

OCT 12 2021

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VIA HAND DELIVERY

October 12, 2021

Anne Mullin O'Connor
Corporation Counsel
City of Indianapolis & Marion County
Att: Tort Claims
200 E. Washington Street, Suite 1601
Indianapolis, IN 46204

Re: Notice of Claims Pursuant to Ind. Code § 34-13-3, et seq.

Dear Ms. O'Connor:

Along with my co-counsel at the Sikh Coalition, we jointly represent Harpreet Singh, Lakhwinder Kaur, and Gurinder Bains (on behalf of the Estate of Jaswinder Singh) regarding their claims against the City of Indianapolis and Marion County ("Respondents"). Mr. Singh, Ms. Kaur, and Mr. Bains (collectively "Claimants") suffered significant losses as a result of the failure of the Indianapolis Metropolitan Police Department ("IMPD") and Marion County Prosecutor's Office to follow the statutorily mandated protocols outlined in Ind. Code § 35-47-14-3. Pursuant to Ind. Code § 34-13-3, et seq., Claimants are providing Respondents with notice of their claims through this letter and the enclosed Notice of Tort Claim for Property and/or Personal Injury forms. *See* Exs. A-C.

1. Background

Claimants' injuries arise out of an April 15, 2021 mass shooting incident that occurred at the FedEx Ground-Plainfield Operations Center located at 8951 Mirabel Rd, Indianapolis, IN 46241 ("mass shooting"). The mass shooting resulted in the death of eight people and the injury of several other individuals. All three of our clients suffered losses as a result of the underlying failures of the Marion County Prosecutor's Office that could have prevented the mass shooting incident.

The mass shooting was perpetrated by Brandon Hole, a 19-year-old former employee of the FedEx facility where the incident occurred. Mr. Hole arrived at the FedEx facility at approximately 11:00 pm on April 15, 2021 with at least two loaded assault-style rifles. Mr. Hole opened fire in the parking lot before using his knowledge of the warehouse as a former employee to navigate into the facility and shoot at victims

inside.¹ Based on eyewitness and survivor reports, Mr. Hole understood that the facility had a majority Sikh employee base, and that many of them worked the evening shift and would be in the front room collecting their pay checks at the time he chose to attack. Hole injured many in his attack and killed eight victims, including Amarjit Sekhon, Jasvinder Kaur, Amarjeet Kaur, and Jaswinder Singh Bains – all four of whom were members of the Sikh faith.² Several additional victims who were injured, but survived the attack, are also members of the Sikh faith, including Harpreet Singh and Lakhwinder Kaur.

Thirteen months before the mass shooting, in March 2020, Mr. Hole's mother contacted authorities and reported that her son had physically attacked her and may attempt to commit "suicide by police."³ The IMPD detained Mr. Hole and placed him on an "immediate detention mental health temporary hold."⁴ An officer at the scene testified in the search report that he saw what he believed to be white supremacist websites on Hole's computer.⁵ The Federal Bureau of Investigation ("FBI") was contacted to come to the scene after additional white-supremist related items were found in Hole's bedroom. In April 2020, the FBI interviewed Mr. Hole.⁶

During the March 2020 search of Mr. Hole's home, police removed a pump-action shotgun from the home pursuant to Ind. Code § 35-47-14 ("Jake Laird Law").⁷ Where the removal of a firearm is without a warrant, as it was here, the law enforcement officer "shall submit . . . an affidavit describing the basis for the law enforcement officer's belief that the individual is dangerous" to the court within 48 hours of seizure. Ind. Code Ann. § 35-47-14-3 (emphasis added). The court then "shall review the affidavit" for probable cause "as soon as possible." *Id.* (emphasis added). If the court finds probable cause exists to find the individual dangerous, law enforcement is ordered to retain the weapon and "[t]he court shall conduct a hearing" to determine whether "the state has proved by clear and convincing evidence that the individual is dangerous[.]" *Id.* (emphasis added); Ind. Code Ann. § 35-47-14-6. A person is a "dangerous individual"

¹ Andrés R. Martínez, et al., *FedEx Gunman Bought 2 Rifles After Police Seized His Shotgun, Chief Says*, N.Y. TIMES, Apr. 19, 2021, <https://www.nytimes.com/2021/04/17/us/indianapolis-shooting-victims.html>.

