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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

JENNIFER BENNETT, individually,
and as Personal Representative of the
estate of JAMES BLANCOCOTTO,

Plaintiffs,

v.

STATE OF WASHINGTON, a State; CITY
OF LAKE STEVENS, A Municipality, and
Kerry Bernhard, individually,

Defendants.

NO.

**COMPLAINT
JURY DEMAND**

COMES NOW Plaintiff and alleges as follows:

James Blancocotto
October 18, 1992 – January 13, 2023



1 **I. PARTIES**

2 1.1 Decedent James Blancocotto. (“James”) was born on October 18, 1992, in
3 Bremerton, Washington to Russell Bennett, and Kathryn Bennett. He has four siblings.
4 Unfortunately, James suffered from drug and mental health issues in the last years of his
5 life.

6 1.2 On February 10, 2024, Plaintiff Jennifer Bennett was appointed the
7 Personal Representatives of the ESTATE OF JAMES BLANCOCOTTO in King County
8 Superior Court Cause No. 24-4-02827-4 SEA. Jennifer Bennett was issued letters of
9 administration on January 15, 2025.

10 1.3 Defendant Lake Stevens is a political subdivision of the State of
11 Washington. Lake Stevens provides law enforcement services through its police
12 department (“LSPD”). LSPD’s stated mission is to “enhance... public safety and quality
13 of life through professional police services, organizational excellence and community
14 interaction.”¹

15 1.4 Defendant KERRY BERNHARD (“Officer Bernhard”) is a LSPD police
16 officer who, at all times relevant hereto, was acting within the scope of her employment
17 and under color of state law at all relevant times herein.

18 1.5 Defendant State of Washington (“SOW”) is a duly authorized state and
19 governmental entity. SOW provides mental health care by and through the employees
20 and agents of the Department of Social and Health Services.

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¹ <https://www.lakestevenswa.gov/85/Police>

1 **II. JURISDICTION AND VENUE**

2 2.1 This Court has federal question jurisdiction over this 42 U.S.C. § 1983
3 action pursuant to 28 U.S.C. §§ 1331 and 1343.

4 2.2 This Court has general personal jurisdiction over Defendants as they reside
5 and/or work in Snohomish County and King County, Washington.

6 2.3 This Court has specific in personam jurisdiction over Defendants because
7 this case arises out of conduct by Defendants that took the life of the Plaintiff's decedent,
8 and which occurred in the Western District of Washington.

9 2.4 Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b)(1), as all
10 Defendants have their principal place of business is in this division, Seattle, and the
11 Defendants operate in this state and division.

12 2.5 Plaintiff has satisfied all conditions precedent required by RCW 4.96.010,
13 RCW 4.96.020, RCW 4.92.100 and RCW 4.92.110. A Lake Stevens claim for damages
14 was presented to the Risk Manager for the city on September 27, 2024. A SOW claim for
15 damages was presented to the State of Washington Department of Enterprise Services
16 – Office of Risk Management on September 27, 2024.

17 2.6 More than sixty (60) calendar days have elapsed since the plaintiffs
18 presented the tort claim form to the SOW and Lake Stevens.

19 2.7 Plaintiff requests a jury trial.

20 **III. STATEMENT OF FACTS**

21 3.1 This case arises from the tortious acts of SOW employees or agents and
22 the tortious acts of Officer Bernhard and the LSPD that resulted in the death of James
23 Blancocotto.

1 3.2 At the time of his death, James Blancocotto was not married, and he had
2 no children. He is survived by his parents, Russell Bennett, and Kathryn Bennett. He is
3 also survived by four siblings, Jennifer Colleen Bennett, Jeremiah Joseph Bennett, Erin
4 Mae Bennett, and Caitlin Elizabeth Bennett. Unfortunately, James Blancocotto suffered
5 from readily observable drug and mental health issues in the last years of his life.

6 3.3 On Oct. 25, 2022, Snohomish County Superior Court Judge Anita Farris
7 ordered that James Blancocotto be admitted to a SOW secure inpatient facility, Western
8 State Hospital, in Pierce County for a mental health evaluation.

9 3.4 The State of Washington failed to obey Judge Farris' order.

10 3.5 The state failed to provide an appropriate evaluation and needed treatment
11 to James Blancocotto.

12 3.6 This failure to transfer James Blancocotto violated RCW 10.77.068.

13 3.7 The failure to transfer to a secure inpatient facility and provide a prompt
14 evaluation violated RCW 10.77.065

15 3.8 James Blancocotto should have been transferred for evaluation and needed
16 treatment within 14 days of the October 25, 2022, court order.

17 3.9 On November 9, 2022, Snohomish County judge Miguel Duran ordered that
18 James Blancocotto be released from custody due to the SOW's delay in providing the
19 needed treatment, but the release was delayed.

