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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON
6 FOR THE COUNTY OF MULTNOMAH
7

8 SHERI GAZITT, as personal representative
9 of the ESTATE OF ELIJAH EDWARD
10 COE

11 Plaintiff,

12 v.

13 CITY OF PORTLAND, a public body; and
14 ERIC M. WHITFIELD, an individual

15 Defendants.
16
17

Case No.

COMPLAINT

(Negligence, Negligence Per Se, Wrongful
Death, Declaratory and Injunctive Relief)

**Claims Not Subject to
Mandatory Arbitration**

(Jury Trial Demanded on all claims so
triable)

PRAYER AMOUNT: \$5,900,000.00

Filing Fee: \$884

Amount claimed (ORS 21.160(1)(d)):

Amount jury determines to be reasonable
and in accordance with the law

but not to exceed \$5,900,000.00

18 **INTRODUCTION**

19 1.

20 Oregon law prohibits on-street parking where it blocks sight distances at intersections.

21 The City of Portland Bureau of Transportation (“PBOT”) ignores Oregon law, and similar

22 Federal and local requirements, by allowing people to park vehicles so close to intersections that

23 drivers and others using the streets can’t see approaching hazards or each other.
24

25 2.
26

1 On May 3, 2019, PBOT signage on East Burnside Street invited people to park vehicles
2 along the south curb up to the intersection at 17th Avenue. Elijah Coe was riding home from
3 work on his motorcycle eastbound on East Burnside approaching 17th Avenue. Eric Whitfield,
4 who was driving northbound on SE 17th Avenue, stopped at the stop sign, and attempted to turn
5 left (westbound) onto Burnside. People had parked vehicles along the curb as the City's signage
6 invited them to do, blocking Mr. Coe and Mr. Whitfield's view of each other.

7 3.

8 Mr. Coe's death in the resulting collision could have been prevented if the City complied
9 with the law.

10 4.

11 This suit seeks the limited remedies to which Mr. Coe's Estate is entitled, and declaratory
12 and injunctive relief directing the City of Portland to comply with the legal requirements to
13 provide parking setbacks at intersections city-wide.

14 **PARTIES**

15 5.

16 Plaintiff Sheri Gazitt sues in her capacity as the Personal Representative of Mr. Coe's
17 Estate, duly appointed by the Circuit Court for the State of Oregon for the County of Multnomah
18 in Case No. 19PB04433, and as a person seeking the declarative and injunctive relief sought
19 herein. Mr. Coe is survived by his spouse, Donna, and their son, who was 17 years old at the
20 time. Ms. Gazitt is Mrs. Coe's sister, and is serving at her request.

21 6.

22 At all material times, the City of Portland was and is a municipal corporation located in
23 Multnomah County, and chartered by and subject to the laws of the State of Oregon. Plaintiff
24 has satisfied the notice requirements of the Oregon Tort Claims Act as to Defendant the City of

1 Portland. At all material times, East Burnside and 17th Avenue were public rights-of-way within
2 the City of Portland and are owned, operated, and maintained by PBOT. PBOT is a bureau of the
3 City of Portland, and had placed and was responsible for the design, maintenance, and operation
4 of all the relevant roadway markings, signs, and other traffic control devices, and was
5 responsible for the operation of those streets.

6 7.

7 At all material times, the defendant driver, Mr. Whitfield, was a resident of and domiciled
8 in Oregon.

9 **BACKGROUND FACTS**

10 **A. Sight Distances**

11 8.

12 Sight distance requirements are based on the time it takes people to perceive and react to
13 hazards, and the rate at which vehicles can stop. They are set forth in Chapter 9 of *A Policy on*
14 *Geometric Design of Highways and Streets*, published by the American Association of State
15 Highway Transportation Organizations and which is commonly called the “AASHTO Green
16 Book.” They are in Section 9.5 of, for example, the 2011 Edition. The sight distance
17 requirements of the AASHTO Green Book have been adopted by the City of Portland and
18 nationally as detailed below.

19 9.

