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**IN THE SEVENTH JUDICIAL DISTRICT COURT**
**GRAND COUNTY, STATE OF UTAH**

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| JOSEPH PETITO, and NICHOLE SCHMIDT, individually and for and on behalf of GABRIELLE PETITO, deceased,<br><br>Plaintiffs,<br><br>v.<br><br>MOAB CITY POLICE DEPARTMENT, BRET EDGE, BRAYDON PALMER, ERIC PRATT, DANIEL ROBBINS, and JANE/JOHN DOES 1-10.<br><br>Defendants. | **COMPLAINT**<br><br>**(Tier 3)**<br>**(Jury Trial Demanded)**<br><br>Case No. _____<br><br>Judge _____ |

Plaintiffs, Joseph Petito, and Nichole Schmidt, by and through their counsel of record, Bradley H. Parker, James W. McConkie, Brian C. Stewart, Steven Jensen, and W. Alexander Evans of the law firm of Parker & McConkie, and Troy L. Booher, J. Frederic Voros, Jr., and

Dick J. Baldwin of the law firm of Zimmerman Booher, hereby bring this action on their own behalf and on behalf of Plaintiff Gabrielle ("Gabby") Venora Petito, deceased, against Defendants Moab Police Department, Chief Bret Edge, Assistant Chief Braydon Palmer, Officer Eric Pratt, Officer Daniel Robbins, and Jane/John Does 1-10, alleging the Department's negligent hiring and failure to properly train and the Individual Officers' negligence caused Gabby's tragic and untimely death. Plaintiffs allege as follows:

## INTRODUCTION

1. The plaintiffs are the parents of Gabby Petito. Gabby was an aspiring "van-life" travel influencer, who was brutally murdered by her abusive fiancé and travel companion, Brian Laundrie.

2. Roughly two weeks before Brian murdered Gabby, while the couple was visiting Moab, Utah, a witness saw Brian hit Gabby. The witness immediately called 911 to report the incident.

3. Gabby contacted her family to tell them that the couple had been fighting, that Brian had hit her, and that the police had been called. The family immediately responded by beginning to arrange for Gabby to fly home and to have her van shipped home, to separate her from Brian.

4. Moab police found the couple and investigated the reported domestic violence incident. Once the Moab Police Department stepped in, Gabby's family stepped back, believing that the situation was being appropriately handled and evaluated by competent authorities.

5. The police investigation was deeply flawed. Despite the witness's report, the officers treated Brian as if he were the victim of domestic abuse rather than the perpetrator. In

fact, the officers never directly questioned Brian about whether he hit Gabby or how she ended up with scratches on her face. They failed to recognize or otherwise identify the obvious signs clearly indicating that Gabby was the victim of domestic abuse, including her assuming responsibility for the fight with Brian even though she described Brian grabbing her face so violently that it scratched her cheeks and drew blood. The officers egregiously misinterpreted Gabby's extreme emotional distress, seeing it as the cause of the domestic violence rather than its result. Officer Pratt, in particular, was fundamentally biased in his approach to the investigation, choosing to believe Gabby's abuser, ignoring evidence that Gabby was the victim and intentionally looking for loopholes to get around the requirements of Utah law and his duty to protect Gabby.

6. The Utah legislature has removed discretion from officers investigating domestic violence incidents. The law imposes protections against future harm, including an automatic protective order to ensure that the abuser and the victim remain separated. But here, the officers—based on their tragic failure to identify Brian as the abuser—coached Gabby to provide answers that the officers used to justify their decision not to enforce Utah law.

7. This case is a vehicle for systemic change and a reckoning about how the police enforce the State's domestic abuse laws. First, police cannot continue to assert immunity under Utah law to avoid accountability for their actions that result in a wrongful death. Second, the police must be trained on—and implement—effective methods for evaluating domestic abuse situations, so that the police can adequately protect victims according to the clear priorities mandated by the Utah legislature. Third, police departments must stop hiring and/or retaining

officers who engaged in prior behavior, professional misconduct or who have personal biases making them unfit and unsafe to serve as members of the police force.

8. Gabby's death constituted a wrongful death resulting from Defendants' negligence. Notwithstanding case law from the Utah Supreme Court holding that the State is immune in cases of wrongful death, *Tiede v. State*, 915 P.2d 500 (Utah 1996), plaintiffs are prepared to demonstrate that the case in question must be overturned because it relied on an incorrect assessment of the history of Utah's wrongful death actions. The Utah Constitution prohibits the legislature from abrogating the right of action for wrongful death. And at the time the Utah Constitution was drafted, that right of action included the right to assert against the State a claim for wrongful death arising from negligence. Indeed, the Utah Constitution enshrined the common understanding that no one—including a state official, such as a police officer—enjoys immunity for negligently causing the death of another, under Utah law.

9. Gabby did not have to die. Gabby would still be alive if Moab Police Department had not hired, retained and/or failed to train officers who were fundamentally unfit and safe to employ in the capacity of police officer. Gabby would still be alive if the police officers had competently and properly investigated Brian's reported abuse and enforced Utah's laws that were designed to remove the officers' discretion to disregard abuse. Gabby would still be alive if Officer Pratt had not intentionally coached Gabby and manipulated the investigation to try to find loopholes that would allow him to disregard the mandates of Utah law and his duty to protect Gabby. Defendants' negligence deprived Gabby of her safety and ultimately her life. Gabby's parents have been deprived of Gabby's companionship, love and affection, and the fulfillment of the hopes that all parents cherish for their children's futures.

## PARTIES, JURISDICTION AND VENUE

10. Plaintiff Gabby Petito, now deceased, was at all relevant times a resident of North Port, Sarasota County, State of Florida.

11. Plaintiff Joseph Petito is and was at all relevant times a resident of Vero Beach, Indian River County, State of Florida and was the natural parent and heir of Plaintiff Gabby Petito.

