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BEFORE THE STATE CLAIMS COMMISSION

asfiley stewart. Administratrix		CLAIMANT
of the estate of vickie Lynn Freemyer, deceased	CASE NO	•
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STATE OF ARKANSAS, acting through the ARKANSAS STATE POLICE		RESPONDENT

CLAIM NARRATIVE AND STATEMENT OF FACTS

COMES NOW the Clamant, Ashley Stewart, individually, and as Personal Representative of the Estate of Vickie Lyon Freemyer, Deceased, by and through her Attorneys, Reid, Burge, Prevailet & Colonan, and submits the following Claim Narrative and Statement of Facts in support of her Complaint setting forth claims against the State of Arkansas, setting through the Arkansas State Poince:

- Ashley Stewart is now and was a resident of the City of Blytheville in the Chickeswaba District of Mississippi County, Arkansas, at all times relevant to this claim.
- 2. Ashley Stewart is one of four daughters of the decedem, Vickie Freemyer, and is the duly appointed Personal Representative of the Estate of Vickie Freemyer, Deceased, having been appointed by the Circuit Court for the Chickesewba District of Mississippi County, Arkanans, on December 18, 2009.
- 3. The Claimant brings her Complaint on behalf of the Estate and on behalf of the following heirs and statutory baneficiaries of the Decedent:

Name	ARC	Relationship	Address	
Ahley Stewart	33	Daughter	Hlytheville	-
Michah Sudbury		Daughter	Dallas, TX	-1
		Daughter	Blytheville	- į
Wesley Ann Freemyer	24	<u> </u>	Blytheville	<u>-</u> į
Virginia Freemyer	18	Daughter	i	
Bob Jackson	77	Father	Blytheville	
Peggy Jackson	77	Mother	Blytheville	
Valorie Kent	37	Blater	Arkadelphia	
		<u> </u>		EXHIBIT
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VEALIFICATION

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- 4. The Respondent is the Arkansas State Police, an agency/division of the State of Arkansas, whose Director is Colonel J.R. Howard, 1 State Police Plaza Drive, Little Rock, Arkansas 72209.
- 5. Andrew Rhew, was at all times pertinent to this case, a Trooper for the Arkansas State Police and was the driver of the patrol car owned by the Respondent agency, the Arkansas State Police. Rhew later resigned his position as a Trooper in 2011 after wrecking a car and being charged with DWI in Missouri, but at the time of the fatal car wreck, Rhew was driving his Arkansas State Police patrol car within the course and scope of his employment for the Arkansas State Police. As such, Andrew Rhew's actions are imputed to the Respondent under the doctrine of Respondent Supertor.
- 6. Vickie Freemyer died in a tragic motor vehicle crash on November 3, 2009, in Marila, Arkansas, when Andrew Rhew, a Trooper for the Arkansas State Police, negligently and recklessly drove his police cruiser into a vehicle driven by Vickie Freemyer, causing her death.
- 7. On November 3, 2009, at approximately 9:47 A.M., Rhew was dispatched by radio to travel from Manila to the Driver's License testing site in Osceola in reference to a subject with an outstanding warrant and an additional subject who had a revoked driver's license. There was no indication in the radio dispatch call that either subject was a felon, that either had a bistory of violence, that anyone was in danger, or that there was any type of emergency.
- 8. Responding to the call, Rhow traveled South on State Highway 77 driving his patro! car, without the utilization of any lights or sirons, at speeds in excess of 100 miles an hour in a 45 mile per hour zone just prior to the collision.
- 9. Vickie Freemyer was traveling West in her Toyota Camry on Fleeman Street in Manila. Arkansas, on her way to visit her father in the hospital at Jonesboro. Witness statements and the Crash Data Recorder (CDR) in her Camry Indicate that, at the intersection of Fleeman and Highway 77, Vickie Freemyer slowed to walking pace and came to a "partial stop," then entered the Intersection of State Highway 77, without seeing Rhew's speeding artises, where she was struck by Rhew and killed.
- 16. According to information acquired from the Arkansas State Police under the Arkansas Freedom of Information Act, the Crash Data Recorder (CDR) or "Blackbox" in Rhew's police cruiser shows Rhew had been traveling in a 45 m.p.b. zone at a speed of 103

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miles per hour approximately one (1) second before the crash and, after applying his brakes, was traveling at a speed of approximately 57 miles per hour approximately one-tenth (0.1) of a second before impact.

