

2006

Kristi Pace, individually, and for and on behalf of the Estate of William Matthew Pace and all heirs of the Estate v. St. George City Police Dept., City of St. George, and John Does 1 through 10 : Reply Brief

Utah Court of Appeals

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UTAH COURT OF APPEALS
450 South State Street
P.O. Box 140230
Salt Lake City, Utah 84114-0230

KRISTI PACE, individually, and for and on
behalf of THE ESTATE OF WILLIAM
MATTHEW PACE and ALL HEIRS OF THE
ESTATE,

Plaintiffs/Appellants,

v.

ST. GEORGE CITY POLICE DEPT., CITY
OF ST. GEORGE, and JOHN DOES 1 through
10,

Defendants/Appellees.

APPELLANTS' REPLY BRIEF

Appellate Case No. 20060256 - CA

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450 South State Street
P.O. Box 140230
Salt Lake City, Utah 84114-0230

<p>KRISTI PACE, individually, and for and on behalf of THE ESTATE OF WILLIAM MATTHEW PACE and ALL HEIRS OF THE ESTATE,</p> <p>Plaintiffs/Appellants,</p> <p>v.</p> <p>ST. GEORGE CITY POLICE DEPT., CITY OF ST. GEORGE, and JOHN DOES 1 through 10,</p> <p>Defendants/Appellees.</p>	<p>APPELLANTS' REPLY BRIEF</p> <p>Appellate Case No. 20060256 - CA</p>
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- Bischel v. Merritt*, 907 P.2d 275, 276 (Utah App. 1995)
- Madsen v. State*, 583 P.2d 92 (Utah 1978)
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- Emery v. State*, 483 P.2d 1296 (Utah 1971)
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Commercial Union Ins. Co. v. City of Wichita, 536 P.2d 54, 63-64 (Kansas 1975)

Higgins v. Salt Lake County, 855 P.2d 231, 236 (Utah 1993)

I.

LIST OF ALL PARTIES

1. Kristi Pace, Appellant, is an individual, and the surviving spouse of the decedent, William Matthew Pace.
2. The Estate of William Matthew Pace, Appellant, is all individuals or entities that may have an interest at law or in equity in the remaining assets and obligations of the decedent William Matthew Pace.
3. St. George City Police Department, Appellee, is a governmental agency operating under the City of St. George.
4. The City of St. George, Appellee, is a governmental entity, and is an incorporated city within the State of Utah.

II.

STATEMENT OF JURISDICTION

This Court has jurisdiction over this appeal pursuant to *Utah Code Ann.* §78-2-2(4) and § 78-2a-3(j).

III.

STATEMENT OF ISSUES

Appellant asserts that the service of the Notice of Claim by prior counsel for the Appellant was proper pursuant to the *Utah Governmental Immunity Act, Utah Code Ann. 1953 §63-30d-401*. As such, Plaintiffs/Appellants maintain that the Trial Court improperly dismissed this suit for lack of subject matter jurisdiction.

Plaintiffs/Appellants assert that the governmental entities waived their sovereign immunity, pursuant to *Utah Code Ann.* § 63-30-10(10) (2003), and that the sovereign immunity of the State was not maintained due to an alleged “incarceration” of the decedent at the time of the incident.

IV.

STANDARD OF REVIEW

The issues presented are reviewed for correctness without any deference to the trial court’s determination of law. *Gurule v. Salt Lake County*, 69 P.3d 1287, 474 Utah Adv. Rep. 3, 2003 UT 25 (Utah, 2003).

V.

CONSTITUTIONAL OR STATUTORY PROVISIONS

1. Utah Code Ann. 1953 § 63-30d-401.
2. Utah Code Ann. 1953, § 63-30-11.
3. Utah Code Ann. 1953, § 63-30-10.
4. Utah Code Ann. 1953, 63-30-11.
5. Utah Code Ann. 1953, 78-2a-1.
6. Constitution. Article 8, § 1; Utah Code Ann. 1953, 78-2a-1.
7. Utah Rules of Civil Procedure, Rule 12(b)(6).

VI.

