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

JULIA KLEUTSCH, individually and as the
personal representative for the ESTATE OF
JOHN KLEUTSCH,

Plaintiffs,

v.

STATE OF WASHINGTON, DEPARTMENT
OF CORRECTIONS,

Defendant.

NO.

COMPLAINT

The above-named Plaintiffs, by and through her attorneys, Lincoln C. Beauregard and
Marta L. O'Brien of Connelly Law Offices, PLLC, and by way of claim aver and allege on
personal knowledge as to their own actions, and on information and belief as to all other
matters, as follows:

I. INTRODUCTION

All prisoners in our criminal justice system have the right to adequate medical care
while they are incarcerated. This claim involves the shocking and preventable death of inmate
John Kleutsch due to the gross negligence and medical malpractice of Monroe Correctional
Complex ("Monroe Corrections") and the Washington State Department of Corrections
(DOC). Staff at Monroe Corrections left John with an open, festering, and horribly painful

1 wound in his abdomen for months. Instead of providing John with basic medical care, staff at
2 Monroe Corrections watched him suffer and succumb to clear signs of infections and
3 complications due to the open wound, which caused his untimely death. John's widow, Julia
4 Kleutsch, brings these claims as the personal representative of John's estate and individually.

5 **II. PARTIES**

6 1. JOHN KLEUTSCH is an individual who died of treatable medical conditions
7 due to the DOC's failure to provide him with medical care. JULIA KLEUTSCH is John's
8 wife. She brings these claims as the Personal Representative of the Estate of John Kleutsch,
9 her deceased husband. As this is an action arising from John's wrongful and unnecessary
10 death, these claims include all claims for damages available under Washington law to John's
11 estate, and all statutory and actual beneficiaries, including Julia Kleutsch.

12 2. Defendant STATE OF WASHINGTON, DEPARTMENT OF
13 CORRECTIONS ("DOC") is the state agency responsible for administering adult corrections
14 programs operated by the State of Washington, including operation of the state correctional
15 institution referred to as Monroe Correctional Complex ("Monroe Corrections"). DOC is
16 responsible for providing a "safe and healthy environment" for offenders within its prisons
17 and for providing adequate medical care to prisoners in its custody.

18 **III. JURISDICTION & VENUE**

19 3. This Court has original subject matter jurisdiction pursuant to the Constitution
20 of the State of Washington, Art. 4, § 6.

21 4. Venue is proper in King County pursuant to RCW 4.92.010(2), including but
22 not limited to, it is the location where John died.

1 **IV. STATEMENT OF FACTS**

2 5. In 2017, John Kleutsch was serving out his sentence at Monroe Corrections.
3 He had been a model prisoner with no behavior issues or infractions. He was very much
4 looking forward to his eventual release and supporting his wife, Julia.

5 6. John had outpatient surgery on a renal cell carcinoma that was successful.
6 When he returned to Monroe Corrections, he had an open, abdominal wound that required
7 daily medical care to promote healing.

8 7. John was primarily under the care of Julia A. Barnett, MD. Dr. Barnett was
9 hired by the DOC on March 3, 2017 as the medical director of Monroe Corrections, the third-
10 largest state prison in Washington State (2,400 inmates).

11 8. Dr. Barnett lacked the qualifications to ever be the medical director of Monroe
12 Corrections. At the time she was hired by the DOC, she was not board certified and she had
13 not completed a DOC-approved medical residency. Nevertheless, the DOC hired her as the
14 medical director, where she collected an annual salary of \$260,000.00.

15 9. In the Inpatient Unit (IPU) at Monroe Corrections, inmates with serious
16 illnesses should be examined by physicians daily.

17 10. While Dr. Barnett was the medical director, inmates began dying under her
18 care of treatable diseases and conditions. Other staff at Monroe Corrections noticed but did
19 not intervene to help these patients. For example, one inmate died on 3/17/2018 of
20 hyponatremia after no physician in the IPU, including Dr. Barnett, examined him from
21 2/26/2018 up to the time of his death.

22 11. John experienced significant complications in the healing of his open,
23 abdominal wound during his incarceration.

1 12. He was transferred to the IPU at Monroe Corrections, where he was supposed
2 to receive daily care.

3 13. John's condition deteriorated significantly from June 18, 2018, when he
4 entered the IPU, up until his death.

5 14. The open wound in his abdomen grew in size. It became granulated, then red,
6 puffy and oozing and tender.

7 15. John pleaded with Monroe Corrections staff for help and reported numerous
8 times that he was experiencing excruciating pain from the wound in his abdomen. DOC
9 encounter notes show John told staff he had acute abdominal pain on 7/14, 7/15, 7/16, 7/17,
10 7/18, 7/19, 7/22, 7/23, 7/24, 7/26, 8/2, 8/3, 8/4 and on 8/6.

