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NOV 3 2010

Clerk, U. S. District Court
Eastern District of Tennessee
At Winchester

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

ALTON LEE PRESLEY, individually,)
and as next friend of ANGEL TAYLOR,)
a minor,)

Plaintiff,)

v.)

COFFEE COUNTY, TENNESSEE,)
STEPHEN M. GRAVES, Sheriff)
of Coffee County, Tennessee,)
PAM FREEMAN, CHARLES BEATY,)
JONATHAN ANTHONY, MARJORIE)
HASTINGS, DIANNE MCGEE,)
GEORGE DODSON, TANI Y. FISCHER,)
AMANDA BROOKE SMARTT,)

Defendants.)

Case No. 4:10-cv-77
Mattice Lee
JURY DEMAND

COMPLAINT

Comes now, Alton Lee Presley, individually, and as next friend of Angel Taylor, a minor, and for his cause of action against the Defendants herein and would respectfully show the Court as follows:

I. INTRODUCTION

1. This is a civil action seeking damages against Coffee County, Tennessee, the Sheriff of Coffee County, Tennessee, named Coffee County Supervisory Correctional Officers, named Coffee County Correctional Officers and named Coffee County Health Officials, all of which, while acting under color of law, and as a direct and proximate result of the negligence, gross negligence and/or the wanton and willful indifference to the rights of Allison Joy Taylor ("Decedent" or

“Taylor”), deceased, caused the physical pain, suffering, mental anguish and ultimately, the wrongful death of the Decedent as a further and direct and proximate result of the Defendants’ deprivation of the Decedent’s rights secured by the Constitution and laws of the United States, including the rights secured by the 8th and 14th Amendments to the Constitution of the United States and for related State law claims including wrongful death.

II. JURISDICTION

2. This action is brought pursuant to 42 U.S.C. § 1983 and the 8th and 14th Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331, 1341(3), 1341(4) and 1343, and the aforementioned constitutional and statutory provisions. Plaintiff further invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to hear and decide claims arising out of State law. Plaintiff brings suit against each Defendant named in both their individual and official capacities, and against Coffee County, Tennessee as the employer of each of the individual Defendants, jointly and severally.

3. Each and every negligent, grossly negligent, willful, wanton or reckless act of the Defendants as alleged herein below was an act by and under the color and pretense of the statutes, ordinances, regulations, law, customs and usage of Coffee County, Tennessee, and by virtue and under the authority of the Defendants’ employment with Coffee County, Tennessee and with the Coffee County Sheriff’s Department and Jail.

4. That the amount in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest and attorney’s fees.

III. PARTIES

5. Plaintiff, Alton Lee Presley (“Plaintiff” or “Presley”), is a citizen and resident of the City of Tullahoma, County of Coffee, State of Tennessee and brings this action for himself personally.

6. Plaintiff, Alton Lee Presley, is the natural father of the Decedent and the maternal grandfather and legal guardian of Angel Taylor, a minor, and the only child of the Decedent.

7. Pursuant to Tennessee Code Annotated Section 16-15-706 and Tennessee Rules of Civil Procedure 17.03, the Plaintiff, Alton Lee Presley, is qualified to act as the next friend of Angel Taylor and that as such he also brings this action on behalf of Angel Taylor as her next friend.

8. Taylor was a pre-trial detainee at Coffee County Jail (the “Jail”) at the time of her death.

9. The Defendant, Coffee County, Tennessee is a County created and established by the Private Acts of 1835 - 1836 and exists under the laws of the State of Tennessee (hereinafter, “Coffee County”). Pursuant to Rule 4(j)(2), Fed. R. Civ. P., service of process may be obtained upon Coffee County by service upon the Chief Executive Officer which is David Pennington, County Mayor.

