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**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**

**FIRST JUDICIAL DISTRICT AT KETCHIKAN**

SAMUEL E. BERGERON and  
LINDA G. MILLARD, husband  
and wife,

Plaintiffs,

v.

CITY OF KETCHIKAN, operating by and  
through the KETCHIKAN POLICE  
DEPARTMENT,

Defendant.

FILED in the Trial Courts  
State of Alaska First District  
at Ketchikan  
JAN 28 2021  
By Clerk of the Trial Courts  
Deputy

Case No. 1KE-21- 22 CI

**COMPLAINT FOR PERSONAL INJURY AND DAMAGES**

COMES NOW the plaintiffs, Samuel E. Bergeron and Linda G. Millard, by and through their attorney, H. Clay Keene of the law firm Keene & Currall, PPC, and bring this civil action against defendant, City of Ketchikan, for damages they suffered on February 14, 2019 when they were hit by a patrol vehicle driven by Officer Bryan Perez (herein, *Officer Perez*) of the Ketchikan Police Department while in the sanctuary of the crosswalk at the corner of Main and Grant Street, in front of the Ketchikan Police Department.

**Parties and Venue**

**COMPLAINT FOR PERSONAL INJURY AND DAMAGES** – Page 1 of 8

*Bergeron and Millard v City of Ketchikan*, Case No. 1KE-21- 22 CI  
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**THIS MATTER IS  
FORMALLY ASSIGNED TO  
WILLIAM B. CAREY  
SUPERIOR COURT JUDGE**

KEENE & CURRALL, PPC  
540 WATER STREET, SUITE 302  
KETCHIKAN, ALASKA 99901  
(907) 225-4131

1           1.       Plaintiffs, Samuel E. Bergeron (herein, **Sam**) and Linda G. Millard (herein, **Linda**)  
2 are presently, and were at all times relevant to this complaint, residents of the City of Ketchikan.

3           2.       Defendant, City of Ketchikan, is a municipal corporation organized under the laws  
4 of the State of Alaska, and was at all times relevant to this complaint responsible for the operations  
5 and management of the Ketchikan Police Department and its employees, including Officer Perez.  
6

7           3.       Venue is appropriate in this court because the facts and circumstances that caused  
8 Officer Perez to run in to Sam and Linda while in the sanctuary of a crosswalk, causing them both  
9 extreme pain and suffering, permanent injury and damages, occurred within the City of Ketchikan,  
10 in close proximity to the City of Ketchikan municipal offices, the City of Ketchikan Police  
11 Department and the State of Alaska Court House, all of which are situated within the First Judicial  
12 District.  
13

14           4.       This court has subject matter jurisdiction pursuant to Alaska Statute 22.10.020, for  
15 the amount of compensation each plaintiff seeks from the defendant from this civil action exceeds  
16 \$100,000.  
17

18           5.       On or about May 22, 2019, Sam and Linda submitted their Notice of Claim Against  
19 the City for Damages pursuant to City Charter, Section 5-20.

20                           **Factual Allegations**

21           6.       On February 14, 2019, Sam and Linda enjoyed a Valentine's Day dinner at  
22 Annabelle's Restaurant, after which they intended to walk to their home on Front Street.  
23

24           7.       They had walked to Annabelle's Restaurant and planned to walk home along the  
25 same route up Grant Street to Main Street, crossing Grant Street at the corner of Main Street in front  
of the City of Ketchikan Police Department, continuing up Main Street to their home on Front Street.

1           8.       Sam and Linda crossed Grant Street in front of the Police Department, using the  
2 crosswalk that took them in the direction of the State Court Building.

3           9.       Sam and Linda stepped into the Grant Street crosswalk, but did not reach the other  
4 side of Grant Street, because while in the crosswalk they were run in to by a Ketchikan Police  
5 Department patrol vehicle driven by Officer Perez.  
6

7           10.      Prior to running in to Sam and Linda, Officer Perez had moments before, exited the  
8 patrol car parking garage of the Police Department with his patrol vehicle, without activating the  
9 siren or the light-bar of his patrol vehicle.  
10

11          11.      After exiting the parking garage, Officer Perez turned his patrol vehicle left on Main  
12 Street proceeded approximately 50 feet up Main Street, intending to turn left on Grant Street to go  
13 down Grant Street towards the tunnel.

