

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

TEHUM CARE SERVICES, INC.,

Debtor.

Chapter 11

Case No. 23-90086 (CML)

**WITNESS AND EXHIBIT LIST**

Judge:	Hon. Christopher M. Lopez
Hearing Date:	Friday, March 3, 2023
Hearing Time:	1:00 p.m. (Central Standard Time)
Party's Name:	Hector Garcia, Jr., Adam Baker, Antonio Real, David Wichterman, Jr., Eileen McNamara, and Clarence Dean (collectively, the " <u>Claimants</u> ")
Attorney's Name:	R. J. Shannon
Attorney's Phone:	(713) 714-5770
Nature of Proceeding:	Hearing on: <ul style="list-style-type: none"> <li>Debtor's Emergency Motion to Extend and Enforce the Automatic Stay [ECF No. 7] (the "<u>Stay Extension Motion</u>")</li> </ul>

The Claimants, tort claimant creditors of the debtor in the above-captioned case, hereby submit this witness and exhibit list in connection with the hearing to be held on March 3, 2023, at 1:00 p.m. (Central Standard Time) (the "Hearing") on the Stay Extension Motion.

**WITNESSES**

The Claimants may call any of the following witnesses at the hearing, whether in person or by proffer:

1. Any witness listed or called by any other party; and
2. Rebuttal witnesses as necessary.

**EXHIBITS**

The Claimants may offer for admission into evidence any of the following exhibits, and any exhibit designated by any other party, at the Hearing:



239008623030100000000037

<b>Ex.</b>	<b>Description</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted /Not Admitted</b>	<b>Disposition</b>
1	Docket Sheet for Wichterman v. City of Philadelphia et al., Case No. 16-cv-05796-JMY (E.D.P.A.)				
2	Memorandum Opinion re Summary Judgement in Wichterman v. City of Philadelphia et al., Case No. 16-cv-05796-JMY (E.D.P.A.)				
3	Docket Sheet for McNamera v. City of Philadelphia et al., Case No. 20-cv-04570-RBS (E.D.P.A.)				
4	Complaint in McNamera v. City of Philadelphia et al., Case No. 20-cv-04570-RBS (E.D.P.A.)				
5	Docket Sheet for Realı v. Board of County Commissioners for the County of Dona Ana et al., Case No. 19-cv-00603-MV-GBW (D.N.M.)				
6	Amended Complaint in Realı v. Board of County Commissioners for the County of Dona Ana et al., Case No. 19-cv-00603-MV-GBW (D.N.M.)				
7	Docket Sheet for Garcia v. Board of County Commissioners for the County of Dona Ana et al., Case No. 21-cv-00485-DHU-GJF (D.N.M.)				
8	Second Amended Complaint in Garcia v. Board of County Commissioners for the County of Dona Ana et al., Case No. 21-cv-00485-DHU-GJF (D.N.M.)				
9	Docket Sheet for Baker v. Corizon Health Inc. et al., Case No. 22-cv-00152-KWR-KRS (D.N.M.)				

<b>Ex.</b>	<b>Description</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted /Not Admitted</b>	<b>Disposition</b>
10	Complaint Baker v. Corizon Health Inc. et al., Case No. 22-cv-00152-KWR-KRS (D.N.M.)				
11	Docket Sheet for Brown v. McNeil et al., Case No. 19-cv-00345-MW-MAF (N.D. Fla.)				
12	Complaint in Brown v. McNeil et al., Case No. 19-cv-00345-MW-MAF (N.D. Fla.)				
13	Docket Sheet for Frederick v. McNeil et al., Case No. 19-cv-00162-MW-MAF (N.D. Fla.)				
14	Amended Complaint in Frederick v. McNeil et al., Case No. 19-cv-00162-MW-MAF (N.D. Fla.)				
15	Plaintiff's Notice of Settlement as to Sheriff McNeil Only in Frederick v. McNeil et al., Case No. 19-cv-00162-MW-MAF (N.D. Fla.)				

The Claimants reserve the right to supplement, amend or delete any witness and exhibits prior to the hearing. The Claimants also reserve the right to use any exhibits presented by any other party and to ask the Court to take judicial notice of any document. The Claimants finally reserve the right to introduce exhibits previously admitted.

*[Remainder of Page Intentionally Left Blank]*

Dated: March 1, 2023

**SHANNON & LEE LLP**

*/s/ R. J. Shannon*

---

Kyung S. Lee

State Bar No. 12128400

[klee@shannonleellp.com](mailto:klee@shannonleellp.com)

R. J. Shannon

State Bar No. 24108062

[rshannon@shannonleellp.com](mailto:rshannon@shannonleellp.com)

700 Milam Street, STE 1300

Houston, Texas 77002

Tel. (713) 714-5770

*Bankruptcy Counsel to the Claimants for the  
Limited Purpose of Responding to the Stay  
Extension Motion*

[Query](#) [Reports ▼](#) [Utilities ▼](#) [Help](#) [Log Out](#)

RECAP Actions ▼

STANDARD,SUSPENSE

**United States District Court  
Eastern District of Pennsylvania (Philadelphia)  
CIVIL DOCKET FOR CASE #: 2:16-cv-05796-JMY**

WICHTERMAN v. CITY OF PHILADELPHIA et al  
Assigned to: HONORABLE JOHN M. YOUNGE  
Referred to: MAGISTRATE JUDGE THOMAS J. RUETER  
(Settlement)  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/09/2016  
Date Terminated: 02/17/2023  
Jury Demand: Both  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**DAVID WICHTERMAN, JR.**  
*AS ADMINISTRATOR OF THE ESTATE OF  
DANIEL WICHTERMAN*

represented by **JONATHAN H. FEINBERG**  
KAIRYS RUDOVSKY MESSING  
FEINBERG & LIN LLP  
THE CAST IRON BLDG STE 501 SOUTH  
718 ARCH STREET  
PHILADELPHIA, PA 19106  
215-925-4400  
Fax: 215-925-5365  
Email: jfeinberg@krlawphila.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**CITY OF PHILADELPHIA**

represented by **BAILEY AXE**  
City of Philadelphia Law Department  
1515 Arch Street  
14th Floor  
Philadelphia, PA 19102  
215-683-5443  
Email: bailey.axe@phila.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jonathan Cooper**  
PHILADELPHIA LAW DEPARTMENT  
CIVIL RIGHTS UNIT  
1515 ARCH STREET 14TH FLOOR  
PHILADELPHIA, PA 19102  
215-683-5448  
Email: jonathan.cooper@phila.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**MEGHAN E. CLAIBORNE**  
DOJ-USAO  
City Solicitor's Office  
615 Chestnut Street  
9th Floor  
Philadelphia, PA 19106  
215-861-8200  
Email: meghan.claiborne@usdoj.gov  
*TERMINATED: 06/08/2022*

**Defendant**

**CORIZON HEALTH**

represented by **STEPHEN E. SIEGRIST**  
O'CONNOR KIMBALL, LLP  
15TH ST & JOHN F. KENNEDY BLVD  
SUITE 1100  
PHILADELPHIA, PA 19102  
215-564-0400  
Email: SSiegrist@okllp.com  
*TERMINATED: 02/21/2017*  
*LEAD ATTORNEY*

**THOMAS J. GREGORY**  
O'CONNOR KIMBALL LLP  
TWO PENN CENTER - STE. 1100  
1500 JOHN F KENNEDY BLVD  
PHILADELPHIA, PA 19102  
215-564-0400  
Fax: 215-564-1973  
Email: tgregory@okllp.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**LISA A. CAULEY**  
Milber Makris Plousadis & Seiden, LLP  
SUITE 1100  
1001 Old Cassatt Road, Suite 310  
Berwyn, PA 19312  
610-677-2400  
Email: lcauley@milbermakris.com  
*TERMINATED: 01/16/2020*

**Defendant**

**JUSTIN AVERY**  
*POLICE CORRECTIONAL OFFICER*

represented by **Jonathan Cooper**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**WILLIAM GWALTHNEY**  
*POLICE CORRECTIONAL OFFICER*

represented by **Jonathan Cooper**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**TAIRU WAHABU**  
RN

represented by **STEPHEN E. SIEGRIST**  
(See above for address)  
*TERMINATED: 02/21/2017*  
*LEAD ATTORNEY*

**THOMAS J. GREGORY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*



**LISA A. CAULEY**  
(See above for address)  
*TERMINATED: 01/16/2020*

**Defendant**

**OFFICER JOYNER**  
BADGE #114

represented by **Jonathan Cooper**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
11/09/2016	<a href="#">1</a>	COMPLAINT against JUSTIN AVERY, CITY OF PHILADELPHIA, CORIZON HEALTH, WILLIAM GWALTHNEY, TAIRU WAHABU ( Filing fee \$ 400 receipt number 149908.), filed by DAVID WICHTERMAN, JR. (Attachments: # <a href="#">1</a> Civil Cover Sheet, # <a href="#">2</a> Designation Form, # <a href="#">3</a> Case Management Track Form)(jwl, ) (Entered: 11/09/2016)
11/09/2016		Summons Issued as to JUSTIN AVERY, CITY OF PHILADELPHIA, CORIZON HEALTH, WILLIAM GWALTHNEY, TAIRU WAHABU. Five Forwarded To: Counsel on 11/9/16 (jwl, ) (Entered: 11/09/2016)
11/09/2016		DEMAND for Trial by Jury by DAVID WICHTERMAN, JR. (jwl, ) (Entered: 11/09/2016)
11/16/2016	<a href="#">2</a>	CERTIFICATE of Counsel <i>Certificate of Merit as to Tairu Wahabu, RN</i> by JONATHAN H. FEINBERG on behalf of DAVID WICHTERMAN, JR(FEINBERG, JONATHAN) (Entered: 11/16/2016)
11/16/2016	<a href="#">3</a>	CERTIFICATE of Counsel <i>Certificate of Merit as to Corizon Health</i> by JONATHAN H. FEINBERG on behalf of DAVID WICHTERMAN, JR(FEINBERG, JONATHAN) (Entered: 11/16/2016)
11/30/2016	<a href="#">4</a>	SUMMONS Returned Executed by DAVID WICHTERMAN, JR re: Michael Doyle served Summons and Complaint upon CORIZON HEALTH, TAIRU WAHABU by personal service on Elizabeth Manios of Corizon Health. CORIZON HEALTH served on 11/23/2016, answer due 12/14/2016; TAIRU WAHABU served on 11/23/2016, answer due 12/14/2016. (FEINBERG, JONATHAN) (Entered: 11/30/2016)
12/12/2016	<a href="#">5</a>	WAIVER OF SERVICE Returned Executed by DAVID WICHTERMAN, JR. JUSTIN AVERY waiver sent on 11/15/2016, answer due 1/17/2017; CITY OF PHILADELPHIA waiver sent on 11/15/2016, answer due 1/17/2017; WILLIAM GWALTHNEY waiver sent on 11/15/2016, answer due 1/17/2017. (FEINBERG, JONATHAN) (Entered: 12/12/2016)

12/27/2016	<a href="#">6</a>	ANSWER to <a href="#">1</a> Complaint, with <i>Certificate of Service</i> by CORIZON HEALTH, TAIRU WAHABU.(SIEGRIST, STEPHEN) (Entered: 12/27/2016)
12/27/2016	<a href="#">7</a>	Disclosure Statement Form pursuant to FRCP 7.1 including Valitas Health Services, Inc. by CORIZON HEALTH.(SIEGRIST, STEPHEN) (Entered: 12/27/2016)
01/17/2017	<a href="#">8</a>	ANSWER to <a href="#">1</a> Complaint, with <i>Affirmative Defenses and Certificate of Service</i> by JUSTIN AVERY, WILLIAM GWALTHNEY.(COOPER, JONATHAN) (Entered: 01/17/2017)
01/17/2017	<a href="#">9</a>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service.(COOPER, JONATHAN) (Entered: 01/17/2017)
02/02/2017	<a href="#">10</a>	STIPULATION AND ORDER THAT PLAINTIFFS RESPONSE TO THE MOTION TO DISMISS OF THE CITY OF PHILADELPHIA SHALL BE EXTENDED BY SEVEN DAYS FROM JANUARY 31, 2017 TO FEBRUARY 7, 2017. SIGNED BY HONORABLE JAN E. DUBOIS ON 1/31/17. 2/2/17 ENTERED AND COPIES EMAILED TO COUNSEL.(jaa, ) (Entered: 02/02/2017)
02/07/2017	<a href="#">11</a>	RESPONSE in Opposition re <a href="#">9</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 02/07/2017)
02/16/2017	<a href="#">12</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of CORIZON HEALTH with Certificate of Service(GREGORY, THOMAS) (Entered: 02/16/2017)
02/16/2017	<a href="#">13</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of TAIRU WAHABU with Certificate of Service(GREGORY, THOMAS) (Entered: 02/16/2017)
02/21/2017	<a href="#">14</a>	NOTICE of Withdrawal of Appearance by STEPHEN E. SIEGRIST on behalf of CORIZON HEALTH, TAIRU WAHABU(SIEGRIST, STEPHEN) (Entered: 02/21/2017)
03/16/2017	<a href="#">15</a>	Discovery Plan by DAVID WICHTERMAN, JR.(FEINBERG, JONATHAN) (Entered: 03/16/2017)
04/17/2017	<a href="#">16</a> 	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE JAN E. DUBOIS ON 4/17/17. 4/17/17 ENTERED AND COPIES EMAILED TO COUNSEL AND COPY TO LEGAL.(jaa, ) (Entered: 04/17/2017)
04/17/2017	<a href="#">17</a> 	ORDER THAT DEFENDANT'S MOTION TO DISMISS IS DENIED WITHOUT PREJUDICE TO DEFENDANT'S RIGHT TO RAISE THE ISSUES PRESENTED AFTER COMPLETION OF DISCOVERY BY MOTION FOR SUMMARY JUDGMENT AND/OR TRIAL. IT IS FURTHER ORDERED THAT A PRELIMINARY PRETRIAL CONFERENCE WILL BE SCHEDULED IN DUE COURSE. SIGNED BY HONORABLE JAN E. DUBOIS ON 4/17/17. 4/17/17 ENTERED AND COPIES EMAILED TO COUNSEL AND COPY TO LEGAL.(jaa, ) (Entered: 04/17/2017)
04/18/2017	<a href="#">18</a>	NOTICE of Hearing: PRELIMINARY PRETRIAL TELEPHONE CONFERENCE SET FOR 5/22/2017 04:45 PM BEFORE HONORABLE JAN E. DUBOIS. (Attachments: # <a href="#">1</a> Conference Information Report.pdf, # <a href="#">2</a> Scheduling & Discovery Policy-Counsel.pdf)(mvh, ) (Entered: 04/18/2017)
05/24/2017	<a href="#">19</a>	SCHEDULING ORDER: ALL REMAINING FACT-DISCOVERY SHALL BE COMPLETED BY 10/6/17. ANY MOTIONS FOR SUMMARY JUDGMENT AND DAUBERT MOTIONS SHALL BE FILED ON OR BEFORE 1/19/18. PLAINTIFF SHALL FILE PRETRIAL MEMORANDA ON OR BEFORE 5/4/18. DEFENDANTS

		SHALL FILE PRETRIAL MEMORANDA ON OR BEFORE 5/18/18. THE CASE WILL BE PLACED ON THE COURT'S TRIAL LIST ON 6/1/18. SIGNED BY HONORABLE JAN E. DUBOIS ON 5/22/17. 5/24/17 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 05/24/2017)
08/18/2017	<a href="#">20</a>	ORDER THAT THE ABOVE CAPTIONED MATTER IS REFERRED TO THE HONORABLE THOMAS J. RUETER, UNITED STATES MAGISTRATE JUDGE FOR THE SCHEDULING OF A SETTLEMENT CONFERENCE AT THE END OF THE DISCOVERY PERIOD, THAT IS 10/6/17 OR AS SOON THEREAFTER AS THE CONFERENCE CAN BE HELD; THE PARTIES SHALL JOINTLY THROUGH COUNSEL REPORT TO THE COURT WITH RESPECT TO WHETHER THE CASE IS SETTLED WITHIN SEVEN (7) DAYS FOLLOWING THE LAST SETTLEMENT CONFERENCE BEFORE MAGISTRATE JUDGE RUETER. SIGNED BY HONORABLE JAN E. DUBOIS ON 8/18/17. 8/21/17 ENTERED AND COPIES E-MAILED. (jpd ) (Entered: 08/21/2017)
08/18/2017	<a href="#">21</a>	LETTER FROM JON COOPER, ESQ. DATE 4/17/17 ADDRESSED TO THE HONORABLE JUDGE JAN E. DUBOIS RE: SETTLEMENT (jpd, ) (Entered: 08/21/2017)
08/23/2017	<a href="#">22</a>	NOTICE OF HEARING: A SETTLEMENT CONFERENCE WILL BE HELD ON 10/12/17 AT 10:00 AM IN COURTROOM 3-C BEFORE MAGISTRATE JUDGE THOMAS J. RUETER.(mbh, ) (Entered: 08/23/2017)
09/25/2017	<a href="#">23</a>	(VACATED PER ORDER NO. <a href="#">52</a> ) AMENDED SCHEDULING ORDER: ALL REMAINING FACT-BASED DISCOVERY SHALL BE COMPLETED BY 2/9/2018. AMY MOTIONS FOR SUMMARY JUDGMENT AND DAUBERT MOTIONS SHALL BE FILED BY 5/25/2018. PLAINTIFF'S PRETRIAL MEMORANDUM SHALL BE FILED BY 9/7/2018. DEFENDANTS' PRETRIAL MEMORANDUM SHALL BE FILED BY 9/21/2018. THE CASE WILL BE PLACED ON THE COURT'S TRIAL LIST ON 10/5/2018. SIGNED BY HONORABLE JAN E. DUBOIS ON 9/22/17. 9/26/17 ENTERED AND COPIES E-MAILED.(mbh, ) Modified on 8/23/2018 (amas). (Entered: 09/26/2017)
09/29/2017	<a href="#">24</a>	ORDER THAT DEFENDANTS' LETTER REQUEST TO CANCEL THE SETTLEMENT CONFERENCE SCHEDULED FOR 10/12/17 IS GRANTED. IT IS FURTHER ORDERED THAT ON OR BEFORE 2/1/18, DEFENDANTS SHALL REPORT TO THE UNDERSIGNED WHETHER THE PARTIES ARE INTERESTED IN SCHEDULING A SETTLEMENT CONFERENCE. SIGNED BY MAGISTRATE JUDGE THOMAS J. RUETER ON 9/29/17. 9/29/17 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 09/29/2017)
10/19/2017	<a href="#">25</a>	NOTICE of Appearance by LISA A. CAULEY on behalf of CORIZON HEALTH with Certificate of Service(CAULEY, LISA) (Entered: 10/19/2017)
10/19/2017	<a href="#">26</a>	NOTICE of Appearance by LISA A. CAULEY on behalf of TAIRU WAHABU with Certificate of Service(CAULEY, LISA) (Entered: 10/19/2017)
11/10/2017	<a href="#">27</a>	Consent MOTION to Amend/Correct <a href="#">1</a> Complaint, filed by DAVID WICHTERMAN, JR.. (Attachments: # <a href="#">1</a> Exhibit Proposed Amended Complaint)(FEINBERG, JONATHAN) (Entered: 11/10/2017)
11/10/2017	<a href="#">29</a>	Amended Complaint against JUSTIN AVERY, CITY OF PHILADELPHIA, CORIZON HEALTH, WILLIAM GWALTHNEY, TAIRU WAHABU and JOYNER filed by DAVID WICHTERMAN, JR.(mbh, ) (Entered: 11/16/2017)
11/15/2017	<a href="#">28</a>	ORDER THAT PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO AMEND THE COMPLAINT IS GRANTED AND THE AMENDED COMPLAINT

		APPENDED TO THE MOTION AS EXHIBIT 1 SHALL BE DEEMED FILED AS OF 11/10/17. DEFENDANTS SHALL RESPOND TO THE AMNEDED COMPLAINT WITHIN THE TIME ALLOWED UNDER THE APPLICABLE RULES. IT IS FURTHER ORDERED THAT THE CAPTION INTHIS CASE SHALL BE AMENDED. SIGNED BY HONORABLE JAN E. DUBOIS ON 11/15/17. 11/16/17 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 11/16/2017)
11/15/2017		Summons Issued as to CORRECTIONAL OFFICER JOYNER. One forwarded to: Counsel on 11/16/16.(mbh, ) (Entered: 11/16/2017)
11/20/2017	<a href="#">30</a>	SUMMONS Returned Executed by DAVID WICHTERMAN, JR re: Jonathan H. Feinberg served Summons and Complaint upon JOYNER by Service on counsel for defendant Jonathan Cooper, Esq., per the agreement of counsel. JOYNER served on 11/16/2017, answer due 12/7/2017. (FEINBERG, JONATHAN) (Entered: 11/20/2017)
12/01/2017	<a href="#">31</a>	ANSWER to <a href="#">29</a> Amended Complaint <i>with affirmative defenses and certificate of service</i> by JUSTIN AVERY, CITY OF PHILADELPHIA, WILLIAM GWALTHNEY, JOYNER.(COOPER, JONATHAN) (Entered: 12/01/2017)
12/04/2017	<a href="#">32</a>	ANSWER to <a href="#">29</a> Amended Complaint <i>with Affirmative Defenses</i> by CORIZON HEALTH.(GREGORY, THOMAS) (Entered: 12/04/2017)
12/04/2017	<a href="#">33</a>	ANSWER to <a href="#">29</a> Amended Complaint <i>with Affirmative Defenses</i> by TAIRU WAHABU.(GREGORY, THOMAS) (Entered: 12/04/2017)
03/20/2018	<a href="#">34</a>	ORDER THAT, ON OR BEFORE 5/11/18, COUNSEL SHALL JOINTLY REPORT TO THE COURT WITH RESPECT TO WHETHER THE CASE IS SETTLED. IT IS FURTHER ORDERED THAT, WITH RESPECT TO MATTERS OTHER THAN SETTLEMENT, THE CASE SHALL PROCEED IN ACCORDANCE WITH THE AMENDED SCHEDULING ORDER DATED 9/22/18. SIGNED BY HONORABLE JAN E. DUBOIS ON 3/15/18. 3/20/18 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 03/20/2018)
05/24/2018	<a href="#">35</a>	ORDER THAT DEFENDANTS' LETTER REQUEST FOR AN EXTENSION OF THE SUMMARY JUDGMENT DEADLINE IS GRANTED. DEFENDANTS SHALL FILE MOTIONS FOR SUMMARY JUDGMENT ON OR BEFORE 5/30/18. SIGNED BY HONORABLE MARK A. KEARNEY (ON BEHALF OF JAN E. DUBOIS) ON 5/24/18. 5/24/18 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 05/24/2018)
05/30/2018	<a href="#">36</a>	MOTION for Summary Judgment filed by CORIZON HEALTH, TAIRU WAHABU.memorandum, certificate of service. (Attachments: # 1 Memorandum, # 2 Certificate of Service, # 3 Exhibit)(CAULEY, LISA) Modified on 5/31/2018 (afm, ). (FILED IN ERROR, INCORRECT DOCUMENT, ATTORNEY REFILEING CORRECT DOCUMENT) (Main Document 36 replaced on 6/6/2018) (fb, ). (Entered: 05/30/2018)
05/30/2018	<a href="#">37</a>	MOTION to Exclude <i>Expert Report of Robert L. Cohen, M.D.</i> filed by CORIZON HEALTH, TAIRU WAHABU.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit)(CAULEY, LISA) (Entered: 05/30/2018)
05/31/2018	<a href="#">38</a>	MOTION for Summary Judgment filed by JUSTIN AVERY, CITY OF PHILADELPHIA, WILLIAM GWALTHNEY, JOYNER.Memorandum, Certificate of Service. (Attachments: # 1 SUMF). (FILED IN ERROR BY ATTORNEY; SEE PAPER # <a href="#">40</a> FOR CORRECTED FILING). (COOPER, JONATHAN) (Main Document 38 replaced on 6/6/2018) (fb). (Attachment 1 replaced on 6/6/2018) (fb). Modified on 6/6/2018 (fb). (Entered: 05/31/2018)



05/31/2018	<a href="#">39</a>	MOTION to Exclude <i>Expert Testimony of Sarah E. Wakeman, M.D.</i> filed by CORIZON HEALTH, TAIRU WAHABU.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit)(CAULEY, LISA) (Entered: 05/31/2018)
05/31/2018	<a href="#">40</a>	MOTION for Summary Judgment filed by JUSTIN AVERY, CITY OF PHILADELPHIA, WILLIAM GWALTHNEY, JOYNER.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> SUMF)(COOPER, JONATHAN) (Additional attachment(s) added on 4/26/2019: # <a href="#">2</a> Exhibit A, # <a href="#">3</a> Exhibit B, # <a href="#">4</a> Exhibit C, # <a href="#">5</a> Exhibit D, # <a href="#">6</a> Exhibit E, # <a href="#">7</a> Exhibit F) (nd, ). ( # <a href="#">8</a> Exhibit G, # <a href="#">9</a> Exhibit H, # <a href="#">10</a> Exhibit I, # <a href="#">11</a> Exhibit J, # <a href="#">12</a> Exhibit K) (nd, ). (Additional attachment(s) added on 4/26/2019: # <a href="#">13</a> Exhibit L, # <a href="#">14</a> Exhibit M, # <a href="#">15</a> Exhibit N, # <a href="#">16</a> Exhibit O, # <a href="#">17</a> Exhibit P, # <a href="#">18</a> Exhibit Q) (nd, ). (Additional attachment(s) added on 4/26/2019: # <a href="#">19</a> Exhibit R, # <a href="#">20</a> Exhibit S, # <a href="#">21</a> Exhibit T, # <a href="#">22</a> Exhibit U, # <a href="#">23</a> Exhibit V) (nd, ). (Entered: 05/31/2018)
06/01/2018	<a href="#">41</a>	MOTION for Summary Judgment filed by CORIZON HEALTH, TAIRU WAHABU.memorandum, certificate of service. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Memorandum)(CAULEY, LISA) (Entered: 06/01/2018)
06/14/2018	<a href="#">42</a>	ORDER THAT PLAINTIFF'S RESPONSES TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT AND DAUBERT MOTIONS SHALL BE FILED ON OR BEFORE 6/27/18. SIGNED BY HONORABLE MARK A. KEARNEY (FOR HONORABLE JAN E DUBOS) ON 6/14/18. 6/14/18 ENTERED AND COPIES E-MAILED.(mbh, ). (Entered: 06/14/2018)
06/27/2018	<a href="#">43</a>	RESPONSE in Opposition re <a href="#">41</a> MOTION for Summary Judgment , <a href="#">40</a> MOTION for Summary Judgment filed by DAVID WICHTERMAN, JR. (Attachments: # <a href="#">1</a> Text of Proposed Order, # <a href="#">2</a> Statement of Facts, # <a href="#">3</a> Response to City Defendants' Statement of Facts, # <a href="#">4</a> Response to Corizon Defendants' Statement of Facts, # <a href="#">5</a> Declaration Regarding Exhibits to Plaintiff's Statement of Facts, # <a href="#">6</a> Exhibit 1, # <a href="#">7</a> Exhibit 2, # <a href="#">8</a> Exhibit 3, # <a href="#">9</a> Exhibit 4, # <a href="#">10</a> Exhibit 7, # <a href="#">11</a> Exhibit 8, # <a href="#">12</a> Exhibit 9, # <a href="#">13</a> Exhibit 10, # <a href="#">14</a> Exhibit 12A, # <a href="#">15</a> Exhibit 13, # <a href="#">16</a> Exhibit 18, # <a href="#">17</a> Exhibit 19, # <a href="#">18</a> Exhibit 22, # <a href="#">19</a> Exhibit 23, # <a href="#">20</a> Exhibit 25, # <a href="#">21</a> Exhibit 26, # <a href="#">22</a> Exhibit 27, # <a href="#">23</a> Exhibit 28, # <a href="#">24</a> Exhibit 30, # <a href="#">25</a> Exhibit 33, # <a href="#">26</a> Exhibit 35, # <a href="#">27</a> Exhibit 36, # <a href="#">28</a> Exhibit 37, # <a href="#">29</a> Exhibit 38, # <a href="#">30</a> Exhibit 39, # <a href="#">31</a> Exhibit 40, # <a href="#">32</a> Exhibit 41, # <a href="#">33</a> Exhibit 42, # <a href="#">34</a> Exhibit 43, # <a href="#">35</a> Exhibit 44, # <a href="#">36</a> Exhibit 45, # <a href="#">37</a> Exhibit 46, # <a href="#">38</a> Exhibit 47, # <a href="#">39</a> Exhibit 48, # <a href="#">40</a> Exhibit 49, # <a href="#">41</a> Exhibit 50, # <a href="#">42</a> Exhibit 51, # <a href="#">43</a> Exhibit 52, # <a href="#">44</a> Exhibit 53, # <a href="#">45</a> Exhibit 55, # <a href="#">46</a> Exhibit 56A, B, C, D, # <a href="#">47</a> Exhibit 57, # <a href="#">48</a> Exhibit 58, # <a href="#">49</a> Exhibit 59, # <a href="#">50</a> Exhibit 60, # <a href="#">51</a> Exhibit 61, # <a href="#">52</a> Exhibit 62, # <a href="#">53</a> Exhibit 63, # <a href="#">54</a> Exhibit 64A, # <a href="#">55</a> Exhibit 64B, # <a href="#">56</a> Exhibit 65, # <a href="#">57</a> Exhibit 17)(FEINBERG, JONATHAN) (Entered: 06/27/2018)
06/27/2018	<a href="#">44</a>	RESPONSE in Opposition re <a href="#">39</a> MOTION to Exclude <i>Expert Testimony of Sarah E. Wakeman, M.D.</i> , <a href="#">37</a> MOTION to Exclude <i>Expert Report of Robert L. Cohen, M.D.</i> filed by DAVID WICHTERMAN, JR. (Attachments: # <a href="#">1</a> Exhibit A, B, C, D) (FEINBERG, JONATHAN) (Entered: 06/27/2018)
07/11/2018	<a href="#">45</a>	Letter from LISA CAULEY TO JUDGE DUBOIS RE: CERTAIN STATEMENTS; ETC. (jl, ) (Entered: 07/11/2018)
07/11/2018	<a href="#">46</a>	ORDER THAT THE DATE BY WHICH DEFENDANTS, CORIZON HEALTH INC. AND TAIRU WAHABU, R.N. SHALL FILE AND SERVE REPLY BRIEFS IS EXTENDED FROM 7/11/18 UNTIL 7/18/18; ETC.. SIGNED BY HONORABLE JAN E. DUBOIS ON 7/10/18. 7/11/18 ENTERED AND E-MAILED.(jl, ) (Entered: 07/11/2018)

07/11/2018	<a href="#">47</a>	REPLY to Response to Motion re <a href="#">40</a> MOTION for Summary Judgment filed by JUSTIN AVERY, CITY OF PHILADELPHIA, WILLIAM GWALTHNEY. (COOPER, JONATHAN) (Entered: 07/11/2018)
07/17/2018	<a href="#">48</a>	MOTION for Leave to File <i>Amended Exhibits to Plaintiff's Response in Opposition to Defendants' Summary Judgment Motions</i> filed by DAVID WICHTERMAN, JR.. (Attachments: # <a href="#">1</a> Exhibit Amended exhibit 61, # <a href="#">2</a> Exhibit Amended exhibit 62, # <a href="#">3</a> Exhibit Amended exhibit 63, # <a href="#">4</a> Exhibit Amended exhibits 64A&B)(FEINBERG, JONATHAN) (Entered: 07/17/2018)
07/18/2018	<a href="#">49</a>	Reply Brief in Support to Motion re <a href="#">39</a> MOTION to Exclude <i>Expert Testimony of Sarah E. Wakeman, M.D.</i> , <a href="#">37</a> MOTION to Exclude <i>Expert Report of Robert L. Cohen, M.D.</i> filed by CORIZON HEALTH, TAIRU WAHABU. (Attachments: # <a href="#">1</a> Certificate of Service)(CAULEY, LISA) Modified on 7/19/2018 (fb). (Entered: 07/18/2018)
07/19/2018	<a href="#">50</a>	REPLY Brief in Support re <a href="#">41</a> MOTION for Summary Judgment filed by CORIZON HEALTH, TAIRU WAHABU. (CAULEY, LISA) Modified on 7/20/2018 (fb). (Entered: 07/19/2018)
08/01/2018	<a href="#">51</a>	ORDER THAT PLAINTIFF'S MOTION FOR LEAVE TO AMEND EXHIBITS TO RESPONSE TO DEFENDANTS' SUMMARY JUDGMENT MOTION IS GRANTED AND THE EXHIBITS APPENDED TO THE MOTION SHALL BE DOCKETED IN PLACE OF PREVIOUSLY FILED EXHIBITS. SIGNED BY HONORABLE JAN E. DUBOIS ON 7/31/18. 8/1/18 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 08/01/2018)
08/23/2018	<a href="#">52</a>	ORDER THAT THE AMENDED SCHEDULING ORDER DATED 9/22/2018, IS VACATED. THE COURT WILL ISSUE A SECOND AMENDED SCHEDULING ORDER, IF NECESSARY, AFTER THE COURT RULES ON THE PENDING MOTIONS. SIGNED BY HONORABLE JAN E. DUBOIS ON 8/22/2018. 8/23/2018 ENTERED AND COPIES E-MAILED.(amas) (Entered: 08/23/2018)
06/20/2019	<a href="#">53</a> <b>R</b>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE JAN E. DUBOIS ON 6/19/19. 6/21/19 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 06/21/2019)
06/20/2019	<a href="#">54</a> <b>R</b>	ORDER THAT DEFENDANTS CORIZON AND WAHABU'S MOTION TO EXCLUDE THE EXPERT TESTIMONY OF ROBERT L. COHEN, M.D. IS GRANTED IN PART AND DENIED IN PART. DEFENDANTS CORIZON AND WAHABU'S MOTION TO EXCLUDE THE EXPERT TESTIMONY OF SARAH E. WAKEMAN, M.D. IS GRANTED IN PART AND DENIED IN PART. SIGNED BY HONORABLE JAN E. DUBOIS ON 6/19/19. 6/21/19 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 06/21/2019)
07/17/2019	<a href="#">55</a> <b>R</b>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE JAN E. DUBOIS ON 7/16/19. 7/17/19 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 07/17/2019)
07/17/2019	<a href="#">56</a> <b>R</b>	ORDER THAT DEFENDANTS CITY OF PHILADELPHIA, JUSTIN AVERY, WILLIAM GWALTHNEY AND LAVERN JOYNER'S MOTION FOR SUMMARY JUDGMENT IS GRANTED IN PART AND DENIED IN PART. DEFENDANTS CORIZON HEALTH INC. AND TAIRU WAHABU RN'S MOTION FOR SUMMARY JUDGMENT IS GRANTED IN PART AND DENIED IN PART. PLAINTIFF'S EIGHTH AMENDMENT DELIBERATE INDIFFERENCE AND MONELL CLAIMS ARE MARKED WITHDRAWN WITH PREJUDICE BY AGREEMENT OF PLAINTIFF. IT IS FURTHER ORDERED THAT A CONFERENCE FOR THE PURPOSE OF SCHEDULING FURTHER

		PROCEEDINGS WILL BE CONDUCTED IN DUE COURSE. SIGNED BY HONORABLE JAN E. DUBOIS ON 7/16/19. 7/17/19 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 07/17/2019)
07/26/2019	<a href="#">57</a>	NOTICE of Hearing: TELEPHONE SCHEDULING CONFERENCE SET FOR 8/20/2019 04:00 PM BEFORE HONORABLE JAN E. DUBOIS.(mvh, ) (Entered: 07/26/2019)
08/23/2019	<a href="#">58</a>	ORDER THAT THIS CASE IS REFERRED TO U.S. MAGISTRATE JUDGE THOMAS J. RUETER FOR SETTLEMENT CONFERENCING AT AN EARLY DATE, ETC. SIGNED BY HONORABLE JAN E. DUBOIS ON 8/20/19. 8/23/19 ENTERED AND COPIES E-MAILED.(kw, ) (Entered: 08/23/2019)
08/28/2019	<a href="#">59</a>	NOTICE: A SETTLEMENT CONFERENCE WILL BE HELD ON 11/25/2019 AT 10:00 AM IN COURTROOM 3-C.(mbh, ) (Entered: 08/29/2019)
11/25/2019	<a href="#">60</a>	Minute Entry for Settlement Conference held on 11/25/19 before Judge Rueter (mbh, ) (Entered: 11/26/2019)
12/04/2019	<a href="#">61</a>	SECOND AMENDED SCHEDULING ORDER THAT PLAINTIFF PRETRIAL MEMORANDUM ARE DUE BY 12/20/19. DEFENDANTS PRETRIAL MEMORANDUM ARE DUE BY 1/10/20. THE CASE WILL BE PLACED ON THE COURT'S TRIAL LIST ON 1/31/20; ETC.. SIGNED BY HONORABLE JAN E. DUBOIS ON 12/4/19. 12/5/19 ENTERED AND E-MAILED.(jl, ) (Entered: 12/05/2019)
12/04/2019		Set/Reset Scheduling Order Deadlines: DEFENDANT PRETRIAL MEMO DUE BY 1/10/2020. (jl, ) (Entered: 12/05/2019)
12/20/2019	<a href="#">62</a>	PRETRIAL MEMORANDUM by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 12/20/2019)
01/08/2020	<a href="#">63</a>	PRETRIAL MEMORANDUM by CITY OF PHILADELPHIA. (COOPER, JONATHAN) (Entered: 01/08/2020)
01/09/2020	<a href="#">64</a>	PRETRIAL MEMORANDUM by CORIZON HEALTH. (GREGORY, THOMAS) (Entered: 01/09/2020)
01/09/2020	<a href="#">65</a>	PRETRIAL MEMORANDUM by TAIRU WAHABU. (GREGORY, THOMAS) (Entered: 01/09/2020)
01/16/2020	<a href="#">66</a>	NOTICE of Withdrawal of Appearance by LISA A. CAULEY on behalf of CORIZON HEALTH, TAIRU WAHABU(CAULEY, LISA) (Entered: 01/16/2020)
01/28/2020	<a href="#">67</a>	Proposed Voir Dire by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 01/28/2020)
01/28/2020	<a href="#">68</a>	Proposed Jury Instructions by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 01/28/2020)
01/28/2020	<a href="#">69</a>	Proposed Jury Interrogatories by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 01/28/2020)
01/28/2020	<a href="#">70</a>	TRIAL BRIEF by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 01/28/2020)
01/28/2020	<a href="#">71</a>	MOTION in Limine to Preclude Introduction of Decedents Sisters Death filed by DAVID WICHTERMAN, JR..(FEINBERG, JONATHAN) (Entered: 01/28/2020)
01/29/2020	<a href="#">72</a>	STIPULATION of Uncontested Facts by DAVID WICHTERMAN, JR. (FEINBERG,

		JONATHAN) (Entered: 01/29/2020)
01/29/2020	<a href="#">73</a>	Statement <i>Joint Statement of the Case</i> by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 01/29/2020)
01/30/2020	<a href="#">74</a>	ORDER THAT THE REQUEST IS GRANTED. THE DATE BY DEFENDANT SHALL FILE AND SERVE MOTIONS IN LIMINE ETC IS EXTENDED TO 1/31/20. IT IS FURTHER ORDERED THAT, EXCEPTING ONLY THE ABOVE, THE SECOND AMENDED SCHEDULING ORDER DATED 12/4/19, CONTINUES IN EFFECT. SIGNED BY HONORABLE JAN E. DUBOIS ON 1/29/20. 1/30/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 01/30/2020)
01/30/2020	<a href="#">75</a>	Letter dated 1/27/20 from Jon Cooper (mbh, ) (Entered: 01/30/2020)
01/31/2020	<a href="#">76</a>	First MOTION in Limine to <i>Preclude Evidence of the Post-Incident Investigation</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A)(COOPER, JONATHAN) (Entered: 01/31/2020)
01/31/2020	<a href="#">77</a>	Second MOTION in Limine to <i>Preclude Prior Acts and Discipline</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(COOPER, JONATHAN) (Entered: 01/31/2020)
01/31/2020	<a href="#">78</a>	Third MOTION in Limine to <i>Preclude Evidence of Other Detainee Deaths / Harms</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(COOPER, JONATHAN) (Entered: 01/31/2020)
01/31/2020	<a href="#">79</a>	Fifth MOTION in Limine to <i>Preclude Opinions and Conclusions of R. Paul McCauley</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A)(COOPER, JONATHAN) (Entered: 01/31/2020)
01/31/2020	<a href="#">80</a>	Fourth MOTION in Limine to <i>Preclude Evidence of Post-Incident Opiate-Related Policy Changes and Training</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A)(COOPER, JONATHAN) (Entered: 01/31/2020)
02/01/2020	<a href="#">81</a>	Seventh MOTION in Limine <i>Limine to Preclude Specific Testimony From the Deposition of Captain Lee Strollo</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A)(CLAIBORNE, MEGHAN) (Entered: 02/01/2020)
02/01/2020	<a href="#">82</a>	Sixth MOTION in Limine <i>evidence and/or testimony concerning the May 2017 Report on the Mayors Task Force to Combat the Opioid Epidemic in Philadelphia</i> filed by CITY OF PHILADELPHIA.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Exhibit A)(CLAIBORNE, MEGHAN) (Entered: 02/01/2020)
02/06/2020	<a href="#">83</a>	Proposed Jury Instructions by CITY OF PHILADELPHIA. (COOPER, JONATHAN) (Entered: 02/06/2020)
02/06/2020	<a href="#">84</a>	Proposed Verdict Sheet by CITY OF PHILADELPHIA.. (COOPER, JONATHAN) (Entered: 02/06/2020)
02/06/2020	<a href="#">85</a>	TRIAL BRIEF by CITY OF PHILADELPHIA. (COOPER, JONATHAN) (Entered: 02/06/2020)
02/14/2020	<a href="#">86</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">79</a> Fifth MOTION in Limine to <i>Preclude Opinions and Conclusions of R. Paul McCauley</i> , <a href="#">80</a> Fourth MOTION in Limine to <i>Preclude Evidence of Post-Incident Opiate-Related Policy Changes and Training</i> , <a href="#">76</a> First MOTION in Limine to <i>Preclude Evidence of</i>

		<i>the Post-Incident Investigation</i> , <a href="#">82</a> Sixth MOTION in Limine <i>evidence and/or testimony concerning the May 2017 Report on the Mayors Task Force to Combat the Opioid Epidemic in Philadelphia</i> , <a href="#">77</a> Second MOTION in Limine <i>to Preclude Prior Acts and Discipline</i> , <a href="#">81</a> Seventh MOTION in Limine <i>Limine to Preclude Specific Testimony From the Deposition of Captain Lee Strollo</i> , <a href="#">78</a> Third MOTION in Limine <i>to Preclude Evidence of Other Detainee Deaths / Harms</i> filed by DAVID WICHTERMAN, JR..(FEINBERG, JONATHAN) (Entered: 02/14/2020)
02/20/2020	<a href="#">87</a>	ORDER THAT PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANT CITY OF PHILADELPHIA'S MOTIONS IN LIMINE IS GRANTED. THE TIME FOR PLAINTIFF TO RESPOND TO DEFENDANTS' MOTIONS IN LIMINE (NOS 77,78,79,80,81 AND 82) IS EXTENDED TO 3/6/20. SIGNED BY HONORABLE JAN E. DUBOIS ON 2/18/20.2/21/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 02/21/2020)
03/05/2020	<a href="#">88</a>	Second MOTION for Extension of Time to File Response/Reply to <i>Defendants' Motions in Limine</i> filed by DAVID WICHTERMAN, JR..(FEINBERG, JONATHAN) (Entered: 03/05/2020)
03/06/2020	<a href="#">89</a>	ORDER THAT PLAINTIFF'S SECOND MOTION FOR EXTENSION OF TIME TO RESPOND TO CITY OF PHILADELPHIA'S MOTIONS IN LIMINE IS GRANTED TO 3/20/20. IT IS FURTHER ORDERED THAT, EXCEPTING ONLY THE ABOVE, THE SECOND AMENDED SCHEDULING ORDER DATED 12/4/20 CONTINUES IN EFFECT. SIGNED BY HONORABLE JAN E. DUBOIS ON 3/6/20.3/9/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 03/09/2020)
03/20/2020	<a href="#">90</a>	RESPONSE in Opposition re <a href="#">76</a> First MOTION in Limine <i>to Preclude Evidence of the Post-Incident Investigation</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">91</a>	RESPONSE in Opposition re <a href="#">77</a> Second MOTION in Limine <i>to Preclude Prior Acts and Discipline</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">92</a>	RESPONSE in Opposition re <a href="#">78</a> Third MOTION in Limine <i>to Preclude Evidence of Other Detainee Deaths / Harms</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">93</a>	RESPONSE in Opposition re <a href="#">79</a> Fifth MOTION in Limine <i>to Preclude Opinions and Conclusions of R. Paul McCauley</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">94</a>	RESPONSE to Motion re <a href="#">80</a> Fourth MOTION in Limine <i>to Preclude Evidence of Post-Incident Opiate-Related Policy Changes and Training</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">95</a>	RESPONSE in Opposition re <a href="#">81</a> Seventh MOTION in Limine <i>Limine to Preclude Specific Testimony From the Deposition of Captain Lee Strollo</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
03/20/2020	<a href="#">96</a>	RESPONSE in Opposition re <a href="#">82</a> Sixth MOTION in Limine <i>evidence and/or testimony concerning the May 2017 Report on the Mayors Task Force to Combat the Opioid Epidemic in Philadelphia</i> filed by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 03/20/2020)
09/03/2020	<a href="#">97</a>	ORDER THAT THE PARTIES, THROUGH COUNSEL, SHALL CONTINUE THEIR SETTLEMENT DISCUSSIONS AND SHALL JOINTLY REPORT TO THE COURT ON OR BEFORE 9/25/20 WHETHER THE CASE IS SETTLED. SIGNED

		BY HONORABLE JAN E. DUBOIS ON 9/2/20. 9/3/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 09/03/2020)
09/25/2020	<a href="#">98</a>	ORDER THAT THE PARTIES, THROUGH COUNSEL, SHALL CONTINUE THEIR SETTLEMENT DISCUSSIONS AND SHALL JOINTLY REPORT TO THE COURT ON OR BEFORE 10/26/20 WITH RESPECT TO WHETHER THE CASE IS SETTLED. SIGNED BY HONORABLE JAN E. DUBOIS ON 9/25/20. 9/25/20 ENTERED AND COPIES E-MAILED. (Attachments: # <a href="#">1</a> Letter)(mbh, ) (Entered: 09/25/2020)
11/24/2020	<a href="#">99</a>	ORDER THAT <a href="#">71</a> MOTION IN LIMINE IN LIMINE IS GRANTED. <a href="#">76</a> MOTION IN LIMINE IS GRANTED IN PART AND DENIED IN PART. <a href="#">77</a> MOTION IN LIMINE IS GRANTED IN PART AND DENIED IN PART. <a href="#">78</a> MOTION IN LIMINE IS GRANTED. <a href="#">80</a> MOTION IN LIMINE IS GRANTED IN PART AND DENIED IN PART. <a href="#">81</a> MOTION IN LIMINE IS GRANTED IN PART AND DENIED IN PART. <a href="#">82</a> MOTION IN LIMINE IS GRANTED IN PART AND DENIED IN PART. SIGNED BY HONORABLE JAN E. DUBOIS ON 11/23/20.11/24/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 11/24/2020)
12/21/2020	<a href="#">100</a> 	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE JAN E. DUBOIS ON 12/21/20. 12/21/20 ENTERED AND COPIES -MAILED.(mbh, ) (Entered: 12/21/2020)
12/21/2020	<a href="#">101</a> 	ORDER THAT DEFENDANT CITY OF PHILADELPHIA'S FIFTH MOTION IN LIMINE TO PRECLUDE OPINIONS AND CONCLUSIONS OF R. PAUL MCCAULEY IS GRANTED IN PART AND DENIED IN PART. IT IS FURTHER ORDERED THAT THE RULINGS IN THIS ORDER ARE WITHOUT PREJUDICE TO THE RIGHT OF AGGRIEVED PARTIES TO SEEK RECONSIDERATION AT TRIAL IS WARRANTED BY THE EVIDENCE AT TRIAL AND APPLICABLE LAW AS STATED IM THIS MEMORANDUM. SIGNED BY HONORABLE JAN E. DUBOIS ON 12/21/20. 12/21/20 ENTERED AND COPIES E-MAILED.(mbh, ) (Entered: 12/21/2020)
08/12/2021	<a href="#">102</a>	ORDER THAT THIS CASE IS REASSIGNED FROM HONORABLE JAN E. DUBOIS TO HONORABLE JOHN M. YOUNGE FOR ALL FURTHER PROCEEDINGS. SIGNED BY CLERK OF COURT KATE BARKMAN, CLERK OF COURT ON 8/12/21. 8/12/21 ENTERED AND COPIES E-MAILED.(amas, ) (Entered: 08/12/2021)
08/13/2021	<a href="#">103</a>	ORDER THAT WITHIN 10 DAYS HEREOF, ALL PARTIES SHALL FILE VIA ECF A JOINT STATUS REPORT SETTING FORTH THE FOLLOWING AS OUTLINED HEREIN, ETC. SIGNED BY HONORABLE JOHN M. YOUNGE ON 8/13/21. 8/13/21 ENTERED AND COPIES E-MAILED.(kw, ) (Entered: 08/13/2021)
08/24/2021	<a href="#">104</a>	ORDER THAT THE LETTER ATTACHED TO THIS ORDER THAT WAS FORWARDED TO CHAMBERS IN WHICH COUNSEL REQUESTED AN EXTENSION OF TIME TO FILE A JOINT STATUS REPORT IS GRANTED AND COUNSEL SHALL HAVE UNTIL 8/31/21 TO FILE A JOINT STATUS REPORT. SIGNED BY HONORABLE JOHN M. YOUNGE ON 8/24/21. 8/24/21 ENTERED AND COPIES E-MAILED.(Attachments: # <a href="#">1</a> Letter)(mbh, ) (Entered: 08/24/2021)
08/30/2021	<a href="#">105</a>	STATUS REPORT by DAVID WICHTERMAN, JR. (FEINBERG, JONATHAN) (Entered: 08/30/2021)
06/08/2022	<a href="#">106</a>	NOTICE of Withdrawal of Appearance by MEGHAN E. CLAIBORNE on behalf of CITY OF PHILADELPHIA(CLAIBORNE, MEGHAN) (Entered: 06/08/2022)

06/09/2022	<a href="#">107</a>	NOTICE of Appearance by BAILEY AXE on behalf of CITY OF PHILADELPHIA with Certificate of Service(AXE, BAILEY) (Entered: 06/09/2022)
11/28/2022	<a href="#">108</a>	ORDER THAT A FINAL PRETRIAL CONFERENCE WILL BE HELD ON 2/28/23 AT 11:00 AM BEFORE HONORABLE JOHN M. YOUNGE. COUNSEL SHALL APPEAR BY VIDEO. SIGNED BY HONORABLE JOHN M. YOUNGE ON 11/28/22. 11/29/22 ENTERED AND COPIES E-MAILED.(mbh) Modified on 1/11/2023 (fb). (Entered: 11/29/2022)
02/16/2023	<a href="#">109</a>	SUGGESTION OF BANKRUPTCY by CORIZON HEALTH under Chapter Number 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Texas filed under case number 23-90086 . (GREGORY, THOMAS) (Entered: 02/16/2023)
02/16/2023	<a href="#">110</a>	ORDER THAT THE FINAL PRETRIAL CONFERENCE SCHEDULED FOR 2/28/23 AT 11:00 AM IS CANCELLED. SIGNED BY HONORABLE JOHN M. YOUNGE ON 2/16/23. 2/16/23 ENTERED AND COPIES E-MAILED.(mbh) (Entered: 02/16/2023)
02/17/2023	<a href="#">111</a>	ORDER THAT THE CLERK OF COURT MARK THIS ACTION CLOSED FOR STATISTICAL PURPOSES AND PLACE THE MATTER IN THE CIVIL SUSPENSE FILE.. SIGNED BY HONORABLE JOHN M. YOUNGE ON 2/17/23. 2/17/23 ENTERED AND E-MAILED.(JL) (Entered: 02/17/2023)

PACER Service Center			
Transaction Receipt			
02/28/2023 20:47:23			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	2:16-cv-05796-JMY
Billable Pages:	10	Cost:	1.00

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DAVID WICHTERMAN, JR., as  
Administrator of the Estate of Daniel  
Wichterman, deceased,  
Plaintiff,**

**v.**

**CITY OF PHILADELPHIA,  
CORIZON HEALTH,  
POLICE CORRECTIONAL OFFICER  
JUSTIN AVERY,  
POLICE CORRECTIONAL OFFICER  
WILLIAM GWALTHNEY,  
TAIRU WAHABU, RN, and,  
OFFICER JOYNER, BADGE NO. 114,  
Defendants.**

**CIVIL ACTION**

**NO. 16-5796**

**DuBois, J.**

**July 16, 2019**

**MEMORANDUM**

**I. INTRODUCTION**

On January 30, 2015, Daniel Wichterman died while in custody of the Philadelphia Police Department. Wichterman allegedly suffered an opioid overdose in a holding cell at the City of Philadelphia Police Detention Unit (“PDU”) after being arrested on suspicion of driving under the influence of narcotics. Plaintiff David Wichterman, Jr., the Administrator of the Estate of Daniel Wichterman, and his brother, commenced this action on November 9, 2016. Plaintiff asserts the following claims in the Amended Complaint: (1) deliberate indifference under 42 U.S.C. § 1983 against Police Correctional Officers Justin Avery, William Gwalthney, and Lavern Joyner, and a nurse stationed at the PDU, Tairu Wahabu, R.N. (2) *Monell* claims against the City of Philadelphia and Corizon Health, and (3) and state law negligence claims against Wahabu and Corizon Health, Inc.

Presently before the Court are (1) Defendants’ Motion for Summary Judgment filed by the City of Philadelphia and Police Correctional Officers Avery, Gwalthney, and Joyner (collectively, the “City defendants”), and (2) Motion for Summary Judgment filed by Corizon Health and Wahabu (collectively, the “Corizon defendants”). For the reasons that follow, City defendants’ and Corizon defendants’ motions are granted in part and denied in part.

## **II. BACKGROUND**

### **A. Accident, Arrest, and Intake**

On January 30, 2015, Daniel Wichterman was arrested on suspicion of driving under the influence (“DUI”) after he was involved in a minor automobile accident. City Def. Stmt. of Undisputed Material Fact (“City SUMF”) ¶¶ 7, 20. At approximately 3:00 p.m., two police officers, Officer Gregory Sulock and Officer Richard Greger responded to the accident. *Id.* ¶ 8. Wichterman informed both Sulock and Greger that he had taken heroin. *Id.* ¶¶ 12, 17. Both officers observed that Wichterman appeared intoxicated but testified that they did not believe he was in a state of overdose. *Id.* ¶¶ 13, 14, 15, 21, 23. Officer Sulock testified that Wichterman had glazed eyes, tiny pupils, was slumped in his seat, and was wobbly when he was removed from the car. *Id.* ¶ 13. According to Officer Greger, Wichterman’s speech was slow, he was wobbly while standing, and that he had trouble keeping his eyes open. *Id.* ¶ 19. Despite these physical manifestations of intoxication, Wichterman was able to answer questions and walk without assistance. *Id.* ¶ 14. After Officer Greger determined that there was probable cause for a DUI charge, Wichterman was transported to the PDU. *Id.* ¶¶ 20, 24; Corizon Stmt. of Undisputed Material Facts (“Corizon SUMF”) ¶ 7.

The two officers who transported Wichterman to the PDU, Shawn Oeschle and Mario DeLaurentis, observed that Wichterman was somewhat wobbly but did not believe that he required emergency care. City SUMF ¶¶ 25, 27.

Wichterman arrived at the PDU at approximately 5:33 p.m., on January 30, 2015, at which point he was searched by Police Correctional Officer (“PCO”) Stephen Taylor.<sup>1</sup> Taylor testified that during his search Wichterman “looked high” but did not appear to be in need of emergency medical treatment. *Id.* ¶ 33. After the search was completed, Wichterman was escorted to the Accident Investigation Division (“AID”). City SUMF ¶¶ 28, 39. The AID Officer on duty, Officer Patrick Farrell, interviewed Wichterman from approximately 5:40 to 6:12 p.m. City SUMF ¶ 40; Pl.’s Statement of Facts (“Pl. SOF”) ¶ 67. As part of typical procedure, Officer Farrell received a copy of a 7548 form which provided a brief description of the circumstances surrounding the arrest. Farrell Dep. 15:18–16:4. That form notes that Wichterman “stated abusing heroin.” *Id.* at 68:10–21. Farrell wrote in his notes that he observed Wichterman had constricted pupils, slow speech and movements, and a raspy voice—symptoms that Farrell believed to be consistent with heroin intoxication. City SUMF ¶ 41; Farrell Dep. 60:11–22. After conducting the interview, Farrell walked Wichterman to the nurse’s station so that a blood draw could be performed to test for narcotics. *Id.* ¶ 46.

#### **B. Medical Screening by Nurse Wahabu**

The nurse stationed at the PDU on January 30, 2015, was defendant Tairu Wahabu, who was employed by defendant Corizon Health, a private company which provides medical services to the PDU. *Id.* at ¶ 5–6; Corizon SUMF ¶ 2. Wahabu is a registered nurse who was trained to recognize the signs and symptoms of opiate addiction and overdose. City SUMF ¶ 49. Although

---

<sup>1</sup> Surveillance videos in the PDU captured Wichterman’s arrival and intake from 5:31 to 5:49 p.m., his blood draw and medical screening from 5:44 to 6:16 p.m., and his time in the cell block from 6:17 to 10:49 p.m.

Wahabu knew that Wichterman had been arrested on suspicion of DUI, Wahabu testified that he was not aware that Wichterman was suspected of heroin use or that he had told arresting officers that he had used heroin. Wahabu Dep. 174:19–175:9, 178:22–179:11.

Wahabu began Wichterman’s evaluation by taking his vital signs, which Wahabu testified were “perfect.” City SUMF ¶¶ 50, 51. Next, Wahabu drew Wichterman’s blood. Farrell Dep. 90:21–91:23; City SUMF ¶ 72. Officer Farrell, who was present for the blood draw, retrieved the blood sample and returned to his office. Farrell Dep. 96:14–97:15.

After Officer Farrell left, Nurse Wahabu began conducting Wichterman’s intake screening by filling out a “receiving screening form” as required by Corizon policy. Pl. SOF ¶ 76. In response to question 4 on the screening form, which asked: “Does the inmate appear to be under the influence of, or withdrawing from[,] drugs or alcohol[?]” Wahabu circled “Y” for “yes.” *Id.* ¶ 78. Next to the question Wahabu wrote the word “Klonopin.” *Id.* Wahabu testified that, despite his affirmative answer to question 4, Wichterman did not actually appear to be under the influence of any drug. *Id.* ¶ 79. Wahabu explained that he answered “yes” to question 4 because Wichterman said that he took Klonopin for his anxiety. Wahabu Dep. 174:9–18. Wahabu also answered “yes” to questions 6 and 7 which asked about treatment for health conditions including use of prescription medication. Pl. SOF ¶ 81.

For the remaining questions Wahabu selected “N” for “no.” *Id.* ¶¶ 82–83, Ex. 12A. However, Wahabu did not circle responses for each question individually. Wahabu circled “N” individually in response to questions 8 through 13 but simply drew a single straight line through all “N” response for questions 14 through 21, including question 15, which asked “Do you use drugs?” *Id.* ¶¶ 82–83, Ex. 12A. Wahabu testified that he asked Wichterman whether he used “any street drugs – heroin, crack, everything,” and that Wichterman said “no, he hadn’t used

anything like that.” *Id.* ¶ 86. There is a factual dispute as to whether Wahabu asked each of the questions 14 through 21 during the initial intake screening and whether Wahabu asked Wichterman about his drug use. *Id.* ¶¶ 112, 113.

In contrast to Farrell’s observations, Wahabu testified that he saw no signs of physical illness or intoxication when Wichterman was in his presence. *Id.* ¶ 90. Wahabu explained that if he noticed any of the symptoms described by Farrell—constricted pupils, lethargic speech, lethargic movements, or a raspy voice—in a detainee like Wichterman, he would have immediately sent the detainee to the hospital. *Id.* ¶ 95.

