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**SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY**

BRUCE A. WOLF, as Personal
Representative of the ESTATE OF
AARYUSS M. WESTON, Deceased, and
TARAY DAVID,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

No. 24-2-04096-0 KNT

PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR PERSONAL
PHYSICAL INJURIES AND WRONGFUL
DEATH

Plaintiffs Bruce A. Wolf, as Personal Representative of the Estate of Aaryuss M. Weston,
and Taray David aver:

I. PARTIES

1.1 Plaintiff Bruce A. Wolf is an attorney whose residence and principal place of
business are in King County, Washington. On March 17, 2023, Wolf was appointed the Personal
Representative of the probate estate of Aaryuss M. Weston (Aaryuss) by the Pacific County
Superior Court under case no. 23-4-00033-25. Aaryuss died on September 20, 2022, at
Harborview Medical Center located at 325 9th Avenue, Seattle, WA 98104.

1 1.2 Plaintiff Taray David is the biological father of Aaryuss M. Weston. Mr. David
2 resides in King County, Washington.

3 1.3 Defendant State of Washington (State) is a political entity with its capital in
4 Olympia, Washington. At all times relevant to this lawsuit, the State acted through employees of
5 its Department of Children, Youth, and Families (DCYF).

6 1.4 Defendant State also acted through employees of Harborview Medical Center
7 (Harborview). Harborview is a subdivision of the State of Washington and is managed by the
8 University of Washington. Its principal place of business is in King County, Washington. At all
9 times relevant to this lawsuit, employees and/or agents of Harborview were mandatory reporters
10 pursuant to RCW 26.44.030.

11 **II. NOTICE OF CLAIM, JURISDICTION, AND VENUE**

12 2.1 The Estate of Aaryuss M. Weston served a Washington State Tort Claim Form on
13 the State’s Department of Enterprise Services, Office of Risk Management, on May 26, 2023.
14 More than 60 calendar days have elapsed since the Form was served. The claim presentment and
15 filing requirement of Chapter 4.92 RCW has been satisfied by The Estate of Aaryuss M. Weston.

16 2.2 The Superior Court of Washington has original jurisdiction over this action,
17 pursuant to RCW 2.08.010 and 4.92.010.

18 2.3 This action may be brought in King County, Washington, pursuant to RCW
19 4.92.010(1).

20 **III. FACTS**

21 3.1 Aaryuss was born on January 10, 2017, to parents Taray Lavale Jawaun David
22 (David) and Kevona Attanae Weston (Weston).
23

1 3.2 Aaryuss spent the majority of his life in the care and custody of Weston. In the
2 months leading up to Aaryuss’ death, he was often left in the care of Weston’s boyfriend, Master
3 Lindsey-Harris (Lindsey-Harris). Other times, Aaryuss was cared for by Mr. David and his
4 paternal grandmother, Angel Thompson (Thompson). At the time of his death, Aaryuss, Weston,
5 and Lindsey-Harris lived at Creekwood Apartments in Des Moines, Washington.

6 3.3 The State had received one or more reports of abuse or neglect regarding Aaryuss
7 while he was in the care of Weston.

8 3.4 Despite the concerns of abuse or neglect that were raised to the State, Aaryuss
9 remained in the care and custody of Weston where his abuse continued.

10 3.5 In July 2022, Aaryuss received treatment at Harborview for evaluation of
11 drowsiness, facial swelling, hematoma, and vomiting following a head injury. Weston stated to
12 Harborview medical providers that Aaryuss sustained the injuries while he was walking their dog
13 when the dog suddenly lunged forward, causing Aaryuss to fall face forward into the concrete.

14 3.6 On September 15, 2022, Thompson saw extensive bruising to Aaryuss’ body and
15 became concerned. When Thompson asked Aaryuss how he got the injuries, Aaryuss reported to
16 Thompson that Lindsey-Harris was physically abusing him. Thompson also photographed
17 extensive bruising to Aaryuss prior to seeking emergency medical treatment.

18 3.7 Thompson immediately brought Aaryuss to Harborview for treatment of Aaryuss’
19 injuries, but they were turned away by Harborview staff. Employees and/or agents of Harborview,
20 specifically Wade Peyou and Katie Thompson, informed Angel Thompson that they could not
21 admit Aaryuss without the consent of his mother, who was not present. Angel Thompson therefore
22 left Harborview with Aaryuss when it became clear to her that Aaryuss would not be admitted or
23 receive any medical care.

