%JS 44 (Rev. 12/07) The JS 44 civil cover short and the information contained herein neither replace nor supplement the filling and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) DEFENDANTS Andrew T. Blomberg In His I. (a) PLAINTIFFS Joyce Holley, Individually, and as Netfriend of Chad Holley, a Minor Individual and Official Capacity County of Residence of First Listed Defendent (b) County of Residence of First Listed Plaintiff Harris (IN U.S. PLAINTIFF CASES ONLY) (EXCEPT IN U.S. PLAINTIFF CASES) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. (c) Attorney's (Firm Name, Address, and Takephone Number) Benjamin L. Hall IIII.
The Hall Law Firm, 530 Love H BIVd., Houston, TZ Attorneys (If Known) 77006, 713-942-9600 IL. BASIS OF JURISDICTION (Place to "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES(Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) D 1 U.S. Government 3 Federal Question Incorporated or Principal Place  $\Box$  4 Citizen of This State (U.S. Government Not a Party) 91. of Business In This State Incorporated and Principal Place D 5 D 4 Diversity D 2 U.S. Government Officers of Another State of Business In Another State Defendant (Indicate Citizenship of Pastics in Item HII) Citizen or Subject of a Poreign Nation 0 6 Foreign Country NATURE OF SUIT (Place on "X" in One Box Only) FOREEDINGERENALTY BUNKREPTEY OTHER SUMPLES CONTRACT 7 422 Appeal 28 USC 158 400 State Reapportforment ☐ 610 Agriculture PERSONAL INJURY PERSONAL INJURY ☐ 110 Insurance 410 Antitrust (7 620 Other Food & Drug 3 423 Withdrawel 120 Marine 310 Airplane 362 Personal Injury -625 Drug Related Seizum 28 USC 157 430 Banks and Banking 315 Airplane Product Med. Malpractice 130 Miller Act 450 Commerce Liability 365 Personal Injury of Property 21 USC 881 140 Negotiable Instrument 460 Deportation ☐ 630 Liquor Laws PROPERTY RIGHTS 320 Assoult, Libel & Product Liability 150 Recovery of Overpayment ☐ 640 R.R. & Truck ☐ 820 Copyrights 470 Rucketeer Influenced and 368 Asbestos Personal Slender & Enforcement of Judgmen Corrupt Organizations □ 830 Patent 151 Medicare Act 330 Federal Employers' Injury Product 650 Airline Regs. 480 Consumer Credit CF 660 Occupational ☐ 840 Trademark Liability 152 Recovery of Definited Elability 34) Marine PERSONAL PROPERTY Safety/Health 490 Cable/Sat TV Student Loans D 690 Other \$10 Selective Service 320 Other Fraud (Excl. Veterans) 345 Marine Product 250 Securities/Commodities/ SOCIAL SECTIONS: 371 Trath in Lending ☐ 153 Recovery of Overpayment Liability 350 Motor Vehicle 710 Fair Labor Standards Exchange 380 Other Personal 361 HJA (1395ff) of Veteran's Benefits 362 Black Lung (923) 873 Customer Chelleage 3 160 Stockholders' Suits 355 Motor Vehicle Property Damago Act 720 Labor/Mgms, Relations 385 Property Dumago ■ 863 DIWC/DIWW (405(g)) 12 USC 3410 Product Liability 3 190 Other Contract 730 Labor Mgmt.Reporting 890 Other Statutory Actions 360 Other Personal Product Liability ☐ 864 SSID Title XVI 195 Contract Product Liability □ 865 RSI (405(g)) 891 Agricultural Acts & Disclosure Act 196 Franchise Injury DENGENE CONSTRUCTS 892 Economic Stabilization Act 740 Railway Labor Act REAL PROPERTY PRESCRIPTIONS A DVIDEROGITEN 790 Other Labor Litigation 870 Taxes (U.S. Plaintiff 893 Environmental Matters 441 Voting 510 Motions to Vacate 210 Land Condemnation 894 Energy Allocation Act 442 Employment Sentenco Cl. 791 Empl. Ret. Inc. or Defendant) 220 Foreclosure Habeas Corpus: ☐ 871 IRS—Third Party 895 Freedom of Information □ 230 Rent Lease & Ejectment 443 Housing/ Security Act 530 General 26 USC 7609 Accommodations Act CL 240 Texts to Land. 900Appeal of Fee Determination 245 Ters Product Liability 444 Welfare 535 Death Penalty IMMUGRATION . 445 Agost, w/Disabilities -Under Equal Access 540 Mandames & Other Naturalization Application (2) 290 All Other Real Property 3 463 Habere Corpus to Justice 550 Civil Rights Employment 1: 950 Constitutionality of 446 Amez. w/Disabilities 555 Prison Condition Alien Detainer State Statutes Other 3 465 Other limiting action 440 Other Civil Rights Actions Appeal to District Judge from ORIGIN (Place an "X" in One Box Only) Transferred from ☐ 4 Reinstated or ☐ 5 ☐ 6 Multidistrict Litigation 2 Removed from State Court Remanded from Original Proceeding 3 another district Magistrate Appellate Court Reopened (specify) Judgment Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S. C. Sect. 1983 1982 and 1988 4.5.0 Sect. 1983 VI. CAUSE OF ACTION Brief description of cause: CHECKYES only if demanded in complaint Excessive force against. in juries A minor VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER F.R.C.P. 23 JURY DEMAND: COMPLAINT: VIII. RELATED CASE(S) (See instructions): DOCKET NUMBER JUDGE IF ANY SIGNATURE OF ATTORNEY OF RECORD DATE renjamin d. Hall FOR OFFICE USE ONLY APPLYING IFP JUDGE AMOUNT Case 4:10-cv-02394 Document 1 Filed in TXSD on 07/06/10 Page 2 of 8