Wahabu was familiar with how to treat an opiate overdose. *Id.* ¶ 23. Narcan, a drug that is often successful in reversing the effects of an opiate overdose, was available in the PDU at the time of Wichterman’s arrest. *Id.* Wahabu testified that he had experience treating detainees with Narcan and estimated that he had administered Narcan approximately fifty times to detainees who appeared to be overdosing. *Id.* He also testified that in January of 2015 approximately half of the people admitted to the PDU were addicted to opiates. Wahabu Dep. 158:3–13.

Wahabu has discretion to determine where detainees are sent after conducting their intake screening. City SUMF ¶ 59. At the end of Wichterman’s screening, Wahabu decided that neither emergency medical care nor specialized observation was necessary and sent Wichterman to the general PDU population.<sup>2</sup> *Id.* ¶ 60.

---

<sup>2</sup> In addition to conducting receiving screenings, Wahabu was required to go to the cell block every two hours to check on the well-being of all detainees. Pl. SOF ¶ 18. Video footage shows that Wahabu walked through the male cell block approximately every two hours during the time that Wichterman was confined. Wahabu Dep. 216:6–21. Wahabu testified that he saw Wichterman sitting up with his eyes open during his rounds. *Id.* 217:24–221:15. This testimony is contradicted by Police Correctional Officer Joyner’s testimony that Wichterman was unconscious and unable to be roused around that same time. Joyner Dep. 40:13–41:3, 45:5–20.

### C. The Cell Block

After the medical screening, Wichterman arrived on the cell block at approximately 6:17 p.m. Pl. SOF ¶ 121; City SUMF ¶ 62. The two Police Correctional Officers<sup>3</sup> (“PCOs”) assigned to the cell block at the time were defendants Justin Avery and William Gwaltney. City SUMF ¶ 64. Both Avery and Gwaltney testified that they had no concerns about Wichterman’s health or safety at the time he arrived on the cell block. *Id.* ¶¶ 71, 73. According to Gwaltney, Wichterman appeared “totally normal” at the time he entered the cell block. *Id.* ¶ 73. Although they were both aware that Wichterman had been arrested on suspicion of DUI, both testified that they were unaware that the substance he was suspected of using was heroin or that Wichterman told the arresting officers that he had used heroin. *Id.* ¶ 67. Wichterman was placed in cell #2 with another detainee, Michael Panichelli. *Id.* ¶ 74.

From 6:17 to 10:15 p.m. Wichterman remained in his cell. *Id.* ¶ 75. Surveillance footage shows that during those four hours Avery and Gwaltney walked up and down the corridor a number of times, but neither physically entered Wichterman’s cell until approximately 10:15 p.m. *Id.* ¶¶ 76, 79. Avery’s deposition testimony, however, contradicts the video evidence. In his deposition Avery testified that he went into Wichterman’s cell and attempted to rouse him after Joyner was unable to wake him for fingerprinting between 8:00 and 9:00 p.m. City SUMF n.4. According to Avery, he went into Wichterman’s cell, called his name twice, nudged him, concluded that he was sleeping, and returned to his post. *Id.* Avery explained that he thought Wichterman was “sleeping it off.” *Id.* The video surveillance footage, which neither party alleges to have been doctored or compromised in any way, shows that Avery did not in fact enter Wichterman’s cell until 10:15 p.m. *Id.*

---

<sup>3</sup> Police Correctional Officers are not sworn police officers. City SUMF ¶ 118. They are civilians who, although employed by the PPD, receive different training than sworn police officers. *Id.*; Pl. SOF ¶ 43.

Defendant PCO Lavern Joyner was also on duty at the time, working as a fingerprint technician. *Id.* ¶ 65. Joyner was not stationed in the male cell block but instead was located in the front area of the PDU. *Id.* ¶ 65. Joyner entered the cell block and attempted to retrieve Wichterman for fingerprinting twice, once at 8:26 p.m. and again at 8:56 p.m. *Id.* ¶¶ 80, 83. Joyner testified that when she attempted to wake Wichterman she opened the door to cell #2, called his name once or twice, received no response, shut the door, and returned to her position. *Id.* ¶ 81. She further testified that she believed that Wichterman was sleeping and did not have any concerns about Wichterman's health or safety. *Id.* ¶ 82. In contemporaneous notes Joyner wrote that Wichterman was "knocked out," "would not move," and that he was "sleeping hard." Joyner Dep. 40:13–41:3, 45:5–20. The parties dispute whether Avery and Gwalthney were aware that Joyner was unable to wake Wichterman. Pl. Consol. Resp. 31.

At approximately 10:15 p.m., Wichterman's cellmate, Panichelli, informed Gwalthney that something might be wrong with Wichterman. City SUMF ¶ 91. Until that time Panichelli had not mentioned any concerns about Wichterman's well-being. *Id.* ¶ 87. Similarly, although cell #2 is within earshot of the desk where Avery and Gwalthney are stationed, Wichterman never called out to Avery, Gwalthney, or Joyner or told them that he wanted or needed medical assistance. *Id.* ¶¶ 88, 90. After being alerted that something was wrong at 10:15 p.m., Avery and Gwalthney entered Wichterman's cell, attempted unsuccessfully to wake him, and then called Wahabu for help. *Id.* ¶¶ 93, 94. At 10:18 p.m. Wahabu arrived at Wichterman's cell, began CPR, and instructed the PCOs to call 911. *Id.* ¶ 94–95.

Wichterman was pronounced dead at 11:31 p.m. *Id.* ¶ 97. His Autopsy and Toxicology Report stated that his cause of death was drug intoxication as a result of an opioid overdose. *Id.*

¶ 98; Corizon SUMF ¶ 25. There is a factual dispute as to whether Wichterman consumed the fatal dose of heroin before or after arrival at the PDU. Corizon SUMF ¶ 26.

#### **D. PDU Procedure and Training**

The PDU admits on average over 100 detainees per day. City SUMF ¶ 99. All Philadelphia DUI arrestees are sent to the PDU. Pl. SOF ¶ 13. Many of these individuals arrive at the PDU under the influence of drugs or alcohol. City SUMF ¶ 101. Approximately half of the arrivals at the PDU are addicted to opiates. Wahabu Dep. 158:3–13; Pl. SOF ¶ 7. To avoid difficult confrontations with intoxicated detainees, the PDU staff regularly employ an unofficial practice of allowing detainees to “sleep off” their intoxication before attempting to get them processed. City SUMF ¶ 104.

Official policy in the PDU directly contradicts this unofficial practice. For example, Philadelphia Police Directive 128 outlines a PCO’s responsibilities when they encounter a semiconscious detainee including their obligation to report the situation to a supervisor or a nurse if they are unable to wake the detainee. Pl. SOF ¶¶ 33, 34, 36.

Despite the PDU’s regular admission of individuals struggling with opiate use disorder, the PDU does not provide its employees with regular training on how to recognize and address the signs and symptoms of opiate addiction, intoxication, or overdose. *Id.* ¶¶ 49, 50. Avery, Gwalthney, and Joyner all testified that they never received training on recognizing the signs of opiate intoxication or overdose. *Id.* Furthermore, although under Directive 82 police correctional officers are supposed to receive biannual training on how to recognize medical emergencies and provide basic medical assistance, none of the individually named defendants had any such training between 2012 and 2017. *Id.* ¶ 53.

### **E. Procedural Background**

On November 10, 2017, plaintiff, as Administrator of Wichterman's Estate, filed an Amended Complaint (Document No. 29). The Amended Complaint asserts claims of (1) deliberate indifference against the individual defendants under the Eighth and Fourteenth Amendments, (2) violations of Wichterman's rights under the Eighth and Fourteenth Amendments by the City of Philadelphia and Corizon Health, and (3) state law negligence claims against Corizon defendants. The Eighth Amendment claims were later withdrawn on the ground that Wichterman, as a pretrial detainee, had no rights under the Eighth Amendment. Pl. Consol. Resp. 2 n.2. Likewise, plaintiff does not oppose dismissal of his municipal liability and corporate negligence claims against Corizon as set forth in Counts Two and Three of the Amended Complaint. *Id.* at 2 n. 3. However, he maintains his negligence claim against Corizon based on vicarious liability for Wahabu's conduct. *Id.*

On May 30 and May 31, 2018, respectively, Corizon defendants filed a Motion to Exclude the Expert Report of Robert L. Cohen, M.D, and a Motion to Exclude the Expert Testimony of Sarah E. Wakeman, M.D. (Document Nos. 37, 39). The Court granted in part and denied in part Corizon defendants' *Daubert* motions in a Memorandum and Order dated June 19, 2019.

There are currently two motions pending: (1) City defendants' Motion for Summary Judgment (Document No. 40, filed May 31, 2018), and (2) Corizon defendants' Motion for Summary Judgment (Document No. 41, filed June 1, 2018). Both motions are fully briefed and ripe for decision.

### III. LEGAL STANDARD

The Court will grant a motion for summary judgment if “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). A fact is material when it “might affect the outcome of the suit under the governing law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute is genuine “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.*

The Court’s role at the summary judgment stage “is not . . . to weigh the evidence and determine the truth of the matter but to determine whether . . . there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party.” *Id.* at 249. However, the existence of a mere “scintilla” of evidence in support of the nonmoving party is insufficient. *Id.* at 252. In making this determination, “the court is required to examine the evidence of record in the light most favorable to the party opposing summary judgment, and resolve all reasonable inferences in that party’s favor.” *Wishkin v. Potter*, 476 F.3d 180, 184 (3d Cir. 2007) (internal citations omitted). The party opposing summary judgment must, however, identify evidence that supports each element on which it has the burden of proof. *Celotex Corp.*, 477 U.S. at 322.

### IV. DISCUSSION

In the two pending motions, City defendants and Corizon defendants seek summary judgment on each of plaintiff’s remaining claims. The Court addresses each of the pending motions in turn. For the reasons that follow, City defendants’ and Corizon defendants’ motions are granted in part and denied in part.

### A. City Defendants' Motion for Summary Judgment

City defendants argue that summary judgment should be granted on all of plaintiff's claims against them, including plaintiff's (1) deliberate indifference claims against PCOs Joyner, Avery, and Gwaltney, and (2) *Monell* claim against the City of Philadelphia. The Court addresses City defendants' arguments below.

#### i. Deliberate Indifference Claim Against Individual Defendants, Joyner, Avery, and Gwaltney

Plaintiff claims that Wichterman was unconstitutionally denied medical care by PCOs Joyner, Avery, and Gwaltney while he was a pretrial detainee at the PDU. Plaintiff brings this Fourteenth Amendment violation claim pursuant to 42 U.S.C. § 1983. To succeed, plaintiff must show (1) that Wichterman had "a serious medical need," and (2) "acts or omissions by [defendants] that indicate deliberate indifference to that need." *Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 582 (3d Cir. 2003) (discussing *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976)); citing *Rouse v. Plantier*, 182 F.3d 192, 197 (3d Cir. 1999)).<sup>4</sup>

"A finding of deliberate indifference requires proof of subjective knowledge, not objective knowledge, 'meaning that the official must actually be aware of the existence of the excessive risk; it is not sufficient that the official should have been aware.'" *Johnson v. Coleman*, 506 F. App'x 125, 127 (3d Cir. 2012); *see also Nykiel v. Borough of Sharpsburg*, 778 F. Supp. 2d 573, 584 (W.D. Pa. 2011). "[A]n official's failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, cannot under our cases

---

<sup>4</sup> Although plaintiff's deliberate indifference claims are asserted under the Fourteenth Amendment, the standard in *Estelle*, pertaining to prisoners' claims of inadequate medical care under the Eighth Amendment, are applied in this case. *Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 581 (3d Cir. 2003) ("[T]he Supreme Court has concluded that the Fourteenth Amendment affords pretrial detainees protections 'at least as great as the Eighth Amendment protections available to a convicted prisoner,' without deciding whether the Fourteenth Amendment provides greater protections."); *see also Ponzini v. PrimeCare Med., Inc.*, 269 F. Supp. 3d 444, 502 (M.D. Pa. 2017), *appeal dismissed sub nom. Ponzini v. Monroe Cty.*, No. 17-3134, 2017 WL 8727421 (3d Cir. Dec. 19, 2017) (discussing pretrial detainee rights to adequate medical care under the Fourteenth Amendment).

be condemned as the infliction of punishment.” *Fox v. Horn*, No. 98-5279, 2000 WL 49374, at \*4 (E.D. Pa. Jan. 21, 2000) (quoting *Farmer v. Brennan*, 511 U.S. 825, 838 (1994)).

Courts rigorously apply this subjective knowledge requirement. For example, in *Fox v. Horn*, a court in this District ruled that a plaintiff did not establish a deliberate indifference claim against correctional officers who ignored an inmate’s cries for help and medical attention where there was “no evidence that [the defendant correctional officers] made the inference that [plaintiff] faced substantial risk of serious harm and then deliberately ignored helping [plaintiff].” 2000 WL 49374, at \*4. The *Fox* court further stated that “even if the Defendant Correction Officers should have been aware of [plaintiff’s] illness, but were not as a result of their non-compliance with proper procedures, there is not a cognizable claim for an Eighth Amendment violation.” *Id.*

Even assuming that Wichterman’s condition constituted a serious medical need, plaintiff’s deliberate indifference claims against Joyner, Avery, and Gwaltney must fail because there is no evidence from which a reasonable juror could find that the defendant police correctional officers were deliberately indifferent to Wichterman’s serious medical need.

#### *1. Police Correctional Officer Joyner*

Plaintiff argues that there is sufficient evidence from which a reasonable jury could find that Joyner was deliberately indifferent to Wichterman’s serious medical need because (1) she knew Wichterman was brought to the PDU under suspicion of a DUI, (2) she was unable to wake Wichterman after two attempts, and (3) her actions violated city policy, Directive 128,<sup>5</sup> which requires police correctional officers to advise a supervisor or nurse if they are unable to wake a detainee. Pl. Consol. Resp. 30–31.

---

<sup>5</sup> Directive 128, discussed *supra* in Section II(D), outlines a PCO’s responsibilities when they encounter a semiconscious detainee.

Joyner testified that although she knew Wichterman had been arrested on suspicion of a DUI, she did not know that he was alleged to have used heroin or that he told the arresting officers he had used heroin. City SUMF ¶ 67. Joyner visited Wichterman's cell twice between 8:00 and 9:00 p.m. in an effort to retrieve him for fingerprinting. *Id.* ¶¶ 80, 83. In addition to Joyner's testimony about her actions, video footage of the cell block provides evidence of the manner in which Joyner attempted to awaken Wichterman. Consistent with the available video footage, Joyner testified that when she attempted to wake Wichterman she opened the door to his cell, called his name once or twice, received no response, shut the door, and turned her attention to other detainees. *Id.* ¶ 81. She further testified that she believed that Wichterman was sleeping and did not have any concerns about Wichterman's health or safety. *Id.* ¶ 82. In contemporaneous notes after her first attempt to rouse Wichterman, Joyner wrote that he was - "knocked out" and "would not move," and after her second attempt, that he was "sleeping hard." Joyner Dep. 40:13–41:3, 45:5–20.

Deposition testimony further discloses that the PDU failed to train PCOs such as Joyner on signs of opioid overdose, recognizing medical emergencies, or what to do when an inmate will not wake up. Pl. SOF ¶¶ 49, 50. Joyner stated, consistent with the testimony of the other police correctional officers deposed in the case, that she had never seen Directive 128 prior to her deposition. Joyner Dep. 72:7–14.

Plaintiff cites a Seventh Circuit case, *Orlowski v. Milwaukee County*, to support the proposition that an officer's failure to tell supervisors when he was unable to wake a detainee is sufficient evidence for a reasonable jury to find that the officer acted with deliberate indifference. 872 F.3d 417, 424 (7th Cir. 2017). *Orlowski*, however, is distinguishable from the present case. In that case there was evidence that the officers involved knew or suspected that

the decedent's condition was imminently dangerous. For example, one of the officers saw the decedent "struggling to breathe, making sudden moves, and making loud sounds." *Id.* "He approached [the decedent] and tried to wake him up, but even with his name called and bed shaken, [the decedent] did not regain consciousness." *Id.* That same officer in *Orlowski* had also recorded in his log book that the decedent had a "severe sleeping disorder" and was "not breathing at times." *Id.*

These facts are distinguishable from those presented in this case where Joyner merely called out to Wichterman from the door of his cell and did not investigate further when he failed to respond. In contrast to *Orlowski*, there is no evidence in this case that Joyner saw Wichterman struggling to breathe or believed him to be in danger.

The evidence in this case is insufficient to show that Joyner actually knew that Wichterman was overdosing. As discussed in *Fox v. Horn*, it is not enough that Joyner's failure to act violated Directive 128, or that she arguably should have been aware of Wichterman's condition. 2000 WL 49374, at \*4. There must be evidence that she subjectively knew Wichterman was suffering from a heroin overdose and chose to leave him in his cell instead of seeking help. Plaintiff fails to provide such evidence.

## 2. *Police Correctional Officers Avery and Gwalthney*

The Court next turns to plaintiff's deliberate indifference claims against Avery and Gwalthney. The Court concludes that these claims are even more tenuous because neither Avery nor Gwalthney entered Wichterman's cell or tried to wake him before approximately 10:15 p.m.

There is a factual question as to whether Avery and Gwalthney knew that Joyner was unable to wake Wichterman prior to 10:15 p.m. when they found Wichterman unconscious in his cell. Plaintiff asserts that Avery and Gwalthney were either told by Joyner that Wichterman

would not wake up or simply overheard Joyner's failed attempts to bring Wichterman to be fingerprinted. Pl. Consol. Resp. 31.

Although Avery and Gwalthney knew Wichterman had been arrested on suspicion of DUI, both testified that they did not know he had taken heroin and had no concerns about his health or safety when he arrived on the cell block. City SUMF ¶¶ 71, 73. He was walking under his own power and appeared "totally normal" according to Gwalthney. *Id.* ¶ 73. Furthermore, similar to Joyner, neither Avery nor Gwalthney had been trained to recognize the signs of opiate overdose. Pl. SOF ¶¶ 49, 50. Finally, video footage shows that at 10:15 p.m., after they were alerted that something was wrong by Wichterman's cellmate and were unable to wake Wichterman, they immediately contacted Nurse Wahabu for assistance. City SUMF ¶¶ 93, 94.

Assuming *arguendo* that Avery and Gwalthney were aware that Wichterman did not wake up to be fingerprinted by Joyner, there is no evidence that they knew or suspected that he was overdosing. Based on the evidence of record, no reasonable jury could find that Avery and Gwalthney subjectively knew that Wichterman was overdosing and chose to withhold medical treatment.

For the foregoing reasons, that part of City defendants' motion seeking summary judgment on plaintiff's deliberate indifference claims against Avery, Gwalthney, and Joyner is granted.<sup>6</sup>

## ii. Monell Claim Against the City of Philadelphia

Next City defendants argue that summary judgment should be granted on plaintiff's *Monell* claim against the City of Philadelphia.

---

<sup>6</sup> Because the Court has granted City defendants' motion for summary judgment on the deliberate indifference claim against the individual city defendants—Joyner, Avery and Gwalthney—there is no need to address defendants' arguments that the individual city defendants are entitled to qualified immunity. City Def. Mot. Summ. J. 15.

The liability of a municipality under 42 U.S.C. § 1983 is governed by *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). Under *Monell*, a municipality cannot be subjected to liability solely because its agents or employees caused injury to another person. *Id.* at 694. Rather, a municipal entity may be liable under § 1983 only “when execution of a government’s policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy” deprives a citizen of constitutional rights. *Id.*

The Third Circuit has held that there are three situations in which the actions of an employee can be considered the result of a “policy or custom” “rendering [a governmental] entity liable under § 1983.” *Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 584 (3d Cir. 2003). A policy or custom may exist (i) where an officer or entity promulgates a policy and the complained of act is simply an implementation of that policy; (ii) where no specific rule has been announced but “federal law has been violated by an act of the policymaker itself”; or (iii) where “the policymaker has failed to act” and “the need to take some action to control the agents of the government is so obvious, and the inadequacy of existing practice so likely to result in the violation of constitutional rights, that the policymaker can reasonably be said to have been deliberately indifferent to the need.” *Id.* (internal quotations and citations omitted).

Plaintiff maintains that his *Monell* claim falls into the third category—where the policymaker failed to act and the need to take some action was so obvious that the policymaker can reasonably be said to have been deliberately indifferent. Specifically, plaintiff asserts that the City of Philadelphia was deliberately indifferent in failing to train PDU employees as to how to recognize and respond to the signs of drug overdose. In order to succeed on a “failure to train” claim, plaintiff must show (i) that the failure to train had a causal nexus to the

constitutional violation and (ii) that the policymakers exhibited deliberate indifference in their failure to train employees. *Thomas v. Cumberland Cty.*, 749 F.3d 217, 222 (3d Cir. 2014).

City defendants argue that plaintiff's *Monell* claim must fail because (1) plaintiff cannot establish an underlying constitutional violation; (2) there is no record evidence that Wichterman's death resulted from any policy or custom of the City, and (3) there is no evidence that any City of Philadelphia policymaker was deliberately indifferent to a risk of harm to Wichterman or similarly situated persons. City Def. Mot. Summ. J. 19–23.

### *1. Underlying Constitutional Violation*

Defendant argues that plaintiff's *Monell* claim must fail because plaintiff cannot establish that any of the individual defendants were liable for an underlying constitutional violation. This argument is misguided. City Def. Mot. 19–20. Although a “failure to train” claim cannot be sustained without an underlying violation of constitutional rights, such a claim does not require that an individual defendant be found liable for that violation.

A failure to train, supervise, or discipline employees can trigger municipal liability under § 1983 where “the failure amounts to ‘deliberate indifference’ to the rights of persons with whom those employees will come into contact.” *Carter v. City of Phila.*, 181 F.3d 339, 357 (3d Cir. 1999) (internal citation omitted); *Natale*, 318 F.3d at 584. “[W]hen city policymakers are on actual or constructive notice that a particular omission in their training program causes city employees to violate citizens’ constitutional rights, the city may be deemed deliberately indifferent if the policymakers choose to retain that program.” *Connick v. Thompson*, 563 U.S. 51, 61 (2011) (citation omitted).

The precedent in our circuit requires the district court to review the plaintiffs’ municipal liability claims independently of the section 1983 claims against the individual police officers, as the City’s liability for a substantive due process violation does not depend upon the liability of any police officer . . . the district

court must evaluate the municipal liability claims in light of the standards set forth above, notwithstanding the outcome as to the claims against the individual police officers.

*Kneipp v. Tedder*, 95 F.3d 1199, 1213 (3d Cir. 1996) (internal citations omitted). In this case, although there is no evidence that PCOs Joyner, Avery, and Gwalthney were deliberately indifferent in failing to provide medical care to Wichterman, a reasonable jury could still find that Wichterman’s constitutional right to adequate medical care was violated if city policymakers were deliberately indifferent in failing to provide training to the PCOs.

## 2. Causal Nexus

Next, City defendants argue that there is no evidence that Wichterman’s death resulted from any policy or custom of the City. To establish a § 1983 claim on a failure to train theory, the failure to train must have “a causal nexus with [the plaintiff’s] injury.” *Thomas*, 749 F.3d at 226 (citing *City of Canton, Ohio v. Harris*, 489 U.S. 378, 391 (1989)). “Liability cannot rest only on a showing that the employees ‘could have been better trained or that additional training was available that would have reduced the overall risk of constitutional injury.’” *Id.* Instead, “the causation inquiry focuses on whether ‘the injury [could] have been avoided had the employee been trained under a program that was not deficient in the identified respect.’” *Id.* (quoting *Canton*, 489 U.S. at 391).

In this case the evidence establishes a causal nexus. Specifically, if PCO Joyner had been appropriately trained to recognize a semi-conscious state as a sign of overdose she would have, or should have, immediately contacted Wahabu at 8:30 p.m., when she was first unable to wake Wichterman. At that point Wahabu would have, or should have, administered Narcan which likely would have saved Wichterman’s life. Evidence shows that Narcan was available in the PDU on January 30, 2015, that Wahabu was trained to administer Narcan, and that Narcan, when

timely administered, is effective in preventing many overdose deaths. City SUMF ¶ 117; Wahabu Dep. 150:17–153:16; *see Koukos v. Chester Cty.*, No. 16-4602, 2017 WL 511634, at \*11 (E.D. Pa. Feb. 7, 2017) (identifying an appropriately pled causal nexus where a plaintiff stated that “had officers been trained accordingly, they would have recognized [plaintiff’s] symptoms, known that he needed immediate medical attention and permitted him to obtain it”).

The Court concludes that a reasonable jury could find a causal nexus between the City’s failure to train its PCOs in recognizing and responding to symptoms of overdose and Wichterman’s death.

### 3. *Deliberate Indifference*

Finally, to succeed on a failure to train claim, a plaintiff must establish that the policymakers exhibited deliberate indifference in their failure to train their employees. *Thomas v. Cumberland Cty.*, 749 F.3d 217, 226 (3d Cir. 2014).

City defendants argue that plaintiff fails to provide evidence that any City of Philadelphia policymaker was deliberately indifferent to a risk of harm to Wichterman or similarly situated persons. In support of this argument, City defendants point out that plaintiff has not established that any policymaker was aware of similar unlawful conduct in the past but failed to take precautions against future violations. City Def. Mot. Summ. J. 22.

“‘[D]eliberate indifference’ is a stringent standard of fault, requiring proof that a municipal actor disregarded a known or obvious consequence of his action.” *Thomas*, 749 F.3d at 223. Typically, a pattern of similar constitutional violations is necessary to show deliberate indifference for the purposes of failure to train. *Id.* “A pattern of violations puts municipal decisionmakers on notice that a new program is necessary, and ‘[t]heir continued adherence to an approach that they know or should know has failed to prevent tortious conduct by employees

may establish the conscious disregard for the consequences of their action—the ‘deliberate indifference’—necessary to trigger municipal liability.’” *Id.* (quoting *Bryan Cty.*, 520 U.S. at 407).

In some cases, however, a plaintiff may assert a failure to train claim premised on a single incident. To do so a plaintiff must show that the need to train officers was “so patently obvious” that the municipality’s failure to train constituted deliberate indifference to the “highly predictable consequence” that failing to train would result in constitutional violations. *Connick*, 563 U.S. at 64 (citing *Canton*, 489 U.S. at 390). “Liability in single-incident cases depends on ‘[t]he likelihood that the situation will recur and the predictability that an officer lacking specific tools to handle that situation will violate citizens’ rights.’” *Thomas*, 749 F.3d at 223–24 (quoting *Bryan Cty.*, 520 U.S. at 409).

For example, in *Thomas v. Cumberland County* the Third Circuit held that, even without establishing a pattern of violations, there was sufficient evidence for a reasonable jury to find deliberate indifference where Cumberland County failed to provide de-escalation and intervention training to prepare officers at a county correctional facility to handle inmate-on-inmate violence. 749 F.3d at 225. In reaching that conclusion, the Third Circuit noted that “the officers here have no reason to have an independent education, knowledge base, or ethical duty that would prepare them to handle the volatile conflicts that might lead to inmate-on-inmate violence.” *Id.* The court further concluded that Cumberland County “failed to provide protective measures” to prevent mistakes “in a situation that occurs frequently.” *Id.* at 226.

In this case, plaintiff does not identify a pattern of constitutional violations in support of his failure to train claim. However, similar to the facts in *Thomas*, where inmate-on-inmate violence was common, in this case, the PDU frequently admitted detainees who were intoxicated

on opiates. Wahabu estimated that nearly half of the individuals admitted to the PDU on a daily basis were intoxicated on opiates. Wahabu Dep. 158:3–13. Furthermore, PCOs are not expected to have independent knowledge of how to handle medical emergencies. Finally, although a registered nurse worked in the PDU, as a practical matter, the PCOs spent much more time on the cell block and could not be expected to call the nurse for assistance if they were not trained to recognize common signs of medical distress. Training PCOs to recognize opioid overdose would be a basic protective measure designed to prevent mistakes in a situation that occurs frequently.

In this case, plaintiff has identified a failure to provide specific training – how to recognize and respond to the signs of opiate overdose. The Court concludes that given the prevalence of opioid use in 2015, the PDU’s role in detaining individuals arrested under suspicion of DUI, and the substantial number of times that Narcan had to be administered in the PDU, a reasonable jury could find that the need to train officers to recognize signs of overdose and contact medical personnel to assist when a detainee is semi-conscious was “so patently obvious” that municipal policymakers’ failure to train was deliberate indifference to the predictable consequence of failing to treat an overdosing detainee.<sup>7</sup>

For the foregoing reasons, that part of City defendants’ Motion for Summary Judgment on plaintiff’s *Monell* claim is denied.

---

<sup>7</sup> To the extent City defendants reiterate the argument raised in their Motion to Dismiss, and rejected by this Court, that plaintiff’s claim must fail because he does not identify a specific policymaker involved in the formation of the alleged municipal custom or policy, the Court disagrees. *See Wichterman v. City of Philadelphia*, No. 16-5796, 2017 WL 1374528, at \*3 (E.D. Pa. Apr. 17, 2017). A municipal policymaker need not be “specifically identified by the plaintiff’s evidence. Practices so permanent and well-settled as to have the force of law [are] ascribable to municipal decisionmakers.” *Bielewicz v. Dubinon*, 915 F.2d 845, 850 (3d Cir. 1990); *see also Olivieri v. Cty. of Bucks*, 502 F. App’x 184, 189 (3d Cir. 2012) (“This does not mean, however, that the policymaker must be specifically identified by the plaintiff’s evidence; rather, practices so widespread as to have the force of law are ascribable to local government policymakers. If custom is established by proof of knowledge and acquiescence, then a single application of the custom can suffice to show liability.”).

## B. Corizon Defendants' Motion for Summary Judgment

Corizon defendants argue that summary judgment should be granted on plaintiff's (1) deliberate indifference claim against Wahabu, (2) state law negligence claims against Wahabu and Corizon, and that (3) punitive damages should not be available to plaintiff against Wahabu. The Court addresses Corizon defendants' arguments in turn.

### i. Deliberate Indifference Claim Against Wahabu

Plaintiff claims that Wahabu unconstitutionally denied Wichterman medical care while he was a pretrial detainee at the PDU.<sup>8</sup> As discussed above in reference to City defendants' motion, although plaintiff's deliberate indifference claim against Wahabu is asserted under the Fourteenth Amendment, the Court utilizes the standard enunciated in *Estelle*, pertaining to prisoners' claims of inadequate medical care under the Eighth Amendment, in addressing the claim. *Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 581 (3d Cir. 2003). To succeed on his deliberate indifference claim plaintiff must show that (1) Wichterman had "a serious medical need," and (2) acts or omissions by Wahabu indicate "deliberate indifference" to that need. *Id.* at 582 (discussing *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976)), *see also Rouse v. Plantier*, 182 F.3d 192, 197 (3d Cir. 1999).

A medical need is serious if it is "one that has been diagnosed by a physician as requiring treatment or one that is so obvious that a lay person would easily recognize the necessity for a doctor's attention." *Monmouth Cty. Corr. Institutional Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987); *Tsakonas v. Cicchi*, 308 F. App'x 628, 632 (3d Cir. 2009). "In addition, where denial or delay causes an inmate to suffer a life-long handicap or permanent loss, the medical need is considered serious." *Monmouth Cty. Corr.*, 834 F.2d at 347.

---

<sup>8</sup> Although Wahabu was an employee of Corizon, not the City of Philadelphia, the employees of independent contractors can be held liable for deliberate indifference where they are acting under the color of state law. *See Lee v. Abellos*, No. 13–0486, 2014 WL 7271363, at \*7 (E.D. Pa. Dec. 19, 2014).

“A finding of deliberate indifference requires proof of subjective knowledge, not objective knowledge, ‘meaning that the official must actually be aware of the existence of the excessive risk; it is not sufficient that the official should have been aware.’” *Johnson v. Coleman*, 506 F. App’x 125, 127 (3d Cir. 2012). A plaintiff asserting deliberate indifference “must provide an evidentiary basis for concluding that prison officials had a ‘sufficiently culpable state of mind.’” *Gravley v. Tretinik*, 414 F. App’x 391, 394 (3d Cir. 2011). “Deliberate indifference requires that prison officials know of an excessive risk to an inmate’s health or safety and affirmatively disregard that risk.” *Id.*

Plaintiff argues that the facts concerning (1) Wahabu’s observations of Wichterman at the time he drew Wichterman’s blood, (2) Wahabu’s receiving screening of Wichterman, and (3) video evidence of Wahabu’s failure to monitor Wichterman, support his deliberate indifference claim against Wahabu. Pl. Consol. Resp. 46–49. Although the Court has examined the record in the light most favorable to plaintiff, plaintiff’s deliberate indifference claim against Wahabu must fail because there is no evidence that Wahabu was subjectively aware of Wichterman’s serious medical need.

First of all, at the time Wahabu drew Wichterman’s blood, he evaluated Wichterman and concluded, based on his judgment as a registered nurse, that Wichterman was not in need of medical assistance. Wahabu testified that Wichterman’s vital signs were “perfect” and that he did not appear to be intoxicated. City SUMF ¶¶ 50, 51, 79, 86. Although there is a question of fact as to whether Wahabu was aware of or suspected that Wichterman was intoxicated, such knowledge alone would not show that Wahabu was subjectively aware of a serious medical condition.

Although an overdose is undoubtedly a serious medical condition, routine intoxication is not. *See e.g. Grayson v. Peed*, 195 F.3d 692, 694–96 (4th Cir. 1999) (rejecting argument that signs of intoxication are sufficient to establish a serious medical need, stating “to accept appellant’s claim would be to mandate as a matter of constitutional law that officers take all criminal suspects under the influence of drugs or alcohol to hospital emergency rooms rather than detention centers. That would be a startling step to take.”). Routine intoxication is dealt with on a daily basis in the PDU and is not the type of condition that typically leads to life-long handicap or permanent loss. Furthermore, it is not the type of condition for which “a lay person would easily recognize the necessity for a doctor’s attention.” *Monmouth Cty. Corr. Institutional Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987).

Plaintiff argues that Wahabu’s testimony—that he would have sent Wichterman to the hospital if he had noticed any signs of intoxication—establishes that intoxication presents a serious medical need. Pl. Consol. Resp. 49; Pl. SOF ¶ 95. The Court disagrees. Plaintiff’s argument conflates the legal definition of a serious medical need with Wahabu’s independent standard for sending detainees to the hospital and is, ultimately, unconvincing. Therefore, even if Wahabu observed signs of intoxication, that knowledge alone would not establish that Wahabu had subjective knowledge of Wichterman’s serious medical need.

Next, plaintiff argues that Wahabu’s alleged failure to complete the receiving screening form in full and ask Wichterman about his prior drug use shows that he was deliberately indifferent. Pl. Consol. Resp. 47. However, assuming that Wahabu failed to question Wichterman about his drug use, such failure does not, without more, evince subjective knowledge of a serious medical condition. “[A]n official’s failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, cannot under our

cases be condemned as the infliction of punishment.” *Fox v. Horn*, No. 98-5279, 2000 WL 49374, at \*4 (E.D. Pa. Jan. 21, 2000) (stating that even if a defendant “should have been aware of [plaintiff’s] illness, but [was] not as a result of their non-compliance with proper procedures, there is not a cognizable claim for an Eighth Amendment violation.”).

Finally, plaintiff argues that Wahabu’s failure to properly check on Wichterman during his rounds demonstrates deliberate indifference. Wahabu was required to go to the cell block every two hours to check on the well-being of all detainees. Pl. SOF ¶ 18. Video footage shows that Wahabu walked through the male cell block approximately every two hours while Wichterman was confined but did not turn his head to look into Wichterman’s cell. Wahabu Dep. 216:6–21. Wahabu testified that, while making rounds, he saw Wichterman sitting up with his eyes open, but that testimony is contradicted by PCO Joyner’s statement that Wichterman was unconscious and unable to be roused around that same time. *Id.* 217:24–221:15; Joyner Dep. 40:13–41:3, 45:5–20. However, even if Wahabu failed to properly check on Wichterman, his failure to do so would only mean that he did not see Wichterman unconscious in his cell, it would not be evidence that he was aware of Wichterman’s serious medical need.

Based on the absence of evidence that Wahabu was subjectively aware that Wichterman was overdosing, the Court concludes that no reasonable jury could find that Wahabu was deliberately indifferent to an excessive risk to Wichterman’s health and safety.

For the foregoing reasons, that part of Corizon defendants’ Motion for Summary Judgment on plaintiff’s deliberate indifference claim against Wahabu is granted.<sup>9</sup>

---

<sup>9</sup> As discussed *supra* in Section II(E), plaintiff does not oppose dismissal of his § 1983 municipal liability claim against Corizon.

ii. Negligence Claims against Wahabu and Corizon

Corizon defendants' only argument supporting their position that summary judgment should be granted on plaintiff's state law negligence claims against Wahabu and Corizon is that plaintiff has not provided any admissible expert opinions on standard of care and causation to maintain a *prima facie* case of medical negligence.

The Court disagrees. In its June 19, 2019 Memorandum and Order, the Court denied (1) those parts of the Corizon defendants' Motion to Exclude the Testimony of Robert L. Cohen, M.D. which sought to prohibit Dr. Cohen from testifying to standard of care and causation, and (2) that part Corizon defendants' Motion to Exclude the Testimony of Sarah E. Wakeman, M.D. which sought to prohibit Dr. Wakeman from testifying to causation. The Court concluded that "[i]n context, Cohen's testimony regarding 'improper nursing action[s]'" is best interpreted as a reference to the standard of care" and that "Cohen's opinions as to the standard of care required of a registered nurse in the correctional setting [are] based on good grounds" and meet the requirements of Rule 702. *Wichterman v. City of Philadelphia*, No. 16-5796, 2019 WL 2568340, at \*6 (E.D. Pa. June 20, 2019). The Court also concluded that both Cohen and Wakeman's expert reports offered admissible opinions as to causation. *Id.* at \*10.

The Court therefore denies that part of Corizon defendants' motion seeking summary judgment on plaintiff's state law negligence claims against Wahabu and against Corizon based on *respondeat superior* liability.<sup>10</sup>

---

<sup>10</sup> As discussed *supra* in Section II(E), plaintiff does not oppose dismissal of his corporate negligence claim against Corizon.

iii. Punitive Damages Against Wahabu

Plaintiff's Amended Complaint seeks punitive damages against the individual defendants. Am. Compl. Section VI(B). Corizon defendants' motion argues that summary judgment should be granted as to plaintiff's punitive damages claim against Wahabu. Corizon Def. Mot. 20.

Punitive damages may be awarded "when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others." *Tearpock-Martini v. Borough*, 98 F. Supp. 3d 697, 703 (M.D. Pa. 2015) (quoting *Kolstad v. Am. Dental Ass'n*, 527 U.S. 526, 536, 119 S.Ct. 2118, 144 L.Ed.2d 494 (1999)). "A showing of actual malice, however, is not necessary. The plaintiff must establish that the defendant acted with a 'subjective consciousness of a risk of injury or illegality and a criminal indifference to civil obligations.'" *Id.*

This Court has held that "deliberate indifference to a substantial risk of serious harm to a prisoner is the equivalent of recklessly disregarding that risk." *Kenney v. Montgomery Cty.*, No. 13-2590, 2013 WL 5356862, at \*9 (E.D. Pa. Sept. 25, 2013) (citing *Farmer*, 511 U.S. at 836–37) (allowing a punitive damages claim to proceed against correctional physician based on sufficient allegations of deliberate indifference); *Tenon v. Dreibelbis*, 190 F. Supp. 3d 412, 418 (M.D. Pa. 2016) ("the standard to show 'deliberate indifference' is substantially the same as the standard to show 'reckless or callous indifference.'"). The Court ruled *supra* that no reasonable jury could find that Wahabu was deliberately indifferent to Wichterman's serious medical condition. *See supra* Section IV(B)(i). For similar reasons, the Court concludes that a reasonable jury could not find that Wahabu recklessly disregarded Wichterman's constitutional right to adequate medical care.

Thus, the Court grants that part of Corizon defendants' motion seeking summary judgment on plaintiff's punitive damages claim against Wahabu.

## V. CONCLUSION

For the foregoing reasons, the Court grants in part and denies in part City defendants' and Corizon defendants' motions, as follows:

(1) In ruling on City defendants' Motion for Summary Judgment:

- That part of City defendants' Motion seeking summary judgment on plaintiff's Fourteenth Amendment deliberate indifference claims against Avery, Gwaltney, and Joyner is granted, and
- That part of the City defendants' Motion seeking summary judgment on plaintiff's Fourteenth Amendment *Monell* claim against the City of Philadelphia is denied.

(2) In ruling on Corizon defendants' Motion for Summary Judgment:

- That part of Corizon defendants' Motion seeking summary judgment on plaintiff's Fourteenth Amendment deliberate indifference claim against Wahabu is granted,
- That part of Corizon defendants' motion seeking summary judgment on plaintiff's negligence claims against Wahabu and against Corizon based on Corizon's *respondeat superior* liability is denied,
- That part of Corizon defendants' motion seeking summary judgment on plaintiff's punitive damages claim against Wahabu is granted, and
- Those unopposed parts of Corizon defendants' motion seeking summary judgment on plaintiff's municipal liability and corporate negligence claims against Corizon are granted.

(3) Plaintiff's Eighth Amendment deliberate indifference and *Monell* claims against City defendants and Corizon defendants are withdrawn with prejudice by agreement of plaintiff.

An appropriate Order follows.

[Query](#) [Reports ▼](#) [Utilities ▼](#) [Help](#) [Log Out](#)

RECAP Actions ▼

STANDARD

**United States District Court  
Eastern District of Pennsylvania (Philadelphia)  
CIVIL DOCKET FOR CASE #: 2:20-cv-04570-RBS**

McNamara v. CITY OF PHILADELPHIA et al  
Assigned to: HONORABLE R. BARCLAY SURRICK  
Referred to: MAGISTRATE JUDGE MARILYN HEFFLEY  
(Settlement)  
Cause: 42:1983 Civil Rights Act

Date Filed: 09/18/2020  
Jury Demand: Both  
Nature of Suit: 550 Prisoner Petitions: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Eileen McNamara**  
*as Administrator of the Estate of Jonathan  
Gleaves, Jr.*

represented by **JONATHAN H. FEINBERG**  
KAIRYS RUDOVSKY MESSING  
FEINBERG & LIN LLP  
THE CAST IRON BLDG STE 501 SOUTH  
718 ARCH STREET  
PHILADELPHIA, PA 19106  
215-925-4400  
Fax: 215-925-5365  
Email: [jfeinberg@krlawphila.com](mailto:jfeinberg@krlawphila.com)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****CITY OF PHILADELPHIA**

represented by **ANNE B. TAYLOR**  
CITY OF PHILA LAW DEPT  
1515 ARCH ST 14TH FL  
PHILADELPHIA, PA 19102  
215-683-5381  
Fax: 215-683-5397  
Email: [anne.taylor@phila.gov](mailto:anne.taylor@phila.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Katelyn Lori Mays**  
Ahmad Zaffarese LLC  
Law Department  
One South Broad  
18th Floor  
Philadelphia, PA 19107  
215-496-9373  
Email: [kmays@azlawllc.com](mailto:kmays@azlawllc.com)  
**ATTORNEY TO BE NOTICED**

**Defendant****CORIZON HEALTH**

represented by **THOMAS J. GREGORY**  
**O'CONNOR KIMBALL LLP**  
 TWO PENN CENTER - STE. 1100  
 1500 JOHN F KENNEDY BLVD  
 PHILADELPHIA, PA 19102  
 215-564-0400  
 Fax: 215-564-1973  
 Email: tgregory@okllp.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Gerald Slory**

represented by **ANNE B. TAYLOR**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Katelyn Lori Mays**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant****ELIZABETH BRADLEY**

represented by **THOMAS J. GREGORY**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Lalitha Trivikram**

represented by **THOMAS J. GREGORY**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Matu Gaye**




represented by **THOMAS J. GREGORY**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****JOHN DOE(S)**

Date Filed	#	Docket Text
09/18/2020	<a href="#">1</a> <b>R</b>	COMPLAINT against All Defendants ( Filing fee \$ 400 receipt number 0313-14574559.), filed by Eileen McNamara. (Attachments: # <a href="#">1</a> Civil Cover Sheet, # <a href="#">2</a> Case Management Track Form, # <a href="#">3</a> Designation Form)(FEINBERG, JONATHAN) (Entered: 09/18/2020)
09/18/2020		Summons Issued as to ELIZABETH BRADLEY, CITY OF PHILADELPHIA, CORIZON HEALTH, Matu Gaye, Gerald Slory, Lalitha Trivikram. E-MAILED To:

		COUNSEL on 9/18/2020 (bw, ) (Entered: 09/18/2020)
09/18/2020		DEMAND for Trial by Jury by Eileen McNamara. (JL) (Entered: 09/18/2020)
10/09/2020	<a href="#">2</a>	WAIVER OF SERVICE Returned Executed by Eileen McNamara. CITY OF PHILADELPHIA waiver sent on 10/7/2020, answer due 12/7/2020; Gerald Slory waiver sent on 10/7/2020, answer due 12/7/2020. (FEINBERG, JONATHAN) (Entered: 10/09/2020)
10/26/2020	<a href="#">3</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of CORIZON HEALTH with Certificate of Service(GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">4</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of ELIZABETH BRADLEY with Certificate of Service(GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">5</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of Matu Gaye with Certificate of Service(GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">6</a>	NOTICE of Appearance by THOMAS J. GREGORY on behalf of Lalitha Trivikram with Certificate of Service(GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">7</a>	WAIVER OF SERVICE Returned Executed by ELIZABETH BRADLEY. ELIZABETH BRADLEY waiver sent on 10/1/2020, answer due 11/30/2020. (GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">8</a>	WAIVER OF SERVICE Returned Executed by CORIZON HEALTH. CORIZON HEALTH waiver sent on 10/1/2020, answer due 11/30/2020. (GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">9</a>	WAIVER OF SERVICE Returned Executed by Matu Gaye. Matu Gaye waiver sent on 10/1/2020, answer due 11/30/2020. (GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">10</a>	WAIVER OF SERVICE Returned Executed by Lalitha Trivikram. Lalitha Trivikram waiver sent on 10/1/2020, answer due 11/30/2020. (GREGORY, THOMAS) (Entered: 10/26/2020)
10/26/2020	<a href="#">11</a>	Disclosure Statement Form pursuant to FRCP 7.1 with Certificate of Service by CORIZON HEALTH.(GREGORY, THOMAS) (Entered: 10/26/2020)
11/30/2020	<a href="#">12</a>	ANSWER to Complaint <i>with Certificate of Service</i> by CITY OF PHILADELPHIA, Gerald Slory.(TAYLOR, ANNE) (Entered: 11/30/2020)
12/02/2020	<a href="#">13</a>	ANSWER to Complaint by ELIZABETH BRADLEY, CORIZON HEALTH, Matu Gaye, Lalitha Trivikram.(GREGORY, THOMAS) (Entered: 12/02/2020)
12/03/2020	<a href="#">14</a>	ORDER THAT AN INITIAL PRETRIAL CONFERENCE WILL BE HELD ON 12/14/2020, AT 2:00 PM, VIA TELEPHONE, BEFORE HONORABLE R. BARCLAY SURRICK, ETC. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 12/3/20. 12/3/20 ENTERED AND COPIES E-MAILED.(amas, ) (Entered: 12/03/2020)
12/09/2020	<a href="#">15</a>	Discovery Plan by Eileen McNamara.(FEINBERG, JONATHAN) (Entered: 12/09/2020)
12/15/2020	<a href="#">16</a>	Minute Entry for proceedings held before HONORABLE R. BARCLAY SURRICK. Re: An Initial Pretrial Telephone Conference was held on 12/14/20. (fdc) (Entered: 12/15/2020)
12/15/2020	<a href="#">17</a>	SCHEDULING ORDER.ORDER THAT A SETTLEMENT CONFERENCE WITH MAGISTRATE JUDGE LYNNE A. SITARSKI WILL BE SCHEDULED AT THE REQUEST OF COUNSEL. A FINAL PRETRIAL CONFERENCE SET FOR 1/6/22 AT 11:00 AM IN CHAMBERS BEFORE HONORABLE R. BARCLAY SURRICK.

		DISCOVERY DUE BY 7/30/21. DISPOSITIVE MOTIONS DUE BY 9/30/21. MOTIONS IN LIMINE DUE BY 12/9/21. TRIAL DATE SET FOR 1/10/22 AT 9:30 AM IN COURTROOM 8-A BEFORE HONORABLE R. BARCLAY SURRICK. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 12/15/20. 12/15/20 ENTERED & E-MAILED.(fdc) (Entered: 12/15/2020)
05/28/2021	<a href="#">18</a>	Consent MOTION for Extension of Time to Complete Discovery filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 05/28/2021)
06/01/2021	<a href="#">19</a>	AMENDED SCHEDULING ORDER THAT A SETTLEMENT CONFERENCE WITH MAGISTRATE JUDGE LYNNE A. SITARSKI WILL BE SCHEDULED AT THE REQUEST OF COUNSEL. ALL FACT AND EXPERT DISCOVERY SHALL BE COMPLETED BY 10/29/21. MOTIONS IN LIMINE ARE DUE BY 3/3/22. DISPOSITIVE MOTIONS ARE DUE BY 12/30/21. A FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR 4/7/22 AT 11:00 A.M.. TRIAL IS SCHEDULED FOR 4/11/22 AT 9:30 A.M.; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 6/1/21. 6/1/21 ENTERED AND E-MAILED.(JL ) (Entered: 06/01/2021)
08/31/2021	<a href="#">20</a>	Second MOTION for Extension of Time to Complete Discovery filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 08/31/2021)
09/02/2021	<a href="#">21</a>	SECOND AMENDED SCHEDULING ORDER. ORDER THAT A SETTLEMENT CONFERENCE WITH MAGISTRATE JUDGE LYNNE A. SITARSKI WILL BE SCHEDULED AT THE REQUEST OF COUNSEL. A FINAL PRETRIAL CONFERENCE IS SET FOR 8/11/22 AT 3:00 PM IN JUDGE'S CHAMBERS BEFORE HONORABLE R. BARCLAY SURRICK. DISCOVERY DUE BY 1/28/22. MOTIONS DUE BY 3/20/22. MOTION IN LIMINE DUE BY 6/9/22. TRIAL DATE SET FOR 8/15/22 09:30 AM IN COURTROOM 8A BEFORE HONORABLE R. BARCLAY SURRICK. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 9/2/21. 9/2/21 ENTERED & E-MAILED.(fdc) (Entered: 09/02/2021)
12/01/2021	<a href="#">22</a>	Joint MOTION for Extension of Time to Complete Discovery filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 12/01/2021)
12/02/2021	<a href="#">23</a>	THIRD AMENDED SCHEDULING ORDER. ORDER THAT A FINAL PRETRIAL CONFERENCE IS SET FOR 11/10/22 AT 11:00 AM IN JUDGE'S CHAMBERS BEFORE HONORABLE R. BARCLAY SURRICK. ALL FACT AND EXPERT DISCOVERY DUE BY 4/29/22. DISPOSITIVE MOTIONS ARE DUE BY 7/1/22. MOTIONS IN LIMINE ARE DUE BY 10/6/22. TRIAL DATE SET FOR 11/14/22 AT 9:30 AM IN COURTROOM 8A BEFORE HONORABLE R. BARCLAY SURRICK. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 12/2/21. 12/2/21 ENTERED & E-MAILED.(fdc) (Entered: 12/02/2021)
03/01/2022	<a href="#">24</a>	Joint MOTION for Extension of Time to Complete Discovery filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 03/01/2022)
04/08/2022	<a href="#">25</a>	ORDER THAT UPON CONSIDERATION OF THE LETTERS THAT PLAINTIFF AND DEFENDANT CORIZON HEALTH HAVE SUBMITTED TO CHAMBERS VIA EMAIL REGARDING A DISCOVERY DISPUTE, IT IS ORDERED THAT, WITHIN TWENTY-ONE (21) DAYS OF THE DATE OF THIS ORDER, PLAINTIFF AND DEFENDANT CORIZON HEALTH SHALL SUBMIT BRIEFS ON THE OUTSTANDING DISCOVERY DISPUTE, ETC. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 4/8/22. 4/8/22 ENTERED AND COPIES E-MAILED.(ti) (Entered: 04/08/2022)

04/08/2022	<a href="#">26</a>	FOURTH AMENDED SCHEDULING ORDER THAT A SETTLEMENT CONFERENCE WITH MAGISTRATE JUDGE MARILYN HEFFLEY WILL BE SCHEDULED AT THE REQUEST OF COUNSEL. ALL FACT AND EXPERT DISCOVERY SHALL BE COMPLETED NO LATER THAN 6/28/2022. DISPOSITIVE MOTIONS SHALL BE FILED NO LATER THAN 8/30/2022. MOTIONS IN LIMINE SHALL BE FILED NO LATER THAN 12/5/2022. A FINAL PRETRIAL CONFERENCE IS SCHEDULED 1/12/2023, AT 12:00 PM IN CHAMBERS. TRIAL IS SCHEDULED FOR 1/16/2023, AT 9:30 AM IN COURTROOM 8-A, ETC. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 4/8/22. 4/8/22 ENTERED AND COPIES E-MAILED.(ti) (Entered: 04/08/2022)
04/28/2022	<a href="#">27</a>	Memorandum of Law <i>in Opposition to Plaintiff's Motion to Compel Production of Mortality Review</i> by ELIZABETH BRADLEY, CORIZON HEALTH, Matu Gaye, Lalitha Trivikram. (Attachments: # <a href="#">1</a> Certificate of Service) (GREGORY, THOMAS) (Entered: 04/28/2022)
04/29/2022	<a href="#">28</a>	Memorandum of Law in Support of Request to Produce Mortality Review Documents by Eileen McNamara. (Attachments: # <a href="#">1</a> Exhibit A, B, C, D) (FEINBERG, JONATHAN) (Entered: 04/29/2022)
04/29/2022	<a href="#">29</a>	Consent MOTION for Extension of Time to Complete Discovery filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 04/29/2022)
05/03/2022	<a href="#">30</a>	ORDER THAT FIFTH MOTION TO EXTEND DISCOVERY DEADLINES IS GRANTED, AND ALL DEADLINES SET FORTH IN THE COURT'S FOURTH AMENDED SCHEDULING ORDER OF 4/8/22 SHALL BE EXTENDED BY 90 DAYS; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 5/3/22. 5/3/22 ENTERED AND E-MAILED.(JL) (Entered: 05/03/2022)
05/03/2022	<a href="#">31</a>	FIFTH SCHEDULING ORDER THAT A SETTLEMENT CONFERENCE WITH MAGISTRATE JUDGE HEFFLEY WILL BE SCHEDULED AT THE REQUEST OF COUNSEL. ALL FACT AND EXPERT DISCOVERY SHALL BE COMPLETED BY 9/26/22. DISPOSITIVE MOTIONS ARE DUE BY 11/28/22. MOTIONS IN LIMINE ARE DUE BY 3/5/23. A FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR 4/13/23 AT 12:00 P.M. IN CHAMBERS. TRIAL IS SCHEDULED FOR 4/17/23 AT 9:30 A.M. IN COURTROOM 8-A; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 5/3/22. 5/3/22 ENTERED AND E-MAILED.(JL) (Entered: 05/03/2022)
06/14/2022	<a href="#">32</a> 	NOTICE of Appearance by Katelyn Lori Mays on behalf of CITY OF PHILADELPHIA, Gerald Slory with Certificate of Service(Mays, Katelyn) (Entered: 06/14/2022)
06/30/2022	<a href="#">33</a> 	MEMORANDUM; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 6/30/22. 6/30/22 ENTERED AND E-MAILED.(JL) (Entered: 06/30/2022)
06/30/2022	<a href="#">34</a> 	ORDER THAT PLAINTIFF EILEEN MCNAMERA'S MEMORANDUM OF LAW IN SUPPORT OF REQUEST TO PRODUCE MORTALITY REVIEW DOCUMENTS IS GRANTED; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 6/30/22. 6/30/22 ENTERED AND E-MAILED.(JL) (Entered: 06/30/2022)
08/31/2022	<a href="#">35</a>	Sixth MOTION for Extension of Time to Complete Discovery ( <i>Joint</i> ) filed by Eileen McNamara..(FEINBERG, JONATHAN) (Entered: 08/31/2022)
09/13/2022	<a href="#">36</a>	SIXTH AMENDED SCHEDULING ORDER THAT THE PARTIES SIXTH JOINT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY IS GRANTED. ALL FACT AND EXPERT DISCOVERY SHALL BE COMPLETED NO LATER THAN 12/27/22. DISPOSITIVE MOTIONS SHALL BE FILED BY 1/31/23. MOTIONS IN LIMINE ARE DUE BY 5/15/23. A FINAL PRETRIAL CONFERENCE

		IS SCHEDULED FOR 6/8/23 AT 12:00 P.M.. TRIAL IS SCHEDULED FOR 6/12/23 AT 9:30 A.M. IN COURTROOM 8-A; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 9/13/22. 9/13/22 ENTERED AND E-MAILED.(JL) (Entered: 09/13/2022)
01/31/2023	<a href="#">37</a>	MOTION to Seal <i>Exhibits in Support of Motion for Summary Judgment</i> filed by CITY OF PHILADELPHIA, Gerald Slory.Memorandum, Certificate of Service.(Mays, Katelyn) (Entered: 01/31/2023)
01/31/2023	<a href="#">38</a>	MOTION for Summary Judgment filed by CITY OF PHILADELPHIA, Gerald Slory.Memorandum, Certificate of Service. (Attachments: # <a href="#">1</a> Appendix Statement of Facts, # <a href="#">2</a> Exhibit A, # <a href="#">3</a> Exhibit B, # <a href="#">4</a> Exhibit C, # <a href="#">5</a> Exhibit D, # <a href="#">6</a> Exhibit E, # <a href="#">7</a> Exhibit F, # <a href="#">8</a> Exhibit G, # <a href="#">9</a> Exhibit H, # <a href="#">10</a> Exhibit I, # <a href="#">11</a> Exhibit J, # <a href="#">12</a> Exhibit K, # <a href="#">13</a> Exhibit L, # <a href="#">14</a> Exhibit M, # <a href="#">15</a> Exhibit N, # <a href="#">16</a> Exhibit O, # <a href="#">17</a> Exhibit P, # <a href="#">18</a> Exhibit Q, # <a href="#">19</a> Exhibit R)(Mays, Katelyn) (Entered: 01/31/2023)
01/31/2023	<a href="#">39</a>	EXHIBITS by CITY OF PHILADELPHIA, Gerald Slory.. (FILED UNDER SEAL) (lvj) (Additional attachment(s) added on 2/1/2023: # <a href="#">1</a> Exhibit SEALED EXHIBIT, # <a href="#">2</a> Exhibit SEALED EXHIBIT, # <a href="#">3</a> Exhibit SEALED EXHIBIT, # <a href="#">4</a> Exhibit SEALED EXHIBIT, # <a href="#">5</a> Exhibit SEALED EXHIBIT, # <a href="#">6</a> Exhibit SEALED EXHIBIT, # <a href="#">7</a> Exhibit SEALED EXHIBIT) (lvj). (Entered: 02/01/2023)
02/01/2023	<a href="#">40</a>	ORDER THAT DEFENDANTS UNOPPOSED MOTION TO FILE UNDER SEAL IS GRANTED TO PRESERVE THE CONFIDENTIALITY OF SENSITIVE MEDICAL INFORMATION OF PLAINTIFF; ETC.. SIGNED BY HONORABLE R. BARCLAY SURRICK ON 2/1/23.2/2/23 ENTERED AND E-MAILED.(JL) (Entered: 02/02/2023)
02/16/2023	<a href="#">41</a>	SUGGESTION OF BANKRUPTCY by ELIZABETH BRADLEY, CORIZON HEALTH, Matu Gaye, Lalitha Trivikram under Chapter Number 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Texas filed under case number 23-90086 . (GREGORY, THOMAS) (Entered: 02/16/2023)
02/28/2023	<a href="#">42</a>	RESPONSE in Opposition re <a href="#">38</a> MOTION for Summary Judgment filed by Eileen McNamara. (Attachments: # <a href="#">1</a> Text of Proposed Order, # <a href="#">2</a> Plaintiffs Statement of Facts in Support of Opposition to Defendant Slorys Motion for Summary Judgment, # <a href="#">3</a> Plaintiffs Response to Defendant Slorys Statement of Facts in Support of Motion for Summary Judgment, # <a href="#">4</a> Exhibit 1 - Trivikram Deposition, # <a href="#">5</a> Exhibit 2 - McCall Report)(FEINBERG, JONATHAN) (Entered: 02/28/2023)

PACER Service Center			
Transaction Receipt			
02/28/2023 21:34:13			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	2:20-cv-04570-RBS
Billable Pages:	5	Cost:	0.50

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>EILEEN A. MCNAMARA, as</b>	:	
<b>Administrator of the ESTATE OF</b>	:	
<b>JONATHAN GLEAVES, JR.,</b>	:	<b>CIVIL ACTION</b>
	:	
<b>Plaintiff,</b>	:	<b>No. _____</b>
	:	
<b>v.</b>	:	<b>JURY TRIAL DEMANDED</b>
	:	
<b>CITY OF PHILADELPHIA; CORIZON</b>	:	
<b>HEALTH; GERALD SLORY;</b>	:	
<b>ELIZABETH BRADLEY; LALITHA</b>	:	
<b>TRIVIKRAM; MATU GAYE; JOHN</b>	:	
<b>DOE(S),</b>	:	
	:	
<b>Defendants.</b>	:	
	:	

## COMPLAINT

## I. PRELIMINARY STATEMENT

1. This is a civil rights survival and wrongful death action brought under 42 U.S.C. § 1983 and raising supplemental state-law claims concerning the defendants' deliberate indifference and negligence in failing to ensure necessary emergency treatment for 33-year-old Jonathan Gleaves, Jr., while he was suffering the medical consequences of drug intoxication. As a result of the defendants' failure to ensure appropriate protective measures, Mr. Gleaves died less than 24 hours after he was admitted to the Philadelphia Department of Prisons. Plaintiff Elaine A. McNamara now seeks on behalf of Mr. Gleaves's estate and heirs damages for the substantial pain and suffering, financial losses, and loss of life caused by the defendants' conduct.

