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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CINDY VAN LOO, an Oregon
resident, as Personal Representative
of the ESTATE OF MICHAEL F.
REINOEHL,

Plaintiff,

v.

THE UNITED STATES OF
AMERICA; PIERCE COUNTY, a
political subdivision of the State of
Washington; the MUNICIPALITY
OF LAKEWOOD, a municipal
corporation; STATE OF
WASHINGTON; JAMES OLEOLE,
an individual; CRAIG GOCHA, an
individual; MICHAEL MERRILL, an
individual; and JACOB
WHITEHURST, an individual.

Defendants.

No. 3:23-cv-05618

COMPLAINT FOR DAMAGES

JURY DEMAND

1 Plaintiff demands a jury trial and alleges:

2 **I. INTRODUCTION**

3 Final two minutes of Defendants' radio traffic, September 3, 2020:

4 6:51:42 p.m.	Defendant Oleole	<i>He's getting in the Jetta, we should take him, he's in the Jetta</i>
5 6:51:49 p.m.	Unidentified Officer #1	<i>We're too far, let him drive</i>
6 6:52:17 p.m.	Unidentified Officer #2	<i>Jetta's running, Jetta's running, break lights are on</i>
7 6:52:28 p.m.	Defendant Oleole	<i>Let's go take him</i>
8 6:52:32 p.m.	Unidentified Officer #2	<i>He's blocked from the rear, just go in the front</i>
9 6:52:36 p.m.	Defendant Oleole	<i>Alright we're moving</i>
10 6:52:44 p.m.	Unidentified Officer #1	<i>Are you guys taking him? Cause we gotta move if you are</i>
11 6:53:07 p.m.	Unidentified Officer #4	<i>Shit shit bro</i>
12 6:53:12 p.m.	Defendant Oleole	<i>Take him now, take him</i>
13 6:53:31 p.m.	Defendant Oleole	<i>Fired, shots fired</i>

14 On a sunny September afternoon in Lacey, Washington, state and local
15 law enforcement officers dressed in militia-style fatigues raced a short distance
16 through a quiet residential neighborhood in three unmarked SUVs toward their
17 target: a man they were supposed to arrest.
18
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1 Without any warning or announcement that they were police, four
2 officers opened fire with automatic assault rifles and handguns. Their first shots
3 were fired from inside one of the SUVs, shooting through their own windshield
4 into a parked Jetta passenger vehicle. The officers then jumped out of the SUVs
5 and continued firing.
6

7
8 Startled by this sudden and unprovoked attack, the man ducked and ran
9 away from the threat, looking for cover. He only made it a few yards before he
10 was surrounded and gunned down. Although the man had a pistol in his pocket,
11 he never fired it or even pulled it from his pocket. Meanwhile, the officers
12 sprayed more than 40 bullets through the neighborhood, killing the man,
13 grazing a child playing nearby, and striking cars, fences, backyard playground
14 equipment, buildings, and residences.
15

16
17 The actions of the officers, before, during, and after the shooting, show
18 that they either had no plan to arrest the man without injury, made no effort to
19 follow such a plan, or planned to use deadly force from the start.
20

21 This case involves the killing of Michael Forest Reinoehl (“Reinoehl”)
22 by Washington state and local police officers operating under the vanishingly
23 thin pretense of a United States Marshals Service (“USMS”) task force.
24

25 This complaint asserts that the state and local police officers who shot
26 and killed Reinoehl were acting under color of state law, and so are liable under

1 42 U.S.C. § 1983 and Washington tort law. Their local government employers
2 are also liable under state law. Should this Court conclude that the shooters
3 were not state actors for purposes of § 1983 and/or state tort law, this complaint
4 asserts alternative claims against those Defendants under *Bivens v. Six*
5 *Unknown Named Agents*, 403 U.S. 388 (1971) and the Federal Tort Claims Act
6 (FTCA).
7
8

9 The USMS is sued under the FTCA for negligent acts, omissions,
10 policies, and practices that led to Reinoehl's death.
11

12 II. JURISDICTION AND VENUE

13 2.1 This action asserts both state and federal law claims, including 42
14 U.S.C. § 1983 and 28 U.S.C. Chapter 171.
15

16 2.2 This Court has jurisdiction over this action pursuant to 28 U.S.C. §
17 1331 [*federal question*], 28 U.S.C. 1332 [*diversity*], 28 U.S.C. § 1343 [*civil*
18 *rights*], and 28 U.S.C. 1346(b)(1) [*US as defendant*].
19