20 3.10 Judge Duran signed an order to release James Blancocotto on his own
21 recognizance on December 23, 2022.

22 3.11 James Blancocotto was released without the needed mental health evaluation
23 and treatment.

1 3.12 On January 13, 2023, James Blancocotto began to act in an erratic manner.

2 3.13 James stole a vehicle from a parking lot in a Lake Stevens shopping center.

3 3.14 He drove the stolen vehicle in an erratic manner.

4 3.15 His driving was so erratic that he damaged several vehicles in the parking lot.

5 3.16 James then fled south on Highway 9, then abandoned the van and ran from
6 Lake Stevens police.

7 3.17 James Blancocotto was unarmed at all times relevant on January 13, 2023.

8 3.18 Officer Bernhard left her police vehicle open and unlocked.

9 3.19 Officer Bernhard left her keys in her police vehicle.

10 3.20 Officer Bernhard left her vehicle running.

11 3.21 Kerry Bernhard began to chase James.

12 3.22 Officer Bernhard attacked James when he entered her police vehicle.

13 3.23 James Blancocotto was unarmed at the time he was shot.

14 3.24 LSPD officers allege that James Blancocotto was able to drive the police car
15 a short distance before he was fatally shot.

16 3.25 James Blancocotto could have safely driven the vehicle without injury or
17 imminent risk of injury to any LSPD officer nearby had he not been shot.

18 3.26 Despite the lack of risk of imminent injury to anyone, Officer Bernhard chose
19 to shoot at close distance and fatally wound James Blancocotto.

20 3.27 James Blancocotto suffered from drug abuse and mental health issues that
21 were readily observable.

22 3.28 The LSPD officers and the SOW failed to reasonably accommodate James
23 Blancocotto's emotional and mental disability in a public forum.

1 3.29 Defendant Bernhard and the other LSPD officers present were in the course
2 and scope of their duties at all times relevant hereto.

3 3.30 Upon information and belief, Defendant Lake Stevens improperly hired,
4 trained and/or supervised Officer Defendant Bernhard.

5 **IV. CAUSES OF ACTION (A-E)**

6 Plaintiff reallege all facts stated above.

7 **A. Negligence: Defendant Officer Bernhard**

8 4.1 Defendant had a common law duty to act reasonably in her interactions with
9 James Blancocotto and to act with ordinary care.

10 4.2 Defendant breached the duty to act reasonably and with ordinary care and
11 proximately caused the death of James Blancocotto and the damages suffered his
12 survivors.

13 **B. Fourth Amendment Excessive Force: Officer Bernhard**

14 4.3 LSPD Officer Kerry Bernhard, while acting under color of law, used
15 excessive force on James Blancocotto when he posed no danger of imminent serious
16 injury or death to anyone.

17 4.4 LSPD Officer Kerry Bernhard's use of force was wholly excessive to any
18 conceivable need, objectively unreasonable in light of clearly established law, and directly
19 caused the death of James Blancocotto and the damages suffered by the Plaintiffs.
20 Therefore, LSPD Officer Kerry Bernhard violated James' clearly established Fourth
21 Amendment right to be free from excessive force and unreasonable seizure.

1 4.5 As a direct and proximate result of LSPD Officer Kerry Bernhard's actions,
2 James Blancocotto was killed, and her actions caused the damages suffered by the
3 Plaintiff.

4 **C. Fourteenth Amendment Excessive Force That Shocks the Conscience:**
5 **Officer Bernhard**

6 4.6 LSPD Officer Kerry Bernhard, while acting under color of law, used
7 excessive force on James Blancocotto when he posed no danger to anyone.

8 4.7 Defendant Officer Bernhard knew that her use of force was likely to seriously
9 injure or kill James Blancocotto.

10 4.8 Defendant Officer Bernhard knew that there was no possibility that her use of
11 force would prevent any ongoing or imminent danger to anyone.

12 4.9 Defendant Officer Bernhard's use of force caused James' death and the
13 Plaintiff's damages, was grossly disproportionate to the need for action under the
14 circumstances and was inspired by malice or excess of zeal such that it amounted to
15 abuse of official power that shocks the conscience. Without provocation of any kind or
16 any legitimate reason, Defendant Officer Bernhard shot James Blancocotto with a lethal
17 weapon even though James Blancocotto posed no risk of serious bodily injury or death
18 to anyone at the scene.

19 4.10 Therefore, Defendant Officer Bernhard violated James Blancocotto's clearly
20 established Fourteenth Amendment substantive due process right to be free from
21 excessive force in such a way that clearly shocks the conscience.

