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LITIGATION

## **Lawsuit says Napa police and county social workers contributed to Kayleigh Slusher's death**

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Kayleigh Slusher

Submitted photo

While Kayleigh Slusher's mother faces a murder charge in criminal court, Kayleigh's father is moving forward with a civil lawsuit filed against the City of Napa, County of Napa and several police officers and social workers alleging that their negligence contributed to Kayleigh's death.

Kayleigh Slusher, 3, was found dead in her mother's home at Royal Garden Apartments in Napa on Feb. 1, 2014. Her mother, Sara Lynn Krueger, 26, and mother's boyfriend, Ryan Scott Warner, 29, are currently being tried for killing Kayleigh in Napa County Superior Court. The trial, which began on Monday, is estimated to last until at least the end of the month.

The Slusher family first filed their lawsuit in U.S. District Court on May 29, 2015. The federal case, however, was dismissed on Dec. 7, 2016. District Judge Sandra B. Armstrong referred the suit's state claims back to state court. The case was re-filed in Napa County Superior Court on Dec. 20,

2016. The Oakland law office representing the Slusher family, Haddad & Sherwin LLP, also filed an appeal, which is pending, in federal court.

The suit alleges that four officers with the Napa Police Department and two social workers with Napa County Child Welfare Services were notified of possible drug use, unsafe living conditions and child abuse in Kayleigh's home before she died yet did not address or investigate the reports adequately, ultimately allowing for Kayleigh's death.

"The most important thing we want to accomplish in this case is to bring to light the failures of the police and the county child welfare services department so this never has to happen to any other child because it took more than just the criminal defendants to kill Kayleigh," Michael J. Haddad, attorney for Kayleigh and her father, Jason Slusher, said in a Register interview.

Gregory Foster Dyer of Jones & Dyer out of Sacramento, who is representing the County of Napa and social workers Nancy Lefler and Rocio Diaz, said that he does not comment on pending litigation as a "general policy." Dyer said that he is not subject to an earlier gag order issued to officials and lawyers involved with the criminal case.

Joanne Tran of Bertrand, Fox, Elliot, Osman & Wenzel of San Francisco, who is representing the City of Napa and the police officers named in the suit, said that she could not comment without permission from her clients. Tran did not respond to questions about the case via email as of Friday.

In the months leading up to Kayleigh's death, police officers were dispatched to the home five times, according to the suit. The first contact occurred on Oct. 6, 2013 when officers were dispatched to the home for a disturbance call, the next was on Jan. 8, 2014. The last three visits, the suit alleges, occurred in Kayleigh's final two weeks of life.

Police were dispatched to Kayleigh's home on Jan. 23 following a request from Robin Slusher, Kayleigh's paternal grandmother, for a welfare check. Slusher told police that Kayleigh was in physical danger, that she may be suffering abuse, that there was drug use going on in the home and that the man living in the home, later identified as Ryan Warner, had a warrant out for his arrest and might be armed, according to the suit.

Officer Garrett Wade, who the suit says was dispatched to serve the warrant and perform a welfare check, decided to clear the call before going to the home after determining that "the environment in which Kayleigh lived was not safe for him or his partner," according to the lawsuit. Wade did not investigate or report the suspected child abuse despite being legally mandated to do so, the suit alleges.

By Jan. 23, the suit alleges, Kayleigh had already suffered a broken left posterior 10th rib.

Officers Robert Chambers and Garrett Smith were called to the residence for a domestic violence disturbance on Jan. 27, 2014. By this time, "Kayleigh was obviously suffering from severe child abuse and neglect." She was emaciated with dehydrated sunken cheeks and bruising around her eyes, according to the suit.



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The lawsuit alleges that Kayleigh had already suffered the blows causing a hemorrhage to the front of her lumbar spine and tearing a hole in her small intestine – injuries that would eventually lead to infection and death.

"The fatal abdominal injury was present for four or more days before Kayleigh died and she would have survived if she had received medical attention," alleges the suit. "No reasonable officer would have failed to examine and question Kayleigh, conduct a thorough child abuse

investigation, immediately report the suspected abuse to CWS and other officials, take Kayleigh into protective custody, or obtain emergency medical care for her.”

That same day, Robin Slusher contacted Napa County Child Welfare Services by phone and reported to social workers Nancy Lefler and Rocio Diaz-Lara that drugs were being used in the home and that Kayleigh was intentionally being deprived of food, according to the suit. The social workers allegedly told Slusher that “there was nothing CWS could do” and to call the police instead.

The social workers should have been alerted by the fact that Kayleigh had been a dependency client of welfare services previously, Haddad said in an interview.

Robin Slusher contacted the police again on Jan. 29. Officer Wade was dispatched to the call along with Officer Dominic DeGuilio. While there, the officers could not see bruises on Kayleigh's body since she was clothed nor did they attempt to speak with Kayleigh, according to the suit. They did witness Kayleigh vomit, the suit alleges, a symptom caused by the infectious peritonitis and necrotic small intestine that was killing her.

After the visit, Wade called Robin Slusher back, allegedly telling her that everything in the home was normal and promising her that he would “keep an eye on the apartment.”

The suit alleges that had Robin Slusher known the circumstances of the visit or that police would not be watching the apartment, she would have continued her efforts to get Kayleigh help. The suit also alleges that the officers' visit made things worse for Kayleigh since it scared Krueger out of taking her for the medical care she needed.

"Ms. Krueger became hysterical and concerned that police may take her daughter away from her, causing her to want to flee the area and not take Kayleigh for the emergency care she urgently needed," the suit alleges. The following day at 4 p.m. Krueger apparently discovered Kayleigh dead on the bathroom floor.

"They didn't write any of the required reports or cross reports," Haddad said of social workers and police. Reports weren't filed until after Kayleigh's death, he said, "when they basically knew they had to cover their tracks."

Haddad said that his firm has handled many wrongful death cases involving law enforcement "but there's never been a case like this where city and county officers just looked the other way and allowed a 3-year-old to be killed by a long period of abuse when they could have done something to save her."

Haddad said that if there is no settlement and the case goes to jury trial as requested, Kayleigh's family will prevail. "A tragic avoidable death of a child like this can only be valued in the high millions," he said. "At trial we would leave that amount to a jury."

The civil case is on for a case management conference on May 30 in Napa County Superior Court.



**Kayleigh Slusher lawsuit**  
 Updated May 10, 2017

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- Kayleigh murder trial: Warner's defense attorney says mother was the abusive one
- Kayleigh murder trial: Prosecutor says mother chose drugs over her daughter's welfare
- One trial, two juries: Slusher murder trial about to begin
- Warner admits 'spanking' Kayleigh Slusher in interview with Napa Police
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**Maria Sestito**

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