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February 26, 2025

City of Tombstone  
Tombstone Marshal's Office  
Marshal Jim Adams  
Constance Baker  
KnightWatch K9  
Marshall Sharp  
Rebecca Larsen McKeown  
Jeff Garcia  
Alicia Via  
All Phase K9 Tactical  
Got Your Six K9 Rescue, Inc.  
Officers yet to be determined

Re: John Coby II  
NOTICE OF CLAIM PURSUANT TO A.R.S. §12-821.01

Dear City of Tombstone, Tombstone Marshal's Office, Jim Adams, Constance Baker, Marshall Sharp, Jeff Garcia, Alicia Via, entities, and unknown individuals:

On behalf of John Coby II, I am serving this Notice of Claim pursuant to A.R.S. §12-821.01. Per the statutory requirement, this claim can be settled for \$1,500,000.00.

As you are aware, there are not only numerous claims to be made against the entities and people set forth herein, Mr. Coby was told by Marshall Jim Adams and Sgt. Jeff Garcia that if he filed a lawsuit, his employment would be terminated. These egregious statements are further evidence for punitive damages should this matter not resolve.

As you are well aware, Mr. Coby was attacked by his assigned canine on November 19, 2024 causing serious injuries. He had to be air-evac'd due to the nature of the injuries. We now know the dog was placed into service despite a history of attacks on its handler. The canine's name and records were falsified so that Constance Baker and her company could be paid for the services with the agreement of Tombstone. Mr. Coby has suffered not only extreme pain, lost work and time, medical costs, permanent scarring and is believed to not be able to work in his future field of commercial aviation due to his injuries. The extent of the medical bills is still unknown.

## **Factual Background**

Although we do not have all of the information available to law enforcement, I do know the following facts that support my client's claims. Below is a factual timeline. However, what is crucial is the investigation that was done that showed the following.

Constance Baker was an employee of the Tombstone Marshal's office and also ran a private company called KnightWatch K9 which provided canines to law enforcement. Marshal Adams hired Baker and KnightWatchK9 to supply dogs and train them and the handlers. No one vetted this group, nor did they send anything out for bid. There was absolutely no supervision of the program by the government despite the officers being subjected to the animals. It was determined that Baker and her company bought dogs to sell and supply to Tombstone that she knew were dangerous, changed their records and names and then lied to try and deflect blame. She worked with Marshall Sharp, and Rebecca Larsen McKeown to try and place blame on Mr. Coby for the attack on him and the shooting of his dog.

## Timeline

On November 6, 2024, Mr. Coby went to pick up K9 Caine which was to replace K9 Cupcake due to Cupcake biting Constance Baker. When she brought Caine out, Mr. Coby immediately observed him pulling excessively on the leash and Ms. Baker had trouble controlling him. The dog slipped out of his collar and began running around the property. Coby and Baker went after him trying to get a hold of him to put his collar back on and finally were able to get him to play a game of tug of war with a toy. While he was distracted pulling on the toy, they were able to get a collar and leash on him. Baker then put him in the kennel in Coby's patrol truck. Coby told Baker the dog was not obedience trained and asked how can he certify with this dog in a week. Baker stated that he should come to K9 training that night. While

attempting to get the dog out of his truck, the dog jumped down from the truck and immediately began jumping backwards and doing extreme head shakes trying to slip his collar. It was clear that this dog was never trained on a leash and had no obedience training. The dog would not sit, respond to the command phooey, (which is stop) or answer to his name Caine. Mr. Coby was able to get the dog back into the truck by throwing a toy back into the kennel which he followed. He immediately took the dog back to the station to return the dog. He met [REDACTED] and their evidence coordinator [REDACTED] in the parking lot and explained the frustrations. [REDACTED] looked in the window and called the dog's name and he did not respond but only continued to sit and stare. [REDACTED] also concluded that isn't the dog's name and Coby looked up the picture of Cain provided to Marshal Adams from Baker which was posted on 'X' formerly twitter. It was clear these are two different dogs. [REDACTED]