10. The Defendant, Coffee County, was, at all time material hereto, the governing body of Coffee County, Tennessee, a state actor, and was responsible for the conduct of the employees and agents of Coffee County government and the Coffee County Sheriff, including its operation of the Coffee County Jail, and for establishing customs, policies and procedures to regulate the conduct of agents and employees of the Coffee County Sheriff, the Jail, and for ensuring that employees and agents of the Coffee County Sheriff and the Jail obeyed the laws of the State of Tennessee and of the United States of America.

11. The Jail is a facility of Coffee County government and, as such, falls under the auspices, control and responsibility of Coffee County.

12. The Defendant, Stephen M. Graves (“Graves”), is a citizen and resident of the State of Tennessee, is the Sheriff of Coffee County and is an employee of Coffee County and is principally responsible for the operation of the Coffee County Jail, and as such, was the operating entity and was responsible for establishing customs, policies and procedures to regulate the conduct of agents and employees of the Coffee County Sheriff, and for ensuring that employees and agents of the Coffee County Sheriff obeyed the laws of the State of Tennessee and of the United States of America.

13. The Defendant, Patty Freeman (“Freeman”), is an administrator of the Coffee County Jail, is a Coffee County Sheriff’s Department Captain, and is an employee of Coffee County and is responsible, along with Sheriff Graves, for the operation of the Coffee County Jail.

14. The Defendant, Charles Beaty (“Beaty”), is an administrator of the Coffee County Jail, and is an employee of Coffee County and is responsible, along with Sheriff Graves and Captain Freeman, for the operation of the Coffee County Jail.

15. The Defendants, Graves, Freeman and Beaty (collectively “Supervisory Officials”), herein acting individually and/or in their official capacity as officers and employees of the Jail, and as such not only established policies either formally or by custom for, and were responsible for the employment, training, supervision and conduct of the officers and employees of the Jail, but also participated in the wrongful actions described herein in their individual capacities.

16. The Defendants, Jonathan Anthony (“Anthony”), Marjorie Hastings (“Hastings”), Dianne McGee (“McGee”) and George Dodson (“Dodson”), are all citizens and residents of the State of Tennessee and are all correctional officers at the Coffee County Jail and are employees of Coffee County.

17. The individual Defendants named herein above knowingly participated or acquiesced in, contributed to, encouraged, implicitly authorized or approved of the conduct described below individually and in their official capacities with the Jail.

18. The offenses described herein resulted from the failure of Coffee County and the Supervisory Officials to employ qualified persons for positions of authority and/or to properly or conscientiously train and supervise the conduct of such persons after their employment and/or to promulgate appropriate operating policies and procedures either formally or by custom to protect the constitutional rights of the Decedent.

19. The Defendants, Nurse Tani Y. Fischer (“Fischer”) and Nurse Amanda Brooke Smartt (“Smartt”), are citizens and residents of the State of Tennessee and each are health officials, to wit: nurses, at Coffee County Jail and are employees of Coffee County.

20. The Defendants, Fischer and Smartt, were, at all times material hereto, employed by the Coffee County Sheriff as a nurse assigned to the Jail, and as such, were charged with the responsibility of providing nursing services to Taylor during her confinement at the Jail.

21. The Defendants’ failure to provide Taylor adequate medical care was so grossly incompetent and inadequate such as to shock the conscience, was intolerable to fundamental fairness and so inadequate as to evidence intentional mistreatment or a refusal to provide essential care. The Defendants’ delay in providing Taylor access to proper medical care and treatment was tantamount to unnecessary and wanton infliction of pain, constituting deliberate indifference to Taylor’s medical needs.

22. Coffee County’s medical care system at its Jail was so inadequate as to effectively deny Taylor access to appropriate medical care for her condition. Coffee County’s established Policies and Procedures for providing medical care and treatment of inmates at its Jail further

evidence such a lack of care so as to constitute deliberate indifference to Taylor's medical needs.