1 3.8 Both Angel Thompson and Aaryuss communicated to Wade Peyou and Katie
2 Thompson that the head injuries for which Aaryuss presented for care were the result of non-
3 accidental trauma. In other words, it was or should have been clear to the Harborview employees
4 who interacted with Angel Thompson and Aaryuss that he was the victim of child abuse.

5 3.9 Despite their status as mandatory reporters, no agent or employee of Harborview
6 made a mandatory report of abuse or neglect pursuant to RCW 26.44 et seq.

7 3.10 At all times relevant to this lawsuit, Wade Peyou was employed with Harborview
8 as a Patient Services Specialist 2. Amongst his duties were completing patient registration by
9 obtaining consent for medical care and processing patient paperwork.

10 3.11 On September 19, 2022, Weston returned to Harborview with Aaryuss after
11 Weston found Aaryuss unresponsive in her home. Aaryuss presented with significant head
12 trauma, including stroke and a large subdural hematoma. His condition was severe and
13 deteriorated during the duration of his stay at Harborview.

14 3.12 On September 20, 2022, Aaryuss was declared dead shortly after Harborview
15 medical providers took him off life support.

16 3.13 An investigation was conducted by senior employees and/or agents of Harborview
17 into the events surrounding the failure to register and admit Aaryuss for medical treatment. The
18 investigation noted a number of racially discriminatory statements and actions by Wade Peyou
19 over the course of his employment with Harborview.

20 3.14 On December 14, 2022, Julie Nelson, Senior Director of Enterprise Revenue Cycle
21 at Harborview, recommended Wade Peyou for dismissal due to ongoing poor judgment in the
22 performance of his job duties in conjunction with his failure to register Aaryuss for admission on
23 September 15, 2022.

1 3.15 Wade Peyou’s employment with Harborview ended on January 3, 2023. Wade
2 Peyou had a history of making and, in this case, did make decisions that adversely affected patient
3 care and access to care, based on racially discriminatory motivations.

4 3.16 Aaryuss and Angel Thompson are African American.

5 3.17 The manner of Aaryuss’ death was ruled “undetermined.” It was noted in the
6 autopsy report that non-accidental trauma could not be excluded. Aaryuss’ cause of death was
7 determined to be “acute on chronic” subdural hemorrhage.

8 **IV. CAUSES OF ACTION**

9 **A. NEGLIGENCE**

10 4.1 The State owed Aaryuss a duty to exercise ordinary care when providing him with
11 child welfare services.

12 4.2 The State also owed Aaryuss a duty to protect him from the foreseeable criminal
13 acts of third parties because the State committed affirmative acts of misfeasance that created or
14 increased Aaryuss’ risk of harm.

15 4.3 The State also owed Aaryuss a duty to protect him from the foreseeable criminal
16 acts of third parties during the time Aaryuss was in the care and custody of the State.

17 4.4 The State breached these duties.

18 4.5 Aaryuss was injured as a result of the State’s breaches.

19 4.6 The State’s breaches were a proximate cause of Aaryuss’ injuries.

20 4.7 Plaintiffs have standing to bring this survival claim on behalf of Aaryuss’ statutory
21 beneficiaries, pursuant to RCW 4.20.060.

22 **B. NEGLIGENT INVESTIGATION – RCW 26.44.050**

23

1 4.8 The State gathered incomplete or biased information in investigating reports that
2 Aaryuss had been abused or neglected.

3 4.9 The State’s gathering of incomplete or biased information was a proximate cause
4 of a placement decision that harmed Aaryuss.

5 4.10 Plaintiffs have standing to bring this survival claim on behalf of Aaryuss’ statutory
6 beneficiaries, pursuant to RCW 4.20.060.

7 C. FAILURE TO REPORT SUSPECTED CHILD ABUSE – RCW 26.44.030

8 4.11 At all times relevant to this lawsuit, employees and/or agents of Harborview were
9 mandatory reporters who owed a statutory duty to report, or cause a report to be made, to DCYF
10 and/or to the appropriate law enforcement agency when there was reasonable cause to believe a
11 child had suffered abuse or neglect.