20 2.3 Venue is proper in this judicial district under 28 U.S.C. §
21 1391(b)(2) because a substantial part of the events, acts, and omissions giving
22 rise to the claim occurred in this judicial district.
23

24 III. PARTIES

25 3.1 Plaintiff Cindy Van Loo (she/her/hers) of Van Loo Fiduciary
26 Services, LLC is a resident of Oregon state. She is the duly appointed Personal

1 Representative of the Estate of Michael Reinoehl (“Plaintiff Estate”), a probate
2 action arising from the death of Michael Forest Reinoehl (“Reinoehl”). Plaintiff
3 Estate is admitted to administration by the Circuit Court of the State of Oregon
4 for the County of Multnomah, case number 20PB07353.
5

6 3.2 Under Washington state law, Plaintiff Estate is the proper party to
7 bring claims on behalf of the Estate and its beneficiaries. The beneficiaries of
8 Plaintiff Estate are Reinoehl’s children, Deaven Reinoehl (“Deaven”
9 he/him/his) and L.L.R. (a minor).
10

11 3.3 Defendant James Oleole (“Defendant Oleole,” he/him/his) is an
12 individual. He is believed to be a resident of Washington state. At all times
13 material to this action, he was employed by the Pierce County Sheriff’s
14 Department as a law enforcement officer and acted within the scope of
15 employment.
16
17

18 3.4 Defendant Craig Gocha (“Defendant Gocha,” he/him/his) is an
19 individual. He is believed to be a resident of Washington state. At all times
20 material to this action, he was employed by the Pierce County Sheriff’s
21 Department as a law enforcement officer and acted within the scope of
22 employment.
23
24

25 3.5 Defendant Michael Merrill (“Defendant Merrill,” he/him/his) is an
26 individual. He is believed to be a resident of Washington state. At all times

1 material to this action, he was employed by the Lakewood Police Department as
2 a law enforcement officer and acted within the scope of employment.
3

4 3.6 Defendant Jacob Whitehurst (“Defendant Whitehurst,” he/him/his)
5 is an individual. He is believed to be a resident of the State of Washington. At
6 all times material to this action, he was employed by the Washington State
7 Department of Corrections as a law enforcement officer and acted within the
8 scope of employment.
9

10 3.7 Defendant Pierce County (“Defendant County”) is a local
11 government organized under Washington state law. It operates and is
12 responsible for the liabilities of the Pierce County Sheriff’s Department and its
13 employees acting within the scope of their employment.
14

15 3.8 The Municipality of Lakewood (“Defendant City”) is a municipal
16 corporation organized under Washington state law. It operates and is responsible
17 for the liabilities of the Lakewood Police Department and its employees acting
18 within the scope of their employment.
19

20 3.9 Defendant State of Washington (“Defendant State”) is a sovereign
21 state government duly admitted to the United States of America. It has waived
22 sovereign immunity for itself pursuant to the terms of RCW 4.92.090 and for
23 local governments and municipal corporations organized under its laws
24 pursuant to the terms of RCW 4.96.010. It operates and is responsible for the
25
26

1 liabilities of the Washington State Department of Corrections and its employees
2 acting within the scope of their employment.

3
4 3.10 Defendant The United States of America (“Defendant
5 Government”) is the sovereign domestic national government. It has waived
6 sovereign immunity for its own liabilities pursuant to the terms of 28 U.S.C. §
7 2674. It operates and is responsible for the liabilities of the United States
8 Marshals Service (USMS) and that of its employees acting within the scope of
9 their employment. Ryan Kimmel (“Kimmel,” he/him/his) is an individual. At all
10 times material to this action, he was employed by the USMS as a law
11 enforcement officer and acted within the scope of his employment.
12
13

14 **IV. PROCEDURAL REQUIREMENTS**

15 4.1 Plaintiff Estate has satisfied all pre-filing claim presentment
16 requirements under RCW 4.92.110, RCW 4.96.020, and 28 USC § 2401.
17

18 4.2 Claims for damages to Plaintiff Estate and its beneficiaries were
19 presented to Defendant County on or about June 14, 2021.
20

21 4.3 Claims for damages to Plaintiff Estate and its beneficiaries were
22 presented to Defendant City on or about June 14, 2021.
23

24 4.4 Claims for damages to Plaintiff Estate and its beneficiaries were
25 presented to Defendant State on or about June 14, 2021.
26