23. Coffee County's Policies and Procedures for medical care for inmates at the Jail adopted by Coffee County, were so inadequate as to constitute a violation of Taylor's constitutional rights by providing inadequate, delayed and insufficient medical care and treatment such that its Policies and Procedures constitute evidence of actual deliberate indifference towards Taylor's medical needs.

24. Graves failed to adequately train and supervise his subordinates and particularly, the individual Defendants, with such failure constituting, among other things, a deliberate indifference to inmates', including Taylor's, medical needs.

25. The Defendants' conduct, and each of them individually, was intentional and grossly negligent, indicated active malice toward the Taylor and a total, deliberate and reckless disregard for and indifference to her life and constitutional and common law rights, and justifies an award of punitive damages in addition to the actual damages the Plaintiffs are entitled to recover.

26. Plaintiffs bring the present action against the Defendants, individually, insofar as their negligent, intentional and/or deliberate indifference to Taylor's life-threatening condition and insofar as their failure to provide her timely and proper medical diagnosis, care and treatment during the period of her incarceration.

27. All of the actions of the Defendants outlined herein were taken under the color of law.

IV. COMMON ALLEGATIONS

28. Coffee County is responsible for providing and recognizing proper treatment and services for the inmates and/or detainees at the Coffee County Jail located in Manchester, Tennessee.

29. Coffee County, through its agents and employees, is responsible for and does in fact hire, train, supervise and instruct its agents and employees.

30. Coffee County and Graves failed to adopt proper policies and procedures, as well as failed to direct, train and supervise County and/or Jail personnel and nurses in the proper care and treatment of incarcerated inmates with medical conditions in county-operated facilities.

31. Graves and the other individual Defendants failed to follow established County, Sheriff's Department and/or Jail Policies and Procedures in the supervision, care and/or treatment of Taylor.

32. On or about the 2nd day of December, 2009, Taylor was incarcerated in the Coffee County Jail for violation of probation upon an original charge of shoplifting a pair of flip-flops and a purse valued at \$39.98 and for public intoxication.

33. The probation violation was founded upon Taylor's failure to complete drug and alcohol treatment.

34. Taylor had been an inmate at the Jail previously and the Defendants knew or should have known that Taylor would require treatment for detoxification. Further, the Defendants knew or should have known that the sudden withdrawal from alcohol and/or narcotic medications is a potentially life threatening event.

35. Within two days of her incarceration, and on or about December 4, 2009, Taylor made a medical request in her own hand advising the Defendants herein that she was suffering from alcohol withdrawal, was unable to eat or sleep and was suffering from severe anxiety.

36. On or about December 5, 2009, a handwritten note was made on Taylor's intake form that Taylor has a history of drinking any kind of alcohol she can get along with any kind of pain pill that she can get including, hydrocodone, Soma, morphine, Percocet and Oxycontin on a daily basis.

37. Despite knowledge of Taylor's addictions, drug and alcohol use, the Defendants failed and refused to provide proper supportive care for alcohol and drug withdrawal and Taylor became

increasingly sick from and after December 5, 2009.

38. On or about the 13th day of December, 2009, Taylor was suffering the severe effects of withdrawal and had become incapable of arising from her bunk and incapable of eating or taking medications. Early in the day on the 13th of December, 2009, Taylor threw up several times early in the day and became incoherent.

39. On or about the 13th day of December, 2009, at the approximate hour of 6:00 p.m., correctional officer Anthony was advised by the other inmates in Taylor's cell of Taylor's condition. Correctional officer Anthony radioed to correctional officer Hastings to check on Taylor.

40. On or about the 13th day of December, 2009, at the approximate hour of 6:00 p.m., Taylor's condition had deteriorated to the point that she vomited and the other inmates in her cell advised correctional officer Hastings of Taylor's dire condition.

41. On or about the 13th day of December, 2009, at the approximate hour of 6:00 p.m., correctional officer Hastings called and advised Nurse Smartt regarding Taylor's dire condition. However, Nurse Smartt failed and refused to examine Taylor or even come to the Jail, and in response to this call Nurse Smartt responded that Taylor was "detoxing."