20 The AASHTO Green Book provides that drivers entering an intersection such as East
21 Burnside at 17th Avenue from a stop-controlled side street need to be able to see approaching
22 vehicles at a safe “decision point” where they are back from the intersection, and not in danger of
23 being struck by traffic or obstructing other users. The AASHTO Green Book Figure 9-15
24 illustrates the sight triangle for the crash that killed Mr. Coe as follows:
25
26

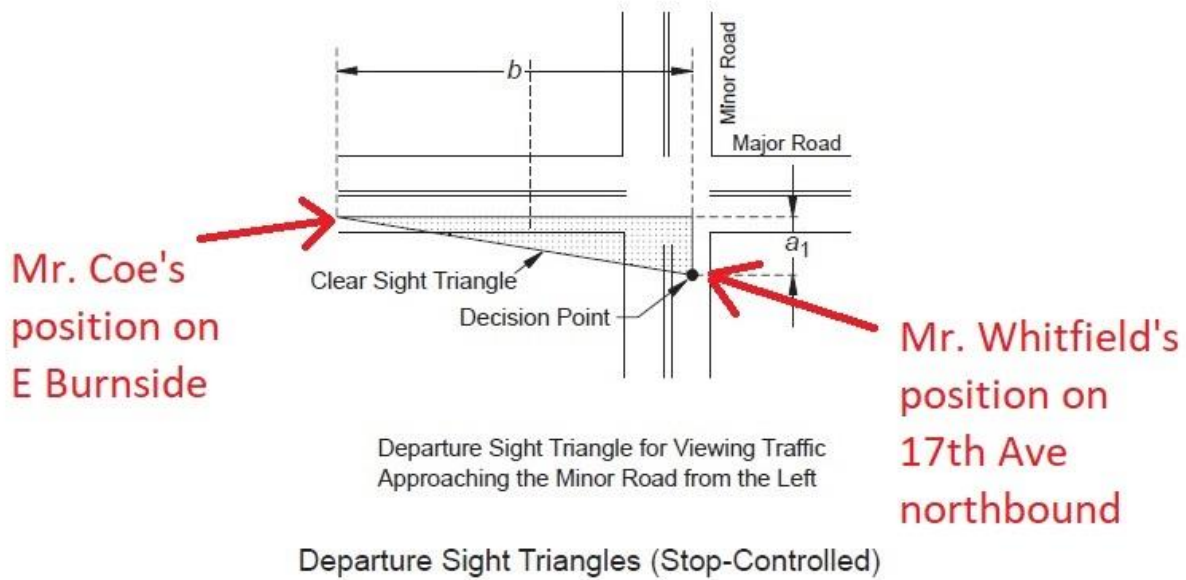


Figure 9-15. Intersection Sight Triangles (Excerpt)

B. Parking Setbacks

10.

In Portland, PBOT operates much of the area between the curb and the travel lanes (the “curb zone”) of its streets as space for people to park motor vehicles. The AASHTO Green Book requires “Clear Sight Triangles” at intersections, the length of which depends on the speed of the street, the geometry of the intersection, and the type of traffic controls present.

11.

The City’s failure to provide adequate sight distance at intersections endangers people regardless of what mode of transportation they are using. For example, the following illustration shows the effect of failure to provide a parking setback on the sight distance that people driving and people walking need in order to see each other:



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Illustration: Parking setback

No parking setback (sight distance obstructed)

12.

Unless there is yellow curb, PBOT allows people to park so that their bumper is flush with the edge of the crosswalk when there is a sign that says “[PARKING] 15 MINUTES,” or other signs indicating parking is allowed such as “[PARKING] 1 HOUR], “PAY TO PARK,” or no sign at all.

13.

In locations where there is no yellow curb and no signage whatsoever, parking enforcement officers do not ticket drivers who park at those locations, even when such parking is reported as a sight distance obstruction. Parking Enforcement, which is a division of PBOT, takes the position that such parking is “legal,” unless there is a no parking sign or yellow curb.

14.

Defendant City of Portland’s failure to provide the parking setbacks needed so that parked vehicles do not block the required sight distances at East Burnside and 17th Avenue and city-wide is knowing and intentional.