1 5.8 At all times relevant to this action, Defendants Oleole, Gocha,
2 Merrill, and Whitehurst (“Local Officer Defendants”) were employed by
3 Washington state, county, or municipal law enforcement agencies.
4

5 5.9 None of the Local Officer Defendants were employed by a federal
6 department or federal agency at the time of the shooting.
7

8 **MULTNOMAH ALLEGATIONS**

9 5.10 At the time of the shooting, the Local Officer Defendants were
10 ostensibly attempting to arrest Reinoehl on a warrant issued by the Multnomah
11 County Circuit Court (“Multnomah Arrest Warrant”).
12

13 5.11 Multnomah County is in the state of Oregon. The City of Portland
14 is entirely within Multnomah County.
15

16 5.12 The Multnomah Arrest Warrant was based on a Portland Police
17 Bureau detective’s affidavit of probable cause that Reinoehl committed two
18 Oregon state law offenses in Multnomah County on August 29, 2020
19 (Multnomah Allegations) relating to the homicide of Aaron Danielson
20 (“Danielson”).
21

22 5.13 The Multnomah Allegations occurred in downtown Portland
23 during a far-right demonstration where hundreds of far-right activists, including
24 Danielson, descended on the City of Portland while armed with deadly force
25
26

1 and with the express intention of confronting and disrupting ongoing protests
2 against police violence. Reinoehl was heavily involved in those protests.
3

4 **DRIVE-BY SHOOTING IN PORTLAND**

5 5.14 Late in the evening on August 30, 2020, or early the following
6 morning, one or more individuals fired live ammunition at, and hit, Reinoehl's
7 home in Portland.
8

9 5.15 The drive-by shooting occurred while Reinoehl's children, Deaven
10 and L.L.R., were at the home.

11 5.16 Over the following days, one or more individuals made true threats
12 on social media against Reinoehl's life and that of his family.
13

14 5.17 Reinoehl and his family were aware of these threats.

15 5.18 Reinoehl and his family presumed the drive-by shooting and
16 threats were made by armed, violent, far-right extremists and militias.
17

18 5.19 Due to the drive-by shooting and threats, Reinoehl and his family
19 went into hiding.
20

21 **POLITICIZATION OF THE MULTNOMAH ALLEGATIONS** 22 **AND ASSERTION OF SELF-DEFENSE**

23 5.20 From September 1-3, 2020, the Multnomah Allegations were the
24 subject of national news coverage.
25
26

1 5.21 During that time, the Multnomah Allegations were also publicly
2 addressed by candidates running for the American presidency including at least
3 eleven “Tweets” by the then-President of the United States.
4

5 5.22 In early September 2020, Reinoehl recorded an interview with a
6 national media outlet responding to the news coverage and politicization of the
7 Multnomah Allegations.
8

9 5.23 During the interview, Reinoehl asserted that the homicide
10 underlying the Multnomah Allegations was a lawful act of self-defense and
11 defense of another person. Reinoehl asserted that Danielson, an adult male and
12 far-right activist who was armed with several weapons including a gun at the
13 time of the shooting, posed an immediate threat of serious physical injury or
14 death.
15
16

17 5.24 Under Oregon state law, defense of self or others is privileged and
18 a complete defense to criminal charges. Oregon self-defense law includes no
19 duty to retreat. If Reinoehl’s assertions were correct, the shooting death of
20 Danielson would have been justifiable homicide under Oregon law.
21

22 5.25 Under Oregon law, a criminal prosecutor has the burden of proving
23 beyond a reasonable doubt both (1) the elements of the offense and (2)
24 disproving the affirmative defense of self or others. In other words, the
25 prosecutor would have to prove to a jury beyond a reasonable doubt that
26

1 Reinoehl was *not* acting in self-defense or defense of others when he shot
2 Danielson.

3
4 5.26 Under state and federal law, Reinoehl was entitled to Due Process
5 and to face the Multnomah Allegations in a court of law. Under state and federal
6 law, unless and until a prosecutor proved Reinoehl guilty beyond a reasonable
7 doubt to a jury, Reinoehl was presumed innocent.
8

9 **TASK FORCE BRIEFING**

10 5.27 At approximately 3:30 p.m. on September 3, law enforcement
11 officers met in private to plan how to “take” Reinoehl (“Briefing”).
12

13 5.28 The Briefing occurred in Pierce County, Washington,
14 approximately 130 miles north of Multnomah County.