## II. JURISDICTION

2. This Court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 1367(a).

### III. PARTIES

3. Jonathan Gleaves, Jr. (“Mr. Gleaves”), who was at all times relevant to this Complaint a resident of Philadelphia, Pennsylvania, died on September 21, 2018. At the time of his death, he was 33 years old.

4. Plaintiff Elaine A. McNamara, (hereinafter, “plaintiff” or “Ms. McNamara”) is the mother-in-law of Mr. Gleaves. On March 26, 2019, plaintiff was appointed as the Administrator of the Estate of Jonathan Gleaves, Jr., by the Office of the Register of Wills of Philadelphia County. Plaintiff brings this action in her capacity as Administrator of the Estate and for the benefit of Mr. Gleaves’s heirs.

5. Defendant City of Philadelphia is a municipal government entity in the Commonwealth of Pennsylvania, which manages and oversees the Philadelphia Department of Prisons.

6. Defendant Corizon Health, with a principal place of business in Brentwood, Tennessee, was, at all times relevant to this Complaint, the holder of a contract to provide medical services at the Philadelphia Department of Prisons.

7. At all times relevant to this Complaint, defendant Gerald Slory was employed by the Philadelphia Department of Prisons as a Correctional Officer assigned to the Curran-Fromhold Correctional Facility.

8. At all times relevant to this Complaint, defendant Elizabeth Bradley was employed as a physician by defendant Corizon Health and assigned to provide medical services at the Curran-Fromhold Correctional Facility.

9. At all times relevant to this Complaint, defendant Lalitha Trivikram was employed as a physician by defendant Corizon Health and assigned to provide medical services at the Curran-Fromhold Correctional Facility.

10. At all times relevant to this Complaint, defendant Matu Gaye was employed as a registered nurse by defendant Corizon Health and assigned to provide medical services at the Curran-Fromhold Correctional Facility.

11. At all times relevant to this Complaint, defendants John Doe(s) were employed by defendant City of Philadelphia and/or defendant Corizon Health and are, where appropriate, identified by their employer (“Corizon Doe(s)” or “City Doe(s)”). Plaintiff does not currently know the identity of these defendants but will seek leave to amend this Complaint to properly name the defendants after the completion of preliminary discovery.

12. At all times relevant to this Complaint, all defendants acted under color of state law.

13. At all times relevant to this Complaint, defendants Bradley, Trivikram, Gaye, and Corizon Doe(s) were acting as agents, servants, and/or employees of defendant Corizon Health, were acting within the scope and course of their employment, and were acting under the direct control and supervision of defendant Corizon Health.

14. At all times relevant to this Complaint, all defendants acted in concert and conspiracy and were jointly and severally responsible for the harms caused to Mr. Gleaves.

#### IV. FACTUAL ALLEGATIONS

15. In the evening of September 19, 2018, Jonathan Gleaves, Jr., was taken into custody by Philadelphia police on a warrant related to minor drug possession charges.

16. In the afternoon of September 20, 2018, Mr. Gleaves was admitted to Curran-Fromhold Correctional Facility (“CFCF”), the main intake facility for men in the Philadelphia Department of Prisons.

17. On arrival, Mr. Gleaves informed correctional and medical staff that he had struggled with substance abuse and that he had been a frequent user of heroin, fentanyl, and Xanax.

18. As of September 2018, the City of Philadelphia and Corizon Health were aware that persons incarcerated in the Philadelphia Department of Prisons frequently experienced substance abuse problems, and, further, that these problems could result in serious medical consequences, including death.

19. Accordingly, as of September 2018, the City of Philadelphia and Corizon Health were aware that persons with substance abuse issues who were admitted to Philadelphia Department of Prisons facilities required close and frequent monitoring in order to ensure timely intervention in the event of a serious and dangerous medical condition.

20. In the evening of September 20, 2018, Mr. Gleaves had a medical intake appointment with defendants Elizabeth Bradley, MD, and Matu Gaye, RN.

21. In that appointment, Mr. Gleaves gave Bradley and Gaye a specific account of his substance abuse history, including his regular daily usage of heroin, Xanax, and fentanyl.

22. As a result, Bradley and Gaye were aware that Mr. Gleaves was at risk of serious medical consequences or death and that appropriate monitoring was required.

23. Despite that knowledge, Bradley and Gaye failed to order any monitoring of Mr. Gleaves's medical condition.

24. To the extent Bradley and Gaye's directives did require medical monitoring of Mr. Gleaves, defendant John Doe(s) were responsible for the failure to carry out such monitoring.

25. After his medical appointment, in the early morning hours of September 21, 2018, Mr. Gleaves was assigned to a cell in the quarantine unit of CFCF.

26. The quarantine unit is a location specifically designed for the housing of people newly admitted to the facility.

27. The City of Philadelphia was aware that persons housed in the quarantine unit have an elevated risk of experiencing serious medical conditions and that this risk is especially pronounced for those persons with substance abuse issues who have experienced a sudden stoppage of regular usage due to arrest and imprisonment.

28. Accordingly, the City of Philadelphia was aware that it was necessary to ensure close monitoring of persons housed in the quarantine unit.

29. Despite that knowledge, in September 2018, the City of Philadelphia failed to provide for such monitoring in at least two different respects.

30. First, the City failed to ensure that cells in the quarantine unit had working alarm buttons—that is, buttons persons housed in a cell could press to alert officers to an emergency situation.

31. To the extent cells did have working alarm buttons, the City failed to ensure that correctional officers were advised of their duty to respond to alerts from the pressing of such buttons.

32. Second, the City failed to ensure that its officers conducted regular tours of the housing unit to assess the health and safety of persons housed in that unit.

33. The cell that Mr. Gleaves was placed in on September 21, 2018, was occupied by another person, T.T.

34. Within a few hours, T.T. noticed that Mr. Gleaves appeared to be suffering from serious medical consequences related to his substance abuse issues, including vomiting and diarrhea. T.T. observed that Mr. Gleaves appeared to be experiencing severe pain and discomfort, as he was constantly moaning.

35. Eventually, T.T. observed that Mr. Gleaves grew quiet and was making no sounds whatsoever.

36. After observing Mr. Gleaves, T.T. grew concerned about his medical condition.

37. T.T. pressed the alarm button in the cell.

38. During the early morning hours of September 21, 2018, defendants Slory and City Doe(s) were assigned to monitor persons housed in the quarantine unit at CFCF.

39. When T.T. pressed the alarm button in the cell he shared with Mr. Gleaves, defendants Slory and City Doe(s) were not alerted to the emergency situation because they had turned off the alarm system.

40. Alternatively, defendants Slory and City Doe(s) failed to respond to the alarm initiated by T.T. because they followed a practice of ignoring requests for emergency assistance.

41. In addition to failing to respond to the alarm, defendants Slory and City Doe(s) failed to adhere to their responsibility to conduct regular tours of the quarantine housing unit.

42. As a result, Mr. Gleaves was left in his cell suffering from a medical emergency without necessary medical intervention.

43. At approximately 7:00 a.m. on September 21, 2018, defendants Slory and City Doe(s) completed their shift. A new shift of officers entered the unit.

44. Within a few minutes of the start of the 7:00 a.m. shift, an officer walked by Mr. Gleaves's cell and noticed that he was lying naked on his bunk and not moving.

45. When the officer entered the cell, she saw that Mr. Gleaves had a white foamy substance surrounding his mouth.

46. Mr. Gleaves was awake and could respond to stimuli, but he could not speak.

47. It was obvious that Mr. Gleaves was suffering from a serious medical condition and that he needed emergency medical treatment.

48. The officers summoned medical attention for Mr. Gleaves.

49. The medical response to the medical emergency was directed by defendant Lalitha Trivikram, MD and Corizon Doe(s).

50. While understanding the severity of the situation, defendants Trivikram and Corizon Doe(s) failed to ensure immediate medical intervention for Mr. Gleaves.

51. The delay in care for Mr. Gleaves increased the risk to his health and safety and increased the severity of his medical situation.

52. Mr. Gleaves was later that morning transferred to Nazareth Hospital and then to Hahnemann University Hospital.

53. On arrival, diagnostic testing showed that Mr. Gleaves had suffered an apparent stroke-like condition which, given his substance abuse, was likely caused by his ingestion of drugs.

54. Despite medical intervention, Mr. Gleaves's condition worsened substantially.

55. Shortly after 1:00 pm Mr. Gleaves's heart stopped and he could not be revived. He was pronounced dead at 1:05 pm.

56. An autopsy was conducted and concluded that Mr. Gleaves' death was caused by "drug intoxication."

57. Mr. Gleaves's death could and would have been prevented had there been earlier intervention to address his serious medical consequences after he was placed in his cell in the early morning hours of September 21, 2018.

58. The delay in intervention for Mr. Gleaves was the direct and proximate result of the actions and inactions, with deliberate indifference, of defendants Slory, Bradley, Trivikram, Gaye, and Doe(s).

59. The failures of these defendants to act in such a way as to ensure appropriate intervention for Mr. Gleaves were due to the failure of defendants City of Philadelphia and Corizon Health, with deliberate indifference, to establish appropriate policies, practices, procedures, and training regarding the protection of persons admitted to the Philadelphia Department of Prisons facilities with substance abuse issues.

60. At all relevant times, all defendants were aware of Mr. Gleaves's serious medical needs and failed, with deliberate indifference, to ensure that Mr. Gleaves received needed evaluation and treatment.

61. In the alternative, defendants made an intentional decision with regard to Mr. Gleaves's medical care which placed Mr. Gleaves at substantial risk of suffering serious harm. These defendants did not take reasonable available measures to abate that risk, even though a reasonable correctional officer and/or nurse in the circumstances would have appreciated the

high degree of risk involved, thereby making the consequences of the defendants' conduct obvious.

62. At all times relevant to this Complaint, the conduct of all defendants was in willful, reckless, and callous disregard of Mr. Gleaves's rights under federal and state law.

63. As a direct and proximate result of the conduct of all defendants, Mr. Gleaves experienced enormous physical and emotional pain and suffering.

64. As a direct and proximate result of the conduct of all defendants, Mr. Gleaves was caused to lose the enjoyment of his life and was also caused to suffer complete loss of earnings and earning capacity.

#### **V. WRONGFUL DEATH AND SURVIVAL ACTIONS**

65. Plaintiff, as Administrator of the Estate of Jonathan Gleaves, Jr., brings this action on behalf of Mr. Gleaves's heirs under the Pennsylvania Wrongful Death Act, 42 Pa. C.S. § 8301.

66. Mr. Gleaves's heirs under the Wrongful Death Act are:

- a. Mr. Gleaves's wife, J.M.,
- b. His 16-year-old son, J.G., who resides with his mother, J.M.,
- c. His 11-year-old son, J.G., who resides with his mother, J.M., and
- d. His 5-year-old daughter, J.G., who resides with her mother, J.M.,

67. Mr. Gleaves did not bring an action against defendants for damages for the injuries causing his death during his lifetime.

68. Mr. Gleaves's heirs have, by reason of Mr. Gleaves's death, suffered pecuniary loss, and have or will incur expenses for the costs of Mr. Gleaves's funeral, the costs of Mr. Gleaves's headstone, and the costs of administering Mr. Gleaves's estate.

69. Mr. Gleaves's heirs have, by reason of Mr. Gleaves's death, suffered further pecuniary loss including expected contributions and financial support from Mr. Gleaves for food, clothing, shelter, medical care, education, entertainment, recreation and gifts.

70. Plaintiff also brings this action on behalf of the Estate of Jonathan Gleaves, Jr., under the Pennsylvania Survival Statute, 42 Pa. C.S. § 8302, under which all claims Mr. Gleaves would have been able to bring had he survived may be brought by Mr. Gleaves's estate.

71. Mr. Gleaves's estate has, by reason of Mr. Gleaves's death, suffered pecuniary loss, and has or will incur expenses for the costs of Mr. Gleaves's funeral, the costs of Mr. Gleaves's headstone, and the costs of administering Mr. Gleaves's estate.

72. As a direct and proximate result of the conduct of all defendants, Mr. Gleaves experienced extraordinary physical and emotional pain and suffering before his death, and, as a result of his death, suffered complete loss of earnings and earnings capacity.

73. Plaintiff, via this survival action, seeks damages for these harms caused to Mr. Gleaves.

## VI. CLAIMS FOR RELIEF

### COUNT I

#### **Plaintiff v. Defendants Slory, Bradley, Trivikram, Gaye, and Doe(s) Federal Constitutional Claims**

74. Defendants Slory, Bradley, Trivikram, Gaye, and Doe(s) were deliberately indifferent to Mr. Gleaves's serious medical needs and thereby violated Mr. Gleaves's right to be free from cruel and unusual punishment under the Eighth Amendment to the United States Constitution and/or Mr. Gleaves's right to due process of law under the Fourteenth Amendment to the United States Constitution.

**COUNT II**  
**Plaintiff v. Defendants City of Philadelphia and Corizon Health**  
**Federal Constitutional Claims**

75. The violations of Mr. Gleaves's constitutional rights under the Eighth and/or Fourteenth Amendments to the United States Constitution, plaintiff's damages, and the conduct of the individual defendants were directly and proximately caused by the actions and/or inactions of defendants City of Philadelphia and Corizon Health, which have, with deliberate indifference, failed to establish policies, practices, procedures and training regarding the protection of persons with substance abuse issues admitted to Philadelphia Department of Prisons facilities.

**COUNT III**  
**Plaintiff v. Defendants Bradley, Trivikram, Gaye, Doe(s) and Corizon Health**  
**State Law Negligence Claims**

76. Defendants Bradley, Trivikram, Gaye, and Doe(s) had a duty to comply with generally accepted medical standards of care in their medical treatment of Mr. Gleaves.

77. Defendant Corizon Health had a duty to establish policies, practices and procedures to ensure that persons in the position of Mr. Gleaves received proper monitoring and emergency treatment

78. Defendants Bradley, Trivikram, Gaye, and Doe(s) violated their respective duties of care to Mr. Gleaves.

79. The defendants' violation of their duty of care to Mr. Gleaves was a direct and proximate cause and a substantial factor in bringing about Mr. Gleaves's damages as outlined above, and, as a result, defendants are liable to plaintiff.

80. Because defendants Bradley, Trivikram, Gaye, and Doe(s) were acting as agents, servants, and/or employees of defendant Corizon Health, and because these individual defendants were acting within the scope and course of their employment, and under the direct

control and supervision of defendant Corizon Health, defendant Corizon Health is, likewise, liable to plaintiff on the basis of *respondeat superior* liability.

## **VI. REQUESTED RELIEF**

**Wherefore**, plaintiff respectfully requests:

- A. Compensatory damages as to all defendants;
- B. Punitive damages as to defendants Corizon Health, Slory, Bradley, Trivikram, Gaye, Doe(s);
- C. Reasonable attorney's fees and costs;
- D. Such other and further relief as may appear just and appropriate.

Plaintiff hereby demands a jury trial.

/s/ Jonathan H. Feinberg \_\_\_\_\_  
Jonathan H. Feinberg  
I.D. No. 88227  
KAIRYS, RUDOVSKY, MESSING,  
FEINBERG & LIN LLP  
The Cast Iron Building  
718 Arch Street, Suite 501 South  
Philadelphia, PA 19106  
215-925-4400  
215-925-5365 (fax)  
jfeinberg@krlawphila.com

*Counsel for Plaintiff*

[Query](#) [Reports ▼](#) [Utilities ▼](#) [Help](#) [Log Out](#)

RECAP Actions ▼

SMV22, STAYED

**U.S. District Court**  
**United States District Court - District of New Mexico (Las Cruces)**  
**CIVIL DOCKET FOR CASE #: 2:19-cv-00603-MV-GBW**

Realí v. Board of County Commissioners for the County of Dona  
Ana et al  
Assigned to: District Judge Martha Vazquez  
Referred to: Chief Magistrate Judge Gregory B. Wormuth  
Cause: 42:1983 Civil Rights Act

Date Filed: 06/28/2019  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****Antonio Realí**

represented by **Matthew Coyte**  
Coyte Law, PC  
Suite 2  
3800 Osuna Rd NE  
Albuquerque, NM 87109  
(505) 244-3030  
Fax: (505) 672-7088  
Email: mcoyte@me.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Alyssa D Quijano**  
Ives & Flores, P.A.  
925 Luna Cir. NW  
Albuquerque, NM 87102  
505-364-3858  
Email: alyssa.q@nmcivilrights.com  
*TERMINATED: 08/31/2021*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant****Board of County Commissioners for the  
County of Dona Ana**

represented by **Damian L Martinez**  
Mynatt Martinez Springer P.C.  
P.O. Box 2699  
Las Cruces, NM 88004-2699  
(575) 524-8812  
Fax: (575) 524-0726  
Email: dlm@mmslawpc.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Blaine T. Mynatt**

Mynatt Martinez Springer P.C.  
P.O. Box 2699  
Las Cruces, NM 88004  
575-524-8812  
Fax: 575-524-0726  
Email: btm@mmslawpc.com  
*ATTORNEY TO BE NOTICED*

**Bradley A. Springer**  
Mynatt Martinez Springer P.C.  
P.O. Box 2699  
Las Cruces, NM 88004  
575-524-8812  
Fax: 575-524-0726  
Email: bas@mmslawpc.com  
*ATTORNEY TO BE NOTICED*

**Haley R. Grant**  
Mynatt Martinez Springer P.C.  
Post Office Box 2699  
Las Cruces, NM 88004-2699  
575-524-8812  
Fax: 575-524-0726  
Email: hrg@mmslawpc.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Corizon Health, Inc.**

represented by **Henry John Paoli**  
Scott Hulse, P.C.  
P.O. Box 99123  
El Paso, TX 79999-9123  
(915) 533-2493  
Fax: (915) 546-8333  
Email: hpao@scotthulse.com  
*LEAD ATTORNEY*  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Christopher Barela**

represented by **Damian L Martinez**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Veronica Salazar**

represented by **Henry John Paoli**  
(See above for address)  
*LEAD ATTORNEY*  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Casey S Stevenson**  
Scott Hulse, PC

1100 Chase Tower  
201 E. Main Dr.  
El Paso, TX 79901  
915-533-2493  
Fax: 915-546-8333  
Email: cste@scotthulse.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**David Miller**

represented by **Henry John Paoli**  
(See above for address)  
*LEAD ATTORNEY*  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Casey S Stevenson**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Roslyn Strohm**

represented by **Henry John Paoli**  
(See above for address)  
*LEAD ATTORNEY*  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Casey S Stevenson**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Kevin Silva**

represented by **Damian L Martinez**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Bradley A. Springer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Haley R. Grant**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Chad Hill**

represented by **Damian L Martinez**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Bradley A. Springer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Haley R. Grant**

(See above for address)

*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
06/28/2019	<a href="#">1</a> <b>R</b>	COMPLAINT FOR THE RECOVERY OF DAMAGES CAUSED BY THE DEPRIVATION OF CIVIL RIGHTS against All Defendants ( Filing Fee - Online Payment), filed by Antonio Real. (Attachments: # <a href="#">1</a> Civil Cover Sheet)(Quijano, Alyssa) (Entered: 06/28/2019)
06/28/2019		Filing and Administrative Fees Received: \$ 400 receipt number 1084-6513602 re <a href="#">1</a> <b>R</b> Complaint filed by Antonio Real. (Payment made via Pay.gov)(Quijano, Alyssa) (Entered: 06/28/2019)
07/01/2019		Magistrate Judge Gregory J. Fouratt and Magistrate Judge Stephan M. Vidmar assigned. (khs) (Entered: 07/01/2019)
07/01/2019	<a href="#">2</a>	PLEASE TAKE NOTICE that this case has been randomly assigned to United States Magistrate Judge Gregory J. Fouratt to conduct dispositive proceedings in this matter, including motions and trial. Appeal from a judgment entered by a Magistrate Judge will be to the United States Court of Appeals for the Tenth Circuit. <b>It is the responsibility of the case filer to serve a copy of this Notice upon all parties with the summons and complaint.</b> <i>Consent is strictly voluntary, and a party is free to withhold consent without adverse consequences. Should a party choose to consent, notice should be made no later than 21 days after entry of the Order setting the Rule 16 Initial Scheduling Conference.</i> For e-filers, visit our Web site at <a href="http://www.nmd.uscourts.gov">www.nmd.uscourts.gov</a> for more information and instructions. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (khs) (Entered: 07/01/2019)
07/24/2019	<a href="#">3</a>	NOTICE of Appearance by Bradley A. Springer on behalf of Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva (Springer, Bradley) (Entered: 07/24/2019)
07/24/2019	<a href="#">4</a>	NOTICE of Appearance by Damian L Martinez on behalf of Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva (Martinez, Damian) (Entered: 07/24/2019)
08/07/2019	<a href="#">6</a>	WAIVER OF SERVICE Returned Executed by Board of County Commissioners for the County of Dona Ana as to Board of County Commissioners for the County of Dona Ana. (Springer, Bradley) (Entered: 08/07/2019)
08/07/2019	<a href="#">7</a>	WAIVER OF SERVICE Returned Executed by Kevin Silva as to Kevin Silva. (Springer, Bradley) (Entered: 08/07/2019)
08/08/2019		Summons Issued as to Christopher Barela, Corizon Health, Inc., Chad Hill, David Miller, Veronica Salazar, Roslyn Strohm. (jg) (Entered: 08/08/2019)
08/14/2019	<a href="#">9</a>	NOTICE of Appearance by Haley R. Grant on behalf of Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva (Grant, Haley) (Entered: 08/14/2019)
08/14/2019	<a href="#">10</a>	WAIVER OF SERVICE Returned Executed by Chad Hill as to Chad Hill. (Martinez, Damian) (Entered: 08/14/2019)

08/20/2019	12	<p>PLEASE TAKE NOTICE that this case has been reassigned to District Judge Martha Vazquez as the trial judge.</p> <p>Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.</p> <p><b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b></p> <p>Magistrate Judge Gregory J. Fouratt no longer assigned to this case.  <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (ln) (Entered: 08/20/2019)</p>
08/23/2019	13	<p>NOTICE REGARDING DOCUMENT ENTRIES: Because this case has been reassigned to a district judge, please be advised that any documents filed by the parties under Rule 73(b) have been permanently removed from the docket. Document(s) removed: Nos. 5, 8 and 11.  <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (kg) (Entered: 08/23/2019)</p>
09/06/2019	<a href="#">14</a>	Original ANSWER to <a href="#">1</a> <b>R</b> Complaint by Corizon Health, Inc.. Related document: <a href="#">1</a> <b>R</b> Complaint filed by Antonio Realí.(Paoli, Henry) (Entered: 09/06/2019)
09/06/2019	<a href="#">15</a>	NOTICE of Appearance by Henry John Paoli on behalf of Corizon Health, Inc. (Paoli, Henry) (Entered: 09/06/2019)
09/16/2019	<a href="#">16</a>	NOTICE of Appearance by Henry John Paoli on behalf of Corizon Health, Inc., David Miller, Veronica Salazar, Roslyn Strohm (Paoli, Henry) (Entered: 09/16/2019)
09/16/2019	<a href="#">17</a>	Original ANSWER to <a href="#">1</a> <b>R</b> Complaint by Veronica Salazar. Related document: <a href="#">1</a> <b>R</b> Complaint filed by Antonio Realí.(Paoli, Henry) (Entered: 09/16/2019)
09/16/2019	<a href="#">18</a>	Original ANSWER to <a href="#">1</a> <b>R</b> Complaint by David Miller. Related document: <a href="#">1</a> <b>R</b> Complaint filed by Antonio Realí.(Paoli, Henry) (Entered: 09/16/2019)
09/16/2019	<a href="#">19</a>	Original ANSWER to <a href="#">1</a> <b>R</b> Complaint by Roslyn Strohm. Related document: <a href="#">1</a> <b>R</b> Complaint filed by Antonio Realí.(Paoli, Henry) (Entered: 09/16/2019)
09/16/2019	<a href="#">20</a>	First Amended ANSWER to <a href="#">1</a> <b>R</b> Complaint by Corizon Health, Inc.. Related document: <a href="#">1</a> <b>R</b> Complaint filed by Antonio Realí.(Paoli, Henry) (Entered: 09/16/2019)
09/26/2019	<a href="#">21</a>	SUMMONS Returned Executed by Antonio Realí. Veronica Salazar served on 8/24/2019, answer due 9/16/2019. (Coyte, Matthew) (Entered: 09/26/2019)
09/26/2019	<a href="#">22</a>	SUMMONS Returned Executed by Antonio Realí. Roslyn Strohm served on 8/24/2019, answer due 9/16/2019. (Coyte, Matthew) (Entered: 09/26/2019)
09/26/2019	<a href="#">23</a>	SUMMONS Returned Executed by Antonio Realí. David Miller served on 8/24/2019, answer due 9/16/2019. (Coyte, Matthew) (Entered: 09/26/2019)
09/26/2019	<a href="#">24</a>	MOTION to Extend (other) <i>Time to Serve Defendant Barela</i> by Antonio Realí. (Attachments: # <a href="#">1</a> Exhibit 1: Letter Corizon Summons and Complaint, # <a href="#">2</a> Exhibit 2: Certified Return Receipt Service Corizon, # <a href="#">3</a> Exhibit 3 Affidavit of Service) (Coyte, Matthew) (Entered: 09/26/2019)
09/27/2019	25	ORDER by Magistrate Judge Stephan M. Vidmar GRANTING <a href="#">24</a> Plaintiff's Motion to Extend Time to Serve Defendant Barela until <b>December 26, 2019</b> . <a href="#">[THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.]</a> (am) (Entered: 09/27/2019)

10/07/2019	<a href="#"><u>26</u></a>	<i>Defendant Dona Ana County's</i> ANSWER to <a href="#"><u>1</u></a> <b>R</b> Complaint by Board of County Commissioners for the County of Dona Ana. Related document: <a href="#"><u>1</u></a> <b>R</b> Complaint filed by Antonio Realí.(Martinez, Damian) (Entered: 10/07/2019)
10/07/2019	<a href="#"><u>27</u></a>	<i>Defendant Silva's</i> ANSWER to <a href="#"><u>1</u></a> <b>R</b> Complaint by Kevin Silva. Related document: <a href="#"><u>1</u></a> <b>R</b> Complaint filed by Antonio Realí.(Martinez, Damian) (Entered: 10/07/2019)
10/09/2019	<a href="#"><u>28</u></a>	FILED IN ERROR- <i>Defendant Hill's</i> ANSWER to <a href="#"><u>1</u></a> <b>R</b> Complaint by Chad Hill. Related document: <a href="#"><u>1</u></a> <b>R</b> Complaint filed by Antonio Realí.(Martinez, Damian) Modified on 10/9/2019 (vv). (Entered: 10/09/2019)
10/09/2019	<a href="#"><u>29</u></a>	<i>Defendant Chad Hill's</i> ANSWER to <a href="#"><u>1</u></a> <b>R</b> Complaint by Chad Hill. Related document: <a href="#"><u>1</u></a> <b>R</b> Complaint filed by Antonio Realí.(Martinez, Damian) (Entered: 10/09/2019)
11/13/2019	<a href="#"><u>30</u></a>	Unopposed MOTION for Service by Publication of <i>Defendant Christopher Barela</i> by Antonio Realí. (Attachments: # <a href="#"><u>1</u></a> Exhibit 1, # <a href="#"><u>2</u></a> Exhibit 2, # <a href="#"><u>3</u></a> Exhibit 3) (Coyte, Matthew) (Entered: 11/13/2019)
12/03/2019	<a href="#"><u>31</u></a> <b>R</b>	MEMORANDUM OPINION AND ORDER by Magistrate Judge Stephan M. Vidmar DENYING without prejudice <a href="#"><u>30</u></a> Plaintiff's Motion for Service by Publication. (jcm) (Entered: 12/03/2019)
12/11/2019	<a href="#"><u>32</u></a>	WAIVER OF SERVICE Returned Executed by Christopher Barela as to Christopher Barela. (Martinez, Damian) (Entered: 12/11/2019)
01/21/2020	<a href="#"><u>33</u></a>	<i>Defendant Barela's</i> ANSWER to <a href="#"><u>1</u></a> <b>R</b> Complaint by Christopher Barela. Related document: <a href="#"><u>1</u></a> <b>R</b> Complaint filed by Antonio Realí.(Martinez, Damian) (Entered: 01/21/2020)
01/23/2020	<a href="#"><u>34</u></a>	ORDER by Magistrate Judge Stephan M. Vidmar SETTING telephonic Status Conference for <b>February 6, 2020, at 9:30 a.m.</b> Counsel must call Judge Vidmar's AT&T Conference Line at <b>(888) 363-4734 (access code: 4382538)</b> to connect to the proceedings. (jcm) (Entered: 01/23/2020)
02/06/2020	<a href="#"><u>35</u></a>	Clerk's Minutes for telephonic status conference held before Magistrate Judge Stephan M. Vidmar on February 6, 2020. (Recording Info: Liberty - Picacho Courtroom) (jcm) (Entered: 02/06/2020)
02/06/2020	<a href="#"><u>36</u></a>	INITIAL SCHEDULING ORDER by Magistrate Judge Stephan M. Vidmar. Joint Status Report is due by <b>March 19, 2020</b> . A telephonic Rule 16 Scheduling Conference is set for <b>April 9, 2020, at 9:30 a.m.</b> Counsel must call Judge Vidmar's AT&T Conference Line at <b>(888) 363-4734 (access code: 4382538)</b> to connect to the proceedings. (jcm) Modified on 2/6/2020 (rh). (Entered: 02/06/2020)
02/14/2020	<a href="#"><u>37</u></a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Initial Disclosures</i> (Quijano, Alyssa) (Entered: 02/14/2020)
02/19/2020	<a href="#"><u>38</u></a>	CERTIFICATE OF SERVICE by Board of County Commissioners for the County of Dona Ana <i>Initial Disclosures</i> (Martinez, Damian) (Entered: 02/19/2020)
02/20/2020	<a href="#"><u>39</u></a>	CERTIFICATE OF SERVICE by Corizon Health, Inc., David Miller, Veronica Salazar, Roslyn Strohm of <i>Initial Rule 26(a) Disclosures</i> (Paoli, Henry) (Entered: 02/20/2020)
02/28/2020	<a href="#"><u>40</u></a>	CERTIFICATE OF SERVICE by Antonio Realí <i>First Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 02/28/2020)
03/04/2020	<a href="#"><u>41</u></a>	CERTIFICATE OF SERVICE by Board of County Commissioners for the County of Dona Ana <i>First Supplemental Initial Disclosures</i> (Martinez, Damian) (Entered: 03/04/2020)

03/10/2020	<a href="#">42</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc., David Miller, Veronica Salazar, Roslyn Strohm (Paoli, Henry) (Entered: 03/10/2020)
03/17/2020	<a href="#">43</a> <b>R</b>	Joint Status Report by Antonio Reali (Quijano, Alyssa) (Entered: 03/17/2020)
04/07/2020	<a href="#">44</a>	CERTIFICATE OF SERVICE by Antonio Reali <i>Plaintiff's Second Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 04/07/2020)
04/09/2020	<a href="#">45</a>	Clerk's Minutes for telephonic Rule 16 Scheduling Conference held before Magistrate Judge Stephan M. Vidmar on April 9, 2020. (jcm) (Entered: 04/09/2020)
04/09/2020	<a href="#">46</a>	SCHEDULING ORDER by Magistrate Judge Stephan M. Vidmar. Discovery terminates <b>November 5, 2020</b> . Pretrial Motions due by <b>December 7, 2020</b> . Proposed Pretrial Order due to the Court by <b>February 5, 2021</b> . (jcm) (Entered: 04/09/2020)
04/09/2020	<a href="#">47</a>	CERTIFICATE OF SERVICE by Antonio Reali <i>Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission to Defendants</i> (Quijano, Alyssa) (Entered: 04/09/2020)
04/10/2020		Set Deadlines: Proposed Pretrial Order due by 1/22/2021. Pretrial Order due by 2/5/2021. (gr) (Entered: 04/10/2020)
04/20/2020	<a href="#">48</a>	CERTIFICATE OF SERVICE by Antonio Reali <i>Plaintiff's Answers to Medical Defendants' First Set of Interrogatories and Requests for Production of Documents</i> (Quijano, Alyssa) (Entered: 04/20/2020)
04/29/2020	<a href="#">49</a>	CERTIFICATE OF SERVICE by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva <i>of Defendants' Second Supplemental Initial Disclosures</i> (Martinez, Damian) (Entered: 04/29/2020)
04/30/2020	<a href="#">50</a>	CERTIFICATE OF SERVICE by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva <i>of Defendants' Third Supplemental Initial Disclosures</i> (Martinez, Damian) (Entered: 04/30/2020)
05/01/2020	<a href="#">51</a>	MOTION for Summary Judgment <i>on the Basis of Qualified Immunity</i> by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6, # <a href="#">7</a> Exhibit 7, # <a href="#">8</a> Exhibit 8, # <a href="#">9</a> Exhibit 9, # <a href="#">10</a> Exhibit 10, # <a href="#">11</a> Exhibit 11) (Martinez, Damian) (Entered: 05/01/2020)
05/01/2020	<a href="#">52</a>	NOTICE by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity of Filing Audio Visual Material</i> (Martinez, Damian) (Entered: 05/01/2020)
05/01/2020	<a href="#">53</a>	Unopposed MOTION to Stay re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity</i> by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva. (Martinez, Damian) (Entered: 05/01/2020)
05/01/2020	<a href="#">54</a>	NOTICE by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity of Errata</i> (Martinez, Damian) (Entered: 05/01/2020)
05/01/2020	<a href="#">55</a> <b>R</b>	STIPULATED ORDER by Magistrate Judge Stephan M. Vidmar GRANTING <a href="#">53</a> Unopposed Motion to Stay Pending Resolution of Qualified Immunity Defense (am) (Entered: 05/01/2020)

05/08/2020	<a href="#">56</a>	NOTICE by Antonio Reali <i>Notice of Extension of Briefing</i> (Quijano, Alyssa) (Entered: 05/08/2020)
05/21/2020	<a href="#">57</a>	Unopposed MOTION to Amend/Correct <i>Motion to Amend Complaint</i> by Antonio Reali. (Attachments: # <a href="#">1</a> Exhibit Exhibit 1 - Amended Complaint) (Quijano, Alyssa) (Entered: 05/21/2020)
05/27/2020	<a href="#">58</a>	STIPULATED ORDER by Magistrate Judge Stephan M. Vidmar GRANTING <a href="#">57</a> Plaintiff's Unopposed Motion to Amend the Complaint. Plaintiff must file the amended complaint no later than <b>June 3, 2020</b> . (jcm) (Entered: 05/27/2020)
05/27/2020	<a href="#">59</a> <b>R</b>	AMENDED COMPLAINT <i>Plaintiff's Amended Complaint for the Recovery of Damages Caused by the Deprivation of Civil Rights</i> against All Defendants., filed by Antonio Reali. (Quijano, Alyssa) (Entered: 05/27/2020)
05/28/2020	<a href="#">60</a>	Unopposed MOTION to Extend (other) <i>Page Limits</i> by Antonio Reali. (Quijano, Alyssa) (Entered: 05/28/2020)
05/29/2020	<a href="#">61</a>	ORDER EXTENDING PAGE LIMITS by District Judge Martha Vazquez GRANTING <a href="#">60</a> ORDER on Motion to Extend. WHEREFORE, it is Ordered, Adjudged, and Decreed that the Motion be granted, extending the briefing page limit for Plaintiff's Response to Defendants Board of County Commissioners for the County of Dona Ana, Christopher Barela, Kevin Silva, and Chad Hill's Motion for Summary Judgment to 30 pages. (gr) (Entered: 05/29/2020)
05/29/2020	<a href="#">62</a>	CERTIFICATE OF SERVICE by Antonio Reali <i>Plaintiff's Third Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 05/29/2020)
05/29/2020	<a href="#">63</a>	CERTIFICATE OF SERVICE by Antonio Reali <i>Plaintiff's First Supplemental Answers and Responses to Defendants Veronica Salazar, David Miller, Roslyn Strohm and Corizon Health, Inc.'s First Set of Interrogatories and Requests for Production to Plaintiff</i> (Quijano, Alyssa) (Entered: 05/29/2020)
06/01/2020	<a href="#">64</a>	RESPONSE in Opposition re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity Plaintiff's Response in Opposition to Defendants' Motion</i> filed by Antonio Reali. (Attachments: # <a href="#">1</a> Exhibit DACDC and Corizon Contract Oversight, # <a href="#">2</a> Exhibit Antonio Reali's Release Paperwork, # <a href="#">3</a> Exhibit Antonio Reali's Affidavit, # <a href="#">4</a> Exhibit DACDC SOPs, # <a href="#">5</a> Exhibit Rule 56(d) Affidavit, # <a href="#">6</a> Exhibit Antonio Reali's Medical Notes, # <a href="#">7</a> Exhibit July 3, 2017 Incident Report, # <a href="#">8</a> Exhibit Affidavit of Ross Hensel, # <a href="#">9</a> Exhibit Chad Hill's HR File, # <a href="#">10</a> Exhibit Kevin Silva's HR File, # <a href="#">11</a> Exhibit Christopher Barela's Criminal Complaint, # <a href="#">12</a> Exhibit Christopher Barela's HR File) (Quijano, Alyssa) (Entered: 06/01/2020)
06/08/2020	<a href="#">65</a>	NOTICE by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva re <a href="#">64</a> Response in Opposition to Motion,,, of <i>Extension to File Reply</i> (Martinez, Damian) (Entered: 06/08/2020)
06/09/2020	<a href="#">66</a>	<i>Board of County Commissioners for the County of Dona Ana's</i> ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Board of County Commissioners for the County of Dona Ana. (Martinez, Damian) (Entered: 06/09/2020)
06/09/2020	<a href="#">67</a>	<i>Christopher Barela's</i> ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Christopher Barela. (Martinez, Damian) (Entered: 06/09/2020)
06/09/2020	<a href="#">68</a>	<i>Kevin Silva's</i> ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Kevin Silva.(Martinez, Damian) (Entered: 06/09/2020)
06/09/2020	<a href="#">69</a>	<i>Chad Hill's</i> ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Chad Hill.(Martinez, Damian)

		(Entered: 06/09/2020)
06/09/2020	<a href="#">70</a>	Original ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Corizon Health, Inc..(Paoli, Henry) (Entered: 06/09/2020)
06/09/2020	<a href="#">71</a>	Original ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by David Miller.(Paoli, Henry) (Entered: 06/09/2020)
06/09/2020	<a href="#">72</a>	Original ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Roslyn Strohm.(Paoli, Henry) (Entered: 06/09/2020)
06/09/2020	<a href="#">73</a>	Original ANSWER to <a href="#">59</a> <b>R</b> Amended Complaint by Veronica Salazar.(Paoli, Henry) (Entered: 06/09/2020)
06/24/2020	<a href="#">74</a>	Unopposed MOTION for Leave to File Excess Pages to <i>Plaintiff's Response (Doc. 64)</i> by Board of County Commissioners for the County of Dona Ana. (Martinez, Damian) (Entered: 06/24/2020)
06/24/2020	<a href="#">75</a>	ORDER by District Judge Martha Vazquez GRANTING <a href="#">74</a> Motion for Leave to File Excess Pages. IT IS THEREFORE ORDERED that the County Defendants' Unopposed Motion to Exceed Page Limits (Doc. 74) is GRANTED extending the briefing page limit for Defendant Board of County Commissioners for the County of Dona Ana Reply to Plaintiff's Response in Opposition to Defendants Board of County Commissioners for the County of Dona Ana, Christopher Barela, Kevin Silva, and Chad Hill's Motion for Summary Judgment and Supporting Brief (Doc. <a href="#">64</a> ) to 25 pages. (gr) (Entered: 06/24/2020)
06/26/2020	<a href="#">76</a>	REPLY to Response to Motion re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity</i> filed by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva. (Attachments: # <a href="#">1</a> Supplement Declaration) (Martinez, Damian) (Entered: 06/26/2020)
06/26/2020	<a href="#">77</a>	NOTICE of Briefing Complete by Christopher Barela, Board of County Commissioners for the County of Dona Ana, Chad Hill, Kevin Silva re <a href="#">51</a> MOTION for Summary Judgment <i>on the Basis of Qualified Immunity</i> filed by Board of County Commissioners for the County of Dona Ana, Kevin Silva, Chad Hill, Christopher Barela (Martinez, Damian) (Entered: 06/26/2020)
07/15/2020	<a href="#">78</a> <b>R</b>	Partial MOTION for Summary Judgment <i>Based on Qualified Immunity</i> by David Miller, Veronica Salazar, Roslyn Strohm. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit) (Paoli, Henry) (Entered: 07/15/2020)
07/22/2020	<a href="#">79</a>	NOTICE by Antonio Realí <i>Notice of Extension of Briefing</i> (Quijano, Alyssa) (Entered: 07/22/2020)
07/24/2020	<a href="#">80</a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Fourth Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 07/24/2020)
07/24/2020	<a href="#">81</a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Second Supplemental Responses to Corizon Defendants' First Set of Requests for Production to Plaintiff</i> (Quijano, Alyssa) (Entered: 07/24/2020)
08/10/2020	<a href="#">82</a>	Unopposed MOTION to Extend (other) <i>Notice of Extension of Briefing</i> by Antonio Realí. (Quijano, Alyssa) (Entered: 08/10/2020)
08/11/2020	<a href="#">83</a>	ORDER by District Judge Martha Vazquez GRANTING <a href="#">82</a> ORDER on Motion to Extend Page Limits. WHEREFORE, it is Ordered, Adjudged, and Decreed that the Motion be granted, extending the briefing page limit for Plaintiff's Response to Defendants David Miller, Roslyn Strohm and Veronica Salazar's Motion for Partial

		Summary Judgment Based on Qualified Immunity to 30 pages. (gr) (Entered: 08/11/2020)
08/12/2020	<a href="#">84</a> <b>R</b>	RESPONSE in Opposition re <a href="#">78</a> <b>R</b> Partial MOTION for Summary Judgment <i>Based on Qualified Immunity</i> filed by Antonio Realí. (Attachments: # <a href="#">1</a> <b>R</b> Exhibit Affidavit of Dr. Alon Steinberg, # <a href="#">2</a> <b>R</b> Exhibit Declaration of Madeleine LaMarre, # <a href="#">3</a> <b>R</b> Exhibit Affidavit of Alyssa Quijano, Esq.) (Quijano, Alyssa) (Entered: 08/12/2020)
08/21/2020	<a href="#">85</a>	MOTION for Extension of Time to File Response/Reply <i>PLAINTIFFS RESPONSE CONCERNING THE MOTION FOR SUMMARY JUDGMENT AND MOTION FOR EXTENSION OF PAGE LIMITS</i> by Corizon Health, Inc., David Miller, Veronica Salazar, Roslyn Strohm. (Paoli, Henry) (Entered: 08/21/2020)
08/21/2020	<a href="#">86</a>	ORDER by District Judge Martha Vazquez GRANTING <a href="#">85</a> Motion for Extension of Time to File Response/Reply re <a href="#">85</a> MOTION for Extension of Time to File Response/Reply <i>PLAINTIFFS RESPONSE CONCERNING THE MOTION FOR SUMMARY JUDGMENT AND MOTION FOR EXTENSION OF PAGE LIMITS</i> . Response due by 9/3/2020. (gr) (Entered: 08/21/2020)
09/02/2020	<a href="#">87</a>	RESPONSE in Support re <a href="#">78</a> <b>R</b> Partial MOTION for Summary Judgment <i>Based on Qualified Immunity</i> filed by David Miller, Veronica Salazar, Roslyn Strohm. (Paoli, Henry) (Entered: 09/02/2020)
09/02/2020	<a href="#">88</a>	NOTICE of Briefing Complete by David Miller, Veronica Salazar, Roslyn Strohm re <a href="#">78</a> <b>R</b> Partial MOTION for Summary Judgment <i>Based on Qualified Immunity</i> filed by Roslyn Strohm, David Miller, Veronica Salazar (Paoli, Henry) (Entered: 09/02/2020)
10/08/2020	<a href="#">89</a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Fifth Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 10/08/2020)
10/08/2020	<a href="#">90</a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Third Supplemental Answers and Responses to Medical Defendants' First Set of Interrogatories and Requests for Production</i> (Quijano, Alyssa) (Entered: 10/08/2020)
06/24/2021	<a href="#">91</a>	CERTIFICATE OF SERVICE by Antonio Realí <i>Plaintiff's Sixth Supplemental Initial Disclosures</i> (Quijano, Alyssa) (Entered: 06/24/2021)
07/28/2021	<a href="#">92</a>	NOTICE by Antonio Realí re <a href="#">78</a> <b>R</b> Partial MOTION for Summary Judgment <i>Based on Qualified Immunity</i> , <a href="#">84</a> <b>R</b> Response in Opposition to Motion, <i>Notice of Supplemental Authority</i> (Quijano, Alyssa) (Entered: 07/28/2021)
08/31/2021	<a href="#">93</a>	Unopposed MOTION to Withdraw as Attorney by Antonio Realí. (Quijano, Alyssa) (Entered: 08/31/2021)
08/31/2021	94	ORDER by Magistrate Judge Stephan M. Vidmar GRANTING <a href="#">93</a> Attorney Quijano's Motion to Withdraw as Counsel. Attorney Quijano is terminated from this action. Attorney Coyte remains as counsel for Plaintiff. <b>[THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.]</b> (am) (Entered: 08/31/2021)
11/16/2022	<a href="#">95</a>	NOTICE of Appearance by Blaine T. Mynatt on behalf of Board of County Commissioners for the County of Dona Ana (Mynatt, Blaine) (Entered: 11/16/2022)
12/28/2022	96	PLEASE TAKE NOTICE that this case has been reassigned to Chief Magistrate Judge Gregory B. Wormuth as the pretrial judge.  Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.

		<p><b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b></p> <p>Magistrate Judge Stephan M. Vidmar no longer assigned to this case.  <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (cer) (Entered: 12/28/2022)</p>
01/16/2023	<a href="#">97</a>	Corporate Disclosure Statement by Corizon Health, Inc. identifying Corporate Parent Valitas Intermediate Holdings, Inc., Other Affiliate M2 EquityCo., LLC for Corizon Health, Inc.. (Paoli, Henry) (Entered: 01/16/2023)
02/15/2023	<a href="#">98</a>	SUGGESTION OF BANKRUPTCY Upon the Record <i>and Notice of Automatic Stay</i> by Corizon Health, Inc. (Paoli, Henry) (Entered: 02/15/2023)

PACER Service Center			
Transaction Receipt			
02/28/2023 18:22:45			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	2:19-cv-00603-MV-GBW
Billable Pages:	9	Cost:	0.90

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO REALI,

Plaintiff,

v.

No. 2:19-CV-00603 MV/SMV

BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF DOÑA ANA, CORIZON  
HEALTH, INC., CHRISTOPHER BARELA,  
VERONICA SALAZAR, DAVID MILLER,  
ROSLYN STROHM, KEVIN SILVA, and  
CHAD HILL

Defendants.

**AMENDED COMPLAINT FOR THE RECOVERY OF DAMAGES  
CAUSED BY THE DEPRIVATION OF CIVIL RIGHTS**

Plaintiff brings this amended complaint for damages caused by the violation of his civil and constitutional rights. Plaintiff files this complaint under the federal Civil Rights Act, and the Constitution of the United States. Plaintiff also brings claims under the New Mexico Tort Claims Act and Wrongful Death Act. In support of this Complaint, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C. § 1331 and 42 U.S.C. §§ 1983 and 1988.
2. Venue is proper as the acts complained of occurred exclusively within Doña Ana County, New Mexico.

**PARTIES**

3. Plaintiff Antonio Realí is an individual and resident of Fresno County, California. Mr. Realí was an inmate in the custody and care of the Doña Ana County Detention Center (hereinafter “DACDC”) from May 31, 2017 to July 3, 2017.
4. While incarcerated, Mr. Realí was completely dependent upon DACDC for his care and well-being.
5. Defendant Board of County Commissioners for the County of Doña Ana (“Board”) is a governmental entity within the State of New Mexico and a “person” under 43 U.S.C. § 1983.
6. At all times material to this Complaint the Board was the employer of the individual defendants.
7. During all material times Defendant Corizon Health, Inc. (“Corizon”) was responsible for providing medical care to inmates at DACDC pursuant to contract with Defendant Board.
8. Defendant Corizon is a Delaware for Profit Corporation registered to do business in New Mexico.
9. At all material times Defendant Corizon acted through its owners, officers, directors, employees, agents, or apparent agents including, but not limited to, administrators, management, nurses, doctors, technicians and other staff are responsible for their acts or omissions pursuant to the doctrines of respondeat superior, agency or apparent agency.
10. At all material times, Defendant Christopher Barela was employed by DACDC as the facility detention administrator with supervisory duties.
11. Defendant Barela was acting under the color of state law and within the scope of his employment at all material times.

12. Defendant Barela is being sued in his official and individual capacities.
13. At all material times, Defendant Roslyn Strohm was employed by Defendant Corizon as a certified nurse practitioner.
14. Defendant Strohm was acting under the color of state law and within the scope of her employment at all material times.
15. Defendant Strohm is being sued in her individual capacity only.
16. At all material times, Defendant Veronica Salazar was employed by Defendant Corizon as a registered nurse.
17. Defendant Salazar was acting under the color of state law and within the scope of her employment at all material times.
18. Defendant Salazar is being sued in her individual capacity only.
19. At all material times, Defendant David Miller was employed by Defendant Corizon as a licensed practical nurse.
20. Defendant Miller was acting under the color of state law and within the scope of his employment at all material times.
21. Defendant Miller is being sued in his individual capacity only.
22. At all material times, Defendant Kevin Silva was employed by Defendant DACDC as a detention officer.
23. Defendant Silva was acting under the color of state law and within the scope of his employment at all material times.
24. Defendant Silva is being sued in his individual capacity only.

25. At all material times, Defendant Chad Hill was employed by Defendant DACDC as a detention officer.

26. Defendant Hill was acting under the color of state law and within the scope of his employment at all material times.

27. Defendant Hill is being sued in his individual capacity only.

### **FACTUAL BACKGROUND**

28. Antonio Reali is a military veteran who served the United States Army between 1981 and 1991.

29. Antonio served the Army in combat in the Gulf War.

30. At the time Antonio left the army, he had achieved an E4 Specialist rank.

31. After leaving the Army, Antonio married and had children.

32. Eventually, Antonio returned to service and joined the National Guard.

33. In 2004, Antonio was hired by a United States military contractor, where he served in Afghanistan and Iraq.

34. As a result of his time in combat, Antonio developed Post-Traumatic Stress Disorder.

35. On May 20, 2017 in Madera County, California, Antonio ran a stop sign and was pulled over.

36. The police officer ran Antonio's information and discovered he had a warrant for his arrest in Dona Ana County, New Mexico.

37. Antonio was booked into the Madera County jail to be extradited to the Doña Ana County Detention Center (DACDC).

38. Antonio was 53 years old.

39. When he arrived at the Madera County jail, Antonio advised medical staff he suffered from a heart condition.
40. Antonio told medical staff he had been prescribed nitroglycerin to treat his heart condition and needed a pill to be on his person at all times in the event he began suffering chest pain.
41. Medical staff ordered Nitroglycerin for Antonio and allowed him to keep one pill on his person at all times.
42. Antonio was extradited and transferred to the DACDC on May 31, 2017.
43. Throughout his time at DACDC, Antonio was a pretrial detainee.
44. Antonio was sent to DACDC with information about his medical condition from the medical staff at the Madera County jail.
45. This form indicated Antonio suffered chest pain and provided a list of medications he had been prescribed prior to his transfer.
46. When he arrived at the jail, Corizon medical staff Steven Gomez obtained a medical history from Antonio.
47. Antonio told Mr. Gomez he suffered from several serious medical and mental health issues, including a history of heart attacks, one occurring within 6 months of him being booked.
48. Antonio told Corizon medical employee that he needed his prescription of Nitroglycerin available to him in the event he began experiencing chest pain.
49. Mr. Gomez told Antonio he would not be given Nitroglycerin.
50. Antonio looked up into the security camera and stated medical staff was refusing to provide him his heart medication.
51. Antonio then told Mr. Gomez, "You're playing Russian roulette with my life."

52. After this initial examination, Antonio was housed in general population.
53. On June 6, 2017, Antonio began experiencing chest pain.
54. Antonio was taken to medical and was seen by Defendant Strohm, a certified nurse practitioner.
55. Antonio informed Defendant Strohm that he had a history of heart disease and experienced chest pain that sometimes would become so intense he would vomit or pass out because of the pain.
56. Antonio was given a dose of Clonidine, a blood pressure medication, then sent back to his cell.
57. Eleven days later, Antonio began complaining of chest pain again.
58. Antonio requested to be seen by medical staff.
59. By the time he was seen by a provider, his chest pain had subsided.
60. Antonio was given another dose of Clonidine then sent back to his cell.
61. Antonio did not receive any medical treatment through the remainder of June.
62. Antonio knew he needed medication for his heart condition, which the jail refused to provide.
63. Throughout Antonio's detention at DACDC, his ex-wife, Aurora Realí, contacted Corizon and DACDC staff to inform and remind them of the severity of Antonio's heart condition.
64. Ms. Realí frequently asked they provide Antonio with his heart medication.
65. Throughout his first month at DACDC, Antonio became increasingly concerned he would suffer a heart attack without his medication or medical care.
66. Antonio knew that suffering a heart attack would lead to serious health consequences.

67. Antonio also knew that the resuscitation efforts following a heart attack would cause serious, painful consequences, including broken ribs and brain damage.
68. Antonio became so afraid he would suffer a heart attack because of the lack of care he was receiving at DACDC, he requested a “DNR” (do not resuscitate) be put in place.
69. On July 1, 2017 at approximately 9:45 a.m., Antonio again began experiencing severe chest pain and requested medical care.
70. This was the third time Antonio had experienced chest pain in the jail.
71. Defendant Silva was assigned the Pod officer where Antonio was housed at that time.
72. DACDC was short staffed on this date.
73. Defendant Hill took over Defendant Silva’s duties in “the bubble” while Defendant Silva took a break.
74. The “bubble” is the master control center where guards observe inmates housed in the jail pod.
75. While Defendant Hill was working in “the bubble,” Antonio began asking for medical care.
76. Defendant Hill refused to call medical for Antonio until he fell onto the ground.
77. Antonio became upset at the guard in “the bubble,” Defendant Hill, for refusing to contact medical.
78. By the time medical was finally contacted and arrived in his cell, Antonio’s pain had become so intense he could no longer walk.
79. Antonio was taken to medical in a wheel chair.
80. When he arrived in medical, Antonio lied on the floor to try and relieve his pain.
81. Andrea Mook, a nurse, noted Antonio appeared pale.

82. Antonio told the nurse he had experienced three heart attacks in the past.
83. Antonio also reported his pain rated an 8/10 on the pain scale.
84. Antonio's chest pain was so intense that he threw up.
85. An EKG was conducted, which was noted to be abnormal, showing extensive ST-t wave changes compared to prior EKG results.
86. Antonio's chest pain combined with this EKG findings are consistent with cardiac ischemia or significant lack of blood flow and oxygen in the blood arteries of the heart.
87. Ms. Mook called Defendant Strohm and notified her that Antonio had abnormal vitals and EKG.
88. At this point Antonio should have immediately been sent to the hospital for evaluation for unstable angina or myocardial infarction (heart attack).
89. Instead of transporting Antonio to the hospital, another EKG was conducted.
90. This second EKG was normal.
91. It is possible to experience a heart attack in the presence of a normal EKG.
92. Despite being a patient with a normalized EKG, Antonio's recent chest pain with significant ischemic changes needed to be evaluated and observed under a monitored setting of a hospital.
93. Unstable ischemic syndromes carry a high morbidity and mortality.
94. Antonio should have been sent to the hospital to be evaluated for the cause of recurrent chest pains with ischemia with an appropriate treatment plan instituted.
95. Despite obvious signs and symptoms of a life-threatening problem, Antonio was sent back to his cell.

96. Later that evening, Antonio began experiencing chest pain again.

97. Officers on duty called a “Code Mary.”

98. When staff arrived at Antonio’s cell, he was lying on the floor groaning in pain.

99. Antonio was again taken to medical in a wheel chair.

100. When he arrived in the medical department, Antonio was seen by Defendant Salazar.

101. Medical staff conducted another EKG, which was borderline.

102. Antonio was given another dose of Clonidine and sent back to his cell.

103. Defendant Salazar then notified Defendant Strohm of her encounter with Antonio over the telephone.

104. Neither Defendant Salazar nor Defendant Strohm made any attempt to get a second opinion or contact a cardiologist.

105. The following day, July 2, 2017, Antonio was seen by Defendant Strohm.

106. Antonio was, again, experiencing chest pain.

107. Defendant Strohm noted Antonio had experienced “similar episodes” of chest pain earlier that morning, the night prior, and the morning prior.

108. In fact, this was the fifth time he had been to medical after experiencing chest pain since he was booked into the jail only 31 days earlier.

109. Defendant Strohm ordered two EKGs, both of which were abnormal.

110. In fact, the first EKG at 9:11 a.m. showed a new intraventricular conduction delay and significant down-sloping ST depression in the lateral leads and horizontal ST depression in inferior leads consistent with significant ischemia.

111. An urgent transfer for evaluation at the hospital was necessary.
112. Antonio was again sent back to his cell without further medical care.
113. Early the next morning, Antonio began experiencing severe chest pain again.
114. By this time, Antonio's symptoms of a serious medical condition had become so obvious another inmate informed jail staff that Antonio was experiencing a heart attack.
115. Defendant Silva was working in "the bubble" at that time.
116. Defendant Silva saw Antonio collapse onto the ground and heard the other inmates' pleas to get Antonio medical care.
117. Defendant Silva refused to contact medical for an unacceptable length of time.
118. Sergeant Tiara Gamboa also recognized Antonio's obvious symptoms of a serious medical condition and described his symptoms in her report as walking slowly, grunting and holding his chest saying he was in pain.
119. Eventually, Antonio was taken to medical.
120. Upon information and belief, Antonio was unable to walk and was dragged out of the pod by his ankles by detention officers.
121. When he arrived in medical, he told Defendants Miller and Salazar that he was in pain and could not breathe.
122. Antonio was clutching his chest and told medical staff "It hurts, what's happening to me?"
123. At this point, despite Antonio clearly experiencing an obvious medical emergency, no one called 911.
124. Antonio then began seizing.

