

DEC 11 2006

MICHAEL D. PLANET
Executive Officer and Clerk

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13 TAMMY KRIEGER and RONNIE BASSETT

14 TAMMIE KREIGER, an individual, and
15 RONNIE BASSETT, an individual,

16 Plaintiffs,

17 v.

18 CITY OF OXNARD, an incorporated municipality;
19 and DOES 1 through 100, Inclusive,

20 Defendants.

D.C.M./TRACK ASSIGNMENT
 UNLAWFUL DETAINER
 ECONOMIC
 STANDARD
 UNINSURED MOTORIST
 TRACT COORD TO NOTIFY

READ THE VENTURA COUNTY
LOCAL RULES THAT GOVERN
COMPLIANCE WITH FAST TRACT

ASSIGNED COURT 41

CASE NO.

CIV 245237

COMPLAINT FOR:

WRONGFUL DEATH

[Government Code § 815.2(a); § 820(a)];

COUNT 1: NEGLIGENT FAILURE TO
PROPERLY OPERATE A
MOTOR VEHICLE SO AS TO
AVOID DRIVING OVER
DECEDENT CINDY CONOLLY;

COUNT 2: NEGLIGENT FAILURE TO
HAVE A BEACH DRIVING
POLICY IN EFFECT;

COUNT 3: NEGLIGENT FAILURE TO
PROPERLY TRAIN POLICE
OFFICERS IN BEACH
DRIVING;

COUNT 4: NEGLIGENCE IN
ALLOWING 6,500 POUND
CHEVROLET TAHOE POLICE
VEHICLE TO DRIVE ON THE
PUBLIC BEACH FOR
NON-ESSENTIAL,
NON-EMERGENCY DUTIES;

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COUNT 5: NEGLIGENT FAILURE TO HAVE THE 6,500 POUND CHEVROLET TAHOE EQUIPPED WITH A “GO FORWARD” ALARM;

COUNT 6: NEGLIGENT FAILURE TO SOUND A HORN EVERY THIRTY (30) SECONDS FOR PURPOSES OF ALERTING THE PUBLIC OF THE APPROACHING DEADLY VEHICLE;

COUNT 7: NEGLIGENT FAILURE TO USE AN ATV WHILE PATROLLING THE BEACH, INSTEAD OF A 6,500 POUND SUV, FOR THE SAFETY OF THE PUBLIC;

DEMAND FOR JURY TRIAL

Plaintiffs complain and allege as follows:

COMMON ALLEGATIONS

1. The persons listed below (decedent’s only heirs) are entitled to bring an action for the wrongful death of CINDY CONOLLY (hereinafter “decedent”), pursuant to California Code of Civil Procedure section 377.60, based on their relationship to decedent as follows:

- TAMMY KRIEGER - Daughter
- RONNIE BASSETT - Son

2. Plaintiffs TAMMY KRIEGER and RONNIE BASSETT are, and at all times herein mentioned were, individuals residing in Prior Lake, Minnesota.

3. Plaintiffs are informed and believe, and thereon allege, that Defendant CITY OF OXNARD at all relevant times was, and is, a California public entity subject to suit under California Government Code sections 830-835.00.

1 Officer Frank Brisslinger. Senior Officer Martin Polo was a front-seat passenger in the SUV. They were
2 driving the SUV from a street on the perimeter of the beach, Starfish Drive, directly toward the surf.

3 11. The OXNARD POLICE officers, in a grossly negligent manner, recklessly drove the
4 6,500 pound SUV right over CINDY CONOLLY as she lay on the beach – running over her first with
5 the left front tire, then with the left rear tire. The weight of the 6,500 pound SUV smashed thirteen (13)
6 of her ribs and fractured her skull.