Baker then showed up in the parking lot and Coby told her to take the dog back. She laughed and told him not to be scared of the dog and to follow her to the training. She assured him that the dog was Caine. Coby followed her to the training site, and deployed Caine around a parked out of service car. He immediately jumped on the hood and the roof of the car. Baker stated that the dog did not know the basic commands and instead claimed he knew "gets dope" as she explained in a German accent. She admitted he had no obedience training. Coby again became extremely upset and took the dog back to his truck by letting him bite his toy and Coby pulling the toy to the truck essentially getting him to follow. Baker wanted to try again and this time, Caine became fixated on Deputy Sharp wanting to attack him. Coby was struggling to hold the leash and tried pulling the dog back to the truck when he turned and bit Coby twice, once on his right inner thigh and again on his left inner thigh. [REDACTED] shows the bite on his left inner thigh. The sharpie circle drawn around the bite was to measure the swelling and monitor for infection. Baker minimized the seriousness of the bite and stated to investigators that the bite was so small Coby needed to circle it just to see it.

On November 6<sup>th</sup> 2024, after the bites, Baker instructed him to walk the dog around the building then to put the dog in the truck. Baker then tried to blame Coby for not being able to control the dog, telling him to "You go to the gym all the time I thought you could handle him." Baker further lied to investigators stating Coby celebrated the dog bite by commenting 'I have my badge as a k9 handler now,' a statement Coby did not make. Coby called Sgt. Garcia and informed him of the dog bites and the two different dogs and he said he would talk to Baker about it. Baker then provided Sgt. Garcia with a rabies record for Caine and Coby immediately saw the dog's name as Boris. Baker told Garcia she changed the dog's name and she does it all the time.

Coby further saw the rabies record was photo shopped and there was missing information. [REDACTED]

On December 3, 2024, KnightWatchK9 gave Coby's first dog Caine to [REDACTED] who works for [REDACTED]. [REDACTED] was in the handler course with Coby. [REDACTED] reached out to the trainers at [REDACTED] who told him they are "staying out of the case" because they were instructed to do so and to stay away from the civil suit. [REDACTED] told [REDACTED] that according to Caine's training records, Caine was afraid of people and afraid of the leash and becomes aggressive. The Trainer told [REDACTED] that every dog that comes from [REDACTED] has marijuana imprinted. Caine and Hawk both had marijuana imprinted and Baker knew it. Baker and Knight WatchK9 knew that the dogs had a violent history and that marijuana imprinted and changed their names to give the dogs a new identity. [REDACTED] gave Caine back to Knight WatchK9 and is on his 4th dog from them.

Hawk's medical record was also whited out. Baker said Via does that to not let Baker know where she gets the dogs from due to competition. Via did not want people to know where the dogs came from to keep vendors from going elsewhere

During Baker's interview following the incident with Hawk, on November 19, Baker and Sharp made false accusations of abuse and heavy-handedness. Baker and Sharp both stated there was no reason to have the dog in the station and the dog should have stayed in the vehicle because there is a kennel in the vehicle. The Tombstone Marshal K9 Policy states in Section: M (4) Handlers shall bring their K9's into the department kennel if they expect to be in the office for more than 10 Mins. It should further be noted Baker wrote the SOP and Sharp had read the SOP. The policy was also followed by Mr. Coby.

Baker made claims that Coby slept in bed with the dog. This is in response to him being sarcastic with her when she told him not to walk the dog because that would self-satisfy the dog. When asked how he was supposed to take the dog urinate etc., she said he had to figure that out on his own so Coby said "maybe having him sleep in the bed with me isn't a good idea then huh? And she said tell me your joking? Coby said "of course I am." What a ridiculous statement from Baker as everyone knows a dog should be walked to urinate unless left in an open space and they did it every day during training.