42. On or about the 13th day of December, 2009, at the approximate hour of 9:30 p.m., correctional officer Hastings was again notified by Taylor's frantic cell-mates that Taylor was suffering from seizures. Correctional officer Hastings and correctional officer Dodson responded to the calls and found the Taylor unresponsive, suffering from a seizure and bleeding from the mouth.

43. On or about the 13th day of December, 2009, at the approximate hour of 10:15 p.m., correctional officer Anthony received a radio call from correctional officer Dodson requesting that correctional officer Anthony call the nurse on call regarding Taylor's condition. Correctional officer Anthony called the on-call nurse, Nurse Smartt. However, Nurse Smartt did not answer the call.

Correctional officer Anthony then called the third-shift nurse, Nurse Fischer, and advised her of Taylor's condition. While speaking on the telephone with the third-shift nurse, the second shift nurse called and, upon being advised of Decedent's condition, simply advised that the third-shift nurse would, "take care of the problem when she came in."

44. Despite the dire circumstances alleged hereinabove, correctional officer Hastings simply stood by during the seizures and then returned to other work. Correctional officer Dodson made a call to Nurse Smartt and was advised to bring the Decedent, "up for observations."

45. Correctional officer Dodson carried the non-responsive Taylor to the front and laid her on a mat in the floor. After spending a few minutes ensuring that Taylor would not hit her head while seizing, correctional officer Dodson, returned to other work.

46. On or about the 13th day of December, 2009, at the approximate hour of 11:15 p.m., correctional officer Dodson returned to Taylor and, upon receiving ammonia capsules from correctional officer Hastings, attempted to revive Taylor. In response to questions put by correctional officer Dodson, Taylor "moan[ed] and groan[ed]" and these moans and groans were interpreted by correctional officer Dodson as responses. On the same date and at approximately the same time, correctional officer Hastings again saw Taylor and observed that she had urinated on herself. Correctional officer Hastings spent a few more minutes observing Taylor and was then directed by correctional officer Dodson to call the third-shift nurse to "see where she was in route."

47. On or about the 13th day of December, 2009, at the approximate hour of 11:45 p.m., the third-shift nurse had correctional officers Anthony and Dodson hold Taylor up and hold her mouth open while the third-shift nurse, Nurse Fischer, put medicine in her mouth. Thereafter, the shift ended and correctional officer Dodson and Anthony advised the next shift of Taylor's condition and left the Jail.

48. On or about the 13th day of December, 2009, correctional officer Eldridge reported for third shift at 11:45 p.m. Thereafter, correctional officer McGee reported. Through the belated but fortuitous circumstance, Sheriff Graves called the Jail to inquire about the status of another inmate who had been hospitalized. Sheriff Graves learned that Taylor was lying on the floor outside the nurse's station having suffered from a seizure and was non-responsive. Sheriff Graves instructed correctional officer McGee to have Taylor admitted to a hospital.

49. On or about the 14th day of December, 2009, at the approximate hour of 1:00 a.m., correctional officer McGee called 911 and requested an ambulance. At the approximate hour of 1:05 a.m., the ambulance arrived at Coffee County Jail; and, at the approximate hour of 1:20 a.m. Taylor was delivered to the emergency room at United Regional Medical Center where she came under the care of a physician.

50. Upon arrival at the Jail, the Coffee County Emergency Medical Service found Taylor, a twenty two (22) year old female, laying prone on the floor outside the nurses station. EMS was advised by Nurse Fischer that Taylor had been "seizing" since 9:00-9:30 p.m. and had a history of seizures.

51. Upon her arrival at United Regional Medical Center, Taylor was found to be in "severe distress," and required total care. She was unresponsive to verbal stimuli and could only respond to pain. She was found to be tachypnic, tachycardic and unconscious.