14          12.      After turning left on to Grant Street Officer Perez ran in to Linda and Sam with his  
15 patrol vehicle while they were walking within the crosswalk.  
16

17          13.      Before hitting Linda and Sam with his patrol vehicle, Officer Perez made no attempt  
18 to engage the brakes of his patrol vehicle or take evasive action to avoid the collision with Linda  
19 and Sam.

20          14.      Officer Perez was aware that prior to running in to Sam and Linda on February 14,  
21 2019, in the Grant Street crosswalk, Mary Stephenson had been run over by a vehicle in the same  
22 crosswalk and severely injured.  
23

24          15.      City of Ketchikan took very limited remedial action following the incident with  
25 Mary Stephenson to make crossing the Grant Street crosswalk safer for pedestrians.

          16.      Several days after Officer Perez ran in to Sam and Linda in the Grant Street

1 crosswalk, he went to Sam and Linda's home on Front Street, late at night, in uniform, unannounced  
2 and uninvited.

3 17. While at the front door of their home, Officer Perez awkwardly tried to explain to  
4 Linda and Sam that it was not his fault that he ran in to them with his patrol vehicle while they were  
5 in the crosswalk.  
6

7 18. As a result of being hit by Officer Perez's patrol vehicle, Sam and Linda were  
8 seriously injured.

9 19. As a direct and proximate result from being hit by Officer Perez's patrol vehicle,  
10 Sam suffered a concussion, significant injury to his body, severe emotional and physical trauma,  
11 and significant economic and non-economic losses.  
12

13 20. As a result of being run in to by Officer Perez, Linda suffered serious injury to her  
14 legs, ankles, knees and severe emotional trauma, and substantial economic and non-economic  
15 damages.  
16

17 21. Both Sam and Linda were transported from the scene by ambulance to the  
18 PeaceHealth Medical Center after being run in to by Officer Perez.

19 22. Sam and Linda have undergone medical treatment for the physical injury, were left  
20 unable to return to normal daily routines or activities for a considerable time after the incident, and  
21 still suffer from residual physical and emotional pain and suffering as a direct and proximate result  
22 of the incident, for which medical treatment continues.  
23

24 23. The City of Ketchikan is liable to Linda and Sam for the acts and/or omissions of its  
25 employees, including, Officer Perez, as a matter of public policy and under the doctrine of  
*respondent superior*.

25. The City of Ketchikan negligently failed to provide sufficient lighting and/or lighted warning signals to drivers to alert them of the Grant Street crosswalk.

26. Officer Perez was not charged with negligent or reckless driving or issued a citation for “failure to exercise care,” for the incident involving Sam and Linda on February 14, 2019.

27. Sam and Linda were not at fault for the injury and damages they incurred on February 14, 2019.

## Causes of Action Negligence

28. This cause of action incorporates all other allegations made in this complaint.

29. The City of Ketchikan has a duty to keep pedestrians safe who cross streets using a crosswalk within the City of Ketchikan.

30. The City of Ketchikan, including its employees, and certainly, including employees of the Ketchikan Police Department, are entrusted to safely operate City owned vehicles, including the Ketchikan Police Department patrol vehicles. The City of Ketchikan and Officer Perez breached their duty of care to Sam and Linda through a series of acts and/or omissions, any one of which constitutes a breach of the standard of care, including but not limited to:

a. failing to construct suitable lighting for the Grant Street crosswalk in front of the Ketchikan Police Department in light of prior accidents occurring to pedestrians at that same location;

b. failure to construct warning lights for the Grant Street crosswalk;

c. failure to instruct and caution City of Ketchikan Police Department patrol officers to use extreme caution after exiting the Police Department parking garage with a patrol vehicle for pedestrians using the Grant Street crosswalk at night; and,

d. failure of Officer Perez to exercise reasonable care and caution while turning from Main Street on to Grant Street before crossing the Grant Street crosswalk for the safety of pedestrians using the crosswalk adjacent to the City of Ketchikan Police Department.