15 5.29 Pierce County is the territorial jurisdiction of Defendant County.

16
17 5.30 The Briefing occurred at a law enforcement facility owned and
18 operated by Defendant (Pierce) County.

19
20 5.31 The Briefing was conducted by Erik Clarkson, an employee of
21 Defendant County.

22 5.32 The Briefing was attended by the Local Officer Defendants, USMS
23 employee Kimmel, and other law enforcement officers.
24

25 5.33 The Briefing provided the officers with information about
26 Reinoehl.

1 5.34 Much, if not all, of the information provided during the Briefing
2 was gathered by Portland Police Bureau detectives.
3

4 5.35 Information reported to the officers included the claim that
5 Reinoehl was a ‘fugitive’ from the Multnomah Allegations (which had not yet
6 been filed) and the Multnomah Arrest Warrant (which had not yet been issued).
7

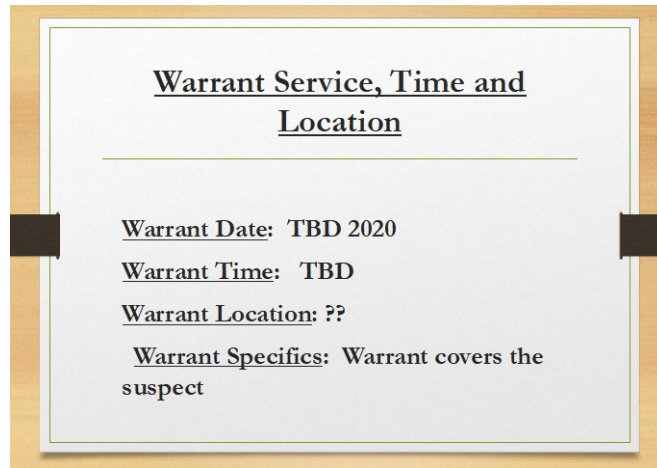
8 5.36 Information provided during the Briefing included the inaccurate,
9 misleading, incomplete, and/or out of context information, such as the claim
10 that Reinoehl considered himself to be at “war” with police.
11

12 5.37 On information and belief, the Briefing did not alert Defendants to
13 material facts such as that rightwing extremists had made threats on social
14 media to kill Reinoehl, Reinoehl’s assertion of self-defense to the Multnomah
15 Allegations, or that Danielson was armed with a gun when Reinoehl shot him.
16

17 5.38 The Briefing was supposed to develop a detailed plan to arrest
18 Reinoehl in Thurston County, Washington. However, other than sharing the
19 inaccurate, misleading, incomplete, and, and/or out of context information
20 about the danger Reinoehl posed, no real plan to arrest Reinoehl appears to
21 have been developed.
22

23 5.39 The Briefing did not develop contingencies for when, where, and
24 how to “take” Reinoehl.
25
26

1 5.40 The PowerPoint slide shown at the Briefing with respect to the
2 expected warrant service showed no substantive information:
3



12 5.41 The Briefing did not include any plan for officers to attempt to
13 announce or identify themselves as law enforcement, to give any warning
14 before using deadly force, or to give Reinoehl any opportunity to surrender.
15

16 5.42 The Briefing did not consider or comply with the standard of care
17 for high-risk law enforcement operations.
18

19 5.43 The Briefing did not provide for any attempt to alert or coordinate
20 with Thurston County law enforcement regarding the attempt to “take”
21 Reinoehl.
22

23 5.44 The Briefing did not develop a plan for how the individual
24 Defendants would communicate with one another before or during the attempt
25 to “take” Reinoehl.
26

1 5.45 The PowerPoint slide shown at the briefing that addressed team
2 communications included almost no information and a series of question marks
3 (“???”):
4



15 5.46 Instead of developing a communication plan, the individual
16 Defendants relied on Pierce County law enforcement radio frequencies while
17 operating in Thurston County.
18

19 5.47 It was predictable that Pierce County radio frequencies would be
20 inadequate for communicating in Thurston County.
21

22 5.48 Individual Defendants, and their respective supervisors and chains
23 of command, knew or should have known that Pierce County radio frequencies
24 would be inadequate for communicating in Thurston County.
25
26

1 5.56 Defendant Merrill's VOTF membership expired on August 31,
2 2020.

3
4 5.57 State and local law enforcement officers, including the Local
5 Officer Defendants, were not transformed into federal agents by mere VOTF
6 membership.

7
8 5.58 VOTF membership did not render the Local Officer Defendants'
9 oaths, rights, and duties under color of Washington state law void.