7 12. The SUV was not equipped with any alarm mechanism which would have alerted the
8 public on the beach that the 6,500 pound SUV was approaching. Plaintiffs are informed and believe,
9 and thereon allege, that the OXNARD POLICE officers did not sound the horn on the vehicle as they
10 drove on the public beach, to alert the public that the 6,500 pound SUV was approaching. Plaintiffs are
11 informed and believe, and thereon allege, that neither one of the officers had exited the vehicle prior to
12 driving over the sand berm, to perform a visual check of the area to ensure it was safe to drive on the
13 beach.

14 13. OXNARD POLICE Officers Frank Brisslinger and Martin Polo were completely
15 oblivious to their surroundings and the fact that they had run over CINDY CONOLLY. After running
16 over her, they then turned their vehicle to the right, and proceeded down the beach, thereafter leaving the
17 beach and resuming their normal street patrol.

18 14. OXNARD POLICE Officers Frank Brisslinger and Martin Polo were called back to the
19 scene approximately twenty (20) minutes later in response to a 911 call. It was only at this time that
20 they realized that they had run over and crushed CINDY CONOLLY.

21 15. Shortly thereafter, decedent CINDY CONOLLY was pronounced dead at the scene of the
22 incident. She died due to blunt force head and chest injuries.

23 16. On October 25, 2006, Plaintiffs submitted their “Claim for Damages” to the CITY OF
24 OXNARD by personal delivery to the City Clerk for the CITY OF OXNARD. Plaintiffs’ notification
25 fully complied with the requirements of the California Tort Claims Act and included amplifying facts
26 and details.

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1 legal duty to ensure that its employees operated their vehicles at all times in conformity with California
2 law.

3 22. The defendants, and each of them, had a duty, either directly or vicariously, to ensure that
4 all aspects of the California Vehicle Code were properly complied with either as a direct actor, employer
5 directing its agents/employees, carrier, contractor, and/or joint-venturer.

6 **B. Breach.**

7 23. On June 12, 2006, Senior Officer Frank Brisslinger, a public employee of defendant
8 CITY OF OXNARD, negligently operated the SUV he was driving when he drove over decedent
9 CINDY CONOLLY.

10 24. The CITY OF OXNARD, as the employer of the OXNARD POLICE DEPARTMENT
11 officer driving an SUV on a public beach, while in the course and scope of his employment, failed to
12 exercise ordinary care at all times to ensure that its employee avoided placing himself or others,
13 specifically decedent CINDY CONOLLY, in danger, to use care to avoid an accident, to keep a proper
14 lookout for people lying on the beach, traffic, and other conditions, and to maintain a proper control of
15 the vehicle. Further, defendant CITY OF OXNARD was under a legal duty to ensure that its employees
16 operated their vehicles at all times in conformity with California law.

17 **C. Causation.**

18 25. As a direct and proximate result of the negligence of Senior Officers Frank Brisslinger
19 and Martin Polo, public employees of defendant CITY OF OXNARD, the SUV they were driving struck
20 and killed decedent CINDY CONOLLY. The negligence of defendant CITY OF OXNARD's public
21 employees proximately caused the injuries and damages described below.

22 **D. Damages.**

23 26. As a proximate result of the defendants' negligence, CINDY CONOLLY suffered a
24 needless and untimely death. As a direct consequence of defendants' actions and inactions, on June 12,
25 2006, the decedent's children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
26 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

27 27. As a direct consequence of the defendants' negligence, plaintiffs TAMMY KRIEGER
28 and RONNIE BASSETT have suffered funeral expenses, burial expenses, loss of future support, loss of

1 care, comfort, and society, loss of household services, and the loss of moral advice and protection, in an
2 amount in excess of \$10 million dollars.

3 **COUNT 2:**

4 **NEGLIGENT FAILURE TO HAVE A BEACH DRIVING POLICY IN EFFECT**

5 **A. Duty.**

6 28. Defendant CITY OF OXNARD employed OXNARD POLICE OFFICERS who, as part
7 of their official duties, would drive on CITY OF OXNARD public beaches in official police vehicles, to
8 wit, a 6,500 pound Chevrolet Tahoe Vehicle. Defendant CITY OF OXNARD had the duty to
9 implement a policy addressing how and when it was appropriate to drive a vehicle on a public beach, so
10 as to avoid placing the officers or others, specifically decedent CINDY CONOLLY, in danger, how to
11 use care to avoid an accident, to keep a proper lookout for people lying on the beach, traffic, and other
12 conditions, and how to maintain a proper control of the vehicle.

