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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

MINNIE CLEVELAND, individually and
as the Personal Representative of the
ESTATE OF LOIS CLEVELAND,

Plaintiff,

v.

CITY OF SELAWIK and JOHN DOE,

Defendants.

Case No. 3AN-17-05874CI

COMPLAINT

COMES NOW Plaintiff, Minnie Cleveland ("Minnie"), individually and as the Personal Representative of the Estate of Lois Cleveland ("Estate"), by and through undersigned counsel, and hereby states and alleges as follows:

1. Minnie is a legal resident of the State of Alaska and will be the duly-appointed personal representative for the Estate. The official designation as personal representative awaits the Court's approval.

2. Lois Cleveland ("Lois"), who is now deceased, was a 16-year-old legal resident of the State of Alaska and is now being represented through the Estate, which is being created pursuant to the laws of the State of Alaska.

3. The City of Selawik ("Selawik") is a second-class city located at the mouth of the Selawik River where it empties into Selawik Lake, about 90 miles east of Kotzebue. Minnie is a resident of Selawik. Lois was a resident of Selawik.

4. John Doe ("Doe") is the representative or representatives of Selawik responsible for the hiring, training, supervising, suspending and firing of Village Police Officers ("VPOs"). It is believed that Doe works as the City Manager. The exact identity of Doe is not yet known, but will be revealed in the course of discovery. On information and belief, Doe is a legal resident of the State of Alaska and acted within his or her authority as a representative of Selawik. All of the acts and omissions of Doe, as stated herein, were done within the course and scope of his employment with Selawik, and therefore, all of Doe's action are imputed to Selawik.

5. Selawik traditionally sought out and hired its own VPOs to protect the community and to provide needed public safety services at the local level. Doe was the person who screened the applicants to make sure they were qualified to hold this position.

6. While a VPO is different from a Village Public Safety Officer ("VPSO"), the standards for hiring these officers are, or should be, the same.

7. To become a VPSO the applicant must be of good moral fiber; the applicant must have a high school diploma or equivalent; the applicant cannot have a criminal record with a misdemeanor conviction within the last five years; the applicant

cannot have illegally manufactured, transported or delivered a controlled substance or alcoholic beverage; the applicant cannot have used an illegal drug, excluding marijuana, within the last 10 years; and the applicant cannot have used marijuana within the last year. All of these requirements are in place to ensure that only those qualified to be a VPSO will apply. These are the same standards a city should use when hiring a VPO.

8. Once a city hires a VPO, it has the obligation to train and supervise the individual and to ensure that they are both qualified and fit to look out for the public safety needs of the residents.

9. Part of a city's obligation, in this regard, is to send all VPOs to a certified VPO Training Program.

10. In addition, within 30 days of hire, a city is obligated to notify the Alaska Police Standards Counsel ("APSC") that a VPO has been hired. Within one year of hire, all VPOs must obtain certification from the APSC. This requirement is in place to ensure that no city hires a VPO that does not have the requisite qualifications.

11. If, at any point, it is determined that a VPO lacks the skills or experience needed to be an effective VPO, the city is obligated to immediately terminate the VPO. This is especially true when a city learns that a VPO has engaged in criminal conduct.

12. In or about May 2014, Brent James Norton ("Norton") applied to be the VPO for Selawik. Doe was the one charged with ensuring that any VPO had the requisite background and experience to hold such a position. Upon review of his application, and with a cursory search of his background, Norton should never have been hired as a VPO.

13. Norton was not qualified to become a VPO because he did not have the requisite background or training; he did not have any prior experience; he did not have good moral fiber; he did not have a high school diploma or equivalent; he had a history of using illegal drugs; and he had a criminal record, which included misdemeanor convictions in 2006 and 2012 for transporting alcohol to a dry village, to which he was on probation. All of this should have prevented Doe from hiring Norton as Selawik's VPO.

14. Despite his lack of experience, lack of moral fiber and criminal background, Selawik hired Norton to act as its VPO. In so doing, Selawik and Doe failed to properly screen Norton's application and failed to ensure that he was qualified to hold such a position. Selawik and Doe also failed to provide Norton training and failed to send him to a VPO Training Program.

15. Selawik and Doe also failed to notify the APSC of Norton's hire as a VPO. Selawik and Doe further failed to ensure that Norton received certification from APSC within one year of hire. The likely reason for this lack of certification was due to Norton's failure to meet the minimum standards needed to achieve certification.

