

JUN 03 2024

TRENT TRIPPLE, Clerk
CLERK OF THE DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

Case No. **CV 01 24 09346**

**EDWARD BANACH an individual; and
GINA BANACH an individual,**

Plaintiff,

Vs.

**JONATHAN STEELE an individual;
JASON WOODCOOK an individual;
ASHLEY HAGEMAN-TURNER an
individual; MICHAEL HENDERSON an
individual; JUSTIN PRATHER an
individual; ROBERT KOLLER an
individual; ZACHARY HESSING an
individual; CITY OF STAR, a political
subdivision of Idaho, ADA COUNTY, a
governmental entity of Idaho; and John
and Jane Does 1-10 whose true identities
are unknown.**

Defendants

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMPLAINT

The Plaintiffs complain and allege against Defendants as follows:

GENERAL ALLEGATIONS

1. This action arises under the Civil Rights Act of 1871 (42 U.S.C. §§ 1983, and 1985) as later more fully appears, and the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. This court has jurisdiction under 28 U.S.C.A. §§ 1331 and 1343.

2. Plaintiffs Edward Banach (hereinafter "Edward") and Gina Banach (hereinafter "Gina") individually and as heirs of Jeremy Banach, deceased (hereinafter "Jeremy"), hereby complain and allege against Defendants City of Star (hereinafter "Star"), Ada County (hereinafter "Ada") and Jonathan Steele (hereinafter "Steele"), Jason Woodcook (hereinafter "Woodcook"), Ashley Hagerman-Turner (hereinafter "Turner"), Michael Henderson (hereinafter "Henderson") Justin

Prather (hereinafter “Prather”) Robert Koller (hereinafter “Koller”) Zachary Hessing (hereinafter “Hessing”) and members of the City of Star Police Department and/or the Ada County Sherriff's Office as may be liable for Plaintiffs’ damages within were otherwise acting under color of state, city, and/or federal law.

3. The matter in controversy exceeds \$75,000.00 exclusive of interest and costs.

4. Defendant Star is a political subdivision of the State of Idaho and within the jurisdiction of this judicial district and with whom a claim was filed on 8/12/2022, requesting an award of damages in the matter set forth in this complaint. The claim was denied by the Defendant Star on [02-21-2024].

5. Defendant Ada is a governmental entity in the State of Idaho and within the jurisdiction of this judicial district and with whom a claim was filed on 8/12/2022, requesting an award of damages in the matter set forth in this complaint. The claim was denied by the Ada County Board of Supervisors as [as it was never responded to.]

6. At all times mentioned, Jeremy was, prior to his death on June 15, 2022, a citizen of the United States, residing at 9851 W. Golden Rain St. Star, Ada County, State of Idaho.

7. At all times mentioned, Plaintiffs Edward Banach & Gina Banach, were and now are a citizen of the United States and resided at 9851 W. Golden Rain Street, Star, Idaho 83669, Ada County, State of Idaho.

8. At all times mentioned, Defendant Star contracted with Defendant Star to provide services in the form of police by and through the Ada County Sheriff's Department and act under the authority and for the benefit of Defendant Star. Ada County Sheriff's Department is a law enforcement agency acting under the authority of Defendant Ada County, who was acting under the authority of Defendant Star.

9. At all times mentioned, Defendant Zach Hessing was and now is the Star Police Chief.

10. At all times mentioned, Defendants, Steele, Woodcook, Turner, Henderson, Prather, and Koller were and now are Deputy Sheriffs of Ada County Sheriff's Department, and residents of Ada County.

11. Plaintiffs are informed, believe and allege that at all times mentioned, Defendants, and each of them, were the agents and employees of each of the remaining Defendants and were acting within the course, scope and purpose of such agency and employment and conspired among each other to commit unlawful acts.

12. Plaintiffs are informed, believe and allege that Defendants Steele, Woodcook, Turner, Henderson, Prather, and Koller are law enforcement officers and employed as such with Defendant Ada via the Ada County Sheriff's Department, and in doing all of the things mentioned, acted under color of their authority as such and under color of the statutes, regulations, customs and usages of the Ada County Sheriff's Department, County of Ada and State of Idaho and pursuant to the official policy of Defendant Ada and Defendant Star.