STATEMENT OF CASE

The Utah Legislative changes to the Utah Governmental Immunity Act went into effect July 1, 2004.

Plaintiffs/Appellants' Notice of Claim was filed July 2, 2004, upon "City of St. George, 175 East 200 North, St. George, Utah 84770," by Plaintiffs/Appellants' prior counsel, Braunberger, Boud & Draper, P.C. There was no "City Clerk" within the City of St. George that could be served. The City Recorder is Gay Cragun, who works for the City of St. George located at the same address.

Suit was filed in the Fifth Judicial District Court, Washington County, and service of the Summons and Complaint was effectuated March 4th, 2005, and was served upon Gay Cragun at the same address listed above.

Defendants/Appellees filed a Motion to Dismiss July 11th, 2005, alleging improper filing of the Notice of Claim by Plaintiffs/Appellants' prior counsel, Braunberger, Boud & Draper, P.C. After the filing of several responsive memorandum by both sides, the Court issued the Defendants/Appellees' Order of Dismissal Without Prejudice of the Plaintiffs/Appellants' lawsuit on January 18, 2006. The Defendants/Appellees' grounds for dismissal were (1) lack of subject matter jurisdiction due to an improper filing of the Notice of Claim, and (2) because the governmental entities had not waived their sovereign immunity surrounding actions with regard to the "incarceration" of William Matthew Pace.

From this order, Plaintiffs/Appellants respectfully appeal.

VII.

STATEMENT OF FACTS

William Matthew Pace was arrested March 13, 2004 for theft. William Matthew Pace was wearing a prosthetic back brace at the time of his arrest and was searched by the arresting officers. Such search failed to produce the 9mm pistol that Mr. Pace had, on his person, underneath the back brace. While in custody, prior to the filing of any formal charges, and before interrogations were completed, William Matthew Pace was excused to use the restroom and his restraints were removed. While in the restroom, William Matthew Pace produced the 9mm pistol and fatally shot himself.

VIII.

SUMMARY OF ARGUMENT

The St. George Defendants' statement of the issues attempts unduly to broaden them so as to dilute the attention that each assigned error merits. A Motion to Dismiss requires a careful examination of the underlying facts and law. As shown in Plaintiffs' opening brief and below, service of the Notice of Claim was effective, and thus the District Court erroneously dismissed the case. Moreover, the St George Defendants do not merit governmental immunity under the particular facts of this case and the law. Consequently, there will be matters to litigate as genuine issues of law and fact when this Court sets aside the dismissal of the action and remands the case for proceedings on the merits. This Court reviews for errors of law and, consequently, need not defer to the

decision of the District Court below. *Gurule v. Salt Lake County*, 69 P.3d 1287, 2003 UT 25.

IX.

ARGUMENT

I. Plaintiff Met the Requirement of Utah Statutes Concerning Service of Notice Of Claim

Utah's Governmental Immunity Act (UGIA) provides that a claim against a governmental entity must be filed by giving notice within one year after the claim arises regardless of whether the function giving rise to the claim is characterized as governmental. *Utah Code Ann.* § 63-30-13 (repealed July 2004 and replaced with *Utah Code Ann.* § 63-30d-401(2) which does not differ appreciably from the previous statute). Assuming that the repealed statute controls the Plaintiffs' substantive rights; the new statute provides the procedure Plaintiffs could have followed for effecting a Notice of Claim.

The procedure in the new statute for Notice of Claim provides that "[e]ach governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing: (i) the name and address of the governmental entity; (ii) the office or agent designated to receive a notice of claim; and (iii) the address at which it is to be directed and delivered." *Utah Code Ann.* § 63-30d-401(5)(a). The City of St. George did just that. See Appellee's Brief, Addendum "Certified Copy for St. George" and accompanying page (asserting compliance with sub (a) above).