13 **B. Breach.**

14 29. At the time of the events giving rise to this action, plaintiffs are informed and believe
15 that defendant CITY OF OXNARD had no policy in effect regarding driving police vehicles on CITY
16 OF OXNARD public beaches.

17 **C. Causation.**

18 30. As a direct and proximate result of the failure of defendant CITY OF OXNARD to have
19 such a policy in effect, Senior Officer Frank Brisslinger, a public employee of defendant CITY OF
20 OXNARD, negligently operated the SUV he was driving and drove over decedent CINDY CONOLLY.
21 The negligence of defendant CITY OF OXNARD proximately caused the injuries and damages
22 described below.

23 **D. Damages.**

24 31. As a proximate result of the defendants' negligence, CINDY CONOLLY suffered a
25 needless and untimely death. As a direct consequence of defendants' actions and inactions, on June 12,
26 2006, the decedent's children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
27 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

1 2006, the decedent's children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
2 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

3 37. As a direct consequence of the defendants' negligence, plaintiffs TAMMY KRIEGER
4 and RONNIE BASSETT have suffered funeral expenses, burial expenses, loss of future support, loss of
5 care, comfort, and society, loss of household services, and the loss of moral advice and protection, in an
6 amount in excess of \$10 million dollars.

7 **COUNT 4:**

8 **NEGLIGENCE IN ALLOWING 6,500 POUND CHEVROLET TAHOE POLICE VEHICLE TO**
9 **DRIVE ON THE PUBLIC BEACH FOR NON-ESSENTIAL, NON-EMERGENCY DUTIES**

10 **A. Duty.**

11 38. Defendant CITY OF OXNARD employed OXNARD POLICE OFFICERS who, as part
12 of their official duties, would drive on CITY OF OXNARD public beaches in official police vehicles, to
13 wit, a 6,500 pound Chevrolet Tahoe Vehicle. Defendant CITY OF OXNARD had the duty to ensure
14 that such large, heavy police vehicles were only driven on public beaches for essential, emergency
15 duties, and to ensure that such vehicles were not driven on public beaches for non-essential, non-
16 emergency duties, in order to ensure that its employees avoid placing themselves or others, specifically
17 decedent CINDY CONOLLY, in danger.

18 **B. Breach.**

19 39. At the time of the events giving rise to this action, plaintiffs are informed and believe
20 that defendant CITY OF OXNARD breached this duty and allowed OXNARD POLICE OFFICERS to
21 drive a 6,500 pound Chevrolet Tahoe SUV Vehicle on Oxnard public beaches.

22 **C. Causation.**

23 40. As a direct and proximate result of the CITY OF OXNARD allowing a 6,500 pound
24 Chevrolet Tahoe Vehicle to drive on Oxnard public beaches for a non-essential, non-emergent purpose,
25 Senior Officer Frank Brisslinger, a public employee of defendant CITY OF OXNARD, drove such an
26 SUV over decedent CINDY CONOLLY. The negligence of defendant CITY OF OXNARD
27 proximately caused the injuries and damages described below.

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1 **D. Damages.**

2 41. As a proximate result of the defendants' negligence, CINDY CONOLLY suffered a
3 needless and untimely death. As a direct consequence of defendants' actions and inactions, on June 12,
4 2006, the decedent's children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
5 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

6 42. As a direct consequence of the defendants' negligence, plaintiffs TAMMY KRIEGER
7 and RONNIE BASSETT have suffered funeral expenses, burial expenses, loss of future support, loss of
8 care, comfort, and society, loss of household services, and the loss of moral advice and protection, in an
9 amount in excess of \$10 million dollars.