52. Prior to her arrival at United Regional Medical Center on the 14th day of December, 2009, Taylor had suffered from tonic-clonic (grand mal) seizures and had been suffering from tonic-clonic seizures since, at the very least, approximately 9:00 p.m. on December 13, 2010. In the absence of any medical care, Taylor's condition was so deteriorated that she was beyond the ability of a local hospital to provide care.

53. On the 14th day of December, 2009 at the approximate hour of 3:46 a.m., Taylor was transferred by ambulance to Centennial Medical Center in Nashville, Tennessee where she continued to suffer tonic-clonic seizures, suffered respiratory failure and within a short period of time became comatose. A CT scan performed at Centennial Medical Center showed global edema of the brain and uncal herniation.

54. On the 15th day of December, 2009 at the approximate hour of 11:30 a.m., Taylor was pronounced dead.

55. Taylor was never examined by a physician at the Jail and was only seen by a nurse approximately 5 hours and 45 minutes after being found to have vomited and unconscious or incoherent by Jail employees and approximately 2 hours and 45 minutes after being found unconscious, having a seizure and bleeding from the mouth.

56. The Defendants, and each of the individually, should have recognized earlier the clinical signs and symptoms of drug and alcohol withdrawal or realized at a minimum that Taylor needed to be seen by a physician much sooner.

57. The Defendants, and each of the individually, breached their legal duties and responsibilities to the Decedent and the Plaintiff. The Defendants, and each of the individually, failed to provide the Decedent with reasonable, necessary and required medical care.

58. As the direct and proximate result of the actions of the Defendants, and each of them individually, the Decedent suffered irreparable injury and damages which would not otherwise have occurred. The Decedent endured extreme mental and physical pain and suffering prior to her death.

59. Taylor's injuries and death were caused solely and only as a direct and proximate result of the actions of the Defendants, and each of them individually. At the time of her death, the Decedent was age 22 years, and had the capacity to earn money in any art, trade or profession.

60. As a result of the actions of the Defendants, and each of them individually, the Plaintiff, Alton Lee Presley, has incurred medical and funeral expenses.

61. As a direct and proximate result of the actions of the Defendants, and each of them individually, the Plaintiff, Alton Lee Presley, and the minor child, Angel Taylor, have sustained emotional stress and suffering caused by seeing the Decedent suffer serious pain and discomfort due to the injuries that she received as a direct result of the Defendants. The Plaintiff, Alton Lee Presley, and the minor child, Angel Taylor, have further lost the services, companionship, comfort, society, guidance, solace, protection, nurture, education, moral training and parental education and training of the Decedent for which they are entitled to recover.

62. As the maternal grand-father, next of kin and as next friend and legal guardian of Decedent's minor child, Angel Taylor, the Plaintiff, Alton Presley, brings this action for the wrongful death of Taylor pursuant to Tenn. Code Ann. § 20-5-113.

63. The conduct of the individual Defendants as set forth herein was committed in the scope of their employment for the Defendant, Coffee County. Therefore, the Defendant, Coffee County, is liable for such actions under the doctrine of respondeat superior.

64. At all times material hereto, the individual Defendants were authorized to act for, or in place of, Coffee County. Therefore, the individual Defendants were agents of Coffee County and Coffee County is vicariously responsible for the negligent acts of its agents, servants and/or employees, as set forth herein.

COUNT I
Violation of Civil Rights (Federal)

65. The Plaintiff alleges and incorporates the allegations contained in the preceding paragraphs of this Complaint.

66. Decedent's Fourteenth Amendment substantive and procedural rights were violated by the Defendants, and each individually, due to each Defendants' deliberate indifference to Decedent's obvious dire medical needs.

67. The actions of the Defendants, and each individually, denied the Decedent "appropriate treatment" and was the direct and proximate cause of her suffering and death.

68. The Defendants, and each of them individually, demonstrated reckless and/or deliberate indifference to the Decedent's fundamental and clearly established Constitutional rights and evidenced an intentional and conscious disregard and indifference to Decedent's safety and welfare in their actions.