///

1 **APPLICABLE LAW**

2 15.

3 A comprehensive set of laws, regulations, ordinances, rules and adopted policies is in
4 place to ensure that sight lines at intersections are clear of parked vehicles and other obstructions.
5 The City of Portland’s knowing failure to provide required sight distances violates each of the
6 following:

7 **A. Federal Law Adopts the AASHTO Green Book for City Streets That Are Part of**
8 **the National Highway System.**

9 16.

10 Portions of West and East Burnside, and a number of other larger streets in Portland that
11 are owned, operated, and maintained by PBOT, are part of the National Highway System.¹

12 17.

13 23 CFR § 625.4(a)(1) adopts the AASHTO Green Book as the design standard for the
14 National Highway System. The AASHTO Green Book is incorporated by reference as a
15 required standard under 5 U.S.C. § 552(a) and 1 CFR part 51. See 23 CFR § 625.4(d)(1)(i).²

16 **B. Portland City Code Adopts the Sight Distance Requirements of the AASHTO**
17 **Green Book**

18 18.

19 The sight distance requirements set forth in the AASHTO Green Book (Chapter 9)
20 likewise apply to streets in Portland that are not part of the National Highway System. This is
21 because the City of Portland has adopted the AASHTO Green Book as its Policy for street
22

23
24 ¹ See map at https://www.fhwa.dot.gov/planning/national_highway_system/nhs_maps/oregon/portland_or.pdf, or the
25 interactive map at <https://hepgis.fhwa.dot.gov/fhwagis/>.
26 On October 1, 2012, Section 1104 of MAP-21 added to the NHS those roads that were at that time functionally
classified as principal arterials but not yet part of the NHS. Source:
<https://www.fhwa.dot.gov/map21/qandas/qanhs.cfm> viewed on October 5, 2019. All highways on the NHS,
including those segments added by MAP-21, must comply with applicable Federal regulations. *Id.*

1 design. Specifically, the City of Portland has adopted Administrative Rule TRN-1.10 pursuant to
2 Rule-Making Authority. TRN-1.10 in turn adopts the City’s Design Guide for Public Street
3 Improvements (“Design Guide”). The Design Guide states:

4 “Sight Distance - Observe and incorporate AASHTO guidelines
5 for safe stopping sight distance in combination with design speed and
6 vertical alignment.”

6 Design Guide, Section 6-9. This provision has been in force and effect since at least 1993.

7 **C. The Uniform Vehicle Code requires 20 and 30-Foot Setbacks that are Illustrated**
8 **in the MUTCD.**

9 19.

10 Just as the geometric design of streets is governed by the AASHTO Green Book, traffic
11 control devices such as parking signage are governed by the Manual on Uniform Traffic Control
12 Devices (“MUTCD”). Oregon has adopted the MUTCD pursuant to OAR 734-020-0005. The
13 Multnomah County Circuit Court has ruled as recently as January 2019 that the City’s “design,
14 configuration and deployment” of traffic control devices “must not conflict with the
15 requirements of the MUTCD,” which “apply mandatorily to the City’s ... decisions regarding
16 intersections.”³ The MUTCD provides for a “NO PARKING ZONE” within 20 feet of marked
17 and unmarked crosswalks, and 30 feet approaching signals:

18 ///

25 ² 23 CFR § 625.3(f) provides limited exceptions, none of which apply to the present case.

26 ³ *Gorman v. TriMet and City of Portland*, Multnomah County Circuit Court no. 17CV41797, January 4, 2019 Order on Plaintiff’s Partial Motion for Summary Judgment and Defendants Trimet and City of Portland’s Motions for Summary Judgment, at letter opinion p. 3, Bloch, J.

