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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

ASHLEY HOWES,

Plaintiffs,

v.

THE CITY OF SEATTLE, DETECTIVE.
CARL CHILO, DETECTIVE SHARON
STEVENS, DETECTIVE PAUL TAKEMOTO,
and DETECTIVE NATHAN JANES,

Defendants.

NO.

COMPLAINT FOR DAMAGES

COMES NOW Plaintiffs by and through their attorneys John R. Connelly Jr., Lincoln C. Beauregard, and Julie A. Kays of the Connelly Law Offices by way of claim allege and state:

I. PARTIES AND JURISDICTION

1.1 Plaintiff Ashley Howes is an adult woman currently residing in Port Townsend, Washington. Plaintiff's current name is Ashley "Stone" by way of marriage but was Ashley "Howes" prior thereto and at the times giving rise to this case.

1.2 The City of Seattle is a municipal corporation in existence under the laws of the State of Washington.

1 1.3 Detectives Carl Chilo, Sharon Stevens, Paul Takemoto, and Nathan Janes are
2 individual law enforcement officers employed by the City of Seattle Police Department.

3 **II. BACKGROUND**

4 2.1 It was Martin Luther King, Jr. weekend of 2005 when then 13-year-old Ashley
5 Howes was babysitting two children, ages 1.5 (Fraya Garden) and 5 (Madeline Garden), at the
6 home of a woman named Morningstar Garden located in King County, Washington. Prior to
7 the events that were about to unfold that evening and into the coming days, Ms. Howes was
8 always described as a wonderful and loving young lady who was without a history of contacts
9 with law enforcement and certainly without a criminal record. In a shocking series of events
10 that changed the lives of all the parties involved, at about 5:30 p.m. on Sunday, January 16,
11 2005, Ms. Howes found the younger of the two children that she was babysitting, Fraya
12 Garden, was in a fetal position on the floor in the bedroom. Ms. Howes tried to help Fraya
13 Garden, but her eyes went limp and rolled back into her head. As a result of Ms. Howes's
14 frantic call to the 9-1-1 operators, Fraya Garden was rushed by the paramedics to Harborview
15 Medical Center for urgent medical attention. The police began asking questions.
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18 2.2 Thereafter, during the late evening of Sunday, January 16, 2005 at
19 approximately 10:40 p.m. and all through the night until well into the following day of
20 Monday, January 17, 2005, the above named defendants repeatedly, and with deliberate
21 indifference, violated Ms. Howes's constitutional right under the Fourth, Fifth, and Fourteenth
22 Amendments not to be deprived of life, liberty, or property without the due process of law. In
23 the earliest hours of that morning and without probable cause to make an arrest, Ms. Howes
24 was driven in a police squad car from the Harborview Medical Center through parts of Seattle
25 where, according to the lower court wherein this matter and these circumstances were
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1 previously reviewed, "*none of us would walk alone late at night*" to the Seattle Police
2 Department headquarters where she was unlawfully arrested without probable cause in
3 violation of the Fourth Amendment and successively and coercively interrogated by the
4 detectives named herein in violation of the Fifth and Fourteenth Amendments.¹

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6 2.3 Detectives Chilo and Keith Savas transported Ms. Howes from Harborview
7 Medical Center to the police headquarters office under the guise to "*arrange for her to get*
8 *home*" to her parents.² It was expressly noted by Detective Chilo in the police report that as
9 of approximately 11:00 p.m. he was advised that Ms. Howes' mother was prepared to meet
10 Ms. Howes at the ferry terminal in order to ensure that she made it home safe: "*Cline had told*
11 *me earlier that Howes mother would meet her at the ferry and take her back to Suquamish.*"
12 It is also noteworthy that the ferries leave regularly from downtown Seattle until early in the
13 morning, and that Suquamish is accessible by driving without taking a ferry. But, instead,
14 according to the lower court, Ms. Howes was misleadingly "*told that the reason that she was*
15 *being taken into the police headquarters was to arrange for her to get home.*"³ Upon arrival
16 at the police headquarters office at sometime around 11:00 p.m., Ms. Howes "*was taken to an*
17 *office in the SAU [Special Assault Unit] unit, where no apparent effort was made to contact*
18 *her parents or to arrange for her travel home, the indicated purpose of her coming to the*
19 *police department.*"⁴ It was at that point that the successive and coercive interrogations began
20 and the civil rights violations against this thirteen year old girl continued throughout the
21 course of a custodial interrogation which lasted approximately 19 hours.
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25 ¹ Direct quotations from the lower court's rulings of the Honorable Suzanne Barnett dated October 11, 2005.