ANDREW T. BLOMBERG, IN HIS INDIVIDUAL AND OFFICIAL

PLAINTIFFS' ORIGINAL COMPLAINT AND JURY DEMAND

(hereinafter referred to collectively as "Plaintiffs" and individually as "Joyce" and "Chad")

against Defendant Andrew T. Blomberg ("hereinafter referred to as "Blomberg") for the

I.

PARTIES

minor. She is a resident of Houston, Harris County, Texas.

Plaintiff Joyce Holly, individually, is the biological mother of Chad Holley, a

Plaintiffs Joyce Holly, Individually, and as Next Friend of Chad Holley, a Minor,

CIVIL ACTION NO.

JURY TRIAL REQUESTED

§

JOYCE HOLLEY, INDIVIDUALLY,

AND AS NEXT FRIEND OF

CHAD HOLLEY, A MINOR Plaintiffs,

٧.

CAPACITY

Defendant.

following reasons:

1.1

2.1

have been performed.

in the 12300 block of Wellington Park.

surrendered to police officers.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

Plaintiff Joyce Holley, as next friend of Chad Holley, a minor, resides in 1.2 Houston, Harris County, Texas. Defendant Andrew T. Blomberg was at all relevant times herein, an 1.3 individual and police officer with the City of Houston Police Department and may be served with process at he may be found.

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II.

JURISDICTION AND VENUE ALLEGATIONS

1983, 1985 and 1988, as well as under the Fourth, Fifth, Eighth and Fourteenth

Amendments to the United States Constitution and federal laws. This case involves the

unreasonable arrest, use of excessive force and deprivation of constitutional rights

belonging to Chad Holley, a minor, by a state actor and/or under color of state law

which included, but is not limited to, deprivation of Chad's liberty and freedom interests

giving rise to the claims asserted herein occurred within this district, more particularly, in

Harris County, Texas. All conditions precedent to bring this action have occurred and/or

This Court has federal question jurisdiction under 42 U.S.C. §§1982,

Venue is proper in the Southern District of Texas because the events

from excessive and unreasonable force, unreasonable seizure, violation of due process

rights, cruel and unusual use of force, and improper seizure of Chad by defendant.

Chad's equal protection rights under the law were also violated.

Defendant Blomberg has actual knowledge of the matters complained of herein because he actually participated in the events and is presently involved in other Harris County litigation involving the events involved in this case. All of the acts and omissions complained of herein against defendant occurred under color of state law. III. SIMPLE STATEMENT OF NOTICE ALLEGATIONS On or about March 23, 2010, Chad Holley sustained a brutal beating while 3.1

in the custody of defendant Blomberg. At the time, Blomberg was a Houston police

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officer who worked out of the Westside Division Tactical and Gang Units. On the date

in question, Blomberg participated in the arrest of unarmed Chad Holley, a 15 year old,

his hands behind his head and neck in an obvious position of surrender. Despite the

fact that Chad had clearly and unmistakenly surrendered to police custody, and as he

lay belly down on the ground, defendant Blomberg stomped down on the back of

Chad's head and neck with incredible force. Such use of force was traumatic, cruel and

fact, or otherwise to justify defendant Blomberg's brutal attack on Chad after he had

against this minor, Chad has sustained head, neck and brain injuries. Medical records

shortly after the event reveal that Chad sustained grave injuries to his head, eyes, brain