13. The true names and capacities of Defendants John and Jane Does 1-10, inclusive, whether individual, corporate, associate or otherwise, are not known to Plaintiffs at this time. Plaintiffs reserve the right to amend this Complaint to identify the true name(s) and capacities when they become known. Plaintiffs are informed and believe that each Doe Defendant may be tortiously responsible in some manner for the events that happened before, during, and/or after the date of the subject incident to this matter.

14. Plaintiffs are informed, believe, and allege that in doing all of the things alleged, Defendants, and each of them, acted under color of statutes, regulations, customs and usages of the County of Ada and State of Idaho and pursuant to the official policy of Defendant Star and

Defendant Ada, and that Defendants, and each of them, assisted, cooperated, coordinated and acted in concert with each other.

FACTS

15. This claim arises from the following conduct and circumstances:

16. Plaintiffs are the parents of Jeremy, who was the victim of excessive force and was shot and killed by agents of Defendants Star and Ada on June 15, 2022.

17. The material incident began at the home of Plaintiffs around 8:00 AM, and proceeded to N. Main Street, just next to the Star Mercantile parking lot, where Jeremy was shot by officers just after 9:30 a.m.

18. Plaintiffs have long tried to obtain care for their son, Jeremy, who suffered from drug addiction. In an effort to help their son with the help he needed, Plaintiffs trespassed Jeremy from their home.

19. In the early morning of June 15, 2022, Plaintiffs found Jeremy sleeping in their yard under a tarp. Edward asked Jeremy to leave, but Jeremy refused. Edward thereafter called police dispatch and asked for police assistance to get Jeremy to leave the property, as Jeremy appeared to be intoxicated or otherwise under the influence of substances.

20. Initially two officers, representatives of Defendant Ada, arrived around 8:15 a.m. but were promptly followed by four more officers. Those officers conducted a preliminary interview and interrogation of Jeremy. Following an initial conversation with Jeremy, one of the officers spoke to Edward and represented that Jeremy was "really high." Nevertheless, the officers indicated they intended to allow Jeremy to "walk and leave."

21. The officers asked Edward if he wanted Jeremy to leave. He said yes. Officers allowed Jeremy to leave the property on his own volition and did not charge Jeremy with a crime. The

officers never told Edward that Jeremy had a gun, nor that he had threatened officers. Plaintiffs would have never allowed Jeremy to leave their home with a gun.

22. As Jeremy walked down the sidewalk away from the house, Edward watched out the window of the home. To his great concern, he saw two officers carrying military-style rifles (AR-15) staring down the sights of their weapons pointed at Jeremy's back.

23. After Jeremy turned a corner, Edward confronted the officers on their decision to train their loaded weapons on Jeremy as he walked away and presented no obvious threat. The officers were "noticeably jumpy," but responded that they had drawn their rifles because Jeremy was armed with a gun.

24. Shocked and incredulous, Edward asked the officers to clarify why they believed Jeremy was armed. The officers indicated that Jeremy had told the officers during the interrogation he possessed a weapon. The police officers failed to reveal that information to the Plaintiffs until having already let Jeremy walk away under his own volition.

25. Edward then reiterated to the officers that he had reported one of his personal firearms as stolen, a 1911 pistol. The officers thereafter placed a be-on-the-lookout ("BOLO") call for Jeremy. Unlike when the officers sent Jeremy away from the Plaintiffs' house, Officers thereafter identified Jeremy as a danger to the public. Plaintiffs were shocked to learn the Defendants had allowed Jeremy to leave while both armed and appearing to be under the influence of substances without notifying Plaintiffs of the situation.

26. Upon information and belief, police officers began a search for Jeremy. Officers located Jeremy at N. Main Street, near the Star Mercantile parking lot. Upon information and belief, Jeremy had a firearm wrapped in his sweatshirt and was carrying it near his chest. Officers are believed to have initially confronted Jeremy outside the mercantile, and at least one officer tried

to physically wrestle the sweatshirt and firearm from Jeremy. Jeremy refused to let go of the bundle and began walking away from the officers.