26 ² *Id.*

³ *Id.*

⁴ *Id.*

1 2.4 Between approximately 11:30 p.m. until approximately 1:00 a.m., Ms. Howes
2 was interrogated by Detective Chilo even though, according to the detective's own
3 concessions before the lower court, Ms. Howes was not a "suspect" in the investigation at that
4 time and was therefore unlawfully arrested in violation of the Fourth Amendment. All the
5 while, "*Detective Chilo neglected to advise Ms. Howes of her rights before interrogating her*
6 *in a custodial situation.*"⁵ And in conflict with the fact that Ms. Howes was not a suspect at
7 that time according to Detective Chilo, it was expressly found by the lower Court, contrary to
8 the protestations of the detectives involved, Ms. Howes lived "*a ferry ride away from*
9 *downtown Seattle. She was 13 years old at the time. No reasonable person in her situation*
10 *would believe that she was free to go.*"⁶ After Detective Chilo was done interrogating Ms.
11 Howes, she sat and waited for approximately 2 more hours before being approached by the
12 detectives again.

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15 2.5 The subsequent coercive custodial questioning that occurred beginning at 3:08
16 a.m. that morning, only this time with a video camera, and was conducted by Detective
17 Stevens "*can only fairly be characterized as an interrogation.*"⁷ With respect to the
18 interrogation tactics employed by Detective Stevens, the lower Court noted that it "*is*
19 *inconceivable that asking Ms. Howes to demonstrate on video how she shook the toddler was*
20 *not reasonably expected to illicit incriminating statements. This occurred without an*
21 *advisement of rights...*"⁸ Therefore, the incriminatory statements that were coerced by
22 Detective Stevens were deemed inadmissible and the corresponding actions constitute
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25 ⁵ *Id.*

26 ⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

1 violations of Ms. Howes's constitutional rights under the Fourth, Fifth, and Fourteenth
2 Amendments. It was noted in the police report by Detective Janes that during the time of the
3 custodial interrogation, Detective Stevens "*thought [Ms. Howes] was a witness, not a*
4 *suspect.*"

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6 2.6 It was not until approximately 3:22 a.m., after the detectives unlawfully
7 coerced Ms. Howes to make statements while under interrogation, that she was finally advised
8 of her right to remain silent in accordance with *Miranda*. Beyond that, it was not until after
9 the custodial interrogation that, according to Detective Steven's own police report, that Ms.
10 Howes was even considered a "suspect" even though the unlawful arrest in violation of the
11 Fourth Amendment was well into the fourth hour at that point in time in the morning: "*I now*
12 *consider her to be a suspect.*" Detective Stevens also noted, at 3:22 a.m., a request that "*Sgt.*
13 *Welch telephone Suspect Howes guardian and advise them of her status, as it was reported*
14 *that her step-mother was awaiting a telephone call to respond to Seattle to retrieve the*
15 *suspect from the ferry terminal.*"

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17 2.7 With respect to the arrest and interrogation protocol that had unfolded,
18 Detective Janes documented in a police report that, according to Detectives Chilo and
19 Detectives Janes, prior to being interrogated but even after Ms. Howes was arrested, "*[t]hey*
20 *had not Mirandized [Ms. Howes] and hadn't considered her a suspect either.*" It should be
21 noted that Detective Janes also documented the lack of proper training with respect to
22 investigations involving minors when stating in the police report that "*I was unsure of the*
23 *legal issues regarding interviewing a thirteen-year-old suspect.*"

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25 2.8 At approximately 4:20 a.m., after having been unlawfully arrested and
26 coercively interrogated even though Ms. Howes was, according to Detective Chilo, not even a

1 “suspect” to a crime, that Ms. Howes was booked based upon the statements that were
2 coerced by Detectives Chilo and Stevens during the unlawful arrest the custodial interrogation
3 that occurred without the proper *Miranda* rights being afforded to Ms. Howes. Thereafter,
4 Ms. Howes was handcuffed, put in jail clothing, and then forced to spend a sleepless night in
5 the juvenile jail. Ms. Howes was ultimately charged by the King County Prosecutor’s Office
6 with the murder in the second degree of 1.5-year-old Fraya Garden.
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8 2.9 The next day, after the first round of interrogations on the part of Detectives
9 Chilo and Stevens, the coercive interrogations continued on the part of Detectives Janes and
10 Takemoto. But when Ms. Howes was approached by Detective Janes and Takemoto at
11 approximately 3:05 p.m. on January 17, 2005, Ms. Howes “*invoked her right to remain silent
12 and to have attorney present.*”⁹ Ms. Howes’s assertions were “*quote, ‘My mom and dad are
13 getting a lawyer, unquote. Quote, My dad said I am not supposed to talk to anybody unless
14 him or a lawyer, a lawyer is present.*”¹⁰ And further, when “*asked whether she wanted to go
15 ahead regardless, she said, quote, ‘I am supposed to wait,’ unquote.*”¹¹ Detectives Janes and
16 Takemoto initially recognized that Ms. Howes had invoked her right to remain silent only to
17 return “*to the holding cell nearly an hour later, nearly an hour after Ms. Howes invoked her
18 right to remain silent and her right to have an attorney present, neither clarified that she now
19 wished to waive those rights.*”¹² During the time that this second round of unlawful
20 interrogations were ongoing, it is important to note that Detectives Janes and Takemoto were
21 working in concert with Deputy Prosecuting Attorney Christine Herman (WSBA #29370)
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25 ⁹ *Id.*