10 5.59 While the Local Officer Defendants were operating with VOTF,
11 the Defendant County and City failed to require the Local Officer Defendants to
12 adhere to their oaths, rights, and duties under color of Washington state law.

13
14 5.60 The Local Officer Defendants' training, law enforcement
15 certification, legal privileges, and access to informational databases and other
16 resources, were enjoyed because of their status as law enforcement officers
17 under color of Washington state law.

18
19 5.61 These benefits enjoyed under color of state law formed the basis of
20 the Local Officer Defendants' participation in VOTF.

21
22 5.62 On information and belief, neither Defendant County nor
23 Defendant City required their Local Officer Defendant employees to comply
24 with their policies and procedures while operating with VOTF.
25
26

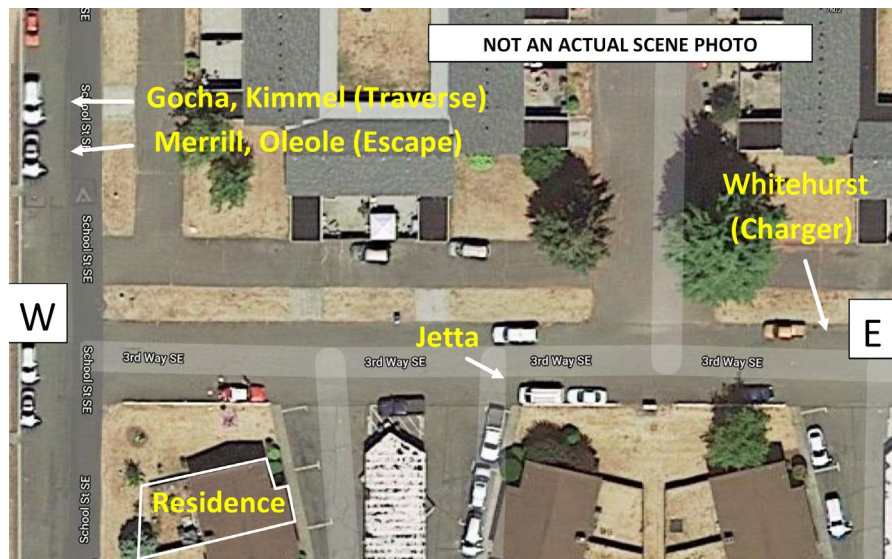
1 5.70 The home was located at the corner of School Street SE and 3rd
2 Way SE (“Residence”).

3
4 5.71 The passenger vehicle (“Jetta”) was parked approximately 120 feet
5 from the Residence on 3rd Way SE.

6 5.72 A pickup truck was parked behind the Jetta, blocking it in from the
7 rear.

8
9 5.73 The individual Defendants were located in three “unmarked”
10 vehicles parked near the Residence and Jetta: a Ford Escape (“Escape”), a
11 Chevy Traverse (“Traverse”), and a Dodge Charger (“Charger”).

12
13 5.74 The following image identifies the approximate locations of
14 Defendants Merrill and Oleole (Escape), Defendant Gocha and USMS
15 employee Kimmel (Traverse), Defendant Whitehurst (Charger), the Residence,
16 and the Jetta:
17



1 5.75 Defendants Merrill and Oleole were the only two in the Escape.
2 Merrill was in the driver’s seat. Oleole sat in the front passenger seat. The
3 Escape was parked on School Street SE, facing south.
4

5 5.76 Defendant Gocha and USMS employee Kimmel were the only two
6 in the Traverse. Gocha was in the driver’s seat. Kimmel was in the front
7 passenger seat. The Traverse was parked behind the Ford Escape on School
8 Street SE, facing south.
9

10 5.77 Defendant Whitehurst was the only person in the Charger. He sat
11 in the driver’s seat. The Charger was parked on Third Way SE, facing west.
12

13 5.78 From 6:00–6:45 p.m., individual Defendants in the three separate
14 vehicles communicated with one another by radio.
15

16 5.79 According to the Thurston County investigation conclusions, the
17 Pierce County radio frequencies they were using did not work well in Thurston
18 County.
19

20 5.80 If the Thurston County investigation conclusions are correct, prior
21 to 6:45 p.m., radio communications between the individual defendants were
22 delayed, poor-quality, garbled, hampered by static, and/or otherwise inadequate
23 and unreliable for purposes of communicating during the attempt to “take”
24 Reinoehl.
25
26

1 5.81 If the Thurston County investigation conclusions are correct, prior
2 to 6:45 p.m. on September 3, 2020, each of the individual Defendants knew or
3 should have known that their radio communications would be delayed, poor-
4 quality, garbled, hampered by static, and/or otherwise inadequate for purposes
5 of communicating during the attempt to “take” Reinoehl.
6

7 **THE SHOOTING**

8
9 5.82 The sun was shining, and visibility was clear.