31. As a direct and proximate result of Officer Perez's negligent acts and/or omissions plaintiffs both suffer physical and emotional injury, economic and non-economic damages, permanent bodily injury, loss of daily activities, loss of life's enjoyment.

#### **Assault and Battery**

32. This cause of action incorporates all allegations made in this complaint.

33. Officer Perez did assault Linda and Sam with his patrol vehicle, causing harmful, offensive and violent physical contact to Linda and Sam.

34. As a direct result of Officer Perez's assault of Linda and Sam with his patrol vehicle, Linda and Sam sustained physical and emotional injuries, all of which were reasonably foreseeable if Officer Perez had not failed to exercise reasonable care.

35. As a direct and proximate result of Officer Perez's assault and battery of Linda and Sam with his patrol vehicle, plaintiffs suffered physical and emotional injury, economic and non-economic damages, permanent bodily injury, loss of daily activities, and loss of life's enjoyment.

#### **Reckless Operation of Motor Vehicle**

36. This cause of action incorporates all allegations made in this complaint.

1           37.     At all times relevant to this civil action Officer Perez operated his patrol vehicle in a  
2 reckless manner, without regard for the safety of pedestrians crossing Grant Street in the sanctuary  
3 of the Grant Street crosswalk.

4           38.     As a direct and proximate result of Officer Perez's reckless operation of his patrol  
5 vehicle Sam and Linda suffered physical and emotional injury, permanent bodily injury, economic  
6 and non-economic damages, loss of daily activities, and loss of life's enjoyment.

7  
8                           **Actual Attorney Fees and Cost**

9           39.     This cause of action incorporates all allegations made in this complaint.

10          40.     Sam and Linda are entitled to the award of actual attorney fees pursuant to Alaska  
11 Statute 09.60.070 for the physical assault committed against them by Officer Perez.

12                           **Negligent Infliction of Emotional Distress**

13  
14          41.     This cause of action incorporates all allegations made in this complaint.

15          42.     The negligent acts and/or omissions of the City of Ketchikan and Officer Perez were  
16 the proximate and legal cause of Sam and Linda suffering severe emotional distress as a result of  
17 Officer Perez running in to Sam and Linda with his patrol vehicle.

18  
19          43.     It was reasonably foreseeable that both Sam and Linda would suffer severe  
20 emotional distress from being run in to by Officer Perez with his patrol vehicle, and would each  
21 suffer additional severe emotional distress witnessing the other spouse severely injured.

22                           **Intentional Inflection of Emotion Distress**

23          44.     This cause of action incorporates all allegations made in this complaint.

24          45.     Officer Perez went to the plaintiffs' home days after the February 14, 2019 incident  
25 for the purpose of intimidating plaintiffs and causing them severe emotional distress.

1           46.     Officer Perez told plaintiffs that he was not at fault for the injuries they suffered  
2 when he ran in to them with his patrol vehicle, knowing that his conduct of going to their home, in  
3 his official uniform and uninvited, was extreme and outrageous and would cause the plaintiffs severe  
4 emotional distress.

5  
6           47.     Officer Perez's conduct in going to the plaintiffs' home was intended to intimidate  
7 plaintiffs and deter them from making a claim against the City or against Officer Perez for their  
8 injuries suffered from Officer Perez's reckless conduct.

9           48.     Officer Perez's conduct in going to the plaintiffs' home was outrageous conduct by  
10 a police officer of the Ketchikan Police Department.

11           Wherefore, having fully pled the plaintiffs' complaint, plaintiffs request a judgment against  
12 the defendant, City of Ketchikan, in favor of each plaintiff for an amount more than \$100,000, the  
13 exact amount of which shall be determined by the trier of fact, plus interest, costs and actual attorney  
14 fees, and such other relief as this court deems appropriate and just under the circumstances.  
15

16           Dated at Ketchikan, Alaska this 28th day of January 2021.

17  
18                   KEENE & CURRALL, PPC  
19                   Attorneys for Plaintiffs

20           By H. Clay Keene  
21                   H. Clay Keene  
22                   Alaska Bar No: 7610110  
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