

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

Carlos Flores and Stephanie Flores,
as Co-Trustees for the Next of Kin of
Olivia Kay Marie Flores, Deceased,

Court File No.

Plaintiffs,

COMPLAINT

vs.

Shane Elroy Roper, in his individual
capacity as a Minnesota State Trooper;

*Jury Trial Demanded Under
Fed. R. Civ. P. 38(b)*

Defendant.

For their Complaint, Plaintiffs Carlos Flores and Stephanie Flores, as Co-Trustees for the next of kin of decedent Olivia Kay Marie Flores, by and through their attorneys, state and allege upon knowledge, information and belief as follows:

INTRODUCTION

This cause of action arises out of Olivia Kay Marie Flores' untimely and preventable death. On the afternoon of May 18, 2024, Ms. Flores was riding as a back seat passenger in a vehicle driven by her close friend. Ms. Flores died from the injuries she sustained when the vehicle in which she was a passenger was struck by the squad car of Minnesota State Trooper Shane Roper while he was on-duty. Defendant Roper was excessively and recklessly speeding through a busy intersection in Rochester, Minnesota at over twice the posted speed limit in an area Roper knew to have heavy traffic. Defendant Roper saw and appreciated that there were other vehicles and occupants in the area and he consciously disregarded the risk he created by his shocking driving conduct.

At the time Defendant Roper struck the vehicle in which Ms. Flores was riding, Defendant Roper had no emergency lights activated, no siren activated, and no Opticom system activated. He

was not in pursuit of another person or vehicle, but rather, was engaged in non-emergency use of his State-issued patrol vehicle. Ms. Flores was 18 years old at the time of her death. She would have graduated high school on June 7, 2024, and celebrated that graduation with her family and friends.

Defendant Roper stands criminally charged in Olmsted County, Minnesota, as a result of his conduct on May 18, 2024. The charges include Second Degree Manslaughter, defined under Minnesota law as causing the death of another through conduct that created an unreasonable risk and consciously took chances of causing death to another. Defendant Roper is also charged with Reckless Driving – Resulting in Death, which relies on proof that Defendant Roper consciously disregarded a substantial and unjustifiable risk that his driving would result in harm to others. Such criminal recklessness is a hallmark of substantive due process liability under a deliberate indifference standard.

On behalf of their daughter, Plaintiffs Carlos and Stephanie Flores now seek compensatory damages, general damages, punitive damages, and reasonable attorney’s fees and costs brought pursuant to 42 U.S.C. §1983 & 1988 to redress the deprivation under color of state law of Olivia Flores’ clearly established rights as secured by the Fourteenth Amendment to the United States Constitution against Defendant Shane Elroy Roper in his individual capacity as a duly-certified law enforcement officer employed by the Minnesota State Patrol.

THE PARTIES

1. At all times relevant hereto and until the time of her death on May 19, 2024, Olivia Kay Marie Flores was a citizen of the United States and the city of Owatonna, County of Steele, State of Minnesota.
2. By Order dated June 30, 2024, Olmsted County District Court Judge Christina K. Stevens appointed Olivia Flores’ parents, Carlos Flores and Stephanie Flores (“Plaintiffs”) as Trustees

for the Next of Kin of Olivia Kay Marie Flores. At all times relevant hereto, Plaintiffs have resided in Owatonna, County of Steele, State of Minnesota.

3. Defendant Shane Elroy Roper (“Defendant Roper”) was employed by the Minnesota State Patrol from 2016 until his termination on September 3, 2024. Upon information and belief, Defendant Roper is and was, at all times relevant hereto, a citizen of the United States and has resided in Hayfield, Dodge County, Minnesota.

JURISDICTION AND VENUE

4. This Court has jurisdiction over federal questions pursuant to 28 U.S.C. §§ 1331, 1343, and 42 U.S.C. §§ 1983, 1988.
5. This Court has supplemental jurisdiction over the state law wrongful death claim pursuant to 28 U.S.C. §1367.
6. Venue is proper in this Court under 28 U.S.C. §1391(b) because all incidents, events, and occurrences giving rise to this action occurred in the District of Minnesota. Moreover, upon information and belief, all parties reside in this Judicial District.

FACTUAL ALLEGATIONS

OLIVIA KAY MARIE FLORES

7. Olivia Kay Marie Flores (“Ms. Flores”) was born on November 22, 2005, to her parents, Carlos and Stephanie Flores, in Owatonna, Steele County, Minnesota.
8. Less than two years later, in June of 2007, the Flores family welcomed a baby boy. Ms. Flores and her younger brother had a very close, loving relationship, and Ms. Flores particularly enjoyed watching and cheering for her brother and his teammates as he played football, baseball and basketball.

9. Ms. Flores was by nature a shy child, but she found her calling in cheerleading. She won multiple awards in competitive cheer and was a two-time state champion. She was a “flyer” as a cheerleader, performing the aerial skills as part of the team. She relished the physical challenges of cheerleading and found her place in cheerleading as a leader among her peers.
10. In 2023, Ms. Flores was voted Captain of the Owatonna High School Cheerleading team. She enjoyed the challenge of learning new skills and helping her teammates learn as well. She planned to help coach the cheerleading team after her high school graduation and was also excited to finally be able to watch her younger brother play football, instead of cheerleading during his games.
11. Ms. Flores loved music, the arts, her close friends, and her family. She had a tremendous desire and plan to travel and experience the world before deciding on further education and a career path. She had a fearless and adventurous spirit and looked forward to the next phase of her life as a young adult.
12. Ms. Flores attended Owatonna High School and would have graduated on June 7, 2024.
13. On May 18, 2024, Ms. Flores spent time with two close friends, Angelina and Katarina Bartz, in Rochester, Olmsted County, Minnesota. The young women had played a round of golf earlier in the day, a first for Ms. Flores, and planned to have dinner at Red Lobster located at the Apache Mall in Rochester.
14. Ms. Flores was a backseat passenger in Angelina Bartz’s vehicle as they drove to the Apache Mall. As Ms. Bartz turned left into the mall entrance from 12th Street SW, her vehicle was struck on the rear passenger side by Minnesota State Trooper Shane Roper. Defendant Roper was driving a Minnesota State Patrol squad car fully equipped with emergency lights, siren, and

an Opticom system, but he had no emergency lights, siren, or Opticom activated as he sped eastbound on 12th Street SW, at over twice the posted speed limit.

15. The collision caused acute catastrophic traumatic injuries to Ms. Flores, including blunt force injures to her head and torso resulting in multiple skull and rib fractures, hemorrhaging, loss of consciousness, and a coma.

16. Due to the injuries Ms. Flores sustained on May 18, 2024, she never regained consciousness and died on May 19, 2024, surrounded by her family and closest friends. She was 18 years old.

MINNESOTA STATE TROOPER SHANE ROPER

17. Defendant Roper was hired by the Minnesota State Patrol as a State Trooper following his graduation with the 57th Minnesota State Patrol Training Academy on May 17, 2016.

18. Defendant Roper was assigned to work in District 2100, which covers the southeastern corner of the State of Minnesota, including Olmsted County, Minnesota.

19. At all times relevant hereto, Defendant Roper was a licensed peace officer in the state of Minnesota, duly licensed under Minnesota Statutes Chapter 626 and Minnesota Rules Chapter 6700.

20. Pursuant to his licensure, Defendant Roper was authorized to perform the duties and responsibilities of a licensed peace officer by the State of Minnesota, through its Department of Public Safety and Minnesota State Patrol, and subject to the statutes, ordinances, regulations, policies, customs, and usages of the State of Minnesota, the Minnesota Department of Public Safety and the Minnesota State Patrol.

21. The Minnesota State Patrol is established under Minnesota Statutes Chapter 299D.01-11. Minnesota State Patrol members have the express authority granted under Minn. Stat. §299D.03, subd. 1.

22. Throughout his tenure with the Minnesota State Patrol, Defendant Roper worked as a State Trooper. The State Patrol Trooper position description states the nature and purpose of the position as follows:

An employee in this class provides the only statewide uniformed police services authorized by Minnesota State Statute 299D.03. Incumbents serve as first responders to statewide critical incidents; provide public safety services; ensure the safe and efficient movement of traffic; provide direct police services; assist other law enforcement and governmental agencies in the detection and apprehension of criminals; and performs other duties as required.

23. Among the knowledge and skill required for the position, Troopers are required to possess knowledge of state and federal laws.

24. Beginning in January of 2016, Defendant Roper received training through the Minnesota State Patrol, including, “Traffic law,” “Policy Review Pursuits,” “True North Constitutional Policing,” and distinguishing Emergency and Non-Emergency Vehicle Operations.

