

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JACKSON

JESIKA KAHN, Personal Representative
for the Estate of Judy Mae Gann,
deceased,

Plaintiff,

v.

KIT WILKINS,

Defendant.

Case No.

COMPLAINT

(Wrongful Death – Negligence;
Recklessness; False Imprisonment;
Attorney Fees; Punitive Damages)

Prayer: \$4,000,000.00
(ORS 21.160(1)(d))

Jury Trial Demanded

**NOT SUBJECT TO MANDATORY
ARBITRATION**

Plaintiff Jesika Kahn alleges:

1.

Decedent, Judy Mae Gann, was at all material times herein, a resident of Jackson County, Oregon. Plaintiff Jesika Kahn is the natural daughter of decedent Judy Mae Gann and is the duly appointed Personal Representative for the Estate of Judy Mae Gann, Jackson County Court Case No. 19PB03380. Pursuant to ORS 30,020, plaintiff brings this action on the Estate's behalf and on behalf of the decedent's surviving statutory beneficiaries: Jesika Kahn, daughter; Shayla Kahn, daughter; Carissa Ricks, daughter; Abby Ricks, daughter; Kimberly Ricks, daughter; and Clyde Gann, father.

2.

At all material times herein, defendant Kit Wilkins owned and resided at 550 Sarma Drive, Shady Cove, Jackson County, Oregon (hereinafter “the premises”).

3.

On or about April 21, 2019 Judy Mae Gann was visiting with Shirley Gann at the premises. Defendant entered the premises carrying a gun when he encountered Judy Mae Gann and Shirley Gann. During defendant’s interaction with the Ganns, the gun discharged lodging a bullet into Judy Mae Gann’s person. After some time, Judy Mae Gann died from the bullet wound. Her body was discovered at 10:13 a.m.

4.

At all material times and on information and belief, defendant Kit Wilkins was delusional, suffered from mental illness, and/or was under the influence of intoxicants. Due to his mental incapacity, defendant Kit Wilkins was incapable of forming an intent to harm with respect to conduct toward decedent Judy Mae Gann.

For her FIRST CLAIM FOR RELIEF against defendant Kit Wilkins, plaintiff Jesika Kahn, Personal Representative for the Estate of Judy Mae Gann, alleges as follows:

WRONGFUL DEATH - NEGLIGENCE

5.

Plaintiff Jesika Kahn re-alleges paragraphs 1-4 as if fully set forth herein.

6.

At all material times herein, it was foreseeable that defendant’s negligent conduct could cause serious personal injuries or death to others such as decedent Judy Mae Gann.

1 7.

2 The occurrence of this event was a result of the negligence of the defendant in the
3 following particulars:

- 4 a) In failing to obtain psychological care;
5 b) In failing to continue and/or follow up with appropriate psychological
6 care;
7 c) In failing to take proper medications;
8 d) In consuming too many intoxicants;
9 e) In failing to get emergency medical treatment for his acute delusional and
10 manic mental state;
11 f) In concluding that the decedent was a threat to defendant;
12 g) In believing that self-defense was warranted in this setting;
13 h) In using lethal force as a form of self-defense in this setting;
14 i) In confining Judy Mae Gann at the premises; and
15 j) In improperly handling a deadly weapon.
16

17 8.

18 As a direct and proximate result of defendant's negligent acts and omissions set forth
19 herein, the injuries inflicted on Judy Mae Gann caused her death.

20 9.

21 As a direct and proximate result of defendant's negligent acts and omissions as set
22 forth herein, Judy Mae Gann suffered serious wounds and died from her injuries. At that
23 time and place, and prior to her death, Judy Mae Gann underwent conscious physical and
24 mental pain and her statutory beneficiaries have been deprived of the society and
25 companionship of Judy Mae Gann for which the estate and its statutory beneficiaries have
26

1 suffered non-economic damages in an amount which a jury decides is fair, but not to exceed
2 \$3,000,000.

3 10.

4 Plaintiff intends to amend the Complaint, at a future date and with the Court's
5 permission, to add a claim for punitive damages under ORS 31.725 against defendant Kit
6 Wilkins.

7
8
9 For her SECOND CLAIM FOR RELIEF against defendant Kit Wilkins, plaintiff
10 Jesika Kahn, Personal Representative for the Estate of Judy Mae Gann, alleges as follows:

11 **RECKLESSNESS**

12 11.