10 5.83 At approximately 6:45 p.m., Reinoehl came out of the Residence.
11

12 5.84 After some delay, Reinoehl began walking toward the Jetta
13 carrying a standard size and shape backpack. Post-shooting, it was discovered
14 that this backpack contained a rifle that was disassembled, incapable of firing,
15 and entirely contained within the backpack.
16

17 5.85 Individual Defendants in the three separate vehicles began to issue
18 rapid and contradictory directives over the Pierce County radio frequencies
19 regarding the critical decision whether to “take” Reinoehl.
20

21 5.86 At least one officer radioed that they should not immediately
22 contact Reinoehl and should instead wait to contact him during a traffic stop
23 after he began driving.
24

25 5.87 At that point, the chain of command governing the individual
26 Defendants, if there ever was any, broke down.

1 5.88 Without coordinating with other officers, Defendant Oleole or
2 Merrill, neither of whom were in a supervisory or command role, made the
3 crucial decision to move in shortly after Reinoehl reached the Jetta.
4

5 5.89 Defendant Oleole radioed: “*Let’s go take him!*”; “*OK, we’re*
6 *moving!*”; “*Take him, take him now!*”
7

8 5.90 Defendant Merrill suddenly and rapidly accelerated the Escape
9 down School Street SE, swerving left at the intersection of School Street and 3rd
10 Ave. SE, charging toward the Jetta before slamming on the brakes within one
11 foot of the Jetta’s front bumper.
12

13 5.91 Within seconds of the Escape’s acceleration, Defendant Gocha
14 gunned the Traverse’s engine, racing to catch up with the Escape. Instead of
15 turning at the intersection, the Traverse cut directly across the corner, careening
16 wildly over two grassy medians before stopping suddenly next to the Escape,
17 facing the Jetta.
18

19 5.92 As the Escape screeched to a halt, Defendant Oleole fired six
20 rounds through the Escape’s front windshield, three of which pierced the Jetta’s
21 windscreen and driver’s seat headrest.
22

23 5.93 Neither the Escape nor the Traverse had emergency lights on
24 during this chaotic approach.
25
26

1 5.94 The aggressive driving and sudden shooting startled civilian
2 onlookers. They assumed they were witnessing a road rage or gang incident.

3
4 5.95 Civilian onlookers had no idea any of the individuals or vehicles
5 involved were associated with police until after the shooting stopped.

6 5.96 Defendants Oleole, Merrill, and Gocha immediately exited their
7 vehicles and began firing automatic rifles and pistols at the Jetta and Reinoehl.
8

9 5.97 USMS employee Kimmel also exited the Traverse but (according
10 to investigators) did not open fire. This is not known for a fact because (as
11 addressed below) Kimmel refused to cooperate with investigators following the
12 shooting.
13

14 5.98 From the perspective of a reasonable person in Reinoehl's shoes,
15 the aggressive driving, sudden and unprovoked shooting, and physical
16 appearance of the individual Defendants was indistinguishable from the armed
17 and violent far-right extremists who Reinoehl feared had recently shot up his
18 home (while his children were inside) and made true threats against his life.
19

20 5.99 Reinoehl ducked and ran away from the threat, alongside the Jetta
21 and the pickup truck parked immediately behind it, trying to find cover from the
22 unidentified gunmen.
23

24 5.100 Defendant Whitehurst drove the Charger up from behind and
25 stopped approximately 30 feet from, and at a 45-degree angle to, the Jetta.
26

1 5.101 The Charger’s emergency lights were supposedly on but could
2 not be seen by someone sitting in the Jetta nor from Reinoehl’s path of retreat
3 (especially while trying to dodge bullets).
4

5 5.102 None of these unmarked vehicles used a siren at any point while
6 trying to “take” Reinoehl.
7

8 5.103 After immediately exiting the Charger, Defendant Whitehurst also
9 began shooting at Reinoehl.

