

April 4, 2016

Via Certified Mail, Return Receipt Requested & U.S. First-Class Mail

Town of Rockport
101 Main Street
Rockport, ME 04856

RE: Jeri Vitale, as Parent and Next Friend of Emily Vitale v. Town of Rockport, Maine, et al.

Dear Sir/Madam:

I represent Jeri Vitale, as Parent and Next Friend of Emily Vitale concerning injuries she sustained in a motor vehicle accident on December 5, 2015. Ms. Vitale intends to make a claim against the Town of Rockport for its negligence in causing Emily's injuries. I have enclosed a Notice of Claim. Please forward this letter and the Notice of Claim to all of your insurance companies and/or attorneys, and have them contact me to discuss this claim.

If you have any questions, please feel free to give me a call.

Very truly yours,


Peter Clifford

PC/dm

Enclosure

cc: Jeri Vitali

NOTICE OF CLAIM BEFORE SUIT

Pursuant to 14 M.R.S.A. § 8107

TO: Craig Cooley, Officer
Rockport Police Department
101 Main Street
Rockport, ME 04856

Mark Kelley, Chief
Rockport Police Department
101 Main Street
Rockport, ME 04865

Rockport Police Department
101 Main Street
Rockport, ME 04865

Town of Rockport
101 Main Street
Rockport, ME 04856

PLEASE TAKE NOTICE that, as set forth below, a claim is being made against the Town of Rockport, Maine, the Rockport Police Department, Rockport Police Chief Mark Kelley and Rockport Police Officer Craig Cooley, by Jeri Vitale, Parent and Next Friend of minor Emily Vitale, under Maine Tort Claims Act.

A. Name and Address of Claimant:

Jeri Vitale, as Parent and Next Friend of
Emily Vitale
1294 Finntown Road
Warren, ME 04864

B. Name and Address of and Claimant's Attorney:

Peter Clifford, Esq.
Clifford & Clifford, LLC
62 Portland Road, Suite 37
Kennebunk, ME 04043

C. Statement of the Basis of the Claim:

On or about December 5, 2015, Emily Vitale was a passenger in a vehicle driven by Caleb Byras that crashed on Wotton Mill Road in Union, Maine, causing the deaths of Mr. Byras

and Emily Brewer, and causing serious personal injuries to Emily Vitale. Officer Craig Cooley observed Mr. Byras violating the speed limit and attempted to pull Mr. Byras over to cite him for the speeding violation. When Mr. Byras failed to stop, Officer Cooley began a high-speed pursuit of Mr. Byras with lights and sirens. Emily Vitale has stated the speeds of the vehicles were approximately 105-115 mph.

Officer Cooley was negligent in the manner in which he operated his motor vehicle, and such negligence was a direct and proximate cause of the injuries to Emily Vitale and resulting deaths of Ms. Brewer and Mr. Byras. Under the circumstances, it was unreasonable for Officer Cooley to have engaged in the high-speed chase. In addition to being unreasonable, the high-speed chase violated numerous standard police practices and Rockland Police Department policies, including but not limited to the following: 1) An officer shall not pursue vehicles for Class D and E crimes or traffic violations, unless the conditions surrounding the pursuit are conducive to safe operation, management and due regard for the safety of the officer, the public, and the person or persons in the vehicle being pursued; 2) An officer shall not engage in high-speed pursuit if the operator is known to the office, unless there is a serious indication of further violent actions if not immediately apprehended; 3) An officer shall discontinue pursuit if the suspect has been identified and can be apprehended later and the officer believes the suspect poses no immediate danger to the public and if the pursuing officer knows or is reasonably certain that the fleeing vehicle is operated by a juvenile and the offense constitutes a traffic violation, Class D or E crime, or a nonviolent crime.

Officer Cooley was negligent in continuing his high-speed pursuit of Mr. Byras for reasons including but not limited to: 1) the stop was for a traffic violation; 2) Mr. Byras was known to Officer Cooley as he had issued a summons to Mr. Byras earlier on the same evening as the chase; and 3) Officer Cooley knew that Mr. Byras was a juvenile.

The Town of Rockport and the Rockport Police Department are legally responsible for the negligence of Officer Cooley. Moreover, the Town of Rockport and Police Chief Mark Kelley were responsible for training, supervising and enforcing Departmental policies. They were negligent in doing so, as evidenced by the numerous policies that were violated by Officer Cooley. Officer Cooley was a part-time police officer who was forbidden by Departmental policies from engaging in high-speed chases.

In addition to negligence, the conduct of Officer Cooley, Chief Kelley and the Town of Rockport constitute violations of Claimant's civil rights, pursuant to 42 U.S.C. § 1983, Federal Law and the U.S. Constitution, and the Maine Civil Rights Act and Maine Constitution.

D. Name and Address of any Governmental Employees Involved:

Rockport Police Officer Craig Cooley
Rockport Police Chief Mark Kelley
Rockport Police Department
101 Main Street, Rockport, ME 04856

E. Nature and Extent of the Injuries:

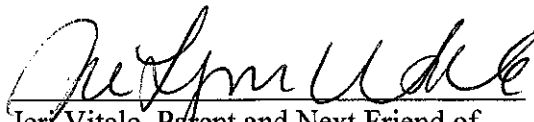
As a result of the fatal accident on December 5, 2015, Ms. Vitale sustained serious and permanent personal and psychological injuries.

Ms. Vitale has suffered not only the personal injuries as stated above, but also the loss of her friend Ms. Brewer, PTSD, and the psychological issues associate with that loss.

E. Statement of the Amount of Monetary Damages Claimed:

The precise amount of damages from this incident is unknown, but is expected to cover past and future medical expenses, past and future lost wages, pain and suffering, loss of enjoyment of life, mental and emotional anguish. Medical bills to dated total **\$38,781.61**.

DATED this 23 day of March, 2016.

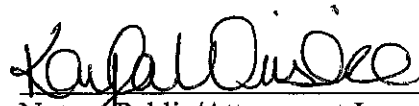

Jeri Vitale, Parent and Next Friend of
Emily Vitale
1294 Finntown Road
Warren, ME 04864

State of Maine
Maine Lincoln ss.

Dated: March 23, 2016

Personally appeared the above named Jeri Vitale, and made oath that the foregoing is true and upon personal knowledge, information and belief, and so far as upon information and belief, the affiant believes the information to be true.

Before me,


Notary Public/Attorney-at-Law

KAYLA I. WILSHIRE
Notary Public, Maine
My Commission Expires March 21, 2021