10 **COUNT 5:**

11 **NEGLIGENT FAILURE TO HAVE THE 6,500 POUND CHEVROLET TAHOE EQUIPPED**
12 **WITH A "GO FORWARD" ALARM**

13 **A. Duty.**

14 43. Defendant CITY OF OXNARD employed OXNARD POLICE OFFICERS who, as part
15 of their official duties, would drive on CITY OF OXNARD public beaches in official police vehicles, to
16 wit, a 6,500 pound Chevrolet Tahoe Vehicle. Defendant CITY OF OXNARD had the duty to ensure
17 that such large, heavy police vehicles were properly equipped with an alarm system which would alert
18 the public on the beach that a large vehicle was approaching.

19 44. Plaintiffs are informed and belief, and thereon allege, that other municipalities have
20 implemented "go forward" alarms on vehicles allowed to drive on public beaches.

21 45. Plaintiffs allege that defendant CITY OF OXNARD had a duty to implement "go
22 forward" alarms on vehicles permitted to be driven on Oxnard public beaches.

23 **B. Breach.**

24 46. At the time of the events giving rise to this action, defendant CITY OF OXNARD
25 breached this duty and allowed OXNARD POLICE OFFICERS to drive a 6,500 pound Chevrolet Tahoe
26 SUV Vehicle on Oxnard public beaches with no alarm or warning system at all to advise the public on
27 the beach that a vehicle was approaching.

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1 **C. Causation.**

2 47. As a direct and proximate result of the failure of defendant CITY OF OXNARD to
3 require the 6,500 pound Chevrolet Tahoe Vehicle be equipped with a “go forward” or any other alarm
4 system, Senior Officer Frank Brisslinger, a public employee of defendant CITY OF OXNARD, drove
5 such an SUV over decedent CINDY CONOLLY. The negligence of defendant CITY OF OXNARD
6 proximately caused the injuries and damages described below.

7 **D. Damages.**

8 48. As a proximate result of the defendants’ negligence, CINDY CONOLLY suffered a
9 needless and untimely death. As a direct consequence of defendants’ actions and inactions, on June 12,
10 2006, the decedent’s children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
11 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

12 49. As a direct consequence of the defendants’ negligence, plaintiffs TAMMY KRIEGER
13 and RONNIE BASSETT have suffered funeral expenses, burial expenses, loss of future support, loss of
14 care, comfort, and society, loss of household services, and the loss of moral advice and protection, in an
15 amount in excess of \$10 million dollars.

16 **COUNT 6:**

17 **NEGLIGENT FAILURE TO SOUND A HORN EVERY THIRTY (30) SECONDS FOR**
18 **PURPOSES OF ALERTING THE PUBLIC OF THE APPROACHING DEADLY VEHICLE**

19 **A. Duty.**

20 50. Defendant CITY OF OXNARD employed OXNARD POLICE OFFICERS who, as part
21 of their official duties, would drive on CITY OF OXNARD public beaches in official police vehicles, to
22 wit, a 6,500 pound Chevrolet Tahoe Vehicle. Defendant CITY OF OXNARD had the duty to ensure
23 that the officers operating such large, heavy police vehicles would alert the public on the beach that a
24 large vehicle was approaching.

25 51. Plaintiffs are informed and belief, and thereon allege, that other municipalities have
26 implemented a policy requiring officers operating vehicles on beaches to sound a horn every thirty (30)
27 seconds, to alert the public of the approaching deadly vehicle.

1 **COUNT 7:**

2 **NEGLIGENT FAILURE TO USE AN ATV WHILE PATROLLING THE BEACH, INSTEAD**
3 **OF A 6,500 POUND SUV, FOR THE SAFETY OF THE PUBLIC**

4 **A. Duty.**

5 57. Defendant CITY OF OXNARD employed OXNARD POLICE OFFICERS who, as part
6 of their official duties, would drive on CITY OF OXNARD public beaches in official police vehicles, to
7 wit, a 6,500 pound Chevrolet Tahoe Vehicle.