Figure 3B-21. Examples of Parking Space Markings

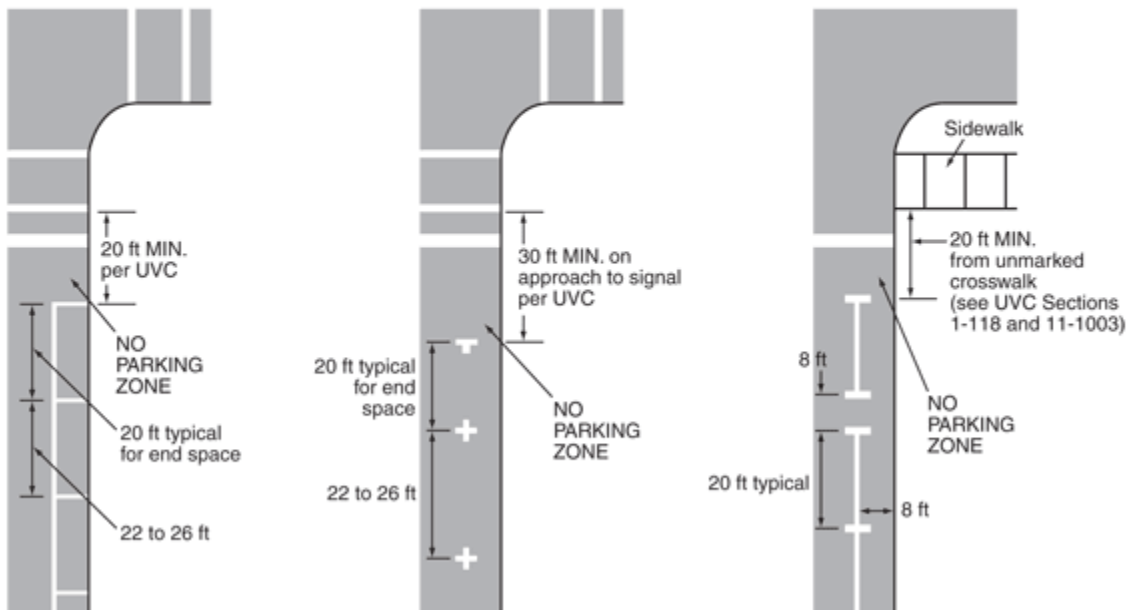


Illustration: 2009 MUTCD Part 3 Fig. 3B-21 (excerpt)

The MUTCD’s illustrated 20-foot setback zone for non-signalized intersections is the same as the Uniform Vehicle Code § 11-1003(2)(C) (prohibiting parking “[w]ithin 20 feet of a crosswalk at an intersection”), and ORS 811.550(17) as set forth below.

20.

The City of Portland at all relevant times failed to provide the MUTCD’s 20-foot NO PARKING ZONE at East Burnside and 17th Avenue and fails to do so at intersections city-wide.

D. ORS 811.550(17) Prohibits Stopping, Standing, or Parking within 20 Feet of a Crosswalk, Marked or Unmarked.

21.

The Oregon Vehicle Code similarly protects sight distances at intersections by prohibiting stopping, standing, or parking:

“Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.”

1 ORS 811.550(17).⁴

2 22.

3 The City of Portland at all material times allowed and invited drivers to act in violation of
4 this ORS 811.550(17) prohibition at East Burnside and 17th and does so at intersections
5 throughout the city.
6

7 **E. Portland City Code Prohibits Parking Within 50 Feet of an Intersection Where
8 It Obscures Visibility.**

9 23.

10 Portland City Code prohibits parking or stopping “[w]ithin 50 feet of an intersection” if
11 doing so “obscures the visibility or view of approaching traffic, any traffic control sign, any
12 traffic control signal, or any pedestrian in a crosswalk.” City Code 16.20.130(A)(2).

13 24.

14 The City of Portland at all material times allowed and invited drivers to act in violation of
15 this City Code 16.20.130(A)(2) prohibition at East Burnside and 17th Avenue and does so at
16 intersections throughout the city.

17 **F. No Setbacks Violates PBOT’s Enabling Statutes Because Is Not Reasonably Safe**

18 25.

