HON. THOMAS S. ZILLY
Noted: August 10, 2018
WITHOUT ORAL ARGUMENT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BRENDA TAYLOR, individually, and as executor of the Estate of Che Andre Taylor; JOYCE TAYLOR, individually; CHE ANDRE TAYLOR, JR., individually; and SARAH SETTLES on behalf of her minor child, CMT, Plaintiffs, vs. CITY OF SEATTLE; MICHAEL SPAULDING and "JANE DOE" SPAULDING, and their marital community composed thereof; SCOTT MILLER and "JANE DOE" MILLER, and their marital community composed thereof; TIMOTHY BARNES and "JANE DOE" BARNES, and their marital community composed thereof; and AUDI ACUESTA and "JANE DOE" ACUESTA, and their marital community composed thereof, Defendants.	No. 2:18-CV-00262 [PROPOSED] ORDER GRANTING DEFENDANTS' PARTIAL MOTION TO DISMISS Noted: August 10, 2018 WITHOUT ORAL ARGUMENT

Pending before the Court is the Defendants' Partial Motion to Dismiss Under 12(b)(6). In connection with this Motion, the Court reviewed the following documents:

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1. Plaintiffs' Amended Complaint;
2. Defendants' Partial Motion to Dismiss Under 12(b)(6);
3. Plaintiff's opposition, if any; and
4. Defendants' Reply, if any.

Being fully advised in this matter, Defendants' Partial Motion to Dismiss Under 12(b)(6) is hereby GRANTED, and the Court ORDERS the following:

(a) Officers Audi Acuesta and Timothy Barnes are DISMISSED from this action;

(b) Plaintiffs' negligence claims (First and Fifth Causes of Action) are DISMISSED;

(c) Plaintiffs fail to allege a *Monell* claim against the City of Seattle, and therefore the City is DISMISSED from this action as to any § 1983 claims;

(d) Plaintiffs fail to allege a claim under the Washington Law Against Discrimination ("WLAD"), RCW 49.60.030 *et seq.* and therefore Plaintiffs' WLAD claim is DISMISSED;

(e) Plaintiffs' False Arrest and Unlawful Seizure claims (Third and Fourth Causes of Action) are DISMISSED;

(f) Joyce Dorsey, mother of the decedent, Che Taylor is barred from recovery on any alleged Washington state law claims;

(g) Plaintiffs, Brenda Taylor, individually; Joyce Dorsey, individually; Che Andre Taylor Jr.., individually; and Sarah Settles on behalf of her minor child, CMT are barred from bringing a Fourth Amendment § 1983 claim;

(h) Plaintiffs, Brenda Taylor, individually; Joyce Dorsey, individually; Che Andre Taylor Jr.., individually; and Sarah Settles on behalf of her minor child, CMT are prohibited from bringing Washington state law claims for Outrage and Assault;

(i) Any excessive force claim(s) Plaintiffs may attempt to bring under § 1983 must be analyzed

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under the Fourth Amendment and not a substantive due process lens;

(j) Brenda Taylor is barred from asserting a § 1983 Substantive Due Process claim, and therefore her claim is DISMISSED;

(k) The Estate is barred from suing for Substantive Due Process on behalf of the decedent's "children," and therefore that claim is DISMISSED;

(l) The Estate is barred from suing Substantive Due Process on behalf of the entire family, and therefore that claim is DISMISSED;

(m)

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DATED: _____, 2018.

_____
JUDGE THOMAS S. ZILLY

Presented by:
PETER S. HOLMES
Seattle City Attorney

s/ Ghazal Sharifi
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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James Bible, Esq., WSBA# 33985 James Bible Law Group 14205 SE 36th Street, Suite 100 Bellevue, WA 98006 ***[Attorney for Plaintiffs]***
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