

HONORABLE LONNIE R. SUKO

1
2 HOWARD F. DELANEY
City Attorney
3 ROCCO N. TREPPEDI
ELLEN M. O'HARA
4 SALVATORE J. FAGGIANO
Assistant City Attorneys
5 OFFICE OF THE CITY ATTORNEY
808 W. Spokane Falls Blvd.
6 SPOKANE, WA 99201-3326
Telephone: (509)625-6225
7 Fax:(509)625-6277

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9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON

12 ESTATE OF OTTO ZEHM, deceased, and
13 ANN ZEHM, in her personal capacity and
14 as representative of the Estate of Otto
Zehm,

15
16 Plaintiffs,

17 v.

18 CITY OF SPOKANE, JIM NICKS, KARL
19 THOMPSON, STEVEN BRAUN, ZACK
20 DAHLE, ERIN RALEIGH, DAN TOROK,
21 RON VOELLER, JASON UBERAGA, and
22 THERESA FERGUSON, each in their
personal and representative capacities,

23 Defendants.

NO. CV-09-80-LRS

DECLARATION OF
JAMES LUNDGREN

24 I, JAMES LUNDGREN, declare under penalty of perjury, that the following is
25 true and correct.

26 1. I make the following declaration based upon my own personal
27 knowledge.
28

DECLARATION OF JAMES LUNDGREN - 1

HOWARD F. DELANEY, City Attorney
OFFICE OF THE CITY ATTORNEY
5th Floor Municipal Building
Spokane, WA 99201-3326
(509) 625-6225
FAX (509) 625-6277

1 2. I was employed as a police officer for the City of Spokane Police
2 Department (SPD) from 1993 to 2006. I have retired from the SPD as of July 15,
3 2006, at the rank of lieutenant.
4

5 3. On March 18, 2006 I believe I was the patrol shift commander for the
6 entire City at the time of the police contact with Mr. Otto Zehm at approximately
7 6:30 p.m. I arrived at the scene of the arrest after Otto Zehm had been taken to
8 the hospital.
9

10 4. I made sure the officer-involved fatal incident protocol was invoked
11 and followed, and that steps were taken at the scene to preserve all evidence and
12 identify witnesses, etc.
13

14 5. Part of the protocol is to isolate and transport the involved officer(s) to
15 the police station (assuming they do not need medical attention) where the
16 investigating detectives will arrange further interviews and evidence gathering.
17

18 6. I drove Officer Karl Thompson from the scene at the ZipTrip to the
19 police station.
20

21 7. Over the next few months, I became aware that the Zehm family,
22 through their lawyers, alleged that several police officers were somehow involved
23 in Mr. Zehm's death.

24 8. Even though I did not personally see or touch Mr. Zehm, I knew that I
25 could be named as a defendant in a lawsuit by the Zehm family's lawyers because
26 I was the highest ranking officer on shift and I had personally driven Officer
27 Thompson to the police station after the event. I had over 30 years experience as
28

1 an officer, and I knew from experience that sometimes everyone from the Mayor
2 and Chief, on down to the officers at the scene, can be sued. I spoke to Assistant
3 City Attorney Rocco N. Treppiedi about the possibility of being named as a
4 defendant before the suit was filed; he agreed that was a possibility but could not
5 say for sure if my wife and I would be named as defendants. The claims made by
6 the Zehm family were wide-ranging in nature, and they alleged that police
7 supervisors and administrators were liable, not just the officers who allegedly used
8 excessive force.
9

10
11 9. I was subpoenaed by the U.S. Attorneys to testify about the case
12 before a Grand Jury in November, 2008. Assistant U.S. Attorney Timothy Durkin
13 told me that he strongly doubted the estate for Otto Zehm would sue me. I
14 disagreed, and told him I thought I could be sued, and if I did, I would consider
15 the City Attorney's Office and Assistant City Attorney Rocco N. Treppiedi as my
16 attorney.
17

18
19 10. After I testified, Mr. Durkin asked me about my conversations with
20 my attorney, Assistant City Attorney Rocco N. Treppiedi.

21 DATED this 15TH day of September, 2009.

22
23 
24 JAMES LUNDGREN

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of September, 2009, I electronically filed the foregoing "Declaration of James Lundgren" with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Breean L. Beggs
breean@cforjustice.org
Jeffrey Finer
jfiner@cforjustice.org
Center for Justice
35 West Main, Suite 300
Spokane, WA 99201
Attorneys for Plaintiffs

Carl J. Oreskovich
carl@ettermcmahon.com
Etter, McMahon, Lamberson, Clary & Oreskovich, P.C.
Bank of Whitman, Suite 210
618 West Riverside Avenue
Spokane, WA 99201
Attorneys for Karl Thompson

Timothy M. Durkin
Tim.Durkin@USDOJ.gov
Assistant United States Attorney
Eastern District of Washington
Post Office Box 1494
Spokane, WA 99210-1494
Attorneys for United States

s/Doris Stragier
Doris Stragier
Office of the City Attorney
808 W. Spokane Falls Blvd.
5th Floor, Municipal Building
Spokane, WA 99201-3326