The day of the attack by Hawk, Sharp went to City Hall and started spreading false rumors that Coby was heavy handed and told Rebecca McKeown to write a letter to

the Marshal saying Coby was heavy handed. This resulted in the canine program being immediately suspended. McKeown works in public works and is frequently in City Hall. Rebecca McKeown falsely stated she saw Coby swing the dog by his leash causing him to leave the ground, approximately two weeks prior to the shooting. However, Coby only had Hawk for 10 days before the shooting and Hawk was about 90 lbs and he would not be able to do that. Baker's letter to investigators stated "[REDACTED] witnessed Coby punch Caine in the face" [REDACTED] denies any such observation or comments. [REDACTED] never observed Coby handle either Hawk or Caine so the claim Coby punched the dog in the face is also false. Coby gave Hawk a bath because of his odor. He had dried 'pee and poop' on him. Baker stated she does not give dogs baths and that they are tools. The accusation that the dog sat on the couch while watching Scooby Doo was also false. Coby took a picture of the dog in the kennel while Scooby Doo was on the TV. [REDACTED] The kennel was in front of the couch again showing Baker's attempts to place blame elsewhere to deflect from her conduct.

[REDACTED] attended the Handler course with Coby in 2023 and worked as a handler for KnightWatch K9 in 2023. He quit because of the dog's aggressiveness and Baker's lack of empathy towards the dogs. The history is troubling; Baker's dog Noms escaped her kennel one day and killed three sheep on her property. It ripped the throat out of them and began eating them. Coby's old dog Dayak, supplied by Baker, bit [REDACTED] and the other kennel technician [REDACTED]. In 2023, Baker's ex-husband sued Baker over the KnightWatch K9 business. Baker said in a meeting that she uses her friend's nonprofit for payments because of her ex-husband. This nonprofit is the same nonprofit as the shelter Hawk was acquired from.

There was no bid from the City to hire Baker's company- it was approved by Marshal Adams and the City was aware of it. No background or insurance was provided by Baker to the City until after the incident. Baker walked into City Hall and gave them a \$50,000.00 invoice for the dogs. It is my understanding that Baker got the dogs from Via/All Phase K9/Got Your Six K9 Rescue, Inc. and Via knew of the dog's history and changed the documents with Baker's knowledge.

Baker lied about Coby getting bit by (Hawk) during training in her letter asking [REDACTED] to double check his wounds to his wrist. Coby's watch had damage on it from the attack and was taken into evidence.

On January 24, 2025 Coby was told again by Marshal Jim Adams if he pursues civil action against the City, per the Mayor's policy, he will be fired.

## Legal Analysis

I intend to file a complaint for violation of Mr. Coby's civil rights and several state related charges thus I have set forth some of those for your consideration although there are likely many other claims which may be made should we need to pursue litigation. To be liable for an employee's negligence, an employer must have control or right of control over that employee. *Engler v. Gulf Interstate Eng'g, Inc.*, 227 Ariz. 486, 491 ¶ 17, 258 P.3d 304, 309 (App. 2011), *aff'd*, 230 Ariz. 55, 280 P.3d 599 (2012). As such, given Baker and her company, the City may be liable for Knight Watch's actions as well as Baker's.

State law claims exist that necessitate this Notice of Claim. One of those is the intentional infliction of emotional distress given that the people involved "caused severe emotional distress by extreme and outrageous conduct committed with the intent to cause emotional distress or with reckless disregard of the near-certainty that such distress would result." *See Watkins v. Arpaio*, 239 Ariz. 168, 170-71, ¶ 8 (App. 2016).