12. Plaintiff Nichole Schmidt is and was at all relevant times a resident of Blue Point, Suffolk County, New York State and was the natural parent and heir of Plaintiff Gabby Petito.

13. Defendant Moab City Police Department is located in Moab, Grand County, State of Utah and was at all relevant times a government entity as defined by Utah Code § 63G-7-102(4).

14. Defendant Bret Edge was at all relevant times the Chief of Police for the Moab City Police Department and, upon information and belief, currently resides in or around Moab, Grand County, State of Utah.

15. Defendant Braydon Palmer was at all relevant times the Assistant Chief of Police for the Moab City Police Department and, upon information and belief, currently resides in or around St. George, Washington County, State of Utah.

16. Defendant Eric Pratt was at all relevant times an officer with the Moab City Police Department and, upon information and belief, resides in Moab, Grand County, State of Utah. On information and belief, Pratt is currently a Detective with the Moab City Police Department.

17. Defendant Daniel Robbins is and was at all relevant times an officer with the Moab City Police Department and, upon information and belief, resides in Moab, Grand County, State of Utah.

18. Upon information and belief, Defendants Jane/John Does are and were at all relevant times employees and/or agents of the Moab City Police Department and reside in Moab, Grand County, State of Utah.

19. Defendants' wrongful acts and omissions giving rise to this Complaint occurred in or around Moab, Grand County, State of Utah.

20. This Court has jurisdiction over this matter pursuant to Utah Code § 78A-5-102(1).

21. Venue is appropriate in this Court pursuant to Utah Code § 78B-3-307.

22. Plaintiffs have complied with the requirements of Utah Code § 63G-7-402 *et seq*.

23. Plaintiffs have filed an undertaking in the amount of $300 as required by Utah Code § 63G-7-601.

24. Plaintiffs will post a bond in an amount determined by the Court as required by Utah Code § 78B-3-104.

## FACTUAL ALLEGATIONS

25. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

26. In 2021, Gabby Petito was a 22-year-old traveling the country with her fiancé, Brian Laundrie.

27. Gabby had converted a van into a camper to use in her travels as an aspiring "vanlife" travel influencer.

28. In the summer of 2021, Gabby and Brian traveled from New York to the western United States, visiting multiple national parks, which Gabby documented on social media, including Instagram and YouTube.

29. On or around August 12, 2021, Brian and Gabby were visiting Moab, Utah.

30. Brian and Gabby spent much of the day in a coffee shop where Gabby worked on her social media business.

31. Brian and Gabby had been fighting much of the day, which eventually led to Brian physically and publicly assaulting Gabby outside the Moonflower Community Cooperative.

32. At some point prior to their interaction with Moab police officers, Brian grabbed Gabby by the face so forcefully that he cut her cheek and drew blood. Gabby took a photograph of her injury, which shows blood across her nose and left eye. Gabby pointed out the injury to Officer Pratt, but he ignored her and did nothing more to investigate or document the injury.

33. A witness observed Brian hitting Gabby and called 911 to report the incident.

34. The witness reported seeing a "domestic dispute," explaining that as the witness was driving past, he saw the "gentleman slapping the girl." He said, "they ran up and down the sidewalk, he proceeded to hit her, hopped in the car, and they drove off."

35. Another witness later reported seeing Brian hit Gabby with a closed fist, causing her to fall against the side of the van with her back and probably her head.

36. Dispatch alerted officers about a man who reportedly hit a woman then drove northbound on Main Street, away from the Co-op.

37. Officer Eric Pratt went to the Co-op to investigate and got the phone number of a second witness. While at the Co-op, Officer Pratt failed to activate his body camera as required and failed to locate and talk to the 911 caller who has reported Brian hitting Gabby.

38. Using the information provided by dispatch, Officer Daniel Robbins located Gabby and Brian's van speeding northward, leaving Moab, and turned his lights on to pull them over.

39. Officer Robbins watched the van cross the double yellow line in the center of the road and swerve back to the right, hitting the curb on the side of the road. He turned on his siren and pulled over the van.

40. Inside the van, Officer Robbins found Gabby, visibly distraught, sitting in the passenger seat alongside Brian in the driver's seat. Brian was calm and showed no signs of distress.

41. When Officer Robbins asked what was going on and why Gabby was crying, Gabby said they had been fighting over personal issues. Brian explained that it had been a long day because there were a lot of flies where they had been camping the prior day, then changed the subject to apologize for driving into the curb.

42. Officer Robbins asked Gabby to step out of the van, separating Gabby and Brian.

43. Officer Robbins spoke with Gabby, who continued crying while explaining that she and Brian had been fighting and that it had been a rough morning for a few reasons.

44. First, she told Officer Robbins that she and Brian were fighting because she was cleaning the van and had apologized to Brian about giving the impression she was in a bad mood.

45. Second, she said they were fighting because she was working hard to start a travel blog, which had kept her busy all morning working on her computer, and that Brian did not believe she was capable of succeeding.

46. Third, she explained they were fighting because Brian was preventing her from getting into their van because he believed she needed to calm down.

47. While Officer Robbins spoke with Gabby, Ryan Kral—a park ranger—and Officer Pratt arrived and began speaking with Brian. Eventually Officer Robbins finished speaking with Gabby and had her sit in his police car while he joined Officer Pratt and Ranger Kral to speak with Brian.

48. Brian calmly told the officers that although he and Gabby had been fighting, they had a nice morning, but that Gabby had gotten worked up while they were trying to get their van packed up to get their day going.

49. Officer Robbins noticed scratches on Brian's face and asked him about them. Brian explained that he had taken Gabby's phone, locked the van, and told Gabby to "take a breather" and calm down, at which point she tried to take her phone and the van keys from Brian. Brian admitted that he responded by pushing Gabby, and while that was happening, Gabby scratched Brian's face.