11 16. On 8/6/2018, nursing staff noted that there was "tunneling" in his open
12 abdominal wound:

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8/6/18	12:30	with Conley, etc. Monahan & V. (C. J. VANAMBER, RN) 1/4's A&O X3; nursing staff discussed in morning meeting that 1/4 should go to hospital. When surgical wound is irrigated & W/S, there is no return. Tunneling is @ 3-4 pm - concerns fluid is going may have (bleeding) into the peritoneal cavity. Request See Dr. Rhoads, etc. by [Signature]
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State law (RCW 70.02) and/or federal regulations (42 CFR Part 2) prohibit disclosure of this information without the explicit written consent of the person to whom it pertains, or as otherwise permitted by law.

DOC 13-013 (01/11/2017)

DOC 610.600

INPATIENT

17. When she examined him on 8/6/2018, Nurse Susan Rhoads was concerned that
fluid was going into the peritoneal cavity because there was no return.

18. John was so ill that on 8/6/2018 Nurse Rhoads felt he should go to the hospital.
She asked Dr. Barnett to transfer John to an emergency room. Dr. Barnett said no.

1 19. Nurse Rhoads did not report Dr. Barnett's refusal to any higher authority at the
2 DOC that time. Instead, staff at Monroe Corrections watched John suffer and gave him
3 Tylenol.

4 20. John continued to tell staff in the IPU he was in unbearable pain on 8/7, 8/11,
5 8/12 8/13, 8/14, 8/15 and 8/16. On 8/15/18, an x-ray showed a left-sided lower lobe "most
6 likely representing pneumonia." No physician in the IPU examined John after this x-ray.

7 21. On 8/16/18, Dr. Barnett was informed John was asking for pain medications
8 other than over-the-counter Tylenol because he was experiencing unbearable pain. No orders
9 for other pain medications were given.

10 22. John told staff again on 8/17, 8/19, 8/20, 8/21, and 8/22 that he had
11 excruciating abdominal pain from his wound. John told staff again that Tylenol was not
12 relieving his pain. Still, he was only given Tylenol. John continued to experience pain so
13 severe it "...made it hard to breathe."

14 23. On 8/21, John complained his pain was 12 out of 10 radiating from the center
15 of his chest to his spine. He has shortness of breath. Still, no physician examined him in the
16 IPU.

17 24. On 8/22, John called staff to his cell. He told them he was dehydrated. Staff
18 found him cold and clammy. His heart rate was 30 to 34 beats per minute.

19 25. John was finally transferred by Monroe Corrections to Evergreen Health, but it
20 was too late. John had acute pancreatitis and sepsis. These conditions were never diagnosed or
21 treated by Monroe Corrections staff. John was immediately transferred to Evergreen Health to
22 Virginia Mason for critical care.

1 26. At Virginia Mason, a CT showed that John had also been suffering from a
2 perforated duodenum that had never been identified, diagnosed or treated by any provider at
3 Monroe Corrections.

4 27. John succumbed to these conditions, dying of septic shock, acute pancreatitis
5 and a duodenal perforation on 8/27/18.

6 28. After John's death, and the deaths of other inmates of treatable diseases and
7 conditions, the DOC still failed to act to remove Dr. Barnett or address the failure of its staff
8 to provide basic medical care to inmates. The DOC did not take any action until staff at
9 Monroe Corrections banded together and wrote a letter titled "Vote of No Confidence" to
10 DOC management explaining to them why Dr. Barnett must be removed and that they had
11 serious concerns about her competency to even practice medicine.

12 29. In the subsequent investigation by the DOC, other DOC physicians admitted
13 the medical care at Monroe Corrections was inadequate and caused John's suffering and
14 death.

15 30. When a DOC physician, Dr. Kariko, was asked whether Dr. Barnett's
16 treatment of inmates met the standard of care, Dr. Kariko stated: "This is negligence in my
17 opinion. You have the ability to treat patients that's our job, we have the ability to treat
18 several of these conditions and you're withholding that. It's obvious that someone was
19 deteriorating, the nurses brought it to her attention. Patients seem to have suffered and died as
20 a consequence."

21 31. When DOC investigators asked another DOC physician, Dr. Patricia David, if
22 John's death could have been avoided if staff at Monroe Corrections treated John as they
23 should have, she replied: "I think so, at the very least he wouldn't have passed with such pain.

1 That was one thing that was upsetting or concerning to me, was that he was having severe
2 pain. It was 8/10, then 8/10, then 12/10; it was really going up there. He was clearly
3 uncomfortable in the last month before he died.”

4 32. As a result of the negligent, reckless and grossly negligent conduct and
5 medical malpractice of DOC, as described above and in other respects as well, John Kleutsch
6 died and endured incredible suffering up to the time of his death that can only be described as
7 inhumane. He suffered extreme mental and physical anguish before he ultimately passed.

8 33. As a result of the negligent, grossly negligent and reckless conduct of DOC, as
9 well as medical malpractice as described above and in other respects as well, Plaintiff Julia
10 Kleutsch has lost her husband. She is entitled to recover for this loss of consortium.