125. Soon after this seizure, Antonio stopped breathing and lost consciousness.
126. Antonio then lost bladder and bowel control.
127. Approximately two minutes after Antonio stopped breathing, medical staff finally contacted 911.
128. At approximately 3:51 a.m., Defendant Salazar noted Antonio no longer had a pulse.
129. Finally, thirteen (13) minutes after Antonio lost consciousness, Defendants began CPR, at 3:55 a.m.
130. Emergency medical staff arrived at approximately 3:56 a.m.
131. The following was captured on handheld camera footage by jail staff.
132. Defendant Salazar told paramedics they had given Antonio about “four of Ativan” about 10 minutes before they arrived.
133. Defendant Salazar also told paramedics that Antonio had a seizure then lost consciousness.
134. As Antonio lay unconscious on the medical table, DACDC medical staff, including Defendants Salazar and Miller, laughed, joked, and remained apparently unconcerned about Antonio.
135. After several minutes of applying CPR, one of the EMTs asked Defendant Salazar to confirm Antonio had been complaining of chest pain over the past couple of days.
136. Defendant Salazar responded, “Yeah. Mid- mid sternal chest pain, um, but we haven’t really gotten anything real on the EKG. We’ll give him clonidine and it resolves.”

137. Defendant Salazar confessed to emergency medical staff she knew Antonio had a history of heart attacks.
138. Defendant Salazar told the EMT that the “provider [Defendant Strohm] has seen him a couple times but hasn’t seen anything, I guess, worth sending him to the hospital for, I guess.”
139. Then, the EMT asked medical staff when they started CPR.
140. Defendant Miller told her “We started CPR right as you guys were arriving just because I couldn’t feel a pulse anymore.”
141. Defendant Salazar took over compressions for approximately 3 minutes.
142. After these three minutes, another EMT took over compressions from Defendant Salazar.
143. After Defendant Salazar stopped providing Antonio compressions, she shook her arms and laughed, “I’m out of shape, shit!”
144. After approximately 15 minutes of CPR, EMTs were able to regain Antonio’s pulse.
145. While EMTs evaluated Antonio, Defendant Salazar asked Defendant Miller if she needed anything.
146. In response, she told Defendant Miller that she needed “a fan” and fanned herself off with her hands, laughing.
147. As EMTs moved Antonio onto a gurney, Defendants Salazar told Defendant Miller that she “was not expecting that, especially [inaudible] the last two days.”
148. Antonio was transferred to Memorial Medical Center for treatment.

149. When he arrived at Memorial Medical Center, Antonio was immediately intubated.
150. Antonio was diagnosed as having suffered a cardiac arrest and severe sepsis or septic shock.
151. Antonio suffered broken ribs and a cracked sternum as a result of the CPR conducted.
152. Memorial Medical Center staff noted that Antonio had suffered multiorgan failure as a result of his heart attack, including his kidney and liver, along with anoxic encephalopathy (brain damage as a result of oxygen deprivation).
153. While in the emergency room, Antonio suffered another cardiac arrest.
154. Antonio remained in the hospital for nine (9) days recovering from his heart attacks.

**COUNT I: VIOLATION OF DUE PROCESS  
INADEQUATE MEDICAL CARE  
(Defendants Strohm, Salazar, Miller, Silva, and Hill)**

155. Plaintiff restates each of the preceding allegations as if fully stated herein.
156. Plaintiff has a Fourteenth Amendment right to humane conditions of confinement and adequate medical care.
157. Defendants knew chest pain is an obvious sign of a serious medical condition, including heart attack.
158. Defendants knew they were unequipped to treat Antonio's heart condition at the jail.
159. Defendants knew Antonio should have been transported a hospital for appropriate medical care.
160. Defendants knew any medical provider in the community would send a patient experiencing chest pain to an emergency room for further evaluation.
161. Defendants knew this was especially true when the patient has a history of heart attacks.
162. Defendants knew Antonio had a history of heart attacks when he arrived at the jail.
163. Antonio told medical staff he suffered a heart attack within six months of being booked into DACDC.
164. Defendants Salazar and Miller were aware of Antonio's medical history from their own review of the medical records.
165. In addition, Mr. Real's ex-wife frequently called the facility and informed DACDC and Corizon staff of Antonio's serious heart condition.

166. Ms. Reali's ex-wife also frequently called the facility and informed DACDC and Corizon staff that Antonio required medication for his serious heart condition.
167. Defendants failed to provide Antonio medication or treatment for his cardiovascular history.
168. Antonio began experiencing chest pain soon after being booked into the jail.
169. Defendants failed to adequately respond to his medical condition.
170. Defendants actively ignored Antonio's symptoms.
171. As a certified nurse practitioner, Defendant Strohm was the highest-ranking medical staff at the facility.
172. Defendant Strohm knew how to identify the signs and symptoms of a heart attack.
173. Defendant Strohm ignored Antonio's symptoms of an impending heart attack and allowed his condition to worsen until he finally suffered a heart attack.
174. Antonio was completely reliant on Defendants for his medical needs while at the jail.
175. Antonio had no ability to contact 911 on his own while housed at the jail.
176. Defendants acted as gate-keepers to Antonio's care.
177. Defendants Silva and Hill watched as Antonio suffered chest pain and an eventual heart attack.
178. Defendants Silva and Hill failed to contact medical even in face of an obvious medical emergency.
179. Instead of contacting medical staff immediately, Defendants Silva and Hill waited to contact medical for Antonio.

180. Defendants Silva and Hill's decision to wait to contact medical care caused Antonio's condition to worsen.
181. Defendants refused to contact emergency medical care for Antonio in the weeks and days leading up his heart attack and cardiac arrest on July 3, 2017.
182. On July 1, 2017, Antonio began experiencing symptoms of a heart attack.
183. Antonio required immediate hospitalization on July 1, 2017.
184. Instead, Defendants sent Antonio back to his cell.
185. Antonio returned to medical four (4) more times complaining of chest pain before he finally was sent to the hospital.
186. Defendants knew Antonio's chest pain was so excruciating he was vomiting and even passing out as a result.
187. Antonio suffered a heart attack on July 3, 2019.
188. The severity of Antonio's condition was obvious to everyone who saw him.
189. The seriousness of Antonio's medical condition was so obvious that inmates in the pod with Antonio attempted to get him medical care for his heart attack.
190. Defendants Salazar and Miller called 911 only after Antonio had experienced a seizure, lost consciousness, bowel, and bladder control following cardiac arrest on July 3, 2017.
191. Defendant Salazar and Miller failed to begin life-saving measures, including CPR for several minutes after Antonio lost consciousness and they were not able to detect a pulse.

192. Defendants Salazar and Miller knew the risks Antonio faced when he faced an extended length of time without oxygen to his brain.
193. Defendants Salazar and Miller still failed to begin CPR until one minute before emergency medical staff arrived at the jail.
194. While Antonio lay unconscious with no pulse in the medical department at DACDC, Defendants Salazar and Miller exhibited no compassion or concern for their patient.
195. Defendants were deliberately indifferent to a serious and obvious medical need when they failed to treat Plaintiff's chest pains.
196. As a proximate and foreseeable result of Defendants' deliberate indifference to Mr. Reali's serious, obvious medical condition, Plaintiff suffered injuries including physical injuries, pain and suffering, emotional distress, exacerbation of his medical condition.

**COUNT II: NEGLIGENT PROVISION OF MEDICAL CARE**  
**(Defendants Corizon, Roslyn Strohm, David Miller, and Veronica Salazar)**

197. Plaintiff restates each of the preceding allegations as if fully stated herein.
198. Defendants had a duty to ensure Antonio received adequate care while housed at DACDC.
199. Antonio began experiencing severe chest pain on July 1, 2017.
200. Defendants knew Antonio had a history of chest pain and cardiac issues, both prior to and during his detention at DACDC
201. Antonio began experiencing chest pain so severe it caused him to vomit and pass out.

202. The standard of care required immediate transport to a hospital once he began exhibiting these symptoms.
203. A reasonable healthcare provider would have adhered to the medical standard of care.
204. A reasonable healthcare provider would have transported Antonio to a hospital the moment he began exhibiting symptoms of chest pain.
205. Upon information and belief, Defendant Corizon has created a policy of refusing transport of inmates to the hospital as a cost-saving strategy.
206. Defendant Corizon employs medical staff at DACDC.
207. Defendant Corizon is vicariously liable for the acts and omissions of its employees by respondeat superior.
208. Defendant Corizon had a duty to properly and adequately train its medical staff to respond properly to emergency situations.
209. Defendants breached their duty of care.
210. Defendants' negligence caused Antonio to suffer damages.
211. Defendants' negligence was the proximate cause of this damage.
212. As a proximate and foreseeable result of Defendants' negligence to Mr. Real's serious, obvious medical condition, Plaintiff suffered injuries including physical injuries, pain and suffering, emotional distress, exacerbation of his medical condition.

**COUNT III: NEGLIGENT MAINTENANCE OF A MEDICAL FACILITY  
(Defendants Board Christopher Barela, and Corizon Health, Inc.)**

213. Plaintiffs restate each of the preceding allegations as if fully stated herein.

214. Defendant Board contracted with Defendant Corizon to provide medical care at its facilities.
215. The contract between Defendant Board and Defendant Corizon included the day-to-day operation of the medical facility by Corizon.
216. Defendant Board oversaw the contract and medical care provided by Corizon.
217. Defendant Board had an obligation to ensure Corizon provided inmates in the care of DACDC with adequate medical care.
218. Defendant Board allowed Defendant Corizon to provide substandard care, or no care at all, to inmates in its facility.
219. Upon information and belief, Defendant Corizon refused to take inmates to the hospital even when clinically necessary as a cost-saving mechanism.
220. Defendant Corizon failed to provide the level of care required under its contract and the Constitution.
221. In 2016, Defendant Corizon lost its contract with the New Mexico Department of Corrections (NMCD) to provide medical care to state inmates.
222. NMCD's decision not to renew its contract with Corizon to provide medical care followed approximately 150 lawsuits by 200 inmates alleging inadequate or unaddressed medical care by Corizon.
223. Defendant Board knew Defendant Corizon had come under scrutiny nation-wide for its failure to provide adequate medical care to inmates.
224. Despite this knowledge, Defendant Board contracted with Corizon to provide medical care to inmates at DACDC.

225. Defendants Board and Barela failed to monitor the contract between the County and Corizon to ensure inmates at DACDC received adequate care.

226. As a proximate and foreseeable result of Defendants' negligence, Plaintiff suffered injuries including physical injuries, pain and suffering, emotional distress, exacerbation of his medical condition.

**COUNT IV: CUSTOM AND POLICY OF VIOLATING CONSTITUTIONAL RIGHTS  
(Defendants Board and Christopher Barela)**

227. Plaintiffs restate each of the preceding allegations as if fully stated herein.

228. Defendant Board delegated the responsibilities of running DACDC to Defendant Christopher Barela.

229. Pursuant to state law, jail administrators acting in their official capacity are regarded as the final policy makers of their respective institutions.

230. Defendant Barela was therefore the final policy maker responsible for the hiring training and supervision of DACDC employees during her tenure.

231. Defendants Barela's policies therefore became the customs and policies of the County.

232. During his tenure, Defendant Barela practiced a custom and policy of providing inadequate medical care to inmates at DACDC.

233. During his tenure as the director of DACDC, Defendant Barela was charged with embezzlement, related to a misuse of the facility's inmate welfare fund.

234. Prior to this charge, Defendant Barela allowed a man, Steven Slevin, in his care to be left in solitary confinement for 22 months without mental health or medical care, causing him to deteriorate to an unacceptable level.

235. This case eventually went to trial, where a jury awarded Mr. Slevin \$22 million.

236. Despite this enormous verdict, Defendant Barela continued his policy of indifference to the medical care of inmates.

237. Despite this enormous verdict, Defendant Board allowed Defendant Barela to remain as the facility director, providing inadequate medical care to inmates at DACDC.

238. The policies, customs, decisions, and practices of Defendant Barela created a climate within DACDC where staff was unwilling to obtain medical care for inmates, even in the face of a clear medical emergency.

239. Several days after Antonio suffered his heart attack, Defendant Barela was placed on leave after criminal charges were brought against him for possession of a controlled substance.

240. Defendant Barela operated DACDC under policies and practice of providing unconstitutional care of inmates, especially related to the provision of medical care.

241. Defendant Barela created an environment where detention officers did not contact medical staff for inmates experiencing medical emergencies, including chest pains, even if those emergencies were obvious.

242. Defendant Barela's policies created an environment where his staff were indifferent to chest pains.

243. Defendants Hill and Silva's actions during Antonio's detention followed the policies and practice put in place by Defendant Barela.

244. There is a causal connection between Defendant Barela's policies and the violation of Antonio's constitutional rights, which amounts to deliberate indifference.

245. As a proximate and foreseeable result of Defendants' deliberate indifference to Mr. Reali's serious, obvious medical condition, Plaintiff suffered injuries including physical injuries, pain and suffering, emotional distress, exacerbation of his medical condition.

**JURY DEMAND**

246. Plaintiffs hereby demand a trial by jury on all counts.

WHEREFORE, Plaintiffs requests judgment as follows:

1. Compensatory damages in an as yet undetermined amount, jointly and severally against all Defendants, including damages for attorney's fees and emotional harm.
2. Punitive damages in an as yet undetermined amount severally against the individually named Defendants.
3. Reasonable costs and attorney's fees incurred in bringing this action.
4. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

COYTE LAW P.C.

/s/ Alyssa D. Quijano  
Alyssa D. Quijano  
Matthew E. Coyte  
Attorneys for Plaintiff  
3800 Osuna Road NE, Suite 2  
Albuquerque, NM 87109  
(505) 244-3030

RECAP Actions ▼

STAYED

**U.S. District Court**  
**United States District Court - District of New Mexico (Las Cruces)**  
**CIVIL DOCKET FOR CASE #: 2:21-cv-00485-DHU-GJF**


Garcia v. Board of County Commissioners for the County of Dona  
 Ana et al  
 Assigned to: District Judge David H. Urias  
 Referred to: Magistrate Judge Gregory J. Fouratt  
 Cause: 42:1983 Civil Rights Act

Date Filed: 05/27/2021  
 Jury Demand: Plaintiff  
 Nature of Suit: 440 Civil Rights: Other  
 Jurisdiction: Federal Question

Date Filed	#	Docket Text
05/27/2021	<a href="#">1</a> <b>R</b>	COMPLAINT <i>For the Recovery of Damages Caused by the Deprivation of Civil Rights</i> against All Defendants ( Filing Fee - Online Payment), filed by Hector Garcia, Jr. (Attachments: # <a href="#">1</a> Civil Cover Sheet)(Coyte, Matthew) (Entered: 05/27/2021)
05/27/2021		Filing and Administrative Fees Received: \$ 402 receipt number ANMDC-7713282 re <a href="#">1</a> <b>R</b> Complaint filed by Hector Garcia, Jr. (Payment made via Pay.gov)(Coyte, Matthew) (Entered: 05/27/2021)
05/27/2021		United States Magistrate Judge Stephan M. Vidmar and United States Magistrate Judge Gregory J. Fouratt assigned. (jg) (Entered: 05/27/2021)
05/27/2021	2	PLEASE TAKE NOTICE that this case has been randomly assigned to United States Magistrate Judge Stephan M. Vidmar to conduct dispositive proceedings in this matter, including motions and trial. Appeal from a judgment entered by a Magistrate Judge will be to the United States Court of Appeals for the Tenth Circuit. <b>It is the responsibility of the case filer to serve a copy of this Notice upon all parties with the summons and complaint. Consent is strictly voluntary, and a party is free to withhold consent without adverse consequences. Should a party choose to consent, notice should be made no later than 21 days after entry of the Order setting the Rule 16 Initial Scheduling Conference.</b> For e-filers, visit our Web site at <a href="http://www.nmd.uscourts.gov">www.nmd.uscourts.gov</a> for more information and instructions. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (jg) (Entered: 05/27/2021)
06/10/2021	<a href="#">3</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Corizon Health, Inc.. (Quijano, Alyssa) (Entered: 06/10/2021)
06/15/2021	<a href="#">4</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Eduardo Berumen. (Quijano, Alyssa) (Entered: 06/15/2021)
06/15/2021	<a href="#">5</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Gladys Hernandez. (Quijano, Alyssa) (Entered: 06/15/2021)
06/15/2021	<a href="#">6</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Melissa Garcia. (Quijano, Alyssa) (Entered: 06/15/2021)



06/15/2021	<a href="#">7</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Christi Bennett. (Quijano, Alyssa) (Entered: 06/15/2021)
06/15/2021	<a href="#">8</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Veronica Salazar. (Quijano, Alyssa) (Entered: 06/15/2021)
06/15/2021	<a href="#">9</a>	WAIVER OF SERVICE Returned Executed by Hector Garcia, Jr as to Heather Barela. (Quijano, Alyssa) (Entered: 06/15/2021)
07/01/2021	<a href="#">10</a>	AMENDED COMPLAINT <i>for the Recovery of Damages Caused by the Deprivation of Civil Rights</i> against All Defendants., filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 07/01/2021)
07/23/2021	<a href="#">11</a>	NOTICE of Appearance by David Anthony Roman on behalf of Board of County Commissioners for the County of Dona Ana, Vince Pokluda, Brian Valle (Roman, David) (Entered: 07/23/2021)
07/23/2021	<a href="#">12</a>	WAIVER OF SERVICE Returned Executed by Brian Valle as to Brian Valle. (Roman, David) (Entered: 07/23/2021)
07/23/2021	<a href="#">13</a>	WAIVER OF SERVICE Returned Executed by Vince Pokluda as to Vince Pokluda. (Roman, David) (Entered: 07/23/2021)
07/23/2021	<a href="#">14</a>	WAIVER OF SERVICE Returned Executed by Board of County Commissioners for the County of Dona Ana as to Board of County Commissioners for the County of Dona Ana. (Roman, David) (Entered: 07/23/2021)
07/26/2021	<a href="#">15</a>	Unopposed MOTION to Extend (other) <i>Time for Service on Defendants</i> by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 07/26/2021)
07/26/2021	<a href="#">16</a>	ORDER EXTENDING TIME FOR SERVICE ON DEFENDANTS by Magistrate Judge Gregory J. Fouratt. Plaintiff shall serve Defendants Mario Macias and Daymon Ramirez no later than 10/25/2021. (nmh) (Entered: 07/26/2021)
08/06/2021	<a href="#">17</a>	ANSWER to <a href="#">10</a> Amended Complaint by Corizon Health, Inc..(Paoli, Henry) (Entered: 08/06/2021)
08/12/2021	<a href="#">18</a>	<i>Original</i> ANSWER to <a href="#">10</a> Amended Complaint by Heather Barela, Christi Bennett, Eduardo Berumen, Melissa Garcia, Gladys Hernandez, Veronica Salazar.(Paoli, Henry) (Entered: 08/12/2021)
08/20/2021	<a href="#">19</a>	WAIVER OF SERVICE Returned Executed by Mario Macias as to Mario Macias. (Roman, David) (Entered: 08/20/2021)
08/30/2021	<a href="#">20</a>	WAIVER OF SERVICE Returned Executed by Dayman Ramirez as to Dayman Ramirez. (Roman, David) (Entered: 08/30/2021)
08/30/2021	<a href="#">21</a>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>and for qualified immunity</i> by Board of County Commissioners for the County of Dona Ana, Mario Macias, Vince Pokluda, Dayman Ramirez, Brian Valle. (Huss, Brandon) (Entered: 08/30/2021)
08/31/2021	<a href="#">22</a>	Unopposed MOTION to Withdraw by Hector Garcia, Jr. (Quijano, Alyssa) (Entered: 08/31/2021)
08/31/2021	<a href="#">23</a>	NOTICE OF IMPENDING REASSIGNMENT: Pursuant to Fed. R. Civ. P. 73(b)(2), the parties are reminded that a magistrate judge was assigned as the trial judge in this matter under 28 U.S.C. 636(c). The parties are advised that this matter will be reassigned to a district judge as presiding judge if written consents from all parties have

		not been filed within <b>10 days</b> . The parties are free to withhold consent. <i>If you have already entered your consent, you need not resubmit.</i> (rh) (Entered: 08/31/2021)
09/02/2021	<a href="#">24</a>	ORDER GRANTING UNOPPOSED MOTION TO WITHDRAW by Magistrate Judge Gregory J. Fouratt. (nmh) (Entered: 09/02/2021)
09/09/2021	<a href="#">25</a>	NOTICE by Hector Garcia, Jr re <a href="#">21</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>and for qualified immunity</i> (Coyte, Matthew) (Entered: 09/09/2021)
09/10/2021	27	PLEASE TAKE NOTICE that this case has been reassigned to Chief United States District Judge William P. Johnson as the trial judge.  Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.  <b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b>  United States Magistrate Judge Stephan M. Vidmar no longer assigned to this case. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (jg) (Entered: 09/10/2021)
09/14/2021	28	NOTICE REGARDING DOCUMENT ENTRIES: Because this case has been reassigned to a district judge, please be advised that any documents filed by the parties under Rule 73(b) have been permanently removed from the docket. Document(s) removed: No. 26. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (kg) (Entered: 09/14/2021)
09/23/2021	<a href="#">29</a> <b>R</b>	AMENDED COMPLAINT <i>for the Recovery of Damages Caused by the Deprivation of Civil Rights</i> against All Defendants. terminating Dayman Ramirez, Brian Valle, Board of County Commissioners for the County of Dona Ana and Mario Macias., filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 09/23/2021)
09/27/2021	<a href="#">30</a>	NOTICE OF WITHDRAWAL OF DOCUMENT as to document <a href="#">21</a> Motion to Dismiss for Failure to State a Claim by Vince Pokluda (Roman, David) (Entered: 09/27/2021)
09/28/2021	<a href="#">31</a>	NOTICE by Hector Garcia, Jr <i>of Non-Opposition to the Filing of Plaintiff's Second Amended Complaint</i> (Coyte, Matthew) (Entered: 09/28/2021)
10/06/2021	<a href="#">32</a> <b>R</b>	<i>Original</i> ANSWER to <a href="#">29</a> <b>R</b> Amended Complaint, by Corizon Health, Inc..(Paoli, Henry) (Entered: 10/06/2021)
10/06/2021	<a href="#">33</a>	<i>Original</i> ANSWER to <a href="#">29</a> <b>R</b> Amended Complaint, by Heather Barela, Christi Bennett, Eduardo Berumen, Melissa Garcia, Gladys Hernandez, Veronica Salazar.(Paoli, Henry) (Entered: 10/06/2021)
10/07/2021	<a href="#">34</a>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , MOTION to Dismiss for Lack of Jurisdiction by Vince Pokluda. (Huss, Brandon) (Entered: 10/07/2021)
10/20/2021	<a href="#">35</a>	RESPONSE in Opposition re <a href="#">34</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 10/20/2021)
11/03/2021	<a href="#">36</a> <b>R</b>	REPLY to Response to Motion re <a href="#">34</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction filed by Vince Pokluda. (Huss, Brandon) (Entered: 11/03/2021)

11/04/2021	<a href="#">37</a>	NOTICE of Briefing Complete by Vince Pokluda re <a href="#">34</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction filed by Vince Pokluda (Roman, David) (Entered: 11/04/2021)
11/04/2021	38	PLEASE TAKE NOTICE that this case has been reassigned to District Judge Margaret I. Strickland as the trial judge.  Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.  <b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b>  Chief District Judge William P. Johnson no longer assigned to this case. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (cmm) (Entered: 11/04/2021)
02/01/2022	39	PLEASE TAKE NOTICE that this case has been reassigned to District Judge David H. Urias as the trial judge.  Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.  <b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b>  District Judge Margaret I. Strickland no longer assigned to this case. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (jjs) (Entered: 02/01/2022)
04/27/2022	<a href="#">40</a>	Joint MOTION to Dismiss Party by Vince Pokluda. (Roman, David) (Entered: 04/27/2022)
04/28/2022	<a href="#">41</a>	ORDER by District Judge David H. Urias granting <a href="#">40</a> Order on Motion to Dismiss Party. Vince Pokluda (Warden) terminated. (arp) (Entered: 04/28/2022)
05/24/2022	<a href="#">42</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's Initial Disclosures</i> (Coyte, Matthew) (Entered: 05/24/2022)
05/26/2022	<a href="#">43</a>	INITIAL SCHEDULING ORDER by Magistrate Judge Gregory J. Fouratt. Telephonic Rule 16(c) Hearing set for 7/12/2022 at 2:00 p.m. MDT before Magistrate Judge Gregory J. Fouratt. The parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. Joint Status Report due by 7/5/2022. (nmh) (Entered: 05/26/2022)
06/06/2022	<a href="#">44</a>	CERTIFICATE OF SERVICE by Heather Barela, Christi Bennett, Eduardo Berumen, Corizon Health, Inc., Melissa Garcia, Gladys Hernandez, Veronica Salazar , AFFIDAVIT of Service , filed by Heather Barela, Christi Bennett, Eduardo Berumen, Corizon Health, Inc., Melissa Garcia, Gladys Hernandez, Veronica Salazar. (Paoli, Henry) (Entered: 06/06/2022)
06/16/2022	<a href="#">45</a> 	Corporate Disclosure Statement by Corizon Health, Inc. identifying Corporate Parent Valitas Intermediate Holdings, Inc. for Corizon Health, Inc.. (Paoli, Henry) (Entered: 06/16/2022)

06/30/2022		ORDER RESETTING TELEPHONIC RULE 16(c) HEARING by Magistrate Judge Gregory J. Fouratt. The Telephonic Rule 16(c) Hearing previously set for 7/12/2022 at 2:00 p.m. is hereby RESET to 7/14/2022 at 10:00 a.m. before Magistrate Judge Gregory J. Fouratt. The parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. (nmh) <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (Entered: 06/30/2022)
06/30/2022	<a href="#">46</a> <b>R</b>	Joint Status Report <i>and Provisional Discovery Plan</i> by Hector Garcia, Jr (Coyte, Matthew) (Entered: 06/30/2022)
07/14/2022	<a href="#">47</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's First Set of Interrogatories and Requests for Production to Corizon Health, Inc.</i> (Coyte, Matthew) (Entered: 07/14/2022)
07/15/2022	<a href="#">48</a>	Clerk's Minutes for Rule 16 Scheduling Conference held before Magistrate Judge Gregory J. Fouratt on 7/14/2022. (nmh) (Entered: 07/15/2022)
07/15/2022	<a href="#">49</a>	ORDER SETTING PRETRIAL DEADLINES AND BRIEFING SCHEDULE by Magistrate Judge Gregory J. Fouratt. Discovery due by 12/28/2022. Pretrial Motions due by 2/1/2023. (nmh) (Entered: 07/15/2022)
07/15/2022	<a href="#">50</a>	ORDER SETTING SETTLEMENT CONFERENCE by Magistrate Judge Gregory J. Fouratt. Zoom Settlement Conference set for 11/30/2022 at 10:00 a.m. before Magistrate Judge Gregory J. Fouratt. Zoom access information will be provided to counsel at a later date. Telephonic Status Conference set for 11/16/2022 at 2:00 p.m. before Magistrate Judge Gregory J. Fouratt. The parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. (nmh) (Entered: 07/15/2022)
07/18/2022	<a href="#">51</a>	TRIAL NOTICE: Call of the Calendar set for 7/27/2023 at 01:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge David H. Urias. Jury Trial set for 8/7/2023 at 09:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge David H. Urias. (Attachments: # <a href="#">1</a> <b>R</b> Trial Prep with JERS) (arp) (Entered: 07/18/2022)
07/21/2022	<a href="#">52</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's Second Set of Discovery to Defendant Corizon Health, Inc.</i> (Coyte, Matthew) (Entered: 07/21/2022)
07/21/2022	<a href="#">53</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's First Set of Discovery to Defendants Veronica Salazar, Christi Bennett, Melissa Garcia, Gladys Hernandez, Heather Barela, and Eduardo Berumen</i> (Coyte, Matthew) (Entered: 07/21/2022)
08/15/2022	<a href="#">54</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. Defendant's First Responses to Plaintiff's First Requests for Production and Responses to Plaintiff's First Interrogatories (Paoli, Henry) Modified on 8/16/2022 (cmm). (Entered: 08/15/2022)
08/18/2022	<a href="#">55</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's Third Set of Interrogatories to Defendant Corizon Health, Inc.</i> (Coyte, Matthew) (Entered: 08/18/2022)
08/22/2022	<a href="#">56</a>	CERTIFICATE OF SERVICE by Heather Barela, Christi Bennett, Eduardo Berumen, Corizon Health, Inc., Melissa Garcia, Gladys Hernandez, Veronica Salazar (Paoli, Henry) (Entered: 08/22/2022)
08/29/2022	<a href="#">57</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>First Supplemental Responses to Requests for Production</i> (Paoli, Henry) Modified on 8/30/2022 (arp). (Entered: 08/29/2022)

09/01/2022	<a href="#">58</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>Requests for Production and Interrogatories</i> (Paoli, Henry) Modified text on 9/2/2022 (arp). (Entered: 09/01/2022)
09/02/2022	<a href="#">59</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>First Supplemental Answers</i> (Paoli, Henry) Modified text on 9/6/2022 (arp). (Entered: 09/02/2022)
09/14/2022	<a href="#">60</a>	NOTICE by Hector Garcia, Jr of <i>Agreed Extension of Deadline for Plaintiff to Proceed Under D.N.M.LR-CIV.37.1</i> (Coyte, Matthew) (Entered: 09/14/2022)
09/19/2022	<a href="#">61</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>First Supplemental Answers</i> (Paoli, Henry) Modified text on 9/20/2022 (arp). (Entered: 09/19/2022)
09/30/2022	<a href="#">62</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>Second Supplemental Response</i> (Paoli, Henry) Modified text on 10/3/2022 (arp). (Entered: 09/30/2022)
10/06/2022	<a href="#">63</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's Answers and Responses to Defendant Corizon Health Inc.'s First Set of Interrogatories and Requests for Production</i> (Coyte, Matthew) (Entered: 10/06/2022)
10/11/2022	<a href="#">64</a>	Unopposed MOTION to Extend (other) <i>Deadline Under D.N.M.LR-Civ. 26.6</i> by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 10/11/2022)
10/11/2022	<a href="#">65</a>	ORDER GRANTING MOTION EXTENDING DEADLINE TO PROCEED UNDER D.N.M.LR-Civ. 26.6 by Magistrate Judge Gregory J. Fouratt. (eps) (Entered: 10/11/2022)
10/12/2022	<a href="#">66</a>	Unopposed MOTION for Protective Order by Heather Barela, Christi Bennett, Eduardo Berumen, Corizon Health, Inc., Melissa Garcia, Gladys Hernandez, Veronica Salazar. (Attachments: # <a href="#">1</a> Exhibit) (Paoli, Henry) (Entered: 10/12/2022)
10/14/2022	<a href="#">67</a>	PROTECTIVE ORDER by Magistrate Judge Gregory J. Fouratt. (eps) (Entered: 10/14/2022)
10/17/2022	<a href="#">68</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>Third Supplemental Responses</i> (Paoli, Henry) Modified text on 10/18/2022 (arp). (Entered: 10/17/2022)
10/19/2022	<a href="#">69</a>	Unopposed MOTION to Extend (other) <i>Scheduling Order Deadlines</i> by Hector Garcia, Jr. (Coyte, Matthew) Modified on 11/2/2022 (ac). (Entered: 10/19/2022)
10/20/2022	<a href="#">70</a>	ORDER EXTENDING SCHEDULING ORDER DEADLINES by Magistrate Judge Gregory J. Fouratt. Discovery now due 3/13/2023, and pretrial motions now due 4/17/2023. (eps) (Entered: 10/20/2022)
10/26/2022	<a href="#">71</a>	Opposed MOTION to Compel <i>Discovery</i> by Hector Garcia, Jr. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6) (Coyte, Matthew) (Entered: 10/26/2022)
10/28/2022	<a href="#">72</a>	ORDER RESETTING TELEPHONIC PRE-SETTLEMENT STATUS CONFERENCE by Magistrate Judge Gregory J. Fouratt. The telephonic pre-settlement status conference, previously set for 11/16/2022 at 02:00 PM [ECF <a href="#">50</a> ], is hereby RESET to <b>11/15/2022 at 03:00 PM</b> . The parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. Client attendance is not required. (gbg) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/28/2022)
11/08/2022	<a href="#">73</a>	Unopposed MOTION to Vacate <i>November 30, 2022, and to Reschedule the Settlement Conference</i> by Heather Barela, Christi Bennett, Eduardo Berumen, Corizon Health,

		Inc., Melissa Garcia, Gladys Hernandez, Veronica Salazar. (Paoli, Henry) (Entered: 11/08/2022)
11/08/2022	74	ORDER GRANTING DEFENDANTS' UNOPPOSED MOTION TO VACATE by Magistrate Judge Gregory J. Fouratt. The pre-settlement telephonic status conference 72 and settlement conference <a href="#">50</a> are hereby VACATED. (eps) <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (Entered: 11/08/2022)
11/09/2022	<a href="#">75</a>	RESPONSE to Motion re <a href="#">71</a> Opposed MOTION to Compel <i>Discovery</i> filed by Corizon Health, Inc.. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit) (Paoli, Henry) (Entered: 11/09/2022)
11/09/2022	<a href="#">76</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>Defendants' First Supplemental Rule 26 Disclosures</i> (Paoli, Henry) Modified text on 11/10/2022 (arp). (Entered: 11/09/2022)
11/10/2022	77	ORDER RESETTING TELEPHONIC SETTLEMENT STATUS CONFERENCE by Magistrate Judge Gregory J. Fouratt. Telephonic Settlement Status Conference, previously set for 11/15/2022 at 3:00 PM [ECF 72], is hereby RESET to <b>2/02/2023 at 1:15 PM</b> . The parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. Client attendance is not required. (eps) <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> Modified on 11/16/2022 (cfa). (Entered: 11/10/2022)
11/22/2022	<a href="#">78</a>	REPLY to Response to Motion re <a href="#">71</a> Opposed MOTION to Compel <i>Discovery</i> filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 11/22/2022)
11/22/2022	<a href="#">79</a>	NOTICE of Briefing Complete by Hector Garcia, Jr re <a href="#">71</a> Opposed MOTION to Compel <i>Discovery</i> filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 11/22/2022)
11/28/2022	<a href="#">80</a> 	ORDER SETTING MOTION HEARING by Magistrate Judge Gregory J. Fouratt. Zoom hearing set for 12/15/2022 at 09:30 AM MST. (eps) (Entered: 11/28/2022)
12/07/2022	<a href="#">81</a>	Unopposed MOTION to Extend (other) <i>Scheduling Order Deadlines</i> by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 12/07/2022)
12/08/2022	<a href="#">82</a>	SECOND ORDER EXTENDING SCHEDULING ORDER DEADLINES by Magistrate Judge Gregory J. Fouratt. Discovery due 4/27/2023. Motions due 6/1/2023. (gbg) (Entered: 12/08/2022)
12/08/2022		Reset Deadlines: Discovery due by 4/27/2023. Motions due by 6/1/2023. (arp) (Entered: 12/09/2022)
12/12/2022	<a href="#">83</a> 	ORDER FOR <i>IN CAMERA</i> REVIEW by Magistrate Judge Gregory J. Fouratt. Defendant Corizon Health, Inc. has until 10:00 AM MST on 12/13/2022 to comply. (eps) (Entered: 12/12/2022)
12/19/2022	<a href="#">84</a>	Clerk's Minutes for motions hearing held on 12/19/2022 before Magistrate Judge Gregory J. Fouratt. (eps) (Entered: 12/19/2022)
12/20/2022	<a href="#">85</a>	CERTIFICATE OF SERVICE by Hector Garcia, Jr <i>Plaintiff's Fourth Set of Interrogatories and Third Requests for Production to Defendant Corizon Health, Inc.</i> (Coyte, Matthew) (Entered: 12/20/2022)
12/30/2022	86	ORDER RESETTING TELEPHONIC STATUS CONFERENCE by Magistrate Judge Gregory J. Fouratt. Telephonic Status Conference, previously set for 2/2/2023 at 1:15 PM MST 77 , is hereby RESET to <b>2/2/2023 at 10:00 AM MST</b> . The parties shall call

		the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. Client attendance is not required. (eps) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 12/30/2022)
01/03/2023	<a href="#">87</a>	TRANSCRIPT of Motion Hearing held on December 15, 2022, before Magistrate Judge Gregory J. Fouratt. Court Reporter/Transcriber 518-302-6772, Telephone number Abba Reporting. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.  <b>PLEASE TAKE NOTICE that each party now has seven (7) calendar days to file a Notice of Intent to Request Redaction of any personal identifiers from this transcript. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary and will make the transcript electronically available, as is, to the public after 90 days. For additional guidance, PLEASE REVIEW the complete policy, located in the CM/ECF Administrative Procedures Manual at <a href="https://www.nmd.uscourts.gov">https://www.nmd.uscourts.gov</a>.</b>  Notice of Intent to Request Redaction set for 1/10/2023. Redaction Request due 1/24/2023. Redacted Transcript Deadline set for 2/3/2023. Release of Transcript Restriction set for 4/3/2023.(jg) (Entered: 01/03/2023)
01/03/2023	<a href="#">88</a> <b>R</b>	ORDER COMPELLING DISCOVERY by Magistrate Judge Gregory J. Fouratt. Defendant has until 1/13/2023 to supplement its response to Plaintiff's first interrogatory and request for production. (eps) (Entered: 01/03/2023)
01/12/2023	<a href="#">89</a>	MOTION to Stay re <a href="#">88</a> <b>R</b> Order on Motion to Compel <i>Discovery</i> by Corizon Health, Inc.. (Paoli, Henry) (Entered: 01/12/2023)
01/12/2023	<a href="#">90</a> <b>R</b>	ORDER STAYING COMPLIANCE WITH ORDER COMPELLING DISCOVERY by Magistrate Judge Gregory J. Fouratt. (eps) (Entered: 01/12/2023)
01/13/2023	<a href="#">91</a>	OBJECTIONS re <a href="#">88</a> <b>R</b> Order on Motion to Compel <i>Discovery</i> by Corizon Health, Inc. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit) (Paoli, Henry) (Entered: 01/13/2023)
01/19/2023	<a href="#">92</a>	CERTIFICATE OF SERVICE by Corizon Health, Inc. <i>Response to Plaintiff's Fourth Set of Interrogatories &amp; Third Requests for Production</i> (Paoli, Henry) Modified text on 1/20/2023 (arp). (Entered: 01/19/2023)
01/23/2023	<a href="#">93</a>	<i>Plaintiff's</i> RESPONSE to Defendant Corizon Health Inc.'s Objections to the Magistrate Judge's Order Compelling Discovery re <a href="#">91</a> Objections filed by Hector Garcia, Jr. (Coyte, Matthew) (Entered: 01/23/2023)
02/03/2023	<a href="#">94</a>	REPLY re <a href="#">93</a> Response, <a href="#">91</a> Objections filed by Corizon Health, Inc.. (Paoli, Henry) (Entered: 02/03/2023)
02/03/2023	<a href="#">95</a>	NOTICE by Corizon Health, Inc. re <a href="#">94</a> Reply, <a href="#">93</a> Response, <a href="#">91</a> Objections of <i>Completion of Briefing</i> (Paoli, Henry) Modified text on 2/6/2023 (arp). (Entered: 02/03/2023)
02/03/2023	<a href="#">96</a>	Clerk's Minutes for telephonic status conference held on 2/2/2023 before Magistrate Judge Gregory J. Fouratt. (gbg) (Entered: 02/03/2023)
02/03/2023	<a href="#">97</a> <b>R</b>	ORDER SETTING SETTLEMENT CONFERENCE by Magistrate Judge Gregory J. Fouratt. Telephonic pre-settlement status conference set for 3/22/2023 at 01:15 PM. The

		parties shall call the Court's conference line at (888) 363-4735 and use access code 9873158 to connect to the proceedings. Client attendance is not required. Settlement conference set for 4/5/2023 at 10:00 AM via Zoom. (gbg) (Entered: 02/03/2023)
02/10/2023	<a href="#">98</a>	MOTION to Withdraw <i>as Counsel for Defendants</i> by Corizon Health, Inc.. (Paoli, Henry) (Entered: 02/10/2023)
02/15/2023	<a href="#">99</a> <b>R</b>	SUGGESTION OF BANKRUPTCY Upon the Record <i>and Notice of Automatic Stay</i> by Corizon Health, Inc. (Paoli, Henry) (Entered: 02/15/2023)
02/15/2023	100	ORDER VACATING SETTLEMENT CONFERENCE by Magistrate Judge Gregory J. Fouratt. In light of Defendant's <a href="#">99</a> <b>R</b> Notice of Suggested Bankruptcy, the Court hereby VACATES its <a href="#">97</a> <b>R</b> Order Setting Settlement Conference, including the pre-settlement status conference and all other associated requirements and deadlines. (eps) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 02/15/2023)

PACER Service Center			
Transaction Receipt			
02/28/2023 17:31:47			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	2:21-cv-00485-DHU-GJF
Billable Pages:	7	Cost:	0.70

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

HECTOR GARCIA JR., as Personal Representative  
to the Estate of HECTOR GARCIA

Plaintiff,

v.

No. 2:21-cv-00485-WJ/GJF

CORIZON HEALTH, INC.,  
WARDEN VINCE POKLUDA, VERONICA SALAZAR,  
CHRISTI BENNETT, MELISSA GARCIA, GLADYS HERNANDEZ,  
HEATHER BARELA, EDUARDO BERUMEN

Defendants.

**SECOND AMENDED COMPLAINT FOR THE RECOVERY OF DAMAGES  
CAUSED BY THE DEPRIVATION OF CIVIL RIGHTS**

Plaintiff brings this complaint for damages caused by the violation of his civil and constitutional rights. Plaintiff files this complaint under the federal Civil Rights Act, and the Constitution of the United States. Plaintiff also brings claims under the New Mexico Tort Claims Act and the Wrongful Death Act. In support of this Complaint, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C. § 1331 and 42 U.S.C. §§ 1983 and 1988.
2. Venue is proper as the acts complained of occurred exclusively within Doña Ana County, New Mexico.

**PARTIES**

3. Plaintiff Hector Garcia Jr., as Personal Representative to the Estate of Hector Garcia, is an individual and resident of Doña Ana County, New Mexico.

4. Plaintiff Hector Garcia Jr. was duly appointed in the State of New Mexico Third Judicial District Court as Personal Representative to the Estate of Hector Garcia for the purposes of maintaining a claim for damages arising out of the wrongful death of Hector Garcia under the Wrongful Death Act.

5. Hector Garcia was an inmate in the custody and care of the Doña Ana County Detention Center (hereinafter “DACDC”) from August 1, 2019 until his death on August 7, 2019. While incarcerated, Mr. Garcia was completely dependent upon DACDC for his care and well-being.

6. During all material times Defendant Corizon Health, Inc. ("Corizon") was responsible for providing medical care to inmates at DACDC pursuant to contract with Defendant Board.

7. Defendant Corizon is a Delaware for Profit Corporation registered to do business in New Mexico.

8. At all material times, Defendant Corizon acted through its owners, officers, directors, employees, agents, or apparent agents including, but not limited to, administrators, management, nurses, doctors, technicians and other staff responsible for their acts or omissions pursuant to the doctrines of respondeat superior, agency or apparent agency.

9. At all material times, Defendant Vince Pokluda was employed by DACDC as the facility detention administrator with supervisory duties.

10. Defendant Pokluda was acting under the color of state law and within the scope of his employment at all material times.

11. Defendant Pokluda was the final policy maker for DACDC.

12. Defendant Pokluda is being sued in his official capacity.

13. At all material times, Defendant Veronica Salazar was employed by Defendant Corizon as a registered nurse.

14. Defendant Salazar was acting under the color of state law and within the scope of her employment at all material times.

15. Defendant Salazar is being sued in her individual capacity only.

16. At all material times, Defendant Gladys Hernandez was employed by Defendant Corizon as a registered nurse.

17. Defendant Hernandez was acting under the color of state law and within the scope of her employment at all material times.

18. Defendant Hernandez is being sued in her individual capacity only.

19. At all material times, Defendant Heather Barela was employed by Defendant Corizon as a registered nurse.

20. Defendant Barela was acting under the color of state law and within the scope of her employment at all material times.

21. Defendant Barela is being sued in her individual capacity only.

22. At all material times, Defendant Eduardo Berumen was employed by Defendant Corizon as a nurse practitioner.

23. Defendant Berumen was acting under the color of state law and within the scope of his employment at all material times.

24. Defendant Berumen is being sued in his individual capacity only.

25. At all material times, Defendant Melissa Garcia was employed by Defendant Corizon as a nurse practitioner.

26. Defendant Garcia was acting under the color of state law and within the scope of his employment at all material times.

27. Defendant Garcia is being sued in her individual capacity only.

28. At all material times, Defendant Christi Bennett was employed by Defendant Corizon as a registered nurse.

29. Defendant Bennett was acting under the color of state law and within the scope of her employment at all material times.

30. Defendant Bennett is being sued in her individual capacity only.

**FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

31. On August 1, 2019, Hector Garcia was given a sentence of six days for his failure to pay \$242 in fines.

32. That evening, Hector was booked into the Doña Ana County Detention Center (“DACDC”) to serve this six-day sentence.

33. Hector had a history of peptic ulcers.

34. In previous stays at the jail, medical staff noted Hector had a history of these ulcers including at least one event when an ulcer was bleeding.

35. Shortly into his sentence, Hector began to experience symptoms consistent with a perforated (“burst”) ulcer.

36. At approximately 5:53 p.m. on August 4, 2019, Hector collapsed in the housing pod.

37. Medical records indicate Hector was found face down on the floor moaning in pain.

38. Hector was vomiting and was described as having “dry heaves.”

39. Hector asked for medical care.

40. Hector told Defendant Veronica Salazar, a nurse, that he had not eaten in four days.

41. Defendant Salazar sent Hector back to his pod without treatment.

42. Defendant Salazar made no attempt to have Hector seen by a higher-level provider.

43. Defendant Salazar was familiar with Hector and his medical history from previous stays in the jail.

44. Hector begged to be housed in medical.

45. Hector's requests were ignored.

46. Due to his history of drug use, Hector was placed on a withdrawal protocol called COWS.

47. This protocol is designed to provide extra medical observation of an inmate.

48. This extra medical observation is needed as untreated withdrawal is potentially fatal.

49. The COWS protocol requires frequent measurement of an individual's vital signs such as blood pressure and temperature.

50. The symptoms of withdrawal are assessed to see if the individual needs a higher level of care such as hospitalization.

51. Any competent medical provider in a jail would realize Hector was suffering symptoms of withdrawal.

52. Any competent medical provider in a jail setting knows untreated withdrawal is potentially fatal.

53. In addition to his symptoms of withdrawal, Hector was also suffering symptoms consistent with a perforated ulcer.

54. Any competent medical provider would realize Hector's symptoms required immediate emergent medical attention.

55. Throughout the night, Corizon medical staff failed to monitor Hector despite being required to do so as part of the COWS protocol.

56. At 10:53 a.m. on August 5, 2019, Hector again collapsed in the pod.

57. Video evidence of this event has been preserved.

58. Hector was found in the pod on his hands and knees.

59. Hector had vomited.

60. Hector was yelling in pain.

61. Hector was saying “help me.”

62. When asked, Hector described his pain as 10 out of 10.

63. Hector’s blood pressure was finally taken and noted to be abnormally high at 160/95.

64. Hector’s pulse was taken and was noted to be “thready.”

65. Hector informed staff he had not had a bowel movement in 3 or 4 days, a symptom inconsistent with withdrawal.

66. Withdrawal is often associated with diarrhea.

67. Medical staff knew that Hector had collapsed the previous day.

68. Defendant Bennett, as a registered nurse, knew that abdominal pain of such severity was a potentially life-threatening medical condition.

69. Defendant Bennett knew that high blood pressure and a thready pulse are medical conditions which cannot be faked.

70. Video of the incident demonstrates Hector was in so much abdominal pain he could not stand up.

71. Staff were required to help Hector into a wheelchair and take him to the medical department.

72. Defendant Garcia was the nurse practitioner on duty at that time.

73. Medical records indicate Defendant Garcia saw Hector for only 5 minutes and diagnosed him with constipation.

74. During this short examination, Hector told Defendant Garcia he thought he had cirrhosis of the liver.

75. Defendant Garcia did not attempt to get a history from Hector about his symptoms and she did not perform a review of symptoms associated with the complications of cirrhosis such as gastrointestinal bleeding.

76. Defendant Garcia knows that constipation is not associated with high blood pressure, thready pulse or such levels of pain.

77. A diagnosis of constipation for someone who has collapsed twice in a period of 24 hours and whose vital signs are abnormal demonstrates utter indifference to the pain and suffering of that individual.

78. At this time, Hector needed an assessment of his illness.

79. Hector needed to be transported to the nearest emergency room to make a proper diagnosis.

80. If Hector had collapsed with this sort of pain in any place other than a jail or prison, he would have been transported immediately to the nearest emergency room.

81. It would be obvious to any lay person that Hector needed to be transported to the emergency room for a higher level of care.

82. Hector was suffering from a perforated ulcer.

83. As time passes for someone with an untreated perforated ulcer, the contents of the bowel will enter the abdominal cavity.

84. When allowed to flow into the abdominal cavity, the contents of the bowel can cause infection which leads to sepsis and death if untreated.

85. A perforated ulcer is extremely painful.

86. Emergency rooms encounter perforated ulcers as a matter of routine.

87. Emergency surgery is usually required to treat the condition.

88. The symptoms of a perforated ulcer are well known in the medical community.

89. Surgical intervention of a perforated ulcer is usually successful at saving an individual's life.

90. Defendant Garcia knew that abdominal pain of this type could be fatal if left untreated.

91. After this second collapse, coupled with a worsening of his symptoms, Hector needed to be transported to the hospital, where his life could be saved.

92. Any competent medical provider would not be willing to assume these symptoms were benign enough to merit a diagnosis of constipation.

93. As the bowel fluid filled Hector's abdominal cavity, Hector's abdomen became distended.

94. At 3:51 p.m., Defendant Hernandez noted that Hector's abdomen was distended and that he was still in pain rated at 10 out of 10.

95. Defendant Hernandez also noted Hector was vomiting a dark brown or orange bile substance.

96. Dark brown vomit can be an indication of blood and internal bleeding which requires immediate medical attention.

97. Defendant Hernandez also noted that Hector's abdomen was painful to palpitation, a symptom associated with perforated ulcers.

98. Despite these obvious signs and symptoms indicating a life-threatening condition, Defendant Hernandez did not call for a higher level provider or an ambulance.

99. Later that afternoon, a mental health nurse saw Hector while he was housed alone in a segregation cell.

100. This nurse indicated Hector had vomited blood onto the floor.

101. This nurse also indicated Hector was suffering from hallucinations and that his uniform and cell were contaminated with bloody emesis and needed cleaning.

102. This nurse told Defendant Bennett that Hector had been vomiting blood.

103. Hector's symptomatology was so serious that Defendant Bennett had an obligation at this time to call an ambulance.

104. At this point in time, all medical defendants associated with Hector's care should have called for an ambulance.

105. Instead, all medical defendants did nothing to treat Hector's life-threatening condition.

106. At 8:39 p.m., Defendant Heather Barela saw Hector for medical rounds.

107. Defendant Barela described her patient as showing no signs of distress and noted that he said he was feeling "good" today.

108. This observation was impossible as Hector was beginning to die of sepsis.

109. At 10:30 p.m., Defendant Barela's medical note indicated Hector had refused to have his vital signs taken.

110. This was impossible as the pain and suffering Hector was enduring made him incapable of refusing medical treatment.

111. At 11:08 p.m., Defendant Barela noted that Hector was not in distress and that he did not want his vital signs to be taken.

112. This was also impossible as eight minutes later at 11:16 p.m., video evidence demonstrates Hector collapsed for a third time and was being dragged out of his solitary cell by security staff.

113. At 11:38 p.m., medical notes indicate Hector's blood pressure had dropped to 90/60.

114. Medical records also indicate that Hector's hands were cold to the touch and that the pulse oximeter could not obtain a reading.

115. The enormous drop in blood pressure from the previous reading, coupled with symptoms of cold extremities, distended abdomen, excruciating pain, and blood in the vomit, indicated Hector was dying.

116. Any trained medical professional would know to call 911 under these circumstances.

117. The defendants in this case each knew they should call 911 under these circumstances.

118. Any rational human being, even without any medical training would know to call 911 under these circumstances.

119. No defendant called 911.

120. At 11:40 p.m., Defendant Eddie Berumen, a nurse practitioner, was called and informed of the situation.

121. Defendant Berumen was familiar with Hector and his medical history from previous stays in the jail.

122. Defendant Berumen made no attempt to provide for a higher level of care for Hector, but instead instructed medical staff to provide him with IV fluids.

123. Medical staff claim they could not get a saline drip connected to Hector's arm.

124. This meant they could not provide any treatment intravenously.

125. Paramedics are trained to place IV lines into difficult spots in a person who is too sick or whose veins are not capable of accepting a normal IV line.

126. Defendant Berumen knew his staff did not provide an IV line to Hector.

127. Defendant Berumen knew ambulance personnel could obtain an IV line while on route to the hospital.

128. Instead of ordering an ambulance, or arranging for someone capable of providing an IV, Defendant Berumen ordered staff to give Hector fluids to drink.

129. At 12:07 a.m. on August 6, 2019, video evidence shows Hector collapsed for a fourth time.

130. Custody staff attempted to escort him back to his isolation cell, but he fell to the floor.

131. Hector was so sick he was incapable of keeping his pants up.

132. Video evidence shows Hector's pants fell to the ground as he tried to remain standing.

133. Defendant Barela again noted that Hector had "coffee ground emesis," an indication of blood in Hector's vomit.

134. Defendant Berumen was again told that Hector was vomiting blood.

135. At 1:00 a.m., Defendant Berumen finally ordered Hector be taken to the hospital.

136. Ambulance rides cost the jail money.

137. Defendant Berumen instructed staff not to use an ambulance but to use a security van to transport Hector to the hospital.

138. This resulted in a 30-minute delay while security staff arranged a transport.

139. During this time, without IV fluids or any meaningful treatment, Hector's time on this planet was drawing to an end.

140. By all reasonable calculations, the travel time during normal business hours from the jail to the hospital is 15 minutes.

141. An ambulance ride at 1 a.m. should logically be faster than 15 minutes.

142. Detention officers Macias and Ramirez took more than 30 minutes to leave the jail and another 30 minutes to make the short drive to the hospital.

143. At some point during that 30-minute ride, while alone and shackled in the back of a security van, Hector suffered a cardiac arrest.

144. Hospital staff were able to resuscitate Hector, but after having suffered a heart attack, Hector was in no condition for surgery.

145. By failing to treat Hector's serious and obvious medical condition, Defendants deprived Hector of the ability to have lifesaving surgery.

146. By choosing to use a security vehicle instead of an ambulance, Defendant Berumen deliberately delayed Hector's ability to receive lifesaving treatment.

147. All Defendants allowed Hector to needlessly suffer 10 out of 10 pain for an unacceptable period of time.

148. Hector was declared dead on August 7, 2019.

149. When jail staff knew Hector was likely to die, they took great effort to organize his release from DACDC custody.

150. This ensured Hector's death was not considered a death in custody and therefore did not require an investigation.

**COUNT I: VIOLATION OF DUE PROCESS  
INADEQUATE MEDICAL CARE**

**(All Defendants)**

151. Plaintiff restates all previous allegations as if restated herein.
152. Hector was sentenced to six days in jail and was therefore subject to the protections of the Eighth Amendment to the United States Constitution.
153. The Eighth Amendment requires Defendants to provide adequate medical care to those in their custody.
154. Hector was incapable of calling 911 for himself while serving his six-day sentence at the jail.
155. Hector was forced to rely on each of the individual defendants to provide him access to a hospital.
156. Hector was forced to rely on each of the individual defendants to provide treatment for his pain which he repeatedly described as 10 out of 10.

**Defendant Salazar was Deliberately Indifferent.**

157. Defendant Salazar, a registered nurse, knew Hector had collapsed in pain on August 4, 2019.
158. Defendant Salazar knew Hector had not eaten in at least 4 days.
159. Defendant Salazar knew Hector was “dry heaving.”
160. Hector asked Defendant Salazar for medical care.
161. Hector asked to be housed in the medical department.
162. Defendant Salazar had an obligation to call for a higher-level practitioner to evaluate Hector.
163. Hector’s symptoms were clear indications of a serious and obvious medical condition.

164. Defendant Salazar acted with deliberate indifference to this medical condition when she refused Hector's request for medical care.

165. In an act of complete indifference, Defendant Salazar told Hector to return to his pod without medical care.

166. Had Hector received access to adequate medical care, his pain and symptomatic, perforated ulcer would have been treated and he more than likely would have been alive today.

**Defendant Bennett was Deliberately Indifferent**

167. As a Charge Nurse, Defendant Bennett knew she had an obligation to check Hector's medical chart when she provided him with treatment.

168. Defendant Bennett saw Hector writhing in pain on the floor of the pod on August 5, 2019.

169. Hector's medical chart described how he had collapsed the previous day with untreated abdominal pain.

170. Defendant Bennett knew Hector was suffering pain on a scale of 10 out of 10.

171. Defendant Bennett knew Hector was suffering high blood pressure and had a thready pulse.

172. Defendant Bennett knew Hector had not eaten or had a bowel movement in 4 days.

173. Defendant Bennett knew Hector had been vomiting and had been complaining of intense liver pain.

174. Defendant Bennett had an obligation to call for an ambulance for Hector on the morning of August 5, 2019.

175. Later that day, Defendant Bennett also learned that Hector had been vomiting blood.

176. At this time, Defendant Bennett was aware that Hector's diagnosis of constipation made absolutely no sense.

177. When Defendant Bennett learned Hector was vomiting blood, she had an obligation to arrange for an ambulance.

178. In an act of deliberate indifference, Defendant Bennett did nothing in response to the news that Hector was vomiting blood.

179. Had Defendant Bennett called an ambulance, it is more than likely that Hector would be alive today.

**Defendant Hernandez was Deliberately Indifferent**

180. On the afternoon of August 5, 2019, Defendant Hernandez, a registered nurse, knew Hector was vomiting a brown, bile-like liquid consistent with bloody emesis.

181. Defendant Hernandez knew Hector had a distended abdomen consistent with a perforated ulcer.

182. Defendant Hernandez knew Hector was suffering from extreme sharp pain that radiated from the right side of his abdomen.

183. Defendant Hernandez knew these symptoms were not consistent with Hector's diagnosis of constipation.

184. Defendant Hernandez knew Hector had collapsed twice within the last 24 hours.

185. With this knowledge, Defendant Hernandez had an obligation to call for an ambulance.

186. In an act of deliberate indifference, Defendant Hernandez allowed Hector's pain to go untreated.

187. Had Defendant Hernandez arranged for a higher level of medical care, Hector more than likely would not have died.

**Defendant Barela was Deliberately Indifferent**

188. Defendant Barela was given the task of monitoring Hector's medical condition.

189. Defendant Barela could see from Hector's chart that he was in serious pain, had been vomiting blood, had a distended abdomen and had collapsed on two previous occasions.

190. Defendant Barela was meant to monitor Hector's condition and vital signs periodically throughout the night.

191. Rather than monitoring Hector's deteriorating medical state, Defendant Barela claimed that Hector was refusing her care.

192. Hector was dying of sepsis as a result of an untreated perforated ulcer.

193. Hector was not capable of voluntarily refusing care.

194. In an act of complete indifference, Defendant Barela described Hector as showing no signs of distress.

195. In an act of complete indifference, Defendant Barela claimed she had spoken to Hector and had been informed he was feeling "good" that day.

196. It would not have been possible for Hector, who was dying and critically ill, to convince anyone he was feeling good.

197. It was not possible for anyone who had made a legitimate effort to check Hector's vital signs to believe he was showing no signs of distress.
198. At approximately 11:16 p.m., Defendant Brian Valle heard grunting noises coming from Hector's isolation cell.
199. Defendant Valle asked Defendant Barela if she wanted him to open the door so he could be examined.
200. Defendant Barela said no.
201. At this time, Officer Isaiah Montanez saw Hector's eyes roll up.
202. Officer Montanez saw Hector lose consciousness and fall, smacking his head on the floor.
203. Custody staff asked Defendant Barela if an emergency should be called.
204. Defendant Barela instructed staff NOT to call code Mary, the jail's protocol for a medical emergency.
205. The injury to Hector's head was visible and documented in his autopsy.
206. Defendant Barela made no attempt to examine or document the injury to Hector's head.
207. At approximately 12:00 a.m., Defendant Barela ordered custody staff to take Hector back to his solitary cell.
208. At 12:07 a.m., Hector collapsed for a fourth time.
209. Defendant Barela was told by custody staff that Hector could not make it back to his cell even with two officers trying to hold him up.
210. Hector can be seen on video incapable of holding his pants up.
211. Defendant Barela took his blood pressure.