16. After he was hired, it was reported that on February 28, 2015, Norton gave alcohol to a 13-year-old girl with the initials of J.K., which was the second time he had done so, after which he allegedly had sexual relations with her. In July 2015, Norton was arrested and charged with furnishing alcohol to a minor (Class C Felony), the corresponding sexual offense (Class B Felony), and two counts of contributing to the delinquency of a minor (Class A Misdemeanors).

17. These charges resulted in the filing of a petition seeking the revocation of Norton's probation stemming from his 2012 conviction for transporting alcohol to Selawik, which is a dry village. After his arrest, Norton was released on bail with certain conditions, including not to consume or purchase alcohol.

18. Despite the existence of these new charges, neither Selawik nor Doe did anything to suspend or revoke Norton's authority as a VPO. Instead, Selawik and Doe continued to allow him to have unfettered authority over the residents of the community, despite the fact that he clearly had the proclivity to prey on underage girls by using alcohol, all of which was done under his authority as a VPO.

19. Thereafter, Norton turned his attention to Lois. On at least two occasions, likely more, he lured Lois to his residence and gave her alcohol, which is a criminal act.

20. During the evening of Tuesday, November 17, 2015, Lois and her best friend, 17-year-old J.G., were spending the evening together in the house J.G. shares with her grandparents, located in Selawik.

21. Since J.G.'s grandparents were in Anchorage for medical issues, J.G. had the house to herself. Lois was also without any parental supervision due to Minnie being in Anchorage for medical treatment.

22. Norton was on duty that evening and learned that Lois and J.G. were in a house with no adult supervision. He learned of this fact by virtue of his role as a VPO.

23. Norton purchased a bottle of whiskey from a local bootlegger, which is a criminal act, and then went to J.G.'s house, where he encouraged both girls to drink to the point of extreme intoxication, which was also a criminal act. Norton's entrance into the home was wrongful and unlawful.

24. Once Lois was impaired to the point of vomiting and being incoherent, Norton proceeded to have sex with her, which is a criminal act amounting to statutory rape and sexual battery. In the course of Norton's sexual activity with Lois, Norton did a number of things that were unwanted and offensive, including the use of handcuffs to bind Lois' hands. These handcuffs were issued to him by Selawik. Even after Lois had passed out and was unconscious and possibly deceased, Norton continued to have sex with her.

25. When he was finished, Norton recognized that Lois was not moving, either because she was unconscious or deceased. Instead of calling for help, he got dressed, put clothes on Lois, and proceeded to try to have sex with J.G.

26. Upon J.G. fighting him off and refusing to have sex with Norton, he went back to Lois to check on her. Norton then realized that Lois was not breathing and had no pulse.

27. Instead of calling for help or providing aid, he left the residence and walked to the VPO station where he called the other VPO, Officer Clarence Snyder ("Snyder").

28. Like Norton, Snyder did not call for help, but instead went to the VPO station to speak with Norton. At about that time, Norton began deleting his text messages, in part, because the messages would reveal his contact with Lois and J.G.

29. Norton then went back to J.G.'s residence with Snyder. Once there, Snyder finally called the Selawik Medical Clinic and asked for assistance. At roughly 1:00 a.m. the morning of November 18, 2015, Snyder reported to the clinic that Lois was "cold and not breathing."

30. The medical aides responded to the location, but it was determined that Lois was deceased. It is believed that had Norton provided aid to Lois immediately after having sex with her, she would have survived. The delay in rendering aid contributed to Lois' death.

31. The Medical Examiner's report suggests the most likely cause of death was asphyxiation. It is believed that the asphyxiation was caused by the use of handcuffs to bind Lois' hands and the weight applied to Lois' body during Norton's efforts to have sex with her.

32. Norton was thereafter charged and convicted for attempted sexual assault (Class C Felony) and furnishing alcohol to a minor (Class C Felony). He also was convicted of furnishing alcohol to a minor (Class C Felony) in relation to the charges brought as a result of his interaction with the 13-year-old girl some months before. Norton was also found guilty of a probation violation related to his 2012 conviction for importing alcohol to a dry area and his probation was revoked.

COUNT I – SURVIVORSHIP ACTION

33. All of the allegations set forth above are incorporated herein to the same extent as if fully set forth.

34. Pursuant to AS 09.55.570, those causes of action that could have been brought by Lois, had she survived, can now be brought by Minnie, as the Personal Representative of the Estate.