10 5.104 No verbal warnings or commands (if any were given) could be
11 heard over the gunfire.
12

13 5.105 Civilian witnesses who watched the shooting unfold heard no
14 verbal warnings or commands before, or at any time during, the shooting.
15

16 5.106 The round count indicated that law enforcement had fired a total
17 of more than forty rounds.

18 5.107 They sprayed these bullets through a quiet neighborhood, hitting
19 residential buildings, vehicles, backyards, and into at least one occupied
20 apartment.
21

22 5.108 Shrapnel or debris from one of the shots grazed a child who was
23 playing nearby.
24

25 5.109 Throughout the shooting, Reinoehl had a small pistol in his
26 pocket. He never removed it from his pocket, despite having ample time to do

1 so. There was no round in the chamber of the firearm meaning Reinoehl never
2 racked the pistol, despite having ample time to do so. It was still in his pocket
3 when he was laid out dead on the street.
4

5 a. Each Defendant officer was told about and/or shown the
6 pistol in Reinoehl's pocket prior to giving a statement to investigators.
7

8 b. The Defendant officers were not immediately separated
9 from one another after the shooting nor ordered to refrain from talking to one
10 another about the shooting.
11

12 c. None of the Defendant officers gave a statement to
13 investigators until at least ten days after the incident.
14

15 d. In their statements, the following Defendant officers
16 reported a belief that throughout the shooting, Reinoehl was reaching toward
17 his waist.
18

19 i. Defendant Oleole claimed to have seen Reinoehl
20 reaching for his waist area while seated in his car, and then continuously reach
21 into his waistband area while running away as Oleole continued to shoot at him.
22

23 ii. Defendant Merrill stated that Reinoehl lunged forward
24 in the Jetta, raised an object in his hand that Merrill believed was a firearm, and
25 that Reinoehl's hands were near his waistline as he ran away.
26

1 iii. Defendant Gocha stated that when Reinoehl was
2 scrambling away from the car while being shot at by Oleole and Merrill,
3 Reinoehl was reaching down with his right hand and frantically pulling on his
4 waistband/front right pocket area.
5

6 e. Defendants' post-shooting actions and procedures, which
7 resulted in contamination of individual Defendant statements through direct and
8 indirect discovery and sharing of information, is inconsistent with law
9 enforcement standards, for obtaining reliable information.
10

11 5.110 USMS employee Kimmel still has not given a statement to
12 investigators to this day.
13

14 5.111 The Defendants did not afford Reinoehl an opportunity to
15 surrender.
16

17 5.112 The Defendants did not consider or comply with the standard of
18 care for high-risk law enforcement operations.
19

20 INJURIES

21 5.113 Reinoehl was struck by at least five bullets.

22 5.114 Three of the five bullets caused fatal injuries.

23 5.115 The first fatal injury was a 9mm round that struck Reinoehl's
24 back and passed through his chest cavity.
25
26

1 5.116 The second fatal injury was a 9mm round that struck the back of
2 and passed through Reinoehl's head.

3
4 5.117 According to investigators, Defendants Gocha and Whitehurst
5 were the only officers who fired 9mm rounds.

6 5.118 The third fatal injury was a .223 round that struck Reinoehl in the
7 side and traveled through his chest cavity.

8
9 5.119 According to investigators, Defendants Merrill and Oleole were
10 the only officers who fired .223 rounds.

11 5.120 Reinoehl died as a result of these injuries.

12
13 5.121 Prior to death, Reinoehl suffered extreme emotional distress and
14 physical pain and suffering.

15
16 5.122 As a consequence of his death, Reinoehl's children, Deaven and
17 L.L., suffered permanent and irreparable emotional injury resulting from loss of
18 consortium with their father.

19
20 5.123 The children were also emotionally harmed by the foreseeable
21 and highly publicized, sensational, and political nature of their father's violent
22 death.

1 **VI. CLAIMS**

2 6.1 Plaintiff repeats and realleges the allegations contained in
3 paragraphs 5.1-123 above as if fully stated herein for purposes of each of the
4 claims below.
5

6 **COUNT ONE**
7 **(Federal Law claim under 42 U.S.C. § 1983)**
8 **(Plaintiff Estate v. Local Officer Defendants)**

9 6.2 The conduct of the Local Officer Defendants (Oleole, Gocha,
10 Merrill, and Whitehurst) constitutes an unreasonable seizure of Reinoehl in
11 violation of his rights under the Fourth Amendment to the United States
12 Constitution.
13

14 6.3 No reasonable police officer in the Local Officer Defendants’
15 shoes would have approached Reinoehl without a plan to arrest without injury,
16 nor failed to identify themselves as police, nor started shooting before seeing
17 any sign of aggression.
18

19 6.4 Their conduct occurred under color of state law.
20

21 **COUNT TWO (Alternative to Count One)**
22 **(Federal Law claim under *Bivens*)**
23 **(Plaintiff Estate v. Local Officer Defendants)**

24 6.5 To the extent that the Local Officer Defendants were acting under
25 color of federal law, they are liable under this claim for violations of Reinoehl’s
26

1 rights under the Fourth and Fourteenth Amendments to the United States
2 Constitution.