27. Officers failed to use any non-lethal uses of force or tactics to subdue Jeremy, including but not limited to the use of Tasers. Instead, officers began to retrain their firearms upon Jeremy. As Jeremy continued to walk away, the officers followed Jeremy 220 feet with the gun wrapped in the jacket. Jeremy removed the sweatshirt in the last 10 feet when the officer opened fire and shot Jeremy. Jeremy died on the spot as a result of the multiple gunshot wounds inflicted by the officer.

28. It is unclear whether the officers responsible for Jeremy's death had received the necessary training and education required pursuant to IDAPA 11.11.01, including training regarding handgun safety, handgun retention and disarming, use of deadly force, or verbal judo and other non-lethal de-escalation techniques. If officers received such training, they acted with reckless, knowing, and/or malicious disregard of their legal training. The defendants' decision to open fire upon Jeremy was unnecessary, unreasonable, unlawful, and unjustified. Defendants' actions were not taken in good-faith and were in violation of clearly established law. Defendants were thereby negligent, negligent per se, committed unlawful battery, and violated Jeremy's rights guaranteed by the Fourth Amendment of the United States Constitution, as well as Article I section 1 and Article I, section 17 of the Idaho Constitution.

SPECIFIC ALLEGATIONS

29. Defendants acted recklessly, and with extreme negligence when they shot and killed Jeremy by discharging multiple gunshots from a high-powered rifle into Jeremy's back as he was walking away from them.

30. A total of five bullets were fired into Jeremy causing his gruesome and needless death.

One shot penetrated Jeremy's back on the lower left flank with such force it exited the body and proceeded to hit and rip apart Jeremy's left tricep. Another shot ripped through Jeremy's right buttock blasting out of his lower abdomen and continuing forward. A third shot passed through Jeremy's leg exploding out of Jeremy's right thigh and continued forward. A fourth shot ripped through Jeremy's torso while a fifth shot entered his lower back lodging permanently in his lower chest.

31. Throughout the entire interaction between Jeremy and Defendants, the Defendants acted incorrectly and were negligent in the handling of the situation on multiple accounts. The negligent Defendants had sufficient training and opportunities to detain Jeremy at a previous time and a more private place earlier in the day but failed to do so leading to a more tenuous situation in which the agent officer who pulled the trigger ultimately chose to make a choice that was fatal for Jeremy despite the many other options available.

32. The Defendants were negligent in failing to do the following while at Jeremy's parents' house; search Jeremy, take the gun from Jeremy, query the gun to determine if it was Jeremy's, and ultimately not allow Jeremy to leave the premises under the influence of drugs especially while still in possession of the gun.

33. The Defendants initially came into contact with Jeremy at his parents' house. The Defendants were advised of Jeremy's past use of drugs and even reported that they believed he was under the influence at that time but failed to detain him. Their training requires that they take into custody any person who appears to be incapacitated by alcohol and/or drugs. The policy specifically uses the term "**SHALL**" when the agent believes the person is under the influence, which the Defendants clearly reported that they in fact did believe that yet they released him on his own recognizance.

34. Additionally, the Defendants state in their own report that they believed due to Jeremy's drug use and initial threats to his parents that Jeremy was possibly trying to force the Defendants to use deadly force (suicide by police), and, yet, the Defendants failed to handle the situation correctly believing that Jeremy was in that mental state.

35. The Defendants should have also done a search of Jeremy's person if they felt he was under the influence. They failed to do that as well. They should have initially taken the gun while they conducted the search, if merely for the fact their observations led them to believe he was under the influence of drugs at that time. Had they taken the gun and done a search on it, they would have found out at that time that it did not belong to him. At that point, even if they released Jeremy, he would no longer have possession of the gun, which was the main point the Defendants used as an excuse for the barrage of deadly fire that came just hours later.