25. Throughout Defendant Roper’s tenure, the Minnesota State Patrol has operated under “General Orders” that set forth the policies for the organization.

26. Under General Order 13-30-004, II.D, effective March 22, 2013, Troopers are expressly prohibited from operating any squad car in a reckless manner.

27. Under General Order 18-40-011, VII.B, effective September 7, 2018, Troopers are required to document any “field event” through an entry into the Computer Aided Dispatch (“CAD”) system through the Mobile Data Computer (MDC) installed in the squad car. If the Trooper is facing an “extreme case” where the CAD entry is not practical, the Trooper is required to notify dispatch of the filed event and the information pertaining to it. Traffic stops are considered “field events” under the policy.

28. Under General Order 12-20-011, II.C.1, effective September 28, 2012, Troopers are instructed that they, “shall obey all traffic laws and shall not assume any special privileges, except while

responding to an emergency situation or involved in a pursuit situation.” Under General Order 12-20-011, II.E.2, Troopers are prohibited from operating their squad cars without “required lights” while traveling faster than the posted speed limit or at speeds greater than reasonable or prudent for the existing road and traffic conditions. Under General Order 12-20-011, II.E.3, Troopers are prohibited from operating their squad car without required lights, “while in pursuit of a fleeing vehicle.”

29. General Order 22-20-012, effective May 10, 2022 governs “Motor Vehicle Pursuit.” Under General Order 22-20-012, III, A, B, a motor vehicle pursuit is defined as, “An active attempt by a [Trooper] operating a patrol unit to apprehend a driver of a motor vehicle who, having been given a visual and audible signal by a peace officer directing said driver to bring their vehicle to a stop, increases speed, extinguishes motor vehicle headlights or taillights, refuses to stop the vehicle, or uses other means with intent to attempt to elude a peace officer. (Minn. Stat. sec. 609.487).” Troopers are required to provide dispatch with information regarding any “pursuit” as soon as possible. The policy goes on to state, “A [Trooper] is deemed to have discontinued a pursuit when he/she turns off emergency lights and siren, returns to nonemergency operation, and informs the [dispatcher].”

30. Unless a severe and imminent threat exists, under General Order 22-20-012, IV.A.3, Troopers are prohibited from engaging in any pursuit when a non-sworn passenger is present in the patrol unit. A “severe and imminent threat” means that the suspect driver is believed to have recently caused great bodily harm or death to another person or such harm or death is reasonably likely to occur. General Order 22-20-012, III.J. Under General Order 22-20-012, III.J, pursuit itself does not constitute a severe and imminent threat by the other driver.

31. Under General Order 22-20-012, IX.A.1, “In order to be engaged in a pursuit, [Troopers] shall be in a pursuit-rated vehicle and shall use flashing emergency lights and siren.”
32. General Order 08-20-033, II.1-4, effective June 6, 2008, requires that Troopers operating in an “emergency” situation must activate at least one lighted red light to the front, “whenever a [Trooper] wishes to assume emergency vehicle right-of-way.” The policy does not relieve the driver of an emergency vehicle from the duty to drive with due care for the safety of other persons using the roadway.
33. As described in General Order 08-20-033, II.B, the Opticom system sends an electronic signal that interrupts and overrides the normal cycle of traffic control lights the Trooper is approaching, in the attempt to secure the right-of-way for the approaching emergency vehicle. Even if the Opticom system is used, Troopers may not assume they have the right-of-way and must still drive with due regard for the safety of others.
34. General Order 12-70-001, IV effective July 20, 2012, reiterates provisions of Minnesota law addressing emergency vehicle operation. Minn. Stat. §169.03, subd. 5 states, “No driver of any authorized emergency vehicle shall assume any special privilege under this chapter except when such vehicle is operated in response to any emergency call or in the immediate pursuit of an actual or suspected violator of the law.” Minn. Stat. §169.17 states:

The speed limitations set forth in sections 169.14 to 169.17 do not apply to an authorized emergency vehicle responding to an emergency call. Drivers of all emergency vehicles shall sound an audible signal by siren and display at least one lighted red light to the front, except that law enforcement vehicles shall sound an audible signal by siren or display at least one lighted red light to the front. This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequence of a reckless disregard of the safety of others.

35. Minnesota Statute §169.20, subd. 1(d) also provides that the driver of any vehicle traveling at an unlawful speed forfeits any right-of-way the driver might otherwise have.
36. Under Minnesota State Patrol policies and the provisions of Minnesota law, Troopers have no discretion or authority to operate a squad car at speeds exceeding the posted speed limit without emergency lights or siren activated.
37. Under Minnesota State Patrol policies and the provisions of Minnesota law, Troopers are informed of their duty to drive with due regard for the safety of others and that they are not protected from the consequences of operating a squad car in, “reckless disregard of the safety of others.”

DEFENDANT ROPER’S DISCIPLINARY HISTORY

38. While employed by the Minnesota State Patrol, Defendant Roper exhibited repeated reckless behavior that endangered himself, fellow Troopers, and members of the traveling public.
39. On February 16, 2019, Defendant Roper crashed into a state patrol squad car that was occupied by another State Trooper. The crash caused extensive damage to both units and injury to the driver of the other unit.
40. On April 1, 2019, Minnesota State Patrol Captain Mark Holm issued a written letter disciplining Defendant Roper for his conduct on February 16, 2019, based on violations of Minnesota State Patrol General Orders 02-10-029 (Conduct), 13-30-004 (Careless or Reckless driving) and 12-20-011 (Driving behavior).
41. On May 22, 2021, Defendant Roper was assigned to routine patrol in the 2150 station (Rochester). While on routine patrol, Defendant Roper struck another motorist, resulting in damage to the squad car and the other vehicle. While he was driving on that occasion, Defendant Roper had no emergency lights or sirens activated. He drove through a stop sign

without stopping and struck the left rear of the other driver's vehicle that had the right-of-way in the intersection. During the investigation of this incident, Defendant Roper stated that he did not recall seeing the stop sign or any events that led to the crash.

42. On January 18, 2022, Minnesota State Patrol Lt. Colonel Rochelle Schrofer issued a letter disciplining Defendant Roper for his conduct on May 22, 2021, finding violations of Minnesota State Patrol General Orders 02-10-029 (Conduct), 13-30-004 (Careless or Reckless driving) and 12-20-011 (Driving behavior).
43. On December 29, 2021, Defendant Roper was speaking on the telephone with an officer in another agency. During the phone call, the other officer asked if Defendant Roper was available to assist with a call the other officer was on. Defendant Roper responded to assist the other officer without creating a CAD event or notifying dispatch. While responding, Defendant Roper drove his squad car 22 mph over the posted speed limit without the use of emergency lights or siren on an ice/snow-packed roadway. Defendant Roper struck a deer, which caused damage to the squad car.
44. On April 20, 2022, Minnesota State Patrol Lt. Colonel Rochelle Schrofer issued a letter disciplining Defendant Roper for his conduct on December 29, 2021, finding violations of Minnesota State Patrol General Orders 12-20-011 (Driving behavior) and 14-40-011¹ (Failing to record event in CAD or through dispatch).
45. On April 30, 2023, Defendant Roper was assigned to routine patrol duties in the 2150 (Rochester) station. While sitting stationary on the 6th Street ramp to Highway 52 southbound, Defendant Roper observed a vehicle he suspected to be speeding on Highway 52. Defendant Roper accelerated to a speed in excess of the posted speed limit to catch up to the other vehicle.

¹ On information and belief, the correct policy citation should be 18-40-011, effective September 7, 2018, which replaced the earlier 14-40-011.

Defendant Roper did not activate his lights or siren when he accelerated to over 90 mph. When the other vehicle exited Highway 52 at 16th Street, Defendant Roper attempted to exit as well, cutting across all lanes of traffic to try to make the exit. However, due to the high speed at which Defendant Roper was driving, he lost control of his squad car and struck the cable median barrier with the left side of his squad car. No emergency lights or siren were activated by Defendant Roper. The Minnesota State Patrol-issued squad car Defendant Roper was driving was significantly damaged.

46. On June 26, 2023, Minnesota State Patrol Lt. Colonel Christina Bogojevic issued a letter disciplining Defendant Roper for his conduct on April 30, 2023, finding violations of Minnesota State Patrol General Orders 12-20-011 (Driving behavior) and 08-20-033 (Emergency vehicle operations). Lt. Colonel Bogojevic found that, “[Defendant] Roper’s excessive speed inhibited the ability to safely exit the highway.” Lt. Colonel Bogojevic further found that:

Under General Order 08-20-033, Emergency Vehicle Operations, while on emergency runs at least one lighted red light to the front of the State Patrol unit must be activated. Trooper Roper was attempting to catch up to a violator at a speed much greater than the posted speed of 60 mph, neglecting to alert the motoring public.