The new statute further provides that “the notice of claim shall be * * * directed and delivered by hand or mail * * * to the office of: the city or town clerk, when the claim is against an incorporated city or town, *Utah Code Ann.* § 63-30d-401(3)(b)(ii)(A); * * * or the agent authorized by a governmental agency to receive the Notice of Claim by the governmental entity under subsection 5(e)¹.” *Id.* at (G). The Defendants’ reason that because Plaintiffs did not “serve” the “town clerk” under sub (A) that Plaintiffs’ Notice of Claim is deficient and therefore did not “strictly comply” with the statute. However, Plaintiffs’ served the City of St. George’s designated agent under sub (G), thus affecting a valid Notice of Claim. The District Court failed to account for the authorized agent provision under sub (G) and (5)(e), and thus erred in dismissing the case for lack of subject matter jurisdiction.

Case law casts some light on the purpose and the interpretation of the statute. For example, several cases concerning full compliance with the Notice of Claim provisions have dealt with filing a Notice of Claim with the governing body of the political subdivision within one year after the claim arises. *See, e.g., Busch v. Salt Lake International Airport*, 921 P.2d 470, 471 (Utah 1996); *Scarborough v. Granite School District*, 531 P.2d 480, 482 (Utah 1975). Thus, cases in which the plaintiff sent Notice of Claim to a claim adjuster, even perhaps at the claim adjuster’s suggestion, have not

¹ “A governmental entity may, in its statement, identify an agent authorized by the entity to accept notice of claim on its behalf.” *Utah Code Ann.* § 63-30d-401(5)(e). The City of St. George did so by identifying Gay Cragun in the statement to the Utah Department of Commerce Division of Corporations & Commercial Code mentioned above (“Certified Copy” in Appellee’s Brief). Plaintiffs directed and delivered Notice of Claim to Gay Cragun. *See* Affidavit of Jason Neal, attached as Exhibit A to Plaintiff’s Memorandum in Opposition to Defendant’s Motion to Dismiss, July 26, 2005.

constituted adequate service. *See. e.g., Greene v. Utah Transit Authority*, 37 P.3d 1156 (Utah 2001) (plaintiff did not deliver the notice to the president or secretary of the UTA Board); *Brown v. Utah Transit Authority*, 40 P.3d 638 (Utah 2002) (improperly mailed notice to an employee of UTA’s risk department); *Wheeler v. McPherson*, 40 P.3d 632 (Utah 2002) (filed with commissioners rather than clerk). *Wheeler* dealt with a case in which the county argued that Plaintiff’s Notice of Claim was insufficient because Plaintiff had served it on the Cain County Commissioners rather than upon the Cain County Clerk. 40 P.3d at 634. There, however, the Plaintiff did not provide notice to the county clerk and the court concluded that actual notice did not absolve a party of its duty to comply strictly with the Act. *Id.* at 637. Those cases are distinguishable from the case at bar because those Plaintiffs did not follow the statute; whereas, Plaintiffs in this case did.

In interpreting a statute, the primary focus necessarily is upon the intention of the legislature. Any proposed interpretation of the statute must be compatible with its purpose and objective. *Wills v. Heber Valley Hist. Railroad Authority*, 79 P.3d 934, 936 (Utah 2003) (citing *O’Keefe v. Utah State Ret. Bd.*, 956 P.2d 279, 280 (Utah 1998)). Consequently, the purpose and intent of the legislature must guide a decision concerning “strict compliance with the notice provisions” of the Act. Thus, attempts to avoid the effectiveness of a Notice of Claim by the argument that the notice was delivered at the “wrong” address of two addresses for the Utah Attorney General were unavailing. *See Wills*, 79 P.3d at 936; *see also Brown v. Utah Transit Authority*, 40 P.3d 638, 639 (Utah

2002). Looking to the purpose and intent of the governmental immunity act, the Utah Supreme Court noted that the purpose is to “afford the responsible public authorities an opportunity to pursue a proper and timely investigation of the merits of a claim and to arrive at a timely settlement, if appropriate, thereby avoiding the expenditure of public revenue for costly and unnecessary litigation.” *Stahl v. Utah Transit Authority*, 618 P.2d 480, 482 (Utah 1980). When Plaintiffs in the case at bar served Notice of Claim on Gay Cragun, they did all they could to effectuate valid notice under the statute.