Mr. Coby suffered serious injury by the dog "Hawk" while working in a work environment that was placed into motion by the City and Marshal Adams by hiring Knight Watch and Baker and allowing them to operate. The Arizona Constitution guarantees that "[t]he right of action to recover damages for injuries shall never be abrogated." Ariz. Const. art. 18, § 6. Notwithstanding workers' compensation exclusivity, "the Arizona Constitution allows an employee who would otherwise be barred . . . to sue his or her employer if the employee has suffered an injury caused by the employer's wilful misconduct." *Gamez v. Brush Wellman, Inc.*, 201 Ariz. 266, ¶ 5 (App. 2001); Ariz. Const. art. XVIII, § 8. That is, a lawsuit may proceed where the employee's injury is "the result of an act done by the employer or a person employed by the employer knowingly and purposefully with the direct object of injuring another, and the act indicates a wilful disregard of the life, limb or bodily safety of employees." Ariz. Const. art. XVIII, § 8. The facts here clearly meet that standard as there are four elements necessary to properly plead willful misconduct: (1) the employer's willful misconduct must have been the cause of the employee's injury, (2) the willful misconduct must have been "an act done . . . knowingly and purposely with the direct object of injuring another," (3) the act that caused the injury must have been the personal act of the employer, and (4) the act must have reflected "a willful disregard of the life, limb or bodily safety of employees." *Gamez*, 201 Ariz. 266, ¶ 6 (alteration in *Gamez*) (quoting Ariz. Const. art. XVIII, § 8).

To recover punitive damages, Mr. Coby must show that various individuals "engaged

in tortious conduct of any kind, intentional or negligent—that is, acted with an 'evil hand,'" and that "the defendant engaged in such conduct with an 'evil mind.'" *Swift Transp. Co. of Ariz. L.L.C. v. Carman in & for Cnty. of Yavapai*, 253 Ariz. 499, 506, ¶ 22 (2022). This should be very simple given the falsifying of records to place a dog into law enforcement knowing its history and others working with Baker to cover it up. Punitive damages can be awarded under 42 U.S.C. 1983 and 1985, both of which are viable claims here, as well as to state claims against KnightWatchK9. My client had a constitutional right to be in a safe work environment.

42 U.S.C. § 1983 ("§ 1983") provides a civil remedy for the deprivation of any rights, privileges, or immunities secured by the Constitution under color of state law. As to Marshal Adams, Baker, Sharp, [REDACTED] and others, they were acting under color of law. See *Van Ort v. Estate of Stanewich*, 92 F.3d 831, 838 (9th Cir. 1996). The complaint that I will file will also be alleging *Monell* claims against the City given the actions taken by Marshal Adams and the failure to properly vet Knight Watch and instead simply give a contract to an employee. The City of Tombstone was deliberately indifferent to the need for supervision/training within the police department. Fourteenth Amendment's substantive and procedural due process, as well as equal protection claims. Retaliation, the threat to fire, is also included. The statement that it was the Mayor's policy is extremely troubling.

42 U.S. Code § 1985 will also apply here as Baker and/or Sharp and/or others conspired to place Coby in a situation where he was harmed. This applies when two or more persons conspire to deny a person "any right or privilege of a citizen of the United States." 42 U.S.C. § 1985. To state a conspiracy claim, a plaintiff "must show 'an agreement or 'meeting of the minds' to violate constitutional rights." *Franklin v. Fox*, 312 F.3d 423, 441 (9th Cir. 2002). Given the intentional cover-up, we can prove this claim.

Additionally, knowingly giving false testimony can amount to a police officer's "conscious disregard of the law or the rights of others" sufficient to support a claim of gross negligence." *Landeros v. City of Tucson*, 171 Ariz. 474 (App. 1992). The false information provided in the investigation to try and discipline Mr. Coby may be gross negligence. As well, the threat to fire Mr. Coby is clearly at a minimum gross negligence as well as shocks the conscience. "Ordinarily, the issue of gross negligence is a question of fact to be decided by the jury." *Walls v. Arizona Dep't of Pub. Safety*, 170 Ariz. 591, 595, 826 P.2d 1217, 1221 (App. 1991).

