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8
9 UNITED STATES DISTRICT COURT
10
11 FOR THE DISTRICT OF OREGON
12
13 PORTLAND DIVISION

14
15 MATT MINNICK,) Case no.
16 vs.)
17 WASHINGTON COUNTY, a municipality,) COMPLAINT FOR DAMAGES
18 Plaintiff,) Statutory Violation of Federal Civil Rights
19) Act (42 U.S.C. Sections 1981 and 1983)
20)
21) JURY TRIAL DEMANDED`
22)
23)
24)
25)
26 _____)

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16 NATURE OF THE ACTION

17 1. This is a civil action brought under federal question jurisdiction to vindicate
18 plaintiff's rights and to make plaintiff whole. Plaintiff is an individual and the owner of valuable
19 personal property who has the constitutional right to be secure in his effects against unreasonable
20 searches and seizures, a right defendant has violated under U.S. Const. Amend. IV and Amend.
21 XIV by defendant's use of excessive force in destroying plaintiff's property, the consequences of
22 which have substantially and adversely affected his rights and interests. Plaintiff asserts
23 violations of the Fourth Amendment, applicable to the States by the Fourteenth Amendment, for
24 defendant's meaningful interference with his possessory interests in his property.

25
26 COMPLAINT FOR DAMAGES - 1

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JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this complaint pursuant to 28 USC Section 1331, based on the action arising under federal statute, specifically 42 U.S.C. Sections 1981 and 1983, all as more specifically alleged below.

3. The acts and transactions at issue here all occurred within Washington County, Oregon, such that venue for this action is appropriate in the Portland division of the Federal District Court for the District of Oregon.

PARTIES

4. Plaintiff MATT MINNICK (hereinafter “plaintiff Minnick”) is, and at all times herein was, a private individual residing in Oregon and the owner of personal property in the form of a valuable male Kiko breed goat named “Volt”.

5. Defendant WASHINGTON COUNTY (hereinafter "defendant County") is, and at all times herein was, a governmental entity incorporated in the State of Oregon and operating in Washington County, Oregon, and acting under color of State law.

GENERAL ALLEGATIONS

6. At all relevant times, plaintiff Minnick was the owner of an item of personal property, specifically a valuable livestock animal in the form of a male Kiko breed goat named "Volt" (hereinafter "the goat" or "plaintiff's property").

7. On August 6, 2017, the goat was off of plaintiff's property, and peacefully grazing in a grassy area with some other goats between several unoccupied houses under construction near NW Catalpa Street and NW Woodrush Lane in Portland, Oregon, Washington County.

1 8. Deputy Auth of the Washington County Sheriff's Office had been keeping all of
2 the animals corralled in the area while another deputy was tracking down the animals' owner.

3 9. Deputy Brian Auld of the Washington County Sheriff's Office arrived at the
4 location and walked around the perimeter of the area where the goats were grazing.

5 10. The goat walked toward Deputy Auld who then decided to grab its horns and push
6 the animal away. Deputy Auld did this more than once and noticed that each time he grabbed the
7 horns and pushed the goat away it made the goat "more and more angry", yet Deputy Auld
8 continued to push the goat in spite of how his actions were causing the goat to react.

9 11. After making the goat angry, Deputy Auld then took his pistol out of his holster
10 and shot the goat in the back of the head. The goat fell to the ground and then got up and "slowly
11 stumbled" back over to the grassy area.

12 12. As the goat screamed in pain and was flopping around on the ground suffering,
13 Deputy Auld approached the goat and shot him again in the side of the head just below the eye,
14 causing the animal more screaming, suffering, and struggling. Deputy Auld then shot him a third
15 time just above the shoulder, again causing the animal more screaming, suffering, and struggling.
16

17 13. While the goat continued to scream in pain and flop around suffering, Sgt.
18 Bennett of the Washington County Sheriff's Office arrived at the scene and requested a deputy
19 with a rifle to come to the area. Neither Deputy Auld nor Sgt. Bennett called or requested a
20 veterinarian.

21 14. Additional time passed while the officers waited, and the goat continued to
22 scream in pain and flop around suffering. Deputy Hartle of the Washington County Sheriff's
23 Office eventually arrived and shot the goat a fourth time with a rifle, this time killing the animal.
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25
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1 15. At all relevant times, Deputy Auld, Sgt. Bennett, and Deputy Hartle were agents
 2 of defendant County acting in their official capacities, and were working as agents of the County
 3 and operating under color of state law and acting in the course and scope of their employment
 4 pursuant to authority delegated or conferred by defendant County.

5 16. At all relevant times hereto, Deputy Auld was either aware or reasonably should
 6 have been aware that the goat was another's livestock animal.

7 17. Before Deputy Auld began angering the goat by pushing it, the goat had not posed
 8 any realistic danger to him or any other person at the time, nor was any actual person in any
 9 physical danger of being harmed by the goat before Deputy Auld began angering the goat by
 10 pushing it.