3
4 **COUNT THREE**

5 **(State Law claim pled under Federal Tort Claims Act, 28 U.S.C.
6 chapter 171) (Plaintiff Estate v. Defendant Government)**

7 6.6 The acts and omissions of the Defendant Government and of its
8 employee Kimmel constitute the common law tort of negligence.

9 6.7 Defendant Government, through its employees, failed to require
10 adequate planning and maintain operational control of the attempt to “take”
11 Reinoehl. This failure was a breach of the standard of care of reasonable law
12 enforcement officers in arresting citizens. The U.S. Marshals task force violated
13 this standard of care, by:

14 a. Failing to utilize de-escalation techniques and resorting to the use
15 of force in the first instance;

16 b. Firing from vehicles and into vehicles;

17 c. Failing to adopt and enforce policies that required task force
18 members and employees comply with the standard of care expected by the
19 community;

20 d. Lacking any system of accountability for task force members or
21 employees to ensure compliance with policies that adopt a reasonable standard
22 of care; and
23
24
25
26

1 e. Actively obstructing local law enforcement officers' efforts to hold
2 employees and task force members accountable for their uses of force.
3

4 6.8 Kimmel's acts and omissions occurred within the scope of his
5 employment with Defendant Government.

6 6.9 Defendant Government is liable for the torts of its employees
7 occurring within the scope of employment and for its own torts.
8

9 **COUNT FOUR - STATE LAW NEGLIGENCE**
10 **(Plaintiff Estate vs. Individual Defendants, County, City, and State)**

11 6.10 During the relevant times defendants Oleole, Gocha, Merrill, and
12 Whitehurst were acting during the scope of their employment with Defendants
13 County, City, and State respectively.
14

15 6.11 Defendants County, City, and State are liable for their own torts as
16 well as the torts of their employees occurring within the scope of employment.
17

18 6.12 Law enforcement officers owe a duty of ordinary care when
19 carrying out their official duties such as serving an arrest warrant. Defendants
20 failed to meet the standard of care in several ways including, but not limited to,
21 failing to develop a plan to safely execute the arrest or failing to follow the
22 plan, failing to establish an adequate incident command structure, and failing to
23 conduct the operation with adequate communications.
24
25
26

1 **COUNT FIVE**
2 **(Alternative to Count Four)**
3 **(State Law claim pled under Federal Tort Claims Act,**
4 **28 U.S.C. chapter 171)**
5 **(Plaintiff Estate v. Defendant Government)**

6 6.13 If the Court finds that Defendant County, City, and State are not
7 liable for the torts of their employees under the facts of this case, then
8 Defendant Government is liable for the torts of Local Officer Defendants as
9 alleged in Count Four.

10 **VII. RELIEF REQUESTED**

11 WHEREFORE, Plaintiff Estate seeks judgment as follows:

12 7.1 Compensatory damages for pre-death pain and suffering
13 experienced by Reineohl, for damages to the Estate, and for loss of consortium
14 and other emotional damages suffered by its beneficiaries Deaven and L.L., as
15 allowable by law and in amounts to be determined at trial;

16 7.2 Compensation for Reineohl's loss of enjoyment of life;

17 7.3 Compensation for Reineohl's loss of his civil right to be free from
18 the use of excessive force by law enforcement;

19 7.1 Punitive and exemplary damages as allowable by law and in
20 amounts to be determined at trial;

21 7.2 For an award of interest as allowable by law;

22 7.3 For an award of costs and attorneys' fees pursuant to 42 U.S.C. §
23 1988 and as allowable by law;

24 7.4 For costs and disbursements as allowable by law;

1 7.5 For any other such and further relief as the Court deems just and
2 proper.

3 DATED this 11th day of July, 2023.

4 SCHROETER GOLDMARK & BENDER

5
6 *s/ Rebecca J. Roe*

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