

CLAIM AGAINST BAY AREA RAPID TRANSIT DISTRICT**NAME OF CLAIMANTS:**

Wanda Johnson mother of decedent Oscar J. Grant III and personal representative of the Estate of Oscar J. Grant III; Sophina Mesa as Guardian Ad Litem for T.G. (decedent's four year-old daughter) submit this claim in the amount of \$25,000,000.00.

CLAIMANTS' ADDRESS:

C/O LAW OFFICES OF JOHN L. BURRIS, AIRPORT CORPORATE CENTRE 7677 OAKPORT ST, SUITE 1120, OAKLAND, CALIFORNIA 94621

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT:

LAW OFFICES OF JOHN L. BURRIS, AIRPORT CORPORATE CENTRE 7677 OAKPORT ST, SUITE 1120, OAKLAND, CALIFORNIA 94621

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANTS AND ALL CONTACT SHOULD BE MADE WITH THEIR ATTORNEY.

DATE OF INCIDENT:

JANUARY 1, 2009

LOCATION OF ACCIDENT OR INCIDENT:

FRUITVALE BART STATION LOCATED WITHIN THE CITY OF OAKLAND, CALIFORNIA.

"A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGE OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM" AND "THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING INJURY, DAMAGE, OR KNOWN LOSS". {Per Government Code Section 910}

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANTS AND ALL CONTACT SHOULD BE MADE WITH THEIR ATTORNEY.

DESCRIPTION OF INCIDENT:

This claim arises from the illegal seizure and excessive force used against Mr. Oscar J. Grant III by BART Police Officer Johannes Mehserle and other BART Police Officers on January 1, 2009. Mr. Grant was unarmed and offered no physical resistance to the BART Police Officers during the course of the events that resulted in his wrongful death.

During the early morning hours of January 1, 2009, Mr. Grant was riding BART back to the east bay after a night of celebrating New Year's Eve in San Francisco. At some point during the BART train ride an altercation ensued. Unbeknownst to Mr. Grant and the other BART train's passengers, BART Police were dispatched to meet the train at the Fruitvale Bart Station and quash the altercation.

Several BART Police Officer Johannes Mehserle and other Officers made their way to the Fruitvale Station's platform and began ordering passengers, including Mr. Grant to get off the BART train. Mr. Grant complied with the Officers' orders and stepped off the train. Upon exiting the train, a Latino Officer grabbed Mr. Grant about his upper body, threw him against a nearby wall and kned him in the face. In an effort to demonstrate that he was submitting to the Latino Officer's thuggish display of authority, Mr. Grant dropped to his knees and put his hands-up.

Next, the Latino Officer forcefully pushed Mr. Grant face down toward the pavement while threatening to tazer him. Then, the Officer kneeled down and unnecessarily dug his knee into Mr. Grant's back causing Mr. Grant to yell out in agony. Mr. Grant fearing for his life, made a valiant effort to deescalate the situation by appealing to the Officer's sense of humanity, telling the Officer that he had a four year-old daughter and asking the Officer to not taze him. Witnesses recount that Mr. Grant continuously repeated this prayer for relief to no avail. Officer Johannes Mehserle who was standing nearby kneeled down and restrained Mr. Grant's hands. Inexplicably, Officer Mehserle stood up, drew his firearm and pointed it directly at Mr. Grant's back. Without so much as flinching, the Officer Mehserle stood over Mr. Grant and mercilessly fired his weapon, mortally wounding Mr. Grant with a single gunshot wound to the back. Video footage of this incident and witness statements reflect that after the shooting, the Officers placed Mr. Grant in handcuffs without any justification.

DESCRIPTION OF CLAIM:

Claimants are informed, believe and thereon allege that the conduct of the BART police officers, along with BART Police Officer Johannes Mehserle, individual employees, agents and/or servants of BART constitute civil rights violations arising from the illegal detention and use of excessive and/or deadly force causing the wrongful death of OSCAR J. GRANT III. The civil rights

violations include, but are not limited to, constitutional and/or statutory rights violations under California and/or Federal law.

Claimants are informed, believe and thereon allege that the BART police officers, along with BART Police Officer Johannes Mehserle, and individual employees, agents and/or servants of BART and Chief Gary Gee of the BART Police Department are responsible for the wrongful death of OSCAR J. GRANT III by the acts and/or omissions committed within the course and scope of employment, under the theory of respondeat superior liability.

Claimants are informed, believe and thereon allege that the judgment of Officer Johannes Mehserle resulted in the wrongful death of OSCAR J. GRANT III. The BART police officers failed to exercise due care, during the detention of OSCAR J. GRANT III, which resulted in OSCAR J. GRANT III's death. Claimants are informed and believe and thereon allege that the conduct of individual employees, agents and/or servants of the BART Police Department as alleged herein was intentional, malicious, oppressive and/or done with a conscious and reckless disregard for the rights of the Claimants.

Claimants have, or may have in the future, a claim in the amount of \$25,000,000.00 for general damages, including, but not limited to, a claim for wrongful death, excessive force, battery, pain and suffering, inadequate medical care and the intentional infliction of emotional distress.

Claimants may have and/or may continue to have in the future, a claim for special damages, including, but not limited to, a claim for medical expenses, burial costs, property damage and attorney's fees, in amounts to be determined according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:

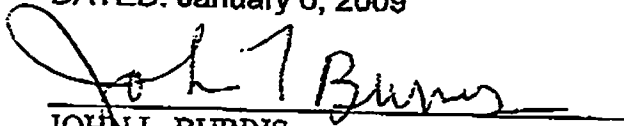
Bar Area Rapid Transit; BART Police Officer Johannes Mehserle, and other unnamed BART Police Officers

DEMAND FOR PRESERVATION OF EVIDENCE:

Claimants do hereby demand that the Bay Area Rapid Transit District including, but not limited to, the BART Police Department, BART Police Officer Johannes Mehserle, other employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible material which relates in any manner whatsoever to the subject matter of this Claim, during the pendency and until the completion of any and all civil and/or criminal litigation arising from the

events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all police department staff and/or public safety entities preserve all tapes, logs and/or other tangible materials of any kind until the completion of all civil and criminal litigation arising from the events which are the subject matter of this Claim.

DATED: January 6, 2009



JOHN L. BURRIS
LAW OFFICES OF JOHN L. BURRIS
Attorney for Claimants