69. Taylor's death and/or severe mental and physical pain and suffering was the reasonably foreseeable result and consequence of the Defendants, and each of them individually, deliberate and reckless indifference and disregard of the Decedent's Constitutional rights as set forth herein.

70. The Decedent was deprived of her protected interest in life, liberty and property without due process when she was denied medical treatment without sufficient, or any, legal cause. As such, the Decedent's procedural due process rights were violated.

71. The Decedent's substantive due process rights were violated when the Defendants violated clear and explicit constitutional guarantees pursuant to the Fourteenth Amendment of the United States Constitution, as well as engaged in behavior by a state actor that would "shock the conscience" by denying Decedent medical treatment based upon their knowledge of the events alleged hereinabove.

72. Each individual occurrence, in which the Decedent was denied "appropriate treatment", constitutes a separate violation of her Fourteenth Amendment rights, resulting in multiple

claims for the violations of those rights.

73. The official policies and customs of the Jail are unconstitutional or, in the alternative, the policies and customs of the Jail were unconstitutionally implemented, in that they arbitrarily denied medical treatment to inmates, or were designed ineffectively to provide medical treatment and therefore violated the Decedent's Fourteenth Amendment rights. Further, even if such policies were not formally approved by appropriate officials or channels, the above-stated events were such a widespread practice as to have the force of law.

74. Coffee County, Sheriff and other officials and employees of Coffee County named herein denied obvious and necessary medical care for the Decedent, which constituted "cruel and unusual punishment" in violation of the Eighth Amendment of the Constitution of the United States.

75. As a direct and proximate cause of the Defendants' violations of Decedent's rights under the Eighth Amendment to the United States Constitution, the Decedent suffered damages including, but not limited to, physical and emotional pain and suffering, loss of enjoyment of life, and loss of life.

76. The plaintiff seeks all relief available pursuant to 42 U.S.C. § 1983, *et seq.* including, but not limited to, other damages for wrongful death recoverable under Tenn. Code Ann. § 20-5-113.

COUNT II
Violation of Civil Rights (State)

77. The Plaintiff alleges and incorporates the allegations contained in the preceding paragraphs of this Complaint.

78. Decedent's rights under Article I, § 3 of the Tennessee Constitution were violated by the Defendants, and each individually, due to each Defendants' deliberate indifference to Decedent's obvious dire medical needs.

79. The actions of Defendants, and each individually, denied the Decedent "appropriate treatment" and was the direct and proximate cause of her suffering and death.

80. The Defendants, and each of them individually, demonstrated reckless and/or deliberate indifference to the Decedent's fundamental and clearly established Constitutional rights and evidenced an intentional and conscious disregard and indifference to the Decedent's safety and welfare in their actions.

81. Taylor's death and/or severe mental and physical pain and suffering was the reasonably foreseeable result and consequence of the Defendants, and each of them individually, deliberate and reckless indifference and disregard of Decedent's Constitutional rights as set forth herein.

82. Decedent was deprived of her protected interest in life, liberty and property without due process when she was denied medical treatment without sufficient, or any, legal cause. As such, Decedent's procedural due process rights were violated.

83. Decedent's substantive due process rights were violated when the Defendants violated clear and explicit constitutional guarantees pursuant to the Article I, § 8 of the Tennessee Constitution, as well as engaged in behavior by a state actor that would "shock the conscience" by

denying Decedent medical treatment based upon their knowledge of the events alleged hereinabove.

84. Each individual occurrence, in which Decedent was denied “appropriate treatment”, constitutes a separate violation of Article I, § 8 rights, resulting in multiple claims for the violations of those rights.