Defendant St. George’s argument focuses on alleged failure to direct the Notice of Claim to the city recorder, Gay Cragun. Appellee’s Brief at 13-16. That argument overlooks the actual service on Gay Cragun which Plaintiffs’ attorney accomplished on March 3, 2005 pursuant to their inquiry with the St. George City offices. *See* Exhibit A of Plaintiff’s Supplemental Memorandum in Opposition to Defendant’s Motion to Dismiss, attached as Appendix 1 to this brief. *See also*, the affidavit of Jason Neal, attached as Exhibit A to Plaintiff’s Memorandum in Opposition to Defendant’s Motion to Dismiss, attached as Appendix 2 to this brief. That affidavit notes that Gay Cragun inquired as to why she was being served a duplicate set of documents before she accepted them. (Items 23 and 25.) Thus, those exhibits prove that, among other things, Gay Cragun was originally served with a Notice of Claim pursuant to statute by Plaintiffs’ prior counsel. Although Gay Cragun’s name does not appear on the Notice of Claim, Plaintiffs directed and delivered the Notice of Claim to Gay Cragun in her official capacity as authorized agent at the address listed on the original Notice of Claim.

Consequently, this is not a case involving a service of notice which involves a Plaintiff giving no notice. *See, e.g., Madsen v. Borthick*, 658 P.2d 627, 628 (Utah 1983). Nor is it a case in which the Plaintiff filed only one of the two required notices such as in *Lamarr v. Utah State Dep't of Trans.*, 728 P.2d 535, 541 (Utah App. 1992). This also is not a case in which the Notice of Claim was defective in form or content such as in *Cox v. Utah Mortgage and Loan Corp.*, 716 P.2d 783, 786 (Utah 1986) (letter did not assert a claim for damages), or in which the Notice of Claim was not filed within one year. *See, e.g., Richards v. Leavitt*, 716 P.2d 276, 277 (Utah 1985) (*per curiam*).

As a further example, in *Bischel v. Merritt*, 907 P.2d 275, 276 (Utah App. 1995) the county sought to dismiss because the Plaintiff's Notice of Claim was addressed to an attorney at the Salt Lake County Attorney's Office rather than to the county commission. In that case, looking to the primary purpose of the statute, the court found that proper Notice of Claim was accomplished "because Bischel directed and delivered her notice precisely as instructed by the statute and the County Commission * * * *." *Id.* at 279. In the case at bar, Plaintiffs served more than just the authorized agent Gay Cragun as directed by the city; Plaintiffs also served Notice of Claim on the governmental entity and governing board. It is inconsistent at best for the city to instruct Plaintiffs to serve Gay Cragun and then argue Notice of Claim was inadequate because Plaintiff did as directed. *Id.* Service of the Notice of Claim was sufficient and the District Court erroneously dismissed Plaintiffs' Complaint.

II. The St. George Defendants are Not Immune from Suit Under the Utah Governmental Immunity Act.

The St. George Defendants assert that they are immune from suit under the doctrine of Sovereign Immunity because it is retained when a suit is for negligently causing injury arising out of the incarceration of any person. *Utah Code Ann.* § 63-30-10(10). However, Plaintiff William Pace had not been incarcerated for purposes of the immunity discussed in the *Madsen* case. *Madsen v. State*, 583 P.2d 92 (Utah 1978) (plaintiff injured during surgery while an inmate). Instead, Plaintiff was under arrest but not subject to post-sentencing confinement. As such, the government does not enjoy blanket immunity for its actions.

Governmental immunity traditionally lies when the government is engaged in policy-making decisions (discretionary), not when the government's actions deal with the ministerial duties of carrying out policy. *See e.g., Sandberg v. Layman, Jensen and Donahue, L.C.*, 76 P.3d 699 (Utah App. 2003). In this case, the police had arrested Plaintiff and he was under questioning and investigation, but he had not yet appeared in court and had not yet been sentenced. In carrying out the ministerial functions of arrest and investigation, the police necessarily must act with care, not only to protect themselves and the public but to protect those in their custody. Thus, this case is distinctly different from those in which incarceration is involved following arrest or sentencing or commitment to a state mental hospital because, in those instances, the searches conducted must necessarily be adequate to insure the safety of the confined individual, or others confined, and of their custodians. Thus, *Emery v. State*, 483 P.2d

1296 (Utah 1971) is not on point. Mere confinement does not relieve the government of the duty to insure, at a reasonable level, the safety of those it confines.

