

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

VALERIE WING, in her capacity as Personal Representative of the **ESTATE OF BRIAN WING**,

Plaintiff,

vs.

DESCHUTES COUNTY 9-1-1 SERVICE DISTRICT,

Defendant.

Case No. 19CV35860

COMPLAINT

(Personal Injury – wrongful death – for claim up to \$7,033,834.90)

Filing Fee: \$834 (ORS 21.160(1)(d))

CLAIM NOT SUBJECT TO MANDATORY ARBITRATION

DEMAND FOR JURY TRIAL

Plaintiff VALERIE WING, in her capacity as Personal Representative of the Estate of BRIAN WING, alleges:

1.

Due to the amount prayed for herein this claim is not subject to mandatory arbitration.

2.

VALERIE WING is the duly appointed Personal Representative of the Estate of BRIAN WING, who is deceased. Decedent was a resident of Deschutes County, Oregon, and was 39 years of age at the time of his death.

3.

This action is brought for the benefit of the statutory beneficiaries of the Estate of BRIAN WING pursuant to ORS 30.020.

4.

At all times material, Defendant was and is a political subdivision of the State of Oregon, County of Deschutes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

5.

At all times material, Defendant had working for it officials, employees, agents, or others within its control, or right of control. All acts attributed to Defendant were performed by said persons while acting within the course and scope of said capacity.

6.

Since 1988, Defendant has operated as a consolidated public safety dispatching agency taking all calls for police, fire, and medical service assistance in Deschutes County.

7.

At all material times, Defendant, had the duty to dispatch for 15 police and fire/emergency medical services (EMS) agencies and work closely with the U.S. Forest Service, AirLink, Oregon State Police, and other State and Federal entities. In doing so, Defendant entered calls requiring a response into a computer assisted dispatch (CAD) system and dispatched field units to emergency and non-emergency incidents.

8.

At all times material, BRIAN WING lived at 6615 SW McVey Avenue, Redmond, OR 97756, where he operated a hobby yak ranch.

9.

At all times material, BRIAN WING had the same cell phone number and carrier, which was registered to his home address identified above.

10.

In May 2015, BRIAN WING contacted Defendant and/or the Deschutes County Sheriff's Department from his cell phone, as his neighbors were having a domestic dispute. As a result, services were dispatched to his home address identified above. On information and belief, Defendant kept record of BRIAN WING's home address that was associated with those calls, and otherwise had access to the Deschutes County Sheriff's Department records noting the same address associated with that phone number.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

11.

In May 2017, BRIAN WING contacted Defendant and/or the Deschutes County Sheriff's Department for emergency/non-emergency services from his cell phone, as several dogs were attacking his yaks. As a result, Defendant dispatched services to his home address identified above. On information and belief, Defendant kept record of BRIAN WING's home address that was associated with those calls, and otherwise had access to the Deschutes County Sheriff's Department records noting the same address associated with that phone number.

12.

On or about August 16, 2017, at approximately 12:52 p.m., BRIAN WING was working at his ranch, when he was gored in the right leg by one of his yaks, causing extensive bleeding.

13.

At approximately 12:52:58 p.m., BRIAN WING called Defendant from his cell phone identified above, but was unable to speak clearly due to his injury, instead only moaning in pain. At the time Defendant's system immediately identified BRIAN WING's number as belonging to a Verizon mobile phone. Moreover, Defendant pinged BRINAN WING's phone and was notified at 12:53:11 p.m. that it was located in the general vicinity of 6837 SW McVey Avenue – a neighboring lot. Defendant then terminated the call at approximately 12:55 p.m., two minutes after it had been placed.

14.

Defendant then called BRIAN WING's phone back at 12:55:03 p.m., but received no answer.

15.

At approximately 12:56 p.m., Defendant called BRIAN WING's cell phone number back and left a voicemail to the effect, "You called 911. If this is an emergency, call us back."

//////
//////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

16.

Due to his injuries BRIAN WING was unable to check his voicemail nor call Defendant back. Rather, he either walked or crawled to the front porch, where he collapsed.

17.

BRIAN WING’s wife arrived home at approximately 1:45 p.m., where she saw a trail of blood in and around the garage and house, which she followed to ultimately find BRIAN WING unconscious and bleeding on their front porch, though still breathing and with a pulse. She immediately called Defendant at 1:49:08 p.m. who, in turn, dispatched emergency medical personnel to their home at 1:50:59 p.m.

18.

