

STATE OF MAINE
YORK, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO.: CV-21-

TIMOTHY M. CONVERY and
KELLI A. GUSTAFSON,

Plaintiffs

v.

TOWN OF WELLS,

Defendant

*
*
*
*
*
*
*
*
*

COMPLAINT

NOW COME Plaintiffs Timothy M. Convery and Kelli A. Gustafson, by and through their duly authorized attorneys, and hereby complain against Defendant Town of Wells as follows:

1. Timothy M. Convery (“Tim”) is a resident of Kennebunkport, York County, State of Maine.
2. Kelli A. Gustafson (“Kelli”) is a resident of Kennebunkport, York County, State of Maine.
3. Defendant Town of Wells (“Wells”) is a municipality in York County, Maine.
4. At all times material to this Complaint, members of the Wells Police Department, including Patrol Officer Joshua N. Poirier (“Officer Poirier”) and Sergeant Chad Arrowsmith (“Sergeant Arrowsmith”), were employees of Wells.
5. At all times material to this Complaint, Poirier and Arrowsmith were acting in the scope of their employment for Wells.
6. On the morning of May 30, 2020, Joshua Burton stole a 2015 Kia Soul from outside Mr. Mike's Convenience Store in York, Maine.

7. At approximately 9:48am, the Wells Police were notified that the stolen motor vehicle was heading northbound on Post Road / Route 1 in Wells. The stolen vehicle was reported to be moving in traffic at a safe speed.

8. Sergeant Arrowsmith and Officer Poirier reported to Post Road near Chapel Road, and waited for the stolen vehicle to pass.

9. When Officer Poirier observed the 2015 Kia Soul, he initiated a high risk stop on the stolen vehicle.

10. When Officer Poirier exited his vehicle, Burton sped away.

11. Office Poirier and Sergeant Arrowsmith chased Burton northbound on Route 1 at high speeds.

12. Burton began driving erratically. For portions of the chase, the vehicle speeds were above 100 miles per hour.

13. As the vehicles approached Industrial Drive in Kennebunk, traffic became heavier, and Sergeant Arrowsmith contemplated calling off the chase. However, he did not do so.

14. At approximately 10:01 am, Tim was driving northbound on York Street / Route 1 in Kennebunk, Maine. Kelli was in the front passenger seat.

15. Burton drove behind them, at a high rate of speed.

16. Burton rear ended Tim's vehicle, causing Tim's vehicle to roll over several times before landing in a ditch.

17. The Town of Wells, by and through its employees, owed a duty to Plaintiffs to operate its police vehicles in a safe and reasonable manner.

18. The Town of Wells breached its duty by initiating a dangerous, high speed pursuit where the benefits of doing so were outweighed by the danger to Plaintiffs and other members of

the community; by failing to terminate the pursuit despite the suspect's erratic and dangerous driving; by exacerbating the danger to Plaintiffs and the community posed by Joshua Burton; by failing to appropriately supervise Officer Poirier during the high speed chase; by failing to have appropriate policies and procedures in place regarding high speed chases; by failing to adequately train its police officers to follow said policies.

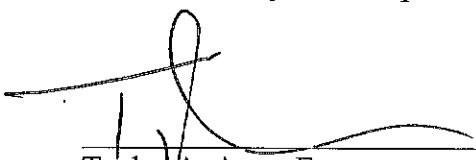
19. As a direct and proximate cause of Defendant's negligence, Timothy Convery suffered injuries. His injuries included, but were not limited to, a broken sternum, broken ribs, a nonhealing T10 burst fracture, and severe complications secondary to spinal fusion.

20. As a direct and proximate cause of Defendant's negligence, Kelli Gustafson suffered injuries. Her injuries included, but were not limited to, post-traumatic stress disorder.

21. As a direct and proximate cause of Defendant's negligence, Timothy Convery and Kelli Gustafson were damaged. The elements of their damage include painful and permanent injuries, emotional distress, loss of enjoyment of life, loss of earnings, lost earning capacity, and medical expenses.

WHEREFORE, Plaintiffs demand judgment against Defendant for compensatory damages, interest, costs, and such other and further relief as the Court deems just and equitable.

Dated: March 31, 2021



Taylor A. Asen, Esq.
Maine Bar No. 5832
Benjamin R. Gideon, Esq.
Maine Bar No. 9419
Gideon Asen LLC
19 Yarmouth Drive, Suite 203
New Gloucester, ME 04260
(207) 206-8982
Attorney for Plaintiff
Service@gideonasenlaw.com