212. Hector's blood pressure was dangerously low.
213. Defendant Barela did nothing to treat Hector's serious and obvious medical condition.
214. Defendant Barela did nothing to document or treat the head injury Hector received when he fell and hit his head.
215. Defendant Barela waited until 1:00 a.m. before calling the nurse practitioner on duty.
216. Had Defendant Barela called for an ambulance, or arranged for a higher level of care, Hector more than likely would have lived.

**Defendants Garcia and Berumen were Deliberately Indifferent**

217. Defendants Garcia and Berumen are nurse practitioners.
218. Defendants Garcia and Berumen have a higher level of medical training than the other medical defendants involved in Hector's care.
219. Initially, Hector was Defendant Garcia's patient.
220. After Defendant Garcia went home for the evening on August 5, 2019, Defendant Berumen took over Hector's care.
221. Before providing treatment to Hector, Defendants Garcia and Berumen had an obligation to review their patient's history and medical chart.
222. At 11:15 a.m., when Defendant Garcia examined Hector, it was clear he was suffering from a potentially life-threatening condition.
223. Defendant Garcia knew Hector was in agony.
224. Defendant Garcia did nothing to treat his pain.
225. Defendant Garcia knew Hector had collapsed on two prior occasions.

226. Defendant Garcia knew Hector's pain emanated from his abdomen.
227. Defendant Garcia knew that Hector had not eaten or defecated in 4 days and that his GI system had potentially shut down.
228. As a nurse practitioner, Defendant Garcia knew these symptoms were consistent with a perforated ulcer.
229. As a nurse practitioner, Defendant Garcia knew a perforated ulcer is potentially fatal if left untreated.
230. Defendant Garcia diagnosed Hector with constipation.
231. Defendant Garcia knew constipation does not cause the type of pain Hector was suffering and does not cause people to have extremely high blood pressure, a thready pulse, or cause them to collapse.
232. Under these circumstances, Defendant Garcia's five-minute examination, coupled with a diagnosis of constipation, constitutes deliberate indifference to a serious and obvious medical need.
233. Defendants Bennett and Hernandez had an obligation to inform Defendant Garcia that their patient's situation had deteriorated, that his abdomen was distended, and that there was evidence of blood in his vomit.
234. Assuming Defendants Bennett and Hernandez complied with their obligation, in a further act of indifference, Defendant Garcia went home for the day and did not arrange for a higher level of care for her patient.
235. Later that evening on August 5, 2019, after Hector's condition had worsened even further, Defendant Berumen became involved in his care.

236. Defendant Berumen had an obligation to investigate this diagnosis of constipation rather than rely on it as being accurate.
237. Defendant Berumen knew Hector's situation had become severe enough to merit an IV line.
238. Defendant Berumen was told the IV line could not be accomplished in the limited setting of the jail medical department.
239. In an act of indifference, instead of obtaining an IV drip for his patient, Defendant Berumen elected to rely on providing Hector glasses of water to drink.
240. In an act of indifference Defendant Berumen provided no treatment for Hector's pain that had been at a level of 10 out of 10 for some considerable time.
241. In an act of indifference, Defendant Berumen provided no treatment for the fact that Hector's blood pressure had dropped from 160/95 to 90/60 while his stomach became distended, and his hands and fingers became cold to the touch.
242. Defendants Garcia and Berumen both knew these symptoms could result in death if untreated.
243. Upon information and belief, Defendants Garcia and Berumen took the unacceptable and deliberately indifferent risk to treat Hector as if he was faking his serious symptomatology.
244. As a result, Defendants Garcia and Berumen deprived Hector of life saving care that was available in the local hospital 15 minutes away.
245. At 1:00 a.m., Defendant Berumen decided emergency room treatment was needed for Hector.

246. In an act of incredible indifference, Defendant Berumen stopped staff from calling 911 and ordered security staff to use the jail transport van to take Hector to the emergency room.

247. This decision predictably resulted in a delay.

248. It took 30 minutes for staff to get the security van ready.

249. It took an additional 33 minutes for the transport van to make the 15-minute journey to the hospital.

250. The decision to use a jail van rather than paramedics in an ambulance deprived Hector of life saving care.

251. Paramedics could have administered an IV and monitored Hector's heart.

252. Without paramedics, Hector was forced to suffer alone while shackled in a prisoner transport van.

253. Hector's pain and suffering became so extreme he collapsed in the back of the van having suffered a cardiac arrest alone and untreated.

254. Until this moment, Hector's death could have been averted if emergency personnel were summoned.

**COUNT II: NEGLIGENT PROVISION OF MEDICAL CARE**  
**(Defendants Corizon and Corizon Staff ("Medical Defendants"))**

255. Plaintiff restates each of the preceding allegations as if fully stated herein.

256. Defendant Corizon was contracted to provide medical care to inmates housed at DACDC at all material times herein.

257. The medical defendants, including Corizon, Salazar, Bennett, Garcia, Hernandez, Barela and Berumen, had a duty to provide Hector with adequate medical care.

258. It was clear to all medical defendants that Hector was suffering from intense pain and discomfort.

259. It was clear to all medical defendants that vomiting blood while experiencing extreme pain and collapsing on multiple occasions merits emergency medical care.

260. It was clear to all medical defendants that a diagnosis of constipation did not sufficiently explain Hector's obviously serious symptomatology.

261. It was clear to all medical defendants that a diagnosis of drug withdrawal did not explain all of Hector's obviously serious symptomatology.

262. It was clear to all medical defendants that Hector's symptoms required a higher level of care than he was being provided.

263. The standard of medical care imposed a duty on each medical defendant involved in Hector's care to obtain a higher level of care than he was receiving.

264. By failing to arrange for life saving care, each medical defendant breached the standard of care of their respective profession.

265. The facts described throughout this complaint demonstrate each medical defendant was at a minimum negligent in the medical care they provided or failed to provide.

266. This breach in the standard of care was the proximate cause of Hector's death.

267. This breach in the standard of care caused Hector to lose the opportunity of life saving surgery.

268. Defendant Corizon is liable for the negligence of its employees under the theory of respondeat superior.

**COUNT IV: CUSTOM AND POLICY OF  
VIOLATING CONSTITUTIONAL RIGHTS  
(Defendants Board and Warden Vince Pohluda)**

269. Plaintiff restates each of the preceding allegations as if fully stated herein.

270. The Board of County Commissioners for Dona Ana delegated the responsibilities of running DACDC to Defendant Pokluda.

271. Pursuant to state law, jail administrators acting in their official capacity are regarded as the final policy makers of their respective institutions.

272. Defendant Pokluda was therefore the final policy maker responsible for the hiring training and supervision of DACDC employees during his tenure.

273. Defendant Pokluda's policies therefore became the customs and policies of the County.

274. Prior to Defendant Pokluda's tenure as warden, Christopher Barela served as warden for twelve years, between 2005 and October 2017.

275. During his tenure, Christopher Barela established a custom and policy of delaying medical care to inmates at DACDC.

276. Examples of these policies and practices are evident in cases of other inmates who have suffered from a denial of adequate care during their detentions at DACDC.

277. In July 2017, Antonio Realı suffered a heart attack at DACDC.

278. Throughout his detention at DACDC, Mr. Realı begged DACDC and Corizon medical staff for his heart medications, which were refused.

279. Eventually, Mr. Realı began experiencing severe chest pains.

280. For several days, Mr. Realı begged for emergent medical care, but was denied and returned to his cell without any adequate care.

281. Eventually, Mr. Realı collapsed and became unresponsive.

282. Staff was unable to find a pulse and conducted CPR until EMS staff arrived to take over.

283. Mr. Reali was resuscitated, but suffered serious, lasting injuries from the event and from this prolonged denial of adequate medical care.

284. Several days after Mr. Reali suffered his heart attack, Christopher Barela was placed on leave after criminal charges were brought against him for possession of a controlled substance.

285. In October 2017, Christopher Barela eventually resigned from his position as warden.

286. Captain Vicki Hooser took over as interim warden at DACDC and continued the practices and policies she was trained on by Christopher Barela.

287. In November 2018, Ms. Hooser retired and Defendant Board hired Defendant Pokluda as acting warden while he was simultaneously serving as assistant county manager.

288. Defendant Pokluda allowed the unconstitutional practices and policies enacted by Defendant Barela to continue throughout his tenure.

289. Defendant Pokluda allowed Barela's written policy requiring detention staff to rely on Corizon medical staff in the face of medical emergencies to continue unchanged.

290. This policy requires custody staff to defer all decisions regarding emergency medical transport to Corizon employees or their contractors.

291. This policy prevents custody officers from calling 911 unless Corizon staff instruct them to do so.

292. This policy is obviously likely to result in life threatening delays in obtaining medical care in emergency situations.

293. This policy has predictably resulted in numerous examples of people who have not been transported to the emergency room in a timely way.

294. This policy is articulated in filings by Defendant Board in another civil rights case in which they are a defendant.

295. Specifically, DACDC Detention Officer Enrique Perez wrote an affidavit describing this policy in a case where an inmate alleged he was not transported to the emergency room in a timely manner.

296. Additionally, DACDC Sergeant Montelongo described this policy in an affidavit.

297. Sergeant Montelongo testified that Corizon staff determine when an inmate goes to the hospital.

298. Officer Enrique Perez testified that only after Corizon staff decide emergency treatment is necessary, will custody staff summon 911.

299. Detention staff have a constitutional obligation to summon 911 when they see a need for immediate emergency medical care which cannot be treated in the jail.

300. Detention staff have a constitutional obligation to summon additional medical care if an inmate is receiving inadequate care for a serious and obvious medical condition.

301. This obligation exists even if Corizon staff decide not to call for additional help.

302. In an act of deliberate indifference, successive wardens (including Defendant Pokluda) have endorsed this policy as a cost saving measure.

303. It is obvious such a policy would lead to delays in emergency medical care to inmates at DACDC.

304. This policy has led to the deaths of several inmates in DACDC.

305. Custodial staff saw Hector collapse, saw him strike his head, saw his bloody vomit and saw he was not receiving emergency medical treatment.

306. Detention officer Brian Valle saw Hector lose consciousness and strike his head on the floor.

307. Officer Valle saw that Defendant Barela was not providing any medical care for Hector who was at that time dying of a perforated ulcer.

308. Valle saw that Defendant Barela did not obtain vital signs from Hector.

309. Valle saw Defendant Barela ignore Hector's potentially serious head injury.

310. Valle saw Defendant Barela providing no substantive medical care for Hector who looked like he was near his death (as demonstrated by video evidence of the incident).

311. Rather than call 911, Defendant Valle called for a bio crew to clean Hector's bloody vomit from the cell floor.

312. Defendant Valle acted with deliberate indifference to Hector's Serious and obvious medical needs when he failed to summon qualified emergency medical care.

313. Valle relied on the unconstitutional county policy to defer to medical staff even in an obvious medical emergency where medical staff were deliberately indifferent to a serious and obvious medical need.

314. This reliance on the unconstitutional facility policy likely insulates Valle from liability due to the doctrine of qualified immunity.

315. Successive wardens have encouraged and ratified this policy, even knowing it delays the summoning of emergency services via 911.

316. This policy was the moving force behind the constitutionally inadequate care Hector received.

317. Had this policy not existed, 911 would have been summoned to the jail in time to save Hector's life.

318. Had such a policy not existed, 911 would have been called to take Hector to the hospital, rather than using a custody transport as ordered by Corizon staff.

319. This resulted in Hector's continued pain and suffering.

320. This resulted in Hector's death.

321. Shortly after Hector died, another inmate died in the custody of DACDC from a heart attack.

322. Zachary Barela had a history of hypertension and hyperlipidemia.

323. On August 28, 2019, Mr. Barela began suffering from chest pains.

324. Inmates in his cell began banging on the cell door requesting the officer at master control call for medical care.

325. The officer refused to contact medical services or check on Mr. Barela because shaving razors had been distributed in the pod.

326. As a result, Mr. Barela was allowed to continue suffering from an apparent heart attack without any care.

327. When the DACDC officer eventually called for medical care, Mr. Barela had collapsed and was unresponsive.

328. When medical staff arrived, Mr. Barela was asphyxiating on his own emesis.

329. Mr. Barela was later pronounced dead at the facility.

330. Defendants' actions during Hector's detention followed the policies and practice described above.

331. There is a causal connection between Defendants Board and Pokluda's policies and the violation of Hector's constitutional rights, which amounts to deliberate indifference.

332. As a proximate and foreseeable result of Defendant's policy to delay emergency medical care until Corizon staff authorized it, Mr. Garcia suffered injuries including physical injuries, pain and suffering, emotional distress, exacerbation of his medical condition, and death.

### **JURY DEMAND**

Plaintiff hereby demands a trial by jury on all counts.

WHEREFORE, Plaintiffs requests judgment as follows:

1. Compensatory damages in an as yet undetermined amount, jointly and severally against all Defendants, including damages for attorney's fees and emotional harm.
2. Punitive damages in an as yet undetermined amount severally against the individually named Defendants.
3. Reasonable costs and attorney's fees incurred in bringing this action.
4. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

COYTE LAW, P.C.

/s/ Matthew E. Coyte

Matthew E. Coyte

Alyssa D. Quijano

3800 Osuna Road NE, Suite 2

Albuquerque, NM 87109

(505) 244-3030

mcoyte@me.com

*Attorneys for Plaintiff*

**U.S. District Court**  
**United States District Court - District of New Mexico (Las Cruces)**  
**CIVIL DOCKET FOR CASE #: 2:22-cv-00152-KWR-KRS**

RECAP Actions ▼

Baker v. Corizon Health Inc. et al  
Assigned to: District Judge Kea W. Riggs  
Referred to: Magistrate Judge Kevin R. Sweazea  
Cause: 42:1983 Civil Rights Act

Date Filed: 02/28/2022  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Adam Baker**  
*as Personal Representative to the Estate of*  
*Zachary Barela*  
*estate of*  
*Zachary Barela*

represented by **Lisa Y Schatz-Vance**  
Law Office of Matthew Vance, P.C.  
3800 Osuna Road NE  
Ste 2  
Albuquerque, NM 87109  
505-242-6267  
Email: [lisa@mattvancelaw.com](mailto:lisa@mattvancelaw.com)  
**ATTORNEY TO BE NOTICED**

**Matthew Coyte**  
Coyte Law, PC  
Suite 2  
3800 Osuna Rd NE  
Albuquerque, NM 87109  
(505) 244-3030  
Fax: (505) 672-7088  
Email: [mcoyte@me.com](mailto:mcoyte@me.com)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**


**Corizon Health Inc.**

represented by **Casey S Stevenson**  
Scott Hulse, PC  
1100 Chase Tower  
201 E. Main Dr.  
El Paso, TX 79901  
915-533-2493  
Fax: 915-546-8333  
Email: [cste@scotthulse.com](mailto:cste@scotthulse.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**


**Henry John Paoli**  
Scott Hulse, P.C.  
P.O. Box 99123

El Paso, TX 79999-9123  
 (915) 533-2493  
 Fax: (915) 546-8333  
 Email: hpao@scotthulse.com  
**LEAD ATTORNEY**  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

**Defendant****John/Jane Doe**

Date Filed	#	Docket Text
02/28/2022	<a href="#">1</a>	COMPLAINT <i>for the Recovery of Damages Caused by the Deprivation of Civil Rights, Negligence, Spoliation of Evidence and Wrongful Death</i> against All Defendants ( Filing Fee - Online Payment), filed by Adam Baker. (Attachments: # <a href="#">1</a> Civil Cover Sheet) (Coyte, Matthew) (Entered: 02/28/2022)
02/28/2022		Filing and Administrative Fees Received: \$ 402 receipt number ANMDC-8142246 re <a href="#">1</a> Complaint, filed by Adam Baker (Payment made via Pay.gov)(Coyte, Matthew) (Entered: 02/28/2022)
02/28/2022		United States Magistrate Judge Gregory J. Fouratt and United States Magistrate Judge Kevin R. Sweazea assigned. (dr) (Entered: 02/28/2022)
02/28/2022	2	PLEASE TAKE NOTICE that this case has been randomly assigned to United States Magistrate Judge Gregory J. Fouratt to conduct dispositive proceedings in this matter, including motions and trial. Appeal from a judgment entered by a Magistrate Judge will be to the United States Court of Appeals for the Tenth Circuit. <b>It is the responsibility of the case filer to serve a copy of this Notice upon all parties with the summons and complaint.</b> <i>Consent is strictly voluntary, and a party is free to withhold consent without adverse consequences. Should a party choose to consent, notice should be made no later than 21 days after entry of the Order setting the Rule 16 Initial Scheduling Conference.</i> For e-filers, visit our Web site at <a href="http://www.nmd.uscourts.gov">www.nmd.uscourts.gov</a> for more information and instructions. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (dr) (Entered: 02/28/2022)
03/01/2022		Summons Issued as to Corizon Health Inc.. (jg) (Entered: 03/01/2022)
03/18/2022	<a href="#">3</a>	SUMMONS Returned Executed by Adam Baker. Corizon Health Inc. served on 3/11/2022, answer due 4/1/2022. (Coyte, Matthew) (Entered: 03/18/2022)
04/01/2022	<a href="#">4</a>	<i>Corizon Health, Inc.'s</i> ANSWER to <a href="#">1</a> Complaint, by Corizon Health Inc.. Related document: <a href="#">1</a> Complaint, filed by Adam Baker.(Paoli, Henry) (Entered: 04/01/2022)
04/19/2022	<a href="#">5</a> 	INITIAL SCHEDULING ORDER: by Magistrate Judge Kevin R. Sweazea. Joint Status Report due by May 16, 2022. Telephonic Scheduling Conference set for May 24, 2022 at 09:30 AM. Unless otherwise notified by the Clerk or the Court a notice of consent or non-consent for this case to proceed before the trial Magistrate Judge should be submitted by each party no later than May 10, 2022. (atc) (Entered: 04/19/2022)
04/28/2022	<a href="#">6</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Initial Disclosures</i> (Coyte, Matthew) (Entered: 04/28/2022)
05/11/2022	7	NOTICE OF CONSENT SUBMISSION DEADLINE by Magistrate Judge Gregory J. Fouratt. Pursuant to Fed. R. Civ. P. 73(b)(2), the parties are reminded that a magistrate

		<p>judge was assigned as the trial judge in this matter under 28 U.S.C. 636(c). The parties are advised that this matter will be reassigned to a district judge as the trial judge if written consents from all parties have not been filed by <b>May 23, 2022</b>. The parties are free to withhold consent. <i>If you have already entered your consent, you need not resubmit.</i> (gbg)</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 05/11/2022)</p>
05/11/2022	<a href="#">8</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. (Paoli, Henry) (Entered: 05/11/2022)
05/16/2022	<a href="#">9</a>	Joint Status Report <i>and Provisional Discovery Plan</i> by Adam Baker (Coyte, Matthew) (Entered: 05/16/2022)
05/20/2022	<a href="#">10</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. (Paoli, Henry) (Entered: 05/20/2022)
05/24/2022	<a href="#">12</a>	Clerk's Minutes for proceedings held before Magistrate Judge Kevin R. Sweazea: Scheduling Conference held on 5/24/2022. (atc) (Entered: 05/24/2022)
05/24/2022	<a href="#">13</a> <b>R</b>	ORDER ADOPTING JOINT STATUS REPORT by Magistrate Judge Kevin R. Sweazea. (atc) (Entered: 05/24/2022)
05/24/2022	<a href="#">14</a> <b>R</b>	SCHEDULING ORDER: by Magistrate Judge Kevin R. Sweazea. Discovery due by November 21, 2022. Dispositive Motions due by December 22, 2022. (atc) (Entered: 05/24/2022)
05/25/2022	<a href="#">15</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission</i> (Coyte, Matthew) (Entered: 05/25/2022)
06/15/2022	16	<p>PLEASE TAKE NOTICE that this case has been reassigned to United States District Judge Kea W. Riggs as the trial judge.</p> <p>Under D.N.M.LR-Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.</p> <p><b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></b></p> <p>United States Magistrate Judge Gregory J. Fouratt no longer assigned to this case. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (jg) (Entered: 06/15/2022)</p>
06/16/2022	<a href="#">17</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Second Set of Interrogatories and Requests for Production</i> (Coyte, Matthew) (Entered: 06/16/2022)
06/16/2022	<a href="#">18</a>	Corporate Disclosure Statement by Corizon Health Inc. identifying Corporate Parent Valitas Intermediate Holdings, Inc., Corporate Parent Valitas Intermediate Holdings, Inc. for Corizon Health Inc.. (Paoli, Henry) (Entered: 06/16/2022)
06/17/2022	19	<p>NOTICE REGARDING DOCUMENT ENTRIES: Because this case has been reassigned to a district judge, please be advised that any documents filed by the parties under Rule 73(b) have been permanently removed from the docket. Document(s) removed: No. 11.</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (bl) (Entered: 06/17/2022)</p>

06/27/2022	<a href="#">20</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Discovery Responses</i> (Paoli, Henry) Modified text on 6/28/2022 (arp). (Entered: 06/27/2022)
07/18/2022	<a href="#">21</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>of answers to second interrogatories, responses to second requests for production and privilege log</i> (Paoli, Henry) Modified text on 7/19/2022 (bap). (Entered: 07/18/2022)
07/22/2022	<a href="#">22</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. - defendants answers to plaintiffs second interrogatories, defendants responses to plaintiffs second requests for production, and defendants privilege log (Paoli, Henry) Modified text on 7/25/2022 (cmm). (Entered: 07/22/2022)
08/04/2022	<a href="#">23</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's First Supplemental Initial Disclosures</i> (Coyte, Matthew) (Entered: 08/04/2022)
08/08/2022	<a href="#">24</a>	Unopposed MOTION to Extend (other) <i>Deadline Under D.N.M.LR-CIV. 26.6</i> by Adam Baker. (Coyte, Matthew) (Entered: 08/08/2022)
08/08/2022	<a href="#">25</a> 	ORDER by Magistrate Judge Kevin R. Sweazea granting <a href="#">24</a> Stipulated Motion to Extend Deadline to File Motion to Compel. (atc) (Entered: 08/08/2022)
08/08/2022	<a href="#">26</a>	Opposed MOTION to Compel <i>Discovery</i> by Adam Baker. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6, # <a href="#">7</a> Exhibit 7) (Coyte, Matthew) (Entered: 08/08/2022)
08/11/2022	<a href="#">27</a>	ORDER by Magistrate Judge Kevin R. Sweazea Setting Telephonic Status Conference for September 21, 2022 at 09:30 AM to discuss setting a settlement conference. The parties shall call (888) 398-2342 and enter code 8193818 to join the proceedings. <a href="#">[THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.]</a> (atc) (Entered: 08/11/2022)
08/16/2022	<a href="#">28</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Defendant's Second Supplemental Responses</i> (Paoli, Henry) Modified text on 8/17/2022 (arp). (Entered: 08/16/2022)
08/17/2022	<a href="#">29</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Second Supplemental Answers to Interrogatories</i> (Paoli, Henry) Modified text on 8/18/2022 (arp). (Entered: 08/17/2022)
08/22/2022	<a href="#">30</a>	<b>**FILED IN ERROR**</b> RESPONSE to Motion re <a href="#">26</a> Opposed MOTION to Compel <i>Discovery</i> filed by Corizon Health Inc.. (Attachments: # <a href="#">1</a> Affidavit) (Paoli, Henry) Modified text on 8/23/2022. Will refile with correct case number (arp). (Entered: 08/22/2022)
08/23/2022	<a href="#">31</a>	RESPONSE to Motion re <a href="#">26</a> Opposed MOTION to Compel <i>Discovery</i> filed by Corizon Health Inc.. (Attachments: # <a href="#">1</a> Exhibit) (Paoli, Henry) (Entered: 08/23/2022)
09/01/2022	<a href="#">32</a>	REPLY to Response to Motion re <a href="#">26</a> Opposed MOTION to Compel <i>Discovery</i> filed by Adam Baker. (Coyte, Matthew) (Entered: 09/01/2022)
09/01/2022	<a href="#">33</a>	NOTICE of Briefing Complete by Adam Baker re <a href="#">26</a> Opposed MOTION to Compel <i>Discovery</i> filed by Adam Baker (Coyte, Matthew) (Entered: 09/01/2022)
09/01/2022	<a href="#">34</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Requests for Production and Interrogatories</i> (Paoli, Henry) Modified text on 9/2/2022 (arp). (Entered: 09/01/2022)
09/06/2022	<a href="#">35</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Second Supplemental Rule 26 Disclosures</i> (Paoli, Henry) Modified text on 9/7/2022 (arp). (Entered: 09/06/2022)
09/12/2022	<a href="#">36</a>	Unopposed MOTION for Protective Order by Corizon Health Inc.. (Attachments: # <a href="#">1</a> Exhibit) (Paoli, Henry) (Entered: 09/12/2022)

09/12/2022	<a href="#">37</a>	Unopposed MOTION to Extend (other) <i>Scheduling Order Deadlines</i> by Adam Baker. (Coyte, Matthew) (Entered: 09/12/2022)
09/13/2022	<a href="#">38</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea granting <a href="#">37</a> Stipulated Motion to Extend Scheduling Order Deadlines. Discovery due January 20, 2023. Dispositive Motions due February 20, 2023. (atc) (Entered: 09/13/2022)
09/13/2022	<a href="#">39</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea granting <a href="#">36</a> Unopposed Motion for Protective Order. (atc) (Entered: 09/13/2022)
09/19/2022	<a href="#">40</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Third Supplemental Responses</i> (Paoli, Henry) Modified text on 9/20/2022 (arp). (Entered: 09/19/2022)
09/21/2022	<a href="#">41</a>	Clerk's Minutes for proceedings held before Magistrate Judge Kevin R. Sweazea: Status Conference held on 9/21/2022. (atc) (Entered: 09/22/2022)
09/22/2022	<a href="#">42</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea. Settlement Conference set for October 27, 2022 at 09:00 AM via Zoom. Consult Order for associated deadlines. (atc) (Entered: 09/22/2022)
09/22/2022	43	ORDER by Magistrate Judge Kevin R. Sweazea. The Court is withholding ruling on <a href="#">26</a> Opposed Motion to Compel Discovery, pending the outcome of the October 27, 2022 settlement conference. <a href="#">[THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.]</a> (atc) (Entered: 09/22/2022)
10/05/2022	<a href="#">44</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Third Supplemental Rule 26 Disclosures</i> (Paoli, Henry) Modified text on 10/6/2022 (arp). (Entered: 10/05/2022)
10/06/2022	<a href="#">45</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Answers and Responses to Defendant Corizon Health Inc.'s First Set of Interrogatories and Requests for Production</i> (Coyte, Matthew) (Entered: 10/06/2022)
10/27/2022	<a href="#">46</a>	Clerk's Minutes for proceedings held before Magistrate Judge Kevin R. Sweazea: Settlement Conference held on 10/27/2022. The case did not settle. (atc) (Entered: 10/27/2022)
11/04/2022	<a href="#">47</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's First Supplemental Discovery Answers to Defendant Corizon Health Inc.'s First Set of Interrogatories and Requests for Production</i> (Coyte, Matthew) (Entered: 11/04/2022)
11/18/2022	<a href="#">48</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Fourth Supplemental Rule 26 Disclosures</i> (Paoli, Henry) Modified on 11/21/2022 (cmm). (Entered: 11/18/2022)
11/22/2022	<a href="#">49</a>	Unopposed MOTION to Extend (other) <i>Scheduling Order Deadlines</i> by Adam Baker. (Coyte, Matthew) (Entered: 11/22/2022)
11/25/2022	<a href="#">50</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea granting <a href="#">49</a> Stipulated Motion to Extend Scheduling Order Deadlines. Discovery due March 21, 2023. Dispositive motions due April 21, 2023. (atc) (Entered: 11/25/2022)
11/28/2022	51	ORDER by Magistrate Judge Kevin R. Sweazea Setting Telephonic Status Conference for March 22, 2023 at 09:00 AM to discuss setting a second settlement conference. The parties shall call (888) 398-2342 and enter code 8193818 to join the proceedings. <a href="#">[THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.]</a> (atc) (Entered: 11/28/2022)
12/05/2022	<a href="#">52</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Second Supplemental Initial Disclosures</i> (Coyte, Matthew) (Entered: 12/05/2022)
12/06/2022	<a href="#">53</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Third Set of Interrogatories to Defendant Corizon Health, Inc.</i> (Coyte, Matthew) (Entered: 12/06/2022)

12/09/2022	<a href="#">54</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Fifth Supplemental Rule 26 Disclosures</i> (Paoli, Henry) Modified text on 12/12/2022 (arp). (Entered: 12/09/2022)
01/05/2023	<a href="#">55</a>	CERTIFICATE OF SERVICE by Corizon Health Inc. <i>Defendant's Answers to Plaintiff's Third Set of Interrogatories</i> (Paoli, Henry) Modified text on 1/6/2023 (arp). (Entered: 01/05/2023)
01/17/2023	<a href="#">56</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea to Notify the Court by January 31, 2023. (atc) (Entered: 01/17/2023)
01/24/2023	<a href="#">57</a>	CERTIFICATE OF SERVICE by Adam Baker <i>Plaintiff's Rule 26(a)(2) Expert Witness Disclosures</i> (Coyte, Matthew) (Entered: 01/24/2023)
01/31/2023	<a href="#">58</a>	NOTICE by Corizon Health Inc. re <a href="#">56</a> <b>R</b> Order <i>Dated January 17, 2023</i> (Paoli, Henry) (Entered: 01/31/2023)
01/31/2023	<a href="#">59</a>	NOTICE by Adam Baker re <a href="#">56</a> <b>R</b> Order <i>Dated January 17, 2023</i> (Coyte, Matthew) (Entered: 01/31/2023)
02/03/2023	<a href="#">60</a> <b>R</b>	ORDER by Magistrate Judge Kevin R. Sweazea Holding in Abeyance Ruling on <a href="#">26</a> Motion to Compel. (atc) (Entered: 02/03/2023)
02/10/2023	<a href="#">61</a>	MOTION to Withdraw <i>as Counsel for Defendant</i> by Corizon Health Inc.. (Paoli, Henry) (Entered: 02/10/2023)
02/15/2023	<a href="#">62</a>	SUGGESTION OF BANKRUPTCY Upon the Record <i>and Notice of Automatic Stay</i> by Corizon Health Inc. (Paoli, Henry) (Entered: 02/15/2023)

PACER Service Center			
Transaction Receipt			
02/28/2023 18:14:55			
<b>PACER Login:</b>	rjshannontxwb	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	2:22-cv-00152-KWR-KRS
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.50

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ADAM BAKER, as Personal Representative  
to the Estate of ZACHARY BARELA

Plaintiff,

v.

No.

CORIZON HEALTH, INC.,  
and JOHN/JANE DOE,

Defendants.

**COMPLAINT FOR THE RECOVERY OF DAMAGES  
CAUSED BY THE DEPRIVATION OF CIVIL RIGHTS, NEGLIGENCE, SPOILIATION  
OF EVIDENCE AND WRONGFUL DEATH**

Plaintiff, Adam Baker, the duly appointed Wrongful Death Personal Representative of Zachary Barela, deceased, by and through his attorneys, Coyte Law, P.C. (Matthew Coyte) and the Law Office of Matthew Vance, P.C. (Matthew Vance and Lisa Schatz-Vance), brings this complaint for violations of his civil rights under the Eighth and Fourteenth Amendments to the Constitution of the United States. Plaintiff also brings claims under the New Mexico Wrongful Death Act. In support of this Complaint, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. §§ 1983 and 1988.
2. This Court also has supplemental jurisdiction over the state law claims alleged pursuant to 28 U.S.C. §1367.
3. The acts complained of occurred exclusively within Doña Ana County, New Mexico.
4. Venue is proper in this District as Defendants are residents of New Mexico under 28 U.S.C. § 1391 and all of the acts complained of occurred in New Mexico.

**PARTIES**

5. Plaintiff Adam Baker, as Personal Representative to the Estate of Zachary Barela, is an individual and resident of Santa Fe County, New Mexico.

6. Plaintiff Adam Baker was duly appointed in the State of New Mexico Third Judicial District Court as Personal Representative to the Estate of Zachary Barela for the purposes of maintaining a claim for damages arising out of the wrongful death of Zachary Barela under the Wrongful Death Act.

7. Zachary Barela was an inmate in the custody and care of the Doña Ana County Detention Center (hereinafter “DACDC”) from October 19, 2017, until his death on August 28, 2019.

8. DACDC is a detention center in which inmates are primarily accused of a criminal offense and awaiting trial.

9. While incarcerated, Zachary was completely dependent upon DACDC for his care and well-being.

10. During all material times Defendant Corizon Health, Inc. (hereinafter "Corizon") was responsible for providing medical care to inmates at DACDC pursuant to a contract with the Board of Commissioners for Doña Ana County to fulfill its constitutional obligation to provide healthcare in DACDC during the time period relevant to Plaintiff's complaint.

11. Defendant Corizon is a Delaware for Profit Corporation registered to do business in New Mexico.

12. At all material times, Defendant Corizon acted through its owners, officers, directors, employees, agents, or apparent agents including, but not limited to, administrators, management, nurses, doctors, technicians, and other staff responsible for their acts or omissions pursuant to the doctrines of respondeat superior, agency or apparent agency.

13. At all material times, Defendant John/Jane Doe (hereinafter “Doe”) was employed by Defendant Corizon as a medical professional.

14. Defendant Doe was acting under the color of state law and within the scope of his/her employment at all material times.

15. Defendant Doe is being sued in his/her individual capacity only.

16. At all relevant times, Defendant Corizon employed and exercised direct supervisory control over Defendant Doe, who was acting under the color of state law within the scope of their duties and employment as an agent of Corizon.

**FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

17. Plaintiff restates all previous allegations as if restated herein.

18. On or about April 1, 2016, the Board of Commissioners for Doña Ana County (hereinafter “Board”) selected, approved, and entered into a written contract with Defendant Corizon entitled “Doña Ana County Contract for Goods and Services” (hereinafter “Agreement”). That agreement remained in effect at the time of these events.

19. Under the Agreement, the Board represented that the health care provided to inmates at DACDC would comply with all current and any future standards issued by the National Commission on Correctional Health Care (“NCCHC”) and the American Correctional Association (“ACA”).

20. Zachary Barela was booked into the DACDC on October 19, 2017.

21. Throughout his time at DACDC, Zachary was a pretrial detainee.

22. While incarcerated, Zachary was completely dependent upon DACDC for his care and well-being.

23. Medical records indicate that Zachary was treated for multiple chronic medical conditions, including hypertension, hyperlipidemia, chronic pain, bipolar disorder, and depression.
24. Medical records indicate that Zachary's chronic medical conditions were managed through daily prescriptions, including lisinopril, simvastatin, omeprazole, and amlodipine.
25. Both hyperlipidemia and hypertension are serious risk factors for the development of atherosclerotic cardiovascular disease.
26. Due to his chronic medical conditions, Zachary routinely sought medical care while at DACDC according to the medical records.
27. Medical records indicate that Zachary was seen periodically at the chronic care clinic for his hypertension and hyperlipidemia.
28. Medical records indicate that Defendant Centurion and Doe knew Zachary had serious medical conditions which required ongoing monitoring.
29. On July 16, 2019, Zachary was seen by Chetan Shivaram, DDS, because he had been complaining of tooth decay and experiencing periodontitis ("bleeding gums") for months.
30. People with periodontitis have a greater risk of experiencing major cardiovascular events, such as heart attacks and strokes.
31. Zachary's risk was even greater because he also had hyperlipidemia.
32. Bleeding of the gums is a common symptom indicative of heart disease and is linked to heart attacks and stroke.
33. On August 27, 2019, Zachary sought medical attention because he was experiencing severe chest pain.
34. Zachary knew that experiencing severe chest pain was serious because his father had recently been hospitalized with heart issues.

35. The severe chest pain was a clear and obvious sign of a potential heart attack.
36. This was especially true because according to his medical chart, Zachary had a history of hypertension, hyperlipidemia, and was a cigarette smoker.
37. Defendant Doe was on duty at the medical unit on August 27, 2019.
38. Zachary reported his severe chest pain to Defendant Doe.
39. Upon information and belief, Zachary described a heavy chest squeezing and a burning feeling that radiated to his left arm.
40. Defendant Doe was familiar with Zachary and his medical history.
41. Defendant Doe knew Zachary was being treated for hypertension and hyperlipidemia.
42. Defendant Doe knew that chest pain was a symptom of a serious medical condition.
43. Defendant Doe knew that chest pain accompanied by a burning sensation that radiated down the left arm are symptoms of a serious medical condition.
44. Defendant Doe refused to conduct an examination and did not even take Zachary's blood pressure or pulse.
45. Defendant Doe did not arrange for Zachary to receive an electrocardiogram (hereinafter "EKG") to evaluate his heart.
46. Despite Zachary's ongoing symptoms and pain, Defendant Doe refused to provide any treatment or to examine him.
47. Instead of examining Zachary, Defendant Doe ignored Zachary's chest pain, an obvious sign of a serious medical condition, and instructed him to return to his cell.
48. Zachary returned to his cell still suffering from severe pain and emotional distress from Defendant Doe's refusal to provide him with any medical care.

49. As time passes for someone experiencing a heart attack who is not treated it can lead to serious complications, including death.
50. Minutes matter. Prompt action can save lives.
51. Emergency rooms encounter heart attacks as a matter of routine.
52. Nitroglycerin, catheterization, stent placement, and surgery are usually required to treat the condition.
53. The symptoms of a heart attack are well known in the medical community.
54. Defendant Doe knew that chest pain of this type could be fatal if left untreated.
55. Any competent medical provider would have realized Zachary's symptoms required immediate emergent medical attention.
56. It would have been obvious to any lay person that Zachary needed to be examined by a medical professional and transported to the emergency room for a higher level of care.
57. The following day, August 28, 2019, Zachary continued to suffer from chest pain.
58. That evening, correctional officer Mario Macias was assigned to B1 pod as the direct supervision officer where Zachary was housed in cell 203.
59. The pod was on lockdown because razors had been distributed to the detainees in their cells.
60. The following events were captured by the B1 dayroom security camera and incident reports.
61. At 10:20 pm, officer Macias was on the second tier collecting razors just steps away from cell 203, where Zachary was housed.
62. While on his bunk, Zachary suddenly felt unwell and immediately walked over to the toilet and began vomiting.

63. Within seconds, at 10:21 p.m., Zachary collapsed to the floor and began convulsing.
64. Cellmate, Manuel Gomez, moved quickly to help Zachary and turned him on his side.
65. Another cellmate, Estanislao Casarez, activated the emergency/panic call button to notify the master control station.
66. No correctional officer responded to the panic call.
67. Only seconds later, Mr. Casarez ran to the cell door and began calling for help through the cell's window while banging and kicking the door to get the attention of Mr. Macias.
68. Officer Macias heard the sounds coming from cell 203, but instead of immediately responding to the medical emergency, he motioned with his hand to wait and continued to collect razors from cell 201.
69. In response to being told to wait, Mr. Casarez continued to bang on the window, but officer Macias motioned again to wait.
70. Officer Macias was just feet away from where Zachary had collapsed.
71. It was now 10:22 p.m.
72. Mr. Casarez returned to check on Zachary and discovered that he was no longer conscious as his body continued to jerk violently.
73. Mr. Gomez continued to activate the panic button in an attempt to get help.
74. Mr. Casarez ran to the cell door a second time, banging and kicking the door again to get officer Macias' attention.
75. Zachary's need for medical attention had become so obvious that inmates in the adjacent cell were banging on the door to notify officer Macias that Zachary was experiencing a medical emergency.

76. Officer Macias ignored the pleas for help, motioned with his hand again to wait, and continued to collect razors.
77. Finally, at 10:23 p.m., officer Macias approached cell 203, however because the door was locked, he had to wait for correctional officer, Rauldel Yanez, to remotely open the door from the station desk located downstairs.
78. Upon entering the cell, officer Macias observed Zachary lying on the floor, his body shaking uncontrollably, and vomiting.
79. Officer Macias reported on the radio a “Code Mary.”
80. A “Code Mary” signifies an immediate medical emergency and notifies supervisory personnel at DACDC, as well as medical staff employed by Defendant Corizon.
81. By the time the Code Mary was called, Zachary had been lying on the floor, convulsing and vomiting, for approximately two minutes.
82. In his incident report, officer Macias reported that Zachary had stopped seizing and moved him onto his side when he began vomiting again.
83. Correctional officer Yanez was the second officer to arrive.
84. Both officers Yanez and Macias reported that Zachary was “intermittently breathing and throwing up.”
85. At approximately 10:24 p.m. Defendant Corizon medical staff, Heather Barela, RN, Sandra Villegas, LPN, Jennifer Revels, LPN, and Alejandra Contreras, medical clerk, entered the B1 dayroom.
86. A tragic, but preventable series of events followed.
87. Since Zachary’s cell was on the second floor, the medical cart remained downstairs with Ms. Contreras.

88. Nurses Villegas and Revels entered cell 203 at approximately 10:25 p.m.
89. Nurse Barela, as the charge nurse, began providing direction when she arrived.
90. Nurse Revels exited to run downstairs to get the oxygen tank.
91. Nurse Villegas assessed that Zachary did not have a pulse.
92. Nurse Barela noted Zachary's face was blue, he was periodically gasping for air, and confirmed that he did not have a pulse.
93. Zachary needed to be transported to the nearest emergency room, but 911 would not be called for another seven minutes.
94. If Zachary collapsed in any place other than a jail, he would have been transported immediately to the nearest emergency room.
95. It would be obvious to any lay person that Zachary needed to be transported to the emergency room for a higher level of care.
96. Zachary was suffering from cardiac arrest.
97. Outside the cell, Ms. Contreras tossed the nasal cannula tubing upstairs to Nurse Revels.
98. At 10:27 p.m. Nurse Revels exited the cell, ran downstairs, and returned with the bag valve mask known as an "AMBU bag."
99. Nurses Barela and Villegas attempted to administer CPR but discovered that Zachary's airway was blocked.
100. Because his airway was blocked, the AMBU bag failed to deliver air to Zachary's lungs.
101. Seconds later, Nurse Revels exited the cell again to run downstairs to get the suction device.
102. During this time, Ms. Contreras was unraveling the electrical cord attached to the medical cart.

103. Over the next minute or so, there were multiple attempts to throw the electrical cord up to Nurse Revels to plug into the suction device.
104. Ms. Contreras gave the other end of the cord to Sergeant Solis to plug into the outlet adjacent to the station desk.
105. Nurse Revels caught the cord on the third attempt and re-entered the cell with the suction device.
106. The time was now 10:29 p.m. Four minutes had elapsed since Nurses Barela and Villegas determined that Zachary had stopped breathing.
107. A heart attack occurs when the blood flow that brings oxygen to the heart muscle is severely reduced or cut off completely.
108. The heart muscle needs oxygen to survive.
109. Upon discovering the suction device was not working, Nurse Revels exited the cell twice to instruct Ms. Contreras to turn the power on from the medical cart.
110. Unfamiliar with the medical cart, Ms. Contreras could not locate the power switch.
111. Two correctional officers also attempted to help Ms. Contreras.
112. At 10:30 p.m. Nurse Revels ran downstairs again to try to solve the problem.
113. Nurse Revels then grabbed the automated external defibrillator device (hereinafter “AED”) and returned to cell 203.
114. During this time, Nurse Villegas also exited the cell to instruct Ms. Contreras to remove the electrical cord from the medical cart.
115. Nurse Revels handed the AED to Nurse Villegas who then re-entered the cell.
116. Seconds later, a correctional officer ran upstairs and entered cell 203 carrying an orange-colored emergency medical box.

117. Nurse Revels then pulled up the spool of electrical cord to switch out the ends and sent the cord back down to Ms. Contreras to plug into the medical cart.
118. At 10:31 p.m. Nurse Revels re-entered the cell with the suction device.
119. Emergency personnel received the 911 call at 10:31:58 p.m.
120. Eleven minutes had passed since Zachary collapsed.
121. Beginning at 10:34:34 p.m., the following was captured on handheld camera footage by Sergeant Pakinkis.
122. Nurses Villegas and Barelás rotated administering chest compressions while Sergeant Moore applied the AMBU bag to deliver oxygen to Zachary.
123. Zachary's airway remained blocked by vomit and other fluids.
124. For patients in cardiac arrest, seconds count.
125. Responding to a cardiac arrest requires careful coordination.
126. Compressions must be started immediately, and the airway must be secured.
127. Suctioning is a cornerstone of secondary treatment for patients in cardiac arrest.
128. Since Zachary's airway was compromised, suctioning was critical.
129. Emergency medical equipment, including the suction device, is vital to the successful administration of CPR.
130. According to its own policies and procedures, Defendant Corizon is responsible for ensuring mobile emergency equipment are available and checked regularly.
131. On August 28, 2019, Nurse Barela was the charge nurse responsible for checking the emergency equipment.
132. Nurses Revels and Villegas struggled to get the suction device to work.
133. At one point, Nurse Revels stated that "it's on, it's on. It's not working, it's not sucking."

134. Because the suction device was not working, Zachary's airway remained blocked.
135. Since Zachary's airway was blocked, the AMBU bag was unable to effectively deliver oxygen into his lungs.
136. The camera footage shows that when the AMBU bag is applied, fluid sprayed out from under the mask.
137. At 10:36 p.m., the AED detected an irregular heart rhythm and administered its first shock to Zachary.
138. When a person suffers a sudden cardiac arrest, their chance of survival decreases by 7% to 10% for each minute that passes without defibrillation.
139. When the shock is delivered fluid comes out from Zachary's mouth.
140. Nurse Barela resumed chest compressions followed by Sergeant Moore who was administering the AMBU bag.
141. Significant fluid again comes out from Zachary's mouth.
142. Zachary's airway was still blocked.
143. Nurse Villegas took over chest compressions but performed the procedure incorrectly and had to be instructed by Nurse Barelas where to correctly place her hands.
144. Because the AMBU bag was not working properly since Zachary's airway was blocked, Nurse Villegas requested that the nose cannula be placed on Zachary to deliver oxygen.
145. Just then one of the nurse's states "This shit sucks."
146. Sergeant Moore takes over chest compressions and a deputy with the Las Cruces Sheriff's Department applies the AMBU bag.
147. Nurses Barela, Villegas and Revels complained that none of the pharmacy nurses responded to help.

148. At 10:38 p.m. the AED announced to stop CPR to analyze Zachary's heart rhythm. No heartbeat is detected and CPR resumes.

149. During this time, Defendants Villegas and Revels continued to try to get the suction device to work.

150. Defendant Revels reports that "it is on finally" however when she inserts the tube into Zachary's mouth it does not suction.

151. Defendant Villegas says, "it's fucking not working."

152. Subsequent attempts to suction fluids from Zachary's airway were unsuccessful.

153. At 10:41 p.m. the AED announced to stop CPR to analyze Zachary's heart rhythm. No heartbeat is detected and CPR resumes.

154. The Las Cruces Fire Department (hereinafter "LCFD") and AMR personnel arrived on scene.

155. Finding that Zachary had no pulse, emergency personnel continued with CPR efforts.

156. Their initial impression was that Zachary was in respiratory arrest.

157. An IV was started and they placed a monitor on him.

158. The monitor showed Zachary was asystole.

159. According to the video evidence, emergency personnel, including LCFD, asked Defendant Corizon's medical staff for information regarding Zachary's medical history and known allergies.

160. Defendant Corizon's medical staff were unable to provide Zachary's medical history or known allergies.

161. According to the video evidence, emergency personnel requested that Zachary's medical history be retrieved because the on-site AMR paramedic would need the information when they report to the off-site doctor.
162. The video shows Nurse Barela exiting the cell and instructing Defendant Corizon medical staff to gather Zachary's "medical information, medications; anything on him, and print it up."
163. Because Zachary's airway was blocked, emergency personnel ventilated Zachary.
164. LCFD, AMR and correctional staff rotated every two minutes with chest compressions.
165. Defendant Corizon medical staff obtained Zachary's medical information and reported to the emergency personnel that he was being treated for hypertension and hyperlipidemia.
166. Defendant Corizon medical staff also reported that "apparently he (Zachary) was having chest pain yesterday."
167. The Las Cruces Fire Department's records also indicated that Defendant Corizon's medical staff reported that "the day before in the detention center the patient (Zachary) was seen for chest pain but did not disclose treatment of the patient (Zachary)."
168. At 11:11pm, CPR efforts were stopped.
169. Video evidence of this event has been preserved.
170. Had Zachary been treated when he first presented to Defendant Doe with chest pains, life-saving surgical intervention could have been performed.
171. By denying medical care to Zachary, Defendant Doe allowed Zachary to needlessly suffer extreme pain and anxiety as he experienced life threatening chest pains and unnecessary pain and suffering.

172. Had Defendant Doe provided adequate medical care the day before, Zachary would not have unnecessarily endured pain and suffering by Defendant Corizon's medical staff.

173. By denying medical care to Zachary, Defendant Doe prevented Zachary from obtaining the urgent medical care that would have saved his life.

**COUNT I:  
INADEQUATE MEDICAL CARE IN VIOLATION OF THE  
FOURTEENTH AMENDMENT**

174. Plaintiff restates each of the preceding allegations as if fully stated herein.

175. As a pretrial detainee, Zachary had a right to adequate medical care that was protected by the Eighth and Fourteenth Amendments to the Constitution of the United States.

176. The Eighth Amendment prohibits cruel and unusual punishment against persons in state custody serving a prison sentence. The substantive component of the Fourteenth Amendment's Due Process Clause provides similar protections to pretrial detainees. These protections encompass a constitutional duty to provide such persons with timely access to necessary medical care and to refrain from unnecessary, wanton infliction of pain.

177. Zachary's medical needs as described above, as well as his pain and suffering, were sufficiently serious and obvious to warrant protection under the Eighth Amendment, or under the Fourteenth Amendment's Due Process Clause if he is considered a pretrial detainee.

178. Defendant Doe knew that Zachary was diagnosed with serious medical conditions, including hypertension and hyperlipidemia, making him a high risk for potential cardiac complications.

179. Defendant Doe knew that Zachary was suffering from chest pains and could possibly die if his chest pains remained untreated.

180. Defendant Doe knew chest pain was an obvious sign of a serious medical condition, including a possible heart attack.
181. Because Zachary had no control over his confinement, Defendant Doe had an absolute duty to care for and ensure Zachary's well-being and safety.
182. Defendant Doe knew that Zachary could not seek medical care without his/her assistance.
183. Defendant Doe knew that Zachary was not capable of calling 911 from inside the jail.
184. When Zachary requested help for his chest pains Defendant Doe knew he/she was a gatekeeper to his medical care.
185. Defendant Doe knew he/she had an obligation to assess Zachary's chest pains the moment he arrived in the medical unit.
186. Defendant Doe knew it would be potentially disastrous to wait until the next day to address Zachary's complaints of chest pain.
187. Defendant Doe knew he/she had the ability to get an EKG for Zachary to help diagnose the chest pains.
188. Defendant Doe knew he/she could arrange for a higher level of care if he/she was unsure what to do.
189. Defendant Doe deviated from the acceptable standards of nursing and medical care by denying Zachary treatment and access to a higher level of care.
190. Defendant Doe had the ability to keep Zachary in the medical unit to monitor his symptoms to see if they got worse.
191. Defendant Doe knew any medical provider in the community would send a patient with a history of hypertension and hyperlipidemia who was experiencing chest pain to an emergency room for further evaluation.

192. Upon information and belief, Defendant Doe took the unacceptable and deliberately indifferent risk to treat Zachary as if he was faking his serious symptomatology.
193. In an act of deliberate indifference, Defendant Doe disregarded Zachary's chest pain and sent him back to his cell.
194. This allowed Zachary's heart to suffer irreversible damage as he lay untreated in his cell overnight.
195. Defendant Doe's deliberate indifference to Zachary's serious and obvious medical need allowed him to suffer a heart attack which resulted in his premature death.
196. As a proximate and foreseeable result of Defendant Doe's deliberate indifference, Zachary suffered unnecessary pain and suffering, anxiety and emotional distress, up to and including his death.

## **COUNT II: NEGLIGENT PROVISION OF MEDICAL CARE**

197. Plaintiff restates each of the preceding allegations as if fully stated herein.
198. Defendant Corizon was contracted to provide medical care to inmates housed at DACDC at all times material herein.
199. Zachary was entirely dependent on Defendant Corizon's employees for his medical needs.
200. Defendants Corizon and Doe had a duty to provide Zachary with adequate medical care while incarcerated.
201. Defendants Corizon and Doe breached their duty to provide Zachary with adequate medical care, including through the actions and omissions as described in paragraphs 18 through 173 herein.
202. It was clear to Defendants Corizon and Doe that Zachary was suffering from intense pain and discomfort.

203. Zachary had a variety of serious medical conditions that are known risk factors for heart disease.
204. When Zachary began to experience chest pains and left shoulder pain, the standard of care required that his symptoms be taken as potentially life-threatening.
205. The standard of care required further assessment of his chest pains.
206. If Defendant Corizon's employees were not capable of performing an examination of the cause of Zachary's chest pains, then they had an obligation to arrange for a higher level of care.
207. A reasonable qualified medical professional in the community would have arranged for a diagnostic work-up of Zachary's chest pains.
208. When Zachary requested care for his chest and left shoulder pain, if Defendant Doe was unsure of its causes, he/she had an obligation to call 911.
209. Rather than arrange for any care at all for Zachary's life-threatening symptoms, Defendant Doe chose to send him back to his cell untreated.
210. Defendant Doe breached the standard of care.
211. This breach in the standard of care caused Zachary to lose the opportunity of life saving surgery.
212. This breach in the standard of care resulted in severe damage to Zachary's heart and eventually led to his death.
213. Defendant Corizon had a duty to properly and adequately train its medical staff to respond appropriately to emergency situations.
214. As a result of this breach of duty in care, Zachary needlessly suffered.

215. Defendant Corizon's negligence and the negligence of its employees in responding to Zachary's medical emergency on August 28, 2019, caused needless physical and emotional suffering to Zachary.
216. As a result of Defendants' breach of duty in care, Zachary's life was needlessly shortened, depriving Zachary of a chance of survival.
217. Defendant Corizon is vicariously liable for the acts and omissions of its employees under the theory of respondeat superior.
218. As a proximate and foreseeable result of Defendant Doe's negligence regarding Zachary's serious and obvious medical condition, Zachary suffered injuries, including physical injuries, pain and suffering, emotional distress, and exacerbation of his medical condition, up to and including, death.

### **COUNT III: INTENTIONAL AND NEGLIGENT SPOILIATION OF EVIDENCE**

219. Plaintiff restates each of the preceding allegations as if fully stated herein.
220. On August 7, 2020, Plaintiff sent an inspection of public records request to Doña Ana County for all records related to Zachary's death, including his complete medical file.
221. The public records request also sought any and all video footage from August 15, 2019 to August 29, 2019.
222. Plaintiff was not provided with any video evidence for August 27, 2019.
223. The medical records provided contained no mention of a medical visit with Defendant Doe on August 27, 2019.
224. The medical records made no reference to Zachary's request for help with his chest pains on August 27, 2019.

225. In reviewing the records obtained from the Las Cruces Fire Department, Plaintiff learned that a medical encounter actually occurred with Defendants Corizon and Doe prior to his death.
226. According to the Las Cruces Fire Department's records, "[S]taff reported that the day before in the detention center infirmary the patient was seen for chest pain but did not disclose treatment of the patient."
227. In reviewing the video evidence for August 28, 2019, Defendant Corizon medical staff notify emergency personnel, including the Las Cruces Fire Department, that Zachary was seen the day before complaining of chest pain.
228. The video evidence also shows that Nurse Heather Barela instructed a Corizon employee to gather all of Zachary's information, medications, "anything on him," and "print it up."
229. All references to Defendant Doe's interaction with Zachary on August 27, 2019, were either deliberately withheld or destroyed.
230. Zachary's death while in the custody of the Doña Ana County Detention Center placed Defendant Corizon on notice of a potential lawsuit.
231. As such Defendant Corizon had a responsibility to preserve all medical records of Zachary's request for medical help prior to his death.
232. After learning of the potential of the lawsuit, Defendant Corizon disposed of or destroyed records related to Defendant Doe's interaction with Zachary on August 27, 2019, with the sole intent to disrupt or defeat the lawsuit.
233. Defendant Corizon's disposal or destruction of evidence has affected Plaintiff's ability to prove his case and has caused the Plaintiff to suffer damages.

234. Defendant Doe had a duty to document his/her encounter with Zachary on August 27, 2019, when he was requesting help for his chest pains.

235. If Defendant Doe failed to create the medical record contemporaneously with his/her encounter with Zachary, Defendants Corizon and Doe had a duty to supplement the medical record after Zachary died.

236. Defendant Corizon had a duty to maintain and preserve Zachary's medical records.

237. As the jail's medical provider, Defendant Corizon had control over the medical records that were either lost or destroyed.

238. If Defendant Corizon withheld or destroyed evidence to prevent Plaintiff from pursuing a lawsuit, this constitutes both intentional and negligent spoliation of evidence.

239. Plaintiff has suffered damages by this destruction of evidence, including emotional distress and delay in the perfection of this lawsuit.

### **JURY DEMAND**

240. Plaintiff restates each of the preceding allegations as if fully stated herein.

241. Plaintiff hereby demands a trial by jury on all counts.

WHEREFORE, Plaintiff requests judgment as follows:

1. All damages that are fair and just pursuant to the laws of the United States and in an amount supported by the evidence presented at trial;
2. Compensatory damages in an as yet undetermined amount, jointly and severally against all Defendants, including damages for emotional harm;
3. Punitive damages in an as undetermined amount against the individually named Defendant;
4. Declaring that the acts and practices complained of herein are acts of spoliation;

5. Sanctions against Defendant Centurion, such as default or the imposition of liability;
6. Reasonable costs and attorney fees incurred in bringing this action;
7. Pre- and Post-judgment interest to the maximum extent allowed by law; and for
8. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

COYTE LAW, P.C.

/s/ Matthew E. Coyte

Matthew E. Coyte  
3800 Osuna Road NE, Suite 2  
Albuquerque, NM 87109  
(505) 244-3030  
[mcoyte@me.com](mailto:mcoyte@me.com)

LAW OFFICE OF MATTHEW VANCE, P.C.