50. Officer Pratt then spoke with Gabby. She elaborated on what she had told Officer Robbins, explaining that she was cleaning the van and, because she knows she can appear to

have a mean attitude about how things are organized and cleaned, she apologized to Brian if she seemed like she was acting mean.

51. She said, "I was apologizing, but I guess I said it in a mean tone, because [Brian] got really frustrated and locked me out of the car and told me to go take a breather."

52. But she didn't want to take a breather—they were out of water, she was thirsty, and she wanted to get going with their day. She also did not want to be locked out of her car, thousands of miles from home, without her cell phone. She was also in the middle of a project on her laptop, which was locked inside the car.

53. Officer Pratt responded by observing that Brian's reaction did not calm the situation, but made Gabby more upset.

54. He then asked Gabby about scratches on her face and on her arm, pointing out multiple scratches, and asked what had happened.

55. Gabby initially hesitated and claimed she wasn't sure. She said she was trying to get into the back of the van, and there was a backpack on the back of the van that scratched her.

56. Officer Pratt then told Gabby that a couple of witnesses had reported seeing Brian punch Gabby.

57. Gabby responded by saying that she had slapped Brian first, because "he kept telling me to shut up," and that Brian then grabbed her arms so she wouldn't be able to slap him again.

58. Officer Pratt asked again if Brian had hit Gabby, and she responded, "I guess, but I hit him first." She showed the officer how Brian had grabbed her face, explaining that he must

have cut her cheek with his nails, because she could feel the cut burning when she touched her face.

59. Officer Pratt failed to ask any questions about or document the cut on Gabby's face or further investigate Brian violently grabbing Gabby's head and face.

60. Officer Pratt did not ask about whether Brian had ever locked Gabby out of their van before, or taken away her cell phone and laptop, or otherwise acted in a way to exercise control over Gabby.

61. Officer Pratt also did not ask about whether Brian had ever been violent with Gabby before.

62. Officer Pratt did not consider the asymmetrical seriousness of the force Gabby used on Brian as compared with the force Brian used on Gabby, nor did he otherwise conduct any kind of lethality assessment to evaluate whether Brian violently grabbing Gabby's face was an indicator of potential escalating violence in the future.

63. Rather than probing Brian and Gabby's vague story about how their fight led to physical violence, including asking for additional details about the facts Gabby had already explained, Officer Pratt appeared to simply accept Gabby's claim that she hit Brian first, as if the violence reported by witnesses was an isolated incident, without any provocation.

64. Instead, Officer Pratt steered the conversation by patronizingly questioning Gabby about whether she was okay, asking if she took medication for anxiety, and asking leading questions about Brian being "pretty patient" with Gabby. Gabby responded by saying that Brian gets really frustrated with her, and also has a lot of anxiety.

65. Officer Pratt then shared some observations from his personal life. Specifically, he talked about how he and his ex-wife also had anxiety, and that they would feed off each other and spiral. In other words, rather than investigating the factors that led to violence between Brian and Gabby, to determine whether Gabby was a victim of domestic abuse—including Brian reportedly responding to Gabby's apology by taking her phone, locking her out of their car and away from her laptop, and telling her to take a walk, as well as Brian grabbing Gabby's face with so much force that he sliced her cheek open with his fingernails—Officer Pratt compared the situation to his prior relationship and attributed the confrontation to a bad combination of two people with anxiety.

66. Officer Pratt then left Gabby and went to speak with Brian. Officer Pratt began joking with Brian about both of them being bald, and asking if Brian would like to move into the shade to talk because Officer Pratt "felt bad for him."

67. Officer Pratt told Brian that when they arrived on scene, they were "worried about what kind of a guy [Brian was], from what [they had] heard, but in talking to [Gabby] it sounds to me like maybe this is not so clear cut."

68. In other words, without investigating the underlying conduct that led to Brian and Gabby's fight, Officer Pratt had decided that Brian's violence was excusable because of Gabby's anxiety.

69. Brian then gave his version of events to Officer Robbins. He explained that a lot of little things had contributed to the tension between Brian and Gabby that led to violence. For example, he talked about how Gabby had grown irritated about the flies at their prior campsite, Brian's dirty feet, and Brian's decision to move some items around in the van.

70. He confirmed Gabby's story that their fight escalated once Brian told Gabby to take a breather and he locked the van, but claimed he only shoved Gabby as a defensive measure. He did not discuss grabbing or scratching Gabby's face, which is an offensive act, and the officers did not ask him about it.

71. Brian claimed that he felt the need to lock her van and keep the keys because his big fear was being left on his own because "I don't really have a phone, so if she goes off without me, I'm on my own."

72. When asked about his demeanor, Brian explained that seeing the police lights turn on made his heart rate go up. He and Officer Robbins then joked about how Officer Robbins also feels the same way when he sees police lights turn on.

73. Officer Robbins then asked Brian if Gabby takes any medication, to which Brian said, "she's crazy," then laughed and said, "no, I don't think so, none that I know of."

74. While Officer Robbins and Ranger Kral spoke with Brian, Officer Pratt began speaking with another park ranger who arrived on scene, Melissa Hulls.

75. Ranger Hulls asked Officer Pratt if he was worried about Gabby's story. Tellingly, despite the information he had received about Brian's controlling behavior of locking Gabby out of the van without her phone or laptop, and her explaining that both she and Brian had serious anxiety, Officer Pratt responded, "[she] has a lot of anxiety and from what she's claiming, she's the full-on aggressor here."

76. Officer Pratt then went to his car and called the second witness to get his version of the events.

77. The witness explained that although he had maybe seen Brian push or shove Gabby, he did not observe a "full on punch to the face or anything." He explained that it appeared as if Brian was trying to close up the van and left a backpack on the back of the van. Brian then climbed into the van, blocking Gabby from getting in. She began hitting Brian with an open hand while telling Brian to let her get into the van before she eventually was able to climb over Brian and into the van.