III. The Concept of Governmental Immunity Does Not Exonerate the Government from Suit Under the Facts of This Case.

St. George Defendants urge that, as an additional ground for affirming the District Court's dismissal of Plaintiffs' Complaint, the Governmental Immunity Act of Utah and the Utah Governmental Immunities Act provide that governmental entities and their employees are immune from suit for any injury which results from the exercise of a "governmental function." Appellee's Brief at 19-20 citing *Utah Code Ann.* § 63-30-3(1) and 63-30(d)-201(1). Relying on the statute that states that immunity is not waived for injuries caused as a result of "making an inadequate or negligent inspection," St. George Defendant urges that the St. George Defendants' are immune from suit. Appellee's Brief at 20. This is because St. George Defendants insist that the St. George Defendants did not owe a duty to Plaintiff.

However, St. George Defendants' argument is flawed in significant ways. When the government acts, it is not invariably acting in an "governmental function" that enjoys immunity. Instead, consistent with the concept of immunity for only discretionary or policy decisions, the term "governmental function" imports the concept of actions reflecting policy decisions only government can make. Beyond those, as the enactment of the governmental immunity act generally recognizes, sovereign immunity does not operate and the government may be liable for negligence in failing to carry out its various functions in a reasonable or safe fashion. *See generally Condemarin v. University Hosp.,*

775 P.2d 348, 349-51 (Utah 1989) (citing *Standiford v. Salt Lake City Corp.*, 605 P.2d 1230 (Utah 1980) and *Brittain v. State ex rel Utah Dept. of Employment SEC*, 882 P.2d 666, 669-70 (Utah App. 1994). The negligent search in this case did not represent a policy decision meriting governmental immunity but rather negligence of a ministerial type subjecting the St. George Defendants to suit.

St. George Defendants also urge that because there was no allegation that the arresting officers were aware of any suicidal potential that Plaintiff, William Pace, personally presented, the general rule that law enforcement officers owe a duty to the public as a whole, not to an individual, controls. However, duty imports the concept of reasonableness in dealing with the public. Consequently, officers claiming that they were unfamiliar with the specific tendency of the decedent is not an excuse. Instead, the risk to individuals acting against their interest while in confinement is sufficiently widespread that reasonable law enforcement procedures would encompass this possibility, requiring a more thorough search not only to protect the person subject to custody but the general public as a whole. The Kansas case *Commercial Union Ins. Co. v. City of Wichita*, 536 P.2d 54, 63-64 (Kansas 1975) is not controlling, particularly because it dealt with the potential liability of an individual police officer, rather than the city generally.

Moreover, even if people are inherently less controllable than physical things, a certain kind of relationship exists when those with authority place another individual in their custody. When a person exerts control over another and confines them so that they do not have control over their liberty, they are not able to fend for themselves. They

become dependent upon their custodians. Because of the individual nature of different people, reasonable police practices would encompass contemplating the prospect of a subject's suicide or the prospect of a subject harming others and reasonable procedures would require taking steps to prevent such harm. Thus, the question is not whether the arresting officers knew Plaintiff, William Pace, to be uniquely dangerous to himself, but rather whether a reasonable police officer, operating consistently with reasonable police practices, would have conducted a careful search to prevent harm to the person confined, to the police officers and to others in the public generally. *Higgins v. Salt Lake County*, 855 P.2d 231, 236 (Utah 1993) thus does not control. In *Higgins*, a special relationship and consequential duty may have existed when the Defendant knew of the potential danger an individual who was released from mental health ward might have posed to others. 855 P.2d 240. Thus, granting the Defendant's Motion for Summary Judgment was error. Nonetheless, the Supreme Court found that the Governmental Immunity Act barred an action for a stabbing because of a specific provision of that act. However, that section does not apply here as there was no assault or battery of a third person. Thus, Plaintiffs have stated a cause of action and the District Court erroneously dismissed the complaint for lack of subject matter jurisdiction. The claim has merit which a fact-finder must consider under Utah law.

