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126426

CLAIM FOR DAMAGES

TO: SKAMANIA COUNTY, WASHINGTON
AND TO: BRADLEY ANDERSON, PROSECUTOR FOR SKAMANIA COUNTY

STATE OF WASHINGTON)

County of Skamania) ss

WILMA FOSTER, and WILMA FOSTER on behalf of TARA FOSTER, a minor, being first duly sworn on oath, depose and state as follows:

That they are the claimants herein and believe the causes of this claim to be true. We hereby present a claim for damages against the County of Skamania, Washington, based on the following information as required by RCW 4.96 et seq.

1. Our actual residence at the time of presenting filing of this claim is:

Mile Post 1.26 L, Metzger Road, Carson, WA 98610

2. Our actual residence during the six (6) months prior to the time this claim accrued was:
Mile Post 1.26 L, Metzger Road, Carson, WA 98610

3. Our legal representation and an attorney is:

John A. Maxwell, Jr.
P.O. Box 22680
Yakima, WA 98907
(509) 575-8500.

4. The incident which we make claim against the County of Skamania, Washington occurred on or about August 10, 1995.

CLAIM FOR DAMAGES - 1

Registered ☒
Indexed, Dir ☒
Indirect ☒
Filed ☐
Mailed ☐

LAW OFFICES OF
MEYER, FLUEGGE & TENNEY, P.S.
230 South Second Street • P.O. Box 22680
Yakima, Washington 98907-2680
Telephone (509) 575-8500

FILED FOR RECORD
SKAMANIA CO. WASH
BY Skamania County

OCT 11 4 26 PM '96
O'Leary
AUDITOR
GARY H. OLSON

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3 5. The incident occurred at the following location(s):

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5 This claim concerns the killing of a monkey which is the property of the
6 claimants. The monkey was killed and the claimants' rights were deprived
7 without due process of law and without legal authority. The death of the monkey
8 occurred at the Humane Society Shelter in west Vancouver, Washington.

9 6. The location and description of the occurrence and individuals which caused the injury
10 or damage are:

11
12 Prior to August 10, 1995, Wilma Foster and her family attempted to secure the
13 safe transfer of a family pet monkey named "Buddy" to a new habitat. During
14 the period of time when arrangements were being made, animal control officers
15 including Tina Anderson, and Tracy Wyckoff, attempted to obtain physical
16 custody of the monkey without a warrant or other lawful authority.

17 An arrangement had been made with a national program called "Monkey Rescue"
18 located in New York. This organization had arranged for the relocation of the
19 monkey to the care and custody of Vickie McCauley who had constructed a
20 habitat for the monkey in the State of Vermont. Her phone number is (802) 479-
21 2919. On August 10, 1995, Wilma Foster and her family had entrusted the
22 monkey temporarily with Chuck Evans, P.O. Box 1077, Carson, WA 98601
23 (509) 427-4408.

24 The animal control officers, including Tina Anderson, and Tracy Wyckoff, used
25 fraud and deception in order to obtain custody and control of the monkey from
26 Chuck Evans by advising Mr. Evans that there was an institution back east where
27 the monkey would be placed with professionals. The officer possessed no
28 warrant or other papers that would allow her to legally obtain the custody or
29 control of the monkey. Mr. Chuck Evans who had been entrusted with the
30 temporary custody of the monkey by the Foster family allowed the humane
31 officer to take the monkey based on her deception and assurance that the monkey
32 would be placed in an institution in the East Coast and would be safely placed in
33 a new location.

34 Without lawful authority and without any notice to Wilma Foster or the other
members of her family, the monkey was immediately taken to the Vancouver
Humane Society and killed.

1 The value of the monkey solely as an item of personal property is at least \$2,500.00.
2 The monkey, however, was a unique piece of property and was not considered by the
3 Foster family to be anything less than a full fledged member of the family. Wilma Foster
4 and her children were deeply distressed of the thought that Buddy had been killed and
5 particularly distressed by the fact that Buddy had been killed without any notice and after
6 much effort had been made to secure a safe alternate location for Buddy. The actions of
7 the County of destroying the monkey without lawful authority were willful or intentional
8 acts which would give rise to a claim for a emotional distress by the Fosters. Cagle v.
9 Burns and Roe, 106 Wn.2d 911, 917, 726 P.2d 434 (1986). The value of destroyed
10 personal property for which no market value exists and is which is not replaceable or
11 reproducible depends upon a subjective determination of the intrinsic value of the item to
12 its owner. Such a determination may consider ordinary sentimental value. Mieske v.
13 Bartell Drug Co., 92 Wn.2d 40, 593 P.2d 1308 (1979). The actions of the county were
14 without lawful authority or court authorization. The County wrongfully converted and
15 destroyed the monkey and are liable under common law theories of trover and
16 conversion. Additionally, the seizure of the monkey without a lawful warrant and the
17 failure to give any notice to the owner of the monkey prior to killing the monkey,
18 resulted in unlawful taking of private property without just compensation and a due
19 process of violation in the failure to give notice. This was a deprivation of basic civil
20 rights.

21 RCW 16.52.085 regarding the moving of animals with lawful authority based on feeding
22 and care specifically requires giving a written notice of the circumstances of removal and
23 notice of legal remedies to the owner. RCW 16.52.085(3). Any agency with custody of
24 such an animal may not euthanize the animal not less than 15 days after the animal is
25 taken into custody and notification to the owner prior to killing the animal. In this case,
26 there was no evidence that the owners failed to properly feed or care for the animal and
27 the closest analogous statute that specifically would require notice to the owner and a
28 period of time for the owner to address the situation prior to the killing of the animal.
29 In this case, the animal was killed immediately by the county's officer without any notice
30 to the owner that the animal would be killed and after the officers had taken the animal
31 under the false pretense that the animal's life would be preserved and that the animal
32 would be placed in a new habitat.

33 7. The injuries or damages sustained by claimants are:

34 Emotional distress, humiliation, stress, loss of a unique pet that was essentially a
member of the family in which the children related to as a sibling, and the loss of the
monkey itself.

8. Total damages claimed: \$60,000.00

CLAIM FOR DAMAGES - 3

LAW OFFICES OF
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3 9. Statements made in this letter and civil claim are made for settlement purposes pursuant
4 to RCW 4.95 et seq.
5

6 DATED this 30th day of September, 1996.
7

8 Wilma Foster
9 WILMA FOSTER, individually and
10 on behalf of Tara Foster, a minor
11

12
13
14 SUBSCRIBED AND SWORN to (or affirmed) before me this 30th day of September,
15 1996, by WILMA FOSTER, individually and on behalf of Tara Foster, a minor.
16

17 William F. Yee
18 WILLIAM F. YEE NOTARY PUBLIC in and for the State of
19 STATE OF WASHINGTON Washington;
20 NOTARY PUBLIC Residing at Stevenson
21 MY COMMISSION EXPIRES 6-20-98 My Commission Expires: 6-20-98
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CLAIM FOR DAMAGES - 4

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