78. The witness then prepared a written statement: "I observed a man and woman appear to have some sort of dispute. They were talking aggressively at each other, and something seemed off. At one point they were sort of fighting over a phone—I think the male took the female's phone. It appeared that he didn't want her in the white van. He got into the driver's seat and she followed him. At one point she was punching him in the arm and/or face and trying to get into the van. She actually climbed in/over him and over to the passenger's seat. I heard her say, 'Why do you have to be so mean?' . . . . [F]rom my point of view, something definitely didn't seem right. It was as if the guy was trying to leave her, and maybe take her phone?"

79. Officer Pratt and Officer Robbins then spoke. Officer Pratt summarized the information he had learned, admitting that he had not really questioned Brian yet, but nonetheless incorrectly concluded that Gabby was the "primary" aggressor.

80. Utah law requires officers to determine the "predominant" aggressor.

81. Utah law also provides that the relevant inquiry focuses on (1) the existence of prior domestic violence complaints, (2) the relative seriousness of injuries, (3) the likelihood of future injury to each party, and (4) whether a party acted in self-defense. Utah Code § 77-36-2.2(3).

82. Under those factors, Brian was the predominant aggressor. He repeatedly explained that his injuries were "baby injuries" and not a big deal, the most serious of which were the result of Gabby and Brian struggling over her phone, not the result of intentional harm by Gabby. Gabby's injuries, on the other hand, were the result of Brian grabbing Gabby's face with great force and cutting her cheek. A threat assessment would have revealed that Brian's violently grabbing Gabby's face is a well-recognized red flag for potential serious violence. Finally, although Brian claimed to act in self-defense, a proper evaluation of Brian's actions that led to violence would have accounted for Brian's use of non-defensive force when cutting Gabby's face and it would have led to a determination that Gabby was also acting in self-defense once Brian took the controlling actions of taking Gabby's phone, locking her out of her van and away from her laptop, and telling her to walk away.

83. Officer Pratt explained what, in his view, was the "problem" with Gabby being the primary aggressor: "In instances of domestic assault, be it a male or be it a female, we shall arrest. Now that doesn't mean that they necessarily have to go to jail. We can do a citation, if it meets one of three criterion, which one of them is that we can ensure that they're not going to further risk each other's safety. But the problem with that is that they live in the same vehicle." Officer Pratt reiterated that, in his view, Brian was the victim.

84. But he concluded, "Fortunately for her, just because he's bigger and stronger . . . we can't treat this differently than if it was a male on female violence, and we're gone have to charge her. And we can do a citation if there's some arrangement that can be made to separate them, and then we have to let them know that there's a no-contact order in effect, and we have to

let him know that the only way to drop it is to go into the police department during business hours and fill out a waiver."

85. Of course, that did not happen.

86. Officer Pratt informed Brian that the state legislature had taken away the officers' discretion about what to do when confronted with domestic violence. He told Brian that he had determined Gabby was the primary aggressor and Brian was "the victim of a domestic assault," at which Brian laughed.

87. Officer Pratt clearly understood that the law required the officers to arrest or issue a citation in this situation, and that Utah law imposes an automatic no-contact order that places a legal barrier to abusive couples being in contact with each another: "One of the things that the state legislature doesn't give us discretion on is charges when it comes to a domestic assault. . . . So at this point, you're the victim of a domestic assault and even if you didn't want to pursue this, we don't have a choice." He also explained, "Automatically, right now, there's something called a no-contact order in place. From this point forward, until tomorrow, if you wish to drop it, you have to go in to [the Moab Police Station and] . . . fill out a waiver that you're requesting a waiving of the no-contact order."

88. Officer Pratt asked Brian if he had any ideas for how they could avoid having Gabby spend the night in jail but be separated from Brian so that the officers can simply issue a citation. Brian asked the officers if he could spend the night in jail instead. Officer Pratt said he couldn't, because Brian wasn't being charged with anything. Officer Robbins told Brian, "You haven't done anything wrong." Brian responded by joking with Officer Robbins about taking Officer Robbins' radio to jail with him, and both officers laughed.

89. Eventually, the officers arranged through a local domestic violence organization for Brian to have a place to stay the night, allowing Gabby and Brian to be separated for the night.

90. Officer Pratt then spoke to Gabby to explain that she was responsible for what had happened. He said, "You're dealing with some struggles emotionally and mentally at your age . . . and hopefully it works itself out. But the stuff you did today that contributed to this—because you both contributed to this—is as a result of your inability to cope with the anxiety and stress you're having. So in a way, you're kind of a victim of this. I think you would have done better if you had the skills to do better. But you don't learn skills until you learn skills."

91. He then told Gabby, "[B]used on what you've said, and based on what our witnesses have said, and even based on what your fiancé has mentioned—trying his very hardest not to have you in any trouble, he does have marks on him that witnesses say were caused by you slapping him, and that even you say you were slapping him and aggressing him first. And I don't have anyone saying that he punched you aggressively, it sounds like it was shoving in a manner that was more consistent with trying to prevent you from entering the van or to get space from you, not to assail you."

92. Officer Pratt's explanation to Gabby did not account for the scratches on Gabby's face or the fact that Brian was acting aggressively toward Gabby simply by locking her out of her van and taking her phone.

93. Officer Pratt continued, "If the tables were turned and he was beating on you and you were shoving him, of course we're going to look at it like, 'oh, of course she's defending herself to get away from this guy.' But we're kind of looking at it the same way with him. And

we have to treat both fair, even if he's a bigger male and you're a smaller female. The law doesn't say, hey, Officer Pratt and Officer Robbins, you can treat people different based on gender. We can't. Even if it makes no sense because you probably could not physically destroy this man the way that he could if he attacked you. We can't treat you different."

