



**ANIMAL LAW OFFICES
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By Certified Mail, Return Receipt Requested

Renata McLeod
Coeur d'Alene City Clerk
710 E. Mullan Ave.
Coeur d'Alene, ID 83814
(208) 769-2231
cityclerk@cdaid.org

Michael C. Gridley
Coeur d'Alene City Attorney
710 E. Mullan Ave.
Coeur d'Alene, ID 83814
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cdaatty@cdaid.org

RE: Jones | Kelley and City of Coeur d'Alene, et al.
Notice of Claim (IC 6-906 et seq.)

Dear Clerk McLeod and Mr. Gridley,

Claim and Description:

Pursuant to IC 6-906 et seq., claimant Joseph Craig Jones (8/4/65), through his attorneys Adam P. Karp of the Bellingham, Wash.-based Animal Law Offices of Adam P. Karp, and Erik P. Smith of the Coeur d'Alene, Id.-based Law Office of Erik P. Smith, gives formal notice that a claim for compensatory and punitive damages, reasonable attorney's fees, and costs, will be asserted by him against the City of Coeur d'Alene, Officer David Kelley, and the Coeur d'Alene Police Department, in relation to, *inter alia*:

- Kelley's slaying of Arfee, Mr. Jones's three-year-old, hale and hearty,¹ black lab mix, on Jul. 9, 2014 while contained within Mr. Jones's van parked at or near 819 E. Sherman Ave., in Coeur d'Alene;
- Kelley's and other officers' removal of Arfee from Mr. Jones's vehicle without his knowledge or consent;
- Kelley's damage to Mr. Jones's van, a 1999 Ford E250;
- And the City's refusal to release Arfee's body to Mr. Jones on demand.

Mr. Jones presently resides at 12343 Meadowbrook Ln., Hayden, ID 83835, resided at that address on the date of the shooting, and has resided at this address and/or 30242 Spruce Rd., Unit B, Evergreen, CO 80439 for the last six months.

Causes of action include, *inter alia*, conversion, trespass to chattels, reckless or negligent property destruction, failure to train/supervise, negligent infliction of emotional distress, intentional or reckless infliction of emotional distress, and constitutional claims under 42 U.S.C. §§ 1983 et seq. (e.g., Fourth Amendment seizure, failure to train/supervise), as well as the Idaho State Constitution.

Damages include, *inter alia*, Arfee's intrinsic/special value, loss of use, emotional distress/mental anguish, diminished enjoyment of life, and punitives. Such elements of damage were permitted to go to a jury in the case of *Criscuolo v. Grant Cy.*, 10-470-TOR (E.D.Wash. tried March 2014 to verdict for plaintiff where deputy shot dog three times in alleged defense of a drug detection dog).

Without conceding the truth of all allegations made therein, for additional information about the claim, see the attached documentation obtained through public disclosure. No waiver of rights or claims is intended or implied in this correspondence. Please contact Mr. Karp and Mr. Smith with any questions concerning this claim.

Claimant's Name and Mailing Address:

Joseph Craig Jones
 C/O Adam P. Karp, Esq.
 Animal Law Offices of Adam P. Karp
 114 W. Magnolia St., Ste. 425
 Bellingham, Wash. 98225

Amount Claimed:

Subject to ER 408/FRE 408, Mr. Jones claims three hundred fifty thousand (\$350,000) dollars, inclusive of compensatory and punitive damages, but exclusive of reasonable attorney's fees and costs.

¹ The attached WADDL necropsy result proves Arfee was free of illness.

42 U.S.C. § 1988 permits recovery of reasonable attorney's fees and litigation costs upon proof of a constitutional injury by a state actor acting under color of law. A § 1983 violation arises where a state actor deprives a plaintiff of a federally protected right, privilege, or immunity, causing damage. At issue here is the Fourth Amendment relative to Arfee and Mr. Jones's van. It is clearly established law that killing a dog constitutes a Fourth Amendment seizure:

As we stated in *Fuller I*, "The destruction of property is 'meaningful interference' constituting a seizure under the Fourth Amendment..." *Fuller I*, 36 F.3d at 68 (citing *United States v. Jacobsen*, 466 U.S. 109, 124-25 (1984)). Shooting and killing a dog clearly constitutes "destruction" of that dog. In 1991 it was apparent in light of preexisting law that shooting and killing a dog constituted a seizure within the meaning of the Fourth Amendment.

Fuller v. Vines ("*Fuller IP*"), 117 F.3d 1425 (1997), *unpub.* Other Circuits have reached the same conclusion. Kelley committed a Fourth Amendment seizure when he killed Arfee. For the reasons stated above, the seizure was unreasonable given the lack of a warrant and no exigent circumstances providing an exception to the warrant requirement.

