



# PORT TOWNSEND & JEFFERSON COUNTY LEADER

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## **Amputated pinkie finger brings lawsuit to county**

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The Seattle law firm of Budge & Heipt filed a federal civil rights lawsuit Jan. 5 against Jefferson County and Steve Richmond, jail superintendent, on behalf of an inmate who had a pinkie finger amputated.

The lawsuit, which requests a trial by jury, claims that Zachary Barbee was unlawfully denied medical care while confined at the Jefferson County Jail in Port Hadlock.

The law firm filed a \$10 million tort claim for damages Oct. 27, 2004. The county promptly denied it and believes the lawsuit is equally unfounded.

Barbee, 27, was arrested by Jefferson County sheriff's deputies on Sept. 29, 2004, on a fourth-degree domestic violence assault charge, and was booked into jail. Barbee had been convicted of domestic violence in May 2004.

According to the lawsuit, Barbee admitted he had an infection in the pinkie finger on his right hand when he entered jail, a medical condition which worsened.

The lawsuit states that Barbee began asking for medical care on Sept. 30, noting that the infection was visible and that it was "objectively clear that the infection was serious and required immediate medical attention."

"Defendant Richmond and other staff members of the Jefferson County Jail were aware that Mr. Barbee was asking for, and needed, immediate medical attention due to his infected hand," the lawsuit stated.

### County response

The county has hired the Seattle law firm Lee, Smart, Cook, Martin and Patterson to represent it and Richmond.

The county asserts that Barbee did not ask for special medical attention during his first three days in jail and waited until Oct. 2. In the county's response to a claim for damages by Barbee, the county says that Barbee was provided with antibiotics after he complained about his finger and was given hot towels and soaking solution as well as ibuprofen to treat the pain and to help prevent infection's spread.

The statement also indicates that Barbee was seen at the jail Oct. 2 by a nurse practitioner, who advised that it was unnecessary to transport Barbee to the hospital. The statement also indicated that Barbee

admitted to squeezing the infected area and digging out a splinter with a "dirty sewing needle just days before his arrest on Sept. 29."

### Allegations

The lawsuit contends that Steve Richmond, as jail superintendent, denied Barbee's request, and late at night on Oct. 2, Barbee was taken by corrections department personnel to the hospital in Port Townsend for medical treatment. He was later taken by ambulance to Harborview Medical Center in Seattle, where he remained for about 10 days. Barbee underwent five surgeries, leading to the finger's amputation.

"Richmond is one of the main reasons Zach Barbee didn't get medical care until it was too late," said Barbee's attorney, Erik Heipt.

Emphasizing the seriousness of the situation, Heipt said Barbee lost his finger, but it could have been worse.

"People need to understand this wasn't a car accident where two people who were trying their best to follow traffic rules got hurt," Heipt said. "This was a situation where someone was begging for medical attention for three days. It could have been more serious than it was; he could have died."

### Medical attention

Attorney Michael Patterson, who is representing the county, said the claim has no basis.

"We believe based upon the facts and the law that this is clearly a defensible case," Patterson told The Leader. "We believe we did everything that we could for Mr. Barbee and actually went above and beyond what we were required to do as far as medical treatment."

Heipt said Jefferson County could not have reached the conclusion that it acted in the best interest of Barbee if it had conducted a credible investigation.

"Mr. Barbee needed medical attention the first full day and didn't get it. He needed medical attention the second full day and didn't get it. They waited until the night of the third day to finally help him," Heipt said. "If that's everything they could do, everything they could do was clearly not enough."

Heipt indicated that Jefferson County is not doing enough in the wake of a lawsuit settled a year ago with the American Civil Liberties Union.

### County coverage

County Administrator John Fischbach said Jan. 18 that it has not been determined if the county is paying for the legal defense of Richmond, as he is named as an individual, but he did say that if Richmond was "operating under the mantle of his county responsibilities," then the county is required to provide for his defense.

Fischbach also said that after the county pays a deductible fee, the Washington Counties Risk Pool pays for attorney costs as well as settlements and lawsuit compensations.

Budge and Heipt represented the family of Kevin W. Bledsoe in a federal civil rights case after he died while in custody at the jail in March 2002. In October the county agreed to a \$1.6 million settlement, specifically denying any wrongdoing. The county paid a \$10,000 insurance deductible.

No date has been set for the trial, but Heipt said both sides will be working to collect information during the next couple of months. He expects a trial date to be set within a year.

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