DEFENDANT ROPER’S CONDUCT ON MAY 18, 2024

47. On May 18, 2024, Defendant Roper began his shift at approximately 2:00 p.m. and was scheduled to work until approximately 11:00 p.m.
48. During his shift on May 18, 2024, Defendant Roper was driving a Minnesota State Patrol-issued 2021 Dodge Charger squad car. The squad car was a “Class-B” type, meaning that it was equipped with emergency lights mounted inside the vehicle along the top of the windshield, and additional lights in the rear window, lights built into the front push-bumper grill, sidelights by the doors and side mirrors, and lights in the rear trunk area.

49. Defendant Roper was working patrol duties on May 18, 2024. The squad car was fully marked, displaying maroon and white paint, with the Minnesota State Patrol logo displayed on each front door.
50. During his shift on May 18, 2024, Defendant Roper had a “ride-along” passenger with him. The “ride-along” passenger was a 20-year-old law enforcement student from Zumbrota, Minnesota who was, “hoping to gain some knowledge and information about the State Patrol.” The ride-along passenger was arranged with Defendant Roper by Minnesota State Patrol Sergeant Mary Miller and Lieutenant Mitchell Elzen.
51. On April 30, 2024, the Minnesota Department of Public Safety launched an initiative through the Minnesota State Patrol designed to provide “extra speed enforcement” on Minnesota roads between May 1 and September 2, 2024. At that time, the Department of Public Safety wrote, when unveiling this enforcement plan, “A driver speeding past you on the interstate is scary enough, but many speeding-related fatalities occur on other roads that are designed for lower speeds and have intersections, oncoming traffic and pedestrians.”²
52. Speaking in support of the speeding enforcement initiative, Minnesota State Patrol Chief Bogojevic stated, “Losing a loved one because of a crash that was likely preventable is heartbreaking and unacceptable.”³
53. On May 18, 2024, Defendant Roper was working a “high-intensity speed enforcement saturation” that is typically done for four-hour periods during a shift.
54. During Defendant Roper’s shift on May 18, 2024, the following events were captured on his body-worn camera and squad camera:

² <https://dps.mn.gov/divisions/ooc/news-releases/Pages/look-forward-to-safe-summer-by-watching-your-speed.aspx>

³ <https://dps.mn.gov/blog/Pages/20240516-state-patrol-rural-speed-reduction-project.aspx>

- a. 3:13 p.m.: Defendant Roper was parked on the shoulder of the 6th Street ramp onto Highway 52 southbound. After observing a possible traffic violation, Defendant Roper accelerated and reached a top speed of 116 mph on Highway 52 with no emergency lights or siren activated. Defendant Roper eventually activated his lights and stopped a vehicle on southbound Highway 52. The driver was issued a warning for speeding at 76 mph.
- b. 3:45 p.m.: Defendant Roper received a call regarding a man with his finger stuck in a machine. Defendant Roper received this call on his cell phone. Medical personnel and Dodge County Deputies arrived at the scene before Defendant Roper. During his response to this call in Hayfield, Minnesota, Defendant Roper reached speeds of 107 mph (45 mph posted speed limit), 119 mph (55 mph posted speed limit), and 135 mph (55 mph posted speed limit) on rural two-lane roads, and did not brake, slow or clear the intersections he was traveling through while exceeding the posted speed limits. While driving 135 mph, Defendant Roper assisted his ride-along passenger with logging into the mobile computer in the squad car. Defendant Roper made the comment to his ride-along passenger that driving at these speeds is “normal” for him.
- c. 4:40 p.m.: Defendant Roper was parked on the shoulder of the 6th Street ramp onto Highway 52 southbound. Defendant Roper entered onto Highway 52 with no lights or siren and cut off another vehicle. Defendant Roper accelerated to 99 mph on Highway 52 (60 mph posted speed limit) with no emergency lights activated. Defendant Roper eventually stopped the vehicle after exiting from Highway 52 onto 12th Street SW. As he drove toward the entrance to the Apache Mall on 12th Street

SW (40 mph posted speed limit), Defendant Roper Defendant Roper reached a top speed of 66 mph before stopping the vehicle in the parking lot of the Apache Mall. The driver was issued a seatbelt ticket and a warning for an expired license plate registration.

- d. 4:56 p.m.: Defendant Roper was parked on the shoulder of the 6th Street ramp onto Highway 52 southbound. Defendant Roper's squad video footage showed that he accelerated to 107 mph on Highway 52 with no emergency lights activated.

Defendant Roper eventually activated his emergency lights and stopped a vehicle on southbound Highway 52. The driver was issued a seatbelt ticket.

- e. 5:23 p.m.: Defendant Roper was parked on the shoulder of the 6th Street ramp onto Highway 52 southbound. Defendant Roper initially activated his emergency lights as he accelerated on Highway 52, but then shut them off when his squad car reached 98 mph. Defendant Roper continued to accelerate to a top speed of 105 mph on Highway 52 with no emergency lights activated. Defendant Roper eventually stopped a vehicle on 12th Street SW, west of the entrance to the Apache Mall, along 12th Street SW.

55. On May 18, 2024, at approximately 5:42 p.m., Defendant Roper was parked in the grass alongside the entrance ramp onto southbound Highway 52, just off of 6th Street SW, in Rochester, Olmsted County, Minnesota.

56. From Defendant Roper's squad video footage, the occupants of vehicles passing southbound or northbound on Highway 52 are not visible. Defendant Roper's vantage point was higher than the passing traffic from the elevated ramp, looking down toward the vehicles on Highway 52.

57. From Defendant Roper's body-worn camera footage, looking down at the traffic passing on Highway 52, the occupants of vehicles passing southbound or northbound on Highway 52 are not visible. The afternoon sun from the west also created glare on the vehicle windows as they passed by Defendant Roper's location.
58. After numerous vehicles passed along Highway 52, Defendant Roper began to pull out and accelerate quickly down the entrance ramp onto Highway 52. Three white vehicles passed on Highway 52 shortly before Defendant Roper began to accelerate down the ramp.
59. Defendant Roper's in-squad camera automatically activated because he eventually reached a speed of over 90 mph, reaching a top speed of 98 mph on Highway 52 (posted speed limit 60 mph) while weaving past and between other motorists. Defendant Roper did not activate his squad car lights until he reached a speed of 98 mph on Highway 52. Defendant Roper did not activate his siren.
60. As he attempted to exit on 12th Street SW, Defendant Roper drove through the solid white lane divider lines alongside a dark colored sedan. Defendant Roper nearly struck the dark sedan in the left rear quarter panel and had to brake sharply to avoid hitting this vehicle. Defendant Roper slowed briefly to allow the dark sedan to pull ahead of him on the cloverleaf exit ramp onto 12th Street SW.
61. Defendant Roper then exited onto 12th Street SW. Defendant Roper quickly pulled around the dark sedan, to travel eastbound on 12th Street SW.
62. As 12th Street SW crosses over Highway 52, the street comes to a crest over the highway before continuing at a slight downhill toward the area of the Apache Mall.⁴

⁴ See attached Exhibits A1 and A2, photographs depicting 12th Street SW and the intersection where the crash took place. The images were captured by drone footage on June 13, 2024. Exhibit A1 is oriented facing east-southeast. Exhibit A2 is oriented facing west, looking toward the Highway 52 overpass.

63. Eastbound traffic east of Highway 52 is not visible to drivers on 12th Street SW until the driver crosses the crest of the roadway.
64. When Defendant Roper was first driving on 12th Street SW, only the dark sedan was visible in front of Defendant Roper's squad car.
65. There is a stoplight at the intersection of 12th Street SW and Memorial Drive. To the south of this intersection is the entrance to the Apache Mall.
66. Defendant Roper moved to the middle lane and accelerated from 42 mph to 69 mph, passing the dark sedan.
67. Defendant Roper turned his squad car lights off when he reached 69 mph, shortly after he crossed the crest of the roadway on 12th Street SW.
68. The posted speed limit on 12th Street SW is 40 mph.
69. Defendant Roper's deactivation of his squad car lights once he was on 12th Street SW, was confirmed by the overlaid display on the squad camera footage no longer indicating "L" for lights and by the audible "click" of Defendant Roper manually turning off the toggle switch that controls the lights.
70. Once Defendant Roper had come over the crest of the roadway, he passed one vehicle turning left from 12th Street SW.
71. In front of Defendant Roper, farther east on 12th Street SW, there were lines of cars in the eastbound lanes ahead of Defendant Roper's squad car.
72. Once his squad car lights were deactivated, Defendant Roper moved into the left lane and accelerated to 83 mph at full throttle as he approached the intersection/Apache mall entrance.
73. Defendant Roper had no colored emergency lights, white strobe lights to the front, siren, or Opticom activated as he approached the intersection.