13 Plaintiff Jesika Kahn re-alleges paragraphs 1-4 as if fully set forth herein.

14 12.

15 At all times, it was foreseeable that defendant's conduct could cause serious personal
16 injuries or death to others. In handling a lethal weapon while in a delusional, intoxicated
17 and/or incapacitated mental state, defendant was aware of, or should have been aware of, and
18 consciously disregarded a substantial and unjustifiable risk that he would endanger others in
19 his proximity. The risks defendant took in the manner he did was a gross deviation from the
20 standard of care that reasonable persons would observe while handling a lethal weapon.

21 13.

22 The occurrence of this event was a result of the recklessness of the defendant in the
23 following particulars:

24 a) In failing to obtain psychological care;

- b) In failing to continue and/or follow up with appropriate psychological care;
- c) In failing to take proper medications;
- d) In consuming too many intoxicants;
- e) In failing to get emergency medical treatment for his acute delusional and manic mental state;
- f) In concluding that the decedent was a threat to defendant;
- g) In believing that self-defense was warranted in this setting;
- h) In using lethal force as a form of self-defense in this setting;
- i) In confining Judy Mae Gann at the premises; and
- j) In improperly handling a deadly weapon.

14.

As a direct and proximate result of defendant's reckless acts and omissions set forth herein, the injuries inflicted on Judy Mae Gann resulted in her death.

15.

As a direct and proximate result of defendant's negligent acts and omissions as set forth herein, Judy Mae Gann suffered serious wounds and died from her injuries. At that time and place, and prior to her death, Judy Mae Gann underwent conscious physical and mental pain and her statutory beneficiaries have been deprived of the society and companionship of Judy Mae Gann for which the estate and its statutory beneficiaries have suffered non-economic damages in an amount which a jury decides is fair, but not to exceed \$3,000,000.

16.

Plaintiff intends to amend the Complaint, at a future date and with the Court's permission, to add a claim for punitive damages under ORS 31.725 against defendant Kit

1 Wilkins.

2 For her THIRD CLAIM FOR RELIEF, plaintiff Jesika Kahn, Personal Representative
3 for the Estate of Judy Mae Gann alleges as follows:

4 **FALSE IMPRISONMENT**

5 17.

6 Plaintiff realleges paragraphs 1-4 as if fully set forth herein.

7 18.

8 At all material times up to the time of her death, defendant Kit Wilkins, through his
9 conduct on April 21, 2019, confined Judy Mae Gann and intended to confine Judy Mae
10 Gann. During such time, Judy Mae Gann was aware of her confinement and opposed it. At
11 all material times, defendant Kit Wilkins' confinement of Judy Mae Gann on April 21, 2019
12 was unlawful.
13

14 19.

15 As a direct, substantial and proximate result of defendant's actions to confine her,
16 Judy Mae Gann suffered emotional distress, extreme fear, anxiety, and reduction in her
17 physical health.
18

19 20.

20 The injuries sustained by plaintiff were physically and emotionally painful and
21 caused her to suffer. They caused her loss of enjoyment of life. As a direct and proximate
22 result of defendant's actions, Judy Mae Gann's estate should be awarded non-economic
23 damages in an amount which a jury decides is fair, but not to exceed \$1,000,000.
24

25 ///

26 ///

21.

The estate is entitled to recover its reasonable attorney fees pursuant to ORS 30.075(2).

22.

Plaintiff intends to amend the Complaint, at a future date and with the Court's permission, to add a claim for punitive damages under ORS 31.725 against defendant Kit Wilkins.

WHEREFORE, plaintiff prays for relief as follows:

1. On the First and Second Claims for Relief, non-economic damages in an amount a jury determines is fair, but not to exceed \$3,000,000;
2. On the Third Claim for Relief, non-economic damages in an amount a jury determines is fair, but not to exceed \$1,000,000;
3. Reasonable attorney fees pursuant to ORS 30.075(2);
4. For pre-trial interest;
5. For costs and disbursements incurred herein; and
6. For such other further relief as the Court deems just and proper.

Plaintiff Demands Trial by Jury.

DATED this 27th day of January, 2020.

MAYOR LAW, LLC

/s/ Liz Walling

Liz Walling, OSB No. 164406

Travis Mayor, OSB No. 053210

Attorneys for Plaintiff Jesika Kahn, Personal
Representative for the Estate of Judy Mae Gann