11 18. After pushing the goat, angering it, and then shooting it with the first shot, neither
 12 Deputy Auld, Sgt. Bennett, nor Deputy Hartle then competently observed or assessed the goat's
 13 physical or medical condition sufficient to determine if the animal needed to be humanely
 14 euthanized.

15 19. At the time of the shooting, neither Deputy Auld, Sgt. Bennett, nor Deputy Hartle
 16 was a licensed veterinarian or veterinary technician, nor have any specialized veterinary medical
 17 experience.

18 20. At the time of the shooting, Deputy Auld, Sgt. Bennett, and Deputy Hartle had a
 19 reasonable ability and opportunity to obtain the assistance of a veterinarian to actually and
 20 competently assess the goat's physical and medical condition before shooting it again.

21 21. At the time of Deputy Hartle killing the goat, neither Deputy Auld, Sgt. Bennett,
 22 nor Deputy Hartle had the legal right, power, privilege, or authority to euthanize the goat, nor
 23 were any of them provided any statutory immunity for euthanizing the goat.

22. On August 6, 2017, Deputy Auld and/or Deputy Hartle used excessive force in deploying a firearm and intentionally shooting and thus destroying plaintiff's property without a reasonable justification to do so.

23. That use of excessive force through intentionally shooting and destroying plaintiff's property caused Mr. Minnick to be deprived of his Fourth Amendment right to be free from seizure by excessive force and summary punishment, since defendant's agents did not use only that amount of force that was objectively reasonable in light of the circumstances, and since the defendant's agents' aggressive tactics in the use of the firearms was an unreasonable response to any legitimate safety concerns given the specific circumstances.

24. As a result of the acts as alleged, plaintiff Minnick has suffered damages as more specifically set forth in the prayer below.

CLAIM FOR RELIEF –
VIOLATION OF FEDERAL STATUTE (42 U.S.C. Sections 1981 and 1983)

25. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1-24, inclusive, as set forth above.

26. On August 6, 2017, and at all relevant times hereto, plaintiff Minnick possessed a constitutionally protected property interest in his goat as the personal property at issue, and is and has been deprived of that interest as a result of defendant County's use of excessive force as stated above.

27. By its actions, defendant County has therefore directly caused a significant restriction upon and interference with plaintiff Minnick's individual rights to possess and use personal property, interferences that are in violation of Amendment IV as applied to defendant County's actions under color of state law through Amendment XIV of the United States

1 Constitution, actions which are therefore as well a violation of federal statutory provisions under
2 42 U.S.C. 1983 et seq.

3 28. Additionally, on August 6, 2017, ORS 686.030 held that a person practices
4 veterinary medicine when the person does any of the following:

- 5 (1) Diagnoses, treats or prognosticates an animal medical problem.
6 (2) Prescribes or administers a drug, medicine or treatment for the prevention,
7 cure, amelioration, correction or modification of an animal problem or for euthanasia.

8 29. On August 6, 2017, ORS 686.020(1)(a) also held that no person shall practice
9 veterinary medicine in this state unless the person holds a valid license issued by the Oregon
10 State Veterinary Medical Examining Board and the license is not expired, revoked or suspended
11 at the time of practice.

12 30. On August 6, 2017, ORS 686.440 also held that:

- 13 (1) A veterinarian or veterinary technician is not civilly liable for the acts or
14 omissions described in subsection (2) of this section if:
15 (a) The animal has been brought to the veterinarian or veterinary
16 technician by a person other than the owner of the animal; and
17 (b) The veterinarian or veterinary technician does not know who owns the
18 animal or is unable to contact an owner of the animal before a decision must be made with
19 respect to emergency treatment or euthanasia.

20 (2) The immunity granted by this section applies to:

- 21 (b) The euthanasia of a seriously injured or seriously ill animal.

22 31. On August 6, 2017, defendant's agents were either actually aware, or reasonably
23 should have been aware, of all of those state laws, yet nevertheless "euthanized" the goat by

intentionally killing and destroying it in spite of the fact that their status, the circumstances presented, and those laws, all prohibited such conduct and did not provide them immunity for such conduct.

4 32. On August 6, 2017, defendant's agents recklessly shot and destroyed plaintiff's
5 personal property while acting under the above knowledge.

7 33. The deprivations have resulted in and directly caused plaintiff Minnick to suffer
8 damages in amounts more specifically set forth in the prayer below.

PRAAYER

10 WHEREFORE, plaintiff prays for judgment against defendant as follows:

1. For actual and compensatory damages of \$76,000.00 and for statutory interest thereon;
 2. For costs of suit incurred herein;
 3. For reasonable attorneys fees pursuant to 42 U.S.C. Section 1988; and,
 4. For such other and further relief as the Court may deem just and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY IN THIS ACTION.

DATED: December 18, 2017 GEORDIE DUCKLER, P.C.

By: s/ Geordie Duckler
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COMPLAINT FOR DAMAGES - 7

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