19 The City’s practices described herein violate PBOT’s enabling statutes under which
20 PBOT has a duty to make travel on its streets “reasonably safe to the general public,” as held by
21 the Oregon Supreme Court in *Little v. Wimmer*, 303 Or 580, 739 P2d 564 (1987) (upholding a
22 claim against ODOT). This duty is fundamental to PBOT’s role as a transportation agency and
23 is not subject to any excuse, justification, or loophole.
24

25
26 ⁴ ORS 811.560(6) provides an exemption when “acting in compliance with law or at the direction of a police officer or a traffic control device.” ORS 811.550(18) provides a longer setback for large vehicles in some situations. It

G. No Setbacks Is Incompatible with the City’s Vision Zero Resolution

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26.

Finally, the Portland City Council adopted Vision Zero by Resolution 37130 on June 17, 2015. PBOT’s practice of allowing people to park without setback from intersections is incompatible with the resolution that “that no loss of life is acceptable on our city streets.” Forty-nine (49) people, including Mr. Coe, died on Portland streets in 2019, more than any previous year since 1997.

THE SIGNAGE AND THE CRASH

27.

As of May 3, 2019 at approximately 2:50 PM this PBOT sign inviting people to park vehicles for 15 minutes stood along the south curb of East Burnside street, with the arrow pointing left pointing toward the southwest corner at 17th Avenue:



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prohibits stopping, standing, and parking a vehicle within 50 feet of a stop sign if the vehicle will obstruct the view

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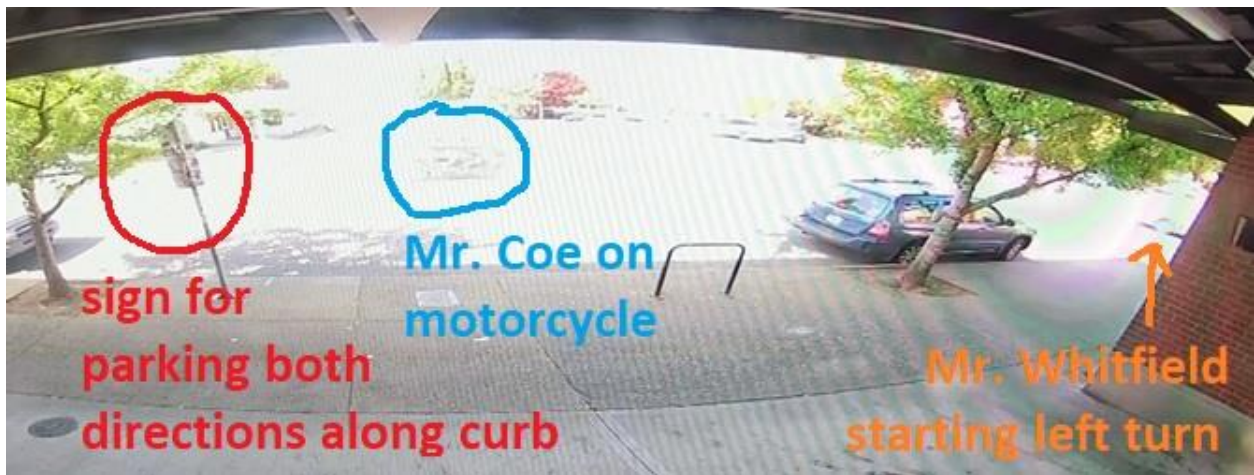
At that time a person had parked a blue SUV along the south curb of East Burnside, its front bumper flush with the edge of the crosswalk at the southwest corner, as invited by the “15 MINUTES” parking sign shown above. Consistent with the signage, two other vehicles were parked along the curb some distance behind the blue SUV. At that same time, a large black SUV was parked along the south curb of East Burnside immediately east of the southeast corner of the intersection. Its driver had likewise parked right up to the crosswalk, as PBOT signage invited them to do.

29.

The vehicles parked along the curb right up to the crosswalks blocked Mr. Coe’s and Mr. Whitfield’s view of each other, and Mr. Whitfield’s view of approaching westbound traffic.

30.

Surveillance cameras, including this one pointing north from the carpenters’ union building on the southwest corner, recorded the crash:



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of the sign or other traffic control device.

31.

It was dry daylight conditions.

32.