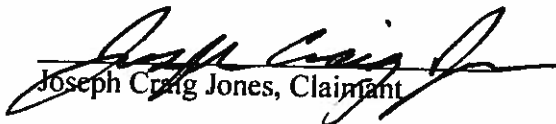
Punitive damages are available against individual state actors upon proof that they acted with intent to violate a federally protected right or in reckless disregard for whether his action would so violate; actual malice need not be found. Internal and external investigations concur that Kelley acted unreasonably and unconstitutionally. *Post hoc* excuses to attempt to justify his misbehavior utterly fail to persuade and only show his desperation to avoid a punitive finding, particularly in light of:

- Failure to give any thought or consideration to his backdrop while firing toward an intersection and neighborhood setting, placing pedestrians and other citizens at risk of mortal danger
- No evidence that Arfee was capable or about to escape the van;
- Kelley's unhindered ability to retreat and reassess;
- All the time in the world;
- Questionable tactics (per Washington State Criminal Justice Training Commission program manager of fitness and force tactics training Robert M. Bragg, Jr. of DSTI, Inc.);
- Shooting "from the hip"
- Failing to announce his presence or even knock on the vehicle before firing, jeopardizing potential human occupants therein;
- Jeopardizing the life of his partner, Officer Jason Wiedebush, who was standing on the passenger side behind the B pillar or by the passenger door when he fired;

- Failing to activate his body camera, thereby eliminating an independent, audiovisual account of what transpired;
- Violating CDAPD policies, viz., 446.5.4. (required activation of body worn video cameras); 300.2.1(d), 300.3(d), 300.4(g,j,k), and 300.4.1 (concerning unreasonable use of force);
- And, most importantly, that Kelley was a “K9 agitator” when working in Los Angeles, handling police dogs.

The requested sum fits within the range of other cases, such as *Fuller v. Vines*, mentioned above, where the jury awarded \$143,000 compensatory and \$10,000 punitive damages relative to an officer slaying a dog by discharging his firearm in front of the dogs’ owners and then threatening to put the dog’s owner in the morgue, and *Snead v. SPCA of Penn.*, 2007 Pa.Super. 204 (2007), *appeal granted in part*, 600 Pa. 372 (2009) and *order aff’d*, 604 Pa. 166 (2009), *appeal den’d*, 992 A.2d 890 (Pa.2010), where the jury awarded \$100,000 in punitive damages and \$54,000 in compensatory damages when SPCA lied to Snead about fact they euthanized her dogs when, in fact, they killed them three days after she tried to redeem them. Also consider the award in *Russell v. City of Chicago*, N.D.Ill. 10-CV-00525 in the sum of \$333,000 (\$175,000 compensatory to one brother, \$85,000 to other brother, \$70,000 to Russells’ parents, \$2000 in punitive damages against Ofc. Antonsen for killing the family’s 9-year-old black Lab named Lady, and \$1000 in punitive damages against the supervisor who decided to arrest Thomas Russell for obstruction) arising from a 2009 raid where police executed a valid warrant to search for drugs in the Russells’ home. In 2012, a Maryland jury awarded over \$220,000 in relation to the nonlethal maiming of a family dog shot by a deputy who claimed he fired in self-defense. *Jenkins v. Jenkins*, Frederick Cy. Cir. Ct. No. 10-C-1003778 (2012). Also consider *Wright v. City of Des Moines*, 12-CV-01962-JLR (W.D.Wash.), in which officers executed a Newfoundland by shooting her four times in a neighbor’s backyard, for which the plaintiffs recovered \$51,000 and over \$50,000 in attorney’s fees and costs through an accepted FRCP 68 Offer of Judgment.

Signed this Oct. 18, 2014 in the city of milwaukee



Joseph Craig Jones, Claimant

Service of Notice:

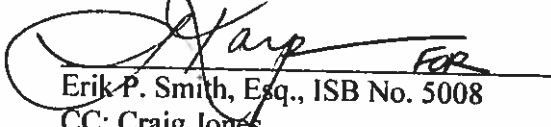
Mr. Karp certifies that on Oct. 24, 2014, I served a true copy of the foregoing notice on the individuals identified above by depositing same in the U.S. mail, both certified, return receipt requested and first-class.

Respectfully,

ANIMAL LAW OFFICES


Adam P. Karp, Esq., ISB No. 8913

LAW OFFICE OF ERIK P. SMITH


Erik P. Smith, Esq., ISB No. 5008

CC: Craig Jones

Encl.: As stated