- 11. Rhow was guilty of fault consisting of negligent and reckless conduct, which was a proximate cause of the injury to and the death of Vickie Freemyer, which sees of fault include, but are not limited to the following:
 - (a) Failing to keep a proper lookout;
 - (b) Failing to maintain proper control of his vehicle;
 - (c) Driving the patrol car at a speed greater than that reasonable and prudent under the circumstances then existing;
 - (d) Failing to operate the petrol car's emergency lights and audible signals when other vehicles were present.
 - (e) Failing to exercise ordinary care for his own safety and for the safety of others using the highway;
 - (f) Operating the patrol car in such an unsafe manner as to endanger the lives of other persons when he knew such conduct was unreasonably dangerous;
 - (g) Failing to operate his police cruiser in compliance with Arkaneas traffic laws and written policies of the Arkaneas State Police;
 - (h) Failing to operate his police cruiser in compliance with Manija city ordinances; and,
 - (i) Failing to otherwise exercise ordinary care.
- 12. The Arkansas State Police was guilty of institutional negligence which was a preximate cause of the crash and the resulting death of Vickle Freemyer, which negligence includes, but is not limited to:
 - (a) Failing to properly main and supervise Troopers, including Andrew Risew, to assure that they drive in a safe and responsible mariner in accordance with the law;
 - (b) Failing to maintain and enforce safe driving practices, including driving at a safe anced and the use of lights and sirons;
 - (c) Failing to investigate, discipline, or take other appropriate action to prevent Troopers who speed or otherwise drive in a dangerous and reckless manner;
 - (d) Pailing to property staff and provide security at the Drivers Linease Testing Center:
 - (e) Failing to have back-up officers in the vicinity and available at the Drivers License Testing Center to respond to calls for assistance by Testing Center personnel;
 - (f) Falling to pre .de proper and complete dispatch information so Treopers. such as Andre. Rhew, will know whether the dispatch involves an urgent or emergency str. ion;

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- (g) Failing to seek support and a ssistance from local law enforcement, such as the Sheriff's Office, the Osceola Police, or the Arkanses Highway Police, rather than directing Rhew to drive 25 miles from Manila to Osceola to issue a cleation of make an attest; an :,
- (h) Failing to otherwise exercise addnary care.
- 13. The above-described acts of thatton the part of Rhew and and the Arkanses State Police were the proximate cause of the fw. To islan described above, the resulting death of Viewic Freemyer, and damages as more part that it described herein.
- 14. On November 3, 2009, at it. time of Vickie Freemyer's death, she was gainfully employed as an elementary school teacher in the Cifted and Talented program at Osceola, carding a livelihood for herself and court using to her family. She was fifty-two (52) years of age.
- 15. Vickie Freemyer left surviving her four dat thers: Virginia Freemyer, Wesley Ann Freemyer, Ashley Stewart, and Much Sudbury; two alderly parents, Hob and Peggy Jackson; and a sister, Valerie Kont, each of whom have suffered and will continue to suffer mental angulah by reason of the wrongful a anti- of Vickie Freemyer.
- 16. The Claimant, as Personal i epresentative of the Estate of Vickie Freemyer. Deceased, is entitled to recover on be all to the Estate, the heirs of the decedent, and the statutory beneficiaries, the following of tents of demage, all of which were proximately caused by fault chargeable to the Respondent:
 - (a) Pain and suffering of The adent prior to death;
 - (b) Loss of life of the decrise to
 - (c) Pecuniary injuries 8 st. mer by her four daughters: Virginia Freemyer, Wesley Ann Freemyer, while Stewart, Micah Sudbury; two elderly parents, Bob and Peggy Jackson, see w. 2 of loss of contributions;
 - (d) Mental angulah suffered by her four daughters, Virginia Freemyer, Wesley Ann Freemyer, Ashley Stewart, and Mecch Sudbury; two elderly parents, Bob and Peggy Jackson; and sister, Valente Kent.
 - (c) Reasonable funeral and buria expenses of the Decedent.
 - (f) Property damage, including dat tages to the 2010 Toyota Camry.

WHEREFORE, the Claimant, Ashley Stewart, individually, and as Personal representative of the Estate of Vickie Freemyer, Decreased, requests entry of judgment against the Respondent for compensatory demages in the sum of Eight Million Dollars (\$8,000,000.00).

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or such additional amount as the Commission betermines is fair and near mab. Along we a all costs, and all other proper relief to which she may be antitled.

-Mail:

Respectfully Submitted.

REID, BURGE, PREVALLET & COLEMAN 417 North Broadway, P. O. Box 10 Flytheville, Arkansas 72316-0107 elephone: (870) 763-4586 (970) 763-4642 rbpc@sbcglobal.net

Robert L. Coleman, No. 8003 ATTORNEYS FOR CLAIMAN'T

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November 2, 2009 He daim flattative and Statement of Facts the Motor Vehicle Report Attached se Exhibit "	Along with the lotter
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ARKANSAS STATE CLAIMS COMMISSION MOTOR VEHICLE ACCIDENT REPORT FORM

ECTION 1	
ATE OF ADDIDENT: November 3, 2009	
TATE OF ADDIDENT: NOVEMBER 2010	
TOYOLS MAKE TOTAL	
ACTOR VEHICLE DAMAGED: TYPE TOYOLS MAKE CARRY YEAR 2010 ACTOR VEHICLE DAMAGED: TYPE TOYOLS MAKE CARRY YEAR	ille.
PRIVEN BY: Vickie Freehyer Arkansas 72315	l
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of durings to car. Son attached Claim Narrative and Statement of Facts. The vehicle was consided.	_
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SECTION V The undersigned states on eath that he/she is familiar with the matters and the set forth in the above statement, and that he/she verily believes that are true. Signature of Claiment	
Signature of Claimant	
RECTION Y The undersigned states on each that he/she is familiar with the matters and the set forth in the above statement, and that he/she verily believes that are true. Signature of Claiment Sworn to and subscribed before me at Blythey11 le on this 4th day of Tanuary year	
Suprature of Claiment (Notary Seal) On this 4th day of Tanuary March 1, 2013 Notary Public Property of Claiment City. Suprature of Claiment City. Suprature of Claiment City. Notary Public Notary Public	TIGHT