X.

CONCLUSION

For the reasons stated in Plaintiffs/Appellants' opening brief and this reply brief, this Court should reverse the District Court's dismissal and remand the case back to the District Court for trial on the merits.

DATED this 5th day of September 2006.

MATTHEW T. GRAFF & ASSOCIATES



Mark H. Graff, *Attorney for Plaintiffs/Appellants*

PROOF OF SERVICE

I, Jennifer Taylor, Legal Assistant, hereby certify that on the 5th day of September 2006, I caused to be mailed, U.S. first-class postage prepaid, true and correct copies of the above and foregoing *Appellants' Reply Brief*, to the following:

JESSE C. TRENTADUE

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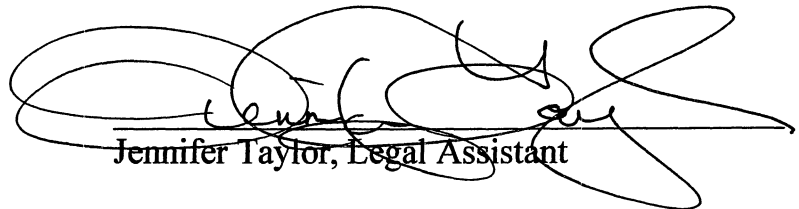
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175 East 200 North

St. George, Utah 84770



Jennifer Taylor, Legal Assistant

ADDENDUM

1. Exhibit A of Plaintiffs' Supplemental Memorandum in Opposition to Defendants' Motion to Dismiss
2. Affidavit of Jason Neal, Exhibit A to Plaintiffs' Memorandum in Opposition to Defendants' Motion to Dismiss

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Of Counsel
Richard I. Ashton
[Inactive]

NOTICE OF CLAIM

July 2, 2004

VIA CERTIFIED MAIL AND REGULAR MAIL

St. George Police Department
200 East 265 North
St. George, Utah 84770

City of St. George
175 East 200 North
St. George, Utah 84770

Mayor Daniel McArthur
175 East 200 North
St. George, Utah 84770

City Council Member - Suzanne Allen
175 East 200 North
St. George, Utah 84770

City Council Member- Larry Gardner
175 East 200 North
St. George, Utah 84770

City Council Member- Rodney Orton
175 East 200 North
St. George, Utah 84770

City Council Member- Robert Whatcott
175 East 200 North
St. George, Utah 84770

Re: Our Client: Kristy Pace, widow to Matthew Pace

Date of Incident: March 13, 2004

TO WHOM IT MAY CONCERN:

This letter shall serve as Notice of Claim upon the City of St. George pursuant to Utah Code Ann. § 63-30-1 et. seq. Further, governmental immunity is deemed waived in this matter.

SECTION I Statement of Facts

On March 13, 2004, an officer at the St. George Police Department, believed to be Officer Collard arranged for Matthew Pace to come into the police department for an interview regarding an alleged theft. At the time of the interrogation, the police department performed a pat down search on Matt Pace to check for weapons and presumably other potentially dangerous objects. It is also believed that Mr. Pace again underwent a second pat down search while in police custody. Subsequent to these searches, Mr. Pace asked to use the restroom. Accordingly, two St. George police officers escorted Mr. Pace to the restroom and stood, in presence, approximately 12 feet away while he was in the restroom facilities. At this time, he pulled a hand gun from his belt region and shot himself in the head. Mr. Pace died immediately. Mr. Pace was not searched with a magnetometer.