/s/ Lisa Y. Schatz-Vance

Lisa Y. Schatz-Vance  
Matthew Vance  
3800 Osuna Road NE, Suite 2  
Albuquerque, NM 87109  
(505) 242-6267  
[lisa@mattvancelaw.com](mailto:lisa@mattvancelaw.com)

*Attorneys for Plaintiff*

[Query](#) [Reports ▼](#) [Utilities ▼](#) [Help](#) [Log Out](#)

RECAP Actions ▼

STAYED, MEDIATION

**U.S. District Court  
Northern District of Florida (Tallahassee)  
CIVIL DOCKET FOR CASE #: 4:19-cv-00345-MW-MAF**

BROWN v. MCNEIL et al  
Assigned to: CHIEF JUDGE MARK E WALKER  
Referred to: MAGISTRATE JUDGE MARTIN A FITZPATRICK  
Cause: 42:1983 Civil Rights Act

Date Filed: 07/27/2019  
Jury Demand: Both  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****BRYANT NEIL BROWN**

represented by **JAMES MURRAY SLATER**  
SLATER LEGAL PLLC - TALLAHASSEE  
FL  
113 S MONROE STREET  
TALLAHASSEE, FL 32301  
305-523-9023  
Email: james@slater.legal  
*ATTORNEY TO BE NOTICED*

**JAMES VERNON COOK**  
JAMES V COOK PA - TALLAHASSEE FL  
314 W JEFFERSON ST  
PO BOX 10021 [32302]  
TALLAHASSEE, FL 32301-1608  
850-222-8080  
Fax: 850-561-0836  
Email: cookjv@gmail.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**WALTER A MCNEIL**  
*AS SHERIFF OF LEON COUNTY  
FLORIDA*

represented by **MICHAEL PATRICK SPELLMAN**  
SNIFFEN & SPELLMAN PA -  
TALLAHASSEE FL  
123 N MONROE ST  
TALLAHASSEE, FL 32301  
850-205-1996  
Fax: 850-205-3004  
Email: mspellman@sniffenlaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**DAWN POMPEY WHITEHURST**  
SNIFFEN & SPELLMAN PA -

TALLAHASSEE FL  
123 N MONROE ST  
TALLAHASSEE, FL 32301  
850-205-1996  
Fax: 850-205-3004  
Email: dwhitehurst@sniffenlaw.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**CORIZON, LLC**  
*A HEALTH SERVICES CORPORATION*

represented by **GREGG A TOOMEY**  
TOOMEY LAW FIRM LLC - FORT  
MYERS FL  
THE OLD ROBB & STUCKY BLDG  
1625 HENDRY ST STE 203  
FORT MYERS, FL 33901  
Email: gat@thetoomeylawfirm.com  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
SMITH BROOKS & MASTERSON PL -  
TALLAHASSEE FL  
2629 MITCHAM DR  
TALLAHASSEE, FL 32308  
850-201-0942  
Fax: 850-201-0909  
Email: jmk@brookslawyers.net  
*TERMINATED: 10/24/2022*

**JOSEPH EUGENE BROOKS**  
SMITH BROOKS & MASTERSON PL -  
TALLAHASSEE FL  
2629 MITCHAM DR  
TALLAHASSEE, FL 32308  
850-201-0942  
Fax: 850-201-0909  
Email: jeb@brookslawyers.net  
*TERMINATED: 10/24/2022*

**Defendant**

**MARIA LILLIANA GARCIA**  
*MD*

represented by **GREGG A TOOMEY**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
*TERMINATED: 10/24/2022*

**JOSEPH EUGENE BROOKS**  
(See above for address)  
*TERMINATED: 10/24/2022*

**Defendant**

**DEBBIE SELLERS**  
INDIVIDUALLY

represented by **GREGG A TOOMEY**  
(See above for address)  
ATTORNEY TO BE NOTICED

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
TERMINATED: 10/24/2022

**JOSEPH EUGENE BROOKS**  
(See above for address)  
TERMINATED: 10/24/2022

**Defendant**

**CELESTE MACDONALD**  
INDIVIDUALLY

represented by **GREGG A TOOMEY**  
(See above for address)  
ATTORNEY TO BE NOTICED

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
TERMINATED: 10/24/2022

**JOSEPH EUGENE BROOKS**  
(See above for address)  
TERMINATED: 10/24/2022

Date Filed	#	Docket Text
07/27/2019	<a href="#"><u>1</u></a>	COMPLAINT <i>FOR DAMAGES</i> against All Defendants ( Filing fee \$ 400 receipt number AFLNDC-4567398.), filed by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 07/27/2019)
07/27/2019	<a href="#"><u>2</u></a>	CIVIL COVER SHEET. (COOK, JAMES) (Entered: 07/27/2019)
07/27/2019	<a href="#"><u>3</u></a>	COMPLAINT ( <i>CORRECTED</i> ) against All Defendants, filed by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 07/27/2019)
07/29/2019	4	DOCKET ANNOTATION BY COURT: Attorney JAMES COOK Re <a href="#"><u>3</u></a> Complaint (Corrected) - Counsel is advised by this entry, that a Civil Cover Sheet is required and should be filed as a separate entry using the event selection "Civil Cover Sheet" which is found under "Other Filings" under "Other Documents". PLEASE FILE THE CIVIL COVER SHEET. filed by BRYANT NEIL BROWN (toy) (Entered: 07/29/2019)
07/29/2019	<a href="#"><u>5</u></a>	CIVIL COVER SHEET. (COOK, JAMES) (Entered: 07/29/2019)
09/26/2019	<a href="#"><u>6</u></a>	NOTICE of Requesting Summons by BRYANT NEIL BROWN (Attachments: # <a href="#"><u>1</u></a> Exhibit Summons Corizon, # <a href="#"><u>2</u></a> Exhibit Summons Garcia, # <a href="#"><u>3</u></a> Exhibit Summons MacDonald, # <a href="#"><u>4</u></a> Exhibit Summons McNeil, # <a href="#"><u>5</u></a> Exhibit Summons Sellers) (COOK, JAMES) (Entered: 09/26/2019)
09/27/2019	<a href="#"><u>7</u></a>	Summons Issued as to CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, WALTER A MCNEIL, DEBBIE SELLERS. (Attachments: # <a href="#"><u>1</u></a> Corizon Summons, # <a href="#"><u>2</u></a> Garcia Summons, # <a href="#"><u>3</u></a> MacDonald Summons, # <a href="#"><u>4</u></a> Sellers Summons) (toy) (Entered: 09/27/2019)
10/08/2019	<a href="#"><u>8</u></a>	NOTICE OF SUMMONS REQUEST by BRYANT NEIL BROWN (Attachments: # <a href="#"><u>1</u></a>

		Exhibit Summons McNeil) (COOK, JAMES) (Entered: 10/08/2019)
10/09/2019	<a href="#">9</a>	(Corrected) Summons Re-Issued as to WALTER A MCNEIL. (toy) (Entered: 10/09/2019)
10/17/2019	<a href="#">10</a>	NOTICE of Appearance by JAMI MCFATTER KIMBRELL on behalf of CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS (KIMBRELL, JAMI) (Entered: 10/17/2019)
10/18/2019	<a href="#">11</a>	INITIAL SCHEDULING ORDER : Fed.R.Civ.P. 7.1 Corporate Disclosure Statement Deadline set for <b>11/1/2019</b> . Rule 26 Meeting Report due by <b>12/2/2019</b> . Discovery due by <b>2/17/2020</b> . Status Report due by <b>11/18/2019</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/18/2019. (toy) (Entered: 10/18/2019)
10/25/2019	<a href="#">12</a>	ANSWER to <a href="#">3</a> Complaint by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 10/25/2019)
10/25/2019	<a href="#">13</a>	Corporate Disclosure Statement/Certificate of Interested Persons by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 10/25/2019)
11/05/2019	<a href="#">14</a>	Consent MOTION to Extend Time by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 11/05/2019)
11/05/2019	<a href="#">15</a>	ORDER GRANTING <a href="#">14</a> EXTENSION OF TIME TO RESPOND TO COMPLAINT. WALTER A MCNEIL answer due 11/15/2019. (Answer due by <b>11/15/2019</b> .) Signed by CHIEF JUDGE MARK E WALKER on 11/05/2019. (toy) (Entered: 11/05/2019)
11/15/2019	<a href="#">16</a>	<i>Defendant Sheriff Walt McNeil's</i> ANSWER to <a href="#">3</a> Complaint and Affirmative Defenses by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 11/15/2019)
11/18/2019	<a href="#">17</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 11/18/2019)
11/18/2019	<a href="#">18</a>	REPORT of Rule 26(f) Planning Meeting. (COOK, JAMES) (Entered: 11/18/2019)
11/19/2019		Set Deadlines/Hearings Status Report due by <b>12/19/2019</b> . (toy) (Entered: 11/19/2019)
11/19/2019		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">18</a> Report of Rule 26(f) Planning Meeting (toy) (Entered: 11/19/2019)
11/19/2019	<a href="#">19</a>	SCHEDULING AND MEDIATION ORDER Re: <a href="#">18</a> Report of Rule 26(f) Planning Meeting :( Discovery due by <b>7/1/2020</b> ., Dispositive Motions to be filed by <b>7/22/2020</b> ., Jury Trial set for <b>11/16/2020 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER., Mediation Report due by <b>7/13/2020</b> .), Case referred to mediation. Signed by CHIEF JUDGE MARK E WALKER on 11/19/2019. (toy) (Entered: 11/20/2019)
12/02/2019	<a href="#">20</a>	RULE 26 Disclosures by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 12/02/2019)
12/02/2019	<a href="#">21</a>	RULE 26 Disclosures by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 12/02/2019)
12/02/2019	<a href="#">22</a>	RULE 26 Disclosures by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 12/02/2019)
12/20/2019		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed re: The deadline to file the monthly Discovery Status Report has expired. No Status Report has been filed. (cle) (Entered: 12/20/2019)

12/23/2019	<a href="#">23</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 12/23/2019)
12/26/2019		Set/Reset Deadlines: Status Report due by <b>1/26/2020</b> . (blb) (Entered: 12/26/2019)
12/30/2019	<a href="#">24</a>	RULE 26 Disclosures by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 12/30/2019)
01/09/2020	<a href="#">25</a>	RULE 26 Disclosures by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 01/09/2020)
01/27/2020		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed re: Discovery Status Report. The deadline to file the monthly Discovery Status Report has expired. No Status Report has been filed. (cle) (Entered: 01/27/2020)
01/27/2020	<a href="#">26</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 01/27/2020)
01/27/2020		Set Discovery Status Report Deadline - Status Report due by <b>2/27/2020</b> . (cle) (Entered: 01/27/2020)
01/30/2020	<a href="#">27</a>	RULE 26 Disclosures by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD. (KIMBRELL, JAMI) (Entered: 01/30/2020)
02/27/2020	<a href="#">28</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 02/27/2020)
02/28/2020		Set Discovery Status Report Deadline - Status Report due by <b>3/30/2020</b> . (cle) (Entered: 02/28/2020)
03/12/2020	<a href="#">29</a>	RULE 26 Disclosures by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 03/12/2020)
03/30/2020	<a href="#">30</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 03/30/2020)
03/31/2020		Set Discovery Status Report Deadline - Status Report due by <b>4/30/2020</b> . (cle) (Entered: 03/31/2020)
04/03/2020	<a href="#">31</a>	<b>ORDER REASSIGNING CASE. Case reassigned to MAGISTRATE JUDGE MARTIN A FITZPATRICK for all further proceedings. MAGISTRATE JUDGE CHARLES A STAMPELOS no longer assigned to case. Signed by CHIEF JUDGE MARK E WALKER on 4/3/2020. (erl)**Please use the new judge's initials for all future filings: 4:19cv345-MW/MAF. (Entered: 04/06/2020)</b>
04/30/2020	<a href="#">32</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 04/30/2020)
05/01/2020		Set Discovery Status Report Deadline - Status Report due by <b>6/1/2020</b> . (cle) (Entered: 05/01/2020)
06/01/2020	<a href="#">33</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 06/01/2020)
06/02/2020		Set Discovery Status Report Deadline - Status Report due by <b>7/1/2020</b> . (cle) (Entered: 06/02/2020)
06/09/2020	<a href="#">34</a>	<b>ORDER FOR PRETRIAL CONFERENCE - Attorney Conference to take place by 10/16/2020. Pretrial Stipulation due by 10/23/2020. TELEPHONIC Pretrial Conference set for 10/30/2020 at 2:30 PM in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Jury Trial set for 11/16/2020 at 8:15 AM in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 6/9/2020. (cle) (Entered: 06/10/2020)</b>
06/10/2020	35	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>10/30/2020 02:30 PM</b> before CHIEF JUDGE MARK E WALKER.

		<p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 06/10/2020)</p>
06/23/2020	<a href="#">36</a>	NOTICE of Conflict with Trial Period by WALTER A MCNEIL re <a href="#">34</a> Pretrial Order, (WHITEHURST, DAWN) (Entered: 06/23/2020)
06/23/2020	<a href="#">37</a>	NOTICE Of Conflict As To Date of Pre-Trial Conference by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS re <a href="#">34</a> Pretrial Order, (Attachments: # <a href="#">1</a> Exhibit A) (BROOKS, JOSEPH) (Entered: 06/23/2020)
06/23/2020	38	<p>NOTICE OF RESCHEDULED TELEPHONIC HEARING: Telephonic Pretrial Conference reset for <b>11/9/2020 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 06/23/2020)</p>
06/23/2020	<a href="#">39</a>	NOTICE OF CONFLICT WITH TRIAL PERIOD by BRYANT NEIL BROWN re <a href="#">34</a> Pretrial Order, (COOK, JAMES) (Entered: 06/23/2020)
06/24/2020	<a href="#">40</a>	Joint MOTION for Extension of Time to Complete Discovery ( <i>ADDITIONAL 30 DAYS</i> ) by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 06/24/2020)

06/29/2020	<a href="#">41</a>	SCHEDULING AND MEDIATION ORDER - re: <a href="#">40</a> Joint MOTION for Extension of Time to Complete Discovery. Discovery due by <b>8/3/2020</b> . Dispositive Motions to be filed by <b>8/24/2020</b> . Jury Trial set for <b>2/16/2021 at 8:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Case referred to mediation. Mediation Report due by <b>9/14/2020</b> . Signed by CHIEF JUDGE MARK E WALKER on 6/29/2020. (cle) (Entered: 06/29/2020)
07/02/2020		Set Discovery Status Report Deadline - Status Report due by <b>8/4/2020</b> . (cle) (Entered: 07/02/2020)
07/02/2020	<a href="#">42</a>	First MOTION to Compel <i>Better Answers from Sheriff</i> by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Requests to Sheriff, # <a href="#">2</a> Exhibit 2 Sheriff's Responses, # <a href="#">3</a> Exhibit 3 Conference Table) (COOK, JAMES) (Entered: 07/02/2020)
07/04/2020	<a href="#">43</a>	Second MOTION to Compel <i>Better Answers from Corizon</i> by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Requests to Corizon, # <a href="#">2</a> Exhibit 2 Responses from Corizon, # <a href="#">3</a> Exhibit 3 Corizon conference Table, # <a href="#">4</a> Exhibit 4 Corizon privilege log) (COOK, JAMES) (Entered: 07/04/2020)
07/06/2020	<a href="#">44</a>	ORDER DIRECTING EXPEDITED RESPONSE TO MOTION TO COMPEL - re: <a href="#">42</a> First MOTION to Compel Better Answers from Sheriff. Defendant McNeil shall file an expedited response on or before Monday, <b>7/13/2020</b> . Signed by CHIEF JUDGE MARK E WALKER on 7/6/2020. (cle) (Entered: 07/06/2020)
07/06/2020	<a href="#">45</a>	ORDER DIRECTING EXPEDITED RESPONSE TO MOTION TO COMPEL - re: <a href="#">43</a> Second MOTION to Compel Better Answers from Corizon. Defendant Corizon shall file an expedited response on or before Monday, <b>7/13/2020</b> . Signed by CHIEF JUDGE MARK E WALKER on 7/6/2020. (cle) (Entered: 07/06/2020)
07/07/2020	<a href="#">46</a>	RULE 26 Disclosures by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 07/07/2020)
07/08/2020	47	NOTICE OF CANCELLED HEARING: Telephonic Pretrial Conference set for 11/9/2020 09:00 AM before CHIEF JUDGE MARK E WALKER is CANCELLED in light of <a href="#">41</a> SCHEDULING AND MEDIATION ORDER. (vkm) (Entered: 07/08/2020)
07/09/2020	<a href="#">48</a>	AMENDED ORDER FOR PRETRIAL CONFERENCE - Attorney Conference to take place by <b>1/14/2021</b> . Pretrial Stipulation due by <b>1/21/2021</b> . Pretrial Conference set for <b>1/28/2021 at 9:00 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Jury Trial set for <b>2/16/2021 at 8:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 7/9/2020. (cle) (Entered: 07/09/2020)
07/09/2020	49	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>1/28/2021 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.  ALL PARTIES are directed to call the AT&T Conference Line (see below)  Conference Call Information  You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.

		<p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 07/09/2020)</p>
07/10/2020	<a href="#">50</a>	NOTICE OF WITHDRAWING MOTION TO COMPEL by BRYANT NEIL BROWN re <a href="#">42</a> First MOTION to Compel <i>Better Answers from Sheriff</i> (COOK, JAMES) (Entered: 07/10/2020)
07/10/2020	<a href="#">51</a>	NOTICE OF WITHDRAWING ISSUES FROM MOTION TO COMPEL by BRYANT NEIL BROWN re <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> (COOK, JAMES) (Entered: 07/10/2020)
07/12/2020	<a href="#">52</a>	NOTICE OF FILING 4TH RULE 26(a)(1) DISCLOSURES by BRYANT NEIL BROWN (COOK, JAMES) (Entered: 07/12/2020)
07/13/2020	<a href="#">53</a>	ORDER DENYING MOTION TO COMPEL AS MOOT - re: Plaintiff's Motion to Compel. ECF No. <a href="#">42</a> . Inasmuch as Plaintiff has withdrawn the motion, ECF No. <a href="#">50</a> , the motion is DENIED as moot. Signed by CHIEF JUDGE MARK E WALKER on 7/13/2020. (cle) Modified title of Order per Chambers on 7/13/2020. (Entered: 07/13/2020)
07/13/2020	<a href="#">54</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">45</a> Order,, Set Deadlines, <a href="#">51</a> Notice (Other), <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 07/13/2020)
07/13/2020	<a href="#">55</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">45</a> Order,, Set Deadlines, <a href="#">51</a> Notice (Other), <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 07/13/2020)
07/14/2020	<a href="#">56</a>	ORDER GRANTING DEFENDANT CORIZON HEALTH INC.'S CONSENTED MOTION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S MOTION TO COMPEL - Defendant Corizon Health Inc.'s ("Corizon") Consented Motion for Extension of Time to Respond to Plaintiff's Motion to Compel, ECF No. <a href="#">55</a> , is GRANTED. Corizon shall file its response on or before 7/15/2020. Plaintiff may file his reply, if any, on or before 7/22/2020. Additionally, Corizon filed a second motion that, while otherwise identical to the instant motion, bears the caption for a separate case. ECF No. <a href="#">54</a> . The motion therefore appears to have been filed in error. That motion, ECF No. <a href="#">54</a> is DENIED as moot. Signed by CHIEF JUDGE MARK E WALKER on 7/14/2020. (cle) (Entered: 07/14/2020)
07/15/2020	<a href="#">57</a>	NOTICE OF WITHDRAWING ISSUES FROM MOTION TO COMPEL BETTER ANSWERS FROM CORIZON by BRYANT NEIL BROWN re <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> (COOK, JAMES) (Entered: 07/15/2020)
07/15/2020	<a href="#">58</a>	NOTICE OF WITHDRAWING ISSUES FROM MOTION TO COMPEL BETTER ANSWERS FROM CORIZON by BRYANT NEIL BROWN re <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> (COOK, JAMES) (Entered: 07/15/2020)
07/15/2020	<a href="#">59</a>	RESPONSE to Motion re <a href="#">43</a> Second MOTION to Compel <i>Better Answers from Corizon</i> filed by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 07/15/2020)
07/22/2020	<a href="#">60</a>	PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFFS MOTION TO COMPEL (COOK, JAMES) Modified to edit title on 7/23/2020 (rcb). (Entered: 07/22/2020)

07/23/2020	<a href="#">61</a>	DEFENDANT CORIZON HEALTH INC'S NOTICE OF FILING SUPPLEMENT TO BRIEF TO THE COURT IN RESPONSE TO PLAINTIFF'S MOTION TO COMPEL BETTER ANSWERS TO DISCOVERY (DOC 43) (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D) (KIMBRELL, JAMI) Modified Title on 7/23/2020 (blb). Modified to edit title on 7/24/2020 (rcb). (Entered: 07/23/2020)
07/23/2020	<a href="#">62</a>	DUPLICATE FILING: SAME AS <a href="#">61</a> :DEFENDANT CORIZON HEALTH INC'S NOTICE OF FILING SUPPLEMENT TO BRIEF TO THE COURT IN RESPONSE TO PLAINTIFFS MOTION TO COMPEL BETTER ANSWERS TO DISCOVERY (DOC <a href="#">43</a> ) (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D) (KIMBRELL, JAMI) Modified on 7/23/2020 (blb). Modified to edit title on 7/24/2020 (rcb). (Entered: 07/23/2020)
07/30/2020	<a href="#">63</a>	Joint MOTION for Extension of Time to Complete Discovery by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 07/30/2020)
07/30/2020	<a href="#">64</a>	<b>SECOND AMENDED SCHEDULING AND MEDIATION ORDER - re: <a href="#">63</a> Joint MOTION for Extension of Time to Complete Discovery. Discovery due by <b>10/2/2020</b>. Dispositive Motions to be filed by <b>10/30/2020</b>. Jury Trial set for <b>3/15/2021 at 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Case referred to mediation. Mediation Report due by <b>11/14/2020</b>. Signed by CHIEF JUDGE MARK E WALKER on 7/30/2020. (cle)</b> (Entered: 07/30/2020)
08/05/2020		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed re: The deadline to file the monthly Discovery Status Report has expired. No Status Report has been filed. (cle) (Entered: 08/05/2020)
08/05/2020		Set Discovery Status Report Deadline - Status Report due by <b>9/8/2020</b> . (cle) (Entered: 08/05/2020)
08/06/2020	<a href="#">66</a>	<b>ORDER DENYING PLAINTIFF'S MOTION TO COMPEL WITHOUT PREJUDICE - Plaintiff's Motion to Compel Better Answers from Defendant Corizon, LLC, ECF No. <a href="#">43</a> , is DENIED without prejudice because it is unclear which discovery disputes are still at issue. Signed by CHIEF JUDGE MARK E WALKER on 8/6/2020. (cle)</b> (Entered: 08/07/2020)
08/07/2020	<a href="#">65</a>	STATUS REPORT <i>Joint</i> by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 08/07/2020)
08/13/2020	<a href="#">67</a>	Joint MOTION Transport Plaintiff, an inmate by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 08/13/2020)
08/14/2020	68	NOTICE OF TELEPHONIC HEARING RE: <a href="#">67</a> JOINT MOTION TO TRANSPORT INMATE PLAINTIFF - Telephonic Motion Hearing set for <b>8/19/2020 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.  ALL PARTIES are directed to call the AT&T Conference Line (see below)  Conference Call Information  You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.

		<p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 08/14/2020)</p>
08/14/2020	<a href="#">69</a>	<p>ORDER GRANTING IN PART JOINT MOTION TO TRANSPORT INMATE PLAINTIFF - The Joint Motion to Transport Inmate Plaintiff, ECF No. <a href="#">67</a> , is GRANTED in part. Counsel for Plaintiff shall file a notice advising this Court of the date, time, and location of the deposition once final arrangements are in place. This Court will then enter its writ to transport the Plaintiff. Signed by CHIEF JUDGE MARK E WALKER on 8/14/2020. (cle) (Entered: 08/14/2020)</p>
08/14/2020	70	<p>NOTICE OF CANCELLED HEARING: Telephonic Motion Hearing set for 8/19/2020 09:00 AM before CHIEF JUDGE MARK E WALKER is <b>CANCELLED</b> per <a href="#">69</a> Order. (vkm) (Entered: 08/14/2020)</p>
09/08/2020	<a href="#">71</a>	<p>STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 09/08/2020)</p>
09/09/2020		<p>Set Discovery Status Report Deadline - Status Report due by <b>10/2/2020</b>. (cle) (Entered: 09/09/2020)</p>
09/15/2020	<a href="#">72</a>	<p>Consent MOTION TRANSPORT PLAINTIFF by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 09/15/2020)</p>
09/17/2020	<a href="#">73</a>	<p>ORDER GRANTING IN PART MOTION TO TRANSPORT INMATE PLAINTIFF and FOR MAGISTRATE SETTLEMENT CONFERENCE - Plaintiff's Unopposed Motion to Transport Inmate Plaintiff for Week of September 28, 2020, for Subsequent Deposition and Motion for Clarification as to the Availability of a Settlement Conference With the Magistrate, ECF No. <a href="#">72</a> , is GRANTED in part. The parties must supply this Court with specific information as to the date, time, and location of Plaintiff's deposition. As to a settlement conference with a Magistrate Judge in lieu of mediation, this Court will consider a motion for settlement conference with the signed consent of all parties. Signed by CHIEF JUDGE MARK E WALKER on 9/17/2020. (cle) (Entered: 09/17/2020)</p>
09/24/2020	<a href="#">74</a>	<p>ORDER FOR PRETRIAL CONFERENCE - Attorney Conference to take place by <b>2/5/2021</b>. Pretrial Stipulation due by <b>2/12/2021</b>. TELEPHONIC Pretrial Conference set for <b>2/19/2021 at 1:00 PM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Jury Trial set for <b>3/15/2021 at 8:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 9/24/2020. (cle) (Entered: 09/24/2020)</p>
10/05/2020		<p>ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed re: <a href="#">64</a> ORDER. The deadline to file the monthly Discovery Status Report has expired. No Status Report has been filed. (cle) (Entered: 10/05/2020)</p>
10/06/2020	<a href="#">75</a>	<p>STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 10/06/2020)</p>
10/06/2020	<a href="#">76</a>	<p>Joint MOTION for Extension of Time to Complete Discovery by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 10/06/2020)</p>
10/07/2020	<a href="#">77</a>	<p>ORDER GRANTING JOINT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY - The Joint Motion for Extension of Time to Complete Discovery, ECF No. <a href="#">76</a> , is GRANTED. The Clerk is directed to schedule a case management conference for</p>

		the week of October 12, 2020. Signed by CHIEF JUDGE MARK E WALKER on 10/7/2020. (cle) (Entered: 10/07/2020)
10/07/2020	78	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Status Conference set for <b>10/13/2020 02:00 PM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 10/07/2020)</p>
10/13/2020	<a href="#">79</a>	<p>Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER: Telephonic Status Conference held on 10/13/2020. Parties discuss case status. Ruling by Court: Parties to confer then provide Court with proposed order for issuance. Order to follow (Court Reporter Megan Hague). (vkm) (Entered: 10/13/2020)</p>
10/20/2020	80	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>2/19/2021 01:00 PM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 10/20/2020)</p>
11/19/2020	<a href="#">81</a>	<p>Consent MOTION Depose Plaintiff re <a href="#">79</a> Status Conference, by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 11/19/2020)</p>

11/19/2020	<a href="#">82</a>	Joint MOTION for Extension of Time to Complete Discovery by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 11/19/2020)
11/20/2020	<a href="#">83</a>	ORDER GRANTING DEFENDANTS' MOTION FOR LEAVE TO DEPOSE PLAINTIFF - Defendants' consented motion for leave to depose the Plaintiff, ECF No. <a href="#">81</a> , is GRANTED. Signed by CHIEF JUDGE MARK E WALKER on 11/20/2020. (cle) (Entered: 11/20/2020)
11/20/2020	<a href="#">84</a>	ORDER GRANTING JOINT MOTION FOR EXTENSION OF DEADLINES - re: <a href="#">82</a> Joint MOTION for Extension of Time to Complete Discovery. The motion is GRANTED in part and DENIED in part. The parties' discovery deadline is extended to <b>2/1/2021</b> , and the deadline to file dispositive motions is extended to 21 days after the extended discovery deadline, <b>2/22/2021</b> . The Clerk is directed to reset the trial in this case for Monday, July 19, 2021. Signed by CHIEF JUDGE MARK E WALKER on 11/20/2020. (cle) (Entered: 11/20/2020)
12/29/2020	<a href="#">85</a>	THIRD AMENDED ORDER FOR PRETRIAL CONFERENCE. Attorney Conference to take place by <b>6/11/2021</b> . TELEPHONIC Pretrial Stipulation due by <b>6/18/2021</b> . Jury Trial set for <b>7/19/2021 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Pretrial Conference set for <b>6/25/2021 09:00 AM</b> before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 12/29/20. (blb) (Entered: 12/29/2020)
12/29/2020	86	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>6/25/2021 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court also asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 12/29/2020)</p>
01/05/2021	<a href="#">87</a>	STATUS REPORT <i>Joint</i> by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 01/05/2021)
01/06/2021		Set Discovery Status Report Deadline - Status Report due by <b>2/2/2021</b> . (cle) (Entered: 01/06/2021)
02/02/2021	<a href="#">88</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 02/02/2021)
02/05/2021	<a href="#">89</a>	RULE 26 Disclosures by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 02/05/2021)
02/05/2021	<a href="#">90</a>	RULE 26 Disclosures by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 02/05/2021)

		02/05/2021)
02/08/2021	<a href="#">91</a>	NOTICE OF MEDIATION re Scheduling by CORIZON, LLC (KIMBRELL, JAMI) (Entered: 02/08/2021)
02/22/2021	<a href="#">92</a>	Joint MOTION to Extend TimeTo <i>Complete Mediation, File Dispositive Motions, and Complete Other Contingent Deadlines</i> by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 02/22/2021)
02/22/2021	<a href="#">93</a>	ORDER GRANTING JOINT MOTION FOR EXTENSION OF DEADLINES - The parties' joint motion for extension of deadlines, ECF No. <a href="#">92</a> , is GRANTED. The mediation deadline is extended to <b>3/30/2021</b> , and the deadline to file summary- judgment motions is extended to <b>4/20/2021</b> . The mediator or a party must file a report within 14 days after mediation ends, <b>4/13/2021</b> . Signed by CHIEF JUDGE MARK E WALKER on 2/22/2021. (cle) (Entered: 02/22/2021)
02/23/2021	<a href="#">94</a>	NOTICE OF MEDIATION re Scheduling <i>Continued</i> by CORIZON, LLC (KIMBRELL, JAMI) (Entered: 02/23/2021)
03/18/2021	<a href="#">95</a>	RULE 26 Disclosures by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 03/18/2021)
03/19/2021	<a href="#">96</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 03/19/2021)
03/19/2021	<a href="#">97</a>	RULE 26 Disclosures by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 03/19/2021)
03/22/2021		Set/Reset Deadlines: Status Report due by <b>4/22/2021</b> . (blb) (Entered: 03/22/2021)
03/30/2021	<a href="#">98</a>	RULE 26 Disclosures by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 03/30/2021)
03/31/2021	<a href="#">99</a>	MEDIATION REPORT - Impasse (DODSON, CHARLES) (Entered: 03/31/2021)
04/19/2021	<a href="#">100</a>	Consent MOTION for Extension of Time to File Dispositive Motions by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 04/19/2021)
04/19/2021	<a href="#">101</a>	Consent MOTION for Extension of Time to File Dispositive Motions by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 04/19/2021)
04/19/2021	<a href="#">102</a>	ORDER GRANTING EXTENSION OF TIME - Defendant Corizon Health, Inc's Consented Motion to Extend the Deadline to File Motion for Summary Judgment, ECF No. <a href="#">100</a> , is GRANTED. Defendant shall file a motion on or before <b>4/27/2021</b> . Signed by CHIEF JUDGE MARK E WALKER on 4/19/2021. (cle) (Entered: 04/19/2021)
04/19/2021	<a href="#">103</a>	NOTICE OF NON-OBJECTION TO GENERAL EXTENSION OF SUMMARY JUDGMENT DEADLINE by BRYANT NEIL BROWN re <a href="#">100</a> Consent MOTION for Extension of Time to File Dispositive Motions , <a href="#">101</a> Consent MOTION for Extension of Time to File Dispositive Motions (COOK, JAMES) (Entered: 04/19/2021)
04/19/2021	<a href="#">104</a>	ORDER GRANTING EXTENSION OF TIME - Defendant Walter McNeil's Consented Motion to Extend the Deadline to File Motion for Summary Judgment, ECF No. <a href="#">101</a> , is GRANTED. Defendant shall file a motion on or before <b>4/27/2021</b> . Signed by CHIEF JUDGE MARK E WALKER on 4/19/2021. (cle) (Entered: 04/19/2021)
04/23/2021	<a href="#">105</a>	PARTIES JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">11</a> ) (KIMBRELL, JAMI) Modified to edit title and set deadline on 4/29/2021 (rcb). (Entered: 04/23/2021)
04/27/2021	<a href="#">106</a>	DEFENDANT McNEIL'S NOTICE OF FILING IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT. (Attachments: # <a href="#">1</a> Affidavit Affidavit of Sgt. Lillie Christie dated April 27, 2021 (with exhibits), # <a href="#">2</a> Affidavit Affidavit of Karol Beckowitz dated April 23, 2021 (with exhibits), # <a href="#">3</a> Affidavit Affidavit of Chief Edward Lee dated April

		20, 2021, # <a href="#">4</a> Exhibit Declaration of Trae Wylie dated April 27, 2021 (with exhibits), # <a href="#">5</a> Exhibit Plaintiffs Notice of Serving Responses to Defendant McNeils First Discovery Requests dated December 23, 2019, # <a href="#">6</a> Exhibit Deposition transcript of Bryant Neil Brown taken on March 6, 2020, # <a href="#">7</a> Exhibit Deposition transcript of Dr. Ricardo Ayala taken on February 1, 2021, # <a href="#">8</a> Exhibit Deposition transcript of Sean Desmond taken March 30, 2021, # <a href="#">9</a> Exhibit Deposition transcript of Joanna Johnson taken April 7, 2021, # <a href="#">10</a> Exhibit Deposition transcript of Colleen Mullen taken March 30, 2021) (WHITEHURST, DAWN) Modified to edit title on 4/29/2021 (rcb). (Entered: 04/27/2021)
04/27/2021	<a href="#">107</a>	DEFENDANT SHERIFF WALTER MCNEIL'S MOTION FOR FINAL SUMMARY JUDGMENT. (Internal deadline for referral to judge if response to summary judgment not filed earlier: <b>5/18/2021</b> ). (WHITEHURST, DAWN) Modified to edit title on 4/28/2021 (rcb). (Entered: 04/27/2021)
04/27/2021	<a href="#">108</a>	DEFENDANTS CORIZON LLC., MARIA GARCIA, MD, CELESTE MACDONALD AND DEBBIE SELLERS' NOTICE OF FILING EXHIBITS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5, # <a href="#">6</a> Exhibit 6, # <a href="#">7</a> Exhibit 7, # <a href="#">8</a> Exhibit 8, # <a href="#">9</a> Exhibit 9, # <a href="#">10</a> Exhibit 10, # <a href="#">11</a> Exhibit 11, # <a href="#">12</a> Exhibit 12, # <a href="#">13</a> Exhibit 13, # <a href="#">14</a> Exhibit 14, # <a href="#">15</a> Exhibit 15, # <a href="#">16</a> Exhibit 16, # <a href="#">17</a> Exhibit 17, # <a href="#">18</a> Exhibit 18, # <a href="#">19</a> Exhibit 19, # <a href="#">20</a> Exhibit 20, # <a href="#">21</a> Exhibit 21, # <a href="#">22</a> Exhibit 22, # <a href="#">23</a> Exhibit 23, # <a href="#">24</a> Exhibit 24, # <a href="#">25</a> Exhibit 25, # <a href="#">26</a> Exhibit 26, # <a href="#">27</a> Exhibit 27, # <a href="#">28</a> Exhibit 28, # <a href="#">29</a> Exhibit 29, # <a href="#">30</a> Exhibit 30, # <a href="#">31</a> Exhibit 31, # <a href="#">32</a> Exhibit 32, # <a href="#">33</a> Exhibit 33, # <a href="#">34</a> Exhibit 34, # <a href="#">35</a> Exhibit 35, # <a href="#">36</a> Exhibit 36, # <a href="#">37</a> Exhibit 37, # <a href="#">38</a> Exhibit 38, # <a href="#">39</a> Exhibit 39, # <a href="#">40</a> Exhibit 40, # <a href="#">41</a> Exhibit 41, # <a href="#">42</a> Exhibit 42, # <a href="#">43</a> Exhibit 43, # <a href="#">44</a> Exhibit 44, # <a href="#">45</a> Exhibit 45, # <a href="#">46</a> Exhibit 46, # <a href="#">47</a> Exhibit 47, # <a href="#">48</a> Exhibit 48, # <a href="#">49</a> Exhibit 49, # <a href="#">50</a> Exhibit 50, # <a href="#">51</a> Exhibit 51, # <a href="#">52</a> Exhibit 52) (KIMBRELL, JAMI) Modified to edit title on 4/28/2021 (rcb). (Entered: 04/27/2021)
04/27/2021	<a href="#">109</a>	DEFENDANTS', CORIZON LLC, MARIA LILIANA GARCIA, MD, CELESTE MACDONALD, AND DEBBIE SELLERS, MOTION FOR SUMMARY JUDGMENT AS TO COUNTS II and III (Internal deadline for referral to judge if response to summary judgment not filed earlier: <b>5/18/2021</b> ). (KIMBRELL, JAMI) Modified to edit title on 4/28/2021 (rcb). Modified to edit title on 4/29/2021 (rcb). (Entered: 04/27/2021)
04/29/2021		Set Deadlines/Hearings Status Report due by <b>5/31/2021</b> . (rcb) (Entered: 04/29/2021)
05/17/2021	<a href="#">110</a>	Consent MOTION to Extend Timefor <i>Response to Summary Judgment Motions</i> , MOTION for Extension of Time to File by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 05/17/2021)
05/18/2021	<a href="#">111</a>	<b>ORDER GRANTING PLAINTIFF'S CONSENTED MOTION TO EXTEND DEADLINE - Plaintiff's Consented Motion to Extend Deadline for Responses to Defendants' Motions for Summary Judgment, ECF No. <a href="#">110</a> , is GRANTED. Plaintiff has until <b>5/21/2021</b> to file his responses. Signed by CHIEF JUDGE MARK E WALKER on 5/18/2021. (cle)</b> (Entered: 05/18/2021)
05/21/2021	<a href="#">112</a>	PLAINTIFF'S MOTION FOR THE COURT TO TAKE JUDICIAL NOTICE OF A PEER-REVIEWED ARTICLE ON THE COST OF PLAINTIFF'S MEDICATION FOR MULTIPLE SCLEROSIS. (Attachments: # <a href="#">1</a> Exhibit 1 Neurotherapeutics article, # <a href="#">2</a> Exhibit 2 Ayala deposition) (COOK, JAMES) Modified to edit title on 5/24/2021 (rcb). (Entered: 05/21/2021)
05/21/2021	<a href="#">113</a>	RESPONSE in Opposition re <a href="#">107</a> MOTION for Summary Judgment filed by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Brown Declaration, # <a href="#">2</a> Exhibit 2 Neil Brown Deposition, # <a href="#">3</a> Exhibit 3 TMH Records, # <a href="#">4</a> Exhibit 4 Antivert meds, # <a href="#">5</a> Exhibit

		5 Medical History, # <a href="#">6</a> Exhibit 6 Medical Grievances, # <a href="#">7</a> Exhibit 7 CVS prescription, # <a href="#">8</a> Exhibit 8 Grievance Logs, # <a href="#">9</a> Exhibit 9 Ayala Deposition, # <a href="#">10</a> Exhibit 10 McNeil resp to rfa, # <a href="#">11</a> Exhibit 11 NCCHC 2007 audit, # <a href="#">12</a> Exhibit 12 NCCHC 2010-1 audit, # <a href="#">13</a> Exhibit 13 NCCHC 2010-2 audit, # <a href="#">14</a> Exhibit 14 NCCHC 2014 audit) (COOK, JAMES) (Entered: 05/21/2021)
05/22/2021	<a href="#">114</a>	RESPONSE in Opposition re <a href="#">109</a> MOTION for Summary Judgment filed by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Brown Declaration, # <a href="#">2</a> Exhibit 2 Penfield Med Disbursements, # <a href="#">3</a> Exhibit 3 2014 MRI, # <a href="#">4</a> Exhibit 4 TNC Records, # <a href="#">5</a> Exhibit 5 Ayala Deposition, # <a href="#">6</a> Exhibit 6 Intake Records, # <a href="#">7</a> Exhibit 7 Segregation screening, # <a href="#">8</a> Exhibit 8 Treatment Plans, # <a href="#">9</a> Exhibit 9 Vertigo Complaint, # <a href="#">10</a> Exhibit 10 Progress Notes, # <a href="#">11</a> Exhibit 11 MAR Antivert, # <a href="#">12</a> Exhibit 12 RFA 1 to Corizon Supp, # <a href="#">13</a> Exhibit 13 Medical History, # <a href="#">14</a> Exhibit 14 Medical Grievances, # <a href="#">15</a> Exhibit 15 March psych record, # <a href="#">16</a> Exhibit 16 Health Services Request forms, # <a href="#">17</a> Exhibit 17 MAR June, # <a href="#">18</a> Exhibit 18 June Psych Note, # <a href="#">19</a> Exhibit 19 MacDonald RFA, # <a href="#">20</a> Exhibit 20 HSA Job Description, # <a href="#">21</a> Exhibit 21 Sellers Personnel File, # <a href="#">22</a> Exhibit 22 Ayala Consult, # <a href="#">23</a> Exhibit 23 Garcia Depo, # <a href="#">24</a> Exhibit 24 Ayala Letter, # <a href="#">25</a> Exhibit 25 Garcia RFA, # <a href="#">26</a> Exhibit 26 FDOC Health Care Study, # <a href="#">27</a> Exhibit 27 Crews Letter, # <a href="#">28</a> Exhibit 28 Maier Depo Kantor, # <a href="#">29</a> Exhibit 29 Maier Depo Hoffer, # <a href="#">30</a> Exhibit 30 Gonzalez Depo, # <a href="#">31</a> Exhibit 31 NYS Correction Report, # <a href="#">32</a> Exhibit 32 NYC DOI Report, # <a href="#">33</a> Exhibit 33 Washington County Audit, # <a href="#">34</a> Exhibit 34 AZ Audit Matrix, # <a href="#">35</a> Exhibit 35 Stern Report, # <a href="#">36</a> Exhibit 36 Allegheny Audit, # <a href="#">37</a> Exhibit 37 September MAR) (COOK, JAMES) (Entered: 05/22/2021)
05/24/2021		Set/Reset Deadlines as to <a href="#">112</a> MOTION Take Judicial Notice of <i>Authoritative Text</i> . (Internal deadline for referral to judge if response not filed earlier: <b>6/7/2021</b> ). (rcb) (Entered: 05/24/2021)
05/24/2021	<a href="#">115</a>	<b>ORDER CANCELLING PRETRIAL CONFERENCE AND PRETRIAL DEADLINES.</b> In light of the anticipated expense both sides will incur to prepare for the pretrial conference and the fact that Defendants motions for summary judgment remain pending, this Court, on its own motion, directs the Clerk to cancel the pretrial conference and all pretrial deadlines, and remove this case from the trial docket. Signed by CHIEF JUDGE MARK E WALKER on 05/24/2021. (rcb) **Pretrial conference all pretrial deadlines terminated as directed** (Entered: 05/24/2021)
05/24/2021	<a href="#">116</a>	PLAINTIFF'S CONSENTED MOTION TO ACCEPT PLAINTIFF'S RESPONSE TO CORIZONS MOTION FOR SUMMARY JUDGMENT OUT OF TIME. (COOK, JAMES) Modified to edit title on 5/25/2021 (rcb). (Entered: 05/24/2021)
05/24/2021	<a href="#">117</a>	<b>ORDER GRANTING PLAINTIFF'S <a href="#">116</a> CONSENTED MOTION TO ACCEPT RESPONSE OUT OF TIME.</b> The <a href="#">116</a> motion is GRANTED. Plaintiff's response is considered timely filed. Signed by CHIEF JUDGE MARK E WALKER on 05/24/2021. (rcb) (Entered: 05/24/2021)
05/31/2021	<a href="#">118</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 05/31/2021)
06/01/2021	<a href="#">119</a>	Consent MOTION for Extension of Time to File Response/Reply by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 06/01/2021)
06/01/2021	<a href="#">120</a>	<b>ORDER GRANTING <a href="#">119</a> EXTENSION TO FILE A REPLY. ( Replies to <a href="#">113</a> Response due by 6/4/2021.).</b> Signed by CHIEF JUDGE MARK E WALKER on 6/1/21. (pll) (Entered: 06/01/2021)
06/01/2021	<a href="#">121</a>	REPLY to Response to Motion re <a href="#">107</a> MOTION for Summary Judgment in Support filed by WALTER A MCNEIL. (WHITEHURST, DAWN) (Entered: 06/01/2021)

06/02/2021	<a href="#">122</a>	RESPONSE in Opposition re <a href="#">112</a> MOTION Take Judicial Notice of <i>Authoritative Text</i> filed by CORIZON, LLC. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3) (KIMBRELL, JAMI) (Entered: 06/02/2021)
06/02/2021	<a href="#">123</a>	MOTION to Strike <a href="#">114</a> Response in Opposition to Motion,,,,, by CORIZON, LLC. (Internal deadline for referral to judge if response not filed earlier: <b>6/16/2021</b> ). (KIMBRELL, JAMI) (Entered: 06/02/2021)
06/02/2021	<a href="#">124</a>	NOTICE of Joinder in Defendant Corizon's Response in Opposition to Plaintiff's Motion for the Court to Take Judicial Notice of a Peer-Reviewed Article on the Cost of Plaintiff's Medication for Multiple Sclerosis by WALTER A MCNEIL (WHITEHURST, DAWN) (Entered: 06/02/2021)
06/02/2021	<a href="#">125</a>	NOTICE of Joinder in Defendant Corizons Objections and Motion to Strike Evidence Submitted by Plaintiff in Response to Defendants Motion for Summary Judgment by WALTER A MCNEIL (WHITEHURST, DAWN) (Entered: 06/02/2021)
06/04/2021	<a href="#">126</a>	REPLY to Response to Motion re <a href="#">109</a> MOTION for Summary Judgment , <a href="#">123</a> MOTION to Strike <a href="#">114</a> Response in Opposition to Motion,,,,, filed by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Exhibit 4, # <a href="#">5</a> Exhibit 5) (KIMBRELL, JAMI) (Entered: 06/04/2021)
06/09/2021	<a href="#">127</a>	Consent MOTION for Leave to File Reply - re: <a href="#">122</a> Response in Opposition to Motion by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 06/09/2021)
06/10/2021	<a href="#">128</a>	ORDER GRANTING LEAVE TO FILE REPLY - re: <a href="#">127</a> Consent MOTION for Leave to File Reply is GRANTED. Plaintiff may file a reply to Defendants' responses. Signed by CHIEF JUDGE MARK E WALKER on 6/10/2021. (cle) (Entered: 06/10/2021)
06/14/2021	<a href="#">129</a>	REPLY to Response to Motion re <a href="#">127</a> Consent MOTION for Leave to File re <a href="#">122</a> Response in Opposition to Motion for Judicial Notice filed by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Neurotherapeutics article, # <a href="#">2</a> Exhibit 2 Pharmacy utilization report, # <a href="#">3</a> Exhibit 3 Brown TDI 2014 MRI, # <a href="#">4</a> Exhibit 4 Sellers depo individual, # <a href="#">5</a> Exhibit 5 E-mail to Williams, # <a href="#">6</a> Exhibit 6 Leon HSA am 02, # <a href="#">7</a> Exhibit 7 Sellers depo 30b6, # <a href="#">8</a> Exhibit 8 HSA Leon and Corizon) (COOK, JAMES) (Entered: 06/14/2021)
06/16/2021	<a href="#">130</a>	RESPONSE in Opposition re <a href="#">123</a> MOTION to Strike <a href="#">114</a> Response in Opposition to Motion,,,,, filed by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 06/16/2021)
06/22/2021	<a href="#">131</a>	Consent MOTION for Leave to File re <a href="#">130</a> Response in Opposition to Motion, <a href="#">123</a> MOTION to Strike <a href="#">114</a> Response in Opposition to Motion,,,,, by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 06/22/2021)
06/22/2021	<a href="#">132</a>	ORDER GRANTING LEAVE TO FILE REPLY - The <a href="#">131</a> motion is GRANTED. Defendant Corizon may file a reply to <a href="#">130</a> Plaintiff's response on or before <b>6/29/2021</b> . Signed by CHIEF JUDGE MARK E WALKER on 6/22/2021. (vkm) (Entered: 06/22/2021)
06/29/2021	<a href="#">133</a>	MOTION for Hearing re <a href="#">122</a> Response in Opposition to Motion, <a href="#">129</a> Reply to Response to Motion,, <a href="#">124</a> Notice (Other), <a href="#">112</a> MOTION Take Judicial Notice of <i>Authoritative Text</i> by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 06/29/2021)
06/29/2021	<a href="#">134</a>	REPLY to Response to Motion re <a href="#">123</a> MOTION to Strike <a href="#">114</a> Response in Opposition to Motion,,,,, , RESPONSE in Support filed by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 06/29/2021)
06/29/2021	<a href="#">135</a>	ORDER DENYING MOTION FOR ORAL ARGUMENT - re: <a href="#">133</a> Motion for Hearing. Defendant's motion, ECF No. <a href="#">133</a> , is DENIED at this juncture. Signed by CHIEF

		<b>JUDGE MARK E WALKER on 6/29/2021. (cle)</b> (Entered: 06/30/2021)
07/01/2021	<a href="#">136</a>	MOTION Supplement Record on Summary Judgment by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Neurotherapeutics article, # <a href="#">2</a> Exhibit 2 Pharmacy utilization report, # <a href="#">3</a> Exhibit 3 Brown TDI 2014 MRI, # <a href="#">4</a> Exhibit 4 Sellers depo individual, # <a href="#">5</a> Exhibit 5 E-mail to Williams, # <a href="#">6</a> Exhibit 6 Leon HSA am 02, # <a href="#">7</a> Exhibit 7 Sellers depo 30b6, # <a href="#">8</a> Exhibit 8 HSA Leon and Corizon, # <a href="#">9</a> Exhibit 9 Corizon R30b6 notice) (COOK, JAMES) (Entered: 07/01/2021)
07/02/2021	<a href="#">137</a>	<b>ORDER GRANTING JOINT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY.</b> Plaintiff has filed a Motion to Supplement the Record on Summary Judgment. ECF No. <a href="#">136</a> . Defendants are <b>DIRECTED</b> to file an expedited response on or before <b>7/9/2021</b> . Signed by CHIEF JUDGE MARK E WALKER on 7/2/2021. (kjlw) (Entered: 07/02/2021)
07/09/2021	<a href="#">138</a>	RESPONSE in Opposition re <a href="#">136</a> MOTION Supplement Record on Summary Judgment filed by CORIZON, LLC. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J, # <a href="#">11</a> Exhibit K, # <a href="#">12</a> Exhibit L, # <a href="#">13</a> Exhibit M) (KIMBRELL, JAMI) (Entered: 07/09/2021)
08/05/2021	<a href="#">139</a>	STATUS REPORT by CORIZON, LLC. (KIMBRELL, JAMI) (Entered: 08/05/2021)
11/02/2021	140	<p>NOTICE of Hearing Re: <a href="#">136</a> MOTION Supplement Record on Summary Judgment, <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment, <a href="#">123</a> MOTION to Strike and <a href="#">112</a> MOTION Take Judicial Notice: Motion Hearing set for <b>11/30/2021 09:00 AM</b> before CHIEF JUDGE MARK E WALKER. United States Courthouse, <b>Courtroom 5 West</b>, 111 North Adams St., Tallahassee, Florida 32301.</p> <p>Per Administrative Order, to protect the health and safety of all occupants, <b>all persons who enter any courthouse within the Northern District of Florida are required to wear face masks or other face coverings that cover the person's nose and mouth while in any public or common area within the facility and all unvaccinated persons should also practice social distancing measures.</b></p> <p><b>Face masks are required in Courtroom 5 West.</b></p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as, a hearing impairment that requires a sign language interpreter or a wheelchair restriction that requires ramp access, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p>s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 11/02/2021)</p>
11/23/2021	<a href="#">141</a>	<b>ORDER GRANTING PLAINTIFF'S <a href="#">112</a> MOTION FOR JUDICIAL NOTICE.</b> Signed by CHIEF JUDGE MARK E WALKER on 11/23/2021. (toy) (Entered: 11/23/2021)
11/23/2021	<a href="#">142</a>	<b>ORDER GRANTING PLAINTIFF'S MOTION TO SUPPLEMENT THE RECORD ON SUMMARY JUDGMENT.</b> Plaintiff may supplement the record on summary judgment with Exhibits <a href="#">136</a> -1, <a href="#">136</a> -2, <a href="#">136</a> -4, <a href="#">136</a> -5, <a href="#">136</a> -6, <a href="#">136</a> -7, <a href="#">136</a> -8, and <a href="#">136</a> -9. Plaintiff shall not supplement the record with Exhibit <a href="#">136</a> -3. Additionally, to complement Exhibit <a href="#">136</a> -2, Defendants may supplement the record with the remaining pharmacy reports from 2017 on or before November 30, 2021. Plaintiff's Motion to Supplement the Record on Summary Judgment, ECF No. <a href="#">136</a> , is therefore <b>GRANTED</b> in part and <b>DENIED</b> in part.

		(Supplements to the Record Deadline - by <b>11/30/2021</b> .) Signed by CHIEF JUDGE MARK E WALKER on 11/23/2021. (toy) (Entered: 11/23/2021)
11/24/2021	143	<p>NOTICE OF RESCHEDULED HEARING RE: <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment and <a href="#">123</a> MOTION to Strike: Due to the judge's trial schedule, Motion Hearing reset for <b>1/12/2022 09:00 AM</b> before CHIEF JUDGE MARK E WALKER. United States Courthouse, <b>Courtroom 5 West</b>, 111 North Adams St., Tallahassee, Florida 32301.</p> <p>Per Administrative Order, to protect the health and safety of all occupants, <b>all persons who enter any courthouse within the Northern District of Florida are required to wear face masks or other face coverings that cover the person's nose and mouth while in any public or common area within the facility and all unvaccinated persons should also practice social distancing measures.</b></p> <p><b>Face masks are required in Courtroom 5 West.</b></p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as, a hearing impairment that requires a sign language interpreter or a wheelchair restriction that requires ramp access, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 11/24/2021)</p>
11/30/2021	<a href="#">144</a>	NOTICE of Filing Documents in Response to Order by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS re <a href="#">136</a> MOTION Supplement Record on Summary Judgment , <a href="#">142</a> Order,,, Set Deadlines/Hearings,, <a href="#">138</a> Response in Opposition to Motion, (Attachments: # <a href="#">1</a> Exhibit 1) (KIMBRELL, JAMI) (Entered: 11/30/2021)
12/10/2021	<a href="#">145</a>	<b>ORDER ON DEFENDANTS' MOTION TO STRIKE.</b> Defendants' Motion to Strike, ECF No. <a href="#">123</a> , is <b>DENIED</b> in part and <b>GRANTED</b> in part. Defendants' Motion is <b>DENIED</b> as it relates to the seven individuals identified as witnesses. Defendants' Motion is <b>DENIED</b> as it relates to Exhibits 27, 28, 29, 30 and 34. Defendants' Motion is <b>GRANTED</b> as it relates to Exhibit 33. The parties shall file supplemental briefing on whether this evidence can be "reduced to admissible form" on or before December 17, 2021. (Supplemental Brief Deadline - by <b>12/17/2021</b> .)Signed by CHIEF JUDGE MARK E WALKER on 12/10/2021. (toy) (Entered: 12/10/2021)
12/17/2021	<a href="#">146</a>	SUPPLEMENTAL BRIEFING IN SUPPORT re <a href="#">123</a> MOTION to Strike filed by CORIZON, LLC. (KIMBRELL, JAMI) Modified to edit title on 12/20/2021 (tpm). (Entered: 12/17/2021)
12/17/2021	<a href="#">147</a>	MEMORANDUM in Opposition re <a href="#">123</a> MOTION to Strike Pursuant to Order, ECF 145 filed by BRYANT NEIL BROWN. (Attachments: # <a href="#">1</a> Exhibit 1 Corizon-FDC Contract) (COOK, JAMES) Modified on 12/20/2021 (tpm). (Entered: 12/17/2021)
01/07/2022	148	<p>NOTICE OF TELEPHONIC HEARING RE: <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment: Telephonic Motion Hearing set for <b>1/12/2022 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p>

		<p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 01/07/2022)</p>
01/12/2022	149	<p>NOTICE OF CANCELLED HEARING: Telephonic Motion Hearing set for 1/12/2022 09:00 AM before CHIEF JUDGE MARK E WALKER is CANCELLED. As previously informed, hearing will be rescheduled for a later date as determined by the Court. (vkm) (Entered: 01/12/2022)</p>
02/09/2022	150	<p>NOTICE OF TELEPHONIC HEARING RE: <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment: Telephonic Motion Hearing reset for <b>3/14/2022 09:00 AM</b> in before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 02/09/2022)</p>
02/18/2022	151	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Status Conference set for <b>2/24/2022 12:30 PM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 02/18/2022)</p>
02/18/2022	152	<p>NOTICE OF RESCHEDULED TELEPHONIC HEARING RE: <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment: Due to the judge's trial schedule, Telephonic Motion Hearing reset for <b>4/5/2022 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p>

		<p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 02/18/2022)</p>
02/24/2022	<a href="#">153</a>	<p>Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER: Telephonic Status Conference held on 2/24/2022. Court gives parties notice of topics to address re: <a href="#">107</a> &amp; <a href="#">109</a> Motions for Summary Judgment. Ruling by Court: Plaintiff to file supplemental brief by <b>3/18/2022</b>. Defendants to file response by 4/8/2022. Reply Brief due by <b>4/15/2022</b>. Court will determine if motion hearing is necessary after reviewing the supplemental briefs. Order to follow (Court Reporter Megan Hague). (vkm) (Entered: 02/25/2022)</p>
02/25/2022	154	<p>NOTICE OF RESCHEDULED TELEPHONIC HEARING RE <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment: Telephonic Motion Hearing (if necessary) set for <b>4/22/2022 05:30 PM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 02/25/2022)</p>
02/25/2022	<a href="#">155</a>	<p><b>ORDER ON SUPPLEMENTAL BRIEFING.</b> Plaintiff shall file his brief on or before Friday, March 18, 2022. Defendants shall file their briefs on or before Friday, April 8, 2022. Plaintiff shall file his reply, if necessary, on or before Friday, April 15, 2022. (Plaintiff Brief due by <b>3/18/2022</b>., Defendants Brief due by <b>4/8/2022</b>., Reply, if necessary due by <b>4/15/2022</b>.) Signed by CHIEF JUDGE MARK E WALKER on 02/25/2022. (toy) (Entered: 02/25/2022)</p>
03/18/2022	<a href="#">156</a>	<p>MEMORANDUM in Support of <i>Plaintiffs Responses to Summary Judgment Motions</i> by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 03/18/2022)</p>
03/31/2022	157	<p>NOTICE OF RESCHEDULED HEARING RE: <a href="#">107</a> &amp; <a href="#">109</a> MOTIONS for Summary Judgment:</p> <p><b>PLEASE NOTE ONLY THE HEARING TIME HAS CHANGED</b></p>

		<p>Telephonic Motion Hearing reset for <b>4/22/2022 03:00 PM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 03/31/2022)</p>
04/08/2022	<a href="#">158</a>	Supplemental Memorandum of Law in Support of Defendants' Motions for Summary Judgment by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, WALTER A MCNEIL, DEBBIE SELLERS re <a href="#">155</a> Order,, Set Deadlines/Hearings, <a href="#">107</a> MOTION for Summary Judgment , <a href="#">109</a> MOTION for Summary Judgment , <a href="#">126</a> Reply to Response to Motion, <a href="#">114</a> Response in Opposition to Motion,,,,, <a href="#">108</a> Notice (Other),,,, <a href="#">144</a> Notice (Other), <a href="#">156</a> Memorandum in Support OF DEFENDANTS MOTIONS FOR SUMMARY JUDGMENT. (KIMBRELL, JAMI) Modified on 4/11/2022 to match PDF title (toy). (Entered: 04/08/2022)
04/11/2022	<a href="#">159</a>	NOTICE of Appearance by MICHAEL PATRICK SPELLMAN on behalf of WALTER A MCNEIL (SPELLMAN, MICHAEL) (Entered: 04/11/2022)
04/15/2022	<a href="#">160</a>	REPLY to Response to Motion re <a href="#">107</a> MOTION for Summary Judgment , <a href="#">109</a> MOTION for Summary Judgment (SUPPLEMENTAL) filed by BRYANT NEIL BROWN. (COOK, JAMES) (Entered: 04/15/2022)
04/21/2022	161	NOTICE OF CANCELLED HEARING: Telephonic Motion Hearing set for 4/22/2022 03:00 PM before CHIEF JUDGE MARK E WALKER in CANCELLED. As previously informed, hearing will be rescheduled for a later date as determined by the Court. (vkm) (Entered: 04/21/2022)
10/19/2022	<a href="#">162</a>	NOTICE of Appearance by GREGG A TOOMEY on behalf of CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS (TOOMEY, GREGG) (Entered: 10/19/2022)
10/24/2022	<a href="#">163</a>	MOTION to Withdraw as Attorney by CORIZON, LLC, MARIA LILLIANA GARCIA, CELESTE MACDONALD, DEBBIE SELLERS. (Attachments: # <a href="#">1</a> Exhibit A) (KIMBRELL, JAMI) (Entered: 10/24/2022)
10/24/2022	<a href="#">164</a>	<b>ORDER GRANTING UNOPPOSED MOTION TO WITHDRAW: This Court has considered, without hearing, the motion to withdraw Jami M. Kimbrell and Joseph E. Brooks as counsel for Defendants Corizon LLC, Maria Liliana Garcia, Celeste MacDonald, and Debbie Sellers. ECF No. <a href="#">163</a> . Defendants will continue to be represented by counsel, their representation will continue uninterrupted, and Plaintiff does not oppose the motion. This motion is, therefore, GRANTED. The Clerk shall disconnect Jami M. Kimbrell and Joseph E. Brooks from CM/ECF in this matter. Signed by CHIEF JUDGE MARK E WALKER on 10/24/2022. (tpm) (Attorney JOSEPH EUGENE BROOKS and JAMI MCFATTER KIMBRELL terminated) (Entered: 10/24/2022)</b>

10/25/2022	<a href="#">165</a>	NOTICE of Appearance by JAMES MURRAY SLATER on behalf of BRYANT NEIL BROWN (SLATER, JAMES) (Entered: 10/25/2022)
02/21/2023	<a href="#">166</a>	SUGGESTION OF BANKRUPTCY Upon the Record as to Corizon, LLC by CORIZON, LLC. (Attachments: # <a href="#">1</a> Exhibit A) (TOOMEY, GREGG) (Entered: 02/21/2023)
02/21/2023	<a href="#">167</a>	ORDER REGARDING BANKRUPTCY STAY. Unless and until otherwise ordered, all proceedings in this case are STAYED under 11 U.S.C. §362. Defendant Corizon Health, Inc., must file a notice in this Court within 30 days after the occurrence of any event or condition terminating the automatic stay either explicitly or by operation of law. Plaintiffs must file a notice in this court within 30 days after the parties or their attorney learns of the occurrence of any event or condition terminating the automatic stay either explicitly or by operation of law, provided, however, that if one such notice has been filed by any party, no party need file any additional notice. Defendant Corizon Health, Inc., is requested to file, and Plaintiffs must file, by the last day of each August and February ( <b>2/28/2023</b> ) (commencing with August 2023)( <b>8/31/2023</b> ) a status report indicating whether the bankruptcy proceeding remains pending and the automatic stay remains in effect, provided, however, that if one such status report has been filed by any party for the period at issue, no party need file any additional status report. Signed by CHIEF JUDGE MARK E WALKER on 02/21/2023. (rcb) (Entered: 02/21/2023)
03/01/2023		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">167</a> ORDER REGARDING BANKRUPTCY STAY. (rcb)**Status Report not filed by 2/28/2023** (Entered: 03/01/2023)
03/01/2023	<a href="#">168</a>	STATUS REPORT <i>Regarding Bankruptcy per Doc. 167</i> by BRYANT NEIL BROWN. (SLATER, JAMES) (Entered: 03/01/2023)

PACER Service Center			
Transaction Receipt			
03/01/2023 12:02:58			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	4:19-cv-00345-MW-MAF
Billable Pages:	19	Cost:	1.90

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

BRYANT NEIL BROWN,

Plaintiff,

v.