² *Id.*

³ Lawrence Andrea, et al., *FedEx shooter identified as 19-year-old Indianapolis resident who 'voiced suicidal ideation'*, INDIANAPOLIS STAR, Apr. 16, 2021, <https://www.indystar.com/story/news/2021/04/16/indianapolis-fedex-mass-shooting-suspect-identity-update/7251111002/>.

⁴ *What we know about Brandon Scott Hole, suspect in Indianapolis shooting at FedEx Center*, INDIANAPOLIS STAR, Apr. 18, 2021, <https://www.indystar.com/story/news/crime/2021/04/16/brandon-scott-hole-indianapolis-fedex-shooting-suspect-id/7257819002/>.

⁵ Lawrence Andrea, *'Turn the power strip off': FedEx shooter viewed white supremacist websites, IMPD says*, INDIANAPOLIS STAR, Apr. 20, 2021, <https://www.indystar.com/story/news/local/indianapolis/2021/04/20/fedex-shooting-brandon-hole-viewed-white-supremacist-sites/7302207002/>.

⁶ *Supra* note 4; see also *Indianapolis FedEx Shooter Who Killed 4 Sikhs Was Not Racially Motivated, Police Say*, NPR, July 28, 2021, <https://www.npr.org/2021/07/28/1021935687/indianapolis-fedex-shooting-sikhs-not-racially-motivated-police-say> ("[T]he FBI's Behavioral Analysis Unit determined that Hole was viewing 'World War II, Nazi-like propaganda' on the computer...").

⁷ Casey Smith, *Prosecutor: FedEx shooter didn't have 'red flag' hearing*, AP NEWS, Apr. 19, 2021, <https://apnews.com/article/general-news-bdff730abd53eea5a400e8fe92b6935e>.

for the purposes of the statute if (1) “the individual presents an imminent risk of personal injury to the individual or to another individual; or (2) it is probable that the individual will present a risk of personal injury to the individual or another individual in the future” and one of two additional factors are present. Ind. Code. § 35-47-14-1. Indiana’s Jake Laird Law neither grants law enforcement any discretion as to whether an affidavit is filed with the court, nor does it allow the prosecutor discretion as to whether the case is referred to the court for consideration.

Here, in violation of Indiana’s Jake Laird Law, Claimants understand that (1) the IMPD failed to submit an affidavit after Mr. Hole’s firearm was taken by police in March 2020; and (2) the Marion County Prosecutor’s Office did not petition for a “Red Flag” hearing, denying the court an opportunity to review the affidavit and conduct a subsequent hearing to determine whether Mr. Hole should be temporarily denied access to his firearm and/or prohibited from purchasing or possessing another firearm for the duration of the protective order, as it was required to do under the law. Without the initial affidavit and petition, the court never had an opportunity to execute its duty that could have prevented Mr. Hole’s future purchase of firearms. Instead, Mr. Hole was able to purchase an HM Defense HM15F in July 2020, only four months after the police took his shotgun. Then, in September 2020, Mr. Hole purchased a Ruger AR-556. On April 15, 2021, Mr. Hole used these two semi-automatic weapons in the FedEx mass shooting that injured Claimants.⁸

2. Claimants’ Injuries

a. Harpreet Singh

Mr. Singh was shot in the head by Mr. Hole during the mass shooting. The bullet remains lodged in the side of his skull, between his left eye and ear. His injuries were catastrophic, resulting in hospitalization, multiple surgical procedures, extensive rehabilitation, inability to work at full capacity, and continued physical and psychological injuries. As the primary breadwinner in his young family, Mr. Singh has not been able to provide and care for his family in six months. As a result of his extensive injuries, Mr. Singh is seeking \$700,000 in damages from Respondents.

b. Lakhwinder Kaur

Ms. Kaur was shot in the left underarm by Mr. Hole during the mass shooting. Fortunately, she sustained limited physical injuries because the bullet grazed her skin, but has suffered from substantial psychological trauma as a result of the incident. Ms. Kaur was standing behind Jaswinder Singh when he was shot and killed and witnessed his murder up close. Since then, she has been unable to return to work or the specific facility where this attack took place, leaving her with very limited means to support herself. Ms. Kaur is seeking \$700,000 in damages from Respondents.