Mr. Whitfield intended to turn left onto Burnside westbound, which required him to look for vehicles left, right, and straight ahead, and to look for any pedestrians that might be in or entering the crosswalks from the southeast, northwest, and southwest corners. Pedestrians from the southwest corner could be crossing north or east. This makes for a total of 7 places he had to look for other people lawfully using the intersection. It is a busy area, with restaurants, homes, social services, and various businesses.

33.

When Mr. Whitfield began to make his left turn, Mr. Coe had just enough time to swerve left to try to avoid hitting Mr. Whitfield's Saab. Mr. Coe, who had completed Intermediate motorcycle safety training through Team Oregon, did manage to swerve around the Saab but could not get back into his eastbound lane before he collided head-on with a person who was driving a black Hyundai Veloster in the westbound lane of Burnside.

34.

When American Medical Response ("AMR") personnel arrived at the scene they found Mr. Coe unconscious and unresponsive on the pavement, with bystanders holding him on his right side and blood coming from his airway.

35.

Mr. Coe was transferred to Legacy Emanuel Hospital. He had multiple fractures and hemorrhages, including pulmonary contusions and multiple thoracic spine and pelvic fractures.

36.

1 Mr. Coe never regained consciousness. Five days after the crash, on May 8, 2019, at 5:25
2 PM, after a conference with Mr. Coe's family, Mr. Coe's care providers took him off of life
3 support measures. By 5:38 PM Mr. Coe had no pulse. He died at 5:40 PM.

4 37.

5 This Complaint seeks compensation for the loss suffered by Mr. Coe's surviving spouse,
6 their son, and any and all statutory beneficiaries under ORS 30.020; for his medical bills and
7 recoverable loss of earnings; and injunctive relief to fix each and every intersection in Portland
8 where the City invites or allows drivers to park along curbs at intersections even though doing so
9 impairs the required sight distances, as follows:

10
11 **PLAINTIFF'S FIRST CLAIM FOR RELIEF**
12 **(Against Defendant City of Portland)**

13 **COUNT ONE**
14 **(Negligence)**

15 38.

16 Plaintiff re-alleges the foregoing paragraphs as if fully set forth here.

17 39.

18 Defendant the City of Portland, and/or its employees or agents acting within the course
19 and scope of their employment or agency such that the City of Portland is vicariously liable for
20 their acts and omissions, was negligent and at fault in one or more of the following particulars:

21 (a) In failing to provide required sight distances for people traveling eastbound on
22 East Burnside approaching 17th Avenue, and for people traveling northbound on 17th Avenue at
23 the intersection;

24 (b) In failing to design, maintain or remedy deficiencies at the intersection to ensure
25 adequate sight distance for people using the intersection;

26 (c) In knowingly ignoring required sight distance standards;

1 (d) In the alternative or in combination with providing parking setbacks, failing to
2 adopt other mitigation measures such as posting lower speed limits in the sight distance-
3 restricted areas, to make the required sight triangles smaller;

4 (e) In failing to make travel at the intersection of East Burnside Street and SE 17th
5 Avenue reasonably safe for the public; and

6 (f) In failing to exercise reasonable care.

7 40.

8 Defendant City of Portland knew or in the exercise of reasonable care should have known
9 that each of the above acts and omissions made the intersection not reasonably safe for the
10 traveling public.

11 41.

12 The negligence of Defendant City of Portland was a substantial factor in causing the
13 collision and damages described herein.

14
15 **COUNT 2**
16 **(Negligence Per Se)**

17 42.

18 Plaintiff re-alleges the foregoing paragraphs as if fully set forth here.

19 43.

20 Defendant City of Portland was negligent per se in:

21 (a) Failing to satisfy the 23 CFR § 625, TRN-1.10, and Design Guide for Public Street
22 Improvements provisions set forth herein and the AASHTO Green Book (Chapter 9)
23 sight distance provisions incorporated thereby;

24 (b) Failing to provide 20-foot NO PARKING ZONES of Uniform Vehicle Code § 11-
25 1003(2)(C) as illustrated in the MUTCD adopted pursuant to OAR 734-020-0005;
26

- 1 (c) Failing to provide signage, yellow curb, or other traffic controls for compliance with the
2 20-foot parking setbacks specified pursuant to ORS 811.550(17); and
3 (d) Failing to provide signage, yellow curb, or other traffic controls for compliance with the
4 parking setbacks specified by City Code 16.20.130(A)(2).