8 58. Plaintiffs are informed and belief, and thereon allege, that other municipalities have
9 implemented using All Terrain Vehicles (“ATV”) to patrol public beaches instead of a motor vehicle.

10 59. Defendant CITY OF OXNARD had the duty to ensure that only smaller, lighter, safer
11 vehicles, to wit, ATVs, were used to patrol Oxnard public beaches, instead of 6,500 pound SUVs.

12 **B. Breach.**

13 60. At the time of the events giving rise to this action, defendant CITY OF OXNARD
14 breached this duty and allowed OXNARD POLICE OFFICERS to drive a 6,500 pound Chevrolet Tahoe
15 SUV Vehicle on Oxnard public beaches, instead of a much lighter ATV.

16 **C. Causation.**

17 61. As a direct and proximate result of the defendant CITY OF OXNARD allowing a 6,500
18 pound Chevrolet Tahoe Vehicle to drive on Oxnard public beaches instead of requiring a smaller,
19 lighter, safer ATV, Senior Officer Frank Brisslinger, a public employee of defendant CITY OF
20 OXNARD, drove such a 6,500 pound SUV over decedent CINDY CONOLLY. The negligence of
21 defendant CITY OF OXNARD proximately caused the injuries and damages described below.

22 **D. Damages.**

23 62. As a proximate result of the defendants’ negligence, CINDY CONOLLY suffered a
24 needless and untimely death. As a direct consequence of defendants’ actions and inactions, on June 12,
25 2006, the decedent’s children, plaintiffs TAMMY KRIEGER and RONNIE BASSETT lost their mother,
26 CINDY CONOLLY, at the young age of 49 years old. The decedent had a life expectancy of 81 years.

27 63. As a direct consequence of the defendants’ negligence, plaintiffs TAMMY KRIEGER
28 and RONNIE BASSETT have suffered funeral expenses, burial expenses, loss of future support, loss of

1 care, comfort, and society, loss of household services, and the loss of moral advice and protection, in an
2 amount in excess of \$10 million dollars.

3 **PRAYER**

4 WHEREFORE, plaintiffs pray as follows:

5 1. That the CITY OF OXNARD implement a policy for all Oxnard Police Officers which
6 specifies how and when to drive on the beaches of Oxnard;

7 2. That the CITY OF OXNARD implement a policy which prohibits police vehicles from
8 driving on the beach except in responding to an emergency call.

9 3. That the CITY OF OXNARD implement training for all Oxnard Police Officers of its
10 policy regarding how to drive and when to drive on the beach;

11 4. That the CITY OF OXNARD implement a policy requiring All Terrain Vehicles (ATVs)
12 or three wheel motorcycles be used instead of 6,500 lb. SUVs for safe beach patrolling;

13 5. That the CITY OF OXNARD implement installation of "Go Forward" alarms on vehicles
14 used on the beach;

15 6. That plaintiffs have and recover from defendants special damages, including loss of
16 future earnings, in an amount determined according to proof at the time of trial;

17 7. That plaintiffs have and recover from defendants general damages, including damages for
18 the loss of love, companionship, comfort, affection solace, and moral support, in an amount determined
19 at the time of trial;

20 8. For such other and further relief as this Court may deem just and proper.

21 DATED: December 11, 2006

HIEPLER & HIEPLER

A Professional Partnership

22
23
24 By: 

MARK O. HIEPLER
MICHELLE R. HIEPLER
TERRY L. TRON
JAMES D. MCGINLEY
GINA M. CLEMOW

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28 Attorneys for Plaintiffs
TAMMY KRIEGER and RONNIE BASSETT

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

DATED: December 11, 2006

HIEPLER & HIEPLER

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By: 

MARK O. HIEPLER

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TAMMY KRIEGER and RONNIE BASSETT