent constituted intentional conduct on their part to place Plaintiff in reasonable apprehension of a harmful or offensive touching or death and fear for his life.

27. Defendants intended to place Plaintiff in a reasonable apprehension of a harmful or offensive touching.

28. Defendants aggressively chased and brandished their weapons to Plaintiff. As such, Plaintiff had a just and reasonable ground to be in fear of Defendants and was justified in his belief that Defendants had the ability and intent to execute an unwanted, harmful or offensive touching or killing him, amount to the tort of civil assault.

29. As a direct and proximate result of Defendants' battery, Plaintiff suffered fear, catastrophic injuries and met his untimely death; as a result of Plaintiff's wrongful death, his statutory beneficiaries were required to spend money for funeral expenses and other necessities; they have and will suffer grievous damages, in particular, pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, love and deprivation of the use and comfort of the deceased's society, all to their damage, and in the future will so suffer. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in the amount determined by a jury at the trial in this action.

30. As a further direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willful and wanton conduct of the Defendants, Plaintiff met his untimely death after suffering from severe debilitating injuries which caused him conscious pain and suffering, both physical and mental, caused his estate to incur medical bills, caused expenses associated with his funeral and other damages allowed to be recovered pursuant to a survival action. The personal representative of the Estate is therefore entitled to recover from these

Defendants a sum of money to compensate the Estate for all damages allowable under the survival action for conscious pain and suffering. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in an amount determined by a jury at the trial in this action.

FOR A SECOND CAUSE OF ACTION
Civil Battery

31. Plaintiff incorporates all paragraphs above as if fully stated herein.

32. Defendants' actions shooting Plaintiff without his consent constituted an intentional, harmful and offensive contact which violated the physical and personal privacy and integrity of Plaintiff all of which constituted a civil battery against Plaintiff's person.

33. Defendants intended to commit the harmful or offensive touching upon Plaintiff's person.

34. As a direct and proximate result of Defendants' battery, Plaintiff suffered catastrophic injuries and met his untimely death; as a result of Plaintiff's wrongful death, his statutory beneficiaries were required to spend money for funeral expenses and other necessities; they have and will suffer grievous damages, in particular, pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, love and deprivation of the use and comfort of the deceased's society, all to their damage, and in the future will so suffer. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in the amount determined by a jury at the trial in this action.

35. As a further direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willful and wanton conduct of the Defendants, Plaintiff met his untimely death after suffering from severe debilitating injuries which caused him conscious pain and suffering, both physical and mental, caused his estate to incur medical bills, caused expenses

associated with his funeral and other damages allowed to be recovered pursuant to a survival action. The personal representative of the Estate is therefore entitled to recover from these Defendants a sum of money to compensate the Estate for all damages allowable under the survival action for conscious pain and suffering. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in an amount determined by a jury at the trial in this action.

FOR A THIRD CAUSE OF ACTION
Wrongful Death - S.C. Code Ann. § 15-51-10

36. Plaintiff incorporates all paragraphs above as if fully stated herein.

37. Defendants were willful, reckless, and/or wanton at the time and place above mentioned in the following particulars:

- a. In shooting and killing the Plaintiff; and
- b. In such other and further particulars as the evidence may show.

38. As a direct and proximate result and consequence of the commission of said outrageous acts upon Plaintiff, Plaintiff suffered catastrophic injuries and met his untimely death; as a result of Plaintiff's wrongful death, his statutory beneficiaries were required to spend money for funeral expenses and other necessities; they have and will suffer grievous damages, in particular, pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, love and deprivation of the use and comfort of the deceased's society, all to their damage, and in the future will so suffer. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in the amount determined by a jury at the trial in this action.

39. As a further direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willful and wanton conduct of the Defendants, Plaintiff met his untimely

death after suffering from severe debilitating injuries which caused him conscious pain and suffering, both physical and mental, caused his estate to incur medical bills, caused expenses associated with his funeral and other damages allowed to be recovered pursuant to a survival action. The personal representative of the Estate is therefore entitled to recover from these Defendants a sum of money to compensate the Estate for all damages allowable under the survival action for conscious pain and suffering. Plaintiff is also entitled to recover a sum of punitive damages from Defendants. All damages should be in an amount determined by a jury at the trial in this action.

WHEREFORE, Plaintiff prays this Honorable Court inquire into the matters set forth herein and award judgment in favor of Plaintiff against Defendants, jointly and severally, as follows:

- (a) For all actual, direct, indirect, special and consequential damages against the Defendants, jointly and severally, in an amount to be shown at trial;
- (b) For punitive damages in an amount to be determined by the trier of fact;
- (c) For pre-judgment and post-judgment interest;
- (d) For all attorneys' fees and costs associated with investigating and prosecuting this action; and
- (e) For all other relief this Honorable Court deems just and proper.

FURTHER WHEREFORE, Plaintiffs demand a jury trial on all issues set forth herein to the extent permitted by law.

GOODING AND GOODING, P.A.

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