and face, as well as experienced associated systems of loss of consciousness and

As a result of Blomberg's excessive and unreasonable use of force

Chad, after being confronted by police officers, lay on the ground, placing

## unreasonable, especially given the obvious and unconditional surrender of this unarmed minor to an armed police officer. There is no justification or reasonable basis in law,

memory impairment. He also suffered a concussion with loss of consciousness, facial and scalp contusions, subconjunctival hemorrhaging and post-concussion syndromes. He also suffers from post-traumatic stress disorder. Chad is undergoing psychological and psychiatric care since the beating and he has been found to be suffering from mental deficits, neurological impairment and psychological malfunctions. He is now susceptible to persistent headaches, nausea,

dizziness, weakness, insomnia and feelings of nervousness and depression as

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documented by medical care providers. Defendant Blomberg's excessive and

unreasonable use of force as a state actor are the direct cause of Chad's present

medical and physical impediments. Blomberg's conduct exceeds the bounds of

reasonable and constitutional exercise of force by a state actor against a suspect who

the additional burden of having to care and pay for increased medical and psychological bills to care for her son. She also experiences on a daily basis the mental changes in her son and fears for his continued progress and mental impairment because of Blomberg's abusive conduct was captured on videotape documenting the 3.6 IV.

subdue Chad Holley. Blomberg's actions suggest he either lacked adequate training and/or was carrying out his conduct in conformity with an unwritten and de-facto policy and/or practice of the state entity for which he worked.

assert that the defendant, in his individual capacity, utilized his own personal

equipment, property and/or instruments of force to cause bodily injury and harm to Chad

damages, the additional costs for medical, psychological and psychiatric treatment

Derivative Claims: Loss of Consortium

constitutes a deprivation of Chad's constitutional rights which is actionable pursuant to

and equal treatment under the law were violated by defendant and caused Plaintiffs'

damages. Defendant Blomberg, under color of state law, used excessive force to

Further, Plaintiffs complain that Chad's constitutional rights to due process

Based on information and belief, and pleading alternatively, Plaintiffs also

Plaintiff Joyce Holley asserts that she is entitled to loss of consortium

42 U.S.C. §§1983, 1982 and 1988.

4.3

4.4

Holley.

Plaintiffs request this Court empanel a jury of good and honest citizens and, after presentation of evidence, enter a judgment in favor of Plaintiffs and against defendant

Blomberg in at least the following particulars:

1.

6.

all other relief to which Plaintiffs may be justly entitled.

had voluntarily surrendered. Because of the injuries sustained by Chad, his mother has also incurred defendant's abusive conduct. unconstitutional excessiveness of his conduct. CLAIMS FOR RELIEF Relying on the foregoing allegations, and such proof as may be 4.1

assert the following: 42 U.S.C. §§1983, 1982 and 1988. Plaintiffs assert that defendant's conduct exceeds the constitutional limits 4.2 prescribed for the use of force to seize the person of a suspect. Defendant's conduct deprived Chad Holley of his constitutional liberty interests and right to be free from improper, unreasonable and excessive seizure. The defendant's conduct also Case 4:10-cv-02394 Document 1 Filed in TXSD on 07/06/10 Page 6 of 8

discovered in this case and adduced at trial, Plaintiffs now bring suit against defendant

Andrew T. Blomberg, in his individual and official capacities, and for causes of action

Chad will need up to the age of 21, for which she would be responsible. Plaintiff also sues for her personal loss of consortium damages due to the impairment of Chad's mental faculties to deal with and express love and affection toward his mother. Joyce also has to experience on a daily basis the altered psychological state of her son which causes her mental distress and anguish. Case 4:10-cv-02394 Document 1 Filed in TXSD on 07/06/10 Page 7 of 8

Plaintiffs seek recovery of their attorney's fees in this action under 42 U.S.C. §1988, and as permitted at law. VI. PRAYER For the reasons stated herein, and the proof adduced at trial in this matter, 6.1

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REQUEST FOR ATTORNEY'S FEES

capacity: punitive damages, as permitted at law, totaling up to three (3) times actual 2. damages awarded by the jury and/or court, or such amount as the jury and court determine to be just; 3. attorney's fees, as permitted at law; pre- and post-judgment interest; 4. 5. costs of court; and

actual damages, as permitted at law, totaling between \$1 and \$10 million

dollars against defendant Blomberg, individually and in his official

(713) 942-9600 (Telephone) (713) 942-9566 (Facsimile)

Respectfully submitted, Benjamin L. Hall, III Federal Bar No. 8787 OF COUNSEL:

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The Hall Law Firm 530 Lovett Boulevard Houston, Texas 77006