5
6 **PLAINTIFF’S SECOND CLAIM FOR RELIEF**
7 **(Against Defendant Whitfield)**

8 **COUNT ONE**
9 **(Negligence)**

10 44.

11 Plaintiff re-alleges the foregoing paragraphs as if fully set forth here.

12 45.

13 Defendant Whitfield was, to the extent he had greater opportunity and ability than he
14 exercised under the circumstances, negligent in failing to yield right-of-way to Mr. Coe.

15 **COUNT 2**
16 **(Negligence Per Se)**

17 46.

18 Plaintiff re-alleges the foregoing paragraphs as if fully set forth here.

19 47.

20 Defendant Whitfield was, to the extent he had greater opportunity and ability than he
21 exercised under the circumstances, negligent *per se* in violating:

22 (a) ORS 811.260 (Appropriate driver responses to traffic control devices), which states in
23 subsection (15): “Stop signs. * * * After stopping, the driver shall yield the right of way to any
24 vehicle in the intersection or approaching so closely as to constitute an immediate hazard during
25 the time when the driver is moving across or within the intersection.”

26 **DAMAGES**

1 48.

2 Defendants' negligence and fault caused the death of Mr. Coe and the damages claimed
3 in this pleading.

4 49.

5 As a result of Defendants' negligence and fault, Plaintiff requests all compensation
6 available under law, including ORS 30.020, including but not limited to:

7 (a) reasonable charges necessarily incurred for doctors' services, hospital services,
8 nursing services, other medical services, burial services, and memorial services rendered for the
9 decedent in an amount to be proved at trial that is not expected to exceed \$400,000;

10 (b) just, fair, and reasonable compensation for pecuniary loss to the decedent's estate,
11 including but not limited to loss of earnings, in an amount to be proved at trial not to exceed
12 \$2,500,000;

13 (c) just, fair, and reasonable compensation for the decedent's disability, pain, suffering,
14 and loss of income during the period between injury to the decedent and the decedent's death in
15 an amount the jury determines to be fair and not to exceed \$1,000,000; and

16 (d) just, fair, and reasonable compensation for the decedent's spouse, child, and any other
17 beneficiaries for pecuniary loss and for loss of the society, companionship, and services of the
18 decedent in an amount the jury determines to be fair and not to exceed \$2,000,000.
19

20
21 **PLAINTIFF'S THIRD CLAIM FOR RELIEF**
22 **(Declaratory and Injunctive Relief – Against the City of Portland)**

23 50.

24 The City of Portland knowingly invites drivers to park vehicles in the right of way at
25 locations approaching and departing intersections that:
26

1 (a) block sight distances as set forth in AASHTO Green Book (Chapter 9), as adopted;

2 and

3 (b) are within parking setbacks as set forth in the Uniform Vehicle Code/MUTCD, ORS

4 and City Code as described herein and that exist not only to protect sight distances

5 but also, *inter alia*, to keep traffic control devices unobstructed, provide safe, visible

6 staging areas for pedestrians preparing to cross at painted and unpainted legal

7 crosswalks, and generally to ensure safe passage of all people using Portland streets.

8 51.

9 The City of Portland by and through PBOT is aware that its parking encroachments and
10 sight distance violations are widespread based on the geometries and speeds of its local,
11 collector, and arterial-classified streets throughout the city, and based on specific reports,
12 complaints, and requests to comply.
13

14 52.

15 The City's ongoing failure to provide parking setbacks (or reduce speeds, or both) to
16 achieve adequate sight distances and visibility at intersections throughout Portland creates an
17 ongoing and substantial risk of harm to people who use Portland's city streets daily.
18

19 53.

20 The City has refused requests to comply, and its continuing practices reflect its intention
21 to continue to refuse compliance such that judicial intervention is necessary to protect the public
22 safety and welfare. No administrative remedies for non-compliance are available.
23

24 54.