36. The Defendants were negligent in doing the following after leaving Jeremy's parents' house; negligently assume that they knew what Jeremy was thinking as he walked away from them, improperly escalate the situation by using lethal rounds and lethal methods when not necessary, incorrectly decipher the situation to an unreasonable and negligent standard, specifically believing Jeremy was going to shoot at them despite no indication on his part to do so at all (no threats, no aggressive behavior, no pointing of the weapon, not even looking in the Defendants' direction), and, ultimately, no de-escalation methods were implemented at all.

37. The agent that first contacted Jeremy failed to wait for back up to initiate physical contact. Furthermore, one of the Defendants stated that they believed their co-agent, Deputy Woodcook, was in danger of being shot despite Jeremy walking away from him and never once pointing the gun towards them. Furthermore, the agent also speculated that Jeremy, despite never looking back at the Defendants, had acquired Deputy Woodcook in his sights and the Defendants were in

immediate danger. This would have only been possible if Jeremy had eyes in the back of his head.

38. In summary, your Defendants negligently caused Jeremy Banach's life to end brutally and needlessly which, as a proximate cause, resulted in Plaintiffs incurring damages to be proven at trial. Your Defendants created their own exigent circumstances by failing to act appropriately in their roles and positions of power over the citizens and general public.

CAUSE OF ACTION
(Civil Rights Violation)

As a Cause of Action against the defendants, and each of them, Plaintiffs Edward, in his representative capacity on behalf of the Decedent, alleges:

39. Plaintiff Edward Banach, individually, refers to the allegations contained in paragraphs 1 through 14 of the General Allegations above and incorporates them by reference as though fully set forth anew.

40. During the course of this incident, Defendants, and each of them, **conspired** to and in fact did deprive the Decedent of life and liberty as would shock the conscience in violation of the Decedent's rights to same and guaranteed by the Fourth (4th) and Fifth (5th) Amendments to the United States Constitution. Defendants and each of them also deprived the Decedent of the right not to be deprived of life and liberty without due process of law as guaranteed by the Fourth (4th), Fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution. All of rights of decedent, as set forth, were violated by defendants and each of them by the use of brutal, excessive, unreasonable and unnecessary physical force upon the person of Decedent, as more specifically set forth. More specifically, defendants and each of them violated the decedent's rights.

41. As a proximate result of the conduct of Defendants, and each of them, as set forth, the Decedent was killed and deprived of his constitutional rights of life, liberty, and due process, all to decedent's damages in [an amount to be determined at trial.]

42. The conduct of Defendants was willful, wanton, malicious and one with an evil motive and intent and a reckless disregard for the rights and safety of the Decedent and therefore warrants the imposition of exemplary and punitive damages in [an amount to be determined at trial.] as to each of the defendants.

DAMAGES

43. Plaintiff seek all damages available for the wrongful death of Jeremy Banach, including but not limited to, the loss of his love, services, support, care, maintenance, society, comfort, and companionship in an amount to be determined at trial. Edward and Gina Banach may also seek damages including funeral, expenses incurred prior to and because of Jeremy's death. Plaintiffs further seek any and all damages available arising from the deprivation of Jeremy's guaranteed rights under the United States Constitution and the Constitution of the State of Idaho, mental anguish, and loss of life and consortium. Plaintiffs may further be entitled to costs of litigation, expert costs, and attorneys' fees. Plaintiffs' damages are both unliquidated and continuing and ongoing but are likely in excess of five hundred thousand dollars (\$500,000.00). Plaintiffs may further seek equitable relief, including but not limited to training, education, and audit assessments of the officers and law enforcement agencies' policies, procedures, and training programs.

WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as follows:

1. Compensatory damages in [an amount to be determined at trial.]
2. Punitive damages in [an amount to be determined at trial.] as against only the following defendants: [Steele; Woodcook; Turner; Henderson; Prather; Koller; Hessing]
 1. For costs of suit incurred;
 2. For reasonable attorney's fees; and

3. For such other and further relief as the court may deem proper.

Dated: 06-02-24

Edward P. Banach Jr.

Edward Paul Banach Jr.

Dated: 06/02/24

Gina L. Banach

Gina L. Banach