74. Defendant Roper maintained his speed of 83 mph while approaching the intersection of 12th Street SW and the roadway into the mall parking lot to the south.
75. As he approached the intersection a vehicle was in the eastbound left turn lane, waiting to turn left or to the north. The vehicle in which Ms. Flores was a passenger was in the opposing left turn lane, facing westbound and waiting to turn left or to the south.
76. The vehicle in which Ms. Flores was a passenger stopped for approximately 18 seconds waiting for eastbound traffic to pass.
77. From Defendant Roper's squad video footage, the car waiting to turn northbound onto Memorial Drive obscured a clear view of the vehicle in which Ms. Flores was a passenger.
78. With Defendant Roper having no emergency lights, siren or Opticom activated, the driver of the vehicle in which Ms. Flores was a passenger had no notice that a law enforcement vehicle was approaching them at over twice the posted speed limit of 40 mph.
79. Defendant Roper's movement into the left lane further obscured his squad car from the view of the westbound traffic, due to the vehicle in the eastbound left turn lane waiting to turn north onto Memorial Drive.
80. Defendant Roper decided not to activate his Opticom system as he approached the intersection.
81. Defendant Roper decided not to activate his Opticom system after considering that he did not want to activate a green light at the next intersection.
82. Activation of the Opticom system would have alerted the driver of the vehicle in which Ms. Flores was a passenger that the left turn was not clear due to the approach of a vehicle in emergency operation.
83. In Defendant Roper's squad car, activation of the Opticom system is done contemporaneously with the activation of the emergency lights in the "3" position. In the "3" position, all

emergency lights, including white strobes on the front of the vehicle, are activated. The siren is manually activated with one of two different switches.

84. As he approached the intersection outside of the Apache Mall, Defendant Roper did not reduce his speed or “clear” the intersection until he was too close to avoid the collision with the vehicle in which Ms. Flores was a passenger.
85. On information and belief, “clearing” an intersection is a process trained to peace officers for checking for blind spots, checking each lane of traffic before entering, covering the brake or braking, and reducing speed when entering an intersection.
86. As Defendant Roper entered the intersection at a grossly excessive speed and without clearing the intersection, the vehicle in which Ms. Flores was a passenger was also entering the intersection, making a left turn from the westbound turn lane to turn south, into the Apache Mall parking lot.
87. After he entered the intersection, Defendant Roper steered to the right and struck the vehicle Ms. Flores was in on the passenger side, near the rear passenger door.
88. Defendant Roper struck the vehicle broadside on the passenger side, immediately causing significant traumatic injuries to Ms. Flores and the other occupants of the vehicle.
89. Prior to the crash, Defendant Roper did not enter a field event through the CAD system regarding a potential traffic stop, or any other event, and Defendant Roper did not engage in any radio communication with dispatch or other officers regarding his actions.
90. No vehicle that Defendant Roper was possibly looking for was ever identified in the CAD system or to dispatch.

91. The impact of Defendant Roper's squad car striking the vehicle in which Ms. Flores was a passenger carried both vehicles to the east, where a third vehicle was also struck and pushed into the ditch to the south of 12th Street SW.
92. The third vehicle struck had been facing north, waiting to turn right to head eastbound on 12th Street SW.
93. Defendant Roper also saw and appreciated this third vehicle before he decided to enter the intersection without emergency lights, siren, or Opticom activated.
94. The vehicles came to rest just east of the entrance to the Apache Mall along 12th Street SW.
95. The distance from the crest of 12th Street SW as it crosses over Highway 52 to the point where Defendant Roper struck Ms. Flores is approximately two-tenths of a mile.
96. Immediately after the collision, Defendant Roper activated his emergency lights and siren by manually manipulating the control switches inside his squad car.
97. The post-crash activation of the lights and siren was confirmed through the overlay display on the squad video footage showing an "L" for lights and "S" for siren. Defendant Roper's body-worn camera footage also shows him manually activating the toggle switches that control the emergency lights and siren after he had crashed into the vehicle in which Ms. Flores was a passenger.
98. Like the traffic stops for minor infractions he conducted earlier in his shift on May 18, 2024, Defendant Roper was not facing any emergency situation or response when he was driving shortly before he crashed into the Bartz vehicle and fatally injured Ms. Flores.

LAW ENFORCEMENT INVESTIGATION AND CRIMINAL CHARGES

99. The crash on May 18, 2024, was investigated by the Rochester Police Department.

100. During the search of Defendant Roper's squad car by the Rochester Police Department, Detective Kusick noted that Defendant Roper had applied covers to the car-port charging stations that were made to look like buttons. The "buttons" displayed the words "Nitrous" and "Eject."
101. On information and belief, nitrous oxide is a chemical element that can be added as an after-market accessory to a car engine to significantly and dangerously increase the speed and acceleration capacity of a vehicle.
102. Rochester Police Officer Koch processed the Bosch Crash Data Retrieval (CDR) system from Defendant Roper's squad car. The pre-crash data showed that five seconds before impact, Defendant Roper reached a peak speed of 83 mph with 100% full throttle engaged.
103. At 83 mph, Defendant Roper traveled approximately 122 feet per second.
104. At 1.4 seconds before impact, the anti-lock braking system engaged. Defendant Roper was still traveling an estimated 70 mph when he struck the vehicle in which Ms. Flores was a passenger.
105. At 70 mph, Defendant Roper traveled approximately 103 feet per second.
106. On June 17, 2024, Defendant Roper provided a statement to the Rochester Police Department.
107. Defendant Roper confirmed he had been employed by the Minnesota State Patrol for approximately 8 years.
108. Regarding the crash, Defendant Roper stated that he was working a speed enforcement "saturation" for about four hours on May 18, 2024.
109. Defendant Roper stated that the focus of the saturation was looking for potential violations for speeding, seatbelt use, and phone use while driving.

110. Defendant Roper stated he was parked, facing southbound on the 6th Street entrance onto Highway 52.
111. While the squad car was parked, Defendant Roper and the ride-along passenger were outside of the squad car. Defendant Roper was operating a handheld LIDAR and looking for seatbelt violations from the ramp above Highway 52.
112. On information and belief, LIDAR is an acronym that stands for “Light Detection and Ranging” that is used by the Minnesota State Patrol to measure the speed of motor vehicles.
113. Defendant Roper said he saw a white sedan, possibly a Saturn, in the far-left lane of southbound Highway 52.
114. Defendant Roper told the Rochester Police that he could see that the driver was shirtless, not wearing a seatbelt, and was holding on to a phone while driving.
115. Neither Defendant Roper’s squad camera footage nor body-worn-camera footage showed any visible detail of drivers passing by on the roadway below Defendant Roper’s vantage point.
116. Defendant Roper stated he thought the white sedan was traveling at “a high rate of speed.” Despite having a handheld LIDAR unit, Defendant Roper decided not to obtain an actual speed reading of the white sedan.
117. Defendant Roper stated that as he was getting into his squad car, “I watched this Saturn, or white sedan, cross all three lanes of Highway 52, still at high rate of speed, going from the left to the right, to take the exit lane for 12th Street southwest, to head eastbound.”
118. This vehicle movement described by Defendant Roper is not visible on Defendant Roper’s squad camera or body worn camera footage.
119. The exit for 12th Street SW was not visible from Defendant Roper’s vantage point on the ramp leading to Highway 52.

120. Under Minnesota law and Minnesota Judicial Branch policy, basic speed, seatbelt violations, lane violations, careless driving, and use of a cell phone while driving are deemed petty misdemeanor, non-criminal infractions.⁵ No custodial arrest is authorized for petty misdemeanor infractions, or for most misdemeanor offenses under Minn. R. Crim. P. 6.01.
121. Defendant Roper visually estimated the white vehicle he saw on Highway 52 was traveling at 75 mph.
122. Defendant Roper said that he activated his lights and started to catch up to the white sedan. He took the exit for 12th Street SW to head eastbound on 12th Street SW.
123. Defendant Roper's squad video footage showed that he did not activate his squad car lights until he was already traveling at 98 mph and had weaved through other traffic traveling southbound on Highway 52.
124. Defendant Roper described that after he got onto 12th Street SW, he changed lanes to the left. Defendant Roper said that, as he came up and over the crest of the road over Highway 52, he saw that he had a green light at the next intersection, the Apache Mall entrance.
125. During his statement to the Rochester Police Department, Defendant Roper stated he believed he turned his emergency lights down from a "3" position to a "2" position while driving on 12th Street SW.
126. Defendant Roper's assertion that he believed he switched the lights from "3" to "2," as opposed to turning them off completely, is patently unreasonable, not credible and preposterous.
127. Earlier during his shift on May 18, 2024, Defendant Roper displayed a consistent pattern of driving conduct, like his shocking and egregious driving conduct just before he struck the Bartz

⁵ https://www.mncourts.gov/mncourtsgov/media/scao_library/Statewide%20Payables/2024-Traffic-Criminal-Payables-List.pdf

vehicle. Defendant Roper consistently drove far in excess of the posted speed limits without emergency lights or siren activated as part of his “saturation” shift on May 18, 2024.