⁸ *Id.*

c. Gurinder Bains (on behalf of the Estate of Jaswinder Singh)

Jaswinder Singh was shot in the torso by Mr. Hole and died as a result of his injuries. Mr. Singh was an observant Sikh who wore a turban and was an easily identifiable target. The loss of life has deeply affected his family, including his widow Surinder Kaur and son Gurinder Bains, who represents his father's estate in seeking \$700,000 in damages from Respondents.

* * * * *

Please contact me or my co-counsel at your earliest convenience to discuss the claims raised in this correspondence. Claimants do not wish to litigate these matters, if possible, and would prefer to resolve these claims without the need for additional media attention. Claimants are also open to a combination of monetary and non-monetary relief that adequately compensates them for their injuries while also preventing similar incidents from occurring in the future.

Thank you for your consideration.

Sincerely,



Amandeep S. Sidhu

Enclosures

Cc: Amrith Kaur Aakre, Legal Director, The Sikh Coalition
Jonathan Lowy, Chief Counsel & Vice President, Legal, Brady

EXHIBIT A



NOTICE OF TORT CLAIM FOR PROPERTY AND/OR PERSONAL INJURY

Anyone who has a claim for personal injury or property damage against the City of Indianapolis/Marion County must submit the claim in writing **WITHIN 180 DAYS OF THE CLAIMED LOSS** as required in Indiana Code ch. 34-13-3. Each person claiming a loss must file a separate claim.

We recommend using this form. You must provide all information requested below, sign, and date. To substantiate claimed damages, we encourage you to submit documentation like estimates, repair bills, receipts, and photos. The completed notice must be delivered **in person** or by **registered or certified mail** and addressed to:

Tort Claims
City of Indianapolis
200 E. Washington Street, Suite 1601
Indianapolis, IN 46204

CLAIMANT INFORMATION:

Name: Harpreet Singh

Home Telephone: _____ Cellular Telephone: Contact through counsel

Address at time of loss: (number and street, city, state and ZIP code): _____
2244 Edgewater Circle, Plainfield, IN 46168

Current Address (if different from above): _____

LOSS INFORMATION:

Date of loss: April 15, 2021 Time of loss: 11:30 pm am/pm

Amount of damages being claimed: \$ 700,000

Location of loss: FedEx Operations Center 8951 Mirabel Rd, Indianapolis, IN 46241

City/County Agency Involved (if known): Marion County Prosecutor's Office & Indianapolis Metropolitan Police Department

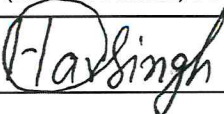
Description of circumstances surrounding loss and extent of loss (use additional sheets if necessary): _____

Please see accompanying letter from my legal counsel.

Names and contact information of all persons involved including witnesses (if known): _____

Please contact Mr. Singh's legal counsel for additional information: _____

Ms. Amrith Kaur Aakre (The Sikh Coalition) 847-786-5839 or Mr. Amandeep Sidhu (Winston & Strawn LLP) 202-282-5828

Signature:  Date: 10/12/2021

The filing of this claim is part of a legal process. If you have any questions about the right way to file a claim, you should contact an attorney of your choice. The City's attorneys/staff and/or employees are not authorized by law to assist you with filing this claim; however, for your information, a list of actions or conditions resulting in nonliability pursuant to Indiana Code 34-13-3 is provided below:

Immunity of governmental entity or employee (IC 34-13-3)

Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
- (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
- (12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.
- (13) Entry upon any property where the entry is expressly or impliedly authorized by law.
- (14) Misrepresentation if unintentional.
- (15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
- (16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.
- (17) Injury to the person or property of a person under supervision of a governmental entity and who is:
 - (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
- (18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15-7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.
- (19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.
- (20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12.