A statement is defamatory per se when its defamatory character is apparent on its face because the words used are "of such a nature that the court can presume as a

matter of law that the communication will tend to degrade or disgrace the party defamed." *McClinton v. Rice*, 76 Ariz. 358, 365 (1953). Claims made about how Mr. Coby treated his dog are defamatory.

Mr. Coby was seriously injured due to the lies and cover-ups that subjected him to dogs that were known by Baker to have a history. "Under the Fourteenth Amendment, a person has the constitutional right to be free from a government employee affirmatively placing that person in a position of actual, particularized danger (or in a situation of actual, particularized danger that is more dangerous than the position that the person already faced) if the government employee acted with deliberate indifference to a known or obvious danger." 9<sup>th</sup> Circuit Model Jury Instructions, 9.33B. The "state may be constitutionally required to protect a plaintiff that it affirmatively places in danger by acting with deliberate indifference to a known or obvious danger." *Martinez v. City of Clovis*, 943 F.3d 1260, 1271 (9th Cir. 2019) (quotations omitted) The City and Marshal Adams are responsible for the actions of Baker and Sharp and others as well as possibly KnightWatch K9/All Phase Tactical I, Got Your Six K9 Rescue, Inc. and Alicia Via, under respondent superior for some claims, directly liable under some claims, and under *Monell* for others. A "person" subject to liability can also be a municipality, county, or other local governing body. (See *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 690 (1978); *Waggy v. Spokane County*, 594 F.3d 707, 713 (9th Cir. 2010) ("Municipalities are considered 'persons' under 42 U.S.C. § 1983.") A local governing body defendant, such as a school district or municipality, is not entitled to qualified immunity. See *Owen v. Independence*, 445 U.S. 622, 638 (1980) (holding that "municipality may not assert the good faith of its officers or agents as a defense to liability under § 1983").

### **John Coby's Background**

Mr. Coby is not only a law enforcement officer with 14 years of experience, he is an active member of the Arizona National Guard. His eventual goal was to work in commercial air transport and had enrolled in training. He was scheduled to attend a leadership school in January for promotion from E6 Staff Sergeant to E7 Sergeant First Class. He will not be able to do this now due to his injuries. The dog bite affected John due to him now not being able to pass an aviation flight physical. He sustained extensive nerve damage and now will have to notify the FAA of such injuries. The FAA (Federal Aviation Administration) has strict medical requirements for pilots, outlined in 14 CFR Part 67 (Medical Standards and Certification). Nerve damage can affect a pilot's ability to obtain or maintain a medical certificate, depending on severity and symptoms. Pilots must disclose any nerve-related

condition on their MedXPress application.

John Coby began working for the Tombstone Marshal's office in Aug 10<sup>th</sup> 2023 and has an exemplary record. Despite this, he was threatened with termination if he pursued these claims, something that will shock the conscience of jurors.

John is married to [REDACTED] Due to the attack by his canine, John suffered the following injuries:

- Two permanent scars to his left wrist
- Soft tissue and possible permanent nerve damage to his right ankle, knee and foot.
- A two-by-two-inch hole in his right calf which resulted in a piece of leg missing.
- 16 total puncture wounds to his ankle with 2 of these punctures on his wrist.
- Permanent scar tissue damage and 4 permanent scars on his left calf in the shape of Hawks teeth. As the Hawks mouth wrapped around his calf. Resulting in 3 stitches
- 2 inch piece of the left calf that sustained skin and tissue loss. This resulted in no sutures due to the missing skin and as a result Heald with a permanent indentation of the wound.