128. The squad car lights and siren require manipulation of a manual toggle switch with which Defendant Roper was familiar.
129. The body worn camera footage shows that Defendant Roper turned the squad car’s lights and siren on immediately after he struck the Bartz vehicle. He made this activation by manually activating the toggle switches.
130. Defendant Roper’s activation of the squad car lights and siren after the collision on May 18, 2024, demonstrated that Defendant Roper knew he was not operating the squad car with emergency lights or siren activated immediately before the collision.
131. Defendant Roper’s manual activation of his squad car lights and siren after he struck the Bartz vehicle demonstrated that he knew his statement on June 17, 2024, wherein he stated that he “believed” he had his lights activated before he struck the Bartz vehicle, was untrue.
132. Defendant Roper did not disclose to the criminal investigators that he activated his emergency lights and siren immediately *after* the crash.
133. Defendant Roper’s body worn camera footage from May 18, 2024 showed that approximately one-half hour after the crash, Defendant Roper told three Minnesota State Patrol Troopers who had arrived at the scene after the crash that, “I had my lights on” when he drove through the intersection and hit the other vehicles.
134. Defendant Roper’s manual activation of his squad car lights and siren after he struck the Bartz vehicle demonstrated that he knew his statement on May 18, 2024, wherein he stated that he had his lights activated before he struck the Bartz vehicle, was untrue.

135. Defendant Roper's knowingly untrue statements to the Rochester Police and Minnesota State Troopers demonstrated Trooper Roper's knowledge that his conduct was unlawful, violated law and policy, and violated the rights of others, including Ms. Flores.
136. During the interaction with fellow Troopers on May 18, 2024 shortly after the crash that killed Ms. Flores, Defendant Roper joked, "this isn't my first rodeo."
137. Defendant Roper explained in his statement to the Rochester Police that, as he accelerated eastbound, he observed that a vehicle was waiting to turn left in the eastbound lane, he saw that a car was going to turn left in the westbound lane, and he saw that a car was going to turn right to drive eastbound on 12th Street SW.
138. Although he saw these specific vehicles, Defendant Roper did not brake or reduce his speed until he realized the vehicle turning left/south was entering the intersection immediately before the crash. Instead, he accelerated into the intersection at full throttle without lights, siren, or Opticom activated.
139. Defendant Roper said he "assumed" the white vehicle was still speeding once it was on 12th Street SW, but he lost sight of it and never acquired an actual speed reading.
140. Defendant Roper never obtained a license plate number or any other information about the white sedan or its driver.
141. Once Defendant Roper was over the crest of the roadway going over Highway 52, the squad camera footage shows lines of vehicles in both lanes of traffic on 12th Street SW. The traffic on 12th Street SW indicates that the white vehicle, if it was on 12th Street SW, would have been in or behind a line of several other vehicles, as opposed to speeding down the roadway.

142. Defendant Roper's squad video showed two possible white vehicles vaguely visible farther east on 12th Street SW. The squad video does not show either of them speeding or changing lanes while driving within the lines of other traffic.
143. Defendant Roper confirmed that he was not in a "pursuit" of any vehicle prior to the crash and no other driver was fleeing from him.
144. Defendant Roper told the Rochester Police Department that, as he got closer to the intersection of 12th Street SW and Memorial Dr./Apache mall entrance, he observed the vehicle in which Ms. Flores was riding in the westbound left-hand turn lane. Defendant Roper said he saw the hood of the vehicle do a slight "nosedive," indicating to him that it was stopping.
145. Defendant Roper explained that he then saw the vehicle's hood come up as if it was accelerating and start to turn left through the intersection and into the mall entrance.
146. Defendant Roper could not have seen what he said he saw. Surveillance video footage from the Scheel's store, located at the northeast corner of the Apache Mall, showed that the Bartz vehicle was stopped in the westbound left hand turn lane on 12th Street SW for approximately 18 seconds while numerous cars passed by in the eastbound lanes at typical driving speeds.
147. After the traffic cleared, the vehicle in which Ms. Flores was riding began to make the left-hand turn to go south into the mall entrance. The surveillance video shows Defendant Roper driving through the intersection at a speed grossly exceeding the other vehicles and without any emergency lights activated.
148. Defendant Roper's squad video also showed that, as he approached the intersection in the left lane traveling at 83 mph, the eastbound vehicle waiting to turn left, or north, from 12th Street SW significantly obscured the view of the vehicle in which Ms. Flores was riding until less than 2 seconds before impact.

149. Defendant Roper stated he did not pay attention to the speed at which he was traveling on 12th Street SW.
150. When he was asked if his observations regarding the white sedan constituted an “emergency,” Defendant Roper stated that he believed what he observed justified him trying to make a traffic stop, but it was, “obviously not a domestic emergency or anything like that.”
151. Defendant Roper’s conduct in the minutes leading up to him crashing into the Bartz vehicle, was consistent with Defendant Roper’s pattern of driving his squad car on duty at speeds far exceeding the posted speed limits and without emergency lights or siren activated. This pattern is shown by the conduct documented earlier in Defendant Roper’s shift on May 18, 2024, and through his disciplinary record with the Minnesota State Patrol.
152. Comparing Defendant Roper’s statement to the Rochester Police Department with the other evidence in this case, including Defendant Roper’s own body-worn camera footage and squad camera footage, reveals that Defendant Roper’s statement was knowingly untruthful, self-serving, and unsuccessfully attempted to justify his actions after the fact.
153. The Rochester Police Department investigation concluded that Defendant Roper’s conduct on May 18, 2024, particularly when viewed in context of his established pattern of similar dangerous driving, created, “an unreasonable risk of harm to another.” The investigation noted that Defendant Roper was “actively accelerating rather than slowing down for the intersection,” despite the obvious risks to others.
154. The law enforcement investigation found that Defendant Roper’s explanation that he believed he moved his lights to position “2” was “unreasonable.”

155. Considering Minnesota State Patrol policies and Minnesota law, the law enforcement investigation did not identify any legitimate law enforcement purpose justifying Defendant Roper's conduct that led to the death of Ms. Flores.
156. Following the conclusion of the Rochester Police Department's investigation, the Olmsted County Attorney's Office charged Defendant Roper with five felony counts, three gross misdemeanor counts and one misdemeanor charge.
157. The criminal Complaint was reviewed and signed by The Honorable Kathy M. Wallace, District Court Judge, on July 9, 2024. Judge Wallace found that the charges were supported by probable cause.
158. Count I in the criminal Complaint charges Defendant Roper with Second Degree Manslaughter, in violation of Minn. Stat. §609.205(1). This charge relies on evidence of Defendant Roper's, "culpable negligence," defined in Minnesota law as conduct that is, "more than ordinary negligence or gross negligence...it is gross negligence coupled with element of recklessness ... which actually may not be intended to be harmful but which ordinary and reasonably prudent men would recognize as involving strong probability of injuries to others."⁶ The criminal Complaint accuses Defendant Roper of causing Ms. Flores' death and that he "consciously took chances of causing great bodily harm or death to another."
159. Defendant Roper is also charged in Count VIII with Reckless Driving resulting in the death of Ms. Flores. This charge also accuses Defendant Roper of driving a motor vehicle and, "consciously disregarding a substantial and unjustifiable risk that the driving may result in harm..."

**MINNESOTA STATE PATROL'S INTERNAL INVESTIGATION AND
TERMINATION OF DEFENDANT ROPER**

⁶ *State v. Beilke*, 267 Minn. 526, 127 N.W.2d 516 (Minn. 1964).