(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

- (A) the loss is a result of reckless conduct; or
- (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

- (A) gross negligence;
- (B) willful or wanton misconduct; or
- (C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.

EXHIBIT B



NOTICE OF TORT CLAIM FOR PROPERTY AND/OR PERSONAL INJURY

Anyone who has a claim for personal injury or property damage against the City of Indianapolis/Marion County must submit the claim in writing **WITHIN 180 DAYS OF THE CLAIMED LOSS** as required in Indiana Code ch. 34-13-3. Each person claiming a loss must file a separate claim.

We recommend using this form. You must provide all information requested below, sign, and date. To substantiate claimed damages, we encourage you to submit documentation like estimates, repair bills, receipts, and photos. The completed notice must be delivered **in person** or by **registered or certified mail** and addressed to:

Tort Claims
City of Indianapolis
200 E. Washington Street, Suite 1601
Indianapolis, IN 46204

CLAIMANT INFORMATION:

Name: Lakhwinder Kaur

Home Telephone: _____ Cellular Telephone: Contact through counsel

Address at time of loss: (number and street, city, state and ZIP code): _____

6515 Smithfield Drive, Greenwood, IN 46237

Current Address (if different from above): _____

LOSS INFORMATION:

Date of loss: April 15, 2021 Time of loss: 11:30 pm am/pm

Amount of damages being claimed: \$ 700,000

Location of loss: FedEx Operations Center 8951 Mirabel Rd, Indianapolis, IN 46241

City/County Agency Involved (if known): Marion County Prosecutor's Office & Indianapolis Metropolitan Police Department

Description of circumstances surrounding loss and extent of loss (use additional sheets if necessary): _____

Please see accompanying letter from my legal counsel.

Names and contact information of all persons involved including witnesses (if known): _____

Please contact Mr. Singh's legal counsel for additional information:

Ms. Amrith Kaur Aakre (The Sikh Coalition) 847-786-5839 or Mr. Amandeep Sidhu (Winston & Strawn LLP) 202-282-5828

Signature: Lakhwinder Kaur Date: 10/12/2021

The filing of this claim is part of a legal process. If you have any questions about the right way to file a claim, you should contact an attorney of your choice. The City's attorneys/staff and/or employees are not authorized by law to assist you with filing this claim; however, for your information, a list of actions or conditions resulting in nonliability pursuant to Indiana Code 34-13-3 is provided below:

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This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

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- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
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- (17) Injury to the person or property of a person under supervision of a governmental entity and who is:
 - (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
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(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

- (A) the loss is a result of reckless conduct; or
- (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

- (A) gross negligence;
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Tort Claims
City of Indianapolis
200 E. Washington Street, Suite 1601
Indianapolis, IN 46204

CLAIMANT INFORMATION:

Name: Gurinder Bains (on behalf of Estate of Jaswinder Singh)

Home Telephone: _____ Cellular Telephone: Contact through counsel

Address at time of loss: (number and street, city, state and ZIP code): _____

758 Keepsake Run Greenwood IN 46143

Current Address (if different from above): _____

LOSS INFORMATION:

Date of loss: April 15, 2021 Time of loss: 11:30 pm am/pm

Amount of damages being claimed: \$ 700,000

Location of loss: FedEx Operations Center 8951 Mirabel Rd, Indianapolis, IN 46241

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Description of circumstances surrounding loss and extent of loss (use additional sheets if necessary): _____

Please see accompanying letter from my legal counsel.

Names and contact information of all persons involved including witnesses (if known): _____

Please contact Mr. Singh's legal counsel for additional information:

Ms. Amrith Kaur Aakre (The Sikh Coalition) 847-786-5839 or Mr. Amandeep Sidhu (Winston & Strawn LLP) 202-282-5828

Signature: Gurinder Singh Bains Date: 10/12/2021

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 - (A) on probation; or
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 - (A) gross negligence;
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 - (C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.