12 4.12 These mandatory reporters breached this duty by failing to notify DCYF and/or
13 the appropriate law enforcement agency when there was reasonable cause to believe a child had
14 suffered abuse or neglect.

15 4.13 The breaches of the duty to report described in paragraph 4.9 above proximately
16 caused injuries to Aaryuss.

17 4.14 The State is vicariously liable for the breaches of its employees.

18 4.15 Plaintiffs have standing to bring this survival claim on behalf of Aaryuss’ statutory
19 beneficiaries, pursuant to RCW 4.20.060.

20 D. WRONGFUL DEATH

21 4.16 Aaryuss’ death was proximately caused by the wrongful acts, neglect, or default
22 of the State.

23 4.17 Aaryuss’ statutory beneficiaries sustained damages due to his death.

1 4.18 Plaintiffs have standing to bring this survival claim on behalf of Aaryuss' statutory
2 beneficiaries, pursuant to RCW 4.20.010 and .020.

3 E. CLAIM FOR RACIAL DISCRIMINATION – RCW 49.60.030(2)

4 4.19 Aaryuss was a member of a protected class.

5 4.20 Harborview Medical Center is a place of public accommodation.

6 4.21 Defendant discriminated against Aaryuss when it did not treat him in a manner
7 comparable to the treatment they provide to persons outside his protected class. This
8 discrimination directly resulted in Aaryuss not receiving treatment that would have saved his life.

9 4.22 Aaryuss' protected status was a substantial factor that caused the discrimination.

10 4.23 Plaintiffs have standing to bring this survival claim on behalf of Aaryuss' statutory
11 beneficiaries, pursuant to RCW 4.20.060.

12 F. CLAIM FOR DEATH OF A CHILD – RCW 4.24.010

13 4.24. Plaintiff Taray David regularly contributed to the support of his biological minor
14 child, Aaryuss Weston.

15 4.25 Defendant's actions and inactions resulted in the death of Aaryuss and,
16 consequently, Mr. David's loss of his son's love and companionship, Mr. David's loss of Aaryuss'
17 emotional support, and the destruction of the parent-child relationship between Mr. David and
18 Aaryuss.

19 4.26 As Aaryuss' biological father, Mr. David has standing to bring this claim pursuant
20 to RCW 4.24.010.

21 **V. DEMAND FOR JUDGMENT**

22 Plaintiffs request that the Court enter a judgment against the State that includes:

23 5.1 For an award of general damages, in an amount to be determined at trial;

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- 5.2 For an award of special damages, in an amount to be determined at trial;
- 5.3 For an award of statutory costs and attorneys' fees;
- 5.4 For such further relief as the Court deems just and proper; and
- 5.5 For an award of all damages available under RCW 4.24.010.

Dated: July 24, 2024.

s/ Timothy R. Tesh
State Bar Number 28249
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710 Fifth Avenue NW, Suite 200
Issaquah, WA 98027
Telephone: (206) 388-0333
Fax: (206) 388-0197
E-mail: tim@resslertesh.com

1 **DECLARATION OF SERVICE**

2 I, Khanh Tran, declare under penalty of perjury under the laws of the State of Washington
3 that on this date, prior to 5:00 p.m., I served the foregoing document on the following persons in
4 the manner indicated:

5 JOHNSON, GRAFFE, KEAY, [] ABC Legal Messenger
MONIZ & WICK, LLP [] Via Facsimile
6 Erin Seeberger, WSBA #43809 [] Via USPS Mail
Kate V. Craddock, WSBA #54655 [] Via Hand Delivered
7 2115 N. 30th Street, Suite 101 [X] Via Email, Pursuant to E-Service
Tacoma, WA 98403 Agreement
8 253-572-5323
9 *SAAGs for Defendant State of WA*
(HMC/University of WA)

10 ROBERT W. FERGUSON [] ABC Legal Messenger
Attorney General [] Via Facsimile
11 Jenna M. Robert, WSBA #42858 [] Via USPS Mail
Assistant Attorney General [] Via Hand Delivered
12 800 Fifth Avenue, Suite 2000 [X] Via Email, Pursuant to E-Service
Seattle, WA 98104 Agreement
13 206-464-7744
14 *Attorney for Defendant State of WA (DCYF)*

15 Signed July 24th, 2024, at Tacoma, Washington.

16 

17 _____
Khanh Tran, Paralegal