94. Despite acknowledging that the situation "makes no sense," given the physical mismatch between Brian and Gabby, the officers disregarded and failed to investigate Brian's controlling and abusive actions that led to the confrontation, instead focusing solely on Gabby's admission that she hit Brian before he hit her. But according to both Brian and Gabby's accounts, that was not the beginning of the aggression that led to the physical fight.

95. Officer Pratt then repeated the speech he'd given to Brian about how the officers had no discretion when addressing domestic violence situations, explaining, "In the legislature, in Utah, they've made a law that when we have a domestic assault, they don't trust the police to make good decisions because too many cops have made bad decisions. So they say, 'we're not going to give you discretion, we're going to write a law that says if you have a domestic assault whether it's male on female or female on male, whoever the primary aggressor is, has to be charged. No choice. You don't get to give them a warning.' It doesn't even matter if they're barely hurt at all and the guy doesn't want to press charges, or the girl doesn't want to press charges. We don't have a choice. We literally have no choice."

96. Gabby began to sob, begging for the officers to issue a citation for hitting the curb instead, saying "I don't want to be separated," and explaining that being separated from Brian would cause serious anxiety because she and Brian were "a team."

97. Officer Pratt told Gabby he would call his supervisor to see if there was a way around applying the Utah legislature's mandate regarding domestic violence.

98. Gabby then called her parents.

99. On that call, Gabby's parents demanded that Gabby fly home to get away from Brian, offering to pay for her ride to Salt Lake City and her flight home. But upon learning that the police were involved, Gabby's parents accepted Gabby's assurances that she should continue her trip. Gabby's parents relied to their detriment on the police officers involved to evaluate the situation and intervene as necessary to protect Gabby. But for the officers' failure to investigate and follow Utah law, Gabby's parents would have intervened to end the trip and bring Gabby home.

100. Officer Pratt called the Assistant Chief of Police, Braydon Palmer, and explained the incident. His description minimized Brian's controlling behavior of locking Gabby out of her van and away from her laptop and entirely omits crucial details about Brian's confiscating Gabby's cell phone and grabbing her face so forcefully that he cut her cheek. He also emphasized Gabby's anxiety without acknowledging Brian's reported anxiety, thereby presenting the situation as a one-sided assault instigated by Gabby as a result of her emotional or mental health breakdown. Officer Pratt then asked Assistant Chief Palmer if there was any way around the domestic assault statute. Assistant Chief Palmer said that the only way not to comply with the statute was if the statute did not apply.

101. Officer Pratt reread the statute searching for a loophole that would allow him to ignore his nondiscretionary responsibilities under Utah law.

102. After briefly reading the statute, Officer Pratt spoke to Officer Robbins, providing a chilling description of the exact situation Gabby was experiencing but that the officers' sloppy investigation had failed to identify: "You know why the domestic assault code is there. It's there to protect people. The reason they don't give us discretion on these things is because too many times women who are at risk want to go back to their abuser, they just wanted him to stop, and they don't want to be separated, they don't want him charged, they don't want him to go to jail. And then they end up getting worse and worse treatment, and then they end up getting killed." Officer Pratt articulated his clear understanding of the foreseeability of a victim being killed if police did not follow the statute. He then proceeded to intentionally manipulate the investigation to find a loophole to avoid following the law and, as a result, Gabby was killed.

103. Officer Pratt reviewed Utah Code § 75-5-102, describing assault under Utah law. In his words, the statute provides, "An assault is an attempt with unlawful force or violence to do bodily injury to another."

104. That incomplete reading of the statute led Officer Pratt to conclude incorrectly that the question was whether Gabby had the necessary intent to cause Brian bodily injury. But the statute goes on to define assault alternatively to include circumstances where an individual "commits an act, with unlawful force or violence, that causes bodily injury." In other words, under Utah law, intent to cause bodily harm is not required to satisfy the definition of assault.

105. Officer Pratt explained to Officer Robbins that the question was whether it was "her intention to do him bodily injury. . . . We don't care what the result was, we care about the intent." He then instructed Officer Robbins that, "If you go ask her, 'what was your intention when you were slapping him' and she says, 'I wanted him to hurt or be ill or impair his physical

condition,' then there's nothing we can do. One way to word it might be, 'hey, when you slapped him, were you intending to cause him physical pain . . . or impairment of his physical condition? Was that your intention? Is that what you were attempting to do?' . . . Whatever she answers to that question will seal her fate."

106. Officer Pratt and Robbins then spoke with Gabby. Officer Pratt coached her to give the answer he believed he needed to exercise discretion and decline to enforce Utah law relating to domestic violence.

107. Officer Pratt said, "Gabby, this is a very, very important question. How you answer this question is going to determine what happens next. But the only person who can answer this question is you. Think very hard before you answer the question. Do not quickly answer it. Think very hard. When you slapped him those times, were you attempting to cause him physical pain or physical impairment? Was that what you were attempting to do to him?"

108. Gabby responded, "no," exactly as Officer Pratt hoped she would. She explained that she was trying to get Brian to stop telling her to calm down.

109. Officer Pratt turned to Officer Robbins, while still in front of Gabby, and said, "It doesn't sound to me like she attempted to injure him. It's your call. This is 100% your call. I support you either way."

110. The officers then moved away from Gabby, where Officer Robbins explained his concerns to Officer Pratt.

111. Officer Robbins said, "I can't say I entirely believe her."

112. Officer Pratt responded, "I'm recording, and society, the judges, and everyone can judge me for this. I'm looking at a 110-pound female and her fiancé who have no means to be

separated. He doesn't want to pursue it. She's not a threat to him, more than slight abrasions from her fingernails. I don't care if we use the actual letter of the law to not charge. But I also don't care, because it literally does possibly make sense to go full-on domestic assault and do the whole thing. This is your opportunity to make the decision." Despite Officer Pratt's prior articulation of the law and the foreseeability of a victim being killed as a result of an officer's failure to follow the law, he continued to push to find a loophole, stating that he didn't care if they followed the law.