85. The official policies and customs of the Jail are unconstitutional or, in the alternative, the policies and customs of the Jail were unconstitutionally implemented, in that they arbitrarily denied medical treatment to inmates, or were designed ineffectively to provide medical treatment and therefore violated Decedent’s Article I, § 8 rights. Further, that even if such policies were not formally approved by appropriate officials or channels, the above-stated events were such a widespread practice as to have the force of law.

86. Coffee County, Sheriff and other officials and employees of Coffee County named herein denied obvious and necessary medical care for the Decedent which constituted “cruel and unusual punishment” in violation of Article I, § 16 of the Tennessee Constitution.

87. As a direct and proximate cause of the Defendants’ violations of Decedent’s rights under Article I, § 16, the Decedent suffered damages including, but not limited to, physical and emotional pain and suffering, loss of enjoyment of life, and loss of life.

COUNT III
Violation of Tennessee Statute

88. The Plaintiff alleges and incorporates the allegations contained in the preceding paragraphs of this Complaint.

89. The Plaintiff brings this action pursuant to T.C.A. § 8-8-302.

90. The Defendants, Freeman, Beaty, Anthony, Hastings, McGee and Dodson, were at all

times material to this action a duly appointed deputy sheriffs.

91. As a direct and proximate result of the acts or failure to act of the Defendant deputy sheriffs, all of which were acting by virtue of or under color of office, the Plaintiff has incurred wrong, injury, loss, damage, or expense, as stated herein.

92. Pursuant to T.C.A. § 8-8-302, Coffee County is responsible and liable for the wrongs of its deputy sheriffs.

COUNT IV **Negligence**

93. The Plaintiff alleges and incorporates the allegations contained in the preceding paragraphs of this Complaint.

94. The Defendants, and each of them individually, were negligent by their failure to monitor Decedent's condition and provide medical assistance to the Decedent for the serious medical condition she suffered.

95. The negligence of the Defendants was the direct and proximate cause of Decedent's pain, suffering, damages and death.

96. Plaintiff further brings this action against the Defendants under state law for negligence and negligent supervision and training and allege that such negligence was a direct and proximate cause of Decedent's injuries and death.

COUNT V **Punitive Damages**

97. The Plaintiff alleges and incorporates the allegations contained in the preceding paragraphs of this Complaint.

98. The Plaintiff alleges that the conduct of the Defendants, and each of them individually, was of such reckless or callous indifference to the Decedent's federally protection rights to warrant the imposition of punitive damages under Federal law.

99. The Plaintiff alleges that the conduct of the Defendants, and each of them individually, was of such an intentional, fraudulent, malicious or reckless nature as to warrant the imposition of punitive damages under State law.

PRAYERS FOR RELIEF

IN WITNESS WHEREOF, with respect to all Counts set forth in this Complaint, Plaintiffs demand judgment against the Defendants as follows:

1. That proper process be issued upon the Defendants and that they be required to answer within the time period allotted by law.

2. That this Court enter an Order granting the Plaintiff a judgment against the Defendants, jointly and severally, for compensatory damages including, but not limited to, damages for wrongful death, in the amount of Five Million Dollars (\$5,000,000.00).

3. That this Court enter an Order granting the Plaintiff a judgment against the Defendants, jointly and severally, for punitive damages in the amount of Five Million Dollars (\$5,000,000.00).

4. That this Court enter an Order granting the Plaintiffs a judgment for damages, costs, attorney's fees and expert fees as allowed by 42 U.S.C. § 1988, and such other and further relief as the Court deems just and equitable.

5. That in accordance with the Federal Rules of Civil Procedure, that the Plaintiffs be granted a trial by jury on all issues.

6. That this Court enter an Order granting the Plaintiffs pre-judgment and post-judgment

interest along with attorney fees and costs as allowed by law.

7. For such other, further, special, extraordinary and general relief to which the Plaintiffs are entitled under the circumstances of this cause.

RESPECTFULLY SUBMITTED this 3rd day of November 2010.

**HENRY, McCORD, BEAN, MILLER, GABRIEL
& LaBAR, P.L.L.C.**

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