The medical treatment included the following:

Mr. Coby was given morphine and Versed in the field, and they attempted wound irrigation which caused significant pain and distress so therefore was discontinued. He was taken by ambulance to the Tombstone fire station and then air evac'd to Banner University Medical Center in Tucson. X-rays were performed on the right foot, right ankle and right tibia and fibula as well as the left wrist and forearm to evaluate for fracture and foreign body (dog teeth). Mr. Coby was given medication for pain and then topical lidocaine was applied to the wounds on the right ankle and left wrist. Later injection of local anesthetic was used to numb the area on the right lateral ankle for irrigation and 3 sutures were placed in the right lateral ankle where the wound could be approximated and closed. Part of the wound was left open due to lack of viable skin to suture. There were also lacerations to the right medial ankle and a puncture wound to the right medial ankle which were irrigated. There was a puncture wound to the left wrist which was also irrigated. He was discharged on 7 days of amoxicillin clavulanic acid 875/125 one tablet twice a day due to significant concerns for infection which is a critical concern with dog bites. The wounds were dressed, and he was discharged home with crutches and minimal weight bearing status. ER physicians instructed Mr. Coby to have sutures removed in 7-10 days to have daily dressing changes. He was advised to watch for redness, swelling,

discharge, fever, or chills as signs of infection, and to return to the emergency room immediately if any occur.

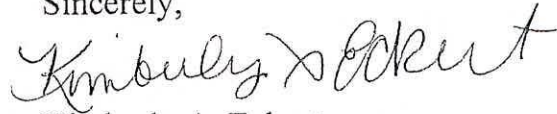
Mr. Coby followed up with primary care as advised by the ER physicians, he also saw an orthopedic foot doctor on November 25, 2024. The orthopedic did additional x-rays on the foot and ankle and there was concern for nerve damage due to numbness and tingling of the right lateral foot. He extended the antibiotic, Augmentin 875/125 one tablet twice a day for an additional 10 days after completing the initial seven-day course, due to continued concern for infection. He also advised that the sutures remain in. He advised minimal weight bearing and use of crutches and a one-week follow-up. Mr. Coby was re-evaluated by the orthopedic specialist on December 2, who recommended that the sutures remain in place to facilitate further healing. Mr. Coby was placed in a walking boot, but this caused further irritation to the wound and was not tolerated. He was referred for physical therapy and an MRI due to pain and numbness in his right foot and ankle. Mr. Coby followed up again on December 9th with the foot orthopedic and at this time the sutures were removed. He was starting to bear some weight on the right foot and was in physical therapy. Another follow up on December 20 with the foot orthopedic where MRI results were reviewed showing no tear to any tendons but a strain to the extensor digitorum longus. At this time Mr. Coby was progressing with physical therapy and was weight bearing but was now having pain in the right knee. An appointment was scheduled for Mr. Coby to see an orthopedic for the knee pain. He continued physical therapy three times a week an hour a session.

January 4, 2025, Mr. Coby was evaluated by the orthopedic for the right knee pain. There were concerns for possible internal derangement. An x-ray was done of the right knee, and he was sent for an MRI of the right knee. He followed up again on January 6 with the knee orthopedic to review MRI results, which did not show any type of tear or ligament damage. The doctor advised continuing physical therapy, which Mr. Coby has done. He was seen again on February 4, 2025, by the orthopedic for the knee at this time, the doctor was still concerned in regard to the amount of pain Mr. Coby was still experiencing and referred to a different physical therapy Center for additional and more rigorous treatment.

Mr. Coby has completed 18 Physical therapy sessions at this time and continues to do physical therapy three days a week. He is weight bearing and back to full duty work. He continues to have pain in the right ankle and knee as well as numbness in the right foot. Mr. Coby is currently in his second round of physical therapy treatment with continued pain in the right knee due to an extra strain to the Patellar Tendon.

The actions in this case set in motion by Marshal Adams and the City in approving the use of Baker and her company and the false statements and cover up to hide the danger by the dogs that caused injury to Mr. Coby are shocking. Further shocking is the threat to fire Mr. Coby if he pursues his legal rights. As set forth above, my client will settle this matter for \$1,500,000.00.

Sincerely,

A handwritten signature in cursive script, reading "Kimberly A. Eckert". The signature is written in dark ink and is positioned above the printed name.

Kimberly A. Eckert  
Attorney for John Coby II