113. Again, despite knowing that Brian had used physical violence against Gabby in a way that was not defensive, when he grabbed her face so forcefully that he cut her cheek, and that he had escalated tensions that led to the 911 call by taking Gabby's phone and locking her out of the van and away from her laptop, Officer Pratt's observation that Gabby posed no physical threat to Brian should have caused him and Officer Robbins to reconsider their simplistic determination that Gabby was the primary aggressor.

114. Instead, Officer Robbins responded, "Let's do this: taking your advice, let me do a crime report on this. Won't charge her right now. Won't cite her for it right now. I'll . . . send it off to the city attorney, let them screen it and make a decision."

115. Despite Officer Pratt's prior assurance that he would support Officer Robbins' decision, Officer Pratt pressured Officer Robbins to reconsider, saying, "If you send it to the city attorney and they strongly disagree with your decision, and they throw a complete fit, you might hear about it in a very negative way, so I would make the decision yourself." Officer Pratt continued to manipulate the investigation and Officer Robbins toward a particular outcome, while attempting to avoid responsibility for actually making the decision.

116. Ranger Hulls observed, “I’d rather be dinged for a decision I made than a decision I didn’t make.” Officer Pratt added, “Especially if they think you were completely negligent in your decision. Why give it to them?” But Officer Pratt reiterated that he supported Officer Robbins in whatever decision he would make, including if he decided to send Gabby to jail.

117. At that point, Officer Pratt received a call about another incident requiring police attention. Officer Pratt asked Officer Robbins, “You got this?”

118. Officer Robbins responded, “I’m making this decision. I’m going to cite them. I’m going to go follow through the procedure—.”

119. Officer Pratt interrupted, “OK, would you feel more comfortable handling [the other call]?”

120. Officer Robbins grimaced and said yes, because it seemed like a headache no matter what he decided about how to address Brian and Gabby’s circumstances.

121. Officer Pratt continued to manipulate the situation, pushing for a different outcome, searching for a loophole allowing the officers to abdicate the role that the Utah legislature assigned them when they encounter domestic violence. He said, “Look, another option is to not charge them but separate them for the night. If they find themselves together again, what is it to you? You separated them, you provided for their safety. If he doesn’t have enough sense to stay away and you got them separated, it’s on him.”

122. Officer Robbins acquiesced, nodding along while Officer Pratt explained his intentional plan to avoid the statute’s requirement and their duty to protect Gabby.

123. After manipulating the investigation and pushing Officer Robbins toward his desired outcome, Officer Pratt then left to handle some other call, attempting to avoid responsibility for the ultimate decision.

124. Officer Robbins spoke to Brian to gather information, including his driver's license and phone number.

125. When Officer Robbins asked for Brian's phone number, Brian reached into his pocket and pulled out a phone, despite previously telling Officer Robbins that he didn't have a phone.

126. Even though Brian pulled his phone out of his pocket in front of Officer Robbins, Officer Robbins did not follow up on Brian's claim that he didn't have a phone.

127. Nor did Officer Robbins probe Brian's claim that he had taken Gabby's phone—which had contributed to tensions escalating into physical violence—based on the self-evidently false reason that Brian feared being left without a phone.

128. Officer Robbins told Gabby, "This is what I'm going to do. I've decided I am not going to cite you for domestic violence battery, okay? It was only going to be a Class B misdemeanor, however the domestic violence portion of it enhances it and makes life a major pain in the butt, . . . so I'm choosing not to cite you today, so you're not going to be charged with anything, alright? But this is what I have to do. I'm separating the two of you tonight, okay? I want you guys both to be tonight away from each other, relax, breathe."

129. When Officer Robbins asked Gabby if there was anything she'd like him to tell Brian, she asked Officer Robbins to remind him to get a phone charger. Once again, even when directly confronted with information about Brian's having a phone, Officer Robbins failed to

follow up on why Brian had claimed he didn't have a phone, which Brian claimed was the reason why he felt it was necessary to confiscate Gabby's phone.

130. After instructing Brian and Gabby not to contact each other for the night, Officer Robbins drove Brian to a motel and let Gabby leave in her van.

131. Roughly two weeks after Gabby's encounter with the Moab Police Department, Brian brutally murdered her by strangulation, hiding her body at a campsite in Wyoming.

132. Gabby's death was predicted by Officer Pratt when he stated at the scene, "You know why the domestic assault code is there. It's there to protect people. The reason they don't give us discretion on these things is because too many times women who are at risk want to go back to their abuser, they just wanted him to stop, and they don't want to be separated, they don't want him charged, they don't want him to go to jail. And then they end up getting worse and worse treatment, and then they end up getting killed", but he nevertheless intentionally chose not to follow the statute, stating, "I don't care if we use the actual letter of the law."

133. In a subsequent review of the officers' handling of their encounter with Brian and Gabby, Captain Brandon Ratcliffe of the Price City Police Department concluded that the officers made several mistakes, including misinterpreting and misapplying Utah law and failing to properly investigate. He concluded that he could not rule out that Gabby's murder might have been prevented if the officers had acted properly.

134. On information and belief, prior to his being hired by Moab City Police Department, Officer Pratt had been credibly accused of engaging in serious misconduct, including abuse of his police power and domestic violence.

135. Between 2008 and 2017, Officer Pratt served as an officer and then as police chief in Salina, Utah. During his time as police chief in Salina, Pratt carried on several extra-marital affairs in the small town. One of the women ("Witness 1") Pratt was involved with between approximately March 2017 and June 2017 has provided credible testimony that Pratt improperly used his position to use government buildings for sex. Witness 1 states that it was Pratt's regular practice to not follow through on investigations or to sweep cases under the rug to avoid work, stating "It's too much paperwork," or "There's no way I'm doing all that paperwork."