SECTION II Nature of the Claim

This claim is against the City of St. George, and more particularly the St. George Police Department for the wrongful death of William Matthew Pace, who, while under worry and duress while being in police custody, was not properly searched either manually, or through the use of a magnetometer for a dangerous weapon. The negligence of improperly searching and securing the safety of Mr. Pace directly resulted in his death, and the endangerment of other individuals in the police facility. The claim is brought by and through Kristy Pace, Mr. Pace's wife, and personal representative to his estate, both in her individual and personal representative capacity. The claim is asserted under one or more of the provisions of Utah Governmental Immunity Act.

SECTION III Injuries and Damages Sustained

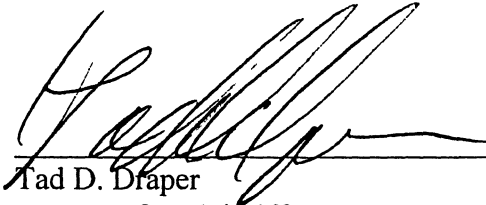
The injuries are, loss of support, companionship, society and other losses and injuries pertaining to a wrongful death action on behalf of Kristy Pace and the heirs of Matthew Pace. The compensable loss and damages resulting from the wrongful acts of the St. George Police Department include, but are not limited to the necessary and reasonable cost and loss associated with Mr. Pace's wrongful death, including funeral expenses and the economic loss, both present and future. The full value of this has not currently been determined, but would include a

calculation for present and future wage loss as well as general damages for pain, suffering, loss of society and companionship, which is not currently known, but will be established upon further discovery and investigation.

SECTION IV
Acknowledgment

This Notice of Claim is intended to comply with the provisions set forth in Utah Code Ann. § 63-30-12 et seq. The undersigned is a duly authorized attorney of the Claimants by written agreement.

DATED this 2 day of July, 2004


Tad D. Draper
Attorney for Plaintiff

COPY

AFFIDAVIT OF SERVICE AND DELIVERY

Having been duly sworn, I hereby depose and say that I am a resident of the State, and a Citizen of the United States, that I am over the age of 21 years, am not a party to or interested in any action being taken. That at the time of service I did endorse upon the copies left for the person being served, the date and my name thereto.

I served: Gay Cruggins

Located at: 175 E. 200 N.

On the: 3rd day of March, 2005.

At the hour of: 10:10 A.m.

Who is the: (X) Defendant () Plaintiff () Garnishee () Witness
() Other () Respondent

DOCUMENT(S) SERVED: (X) Summons and Complaint

MANNER OF SERVICE: (X) Personally served () At the dwelling, house or usual place of abode with some person of suitable age and discretion there residing.
() By delivering a copy to an agent authorized by appointment or by law to receive process
() By posting in a conspicuous manner (Upon the main entry point)

COMMENTS:

CLIENT INFORMATION: _____

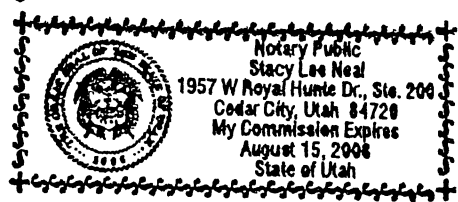
Dated this: 3rd day of March, 2005.

[Signature]
Process Server

SUBSCRIBED AND SWORN BEFORE ME THIS: 3 day of March, 2005.

Service Fees \$: _____

[Signature]
Notary Public



COPY

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I served: Gay Grugun

Located at: 175 E. 200 N.

On the: 4th day of March, 2005.

At the hour of: 8:40 A.m.

Who is the: ☒ Defendant ☐ Plaintiff ☐ Garnishee ☐ Witness
☐ Other ☐ Respondent

DOCUMENT(S) SERVED: ☒ Summons and Complaint

MANNER OF SERVICE: ☒ Personally served ☐ At the dwelling, house or usual place of abode with some person of suitable age and discretion there residing.
☐ By delivering a copy to an agent authorized by appointment or by law to receive process
☐ By posting in a conspicuous manner (Upon the main entry point)

COMMENTS:

CLIENT INFORMATION: _____

Dated this: 4th day of March, 2005.

[Signature]
Process Server

SUBSCRIBED AND SWORN BEFORE ME THIS: 4th day of March, 2005.

Service Fees \$: _____

[Signature]
Notary Public