160. Defendant Roper was placed on administrative leave immediately after causing the crash that killed Ms. Flores.
161. On August 30, 2024, Minnesota State Patrol Assistant Chief, Lt. Colonel Jeremy Geiger, issued a written, “Statement of Charges Against Shane Roper A Member of the Minnesota State Patrol.” The charges accused Defendant Roper of violations of General Orders 20-10-000 (Oath of a Minnesota State Trooper), 01-10-029 (Conduct – Sworn Members), 13-30-004 (Patrol Unit, Operation and Maintenance), 12-20-011 (Patrolling and Parking), and 08-20-033 (Emergency Vehicle Operations).
162. Assistant Chief Geiger wrote, “The intersection where the crash occurred is the entrance to a shopping mall and the speed limit is 40 mph. Given the totality of the circumstances presented here and Trp. Roper's knowledge of this area, it was reckless to travel through this green light at such high speeds.”
163. Assistant Chief Geiger continued, “[Defendant Roper’s] conduct shows a disregard for the State Patrol's mission of traffic safety and reflects discredit upon the agency. **There is simply no justification for Trp. Roper's decision to speed through this intersection.**”
164. On September 3, 2024, Minnesota State Patrol Chief Bogojevic informed Defendant Roper that he was being discharged from the Minnesota State Patrol effective the same day. The discharge was based on the Internal Affairs investigation, which supported the findings that Defendant Roper’s conduct violated General Orders, as outlined in the Statement of Charges.
165. On August 27, 2024, the Minnesota Department of Public Safety’s Internal Affairs (IA) investigation⁷ found that Defendant Roper, “was not watching his speed” and tried to “close the gap” between himself and the other vehicle.

⁷ See Attached Exhibit B.

166. The IA report concluded that Defendant Roper understood he was, at most, enforcing “low level traffic violations” before he caused the crash.
167. Defendant Roper told the IA investigator that he saw an “opening” to catch up to the other vehicle. Defendant Roper did not challenge or question the reported speed reading of his squad just before he struck the vehicle in which Ms. Flores was a passenger.
168. During the IA investigation, the ride-along passenger also spoke to the IA investigator. The rider noted that Defendant Roper was “accelerating” to catch up and slammed on the brakes just before striking the vehicle in which Ms. Flores was riding. However, the ride-along passenger indicated, considering the speed Defendant Roper was driving, the use of the brakes, “didn’t make a difference really.”
169. The IA investigation concluded that, “Given Roper’s knowledge of the roadway and the local area, it [was] reckless to travel through a green light in this area at such high speeds.”
170. The IA investigation found that even if Defendant Roper had his squad car lights activated when he went through the intersection, his “excessively high rate of speed” still made his vehicle a danger to other drivers who could not reasonably predict the distance Defendant Roper would travel in a very short amount of time.
171. As one of its core conclusions, the IA investigation, “did not identify any legitimate law enforcement reason that justified Roper’s driving conduct.”
172. The State of Minnesota’s IA investigation concluded by finding that, **“Even if no crash had occurred, [Roper’s] conduct is shocking...”**

DEFENDANT ROPER’S CONDUCT AND CULPABILITY

173. Defendant Roper had time to deliberate and consider his actions before deciding to unlawfully speed on Highway 52 without any squad car lights, siren, or Opticom activated to enforce possible petty misdemeanor traffic violations.
174. Defendant Roper had time to deliberate and consider his actions before deciding to deactivate his lights, not use a siren, and choosing not to use his squad's Opticom system as he sped along 12th Street SW at over twice the posted speed limit, in an area he knew to have heavy traffic, and where he saw other drivers on, along, and intending to turn onto 12th Street SW.
175. Defendant Roper had time to deliberate and appreciate other vehicles waiting to enter onto 12th Street SW before he chose to speed through the intersection at a grossly excessive speed and without giving other drivers notice that he was traveling far above the speed limit.
176. Defendant Roper had time to deliberate and consider his actions before accelerating at full throttle into the intersection without slowing or braking until it was far too late to avoid hitting the vehicle in which Ms. Flores was riding.
177. With time to deliberate and consider his actions, Defendant Roper engaged in conduct through which he consciously disregarded the health, safety, and substantive due process rights of Ms. Flores and others.
178. Defendant Roper was not responding to an emergency, but instead intended to make a routine traffic stop. Defendant Roper had time to deliberate, and did deliberate, before he chose to act in a manner that consciously disregarded the health, safety, and substantive due process rights of Ms. Flores. Defendant Roper had the opportunity to see and observe the vehicle in which Ms. Flores was riding, knew it was in a turn lane to turn in front of him, knew he was accelerating at full throttle on a city street, knew he was exceeding the speed limit, and knew he was driving without emergency lights, siren, or Opticom. Defendant Roper failed to brake,

reduce his speed, or signal to other drivers that he posed a threat to them due to his excessive and unexpected speed under the circumstances.

179. There was no legitimate law enforcement purpose for Defendant Roper's decision to excessively speed with reckless and conscious disregard for the other persons in his path.

180. Defendant Roper's conscious disregard for the health, safety, and substantive due process rights of Ms. Flores, and others, constitutes criminal recklessness and deliberate indifference. Such indifference shocks the conscience under the specific circumstances of this case.

181. At the time he struck the vehicle in which Ms. Flores was riding, Defendant Roper was not faced with any emergency, rapidly evolving, fluid, or dangerous situation. The absence of any emergency is demonstrated by Defendant Roper's decision to deactivate the squad car lights, siren, and Opticom system while excessively speeding along 12th Street SW, his knowledge that, at most, he was making a routine traffic stop to enforce petty traffic offenses, his admission that he was not in "pursuit" of any fleeing vehicle, his failure to notify dispatch of any emergency event, the lack of any observed speeding or other traffic violation by the white sedan after entering onto 12th Street SW, Defendant Roper's decision to activate his emergency lights and siren after he struck the Bartz vehicle in which Ms. Flores was riding, and the Rochester Police Department's, Olmsted County Attorney's, and Minnesota State Patrol's conclusions that Defendant Roper's actions were not justified by any legitimate law enforcement purpose.

182. Defendant Roper was demonstrably dishonest when he recounted the events leading up to the crash to the Rochester Police and to the initially responding Troopers.

183. Defendant Roper did not subjectively believe he was faced with an emergency, based on his statement to the Rochester Police.

184. Considering the balance of the evidence, any subjective statement or belief by Defendant Roper that he was responding to an “emergency” at the time he struck the vehicle in which Ms. Flores was a passenger, would be so preposterous as to reflect bad faith.

185. Defendant Roper was not acting in good faith to restore order or safety. Instead, he unjustifiably created danger, harm and loss of life. After creating such danger, he failed to protect those he placed in harm’s way, including Ms. Flores.

Count One: 42 U.S.C. §1983 – Fourteenth Amendment Violations
(Substantive Due Process) - Roper

186. Plaintiffs re-allege and incorporate all preceding paragraphs as though fully pleaded below.

187. The Fourteenth Amendment to the United States Constitution protects the life, liberty and property rights of every person within the United States and prohibits the deprivation of such rights by any State or individual acting under color of law.

188. Under the United States Code, 42 U.S.C. §1983 authorizes a claim against any person who, acting under color of law, deprives any person of any rights, privileges or immunities secured by the United States Constitution.

189. Defendant Roper, in his individual capacity as a Minnesota State Trooper, is a person against whom a claim under 42 U.S.C. §1983 may be asserted.

190. At all times material hereto, Defendant Roper was an employee and/or agent of the Minnesota Department of Public Safety and the Minnesota State Patrol, was acting within the course and scope of his employment, and acting under color of state law, to wit: under color of the statutes, ordinances, regulations, policies, customs, and usages of the State of Minnesota, the Minnesota Department of Public Safety and the Minnesota State Patrol.

191. Defendant Roper was not responding to an emergency, was not pursuing a fleeing suspect, had time to deliberate, and did deliberate, before he chose to act in a manner that consciously disregarded the health, safety, and substantive due process rights of Ms. Flores.
192. Defendant Roper had the opportunity to see and observe the vehicle in which Ms. Flores was riding, knew of its intention to turn in front of him, knew he was accelerating on a city street at full throttle, knew he was exceeding the speed limit, knew he was driving without emergency lights, siren or Opticom, and he failed to brake, reduce his speed, or signal to other drivers that he posed a threat due to his excessive speed under the circumstances.
193. Defendant Roper's actions demonstrated criminal recklessness and deliberate indifference to a substantial risk to the health, safety, and substantive due process rights of Ms. Flores, and such deliberate indifference under the circumstances shocks the conscience.
194. Through his deliberate indifference, Defendant Roper deprived Ms. Flores of her life, liberty and property, and caused substantive due process violations under the Fourteenth Amendment to the United States Constitution.
195. At the time he struck the vehicle in which Ms. Flores was riding and caused Ms. Flores' fatal injuries, the law prohibiting Defendant Roper from depriving the life, liberty and property rights of any person within the United States through criminally reckless conduct that demonstrated deliberate indifference to the rights and safety of others was clearly established and every reasonable officer would understand that the conduct described herein would violate clearly established law.
196. As a direct and proximate result of Defendant Roper's unlawful acts and omissions, Defendant Roper deprived Ms. Flores of the rights guaranteed to her by the Fourteenth

Amendment of the United States Constitution, specifically, he deprived her of the right to life, liberty, and property.

197. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered injuries, experienced pain and suffering, and ultimately died.

198. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered compensatory and special damages as defined under federal common law.

199. As a direct and proximate result of Defendant Roper's unlawful acts and omissions, Ms. Flores' next of kin have suffered pecuniary loss, including medical and funeral expenses, loss of aid, counsel, guidance, advice, assistance, protection, and support in an amount to be determined by a jury.

200. Defendant Roper is liable to Plaintiffs for Ms. Flores' injuries, pain and suffering, and death, and for the harm suffered by her estate.

201. Defendant Roper's reckless acts in gross and conscious disregard of Ms. Flores' constitutionally protected rights and his reckless and callous indifference to Ms. Flores' constitutionally protected rights, warrant an award of punitive damages. Punitive damages are available against Defendant Roper as a matter of federal common law under *Smith v. Wade*, 461 U.S. 30 (1983) (punitive damage available in §1983 action upon a finding of reckless or careless disregard or indifference to another's rights or safety).

Count Two - 42 U.S.C. §1983 – Fourteenth Amendment Violations
(Substantive Due Process – State Created Danger) - Roper

202. Plaintiffs re-allege and incorporate all preceding paragraphs as though fully pleaded below.

203. The Fourteenth Amendment to the United States Constitution protects the life, liberty and property rights of every person within the United States and prohibits the deprivation of such rights by any State or individual acting under color of law.
204. Under the United States Code, 42 U.S.C. §1983 authorizes a claim against any person who, acting under color of law, deprives any person of any rights, privileges or immunities secured by the United States Constitution.
205. Defendant Roper, in his individual capacity as a Minnesota State Trooper, is a person against whom a claim under 42 U.S.C. §1983 may be asserted.
206. At all times material hereto, Defendant Roper was an employee and/or agent of the Minnesota Department of Public Safety and the Minnesota State Patrol, was acting within the course and scope of his employment, and acting under color of state law, to wit: under color of the statutes, ordinances, regulations, policies, customs, and usages of the State of Minnesota, the Minnesota Department of Public Safety and the Minnesota State Patrol.
207. Through his affirmative conduct described herein, Defendant Roper created a clear danger to those around him and in his path as he drove in a criminally reckless manner.
208. Ms. Flores was a member of a discrete and precisely definable group placed in danger of serious, immediate and proximate harm by Defendant Roper's criminally reckless conduct.
209. Having created such danger, Defendant Roper failed to protect Ms. Flores from the danger he created and that she would not have faced but for Defendant Roper's criminally reckless conduct.
210. The risk Defendant Roper created was obvious and known to Defendant Roper.

211. Defendant Roper's actions demonstrated criminal recklessness and deliberate indifference to a substantial risk to the health, safety, and substantive due process rights of Ms. Flores, and such deliberate indifference under the circumstances shocks the conscience.
212. Through his deliberate indifference, Defendant Roper subjected Ms. Flores to deprivation of her life, liberty and property, and caused substantive due process violations under the Fourteenth Amendment to the United States Constitution.
213. At the time he struck vehicle in which Ms. Flores was a passenger and caused Olivia Flores' fatal injuries, the law prohibiting Defendant Roper from depriving the life, liberty and property rights of any person within the United States through reckless conduct that demonstrated deliberate indifference to the rights and safety of others was clearly established and every reasonable officer would understand that the conduct described herein would violate clearly established law..
214. As a direct and proximate result of Defendant Roper's unlawful acts and omissions, Defendant Roper deprived Ms. Flores of the rights guaranteed to her by the Fourteenth Amendment of the United States Constitution, specifically, he deprived her of the right to life, liberty, and property.
215. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered injuries, experienced pain and suffering, and ultimately died.
216. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered compensatory and special damages as defined under federal common law.
217. As a direct and proximate result of Defendant Roper's unlawful acts and omissions, Ms. Flores' next of kin have suffered pecuniary loss, including medical and funeral expenses, loss of

aid, counsel, guidance, advice, assistance, protection, and support in an amount to be determined by a jury.

218. Defendant Roper is liable to Plaintiffs for Ms. Flores' injuries, pain and suffering, and death, and for the harm suffered by her estate.

219. Defendant Roper's reckless acts in gross and conscious disregard of Ms. Flores' constitutionally protected rights and his reckless and callous indifference to Ms. Flores' constitutionally protected rights, warrant an award of punitive damages. Punitive damages are available against Defendant Roper as a matter of federal common law under *Smith v. Wade*, 461 U.S. 30 (1983) (punitive damage available in §1983 action upon a finding of reckless or careless disregard or indifference to another's rights or safety).

Count Three: State Law - Wrongful Death – Defendant Roper

220. Plaintiffs re-allege and incorporate all preceding paragraphs as though fully pleaded below.

221. Under Minnesota law, Trustees for survivors of a decedent may assert a wrongful death action where the death is caused by the wrongful act or omission of any person. Minn. Stat. §573.02, subd. 1.

222. Carlos Flores and Stephanie Flores were duly appointed pursuant to §573.02, subd. 3 as Co-Trustees for the Next of Kin of Olivia Kay Marie Flores, by Order dated June 30, 2024, and filed in Olmsted County, Minnesota, District Court.

223. Plaintiffs were appointed as Trustees to commence an action for wrongful death on behalf of the next of kin of Ms. Flores.

224. Defendant Roper caused Ms. Flores' death through his criminally reckless conduct wherein he acted in conscious disregard of the risk of causing death.

225. The conduct described in all of the preceding paragraphs amounts to wrongful acts and omissions for purposes of Minnesota Statute §573.02, subdivision 1.

226. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered injuries, experienced pain and suffering, and ultimately died.

227. As a direct and proximate result of Defendant's Roper's unlawful acts and omissions, Ms. Flores suffered pain and suffering in addition to all other available categories of compensatory and special damages.

228. As a direct and proximate result of Defendant Roper's wrongful acts and omissions, Ms. Flores' next of kin have suffered pecuniary losses, including medical and funeral expenses, loss of aid, counsel, guidance, advice, assistance, protection, support, sorrow, mental anguish, and loss of solace in an amount to be determined by a jury.

JURY DEMAND & PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand a trial by jury and respectfully request that this Court award the following judgments and damages against Defendant, as provided by federal law and the United States Constitution, including, but not limited to, the following:

1. As to Count One, a finding that Defendant Roper violated Ms. Flores' constitutional rights under the Fourteenth Amendment to the United States Constitution and for a money judgment against Defendant Roper for compensatory, special, and punitive damages together with costs and disbursements, including reasonable attorneys' fees under 42 U.S.C. § 1988, and pre- and post-judgment interest;
2. As to Count Two, a finding that Defendant Roper violated Ms. Flores' constitutional rights under the Fourteenth Amendment to the United States Constitution and for a

- money judgment against Defendant Roper for compensatory, special, and punitive damages together with costs and disbursements, including reasonable attorneys' fees under 42 U.S.C. § 1988, and pre- and post-judgment interest;
3. As to Count Three, a finding that Defendant Roper caused Ms. Flores' wrongful death through his criminally culpable conduct and that Defendant is liable to the next of kin for compensatory, special and punitive damages in an amount to be determined by the jury, together with costs, disbursements, and pre- and post-judgment interest;
 4. For all such other and further relief as the Court deems just and proper.