136. Witness 1 states that Pratt improperly used his position as police chief to improperly manipulate her and to sexually harass her. Witness 1 states that when she intended to disclose Pratt's pervasive misconduct, Pratt threatened to kill her. Pratt pulled Witness 1 over in her car, with her 5-year-old daughter in the back seat. Pratt credibly and clearly threatened her stating, "If any of this gets out, I will kill you with a crowbar." On another occasion, Pratt told her that he had been so angry with her that, "If this had been a week ago, I would have been digging a grave and you would have been in it."

137. As a domestic abuser himself, who has used authority and threats of physical violence to control and intimidate sexual partners, it becomes clear why Officer Pratt was fundamentally biased in his approach to the investigation, identifying with Gabby's abuser, ignoring the victim, and intentionally looking for loopholes to get around the requirements of Utah law and his duty to protect Gabby.

138. Witness 1 subsequently reported some of Pratt's misconduct and harassment of her to city officials. A short time later, in July 2017, Pratt abruptly announced his resignation, claiming that he was "leaving full-time law enforcement" to "pursue other interests and

experience life from new vantage points." https://midutahradio.com/news/local-news/salina-city-police-chief-to-resign/

139. After resigning as police chief in Salina, Pratt explained in publicly published statements online and in podcasts that he had become "disillusioned" with police work and that it was his practice to find "loopholes" to avoid applying the law, stating "I'd find my own loopholes, perfectly legal and I think very. . . just loopholes." https://www.the-sun.com/news/3798017/gabby-petito-brian-laundrie-utah-officer-slammed-the-profession/

140. As an officer who described himself as being "disillusioned" with police work and admitted to "finding loopholes" to avoid applying the law, Officer Pratt should never have been rehired as an officer for the Moab Police Department. Pratt's dangerous approach is evident throughout his interaction with Gabby and Brian as he manipulated the investigation by intentionally looking for loopholes to get around the requirements of Utah law and his duty to protect Gabby.

141. Upon information and belief, Officer Pratt has continued his pervasive pattern of sexual and professional misconduct in Moab, having sex with witnesses in cases he is involved in and using police vehicles for sex.

142. Upon information and belief, Officer Pratt is currently the subject of an internal affairs investigation for professional and sexual misconduct involving sex with another Moab Police Department officer.

143. Moab City Police Department, including Chief Edge, knew or should have known about Officer Pratt's prior misconduct when hiring him to join the Moab City Police Department. Moab City Police Department, including Chief Edge, knew or should have known that Officer

Pratt, who had a history of pervasive professional and sexual misconduct, including sexual harassment and intimate partner violence, is manifestly unfit and unsafe to be a police officer.

144. Rather than terminating Officer Pratt as unfit and unsafe for police duty, Moab City Police Department has promoted him to detective and been assigned as a school resource officer at all three schools in the Grand County School District.

145. Underscoring the inadequacy of Moab City Police Department's resources, procedures, and training relating to domestic violence, and demonstrating that it would have been feasible for the department to have sufficient resources, procedures, and training, the department has advertised a job opening for Police Detective – Domestic Violence Specialist, almost a year after Gabby's death.

## FIRST CAUSE OF ACTION (NEGLIGENCE)

146. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

147. Defendants had a special relationship with Gabby. And Gabby reasonably relied on them to properly investigate and enforce the law after receiving reports of domestic violence between Brian and Gabby.

148. Defendants detaining Brian and Gabby had a duty to exercise reasonable care to, among other things, properly investigate, and enforce Utah law governing reports of domestic abuse between Brian and Gabby.

149. Defendants also had a duty to follow police policies and legislative mandates regarding domestic violence incidents.

150. Defendants also had a duty to exercise reasonable care and to provide appropriate training, supervision, instruction, discipline, and control over subordinates.

151. Defendants also had a duty to exercise reasonable care and to promulgate, create, implement, maintain, and enforce appropriate policies regarding responses to reports of domestic violence.

152. Defendants breached their duty by failing to exercise reasonable care and were negligent when, among other things, they failed to:

a. enforce Utah law that prohibits police officers from exercising enforcement discretion, including issuing a citation or making an arrest and imposing an automatic no-contact order;

b. investigate inconsistencies in Brian's version of events;

c. properly evaluate whether Brian was the predominant aggressor;

d. properly assess Brian and Gabby's confrontation to determine whether, as in many domestic abuse situations, the victim was protecting her abuser;

e. arrange, facilitate, or provide immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence;

f. provide appropriate training, supervision, instruction, discipline, and control of officers on evaluating and investigating domestic violence incidents, including but not limited to identifying signs of ongoing domestic abuse and properly identifying dominant aggressors in a potentially abusive relationship; and

g. create, implement, and enforce appropriate policies regarding investigations of domestic violence, including but not limited to well-accepted practices such as conducting threat assessments.

153. Believing that law enforcement authorities were properly handling the domestic violence incident, Gabby's parents discontinued their efforts to intervene, to fly Gabby home, and to have her van shipped home.

154. Defendants' failure to exercise reasonable care in investigating and evaluating the facts surrounding Brian and Gabby's confrontation and intentionally subverting Utah law relating to domestic violence exposed Gabby to further and escalating domestic violence, leaving her to eventually be strangled to death by Brian.

155. Defendants' negligence was a proximate cause of Gabby's injuries and damages, including but not limited to further domestic violence, culminating in a savage attack resulting in Gabby's death.

156. Gabby otherwise suffered additional harm and incurred damages due to Defendants' negligence.

157. Plaintiffs have a good-faith argument that their negligence claim is warranted by existing law or by a nonfrivolous argument for the modification or reversal of existing law.