As BRIAN WING’s wife was waiting for emergency personnel to show up, she attempted to apply a tourniquet to his leg. Emergency personnel arrived on scene at approximately 1:57 p.m., and BRIAN WING was rushed by ambulance to St. Charles Medical Center in Redmond, Oregon, arriving at approximately 2:30:33 p.m. Due to the severity of blood loss and need for surgery, he was air lifted to St. Charles Medical Center in Bend, Oregon, arriving at approximately 5:00 p.m. However, hospital personnel were unable to save his life due to the extreme blood loss and related complications, and he was pronounced deceased at approximately 10:20 p.m. that night.

19.

Defendant’s failure to dispatch emergency medical personnel to BRIAN WING’s home after his initial call caused the injuries and damages hereinafter alleged, all of which were reasonably foreseeable.

20.

Defendant was negligent and breached its duty to BRIAN WING in one or more of the following particulars, each of which created a foreseeable and unreasonable risk of injury to BRIAN WING:

- 1 (a) In failing to dispatch emergency personnel to BRIAN WING's house at the time of his
2 call;
- 3 (b) In failing to dispatch emergency personnel to BRIAN WING's house the first time
4 Defendant received no response when calling his phone;
- 5 (c) In failing to dispatch emergency personnel to BRIAN WING's house the second time
6 Defendant received no response when calling his phone;
- 7 (d) In failing to determine the address last associated with BRIAN WING's phone number
8 so as to determine his probable location and dispatch emergency services to his house;
- 9 (e) In failing to determine the address associated with BRIAN WING's number with his cell
10 phone carrier so as to determine his probable location and dispatch emergency services
11 to his house; and
- 12 (f) In failing to recognize that the pinged location of BRIAN WING's cell phone showed he
13 as in the area of his house and dispatch emergency services to his home address.

14 **21.**

15 As a result of the negligence of Defendant, BRIAN WING sustained the following
16 foreseeable injuries and damages:

- 17 (a) Severe emotional distress;
- 18 (b) Imminent fear of death;
- 19 (c) Complications from blood loss, resulting in amputation of his right leg;
- 20 (d) Loss of chance of surviving his injury; and
- 21 (e) Death;

22 All to the Estate of BRIAN WING's noneconomic damages, in an amount determined
23 by the jury to be fair and reasonable, but not to exceed the sum of **\$1,000,000**.

24 **22.**

25 BRIAN WING is survived by his wife, VALERIE WING; his daughter, AUTUMN
26 WING; his father, LARRY WING; his stepmother, PAM WING; his mother, GLENDA JILL

1 DAMEROW; and his stepfather CHARLES DAMEROW. As a result of BRIAN WING's
2 death, his family has and will suffer noneconomic damages for loss of society and
3 companionship in an amount to be determined by the jury to be fair and reasonable, but not to
4 exceed the sum of **\$2,000,000**, all of which was reasonably foreseeable.

5 **23.**

6 As a result of the negligence of Defendant, the Estate of BRIAN WING and its statutory
7 beneficiaries have incurred the following economic damages, all of which were reasonably
8 foreseeable:

- 9 (a) Reasonable and necessary medical expenses in the approximate sum of **\$200,000**;
10 (b) Pecuniary loss in the approximate sum of **\$3,830,400**;
11 (c) Mortuary, funeral and burial expenses in the approximate sum of **\$3,434.95**;

12 All to their economic damage in an amount determined by the jury to be fair and reasonable, but
13 not to exceed the sum of **\$4,033,834.90**.

14 **24.**

15 Defendant was given timely notice of Plaintiff's claim as required by Oregon law.

16 **WHEREFORE**, Plaintiff VALERIE WING, in her capacity as Personal Representative
17 of the Estate of BRIAN WING, prays for judgment against Defendant for noneconomic damage
18 of BRIAN WING in an amount determined by the jury to be fair and reasonable, but not to
19 exceed the sum of **\$1,000,000**; for noneconomic damage of the Estate of BRIAN WING's
20 statutory beneficiaries for the loss of society and companionship of BRIAN WING in an
21 amount determined by the jury to be fair and reasonable, but not to exceed the sum of
22 **\$2,000,000** for economic damage in an amount determined by the jury to be fair and reasonable,
23 but not to exceed the sum of **\$4,033,834.90**; for the Estate's costs and disbursements incurred
24 herein; and for any other relief the Court deems appropriate.

25 /////

26 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Dated: August 15, 2019.

DWYER WILLIAMS CHERKOSS
ATTORNEYS. P.C.



By: _____
Tim Williams, OSB No. 034940
Of Attorneys for Plaintiff
Trial Attorney: Same