25 Further, there is not an adequate remedy at law. Specifically, the deterrent effect of
26 paying tort claims, which frequently are not brought or not available to damaged persons, and
which are statutorily capped at amounts that are far less than the individual or social cost, is

1 inadequate and not a substitute for compliance. Money damages are inadequate to remedy the
2 loss of life and ongoing danger to public health and safety created by obstructed sight distances
3 and the crashes they cause.

4 55.

5 The City's failures described herein violate a substantial, enforceable right to reasonable
6 safety using the public way that accrues to Plaintiff and all users of rights-of-way that are owned
7 or operated by defendant City of Portland.

8 56.

9 Oregon law imposes upon the City of Portland legal responsibility to regulate parking in
10 compliance with all applicable laws and standards.

11 57.

12 There is actual, threatened, and probable harm to public health in the form of ongoing
13 fatal and serious crashes, which continue to increase in number despite the City's rhetoric and
14 Resolution purportedly seeking to eliminate such crashes.

15 58.

16 Sheri Gazitt is a user of Portland streets and has an interest in the safety of all right-of-
17 way users. Obtaining the injunctive relief sought herein is consistent and compatible with her
18 duties as Personal Representative and with the goals of Mr. Coe's family to protect others from
19 harm. Plaintiff hereby provides notice to defendants and reserves the right to add or substitute
20 plaintiffs on her claim for injunctive relief if the interests of the Estate or of justice so require.

21 59.

22 The hardship to Plaintiff and the public is outweighed by the hardship to defendant of
23 providing sight distances at intersections as required.

24 60.

1 The declaratory and injunctive relief sought serves the public interest.

2 61.

3 For the foregoing reasons Plaintiff prays for an Order of the Court on her Third Claim for
4 Relief directing the City of Portland to provide compliant sight distances at all intersections
5 within the City of Portland as described in item 5, below.

6 **PRAYER**

7 WHEREFORE, Plaintiff demands judgment against Defendants for the following relief:

- 8 1. A judgment in favor of Plaintiff and against Defendants;
- 9 2. On her First and Second Claims for Relief: a judgment for Plaintiff's economic
10 and noneconomic damages in an amount the jury determines to be fair, in
11 combination, not to exceed \$5,900,000.00;
- 12 3. For post-judgment interest at the statutory rate;
- 13 4. For plaintiff's costs and disbursements incurred;
- 14 5. On her Third Claim for Relief, a Court Order
15 (a) Declaring that the City of Portland must provide sight distances and parking
16 setbacks at its intersections (or "crosswalks" as applicable) in compliance with
17 the AASHTO Green Book (Chapter 9), Part 3 of the MUTCD, ORS
18 811.550(17), and Portland City Code 16.20.130(A)(2);
19 (b) Directing the City of Portland by and through its Bureau of Transportation to
20 provide parking setbacks city-wide that comply with the AASHTO Green
21 Book sight distance requirements, MUTCD Part 3, ORS 811.550(17),
22 Portland City Code 16.20.130(A)(2), and are consistent with its duties to
23 provide travel that is reasonably safe to the public;
- 24
25
26

1 (c) In the event the City of Portland proves to the satisfaction of the Court that an
2 inventory or lengthy process is required for implementation, judicial oversight
3 of compliance including a reasonable timeframe for completion of an
4 inventory, and/or an implementation plan to be approved by the Court;

5 (d) For plaintiff's costs and attorney's fees pursuant to the Court's equitable
6 powers, including those set forth in *DeYoung v. Brown*, 300 Or App 530
7 (2019).

8 6. For such other relief as the Court deems appropriate.

9 DATED this 18th day of February, 2020.

11 FORUM LAW GROUP LLC

12 /s/ Scott F. Kocher

13 Scott F. Kocher
14 Oregon State Bar No. 015088
15 E-mail: scott@forumlawgroup.com

16 Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED this 18th day of February, 2020.

FORUM LAW GROUP LLC

/s/ Scott F. Kocher

Scott F. Kocher
Oregon State Bar No. 015088
E-mail: scott@forumlawgroup.com

Attorney for Plaintiff