35. Selawik and Doe acted in a negligent fashion in the manner Norton, and the other VPOs, were hired, trained and supervised.

36. The conduct of Selawik and Doe, in this regard, was also done with a reckless indifference to the rights of the residents of Selawik, with gross negligence, and with malice and bad motives, such as to be considered outrageous conduct.

37. As a result of this conduct, Norton was put in a position of authority that enabled him to have access to Lois and her friend, which resulted in her intoxication, sexual assault and death.

38. Selawik and Doe are therefore liable for compensatory damages for Lois's pre-death pain and suffering, emotional distress, trauma, mental anguish, humiliation, suffocation and fear of death, the exact amount to be proven at time of trial.

39. Doe is also liable for punitive damages to punish and to deter others similarly situated from engaging in like conduct, the exact amount to be proven at time of trial.

40. This survivorship action is being brought due to the bodily injuries caused to Lois, which arose out of the performance of law enforcement duties, which were done in the regular course of Selawik's business.

COUNT II – WRONGFUL DEATH ACTION

41. All of the allegations set forth above are incorporated herein to the same extent as if fully set forth.

42. Pursuant to AS 09.55.580, those causes of action belonging to Lois, upon her death, can be brought by Minnie, as the Personal Representative of the Estate.

43. Selawik and Doe acted in a negligent fashion in the manner Norton, and the other VPOs, were hired, trained and supervised.

44. The conduct of Selawik and Doe, in this regard, was also done with a reckless indifference to the rights of the residents of Selawik, with gross negligence, and with malice and bad motives, such as to be considered outrageous conduct.

45. As a result of this conduct, Norton was put in a position of authority that enabled him to have access to Lois and her friend, which resulted in her intoxication, sexual assault and death.

46. Selawik and Doe are therefore liable for compensatory damages for Lois's death, including pecuniary damages, loss of future support, loss of future assistance and services, loss of consortium, and funeral and medical expenses, the exact amount to be proven at time of trial.

47. Doe is also liable for punitive damages to punish and to deter others similarly situated from engaging in like conduct, the exact amount to be proven at time of trial.

48. This wrongful death action is being brought due to the bodily injuries caused to Lois, which arose out of the performance of law enforcement duties, which were done in the regular course of Selawik's business.

COUNT III – 1983 ACTION

49. All of the allegations set forth above are incorporated herein to the same extent as if fully set forth.

50. Doe acted with the authority and on behalf of Selawik, such that all of his acts were done with the express permission and under the control of Selawik.

51. Doe committed acts, under color of law, with the intent and for the purpose of depriving Lois and others similarly situated of rights secured under the Constitution

and laws of the United States, including her civil rights, such as the right to life and the right to live free without interference.

52. Selawik acted in a negligent fashion in the manner it hired, trained and supervised its VPOs, including Norton. Doe, under color of law, oversaw and implemented these practices. This conduct was such that it created a custom, practice and policy of allowing VPOs to abuse and mistreat the residents of Selawik, in violation of their civil and Constitutional rights.

53. Doe's conduct, in this regard, was also done with a reckless indifference to the rights of the residents of Selawik, with gross negligence, with evil intent, and with malice and bad motives, such as to be considered outrageous conduct.

54. As a result of Selawik's policies and procedures for monitoring VPOs, Norton was put in a position of authority that enabled him to have access to Lois and her friend, which resulted in her intoxication, sexual assault and death.

55. Selawik and Doe are therefore liable for compensatory damages for Lois's death, including pain and suffering, emotional distress, trauma, mental anguish, humiliation, suffocation, fear of death, pecuniary damages, loss of future support, loss of future assistance and services, loss of consortium, and funeral and medical expenses, the exact amount to be proven at time of trial.

56. Doe is also liable for punitive damages to punish and to deter others similarly situated from engaging in like conduct, the exact amount to be proven at time of trial.

57. This 1983 action is being brought due to the bodily injuries caused to Lois, which arose out of the performance of law enforcement duties, which were done in the regular course of Selawik's business.

WHEREFORE Plaintiff prays for relief as follows:

1. Compensatory and punitive damages in excess of \$100,000, the exact amount to be determined at trial;
2. Pre- and post-judgment interest;
3. Actual costs and attorneys' fees; and
4. Such other and further relief as the Court deems just and proper.

DATED this 6th day of April, 2017.

BIRCH HORTON BITTNER & CHEROT
Attorneys for Plaintiff

By:



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