Dated: December 11, 2024

RESTOVICH BRAUN & ASSOCIATES

/s/ Thomas R. Braun
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**EXHIBIT
A1**



**EXHIBIT
A2**

MINNESOTA DEPARTMENT OF PUBLIC SAFETY



Internal Affairs/Affirmative Action

445 Minnesota Street • Suite 530 • Saint Paul, Minnesota 55101-5530
Phone: 651.201.7136 • Fax: 651.282.6873 • TTY: 651.282.6555

DATE: August 27, 2024

TO: Colonel Christina Bogojevic
Minnesota State Patrol

FROM: Director Lynn Mueller *lmueller*
Internal Affairs/Affirmative Action

SUBJECT: IAD Case #24-19

EMPLOYEES: Trooper Shane Roper

ALLEGED VIOLATION(S): General Order #20-10-000, Oath of a Minnesota State Trooper: Conduct myself at all times in accordance with highest moral standards, never commit act that will reflect discredit on the MSP. General Order 02-10-029, Conduct - Sworn Members: IV.D. Sworn members of the State Patrol shall not, whether on or off duty, exhibit any conduct which discredits themselves or the department or otherwise impairs their ability or that of other officers or their department to provide law enforcement services to the public. Sworn members of the State Patrol must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public. General Order #13-30-004, Patrol Unit, Operation and Maintenance: II. Operation - D. State Patrol personnel SHALL NOT operate, on-duty or off-duty, any State Patrol unit in a careless or reckless manner or with a measurable blood alcohol concentration (zero tolerance). General Order #12-20-011, Patrolling and Parking: A. Members who operate department vehicles shall demonstrate exemplary driving behavior. C.1. Members shall obey all traffic laws and shall not assume any special

- Alcohol and Gambling Enforcement
- Bureau of Criminal Apprehension
- Driver and Vehicle Services
- Emergency Communication Networks
- Homeland Security and Emergency Management
- Minnesota State Patrol
- Office of Communications
- Office of Justice Programs
- Office of Pipeline Safety
- Office of Traffic Safety
- State Fire Marshal

EQUAL OPPORTUNITY EMPLOYER

EXHIBIT
B

Colonel Christina Bogojevic

August 27, 2024

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privileges, except while responding to emergency call or involved in a pursuit situation. General Order #08-20-033, Emergency Vehicle Operations: A. General Requirements, 2. At least one lighted red light to the front of the state patrol unit must be activated whenever a member wishes to assume emergency vehicle right-of-way. Discretion may be exercised on whether to activate a siren depending upon the circumstances, including but not limited to, traffic conditions, type of roadway weather, etc. 4. This policy does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the highways. B. Opticom system, 1. Shall not assume they have a protected left turn. 2. Shall drive with due regard for the safety of persons using the street. 22-20-012 Motor Vehicle Pursuit: II. Guiding Principles; G. While MN law permits emergency vehicles to disregard traffic signs or signals when in pursuit of an actual or suspected violator of the law, nothing relieves the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the same street, nor does it protect the driver of an authorized emergency vehicle from the consequences of reckless disregard for the safety of others.

IA/AA Investigator Paul Skoglund conducted an investigation into the above allegations. The investigation is now complete and I have reviewed the information pertaining to the allegations. The following is a summary of the investigation along with my recommendations. I encourage you to review the entire investigative file before making any final decisions regarding this matter.

After reviewing all the information compiled throughout this investigation, it is my recommendation that the allegations under General Order #20-10-000, General Order 02-10-029, General Order #13-30-004, General Order #12-20-011, and General Order #08-20-033 be sustained. [REDACTED]

Please notify this office, in writing, of your decision regarding this investigation.

Colonel Christina Bogojevic

August 27, 2024

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Please limit access to this memorandum as it contains sensitive information that may be protected by the Minnesota Data Practices Act.

Allegations/Background

On or about May 24, 2024, Internal Affairs/Affirmative Action ("IA/AA") received a complaint alleging misconduct against Trooper Shane Roper. The complaint alleged Roper was on duty working traffic enforcement with an authorized ride-along passenger ("Rider") on May 18, 2024, when he was involved in a crash while attempting to initiate a traffic stop. The crash occurred at an intersection controlled by a semaphore. When Roper entered the intersection, he had a green light, his lights were not activated, and he was traveling at speeds higher than posted limit of 40 mph. Roper struck a vehicle ("Vehicle 1") attempting to turn left (into Roper's lane) against the light. Vehicle 1 had four passengers. One passenger died as a result of the crash, and two passengers sustained injuries. Vehicle 1 struck a second vehicle. These passengers were not seriously injured. Rider also suffered injuries from the crash.

On July 10, 2024, IA/AA received an amended complaint with additional information and additional allegations. The amended complaint indicated criminal allegations were filed related to these events, and it included additional details about Roper's rate of speed just before the crash. The amended complaint also provided information about other high-speed driving occurrences on May 18, 2024, that occurred before the crash.

IA/AA's investigation included interviewing Rider, a responding trooper, and Roper.

[REDACTED]

Findings of Fact

The investigation supports a finding that Roper attempted to initiate a traffic stop on May 18, 2024, after observing traffic violation, including speeding, rapid lane changes/aggressive driving, and failure to wear a seat belt. It further supports a finding that Roper understood that these violations were low level traffic violations.

The findings are based on Roper's statement to IA/AA.

The investigation supports a finding that Roper was traveling over the stated speed limit of 40 mph immediately before and at the time of impact. The investigation supports a finding that his speed approaching the intersection was substantially over the posted limit and at times, reached over 80 mph.

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In his IA/AA statement, Roper stated he was not watching his speed as he tried to close the gap between himself and the vehicle he identified as violating traffic laws. He stated he was attempting to clear the intersection, watch areas where other traffic could come from, and he saw an "opening" to catch up to the vehicle he wanted to stop. He indicated that he has not had an opportunity to review data related to his speed, but he also did not challenge or question the alleged speed of 84 mph prior to the crash, and about 50 mph at the point of impact.

IA/AA also considered the statements of Rider [REDACTED]. Rider indicated that Roper was accelerating to catch up and slammed on the brakes when the vehicle turned, noting that "they were so close it didn't make a difference really."

[REDACTED] Based on the available data, including Roper's lack of awareness, it is reasonable to conclude that Roper's speed substantially exceeded the posted limit when he approached the intersection and when he encountered Vehicle 1.

The investigation supports a finding Roper also traveled well over the stated speed limit when responding to assist with a report of a non-life-threatening injury. The investigation supports a finding that at times, Roper reached speeds of 135 mph.

This is supported by Roper's and Rider's statements.

Review of Policies

[REDACTED]

Under General Order #13-30-004, member shall not operate, on-duty or off-duty, any State Patrol unit in a careless or reckless manner. Similarly, General Order #12-20-011, states members who operate department vehicles shall demonstrate exemplary driving behavior and shall obey all traffic laws and shall not assume any special privileges, except while responding to emergency call. When engaged in emergency operations, General Order #08-20-033 requires members to use at least one lighted red light to the front whenever assuming emergency vehicle right of way, but members do have discretion with respect to using a siren. This policy also makes clear that it does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons.

Roper's driving conduct fails to comply with policies. The intersection where the crash occurred is the entrance to a mall and the speed limit is 40 mph. Given Roper's knowledge of the roadway and the local area, it is reckless to travel through a green light in this area at such high speeds. Even assuming Roper had his emergency lights

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activated in "position 2", his excessively high rate of speed made his vehicle a danger to other drivers who could not reasonably predict the distance Roper would travel in a very short amount of time.

The investigation also did not identify any legitimate law enforcement reason that justified Roper's driving conduct. All traffic violations, even petty misdemeanors, should be taken seriously by law enforcement officers; however, it is incumbent on all law enforcement officers to have good judgment about the immediacy of harms and obligation to drive with due regard for the safety of others. In this case, Roper should have known that high speeds would create an unreasonable risk in a busy intersection where drivers must navigate across lanes to make left-hand turns. He should have also known that driving at high speeds would affect his ability to monitor the roadway for risks and his ability to react. It is also concerning that Roper felt it appropriate to drive in this manner with Rider as a passenger.

Under General Order 02-10-029, members of the State Patrol must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public. They must not exhibit any conduct that discredits themselves or the agency. Troopers must also abide by their oath to never commit an act that will reflect discredit on the State Patrol (General Order #20-10-000). Roper's conduct has discredited the State Patrol, and the conduct will continue to discredit the State Patrol for the foreseeable future because Roper's actions are forever linked with the death of a passenger in Vehicle 1.¹

Roper's failure to comply with policy has discredited the agency, and the ongoing criminal case alone raises substantial issues with his ability to serve as a law enforcement officer. His conduct has also seriously undermined his integrity and trustworthiness with the public. Even if no crash had occurred, his conduct is shocking and shows a disregard for the State Patrol's mission of safety. There is simply no justification for Roper's decision to speed, and while Roper may understand the impact of his conduct today, it does not mitigate the poor judgment he showed on May 18, 2024, that will continue to affect him, the State Patrol, and most importantly, the family, friends, and community of the passenger who died.

If you have any questions regarding this matter, please contact me directly at 651-201-7173.

cc: Human Resources Director Victoria Schwab
Labor Relations Manager Kate Rios

¹ This investigation is an employment investigation based solely on policy language. It does not make any findings or recommendations with respect to the criminal charges, which are based on Minnesota law.