22 4.11 As a direct and proximate result of Defendant Officer Bernhard's actions,
23 James Blancocotto was killed and the Plaintiff suffered damages.

1 **C. Negligence: Lake Stevens**

2 4.12 Defendant Lake Stevens owed a duty to properly hire, train, and supervise
3 its employees.

4 4.13 Defendant Lake Stevens breached the duties by failing to adequately train
5 and supervise Officer Bernhard.

6 4.14 Defendant Lake Stevens is also vicariously liable for the negligence of
7 Defendant Officer Bernhard and any other negligent employees.

8 **D. Negligence: State of Washington**

9 4.15 Defendant SOW had a common law duty to act reasonably in its interactions
10 with James Blancocotto and to act with ordinary care. SOW should have evaluated James
11 and provided appropriate treatment.

12 4.16 Defendant SOW breached the duty to act reasonably and with ordinary
13 care and proximately caused the death of James Blancocotto and the damages suffered
14 his survivors.

15 **E. WLAD and ADA claims: SOW, Lake Stevens and Bernhard**

16 4.17 These causes of action are brought under the Washington Law against
17 Discrimination (“WLAD”) and the American Disabilities Act (“ADA”), specifically 42 U.S.C.
18 §§ 12131-12134 and RCW 49.60. At all times relevant hereto, James Blancocotto
19 suffered from an impairment that affected one or more major life activities, including, but
20 not limited to, interacting with others and/or losing touch with reality due to longstanding
21 mental illness and/or drug abuse or addiction. Defendants knew or should have known of
22 the disability from Plaintiff’s incarcerations in the Snohomish County jail and records
23 regarding same, the court order regarding the need for a medical evaluation and the
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1 erratic behavior and observable demeanor demonstrated prior to his fatal shooting on
2 January 13, 2023.

3 4.18 Defendants were deliberately indifferent to Plaintiff's disability and failed to
4 accommodate Plaintiff's disability. Bernhard and Lake Stevens did not employ de-
5 escalation, communication, or specialized help techniques. Defendants Bernhard and
6 Lake Stevens could have used generally accepted police practices for peaceably
7 resolving the situation rather than attacking James as Officer Bernhard did. Defendant
8 SOW could have evaluated James and given him appropriate treatment for his disability
9 at Western or other treatment facilities. Instead, SOW provided James with no treatment
10 or other accommodation for his disability.

11 4.19 James Blancocotto suffered injuries and death as a result of Defendants'
12 violations of the ADA and the WLAD, for which such injuries Plaintiff is entitled to recover
13 judgment for money damages in an amount to be proven at trial.

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15 **V. DAMAGES**

16 5.1 As a direct and proximate result of the tortious conduct and statutory
17 violations of the Defendants as described above, Plaintiff has been damaged. The
18 statutory heirs to his estate, his parents and siblings, have suffered past and future
19 economic and non-economic damages in an amount to be proven at trial. Their damages
20 include, but are not limited to, the following:

21 5.2 The Estate of James Blancocotto suffered economic and non-economic
22 damages, including pre-death pain and suffering, fear of death, loss of future potential
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1 earnings, and loss of enjoyment of life, in an amount to be proved at trial, including all
2 damages as provided under RCW 4.20.010, RCW 4.20.046 and RCW 4.20.060.

3 5.3 As parents who had significant involvement in the life of an adult child,
4 Russell Bennett, and Kathryn Bennett, suffered damages in an amount to be proven at
5 trial, including loss of love and companionship of the child, the destruction of the
6 parent/child relationship and all other damages as provided under RCW 4.24.010. His
7 siblings have also suffered damages in an amount to be proven at trial, including loss of
8 love and companionship of a sibling, the destruction of the sibling relationship and all
9 other lawful damages in an amount to be proven at trial

10 5.4 Defendant Bernhard's conduct was egregious and callous. She attacked
11 James Blancocotto and then shot and killed him when he posed no threat of harm to
12 anyone. Plaintiff seeks punitive damages as well to punish and deter future uses of such
13 excessive force.

14 5.5 Plaintiff is entitled to reasonable attorney's fees, costs and expenses
15 pursuant to the ADA, WLAD and 42 USC 1988.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment against the Defendants jointly and
19 severally as follows:

- 20 a) Fashioning an appropriate remedy and awarding general and special
21 damages, and any other lawful damages in an amount to be proven at trial;
22 b) Awarding reasonable attorneys' fees and costs as available under the law;
23 c) Awarding any and all applicable interest on the judgment; and
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d) Awarding such other and further relief as the Court deems just and proper.

DATED 10th day of March 2025

EDWARD H MOORE, P.C.

/s Edward H. Moore
Edward H. Moore, WSBA #41584
Counsel for Plaintiff