26 ¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

1 from the King County Prosecutor's Office who was watching the entire interrogation process
2 unfold from behind the one-way glass. Regardless, the unlawful and coercive interrogations
3 continued.

4 2.10 It should be noted that three hours into the second round of unlawful
5 interrogations, at approximately 6:05 p.m., it was documented in the police report by
6 Detective Janes that "*I made a mistake. I was planning on telling [Ms. Howes] that Fraya
7 had died, for [Ms. Howes] did not yet know this. I planned on breaking this gently, but I
8 made a mistake. I accidentally said something about the injuries killing Fraya, using the
9 words kill or die instead of injure. [Ms. Howes] heard the word kill, caught on quickly, and
10 asked me if Fraya was dead. I told her she was...I believe she was angry with me for the way
11 I broke the news to her, and this is understandable...*" Thereafter, the interrogation
12 continued, and it was not until 10:25 p.m., over seven hours after the unlawful videotaped
13 interrogation began at 3:05 p.m., that Ms. Howes was returned to her cell.

14 2.11 Ms. Howes was subjected to continued unlawful confinement as a direct
15 extension of the civil rights violations that had occurred, and she was ultimately released
16 under house arrest pending the completion of the investigation and trial setting in relation to
17 the death of Fraya Garden. In the fall of 2005, the lower court conducted an extended seven
18 day hearing with respect to the impropriety of the actions on the part of the Seattle Police
19 Department, and most of the statements that were unlawfully elicited from Ms. Howes by the
20 detectives and aggressively sought by the King County Prosecutor's Office to be introduced
21 before the jury during the criminal trial were ultimately suppressed on October 11, 2005.

22 2.12 Despite the fact that the lower court suppressed the unlawfully elicited
23 statements, all of the statements were introduced in open court during the pre-trial criminal
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1 (3.5) hearing against Ms. Howes. Ms. Howes was forced to defend and challenge the
2 incriminatory statements in open court, and to make decisions in the face of the peril of
3 second degree murder charges that were asserted based upon those same statements.
4 Subsequently, all of the criminal charges that were alleged by and through the King County
5 Prosecutor's Office against Ms. Howes were dismissed with prejudice, but the Howes family
6 will have to live with the memories of the resultant emotional trauma for the rest of their lives
7 stemming directly from the unconstitutional actions on the part of the defendants named
8 herein.
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10 III. CAUSES OF ACTION

11 3.1 **42 U.S.C. 1983:** In accordance with 42. U.S.C. 1983, Plaintiff asserts a causes
12 of action premised upon the violations of Ashley Howes's Fourth, Fifth, and Fourteenth
13 Amendments not to be deprived of life, liberty, or property with the due process of law.
14 Acting with deliberate indifference and conscious shocking actions, Detectives Carl Chilo,
15 Sharon Stevens, Paul Takemoto, and Nathan Janes each individually, similarly, and
16 collectively violated Ms. Howes's aforementioned well established rights under the United
17 States Constitution. With deliberate indifference to the need for training and/or in accordance
18 with an unconstitutional policy and/or custom in relation to right of a minor child not to be
19 unlawfully arrested and/or unlawfully interrogated, the City of Seattle violated Ms. Howes's
20 constitutional rights.
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22 3.2 **False Imprisonment/Negligence:** The manner in which Defendants employed
23 their law enforcement tactics as described herein constituted violations of Ashley Howe's
24 rights under Washington State Tort law.
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IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, having set forth her cause of action herein against Defendants, prays for judgment against Defendants, for general and special damages in amounts as shall be proven at trial, punitive damages, and for reasonable attorneys fees in accordance with law, and otherwise, for Plaintiff's costs and disbursements herein incurred, and for such other and further relief as the Court may deem just and equitable under the circumstances.

Dated this 9 day of November, 2011.

CONNELLY LAW OFFICES

By _____

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