11 **V. STATUTORY COMPLIANCE**

12 34. More than sixty days prior to the commencement of this suit, Plaintiffs served
13 administrative claims for damages on the State of Washington.

14 35. Plaintiffs have satisfied any requirements imposed by RCW 4.92.100.

15 36. Plaintiffs do not elect to submit this dispute to arbitration pursuant to RCW
16 7.70A.020, and a declaration by their attorney is submitted with this complaint.

17 **VI. CAUSES OF ACTION:**

18 **NEGLIGENCE, MEDICAL MALPRACTICE & LOSS OF CONSORTIUM**

19 37. Defendant DOC by and through its agents (“Defendant DOC”) owed a duty of
20 care to John Kleutsch.

21 38. Pursuant to RCW 7.70.040, Defendant, through the actions and/or omissions
22 its agents and ostensible agents and individually, owed a duty of care to John to exercise a
23 degree of care, skill, and learning expected of a reasonably prudent health care provider in the

1 profession or class to which he or she belongs in the same or similar circumstances.

2 39. Defendant DOC has duty of care to establish adequate procedures and policies
3 to ensure medical care is provided to inmates.

4 40. Defendant DOC has any duty of care to hire and supervise medical personnel
5 to ensure they are providing adequate medical treatment to inmates.

6 41. Defendant DOC has any duty of care to ensure its staff provides medical care
7 to inmates in accordance with DOC's standards, guidelines, policies and procedures.

8 42. Defendant DOC breached its duty when, among other things, it failed
9 recognize, diagnose and respond to John's symptoms and complaints.

10 43. Defendant DOC breached its duty when, among other things, it failed to
11 properly recognize, diagnose and treat John's pancreatitis, sepsis and his perforated
12 duodenum.

13 44. Defendant DOC breached its duty when, among other things, it failed to treat
14 John's medical conditions, including but not limited to, the open wound in his abdomen that
15 became infection, pancreatitis, sepsis and his perforated duodenum, in accordance with the
16 standard of care.

17 45. Defendant DOC breached its duty when, among other things, it failed to have a
18 physician examine John daily in the IPU beginning June 2018.

19 46. Defendant DOC breached its duty when, among other things, it failed to
20 provide adequate wound care to John from June 2018 to August 2018.

21 47. DOC created the situation by failing to provide John with adequate medical
22 services as required by the standard of care, by Washington state and federal law, and by
23 DOC's own policies and procedures, and by common sense.

1 48. DOC then made the situation lethal by failing to send John to the emergency
2 room on August 6, 2018 when it was clear his medical condition was dire, namely, that there
3 was tunneling from his open wound into his peritoneal cavity. The DOC failed to properly
4 respond to the medical emergency its prior negligence had created.

5 49. Defendant DOC breached that duty when, among other things, it negligently
6 hired, trained, supervised, and monitored its personnel and failed to create and implement
7 proper policies and procedures to prevent incidents like this from occurring.

8 50. Defendant DOC breached its duty through the events described herein, and in
9 other ways which have not been specifically enumerated, which may be unknown at this time,
10 and/or which may be revealed through the course of discovery.

11 51. As a direct and proximate result of Defendant DOC's indifferent, negligent,
12 reckless, and outrageous conduct—as described above, and in other respects as well—John
13 Kleutsch suffered from untreated pancreatitis, sepsis and a perforated duodenum that caused
14 his untimely death.

15 52. DOC's failure to provide basic medical care converted John's temporary
16 prison sentence into a death sentence.

17 53. As a direct and proximate result of Defendant DOC's negligent, grossly
18 negligent, reckless, and medical malpractice—as described above, and in other respects as
19 well, Julia Kleutsch has lost her husband. She has an independent claim for the loss of her
20 husband and the loss of her relationship with him. She has incurred and continue to incur
21 general and special damages in an amount to be proven at trial.

22 54. As a direct and proximate result of Defendant DOC's negligent, reckless, and
23 outrageous conduct—as described above, and in other respects as well, John Kleutsch

1 suffered extreme mental and physical anguish, pain and suffering, loss of enjoyment of life,
2 and pre-death terror, pain, and suffering. He has also incurred general and special damages in
3 an amount to be proven at trial.

4 **VII. PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff Julia Kleutsch, individually and as the personal
6 representative of the Estate of John Kleutsch, requests a judgment against Defendant State of
7 Washington, Department of Corrections:

- 8 (a) Awarding general and special damages in an amount to be proven at trial;
- 9 (b) Awarding reasonable attorneys' fees and costs;
- 10 (c) Awarding any and all applicable interest on the judgment; and
- 11 (d) Awarding such other and further relief as the Court deems just and proper.

12 DATED this 19th day of March, 2020.

13 CONNELLY LAW OFFICES, PLLC

14 *Marta O'Brien*

15 By _____
16 Lincoln C. Beaugard, WSBA No. 32878
17 Marta L. O'Brien, WSBA No. 46416
18 Attorneys for Plaintiffs