**SECOND CAUSE OF ACTION**
**(FAILURE TO TRAIN, SUPERVISE, CONTROL, INSTRUCT, OR DISCIPLINE AND NEGLIGENT HIRING)**

158. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

159. At all relevant times, the Moab Police Department, Chief Edge, Assistant Chief Palmer and John/Jane Doe were engaged in policy-making to supervise and control all policies, practices, rules, guidelines, customs, and regulations regarding police functions, as well as all hiring decisions.

160. At all relevant times, the Moab Police Department, Chief Edge, Assistant Chief Brayden, and John/Jane Doe had duties to train, supervise, control, instruct, and discipline subordinates concerning, among other things, issues regarding proper investigations and evaluations of domestic violence and proper enforcement of non-discretionary Utah law.

161. More specifically, the Moab Police Department, Chief Edge, Assistant Chief Brayden, and John/Jane Doe had a duty to provide the training necessary to ensure that subordinates would: adequately investigate self-evident falsities in Brian's account of the circumstances that triggered his confrontation with Gabby; evaluate the statutory factors for determining the predominant aggressor; properly assess domestic violence instances, based on informed assessments about whether an abused person is protecting their abuser; and enforce rather than subvert non-discretionary Utah law.

162. At all relevant times, the Moab Police Department, Chief Edge, Assistant Chief Brayden, and John/Jane Doe had a duty to exercise reasonable care when hiring officers, including, among other things to ensure prospective officers had not previously engaged in misconduct or otherwise demonstrated they were unfit for police work.

163. The Moab Police Department, Chief Edge, Assistant Chief Brayden, and John/Jane Doe subjected Gabby to further domestic violence—culminating in her brutal murder—when they hired and retained Officer Pratt, who had a history of pervasive professional

and sexual misconduct, including sexual harassment and intimate partner violence, and manifestly unfit and unsafe to be a police officer and also when they failed to train, supervise, control, instruct, or discipline subordinates concerning, among other things, issues regarding proper investigations and evaluations of domestic violence and proper enforcement of non-discretionary Utah law.

164. In fact, Assistant Chief Brayden actively instructed subordinates to search the domestic assault statute in an attempt to subvert the officers' obligations to enforce non-discretionary Utah law.

165. Based on Assistant Chief Braydon's instructions, the officers coached Gabby to provide answers that they incorrectly claimed allowed them to subvert non-discretionary laws regarding domestic violence.

166. The Moab Police Department, Chief Edge, and Assistant Chief Brayden knew or should have known that subordinates who were not adequately trained, supervised, controlled, instructed, or disciplined were likely to mishandle reports of domestic violence and fail to properly enforce Utah law.

167. The Moab Police Department, Chief Edge, Assistant Chief Brayden, and John/Jane Doe knew or should have known that Officer Pratt had a history of pervasive professional and sexual misconduct, including sexual harassment and intimate partner violence, and was manifestly unfit and unsafe to be a police officer.

168. The failure to train, supervise, control, instruct, or discipline subordinates, and the failure to exercise reasonable care in hiring officers caused subordinates to breach their duty to Gabby, resulting in harm and related damages, including but not limited to Gabby's death.

169. Plaintiffs have a good faith argument that this claim is warranted by existing law or by a nonfrivolous argument for the modification or reversal of existing law.

**THIRD CAUSE OF ACTION**
**(SURVIVAL)**

170. Plaintiffs re-allege and incorporate herein the previous allegations of this complaint.

171. Pursuant to Utah Code § 78B-3-107, Gabby's claims did not abate upon her death, and Plaintiffs have a cause of action against Defendants for special and general damages associated with such claims.

172. Plaintiffs have a good faith argument that this claim is warranted by existing law or by a nonfrivolous argument for the modification or reversal of existing law.

**FOURTH CAUSE OF ACTION**
**(WRONGFUL DEATH)**

173. Plaintiffs re-allege and incorporate herein the previous allegations of this complaint.

174. Pursuant to Utah Code § 78B-3-106, Gabby's heirs have a cause of action against Defendants for wrongful death associated with Gabby's underlying claims for negligence and failure to train, and they are entitled to general and special damages for, among other things, costs associated with Gabby's death, the value of services Gabby would have provided, loss of Gabby's society, comfort, association, love, counsel, care, consortium and protection, loss of the reasonable expectation to associate with Gabby for the rest of her natural life, and for any and all other damages as may be just under the circumstances of the case.

175. Plaintiffs have a good faith argument that this claim is warranted by existing law or by a nonfrivolous argument for the modification or reversal of existing law.

## RELIEF REQUESTED

WHEREFORE, Plaintiffs request the following relief:

1. For each of their First, Second, and Third Causes of Action, Plaintiffs seek judgment on Gabby's behalf against Defendants for an amount in excess of $50,000,000, and in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, personal injuries, pain and suffering, loss of chance, mental anguish, impaired earning capacity, lost wages, and other special and general damages; for prejudgment interest, for post-judgment interest, for the costs of this suit, including attorney's fees, and for such further relief as the Court deems proper.

2. For their Fourth Cause of Action, Plaintiffs seek judgment on Plaintiffs' behalf against Defendants for an amount in excess of $50,000,000, and in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, cost associated with Gabby's death, funeral expenses, pain and suffering, loss of chance, mental anguish, the value of services Gabby would have provided, loss of society, comfort, association, love, counsel, care, consortium and protection, loss of the reasonable expectation of Plaintiffs to associate with Gabby, and other special and general damages; for prejudgment interest, for post-judgment interest, for the costs of this suit, including attorney's fees, and for such further relief as the Court deems proper.

**JURY DEMAND**

Pursuant to Rule 38 of the Utah Rules of Civil Procedure, Plaintiffs have tendered the statutory jury fee and demand a trial by jury for all issues that can be tried by a jury.

DATED this 3rd day of November 2022.

PARKER & MCCONKIE

__/s/ Brian Stewart_____
James W. McConkie
Bradley H. Parker
Brian C. Stewart
Steven Jensen
W. Alexander Evans

ZIMMERMAN BOOHER

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