HON. WALTER McNEIL, as Sheriff of Leon  
County, Florida, and CORIZON, LLC, a  
Health Services Corporation, and MARIA  
LILIANA GARCIA, M.D., CELESTE  
MACDONALD, and DEBBIE SELLERS,  
individually,

Defendants.

CASE NO. 4:19-cv-345

**COMPLAINT FOR DAMAGES**

Plaintiff sues Defendants and alleges:

**Jurisdiction and Venue**

1. Plaintiff's claim for relief is based on 42 U.S.C. §§ 1983 and 1988.
2. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.
3. Venue is asserted in the Northern District of Florida as the events sued upon occurred within this district.
4. All conditions precedent to this action have been performed or waived.

**Parties**

5. At all times material hereto, BRYANT NEIL BROWN was a citizen of Florida and resident of Leon County, Florida.

6. At all times material hereto, WALTER McNEIL, or his predecessor, was Sheriff of Leon County, the constitutional officer who operates the Leon County Detention Center (“Jail”) and has a non-delegable duty to provide health care to his prisoners. He is sued in his official capacity.
7. At all times material hereto, CORIZON LLC, aka CORIZON HEALTH, INC., was a health services company contracted to provide care to prisoners.
8. At all times material hereto, MARIA LILIANA GARCIA, M.D., was the physician at the Jail and is sued in her individual capacity.
9. At all times material hereto, DEBBIE SELLERS was Health Care Administrator at the Jail and is sued in her individual capacity.
10. At all times material hereto, CELESTE MACDONALD, ARNP was a Corizon medical provider at the Jail, sued in her individual capacity.
11. All the above Defendants were acting under color of law.

### **Common Allegations of Fact**

12. On July 27, 2015, Bryant Brown was booked into the Leon County Jail.
13. Mr. Brown suffers from Multiple Sclerosis (MS), a serious medical condition.
14. On entering the Jail, Mr. Brown requested to receive his MS medication.
15. Corizon, a health services contractor at the Jail, failed to timely provide Mr. Brown the medication that he required to treat his MS.
16. Mr. Brown had previously been prescribed medication for his condition but

Corizon medical staff refused to continue the treatment.

17. Because of this refusal, Mr. Brown was denied the medication in jail from July 27, 2015 through December 13, 2016, at great cost to his health.
18. Mr. Brown repeatedly declared medical emergencies at the Jail.
19. On August 27, 2015, Mr. Brown grieved the denial of Multiple Sclerosis (MS) medications prescribed to him by Ricardo Ayala, M.D.
20. Corizon Health Services Administrator (HSA) Deborah Sellers responded that the records from Dr. Ayala were reviewed with Dr. Maria Garcia.
21. Corizon failed to have Mr. Brown taken to his neurologist, Dr. Ricardo Ayala, for examination and renewal of his prescriptions.
22. On January 20, 2016, a Leon Circuit judge ordered the Jail to provide the medication for Multiple Sclerosis “immediately. Defendants did not comply.
23. On May 22, 2016, Mr. Brown once again grieved the failure to provide the medication for the symptoms of Multiple Sclerosis he was experiencing.
24. HSA Deborah Sellers responded that Corizon’s “plan of care” for Mr. Brown was explained and documented on May 26, 2016.
25. The “plan of care” did not include appropriate treatment for Plaintiff’s MS although HSA Sellers was aware of this serious medical condition.
26. ARNP Celeste MacDonald was also aware of Mr. Brown’s history of MS but failed to take any action to abate the risk from failure to treat.

27. Mr. Brown grieved the failure to receive medication for Multiple Sclerosis once again on June 7, 2016, and was once again denied.
28. On September 11, 2016, Mr. Brown wrote a medical services request reporting that he has been experiencing Multiple Sclerosis symptoms.
29. On November 22, 2016, Mr. Brown requested a low bunk pass because he had trouble climbing to top bunk due to numbness caused by MS.
30. On December 4, 2016, Mr. Brown grieved once again that he was not getting MS medication though an MRI showed progression of the disease.
31. As of December 4, 2016, Mr. Brown still hadn't been taken for a promised visit to his neurologist despite increasing MS symptoms.
32. During this time, Mr. Brown suffered extreme anxiety and suffered panic attacks on a very frequent basis throughout the time his MS was untreated.
33. Finally, on December 13, 2016, Mr. Brown was taken to see his neurologist, Dr. Ricardo Ayala, and was re-prescribed his medication.
34. It took Mr. Brown about a year-and-a-half to see his neurologist, Dr. Ricardo Ayala and to get the medication for his MS.
35. As a result, Mr. Brown suffered multiple health crises with lasting effects.
36. On his visit to Dr. Ayala, it was noted that he was "trembling quite a bit from the right side especially and walking unsteadily, shaking."
37. Dr. Ayala noted: "Gait: Spastic" and impaired sensation in his feet.

38. Plaintiff suffers what are called intention tremors, something he didn't have before going to jail, pains all through both legs, as well as headaches, and loss of vision all related to the refusal to timely provide medication.
39. Dr. Ayala prescribed Copaxone, 1 cc 3 times per week and Benztropine Mesylate 2 mg tabs, ½ tab twice per day by mouth.
40. Dr. Ayala ordered Magnetic Resonance Imaging (MRI) as follow-up.
41. On May 15, 2017, Plaintiff saw Dr. Ayala again.
42. Dr. Ayala noted left facial numbness and vertigo.
43. Plaintiff suffers numbness in extremities, lower back pain, tremors, chronic fatigue, declining vision, emerging thyroid problems, and brain lesions.
44. As a result of long-term refusal to provide treatment for his MS, Mr. Brown has experienced serious irreversible medical decline.
45. As a result of the failure to treat by Corizon, the Jail, and individual medical providers, Plaintiff has suffered physical injury, mental distress, and further physical decline now and in the future.

### **Causes of Action:**

#### **I. Claims under 42 U.S.C. 1983, Failure to Treat (McNeil)**

46. Plaintiff is entitled to relief against Defendant McNeil, as Sheriff, for policies leading to violation of the Fourteenth Amendment to the U.S. Constitution.

47. Bryant Brown had a Fourteenth Amendment right to receive treatment for Multiple Sclerosis, a known serious medical condition.
48. Although the Sheriff had contracted with a health care company for medical and mental health treatment for prisoners, he had a non-delegable duty for the provision of those services through oversight of contract performance.
49. The Sheriff was made aware of problems with the medical department:
  - a. The Sheriff was made aware that the Corizon and the Jail medical staff were delaying and denying care serious medical conditions at the Jail.
  - b. The Sheriff, or his predecessor, had negotiated a contract with Corizon to treat prisoners knowing their policy of denying and delaying care.
  - c. The Sheriff cooperated in Corizon's policy of delaying medical care so prisoners would be released or transferred before costly care was needed.
  - d. The Sheriff cooperated in Corizon's policy of short-staffing positions and short-supplying medications and medical supplies.
  - e. The Sheriff knew of a substantial risk Corizon's delay and denial of care would cause serious lifelong medical problems for persons like Plaintiff.
  - f. The Sheriff was deliberately indifferent to the immediate and serious threat to Mr. Brown's health by failure to provide timely medical treatment.
50. As a result of the failure to provide care, Plaintiff suffered severe pain and suffering, permanent physical injury, mental distress, and further physical decline now and in the future
51. Because of the injury to Mr. Brown's health, he has been forced to retain legal counsel and is entitled to reasonable attorneys' fees as well as costs.

WHEREFORE, Plaintiff prays for judgment as noted below.

## **II. Claims under 42 U.S.C. 1983: Failure to Treat (Corizon)**

52. Plaintiff is entitled to relief against Defendant Corizon, based on violation of the Fourteenth Amendment to the U.S. Constitution.
53. Bryant Brown, had a right under the Fourteenth Amendment to the U.S. Constitution to receive care for a known serious health condition.
54. Corizon had a policy of deliberate indifference to providing timely needed care for serious medical conditions to reduce costs and maximize profits.
55. Corizon had a policy and practice of indifference to serious health needs, by delaying outside referrals and administration of medication.
56. Corizon deliberately disregarded the immediate and serious threat to inmates' well-being and exhibited deliberate indifference to their serious medical needs by denying and unreasonably delaying access to care, in that:
  - a. Corizon has a history of failing to provide medication for existing medical conditions for prisoners at their facilities;
  - b. Corizon had a policy of slow-walking medical care in hopes that prisoners would be released or transferred to prison before costly medical care had to be provided;
  - c. Corizon failed to follow up self-reporting with review of prisoner health histories to take advantage of the work of prior health professionals;
  - d. Corizon's limitations, denials, and delays in care were motivated primarily by a desire to minimize costs and maximize profits;
  - e. Corizon failed to implement needed medical protocols with full knowledge that prisoners would suffer serious health declines;
  - f. Corizon's failure to timely address Plaintiff's MS symptoms amounted to

no care or care so cursory as to amount to no medical care at all.

57. In light of the aforementioned, Bryant Brown suffered from both an objectively and subjectively substantial risk of serious harm while under Corizon's care and Corizon unreasonably failed to abate that risk.
58. It is more likely than not that Corizon's derelictions as alleged above were the cause of Bryant Brown's medical decline.
59. As a result of the failure to provide care, Plaintiff suffered severe pain and suffering, permanent physical injury, mental distress, and further physical decline now and in the future
60. Because of the injury to Mr. Brown's health, he has been forced to retain legal counsel and is entitled to reasonable attorneys' fees as well as costs.

WHEREFORE, Plaintiff prays for judgment as noted below.

**III. Claims under 42 U.S.C. 1983: Failure to Treat: (Maria Garcia, Deborah Sellers, Celeste MacDonald)**

61. Plaintiff is entitled to relief against Maria Garcia, Deborah Sellers, and Celeste MacDonald under 42 U.S.C. § 1983, based on violation of the Fourteenth Amendment to the U.S. Constitution.
62. Defendants Garcia, Sellers, and MacDonald became aware of a serious risk to Plaintiff from a serious medical condition, Multiple Sclerosis (MS).
63. Defendants Garcia, Sellers, and MacDonald were aware that MS was a serious medical condition that would get worse without treatment by failed to act

reasonably to abate the risk of harm to Bryant Brown.

64. Defendants Garcia, Sellers, and MacDonald deliberately disregarded the immediate and serious threat to Bryant Brown's health and well-being, and exhibited deliberate indifference to his serious health needs, by:
- a. Cooperating in Corizon's policy of failing to provide prisoners medication or treatment for existing health conditions;
  - b. Cooperating in Corizon's policy of slow-walking medical care in hopes that prisoners would be released or transferred to prison before costly medical care had to be provided;
  - c. denying or unreasonably delaying medical care appropriate to Bryant Brown's serious, urgent health care needs;
  - d. failing to order or perform diagnostic testing, to prescribe and administer needed medication, treatment and therapy.
  - e. failing to order a referral to Plaintiff's neurologist for an updated examination and prescription of needed medication;
  - f. in the absence of timely medication and treatment, Plaintiff suffered permanent irreversible decline in his state of health.
65. Given their knowledge of Plaintiff's serious medical condition, the failure of Defendants Garcia, Sellers, and MacDonald to provide care by trained health professionals was so grossly inadequate as to amount to no medical care at all.
66. In light of the above, Bryant Brown suffered from an objectively and subjectively substantial risk of serious harm while the care given by Defendants Garcia, Sellers, and MacDonald was inadequate and unreasonable.
67. It is more likely than not that the deliberate indifference of Defendants Garcia,

Sellers, and MacDonald were the cause of Bryant Brown's health decline.

68. As a result of the failure to provide care, Plaintiff suffered severe pain and suffering, permanent physical injury, mental distress, and further physical decline now and in the future
69. Because of the injury to Mr. Brown's health, he has been forced to retain legal counsel and is entitled to reasonable attorneys' fees as well as costs.

WHEREFORE, Plaintiff prays for judgment as noted below.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs seek judgment as follows:

- A. Compensatory damages against each of the defendants herein;
- B. Punitive damages against defendants sued individually;
- E. Attorney's fees pursuant to 42 U.S.C. § 1988 and costs of litigation;
- F. A trial by jury on all issues so triable;
- G. Such further relief as the Court deems just and proper.

Respectfully Submitted,

s/James V. Cook

JAMES V. COOK, ESQ.

Florida Bar Number 0966843

Law Office of James Cook

314 West Jefferson Street

Tallahassee, Florida 32301

(850) 222-8080; 561-0836 fax

cookjv@gmail.com

ATTORNEY FOR PLAINTIFF

[Query](#) [Reports ▼](#) [Utilities ▼](#) [Help](#) [Log Out](#)

RECAP Actions ▼

STAYED, MEDIATION

**U.S. District Court  
Northern District of Florida (Tallahassee)  
CIVIL DOCKET FOR CASE #: 4:19-cv-00162-MW-MAF**

FREDERICK v. ROBERTSON  
Assigned to: CHIEF JUDGE MARK E WALKER  
Referred to: MAGISTRATE JUDGE MARTIN A FITZPATRICK  
Cause: 42:1983 Civil Rights Act

Date Filed: 04/11/2019  
Jury Demand: Both  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**ELIZABETH FREDERICK**  
*AS PERSONAL REPRESENTATIVE OF  
THE ESTATE OF JENNIFER CASEY  
NORRED AND ON BEHALF OF THE  
SURVIVORS ELIZABETH FREDERICK  
MOTHER AND WILLIAM JAMES  
NORRED FATHER*

represented by **JAMES MURRAY SLATER**  
SLATER LEGAL PLLC - TALLAHASSEE  
FL  
113 S MONROE STREET  
TALLAHASSEE, FL 32301  
305-523-9023  
Email: james@slater.legal  
*ATTORNEY TO BE NOTICED*

**JAMES VERNON COOK**  
JAMES V COOK PA - TALLAHASSEE FL  
314 W JEFFERSON ST  
PO BOX 10021 [32302]  
TALLAHASSEE, FL 32301-1608  
850-222-8080  
Fax: 850-561-0836  
Email: cookjv@gmail.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**WALTER MCNEIL**  
*SHERIFF LEON COUNTY FLORIDA  
TERMINATED: 10/25/2022*

represented by **MATTHEW JOSEPH CARSON**  
SNIFFEN & SPELLMAN PA -  
TALLAHASSEE FL  
123 N MONROE ST  
TALLAHASSEE, FL 32301  
850-205-1996  
Email: mcarson@sniffenlaw.com  
*TERMINATED: 10/25/2022*

**MICHAEL PATRICK SPELLMAN**  
SNIFFEN & SPELLMAN PA -  
TALLAHASSEE FL  
123 N MONROE ST

TALLAHASSEE, FL 32301  
850-205-1996  
Fax: 850-205-3004  
Email: mspellman@sniffenlaw.com  
*TERMINATED: 10/25/2022*

**Defendant**

**CORIZON LLC**  
*HEALTH SERVICES CORPORATION*  
*TERMINATED: 02/11/2021*

represented by **JOSEPH EUGENE BROOKS**  
SMITH BROOKS & MASTERSON PL -  
TALLAHASSEE FL  
2629 MITCHAM DR  
TALLAHASSEE, FL 32308  
850-201-0942  
Fax: 850-201-0909  
Email: jeb@brookslawyers.net  
*TERMINATED: 02/20/2020*  
*LEAD ATTORNEY*

**GEORGE BENJAMIN MILAM**  
BRADLEY ARANT BOULT ETC LLP -  
CHARLOTTE NC  
214 NORTH TRYON STREET  
SUITE 3700  
CHARLOTTE, NC 28202  
704-338-6049  
Fax: 704-338-8858  
Email: bamilam@bradley.com  
*ATTORNEY TO BE NOTICED*

**GREGG A TOOMEY**  
TOOMEY LAW FIRM LLC - FORT  
MYERS FL  
THE OLD ROBB & STUCKY BLDG  
1625 HENDRY ST STE 203  
FORT MYERS, FL 33901  
Email: gat@thetoomeylawfirm.com  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
SMITH BROOKS & MASTERSON PL -  
TALLAHASSEE FL  
2629 MITCHAM DR  
TALLAHASSEE, FL 32308  
850-201-0942  
Fax: 850-201-0909  
Email: jmk@brookslawyers.net  
*TERMINATED: 02/20/2020*

**Defendant**

**MARIA LILLIANA GARCIA**  
*MD IN HER INDIVIDUAL CAPACITY*  
*TERMINATED: 02/11/2021*

represented by **JOSEPH EUGENE BROOKS**  
(See above for address)  
*TERMINATED: 02/20/2020*  
*LEAD ATTORNEY*

**GREGG A TOOMEY**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
*TERMINATED: 02/20/2020*

**Defendant**

**KIMBERLY PETERSEN**  
*IN HER INDIVIDUAL CAPACITY*  
*TERMINATED: 02/11/2021*

represented by **MATTHEW JOSEPH CARSON**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**MICHAEL PATRICK SPELLMAN**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**DEBBIE SELLERS**  
*IN HER INDIVIDUAL CAPACITY*  
*TERMINATED: 02/11/2021*

represented by **JOSEPH EUGENE BROOKS**  
(See above for address)  
*TERMINATED: 02/20/2020*  
*LEAD ATTORNEY*

**GREGG A TOOMEY**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
*TERMINATED: 02/20/2020*

**Defendant**

**MISTY ROBERTSON**  
*IN HER INDIVIDUAL CAPACITY*

represented by **JOSEPH EUGENE BROOKS**  
(See above for address)  
*TERMINATED: 02/20/2020*  
*LEAD ATTORNEY*

**GREGG A TOOMEY**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**JAMI MCFATTER KIMBRELL**  
(See above for address)  
*TERMINATED: 02/20/2020*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**LONE STAR ALLIANCE INC**

represented by **JAMES MURRAY SLATER**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**CHASE E BOSWELL**

PENNINGTON PA - TALLAHASSEE FL  
 215 S MONROE ST  
 SUITE 200  
 TALLAHASSEE, FL 32301  
 850-222-3533  
 Email: cboswell@penningtonlaw.com  
*ATTORNEY TO BE NOTICED*

**MICHAEL JOHN THOMAS**  
 PENNINGTON MOORE WILKINSON  
 ETC - TALLAHASSEE FL  
 215 S MONROE ST - 2ND FL [32301]  
 PO BOX 10095  
 TALLAHASSEE, FL 32302-2095  
 850-222-3533  
 Fax: 850-222-2126  
 Email: mike@penningtonlaw.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**CORIZON HEALTH, INC.**

represented by **KATHERINE J HENRY**  
 BRADLEY ARANT BOULT ETC LLP -  
 WASHINGTON DC  
 1615 L STREET NW  
 SUITE 1350  
 WASHINGTON, DC 20036  
 202-719-8216  
 Fax: 202-719-8316  
 Email: khenry@bradley.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*


**ELIZABETH R BRUSA**  
 BRADLEY ARANT BOULT ETC LLP -  
 TAMPA FL  
 100 N TAMPA STREET  
 STE 2200  
 TAMPA, FL 33602  
 813-559-5500  
 Email: ebrusa@bradley.com  
*ATTORNEY TO BE NOTICED*


Date Filed	#	Docket Text
04/11/2019	<a href="#">1</a>	COMPLAINT <i>FOR DAMAGES</i> against All Defendants ( Filing fee \$ 400 receipt number AFLNDC-4453639.), filed by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 04/11/2019)
04/11/2019	<a href="#">2</a>	CIVIL COVER SHEET. (COOK, JAMES) (Entered: 04/11/2019)
06/27/2019	<a href="#">3</a>	NOTICE OF REQUEST FOR SUMMONS by ELIZABETH FREDERICK (Attachments: # <a href="#">1</a> Summons Corizon, # <a href="#">2</a> Summons Garcia, # <a href="#">3</a> Summons McNeil, # <a href="#">4</a> Summons Petersen, # <a href="#">5</a> Summons Robertson, # <a href="#">6</a> Summons Sellers) (COOK, JAMES) (Entered: 06/27/2019)

06/28/2019	<a href="#">4</a>	Summons Issued as to CORIZON LLC. (rcb) (Entered: 06/28/2019)
06/28/2019	<a href="#">5</a>	Summons Issued as to MARIA LILLIANA GARCIA. (rcb) (Entered: 06/28/2019)
06/28/2019	<a href="#">6</a>	Summons Issued as to HON WALTER MCNEIL. (rcb) (Entered: 06/28/2019)
06/28/2019	<a href="#">7</a>	Summons Issued as to KIMBERLY PETERSEN. (rcb) (Entered: 06/28/2019)
06/28/2019	<a href="#">8</a>	Summons Issued as to MISTY ROBERTSON. (rcb) (Entered: 06/28/2019)
06/28/2019	<a href="#">9</a>	Summons Issued as to DEBBIE SELLERS. (rcb) (Entered: 06/28/2019)
07/22/2019	<a href="#">10</a>	NOTICE of Appearance by MICHAEL PATRICK SPELLMAN on behalf of WALTER MCNEIL, KIMBERLY PETERSEN (SPELLMAN, MICHAEL) (Entered: 07/22/2019)
07/22/2019	<a href="#">11</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">1</a> Complaint by WALTER MCNEIL, KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) (Entered: 07/22/2019)
07/22/2019	<a href="#">12</a>	<b>ORDER GRANTING <a href="#">11</a> EXTENSION OF TIME TO RESPOND TO COMPLAINT.</b> This Court has considered, without hearing, Defendants Consented Motion for Extension of Time to Respond to Complaint. ECF No. <a href="#">11</a> . The motion is GRANTED. Defendants shall file their responsive pleading to the Complaint on or before <b>8/13/2019</b> .) Signed by CHIEF JUDGE MARK E WALKER on 07/22/2019. (rcb) (Entered: 07/22/2019)
07/22/2019	<a href="#">13</a>	NOTICE of Appearance by JAMI MCFATTER KIMBRELL on behalf of CORIZON LLC, MARIA LILLIANA GARCIA, DEBBIE SELLERS (KIMBRELL, JAMI) (Entered: 07/22/2019)
07/23/2019	14	DOCKET ANNOTATION BY COURT: ISO placed in Judge Walker's referrals folder (rcb) (Entered: 07/23/2019)
07/23/2019	<a href="#">15</a>	<b>INITIAL SCHEDULING ORDER .: Signed by CHIEF JUDGE MARK E WALKER on 07/23/2019. Fed.R.Civ.P. 7.1 Corporate Disclosure Statement Deadline set for 8/6/2019. Rule 26 Meeting Report due by 9/5/2019. Discovery due by 11/20/2019. Status Report due by 8/22/2019. (rcb) (Entered: 07/23/2019)</b>
07/30/2019	<a href="#">16</a>	NOTICE of Appearance by JAMI MCFATTER KIMBRELL on behalf of MISTY ROBERTSON (KIMBRELL, JAMI) (Entered: 07/30/2019)
07/30/2019	<a href="#">17</a>	Corporate Disclosure Statement/Certificate of Interested Persons by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 07/30/2019)
07/30/2019	<a href="#">18</a>	ANSWER to <a href="#">1</a> Complaint by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON. (KIMBRELL, JAMI) (Entered: 07/30/2019)
07/30/2019	<a href="#">19</a>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 07/30/2019)
07/31/2019		Set/Reset Deadlines as to <a href="#">19</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM . (Internal deadline for referral to judge if response not filed earlier: <b>8/14/2019</b> ). (rcb) (Entered: 07/31/2019)
08/12/2019	<a href="#">20</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">19</a> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Defendant SELLERS by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 08/12/2019)

08/13/2019	<a href="#">21</a>	ORDER GRANTING EXTENSION OF TIME. This Court has considered, without hearing, Plaintiff's unopposed motion to enlarge time to respond to the motion to dismiss. ECF No. <a href="#">20</a> . That motion is GRANTED. Plaintiff shall file her response on or before <b>8/20/2019</b> . Signed by CHIEF JUDGE MARK E WALKER on 8/13/2019. (kjlw) (Entered: 08/13/2019)
08/13/2019	<a href="#">22</a>	ANSWER to <a href="#">1</a> Complaint by KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) (Entered: 08/13/2019)
08/13/2019	<a href="#">23</a>	ANSWER to <a href="#">1</a> Complaint by WALTER MCNEIL. (SPELLMAN, MICHAEL) (Entered: 08/13/2019)
08/20/2019	<a href="#">24</a> <b>R</b>	FIRST AMENDED COMPLAINT against All Defendants All Defendants., filed by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 08/20/2019)
08/21/2019	<a href="#">25</a>	ORDER DENYING <a href="#">19</a> MOTION TO DISMISS AS MOOT. Plaintiff has filed her Amended Complaint for Damages. ECF No. <a href="#">24</a> <b>R</b> . For this reason, Defendant Sellerss Motion to Dismiss Plaintiffs Complaint, ECF No. <a href="#">19</a> , is DENIED as moot. Signed by CHIEF JUDGE MARK E WALKER on 8/21/2019. (rcb) (Entered: 08/21/2019)
08/22/2019	<a href="#">26</a>	STATUS REPORT <i>Joint</i> by CORIZON LLC. (KIMBRELL, JAMI) (Entered: 08/22/2019)
08/23/2019		Set Deadlines/Hearings Status Report due by <b>9/21/2019</b> . (rcb) (Entered: 08/23/2019)
09/03/2019	<a href="#">27</a>	ANSWER to <a href="#">24</a> <b>R</b> Amended Complaint <i>and Affirmative Defenses</i> by KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) (Entered: 09/03/2019)
09/03/2019	<a href="#">28</a>	ANSWER to <a href="#">24</a> <b>R</b> Amended Complaint <i>and Affirmative Defenses</i> by WALTER MCNEIL. (SPELLMAN, MICHAEL) (Entered: 09/03/2019)
09/05/2019	<a href="#">29</a>	ANSWER to <a href="#">24</a> <b>R</b> Amended Complaint by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 09/05/2019)
09/05/2019	<a href="#">30</a>	REPORT of Rule 26(f) Planning Meeting. (COOK, JAMES) (Entered: 09/05/2019)
09/06/2019		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">30</a> Report of Rule 26(f) Planning Meeting (rcb) (Entered: 09/06/2019)
09/06/2019	<a href="#">31</a>	SCHEDULING AND MEDIATION ORDER. Signed by CHIEF JUDGE MARK E WALKER on 09/06/2019. Discovery due by <b>3/2/2020</b> . Dispositive Motions to be filed by <b>3/23/2020</b> . Jury Trial set for <b>7/20/2020 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Mediation to take place by <b>3/30/2020</b> . Mediation Report due by <b>4/13/2020</b> . (rcb) (Entered: 09/06/2019)
09/06/2019		CASE REFERRED to Mediation. (rcb) (Entered: 09/11/2019)
09/11/2019	32	NOTICE OF TELEPHONIC HEARING: Telephonic Scheduling Conference set for <b>9/20/2019 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.  ALL PARTIES are directed to call the AT&T Conference Line (see below)  Conference Call Information  You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are

		asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.  s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 09/11/2019)
09/20/2019	<a href="#">34</a>	Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER: Telephonic Scheduling Conference held on 9/20/2019. Parties discuss case status and clarification needed regarding interrogatories. Ruling by Court: Interrogatories pertaining to paragraphs with multiple subparts will be considered as one interrogatory (Court Reporter Megan Hague). (vkm) (Entered: 09/24/2019)
09/23/2019	<a href="#">33</a>	Parties Joint Status Report Pursuant to Order (DOC 15) by WALTER MCNEIL, KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) Modified to correct title on 9/24/2019 (rcb). (Entered: 09/23/2019)
09/24/2019		Set/Reset Deadlines: Status Report due by <b>10/24/2019</b> . (rcb) (Entered: 09/24/2019)
09/30/2019	<a href="#">35</a>	RULE 26 Disclosures by WALTER MCNEIL, KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) (Entered: 09/30/2019)
10/01/2019	<a href="#">36</a>	NOTICE of Appearance by MATTHEW JOSEPH CARSON on behalf of WALTER MCNEIL, KIMBERLY PETERSEN (CARSON, MATTHEW) (Entered: 10/01/2019)
10/08/2019	<a href="#">37</a>	RULE 26 Disclosures by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 10/08/2019)
10/09/2019	<a href="#">38</a>	RULE 26 Disclosures by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 10/09/2019)
10/09/2019	<a href="#">39</a>	Defendant's Supplemental Rule 26(a)(1) Initial Disclosures by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS. (KIMBRELL, JAMI) Modified to edit title on 10/10/2019 (rcb). (Entered: 10/09/2019)
10/24/2019	<a href="#">40</a>	Parties Joint STATUS REPORT Pursuant to <a href="#">15</a> INITIAL SCHEDULING ORDER by CORIZON LLC. (KIMBRELL, JAMI) Modified on 10/25/2019 to correct document title. (kjlw) (Entered: 10/24/2019)
10/25/2019		Set/Reset Deadlines: Joint Status Report due by <b>11/25/2019</b> . (kjlw) (Entered: 10/25/2019)
11/23/2019	<a href="#">41</a>	STATUS REPORT by CORIZON LLC. (KIMBRELL, JAMI) (Entered: 11/23/2019)
11/25/2019		Set Deadlines/Hearings Status Report due by <b>12/25/2019</b> . (blb) (Entered: 11/25/2019)
12/18/2019	<a href="#">42</a>	NOTICE of Appearance by GREGG A TOOMEY on behalf of CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS (TOOMEY, GREGG) (Entered: 12/18/2019)
12/20/2019	<a href="#">43</a>	Joint Status Report Pursuant To Order (DOC 15) <i>on Discovery</i> by CORIZON LLC. (TOOMEY, GREGG) Modified to edit title on 12/23/2019 (rcb). (Entered: 12/20/2019)
12/23/2019		Set Deadlines/Hearings Status Report due by <b>1/22/2020</b> . (rcb) (Entered: 12/23/2019)
01/03/2020	<a href="#">44</a>	Joint MOTION for Extension of Time to Complete Discovery by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 01/03/2020)

01/07/2020	<a href="#">45</a>	AMENDED SCHEDULING AND MEDIATION ORDER Re: <a href="#">31</a> Scheduling Order: (Discovery due by <b>4/2/2020.</b> , Dispositive Motions to be filed by <b>4/23/2020.</b> , Jury Trial set for <b>8/17/2020 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER., Mediation to take place by <b>4/30/2020.</b> , Mediation Report due by <b>5/14/2020.</b> ), Case referred to mediation. Signed by CHIEF JUDGE MARK E WALKER on 01/07/2020. (rcb) (Entered: 01/07/2020)
01/08/2020	<a href="#">46</a>	NOTICE of Conflict by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS re <a href="#">45</a> Scheduling Order,, Case Referred to Mediation, (TOOMEY, GREGG) (Entered: 01/08/2020)
01/09/2020	<a href="#">47</a>	Defendant's McNeil and Petersen Notice of Conflict With Trial Period by WALTER MCNEIL, KIMBERLY PETERSEN (SPELLMAN, MICHAEL) Modified to edit title on 1/10/2020 (rcb). (Entered: 01/09/2020)
01/10/2020		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">47</a> Notice (Other), <a href="#">46</a> Notice (Other). (rcb) (Entered: 01/10/2020)
01/22/2020	<a href="#">48</a>	Joint Status Report Pursuant To Order (DOC 15) by CORIZON LLC. (TOOMEY, GREGG) Modified to edit title on 1/23/2020 (rcb). (Entered: 01/22/2020)
01/23/2020		Set Deadlines/Hearings Status Report due by <b>2/22/2020.</b> (rcb) (Entered: 01/23/2020)
02/20/2020	<a href="#">49</a>	MOTION to Withdraw as Attorney by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS. (KIMBRELL, JAMI) (Entered: 02/20/2020)
02/20/2020	<a href="#">50</a>	ORDER GRANTING <a href="#">49</a> MOTION TO WITHDRAW AS COUNSEL. The <a href="#">49</a> motion is GRANTED. Jami M. Kimbrell and Joseph E. Brooks are permitted to withdraw as counsel for Defendants. Defendants shall continue to be represented by Gregg A. Toomey. The Clerk shall disconnect the notice of electronic filing for Ms. Kimbrell and Mr. Brooks. Signed by CHIEF JUDGE MARK E WALKER on 02/20/2020. (rcb) (Entered: 02/20/2020)
02/24/2020	<a href="#">51</a>	Joint Status Report Pursuant To Order (DOC 15) by CORIZON LLC. (TOOMEY, GREGG) Modified to edit title on 2/25/2020 (rcb). (Entered: 02/24/2020)
02/25/2020		Set Deadlines/Hearings Status Report due by <b>3/6/2020.</b> (rcb) (Entered: 02/25/2020)
03/06/2020	<a href="#">52</a> 	NOTICE OF MEDIATION re Scheduling by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS (TOOMEY, GREGG) (Entered: 03/06/2020)
03/06/2020	<a href="#">53</a>	Joint Status Report Pursuant To Order <a href="#">15</a> (TOOMEY, GREGG) Modified to edit title on 3/9/2020 (rcb). (Entered: 03/06/2020)
03/09/2020		Set Deadlines/Hearings Status Report due by <b>4/8/2020.</b> (rcb) (Entered: 03/09/2020)
03/10/2020	<a href="#">54</a>	Defendants Maria Lilian Garcia MD Debbie Sellers And Misty Roberston's Consent Motion To Be Excused From Attending The April 30, 2020 Mediation In Person (TOOMEY, GREGG) Modified to edit title on 3/11/2020 (rcb). (Entered: 03/10/2020)
03/10/2020	<a href="#">55</a>	Defendants Maria Lilian Garcia MD Debbie Sellers And Misty Roberston's Consent Amended Motion To Be Excused From Attending The April 30, 2020 Mediation In Person (TOOMEY, GREGG) Modified to edit title on 3/11/2020 (rcb). (Entered: 03/10/2020)

03/10/2020	<a href="#">56</a>	ORDER GRANTING <a href="#">55</a> AMENDED MOTION ALLOWING DEFENDANTS TO ATTEND MEDIATION BY TELEPHONE AND DENYING ECF NO. <a href="#">54</a> AS MOOT. The Amended Motion to Be Excused From Attending April 30, 2020, Mediation in Person filed by Defendants Maria Lilian, M.D., Debbie Sellers, and Misty Robertson ECF No. <a href="#">55</a> . The <a href="#">55</a> unopposed motion is GRANTED. Dr. Garcia, Ms. Sellers, and Ms. Robertson may attend the deposition telephonically. Signed by CHIEF JUDGE MARK E WALKER on 3/10/2020. (rcb) (Entered: 03/11/2020)
03/12/2020	<a href="#">57</a>	Defendant Kimberly Petersen's Consent Motion To Participate In Mediation By Telephone (SPELLMAN, MICHAEL) Modified to edit title on 3/12/2020 (rcb). (Entered: 03/12/2020)
03/13/2020	<a href="#">58</a>	ORDER GRANTING <a href="#">55</a> MOTION TO PARTICIPATE IN MEDIATION BY TELEPHONE. The <a href="#">55</a> unopposed motion is GRANTED. Ms. Petersen may participate in mediation by telephone. Signed by CHIEF JUDGE MARK E WALKER on 3/13/2020. (rcb) (Entered: 03/16/2020)
04/02/2020	<a href="#">59</a> 	ORDER FOR PRETRIAL CONFERENCE. Attorney Conference to take place by <b>7/9/2020</b> . Pretrial Stipulation due by <b>7/16/2020</b> . Jury Trial set for <b>8/17/2020 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Telephonic Pretrial Conference set for <b>7/23/2020 10:00 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 04/02/2020. (rcb) (Entered: 04/02/2020)
04/02/2020	60	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>7/23/2020 10:00 AM</b> before CHIEF JUDGE MARK E WALKER.  ALL PARTIES are directed to call the AT&T Conference Line (see below)  Conference Call Information  You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.  NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.  <u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 04/02/2020)
04/03/2020	<a href="#">61</a>	Defendants Corizon LLC Maria Lilian Garcia MD Debbie Sellers And Misty's Roberston's Second Notice of Conflict (TOOMEY, GREGG) Modified to edit title on 4/3/2020 (rcb). (Entered: 04/03/2020)
04/03/2020	<a href="#">62</a>	Defendants Corizon LLC Maria Lillian Garcia MD Debbie Sellers And Misty Robertson's Consent Motion To Extend Deadlines (TOOMEY, GREGG) Modified to edit title on 4/6/2020 (rcb). (Entered: 04/03/2020)
04/03/2020	<a href="#">64</a>	ORDER REASSIGNING CASE. Case reassigned to MAGISTRATE JUDGE MARTIN A FITZPATRICK for all further proceedings. MAGISTRATE JUDGE

		CHARLES A STAMPELOS no longer assigned to case. Signed by CHIEF JUDGE MARK E WALKER on 4/3/2020. (erl)**Please use the new judge's initials for all future filings: 4:19cv162-MW/MAF. (Entered: 04/06/2020)
04/06/2020	<a href="#">63</a>	SECOND AMENDED SCHEDULING AND MEDIATION ORDER. This Court has considered, without hearing, the Consent Motion to Extend Deadlines filed by Defendants Corizon LLC, Maria Liliana Garcia, M.D., Debbie Sellers and Misty Robertson. ECF No. <a href="#">62</a> . Defendants seek to extend by 90 days all remaining deadlines. The motion is GRANTED and the Amended Scheduling and Mediation Order of January 7, 2020, ECF No. <a href="#">45</a> , is amended as set forth below. Jury Trial set for <b>11/16/2020 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER, Discovery due by <b>4/2/2020</b> , Dispositive Motions to be filed by <b>7/23/2020</b> , Mediation to take place by <b>7/30/2020</b> and Mediation Report due by <b>8/13/2020</b> . Signed by CHIEF JUDGE MARK E WALKER on 4/6/2020. (rcb) (Entered: 04/06/2020)
04/08/2020	<a href="#">65</a>	Joint Status Report Pursuant To Order (DOC <a href="#">15</a> ) Modified to edit title on 4/9/2020 (rcb). (Entered: 04/08/2020)
04/09/2020		Set Deadlines/Hearings Status Report due by <b>4/11/2020</b> . (rcb) (Entered: 04/09/2020)
04/10/2020	<a href="#">66</a>	Joint Status Report Pursuant To Order (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 4/13/2020 (rcb). (Entered: 04/10/2020)
04/10/2020	<a href="#">67</a>	Amended NOTICE OF MEDIATION re Scheduling <i>for June 10, 2020</i> by CORIZON LLC, MARIA LILLIANA GARCIA, MISTY ROBERTSON, DEBBIE SELLERS (TOOMEY, GREGG) (Entered: 04/10/2020)
04/13/2020		Set Deadlines/Hearings Status Report due by <b>5/13/2020</b> . (rcb) (Entered: 04/13/2020)
04/29/2020	68	<p>NOTICE OF RESCHEDULED TELEPHONIC HEARING: Telephonic Pretrial Conference reset for <b>10/23/2020 10:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p>s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 04/29/2020)</p>
04/29/2020	<a href="#">69</a>	AMENDED ORDER FOR PRETRIAL CONFERENCE. Telephonic Pretrial Conference set for <b>10/23/2020 10:00 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Attorney Conference to take place by <b>10/9/2020</b> . Pretrial Stipulation due by <b>10/16/2020</b> . Jury Trial set for <b>11/16/2020 08:15 AM</b> in U.S.



		Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 4/29/2020. (rcb) (Entered: 04/29/2020)
05/12/2020	<a href="#">70</a>	Joint Status Report Pursuant To Order (Doc <a href="#">15</a> ) on Discovery by CORIZON LLC. (TOOMEY, GREGG) Modified to edit title on 5/13/2020 (rcb). (Entered: 05/12/2020)
05/12/2020	<a href="#">71</a> <b>R</b>	NOTICE of Filing Disclaimer of Interest in Estate Asset by William James Norred (WATKINS, STEVE) (Entered: 05/12/2020)
05/19/2020		Set Deadlines/Hearings Status Report due by <b>6/12/2020</b> . (rcb) (Entered: 05/19/2020)
06/11/2020	<a href="#">72</a>	MEDIATION REPORT - Impasse (CAPARELLO, DOMINIC) (Entered: 06/11/2020)
06/12/2020	<a href="#">73</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 6/15/2020 (rcb). (Entered: 06/12/2020)
06/15/2020		Set Deadlines/Hearings Status Report due by <b>7/13/2020</b> . (rcb) (Entered: 06/15/2020)
07/12/2020	<a href="#">74</a>	PLAINTIFF'S THIRD AMENDED DISCLOSURES UNDER RULE 26(a)(1) (COOK, JAMES) Modified to edit title on 7/12/2020 (rcb). (Entered: 07/12/2020)
07/13/2020	<a href="#">75</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 7/14/2020 (rcb). (Entered: 07/13/2020)
07/14/2020		Set Deadlines/Hearings Status Report due by <b>8/12/2020</b> . (rcb) (Entered: 07/14/2020)
07/15/2020	<a href="#">76</a>	DEFENDANTS' CONSENT MOTION TO EXTEND THE DEADLINES FOR FILING DISPOSITIVE AND DAUBERT MOTIONS (SPELLMAN, MICHAEL) Modified to edit title on 7/16/2020 (rcb). (Entered: 07/15/2020)
07/16/2020	<a href="#">77</a>	<b>ORDER GRANTING <a href="#">76</a> EXTENSION OF DEADLINES. The <a href="#">76</a> motion is GRANTED. The parties shall file their dispositive motions and Daubert motions on or before 7/31/2020. Signed by CHIEF JUDGE MARK E WALKER on 7/16/2020. (rcb) (Entered: 07/16/2020)</b>
07/31/2020	<a href="#">78</a> <b>R</b>	NOTICE OF FILING (Attachments: # <a href="#">1</a> Leon County Jail medical records, # <a href="#">2</a> Declaration of Defendant Misty Robertson, # <a href="#">3</a> Declaration of Alan A. Abrams, M.D., J.D., FCLM, # <a href="#">4</a> March 6, 2020 Deposition of Defendant Dr. Maria Garcia, # <a href="#">5</a> March 6, 2020 Deposition of Defendant Misty Robertson, # <a href="#">6</a> March 6, 2020 Deposition of Defendant Deborah Sellers) (TOOMEY, GREGG) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">79</a>	DEFENDANTS' NOTICE OF FILING IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT (Attachments: # <a href="#">1</a> Exhibit Affidavit of Lt. Tyler Bush dated July 31, 2020, # <a href="#">2</a> Exhibit Affidavit of Elethia Chase (documents listed in items 3-13 are exhibits to this Affidavit) dated July 31, 2020, # <a href="#">3</a> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.E3 New Employee Orientation and Field Training Officer Program, # <a href="#">4</a> <b>R</b> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.M5 Special Management Inmates, # <a href="#">5</a> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.M1 Medical Services, # <a href="#">6</a> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.I2 Adult Classification, # <a href="#">7</a> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.F17 Restraint Chair Usage, # <a href="#">8</a> Exhibit Inmate File of Jennifer Casey Norred, # <a href="#">9</a> Exhibit Inmate Medical File of Jennifer Casey Norred, # <a href="#">10</a> Exhibit Inmate Event Logs, # <a href="#">11</a> Exhibit Offense Reports, # <a href="#">12</a> Exhibit Health Services Agreement between the Sheriff of Leon County and Corizon Health, Inc., # <a href="#">13</a> Exhibit May 31, 2017 Accreditation confirmation from the National Commission on Correctional Health Care (NCCHC), # <a href="#">14</a> Exhibit Deposition transcript of Misty Robertson taken on March 6, 2020, # <a href="#">15</a> Exhibit Deposition transcript of Dr. Maria Garcia taken on March

		6, 2020, # <a href="#">16</a> Exhibit Plaintiffs Response to Defendant Sheriff McNeils First Interrogatories dated December 9, 2019, # <a href="#">17</a> Exhibit Plaintiffs Response to Defendant Kimberly Petersens First Interrogatories dated December 9, 2019) (SPELLMAN, MICHAEL) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">80</a>	DEFENDANT SHERIFF McNEIL'S NOTICE OF FILING DOCUMENTS IN SUPPORT OF DAUBERT MOTION (Attachments: # <a href="#">1</a> Exhibit Deposition of Richard Hayward, M.D., Plaintiffs Expert (excerpts), # <a href="#">2</a> Exhibit Report of Richard Hayward, M.D., Plaintiffs Expert, # <a href="#">3</a> Exhibit NCCHC Accreditation Update, dated May 31, 2017, # <a href="#">4</a> Exhibit Florida Model Jail Standards, effective January 1, 2017 (excerpts), # <a href="#">5</a> Exhibit Florida Corrections Accreditation Commission, Inc. Standards, Rev. February 4, 2014 (excerpts), # <a href="#">6</a> Exhibit Leon County Sheriffs Office Standard Operating Procedure 450.F17 Restraint Chair Usage) (CARSON, MATTHEW) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">81</a>	MOTION FOR FINAL SUMMARY JUDGMENT BY DEFENDANTS WALTER McNEIL AND KIMBERLY PETERSEN. (SPELLMAN, MICHAEL) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">82</a>	DEFENDANT SHERIFF McNEIL'S DAUBERT MOTION AND MEMORANDUM OF LAW IN SUPPORT (CARSON, MATTHEW) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">83</a>	DEFENDANTS CORIZON, LLC, MARIA LILIAN GARCIA, M.D., DEBBIE SELLERS AND MISTY ROBERSTON'S MOTION FOR SUMMARY JUDGMENT. (TOOMEY, GREGG) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">84</a>	PLAINTIFF'S NOTICE OF FILING EXHIBITS (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit, # <a href="#">6</a> Exhibit, # <a href="#">7</a> Exhibit, # <a href="#">8</a> Exhibit, # <a href="#">9</a> Exhibit, # <a href="#">10</a> Exhibit, # <a href="#">11</a> Exhibit, # <a href="#">12</a> Exhibit, # <a href="#">13</a> Exhibit, # <a href="#">14</a> Exhibit, # <a href="#">15</a> Exhibit, # <a href="#">16</a> Exhibit, # <a href="#">17</a> Exhibit, # <a href="#">18</a> Exhibit, # <a href="#">19</a> Exhibit, # <a href="#">20</a> Exhibit, # <a href="#">21</a> Exhibit, # <a href="#">22</a> Exhibit, # <a href="#">23</a> Exhibit, # <a href="#">24</a> Exhibit, # <a href="#">25</a> Exhibit) (COOK, JAMES) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
07/31/2020	<a href="#">85</a>	PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO CORIZON LLC's NATIONAL CORPORATE POLICY OF DELIBERATE INDIFFERENCE (COOK, JAMES) Modified to edit title on 8/3/2020 (rcb). (Entered: 07/31/2020)
08/12/2020	<a href="#">86</a>	STATUS REPORT by CORIZON LLC. (TOOMEY, GREGG) (Entered: 08/12/2020)
08/13/2020		Set Deadlines/Hearings Status Report due by <b>9/14/2020</b> . (rcb) (Entered: 08/13/2020)
08/14/2020	<a href="#">87</a>	PLAINTIFF'S RESPONSE TO DAUBERT MOTION BY DEFENDANT SHERIFF WALTER McNEIL (Attachments: # <a href="#">1</a> Exhibit 1 Hayward report, # <a href="#">2</a> Exhibit 2 Sheriff's response to rfa) (COOK, JAMES) Modified to edit title on 8/17/2020 (rcb). (Entered: 08/14/2020)
08/20/2020	<a href="#">88</a>	UNOPPOSED MOTION TO EXTEND DEADLINE FOR RESPONSE TO PENDING MOTIONS FOR SUMMARY JUDGMENT TO MONDAY, AUGUST 24, 2020 FOR PLAINTIFF AND FOR DEFENDANT CORIZON (COOK, JAMES) Modified to edit title on 8/21/2020 (rcb). (Entered: 08/20/2020)
08/20/2020	<a href="#">89</a>	<b>ORDER GRANTING <a href="#">88</a> EXTENSION OF DEADLINES. The <a href="#">88</a> motion is GRANTED. Plaintiff and Defendant Corizon shall file their responses on or before <b>8/24/2020</b>. Signed by CHIEF JUDGE MARK E WALKER on 8/24/2020. (rcb)</b> (Entered: 08/20/2020)

08/24/2020	<a href="#">90</a>	RESPONSE to Motion re <a href="#">85</a> MOTION for Summary Judgment filed by CORIZON LLC. (TOOMEY, GREGG) (Entered: 08/24/2020)
08/24/2020	<a href="#">91</a>	NOTICE OF FILING EXHIBITS TO MSJ RESPONSE TO SHERIFF AND PETERSEN by ELIZABETH FREDERICK (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit, # <a href="#">6</a> Exhibit, # <a href="#">7</a> Exhibit, # <a href="#">8</a> Exhibit, # <a href="#">9</a> Exhibit, # <a href="#">10</a> Exhibit, # <a href="#">11</a> Exhibit, # <a href="#">12</a> Exhibit, # <a href="#">13</a> Exhibit, # <a href="#">14</a> Exhibit, # <a href="#">15</a> Exhibit) (COOK, JAMES) (Entered: 08/24/2020)
08/24/2020	<a href="#">92</a>	PLAINTIFF'S RESPONSE TO THE MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS McNEIL AND PETERSEN (COOK, JAMES) Modified to edit title on 8/25/2020 (rcb). (Entered: 08/24/2020)
08/24/2020	<a href="#">93</a>	NOTICE OF FILING EXHIBITS (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit) (COOK, JAMES) Modified to edit title on 8/25/2020 (rcb). (Entered: 08/24/2020)
08/24/2020	<a href="#">94</a>	PLAINTIFF'S RESPONSE TO THE SUMMARY JUDGMENT MOTION OF DEFENDANTS CORIZON, GARCIA, SELLERS, AND ROBERTSON. (COOK, JAMES) Modified to edit title on 8/25/2020 (rcb). (Entered: 08/24/2020)
08/25/2020	<a href="#">95</a>	AMENDED NOTICE OF FILING EXHIBITS RELATING TO MOTION FOR SUMMARY JUDGMENT BY CORIZON ET AL. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit, # <a href="#">6</a> Exhibit, # <a href="#">7</a> Exhibit, # <a href="#">8</a> Exhibit, # <a href="#">9</a> Exhibit, # <a href="#">10</a> Exhibit, # <a href="#">11</a> Exhibit, # <a href="#">12</a> Exhibit, # <a href="#">13</a> Exhibit, # <a href="#">14</a> Exhibit) (COOK, JAMES) Modified to edit title on 8/26/2020 (rcb). (Entered: 08/25/2020)
08/25/2020	<a href="#">96</a>	PLAINTIFF'S AMENDED RESPONSE TO THE SUMMARY JUDGMENT MOTION BY DEFENDANTS CORIZON, GARCIA, SELLERS, AND ROBERTSON AND UNOPPOSED MOTION TO AMEND THE RESPONSE (COOK, JAMES) Modified to edit title on 8/26/2020 (rcb). (Entered: 08/25/2020)
08/31/2020	<a href="#">97</a>	DEFENDANTS SHERIFF WALT McNEIL AND KIMBERLY PETERSEN'S REPLY IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT (CARSON, MATTHEW) Modified to edit title on 9/1/2020 (rcb). (Entered: 08/31/2020)
09/01/2020	<a href="#">98</a> <b>R</b>	Notice of Filing Exhibits by ELIZABETH FREDERICK (rcb) (Entered: 09/01/2020)
09/02/2020	<a href="#">99</a>	DEFENDANTS CORIZON, LLC, MARIA LILIAN GARCIA, M.D., DEBBIE SELLERS AND MISTY ROBERSTON'S REPLY MEMORANDUM IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT. (TOOMEY, GREGG) Modified to edit title on 9/3/2020 (rcb). (Entered: 09/02/2020)
09/14/2020	<a href="#">100</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 9/15/2020 (rcb). (Entered: 09/14/2020)
09/15/2020		Set Deadlines/Hearings Status Report due by <b>10/15/2020</b> . (rcb) (Entered: 09/15/2020)
10/07/2020	<a href="#">101</a>	ORDER REMOVING CASE FROM TRIAL DOCKET. Inasmuch as this Court has not ruled on the pending motions for summary judgment, the trial currently scheduled for November 16, 2020, is removed from the trial docket. The pretrial conference is canceled and all pretrial deadlines tolled. The pretrial deadlines will be reset by separate order, if necessary, once this Court has addressed the pending motions. Signed by CHIEF JUDGE MARK E WALKER on 10/07/2020. (rcb) (Entered: 10/07/2020)
10/15/2020	<a href="#">102</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 11/18/2020 (rcb). (Entered: 10/15/2020)

10/16/2020		Set/Reset Deadlines: Status Report due by <b>11/16/2020</b> . (rcb) (Entered: 10/16/2020)
10/30/2020	<a href="#">103</a>	PLAINTIFF'S FOURTH AMENDED DISCLOSURES UNDER RULE 26(a)(1) (COOK, JAMES) Modified to edit title on 11/2/2020 (rcb). (Entered: 10/30/2020)
11/16/2020	<a href="#">104</a>	DEFENDANTS CORIZON, LLC, MARIA LILIAN GARCIA, M.D., DEBBIE SELLERS AND MISTY ROBERSTON'S MOTION TO STRIKE PLAINTIFF'S FOURTH AMENDED RULE 26(a)(1) DISCLOSURES (Internal deadline for referral to judge if response not filed earlier: <b>11/30/2020</b> ). (TOOMEY, GREGG) Modified to edit title on 11/17/2020 (rcb). (Entered: 11/16/2020)
11/17/2020	<a href="#">105</a>	ORDER REQUIRING EXPEDITED RESPONSE. ECF No. <a href="#">104</a> . Plaintiff is directed to file an expedited response to Defendants motion on or before <b>11/25/2020</b> . Signed by CHIEF JUDGE MARK E WALKER on 11/17/2020. (rcb) (Entered: 11/17/2020)
11/18/2020		Set Deadlines/Hearings Status Report due by <b>12/18/2020</b> . (rcb) (Entered: 11/18/2020)
11/25/2020	<a href="#">106</a>	RESPONSE in Opposition re <a href="#">104</a> MOTION to Strike <a href="#">103</a> Rule 26 Disclosures filed by ELIZABETH FREDERICK. (Attachments: # <a href="#">1</a> Exhibit 1 Emails) (COOK, JAMES) (Entered: 11/25/2020)
12/15/2020	<a href="#">107</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 12/15/2020 (rcb). (Entered: 12/15/2020)
12/15/2020	<a href="#">108</a>	ORDER DENYING PLAINTIFF'S <a href="#">85</a> MOTION FOR PARTIAL SUMMARY JUDGMENT. Plaintiff's motion, ECF No. <a href="#">85</a> , is DENIED. Signed by CHIEF JUDGE MARK E WALKER on 12/15/2020. (rcb) (Entered: 12/15/2020)
12/15/2020	<a href="#">109</a>	ORDER DENYING <a href="#">82</a> DEFENDANT'S DAUBERT MOTION. The Sheriff's motion, ECF No. <a href="#">82</a> , is DENIED. Signed by CHIEF JUDGE MARK E WALKER on 12/15/2020. (rcb) (Entered: 12/16/2020)
12/15/2020	<a href="#">110</a>	ORDER DENYING <a href="#">104</a> DEFENDANTS' MOTION TO STRIKE. The Defendant's motion to strike, ECF No. <a href="#">104</a> , is DENIED. Signed by CHIEF JUDGE MARK E WALKER on 12/15/2020. (rcb) (Entered: 12/16/2020)
12/16/2020		Set Deadlines/Hearings Status Report due by <b>1/15/2021</b> . (rcb) (Entered: 12/16/2020)
01/15/2021	<a href="#">111</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 1/19/2021 (rcb). (Entered: 01/15/2021)
01/19/2021		Set Deadlines/Hearings Status Report due by <b>2/15/2021</b> . (rcb) (Entered: 01/19/2021)
02/11/2021	<a href="#">112</a>	ORDER ON DEFENDANTS' <a href="#">81</a> & <a href="#">83</a> MOTIONS FOR SUMMARY JUDGMENT. The reasons set out above, the Defendants motions for summary judgment, ECF Nos. <a href="#">81</a> and <a href="#">83</a> , are GRANTED in part and DENIED in part. All of Plaintiff's claims against Defendants Corizon, Deborah Sellers, Maria Garcia, and Kimberly Petersen (Counts II, III, and VI) are dismissed with prejudice. Plaintiff's claims against the Sheriff (Counts I, IV, and VI) are dismissed with prejudice. Plaintiff's § 1983 claim against Misty Robertson (Count III) and Plaintiff's wrongful death claim against the Sheriff (Count V) will proceed. This Court does not direct partial entry of judgment pursuant to Federal Rule of Civil Procedure 54(b). Signed by CHIEF JUDGE MARK E WALKER on 02/11/2021. (rcb) (Entered: 02/11/2021)
02/16/2021	<a href="#">113</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> ) (TOOMEY, GREGG) Modified to edit title on 2/16/2021 (rcb). (Entered: 02/16/2021)
02/16/2021		Set Deadlines/Hearings Status Report due by <b>3/18/2021</b> . (rcb) (Entered: 02/16/2021)




02/19/2021	114	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Status Conference set for <b>3/3/2021 09:30 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.</p> <p><u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 02/19/2021)</p>
03/03/2021	<a href="#">115</a>	Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER: Telephonic Status Conference held on 3/3/2021. Parties discuss case status. Ruling by Court: Jury trial set for 7/12/21. Order to follow (Court Reporter Megan Hague). (vkm) (Entered: 03/03/2021)
03/03/2021	<a href="#">116</a>	<b>ORDER FOR PRETRIAL CONFERENCE. Attorney Conference to take place by 6/11/2021. Pretrial Stipulation due by 6/18/2021. Jury Trial set for 7/12/2021 08:15 AM in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Telephonic Pretrial Conference set for 6/25/2021 11:00 AM in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 03/03/2021. (rcb) (Entered: 03/03/2021)</b>
03/18/2021		Set Deadlines/Hearings Status Report due by <b>4/19/2021</b> . (rcb) (Entered: 03/18/2021)
03/18/2021	<a href="#">117</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC <a href="#">15</a> )(TOOMEY, GREGG) Modified to edit title on 3/18/2021 (rcb). (Entered: 03/18/2021)
03/26/2021	118	<p>NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for <b>6/25/2021 11:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p>NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment, please contact Victoria</p>

		Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.  s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 03/26/2021)
04/19/2021	<a href="#">119</a>	JOINT STATUS REPORT PURSUANT TO ORDER (DOC 15) (TOOMEY, GREGG) Modified to edit title on 4/20/2021 (rcb). (Entered: 04/19/2021)
04/20/2021		Set Deadlines/Hearings Status Report due by <b>5/20/2021</b> . (rcb) (Entered: 04/20/2021)
05/05/2021	<a href="#">120</a>	DEFENDANT MISTY ROBERSTON'S SUGGESTION OF BANKRUPTCY. (TOOMEY, GREGG) Modified to edit title on 5/5/2021 (rcb). (Entered: 05/05/2021)
05/05/2021	<a href="#">121</a>	ORDER REGARDING BANKRUPTCY STAY. Unless and until otherwise ordered, all proceedings in this case are STAYED under 11 U.S.C. §362. Defendant Robertson is requested to file, and Plaintiff must file, by the last day of each August ( <b>8/31/2021</b> ) and February ( <b>2/28/2022</b> ) (commencing with August 2021) a status report indicating whether the bankruptcy proceeding remains pending and the automatic stay remains in effect, provided, however, that if one such status report has been filed by any party for the period at issue, no party need file any additional status report. The Clerk is directed to cancel the pretrial hearing set for June 25, 2021, and the trial scheduled for July 12, 2021. Signed by CHIEF JUDGE MARK E WALKER on 05/05/2021. (rcb)**Pretrial & Trial dates terminated as directed** (Entered: 05/05/2021)
08/31/2021	<a href="#">122</a>	STATUS REPORT by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 08/31/2021)
09/01/2021		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">121</a> ORDER REGARDING BANKRUPTCY STAY (rcb)**Plaintiff's status report not filed by the last day of each August (8/31/2021)** (Entered: 09/01/2021)
09/17/2021	<a href="#">123</a>	STATUS REPORT <i>ON LIFT OF BANKRUPTCY STAY</i> by ELIZABETH FREDERICK. (Attachments: # <a href="#">1</a> Exhibit Order on Lift of Stay) (COOK, JAMES) (Entered: 09/17/2021)
09/17/2021	<a href="#">124</a>	ORDER LIFTING STAY. This Court lifts the stay previously entered in this case. The parties are ordered to confer and identify a mutually agreeable trial date. Once they have done so, they must contact the Courtroom Deputy, who will then set this matter for a status conference. Signed by CHIEF JUDGE MARK E WALKER on 9/17/2021. (rcb) Modified to edit title on 9/20/2021 (rcb). (Entered: 09/17/2021)
11/18/2021	<a href="#">125</a>	ORDER SETTING TRIAL DATE. This case shall be set for trial on Monday, <b>2/14/2022 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. A party with a conflict during that trial period must file a notice within 14 days of the date of this order. Signed by CHIEF JUDGE MARK E WALKER on 11/18/2021. (rcb) (Entered: 11/18/2021)
11/22/2021	<a href="#">126</a> 	NOTICE OF POTENTIAL CONFLICT by ELIZABETH FREDERICK re <a href="#">125</a> Order,, Set Deadlines/Hearings, (COOK, JAMES) (Entered: 11/22/2021)
11/22/2021	<a href="#">127</a>	NOTICE of Trial Conflict by WALTER MCNEIL (SPELLMAN, MICHAEL) (Entered: 11/22/2021)
11/23/2021	<a href="#">128</a>	ORDER ON TRIAL DATE re <a href="#">126</a>  & <a href="#">127</a> Notices - This Order directs the Courtroom Deputy to contact counsel to reset the trial for a date that is mutually

		agreeable. Signed by CHIEF JUDGE MARK E WALKER on 11/23/2021. (vkm)***COUNSEL CONTACTED AS DIRECTED*** (Entered: 11/23/2021)
02/15/2022	<a href="#">129</a> <b>R</b>	AMENDED ORDER FOR PRETRIAL CONFERENCE. Telephonic Pretrial Conference set for <b>9/19/2022 09:00 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Attorney Conference to take place by <b>9/2/2022</b> . Pretrial Stipulation due by <b>9/9/2022</b> . Jury Trial set for <b>10/11/2022 8:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Signed by CHIEF JUDGE MARK E WALKER on 02/15/2022. (rcb) (Entered: 02/15/2022)
03/01/2022		Set Deadlines/Hearings Status Report due by <b>3/31/2022</b> . (rcb) (Entered: 03/01/2022)
03/01/2022		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">121</a> ORDER REGARDING BANKRUPTCY STAY. (rcb)***Status Report not filed by 2/28/2022 Re: <a href="#">121</a> *** (Entered: 03/01/2022)
03/03/2022	<a href="#">130</a> <b>R</b>	STATUS REPORT ( <i>Second</i> ) by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 03/03/2022)
03/21/2022		Set Deadline Re: <a href="#">121</a> - Status Report due by <b>8/31/2022</b> . (rcb) (Entered: 03/21/2022)
04/01/2022		Set Deadlines- Status Report Reset Re: <a href="#">121</a> due by <b>8/31/2022</b> . (rcb) Modified to edit docket text on 4/4/2022 (rcb). (Entered: 04/01/2022)
05/02/2022	<a href="#">131</a> <b>R</b>	STATUS REPORT ( <i>Third</i> ) by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 05/02/2022)
06/01/2022	<a href="#">132</a>	NOTICE of Appearance by JAMES MURRAY SLATER on behalf of ELIZABETH FREDERICK (SLATER, JAMES) (Entered: 06/01/2022)
06/10/2022	133	<p>NOTICE OF RESCHEDULED TELEPHONIC HEARING: Telephonic Pretrial Conference reset for <b>9/16/2022 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.</p> <p>ALL PARTIES are directed to call the AT&amp;T Conference Line (see below)</p> <p>Conference Call Information</p> <p>You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.</p> <p>s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 06/11/2022)</p>
08/31/2022	<a href="#">134</a>	STATUS REPORT ( <i>Fourth</i> ) by MISTY ROBERTSON. (Attachments: # <a href="#">1</a> Exhibit A) (TOOMEY, GREGG) (Entered: 08/31/2022)
08/31/2022	<a href="#">135</a> <b>R</b>	NOTICE of Settlement <i>as to Sheriff McNeil</i> by ELIZABETH FREDERICK (SLATER, JAMES) (Entered: 08/31/2022)
09/01/2022	<a href="#">136</a> <b>R</b>	ORDER ACKNOWLEDGING <a href="#">135</a> <b>R</b> NOTICE OF SETTLEMENT. The parties are ordered to file a stipulation of dismissal as to Plaintiff's claims against Sheriff McNeil or a status update in the event the parties have not finalized their settlement papers on

		or before Thursday, <b>9/15/2022</b> . This case is still pending against Misty Robertson, the sole remaining Defendant and is set for trial on <b>10/11/2022 08:15 AM</b> in U.S. Courthouse Tallahassee before CHIEF JUDGE MARK E WALKER. Accordingly, on or before Wednesday, <b>9/7/2022</b> , Plaintiff must file a status report indicating whether she intends to proceed to trial against Defendant Robertson. Signed by CHIEF JUDGE MARK E WALKER on 09/01/2022. (rcb) (Entered: 09/01/2022)
09/01/2022		Set Deadlines/Hearings Status Report due by <b>10/3/2022</b> . (rcb) (Entered: 09/01/2022)
09/02/2022	<a href="#">137</a>	MOTION in Limine <i>Omnibus</i> by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 09/02/2022)
09/07/2022	<a href="#">138</a>	Consent MOTION for Extension of Time to File Response/Reply as to <a href="#">137</a> MOTION in Limine <i>Omnibus</i> by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 09/07/2022)
09/07/2022	<a href="#">139</a>	ORDER GRANTING CONSENTED <a href="#">138</a> MOTION FOR EXTENSION.The <a href="#">138</a> motion is GRANTED. The response deadline is extended to <b>9/8/2022</b> . All other deadlines remain in place. Signed by CHIEF JUDGE MARK E WALKER on 09/07/2022. (rcb) (Entered: 09/07/2022)
09/07/2022	<a href="#">140</a>	STATUS REPORT <i>Per D.E. 136</i> by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 09/07/2022)
09/08/2022	<a href="#">141</a> <b>R</b>	RESPONSE to Motion re <a href="#">137</a> MOTION in Limine <i>Omnibus</i> filed by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 09/08/2022)
09/09/2022	<a href="#">142</a> <b>R</b>	PRETRIAL Stipulation by MISTY ROBERTSON. (Attachments: # <a href="#">1</a> <b>R</b> Exhibit A - Plaintiff's Exhibit List with Defendant's Objections, # <a href="#">2</a> <b>R</b> Exhibit B - Defendant's Exhibit List with Plaintiff's Objections, # <a href="#">3</a> <b>R</b> Exhibit C - Plaintiff's Witness List, # <a href="#">4</a> <b>R</b> Exhibit D - Defendant's Witness List) (TOOMEY, GREGG) (Entered: 09/09/2022)
09/09/2022	<a href="#">143</a> <b>R</b>	Proposed Jury Instructions by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 09/09/2022)
09/09/2022	<a href="#">144</a> <b>R</b>	Proposed Verdict Form by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 09/09/2022)
09/09/2022	<a href="#">145</a>	Proposed Jury Instructions by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 09/09/2022)
09/09/2022	<a href="#">146</a>	Proposed Verdict Form by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 09/09/2022)
09/09/2022	<a href="#">147</a> <b>R</b>	TRIAL BRIEF by ELIZABETH FREDERICK. (COOK, JAMES) (Entered: 09/09/2022)
09/14/2022	<a href="#">148</a>	STATUS REPORT <i>Per D.E. 136 re Dismissal of Sheriff McNeil</i> by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 09/14/2022)
09/14/2022	<a href="#">149</a> <b>R</b>	Plaintiff's Unopposed MOTION for Writ of Habeas Corpus ad testificandum <i>as to Brittany Knight</i> by ELIZABETH FREDERICK. (SLATER, JAMES) Modified on 9/15/2022 to complete document title. (kjlw) (Entered: 09/14/2022)
09/14/2022	<a href="#">150</a>	Plaintiff's Opposed MOTION for Writ of Habeas Corpus ad testificandum <i>as to Carlester Fryson</i> and Memorandum of Law by ELIZABETH FREDERICK. (SLATER, JAMES) Modified on 9/15/2022 to complete document title. (kjlw) (Entered: 09/14/2022)

09/15/2022	<a href="#">151</a>	MOTION Join Corizon Health, Inc. as a Party-Defendant for Purposes of Final Judgment by ELIZABETH FREDERICK. (Attachments: # <a href="#">1</a> Exhibit Lone Star Policy, # <a href="#">2</a> Exhibit Leon County Jail Health Services Agreement) (SLATER, JAMES) (Entered: 09/15/2022)
09/15/2022	<a href="#">152</a>	<b>**VACATED PER ECF <a href="#">165</a> ORDER GRANTING MOTION FOR WRIT: Plaintiff asks this Court to enter a writ of habeas corpus ad testificandum to secure Brittany Knight's attendance at trial. ECF No. <a href="#">149</a> <b>R</b>. Defendant does not oppose the motion. The motion is GRANTED. This Court will enter the writ as a separate docket entry. Signed by CHIEF JUDGE MARK E WALKER on 09/15/2022. (tpm) Modified to add "vacate" language on 9/19/2022 (rcb). (Entered: 09/15/2022)</b>
09/15/2022	153	<b>**VACATED PER ECF <a href="#">165</a> **Writ of Habeas Corpus ad Testificandum Issued as to BRITTANY KNIGHT for 10/11/2022 beginning at 8:15 A.M. (EST) *** Emailed to the Florida Department of Corrections and provided to USMS*** (tpm) Modified to add "vacate" language on 9/19/2022 (rcb). (Entered: 09/15/2022)</b>
09/15/2022	<a href="#">154</a> <b>R</b>	<b>ORDER GRANTING EXTENSION: The parties have now filed a status update and a request for an additional 30 days to finalize their settlement. ECF No. <a href="#">148</a> . That request, construed as a motion, is GRANTED. The parties must file a stipulation of dismissal or another status update on or before <b>10/17/2022</b>. Signed by CHIEF JUDGE MARK E WALKER on 09/15/2022. (tpm) (Entered: 09/15/2022)</b>
09/15/2022	<a href="#">155</a> <b>R</b>	Amended MOTION to join Corizon Health, Inc., Lone Star Alliance, Inc., and Scottsdale Insurance Company as Party-Defendants for Purposes of Final Judgment by ELIZABETH FREDERICK. (Attachments: # <a href="#">1</a> Exhibit Lone Star Policy, # <a href="#">2</a> Exhibit Leon County Jail Health Services Agreement, # <a href="#">3</a> Exhibit Scottsdale Policy) (SLATER, JAMES) (Entered: 09/15/2022)
09/15/2022	<a href="#">156</a>	<b>ORDER GRANTING IN PART PLAINTIFF'S <a href="#">137</a> OMNIBUS MOTION IN LIMINE. Signed by CHIEF JUDGE MARK E WALKER on 9/15/2022. (vkm) (Entered: 09/15/2022)</b>
09/16/2022	<a href="#">157</a>	<b>ORDER DENYING MOTION TO JOIN PARTY AS MOOT - Accordingly, Plaintiff's original motion, ECF No. <a href="#">151</a> , is DENIED as moot. Signed by CHIEF JUDGE MARK E WALKER on 9/16/22. (sjb) (Entered: 09/16/2022)</b>
09/16/2022	<a href="#">158</a>	Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER:Telephonic Pretrial Conference held on 9/16/2022. Ruling by Court: <a href="#">150</a> Motion denied without prejudice. Plaintiff to refile motion, providing additional information as stated on the record, by <b>9/19/2022</b> ; Defense response due by <b>10/5/2022</b> . Response to <a href="#">155</a> <b>R</b> Motion due by <b>10/7/2022</b> . Jury trial reset to 1/23/23. Telephonic pretrial conference continued to 1/6/23 9:00 a.m. Clerk to re-notice both hearings. Parties to file proposed voir dire topics and statement of the case by <b>1/18/2023</b> . Order to follow (Court Reporter Megan Hague (USDC-Tallahassee)). (vkm) (Entered: 09/16/2022)
09/16/2022	<a href="#">159</a> <b>R</b>	<b>ORDER SETTING EXTENDED DEADLINE - Defendant's response, if any, and Corizon Health's response, if any, and the insurers' response, if any, are due on or before <b>10/7/2022</b>-this is an extended deadline to allow Plaintiff time to serve this Order on Corizon Health and to forward copies to the insurers. Plaintiff must serve this Order on Corizon on or before <b>9/23/2022</b>, and provide copies of the same to the insurers by that date, using the same mode of service previously used. On or before <b>9/23/2022</b>, Plaintiff shall file a notice with this Court confirming service in compliance with this Order. Signed by CHIEF JUDGE MARK E WALKER on 9/16/22. (sjb) (Entered: 09/16/2022)</b>

09/16/2022	<a href="#">160</a>	ORDER DENYING MOTION FOR WRIT WITHOUT PREJUDICE - Accordingly, this Court DENIES Plaintiff's <a href="#">150</a> motion without prejudice. Plaintiff may refile its motion more fully addressing the reason(s) for Mr. Fryson's late disclosure on or before <b>9/19/2022</b> . Defendant must then file a response on or before <b>10/5/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 9/16/22. (sjb) Modified on 9/22/2022 (sjb). (Entered: 09/16/2022)
09/16/2022	161	NOTICE OF RESCHEDULED HEARING: Jury Trial reset for <b>1/23/2023 08:00 AM</b> before CHIEF JUDGE MARK E WALKER. United States Courthouse, <b>Courtroom 5 West</b> , 111 North Adams St., Tallahassee, Florida 32301.  NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as, a hearing impairment that requires a sign language interpreter or a wheelchair restriction that requires ramp access, please contact Victoria Milton McGee at 850-521-3510 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.  <u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 09/16/2022)
09/16/2022	162	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference resumes <b>1/6/2023 09:00 AM</b> before CHIEF JUDGE MARK E WALKER.  ALL PARTIES are directed to call the AT&T Conference Line (see below)  Conference Call Information  You may dial into the conference call up to five minutes before start time. Call in number: <b>888-684-8852</b> When prompted for an access code, enter: <b>3853136#</b> If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: <b>4565#</b> Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. <b>The Court asks that counsel NOT use cell phones or speaker phones</b> during the call as the quality of the audio connection is comprised by these devices.  <u>s/ Victoria Milton McGee</u> Courtroom Deputy Clerk (vkm) (Entered: 09/16/2022)
09/19/2022	<a href="#">163</a> 	MOTION to Permit Testimony of Carlester Fryson at Trial by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 09/19/2022)
09/19/2022	<a href="#">164</a>	MOTION to Vacate 153 Writ of Habeas Corpus ad Testificandum Issued <i>as to Brittany Knight</i> by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 09/19/2022)
09/19/2022	<a href="#">165</a>	ORDER VACATING 153 WRIT OF HABEAS CORPUS AD TESTIFICANDUM. That <a href="#">164</a> motion is GRANTED. The writ, ECF No. <a href="#">152</a> ; 153 , is VACATED. The Clerk is directed to serve a copy of this Order to the warden at Gadsden Correctional Facility, 6044 Greensboro Highway, Quincy, Florida 32351 and to the United States Marshals Service. Signed by CHIEF JUDGE MARK E WALKER on 09/19/2022. (rcb)**ECF <a href="#">165</a> forwarded as directed to Warden at GCF and USMS** (rcb) (Entered: 09/19/2022)
09/19/2022	<a href="#">166</a> 	CERTIFICATE OF SERVICE by ELIZABETH FREDERICK re <a href="#">159</a>  Order,,, Set Deadlines/Hearings,, (SLATER, JAMES) (Entered: 09/19/2022)
09/20/2022	<a href="#">167</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Telephonic Proceedings held on 9/16/2022, before Judge Mark E. Walker. Court Reporter/Transcriber Megan A.

		<p>Hague, Telephone number 850-443-9797.</p> <p><i>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.</i></p> <p>Redaction Request due <b>9/27/2022</b>. Release of Transcript Restriction set for <b>12/27/2022</b>. (mah) (Entered: 09/20/2022)</p>
10/06/2022	<a href="#">168</a>	RESPONSE in Opposition re <a href="#">151</a> MOTION Join Corizon Health, Inc. as a Party-Defendant for Purposes of Final Judgment , <a href="#">155</a> <b>R</b> Amended MOTION to join Corizon Health, Inc., Lone Star Alliance, Inc., and Scottsdale Insurance Company as Party-Defendants for Purposes of Final Judgment filed by SCOTTSDALE INSURANCE COMPANY. (Attachments: # <a href="#">1</a> Exhibit A -Scottsdale Ins Co's Policy) (PARKER, RHETT) (Entered: 10/06/2022)
10/07/2022	<a href="#">169</a>	MOTION for Extension of Time to File Response/Reply as to <a href="#">155</a> <b>R</b> Amended MOTION to join Corizon Health, Inc., Lone Star Alliance, Inc., and Scottsdale Insurance Company as Party-Defendants for Purposes of Final Judgment by CORIZON LLC, MISTY ROBERTSON. (MILAM, GEORGE) (Entered: 10/07/2022)
10/07/2022	<a href="#">170</a>	MOTION for Extension of Time to File Response/Reply as to <a href="#">163</a> <b>R</b> MOTION to Permit Testimony of Carlester Fryson at Trial by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 10/07/2022)
10/07/2022	<a href="#">171</a>	RESPONSE in Opposition re <a href="#">155</a> <b>R</b> Amended MOTION to join Corizon Health, Inc., Lone Star Alliance, Inc., and Scottsdale Insurance Company as Party-Defendants for Purposes of Final Judgment filed by Lone Star Alliance, Inc.. (BOSWELL, CHASE) (Entered: 10/07/2022)
10/07/2022	<a href="#">172</a>	ORDER GRANTING EXTENSION - The <a href="#">169</a> unopposed motion is GRANTED. Defendant and Corizon's response is due on or before <b>10/21/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/7/22. (sjb) (Entered: 10/07/2022)
10/07/2022	<a href="#">173</a>	ORDER GRANTING EXTENSION- The <a href="#">170</a> motion is GRANTED. Defendant's response is due on or before <b>10/21/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/07/22. (sjb) (Entered: 10/07/2022)
10/14/2022	<a href="#">174</a>	STATUS REPORT re Order Acknowledging Notice of Settlement and Order Granting Extension [D.E. 136, 154] by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 10/14/2022)
10/14/2022	<a href="#">175</a> <b>R</b>	ORDER GRANTING <a href="#">174</a> MOTION TO EXTEND DEADLINE FOR JOINT STIPULATION OF DISMISSAL. Plaintiff's motion is GRANTED. The deadline to file a joint stipulation of dismissal as to Defendant Walter McNeil is extended to <b>10/31/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/14/2022. (rcb) (Entered: 10/14/2022)
10/17/2022		Set Deadline- Status Report due by <b>11/16/2022</b> . (rcb) (Entered: 10/17/2022)
10/20/2022	<a href="#">176</a> <b>R</b>	DEFENDANT MISTY ROBERSTON'S CONSENT MOTION FOR EXTENSION OF TIME TO RESPOND TO THE PLAINTIFF'S MOTIONS. (TOOMEY, GREGG) Modified to edit title on 10/20/2022 (rcb). (Entered: 10/20/2022)
10/20/2022	<a href="#">177</a>	ORDER GRANTING <a href="#">176</a> <b>R</b> EXTENSION. The motion is GRANTED. Defendant's responses are due on or before <b>10/25/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/20/2022. (rcb) (Entered: 10/20/2022)

10/21/2022	<a href="#">178</a> <b>R</b>	CORIZON HEALTH, INC.'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO JOIN CORIZON AS A DEFENDANT. (MILAM, GEORGE) Modified to edit title on 10/24/2022 (rcb). (Entered: 10/21/2022)
10/25/2022	<a href="#">179</a>	NOTICE of Filing by MISTY ROBERTSON (Attachments: # <a href="#">1</a> Transcript of 9/16/22 Telephone Proceedings before Honorable Mark E. Walker) (TOOMEY, GREGG) (Entered: 10/25/2022)
10/25/2022	<a href="#">180</a> <b>R</b>	DEFENDANT MISTY ROBERSTON'S RESPONSE TO PLAINTIFF'S OPPOSED MOTION TO PERMIT TESTIMONY OF CARLESTER FRYSON AT TRIAL. (TOOMEY, GREGG) Modified to edit title on 10/25/2022 (rcb). (Entered: 10/25/2022)
10/25/2022	<a href="#">181</a>	STIPULATION of Dismissal <i>as to Sheriff Walter McNeil only</i> by ELIZABETH FREDERICK. (SLATER, JAMES) (Entered: 10/25/2022)
10/25/2022	<a href="#">182</a>	DEFENDANT MISTY ROBERSTON'S RESPONSE TO PLAINTIFF'S AMENDED MOTION TO JOIN CORIZON HEALTH, INC., LONE STAR ALLIANCE, INC., AND SCOTTSDALE INSURANCE COMPANY AS PARTY-DEFENDANTS FOR PURPOSES OF FINAL JUDGMENT. (TOOMEY, GREGG) Modified to edit title on 10/25/2022 (rcb). (Entered: 10/25/2022)
10/25/2022	<a href="#">183</a>	ORDER ACKNOWLEDGING <a href="#">181</a> DISMISSAL. The parties have filed a joint stipulation of dismissal with prejudice as to Defendant Walter McNeil, under Federal Rule of Civil Procedure 41(a)(1)(A)(ii). However, this case remains pending against Defendant Misty Robertson. Signed by CHIEF JUDGE MARK E WALKER on 10/25/2022. (rcb) (Entered: 10/25/2022)
10/27/2022	<a href="#">184</a>	PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE REPLY TO DEFENDANT ROBERTSON'S RESPONSE <a href="#">180</a> <b>R</b> TO PLAINTIFF'S MOTION TO PERMIT TESTIMONY OF CARLESTER FRYSON <a href="#">163</a> <b>R</b> . (SLATER, JAMES) Modified to edit title on 10/28/2022 (rcb). (Entered: 10/27/2022)
10/28/2022	<a href="#">185</a>	ORDER GRANTING <a href="#">184</a> LEAVE TO FILE REPLY. The motion is GRANTED. Plaintiff may file a reply to Defendant Misty Robertson's response on or before <b>11/6/2022</b> . Signed by CHIEF JUDGE MARK E WALKER on 10/28/2022. (rcb) (Entered: 10/28/2022)
11/02/2022	<a href="#">186</a>	PLAINTIFF'S REPLY TO DEFENDANT ROBERTSON'S OPPOSITION TO TESTIMONY BY CARLESTER FRYSON. (SLATER, JAMES) Modified to edit title on 11/2/2022 (rcb). (Entered: 11/02/2022)
11/04/2022	<a href="#">187</a>	NOTICE OF APPEARANCE AND REQUEST FOR SERVICE. (BRUSA, ELIZABETH) Modified to edit title on 11/7/2022 (rcb). (Entered: 11/04/2022)
11/04/2022	<a href="#">188</a>	UNOPPOSED MOTION FOR KATHERINE J. HENRY TO APPEAR PRO HAC VICE, CONSENT TO DESIGNATION, AND REQUEST TO ELECTRONICALLY RECEIVE NOTICES OF ELECTRONIC FILING. (Attachments: # <a href="#">1</a> Supplement Certificate of Good Standing) (BRUSA, ELIZABETH) Modified to edit title on 11/7/2022 (rcb). (Entered: 11/04/2022)
11/07/2022	<a href="#">189</a>	ORDER ADMITTING KATHERINE J. HENRY PRO HAC VICE. The <a href="#">188</a> motion is GRANTED. Ms. Henry has fulfilled the requirements of the Local Rules for admission and is admitted pro hac vice as counsel for Defendant Corizon Health, Inc. Signed by CHIEF JUDGE MARK E WALKER on 11/07/2022. (rcb) (Entered: 11/07/2022)

11/16/2022	<a href="#">190</a>	STATUS REPORT ( <i>Fifth</i> ) by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 11/16/2022)
11/17/2022		Set Deadline- Status Report due by <b>12/19/2022</b> . (rcb) (Entered: 11/17/2022)
12/19/2022	<a href="#">191</a>	STATUS REPORT ( <i>Sixth</i> ) by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 12/19/2022)
12/19/2022	<a href="#">192</a>	ORDER CANCELLING TRIAL AND PRETRIAL CONFERENCE. Due to a scheduling conflict and still-pending motions that this Court must rule on, this Court on, its own motion, directs the Clerk to CANCEL the pretrial conference set for January 6, 2023, and the trial set for January 23, 2023. This Court will reschedule the trial once it resolves the pending motions. Signed by CHIEF JUDGE MARK E WALKER on 12/19/2022. (rcb) (Entered: 12/19/2022)
12/20/2022		Set Deadline- Status Report due by <b>1/19/2023</b> . (rcb) (Entered: 12/20/2022)
01/03/2023	193	NOTICE OF CANCELLED HEARINGS: Telephonic Pretrial Conference set for 1/6/2023 09:00 AM and Jury trial set for 1/23/2023 before CHIEF JUDGE MARK E WALKER are cancelled, per <a href="#">192</a> Order. (vkm) (Entered: 01/03/2023)
01/17/2023	<a href="#">194</a> <b>R</b>	NOTICE OF APPEARANCE AND REQUEST FOR SERVICE (THOMAS, MICHAEL) Modified to edit title on 1/18/2023 (rcb). (Entered: 01/17/2023)
01/17/2023	<a href="#">195</a> <b>R</b>	NOTICE OF APPEARANCE AND REQUEST FOR SERVICE(BOSWELL, CHASE) Modified to edit title on 1/18/2023 (rcb). (Entered: 01/17/2023)
01/19/2023	<a href="#">196</a> <b>R</b>	STATUS REPORT ( <i>Seventh</i> ) by MISTY ROBERTSON. (TOOMEY, GREGG) (Entered: 01/19/2023)
01/19/2023		Set Deadline- Status Report due by <b>2/20/2023</b> . (rcb) (Entered: 01/19/2023)
01/23/2023		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of CHIEF JUDGE MARK E WALKER notified that action is needed Re: <a href="#">158</a> ** (rcb)*** Proposed voir dire topics and statement of the case not filed by 1/18/2023** (Entered: 01/23/2023)
02/16/2023	<a href="#">197</a> <b>R</b>	PLAINTIFF'S NOTICE CONCERNING THE BANKRUPTCY OF CORIZON HEALTH, INC. (Attachments: # <a href="#">1</a> <b>R</b> Exhibit Amended Bankruptcy Petition, # <a href="#">2</a> <b>R</b> Exhibit Merger Plan) (SLATER, JAMES) Modified to edit title on 2/17/2023 (rcb). (Entered: 02/16/2023)
02/17/2023	<a href="#">198</a> <b>R</b>	ORDER REGARDING BANKRUPTCY STAY. Unless and until otherwise ordered, all proceedings in this case are STAYED under 11 U.S.C. § 362. Corizon Health, Inc., must file a notice in this Court within 30 days after the occurrence of any event or condition terminating the automatic stay either explicitly or by operation of law. Corizon Health, Inc., is requested to file, and Plaintiff must file, by the last day of each August ( <b>8/31/2023</b> ) and February ( <b>2/28/2023</b> )(commencing with February 2023) a status report indicating whether the bankruptcy proceeding remains pending and the automatic stay remains in effect, provided, however, that if one such status report has been filed by any party for the period at issue, no party need file any additional status report. The Clerk is directed to TERMINATE ECF Nos. <a href="#">155</a> <b>R</b> and <a href="#">163</a> <b>R</b> during the pendency of the bankruptcy stay. The Clerk shall re-gavel ECF Nos. <a href="#">155</a> <b>R</b> and <a href="#">163</a> <b>R</b> upon notice from the parties of any event or condition terminating the automatic stay. Signed by CHIEF JUDGE MARK E WALKER on 02/17/2023. (rcb) (Entered: 02/17/2023)
02/17/2023	<a href="#">199</a> <b>R</b>	***PLEASE DISREGARD THIS ENTRY-ORDER DOCKETED INCORRECTLY** ORDER REGARDING BANKRUPTCY STAY. (Entered: 02/17/2023)

02/28/2023	<a href="#">200</a> <b>R</b>	STATUS REPORT <i>Regarding Bankruptcy per Doc. <a href="#">198</a> <b>R</b></i> by ELIZABETH FREDERICK. (SLATER, JAMES) Modified to add the bracket for ECF <a href="#">198</a> <b>R</b> on 3/1/2023 (rcb). (Entered: 02/28/2023)
02/28/2023	<a href="#">201</a> <b>R</b>	STATUS REPORT by CORIZON HEALTH, INC.. (MILAM, GEORGE) (Entered: 02/28/2023)

PACER Service Center			
Transaction Receipt			
03/01/2023 12:09:41			
PACER Login:	rjshannontxwb	Client Code:	
Description:	Docket Report	Search Criteria:	4:19-cv-00162-MW-MAF
Billable Pages:	19	Cost:	1.90

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

ELIZABETH META FREDERICK as Personal  
Representative of the Estate Jennifer Casey  
Norred, and on behalf of the Survivors,  
Elizabeth Frederick, mother, and William  
James Norred, father.

Plaintiffs,

v.

HON. WALTER McNEIL, as Sheriff of Leon  
County, Florida, and CORIZON, LLC, a  
Health Services Corporation, and MARIA  
LILIANA GARCIA, M.D., KIMBERLY  
PETERSEN, DEBBIE SELLERS, and MISTY  
ROBERTSON, in their individual capacity,

Defendants.

CASE NO. 4:19-cv-162-MW-CAS

**AMENDED COMPLAINT FOR DAMAGES**

**Introduction**

On July 24, 2017, Jennifer Casey Norred, a young woman suffering mental illness and doing relatively well on community supervision, received charges relating to her mental illness and was held in the Leon County Jail pending resolution. After months without significant mental health treatment, and after a degrading prolonged session in a restraint chair, tied her jail-issued uniform pants to her bunk and around her neck and hung herself. By the time jail staff checked on her and managed to remove the ligature, she was unresponsive and did not survive. Accordingly, her Personal Representative now files this action and alleges:

### **Jurisdiction and Venue**

1. Plaintiff's claim for relief is based on 42 U.S.C. § 1983 and state law claims. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.
2. Plaintiff further invokes the supplemental jurisdiction of this Court, pursuant to 28 U.S.C. § 1367, to consider the state law claims alleged herein.
3. Plaintiff's claim is also based on Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, and 12133, and § 504 of the Rehabilitation Act.
4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1391(c), as the events sued upon occurred in this judicial district.
5. Plaintiff has provided timely notice under § 768.28 and received no response.
6. All conditions precedent to this action have been performed or waived.

### **Parties**

7. ELIZABETH META FREDERICK, mother of Jennifer Casey Norred, is Personal Representative of the Estate of Jennifer Casey Norred, and sues for the Estate and survivors, Elizabeth Meta Frederick and William James Norred.
8. At all times material hereto, WALTER McNEIL, or his predecessor, was Sheriff of Leon County, the constitutional officer who operates the Leon County Detention Center ("Jail") and is sued in his official capacity.
9. At all times material hereto, CORIZON LLC was a health services corporation, responsible for providing medical care to Jail prisoners.

10. At times material hereto KIMBERLY PETERSEN was the Jail Administrator. She is sued in her individual capacity.
11. At all times material hereto, MARIA LILIANA GARCIA, M.D., was the physician at the Jail and is sued in her individual capacity.
12. At all times material hereto, DEBBIE SELLERS was Health Care Administrator at the Jail and is sued in her individual capacity.
13. At all times material hereto, MISTY ROBERTSON, was the Jail mental health counselor for Casey Norred, and is sued in her individual capacity.
14. All the above Defendants were all acting under color of law.

#### **Common Allegations of Fact**

15. On April 2, 2017, Jennifer Casey Norred was booked at the Leon County Jail.
16. At the time of her arrest, Ms. Norred was living independently in the community with the help of a treatment team and doing relatively well.
17. She was arrested for “stalking” shortly before her next scheduled check-up.
18. Casey Norred had just turned 35 and would spend her 36<sup>th</sup> birthday in the Jail on April 28, 2017. She suffered from several chronic conditions, including hypothyroidism, schizophrenia, bipolar disorder, and depression.
19. Although initially Ms. Norred self-reported no mental health problems, Jail records showed a history of concerns for self-harm and at least one prior suicide attempt was clearly documented in the Jail records.

20. On April 5, there is a chronological note in her health records that Casey Norred was resistant to mental health care medication or services.
21. Her earlier appointment with the jail psychiatrist was not rescheduled.
22. Mental health care was terminated by the counselor despite Ms. Norred's "guarded and irritable with pressured speech" – symptoms indicative of an early exacerbation of Schizoaffective disorder.
23. Jail staff were aware of Ms. Norred's treatment with Apalachee Center in Tallahassee and requested her records but there is no indication they were ever reviewed and no one contacted Apalachee regarding her care.
24. There is no indication in the health care records that Ms. Norred received any kind of work-up for mental health medications or therapy at the Jail.
25. There was only one attempted contact by Jail mental health staff between the mental health screening in April and her first suicide attempt in July.
26. On June 5, 2017, a file note suggested Ms. Norred be re-evaluated as a "special needs" inmate but a responsive not stated, "According to the Mental Health Professionals, she does not qualify for special needs."
27. Throughout June, Ms. Norred's behavior grew increasingly erratic but there were no documented efforts to re-engage her in mental health care.
28. The court found Ms. Norred incompetent to proceed based on a court-ordered mental health evaluation on June 15, 2017, which found as follows:

available evidence strongly suggests [JN] is presently hostile, agitated, irrational and obsessed with contacting the victim. All of these signs are consistent with her history and reflect an episode of psychiatric decompensation. Thus JN is in need of inpatient psychiatric treatment and should be turned over to the Florida Department of Children and Families (DCF) for psychiatric stabilization and treatment.

29. Section 916.107(1)(a) Florida Statutes provides:

In a criminal case involving a client who has been adjudicated incompetent to proceed or not guilty by reason of insanity, a jail may be used as an emergency facility for up to 15 days following the date the department or agency receives a completed copy of the court commitment order containing all documentation required by the applicable Florida Rules of Criminal Procedure. For a forensic client who is held in a jail awaiting admission to a facility of the department or agency, evaluation and treatment or training may be provided in the jail by the local community mental health provider for mental health services, by the developmental disabilities program for persons with intellectual disability or autism, the client's physician or psychologist, or any other appropriate program until the client is transferred to a civil or forensic facility.

30. There is no indication in the health care records that Ms. Norred received any further mental health examination or treatment until her July suicide attempt.
31. On July 21, 2017, Ms. Norred made an unsuccessful attempt to hang herself.
32. As a result, Ms. Norred was placed into a restraint chair for the next 24 hours.
33. The use of restraint chairs is controversial and is not a substitute for nursing care or therapeutic intervention in a self-harm mental health emergency.
34. Use of a restraint chair does not constitute mental health care.
35. The restraint chair was mis-used by corrections and medical staff at the Jail.
36. In this case, the use of a restraint chair merely relieved medical providers of

the need for a 24-hour direct observation, freeing up medical staff.

37. The Jail medical provider, Corizon, has a history of short-staffing medical personnel and minimizing care to reduce costs and maximize profits.
38. Casey Norred struggled to avoid being placed in the restraint chair.
39. Casey Norred was kept in the restraint chair 24 hours, from 10:47 a.m., on Friday, July 21, 2017, through 10:40 a.m. Saturday, July 22, 2017.
40. At about 11:27 a.m. on July 21, within just 40 minutes of being placed in the chair, it appeared from the notes that Casey Norred suffered a seizure.
41. While in the chair, Casey Norred cried and screamed until she was exhausted.
42. During approximately 24 hours in the restraint chair, Casey Norred was given only eight breaks, including only one restroom break at 9:40 Friday night.
43. Jail staff had to clean up urine from under and around the restraint chair.
44. Casey Norred wasn't given anything to eat until 3:00 Saturday morning.
45. Casey Norred was released from the restraint chair at 10:40 Saturday a.m.
46. The use of the restraint chair, used or perceived as punishment, with inadequate comfort breaks or food, was certain to cause humiliation, anger, and further self-harm, albeit by more covert means.
47. Casey Norred was then placed on Direct Observation in a paper gown.
48. After release from the chair, Casey Norred was directly observed by Misty Robertson, LMHC, CCHP, whose title is "Mental Health Clinician."

49. During the observation period, Casey Norred was observed sleeping or lying rolled up in her mattress since she wasn't allowed to have a blanket.
50. Casey Norred apparently refused her thyroid medication, Levothyroxine.
51. During the observation period, Casey Norred stated that she didn't really want to kill herself; she was just upset after receiving some bad news.
52. Casey Norred's "Mental Health Progress Note, notes she asks that her clothes be returned and the note indicates "moderate improvement," but not "stable."
53. While under direct observation, Ms. Norred was yelling in her cell and was quoted as saying, "Shoot me in the head" and "I'm a fucking ant."
54. Despite limited improvement and refusal to take her thyroid medication, Norred was released from Direct Observation and given a follow up mental health appointment in three days by counselor Misty Robertson.
55. There is no indication that Casey Norred received actual mental health care.
56. Officer Pleas was present with Defendant Robertson when Casey Norred requested to be removed from Direct Observation and given her clothes.
57. Pleas recalls Norred was taken off Direct Observation the same day.
58. Casey Norred was moved from Direct Observation area in Pod E-1 to confinement cell #19 in Pod M, after being cleared by Misty Robertson.
59. Sgt. Lacarra Brown escorted Casey Norred to M Pod on Monday, July 24, 2017, and recalls Casey Norred saying something about feeling better.

60. In M Pod, there were no suicide prevention measures taken and the cell in which Norred was placed offered numerous anchor points for a ligature.
61. At 10:00 a.m., Casey Norred was found by prison staff hanging in her cell, suspended from her bunk by her jail uniform pants, tied around her neck.
62. Any adequate suicide prevention protocols in the Jail were not followed.
63. Defendant Sellers as Jail Administrator endorsed the lax suicide prevention protocols as within policy and made no effort to discipline or retrain staff.
64. Officer Lacarra Brown and Sgt. Howard together attempted to hold Casey Norred up and untie the uniform, which efforts were unsuccessful.
65. Lieutenant Dennis Rathman responded to the cell with several officers who tried to release the ligature from Casey Norred's neck.
66. Officer Joseph McGrady could not untie the ligature and eventually lifted her up in a "bear-hug," while Medical Officer Jeffery Pleas untied the knot.
67. No one had or could find a ligature cutter or lacked training to access one.
68. By then, Casey Norred was unresponsive, without a pulse.
69. At that time, it is reported that CPR was started and EMS was called.
70. Officer McGrady stated he thought he heard a breath when he was holding her up, but thought it could have been a result of the way he was holding her.
71. Emergency Medical Services paramedics arrived at about 10:22 a.m. and at 10:24 a.m., Casey Norred was pronounced dead.

72. Casey Norred was a person who suffered a disability that prevented her from receiving the services, benefits, and programs at the Leon County Jail.
73. Sheriff McNeil, or his predecessor as Sheriff, had a duty to reasonably accommodate Casey Norred's disabilities to prevent the harm that befell her.
74. At all times material hereto, Sheriff McNeil, or his predecessor as Sheriff, and the Leon County Detention Center were recipients of federal funds.
75. At all times material hereto, Sheriff McNeil conducted regular audits and received reports on conditions at Leon County Detention Center.
76. The Defendant Sheriff was made aware that inmates, including Jennifer Casey Norred, were not receiving adequate mental health care at the Jail.
77. The Sheriff was made aware there was not sufficient mental health staff at the Jail to accommodate the needs of mental health patients at the Jail.
78. The Sheriff was made aware there was not sufficient trained security staff to accommodate the security needs of mentally ill inmates prone to self-harm.
79. There is a need for two separate but related protocols in a Jail to prevent self-harm by inmates: a security protocol and a mental health protocol.
80. The Leon County Jail was unconstitutionally deficient in both.
81. The Sheriff took part in medical contract and security budget planning that left mental health needs unmet for inmates like Jennifer Casey Norred.
82. There was no periodic review of restraint chair use.

83. The Sheriff was aware that Jail staff were inadequately supervised, trained and equipped to respond to self-harm episodes like hanging attempts.
84. Jail Administrator Kimberly Petersen was aware that there was not an adequate or meaningful security protocol for self-harm at the Jail.
85. Defendant Peterson was aware that there was not sufficient staffing, supervision, training, or equipment to effectively prevent self-harm.
86. Defendant Peterson was aware the restraint chair was used to make up for officer short-staffing and as punishment for inmate suicide attempts.
87. Defendant Peterson was aware that mental health contractors were not living up to their contract to provide treatment for mentally ill inmates at the Jail.
88. Defendant Peterson did not ensure that Security Officers had ligature cutters available for hanging incidents or knew how to access or use them.
89. Defendant Maria Garcia, M.D., was aware that Casey Norred was not receiving medication or treatment for her mental health care needs.
90. Defendant Garcia was aware that mental health staff was using the restraint chair to cover short-staffing and as punishment for self-harm ideations.
91. Defendant Garcia was aware that forcible restraint, inadequate breaks, and hostile treatment would breed anger that would result in further self-harm.
92. Defendant Garcia was aware the restraint chair was not medical treatment and had no protocol to review restraint chair use with mental health.

93. Defendant Garcia was aware that mental health staff's training was inadequate as were protocols for monitoring and assessing suicide risks.
94. Defendant Robertson was aware that use of the restraint chair to cover short-staffing and as punishment for self-harm ideations increased suicide risks.
95. Defendant Robertson was aware that forcible restraint, inadequate breaks, and hostile treatment breeds anger that results in further self-harm.
96. Defendant Robertson was aware the restraint chair is not medical treatment.
97. Defendant Robertson was aware that her training was inadequate to assess suicide risks and that she needed to acquire relevant skills but did not.
98. Casey Norred struggled with anxiety, depression, schizophrenia, and bipolar disorder and with intermittent, though fleeting, urges to take her own life.
99. For most of her years, Casey Norred held out a strong hope for a normal life.
100. But Casey Norred found little mental health support at the Leon County Jail.
101. A cost-saving policy of refusal to provide inmates with actual mental health treatment and therapy and an inappropriate reliance on measures to quiet and restrain rather than treat, left her without treatment at a critical period.
102. Casey Norred felt ignored and brutalized by Jail Staff and saw no way out.
103. On Monday, July 24, 2017, in desperation, Casey Norred took the only way she saw open to her. When no one was watching, she killed herself.
104. As a direct and proximate result of Defendants' wrongful acts and omissions,

decedent suffered pain and death in the Jail, ending on July 24, 2017.

105. Plaintiff has been obliged to retain counsel and is entitled to reasonable attorneys' fees pursuant to 42 USC §1988 as well as taxable costs.

**Causes of Action:**

**I. Claims under 42 U.S.C. 1983, Failure to Protect (McNeill)**

106. Plaintiff re-alleges the Common Allegations of Fact as if fully set forth herein.

107. Plaintiff is entitled to relief against Defendant McNeil, as Sheriff, for policies leading to violation of the Fourteenth Amendment to the U.S. Constitution.

108. Jennifer Casey Norred had a Fourteenth Amendment right protection from self-harm by security, and to have treatment for her mental health issues.

109. Although the Sheriff had contracted with a health care company for medical and mental health treatment for prisoners, he had a non-delegable duty for the provision of those services through oversight of contract performance.

110. The Sheriff was made aware that his Jail contained a significant number of mentally-ill prisoners and prisoners who were at risk for self-harm.

111. The Sheriff was made aware of a need for mental health treatment, medical and security staffing, training, supervision and protocols for self-harm events.

112. The Sheriff had an inherently dangerous custom or practice of:

- a. short-staffing the Jail and making up for short-staffing by use of the restraint chair and other convenient shortcuts;
- b. allowing security officers to use the restraint chair as humiliation and

- punishment for suicide attempts;
  - c. Failing to require a mental health recommendation for use of the chair;
  - d. using the restraint chair without adequate comfort breaks or food, in a way certain to trigger further self-harm;
  - e. failing to require appropriate training or drills to quickly and effectively respond to inmate hanging attempts.
113. The Sheriff knew of a substantial risk that some inmates, left untreated, would attempt suicide, and that inmates at risk had means to accomplish that end.
114. The Sheriff was deliberately indifferent to the immediate and serious threat to risks of inmate suicide attempts as noted above.
115. As a direct result of the Sheriff's deliberate indifference, Jennifer Casey Norred suffered pain and death in the Leon County Detention Center.
116. Plaintiff is obliged to retain counsel and is entitled to reasonable fees.

WHEREFORE, Plaintiff prays for judgment as noted below.

## **II. Claims under 42 U.S.C. 1983: Failure to Treat (Corizon)**

117. Plaintiff re-alleges the Common Allegations by reference.
118. Plaintiff is entitled to relief against Defendant Corizon, based on customs or practices in violation of the Fourteenth Amendment to the U.S. Constitution.
119. Jennifer Casey Norred, had a right under the Fourteenth Amendment to the U.S. Constitution to receive care for a known serious health condition.
120. Defendant Corizon had customs or practices of deliberate indifference to the timely provision of needed care for serious medical and mental health

conditions to reduce costs and maximize profits.

121. Corizon had a custom or practice of indifference to serious psychological and mental health needs, by short-staffing medical provider positions and using resorts like restraint chairs to substitute for professional therapeutic care.
122. Corizon was made aware that there were inmates in the Jail who suffered from severe mental health needs and were at risk of self-harm, including suicide and, absent care and monitoring, had the means to accomplish that end.
123. Corizon exhibited deliberate indifference to prisoners' serious medical and psychological needs by denying and unreasonably delaying access to competent mental health care by its customs or practices, including:
  - a. inadequate screening/evaluation at intake;
  - b. failure to get or review information from outside treatment providers;
  - c. failure to review inside information from prior stays;
  - d. inadequate mental health examination;
  - e. failure to have Ms. Norred seen by psychiatrist;
  - f. failure to follow up self-reporting with review of prisoner health histories to take advantage of the work of prior health professionals;
  - g. systemic limitations, denials, and delays in care motivated primarily by a desire to minimize costs and maximize profits;
  - h. failing to implement needed suicide protocols aimed at prisoners with prior suicide attempts where suicide efforts were reasonably foreseeable;
  - i. failing to monitor or observe prisoners on a regular basis where prisoners expressed thoughts of committing suicide and had made repeated efforts;

- j. failing to provide potentially suicidal inmates with psychological work-ups and d psychiatric care, including inmates with self-harm histories;
- k. tolerating mental health care that was so grossly inadequate as to fairly be characterized as no medical and mental health care at all.

124. In light of the aforementioned, Jennifer Casey Norred suffered from both an objectively and subjectively substantial risk of serious harm while under Corizon's care and Corizon reacted to this risk unreasonably.

125. It is more likely than not that Corizon's derelictions as alleged above were the cause of Casey Norred's death through suicide.

126. As a direct and proximate result of Corizon's deliberate indifference to Jennifer Casey Norred's serious mental health needs, Jennifer Casey Norred committed suicide by hanging herself in her cell on July 24, 2017.

127. Plaintiff is obliged to retain counsel and is entitled to reasonable fees.

WHEREFORE, Plaintiff prays for judgment as noted below.

### **III. Fourteenth Amendment Violation: (Garcia, Sellers, Robertson)**

128. Plaintiff re-alleges the Common Allegations by reference.

129. Plaintiff is entitled to relief against Defendants Maria Garcia, Debbie Sellers, and Misty Robertson under 42 U.S.C. § 1983, based on violation of the Fourteenth Amendment to the U.S. Constitution.

130. Defendants Garcia, Sellers, and Robertson became aware of a substantial risk Casey Norred would seriously attempt self-harm, that acts of self-harm were imminent, and that she possessed the means to accomplish that end.

131. As to Defendants Health Services Administrator Sellers and Dr. Garcia:

- a. approving jail treatment plans that had no medication or services;
- b. endorsing abusive practices by failing to discipline or retrain staff;
- c. approving the use of the restraint chair in Ms. Norred's situation.

132. As to Defendant Robertson, and also Dr. Garcia and HSA Sellers to the extent they were involved, they deliberately disregarded the immediate serious threat to Jennifer Casey Norred's mental health and well-being, exhibiting deliberate indifference to serious mental health needs, by:

- a. failing to reschedule Ms. Norred's appointment with the jail psychiatrist;
- b. denying or unreasonably delaying structured mental health care appropriate to Casey Norred's serious, urgent mental health needs;
- c. failing to order or perform diagnostic mental health work-ups to prescribe and administer mental health medication, treatment and therapy;
- d. denying or unreasonably delaying intensive, daily, prolonged and individually-tailored crisis stabilization therapies;
- e. in the absence of intensive and structured mental health care and treatment, failing to keep Casey Norred on close suicide watch;
- f. failing to transfer Ms. Norred to a higher level of care following a serious suicide attempt when found unconscious and unresponsive;
- g. failing to evaluate immediately after a serious suicide attempt;
- h. failing to provide any treatment following a serious suicide attempt;
- i. failing to provide empathetic response after a suicide attempt but placing in a restraint chair and then into an observation cell.
- j. failing to provide more than a superficial assessment three days after her serious suicide attempt;

- k. failing to carefully review observation logs showing she was not stable;
  - l. failing to notify family of serious suicide attempt or corroborate JN's report that family conflict precipitated her 7/21/17 suicide attempt
  - m. failing to consult with psychiatrist or expedite transfer to hospital.
133. Given their knowledge of Casey Norred's self-harm efforts and delusional thinking, the failure of Defendants Garcia, Sellers, and Robertson to provide intensive psychiatric care by trained mental health professionals was so grossly inadequate as to amount to no medical and mental health care at all.
134. In light of the above, Jennifer Casey Norred suffered from an objectively and subjectively substantial risk of serious harm while the care given by Defendants Garcia, Sellers, and Robertson was inadequate and unreasonable.
135. More likely than not the deliberate indifference of Defendants Garcia, Sellers and Robertson as alleged above were the cause of Casey Norred's suicide.
136. As a direct and proximate result of the deliberate indifference to Jennifer Casey Norred's serious mental health needs, Jennifer Casey Norred killed herself by hanging herself in her cell on July 24, 2017.
137. Plaintiff is obliged to retain counsel and is entitled to reasonable fees.

WHEREFORE, Plaintiff prays for judgment as noted below.

#### **IV. ADA and Rehabilitation Act: Hon. Walter McNeil**

138. Plaintiff re-alleges the Common Allegations by reference.
139. This Count is a claim against Defendant McNeil for violating Title II of the

Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., (hereinafter

“ADA”) which provides in pertinent part at 42 U.S.C. § 12132:

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity.

140. Title II of the Act prohibits, among other things:

- limiting a qualified individual’s enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service of an agency; and
- subjecting a qualified individual to discrimination under any program or activity conducted by an agency.

28 C.F.R. § 39.130.

141. Defendant McNeil also violated the Rehabilitation Act of 1973, § 504 (RA).

142. Casey Norred was disabled as defined at 42 U.S.C. § 12102(2) and a

"qualified individual" as defined at 42 U.S.C. § 12131(2), as she suffered from hypothyroidism, schizophrenia, bipolar disorder, and depression.

143. Defendant McNeil is a public entity in charge of the Leon County Detention Center, who receives federal funds and has violated the ADA and RA.

144. Defendant McNeil owed Casey Norred a non-delegable duty to ensure that her well-being and safety would not be compromised as a result of discrimination based on her disability. Accordingly, Defendant McNeil is vicariously liable for the actions of Jail staff and agents designated to care for Casey Norred.

145. Defendant McNeil’s agents and employees were authorized to act for

Defendant McNeil and accepted that undertaking when they committed the ADA/RA violations alleged herein. Defendant McNeil had control over his agents and employees when they committed the alleged ADA/RA violations.

146. The ADA/RA violations alleged herein and committed by persons and entities charged with caring for Casey Norred, were done while acting within the course and scope of their employ and/or agency with Defendant McNeil.

147. Casey Norred's need for reasonable accommodations was obvious.

148. Defendant McNeil, and the persons and entities charged with caring for Casey Norred, knew of Casey Norred's need for reasonable accommodations.

149. Defendant McNeil, and the persons and entities charged with caring for Casey Norred, acted intentionally and/or with deliberate indifference to Casey Norred's need for reasonable accommodations as follows:

- a. Inmates at the Leon County Detention Center were entitled to interact with one another, form friendships, sing, play games, visit, chat, and move at liberty within set bounds, subject only to administrative and disciplinary needs. Persons with disabilities like that suffered by Plaintiff's decedent could have enjoyed those benefits except for a lack of treatment and adequate supervision.
- b. Inmates at the Leon County Detention Center were entitled to enjoy physical comforts, like games, books, radios, access to canteen, frequent showers, visits, and phone calls, subject only to administrative and disciplinary needs. Persons with disabilities like that suffered by Plaintiff's decedent could have enjoyed those benefits except for a lack of treatment and adequate supervision.
- c. Inmates at the Leon County Detention Center were entitled to enjoy educational facilities, including a library, writing materials, study aids,

- and educational programs, subject only to administrative and disciplinary needs. Persons with disabilities like that suffered by Plaintiff's decedent could have enjoyed those benefits except for a lack of treatment and adequate supervision.
- d. Inmates at the Leon County Detention Center were entitled to enjoy religious activities, including chapel, study groups, religious materials, icons and observances, subject only to administrative and disciplinary needs. Persons with disabilities like that suffered by Plaintiff's decedent could have enjoyed those benefits except for a lack of treatment and adequate supervision.
  - e. Inmates at the Leon County Detention Center were entitled to a safe environment, free of known hazards, with removal of traps and obstructions. Persons with disabilities such as those suffered by Plaintiff's decedent were exposed to a range of hazards, like fixtures that could support a means of hanging, endangering life and safety.
  - f. Inmates at the Leon County Detention Center were entitled to receive care and treatment that was responsive to their particular health needs, including testing, diagnosis, surgery, therapy, and monitoring. Persons who suffered disabilities such as those suffered by Plaintiff's decedent received only measures designed to keep them restrained and quiet.
  - g. Inmates at the Leon County Detention Center were entitled to receive security monitoring to protect them from violence at the hands of other inmates and staff. Persons who suffered disabilities such as those suffered by Plaintiff's decedent were known to be subject to violence at their own hand and yet received inadequate security monitoring and inadequate protection.
150. As a direct and proximate result of the refusal and failure of Defendant McNeil and his agents and employees charged with caring for Casey Norred, to provide her with accommodations for her disability, the satisfaction of common needs necessary to a decent life, she suffered the agony of prolonged isolation, loneliness, and despair and was thus driven to suicide.

WHEREFORE, Plaintiff prays for judgment as noted below.

**V. Wrongful Death: Hon. Walter McNeil, as Sheriff**

151. Plaintiff re-alleges the Common Allegations by reference.

152. In the alternative, Plaintiff is entitled to relief against Defendant McNeil for negligent treatment of Casey Norred while incarcerated at the Leon County Detention Center resulting in her death in violation of Florida's Wrongful Death Act, §§ 768.16-768.27, Florida Statutes.

**A. Direct Negligence**

153. Plaintiff is entitled to relief against Sheriff McNeil for his direct negligence.

154. Defendant McNeil had a non-delegable duty of care for Casey Norred.

155. Defendant McNeil had an obligation to make an appropriate investigation of his agents and employees and failed to do so.

156. Defendant McNeil had an obligation to properly screen, train, supervise, control, discipline, and retain his employees.

157. Defendant McNeil was put on notice of the harmful treatment of inmates through audits, reports, and the media.

158. Defendant McNeil was well aware that inmates, including Jennifer Casey Norred, were not receiving minimally adequate mental health care at Leon County Detention Center. Therefore, it was reasonably foreseeable that harm would befall Jennifer Casey Norred either directly or indirectly as a result of

the actions and omissions of Defendant McNeil.

159. Defendant McNeil was directly liable for Jennifer Casey Norred's death at

the Leon County Jail, including but not limited to:

- a. failing to terminate Corizon's contract after its notorious nationwide failure to provide adequate health care to prisoners at other institutions;
- b. short-staffing the jail so that there were inadequate officers to monitor and report on conditions that endangered prisoners;
- c. failing to provide officers with adequate training to respond to jail suicide emergencies to maximize survival;
- d. failing to provide officers with the training necessary to monitor and report psychological crises and relevant facts to mental health clinicians;
- e. failing to ensure timely transport of Ms. Norred to a properly staffed and equipped facility for treatment of a serious mental health condition.
- f. failing to ensure that employees and agents provided inmates at-risk for self-harm with adequate crisis stabilization care;
- g. failing to provide inmates at-risk for self-harm with timely mental health treatment by a licensed Psychiatrist or Psychologist;
- h. failing to ensure that employees and agents provided inmates at-risk for self-harm with regular mental health monitoring and observation;
- i. failing to ensure that employees and agents timely and adequately respond to inmates at-risk for self-harm mental health emergencies;
- j. failing to ensure that employees and agents addressed Casey Norred's feelings of isolation, rejection, unworthiness, fear, lack of exercise, fresh air, friendship, good diet, and physical well-being;
- k. failing to ensure that, in the absence of addressing her needs, failing to at least place Casey Norred under adequate suicidal preventive measures necessary to prevent her death, despite knowledge of the risks to inmates at-risk of self-harm, including, but not limited to, the deteriorative effect on mental illnesses, access to instrumentalities for suicide, and the lack of

persons to watch over the at-risk inmate.

160. Defendant McNeil breached his duty of care proximately resulting in the suffering and death of Jennifer Casey Norred.

### **B. Vicarious Liability**

161. Plaintiff is entitled to relief against Defendant McNeil vicariously for the wrongful acts of his employees and agents.

162. At all times material, Defendant McNeil was and is liable for the actions of his employees and agents acting in the course and scope of their employment, as Defendant McNeil could only act through his agents.

163. Defendant McNeil's employees and agents were negligent in the care and custody of Plaintiff's decedent, in:

- a failing to refer Ms. Norred to mental health when she was clearly identified as "increasingly agitated and irrational";
- b leaving Ms. Norred in an observation cell with a paper gown and no suicide-safe blanket so she had to roll herself up in her mattress;
- c failing to have rescue/cut down tools available for use in attempted hangings although hangings are the most common jail suicide method.
- d Being unprepared to cut the ligature taking precious time away from resuscitation efforts when every second counts.
- e failed to timely transport decedent to a properly staffed and equipped facility for treatment of a serious mental health condition.
- f failed to provide a safe environment for an inmate at high risk for suicide, suicide-safe clothing and bedding; exposing decedent to instrumentalities for suicide including an anchor point for hanging;
- g failing to provide daily intensive mental health treatment by a psychiatrist or psychologist in view of her self-harm attempt history and tendencies;

- h failing to provide Casey Norred with regular mental health treatment despite knowledge of her self-harm attempt history and tendencies;
- i failing to provide Casey Norred with regular mental health monitoring despite knowledge of her self-harm attempt history and tendencies;
- j failing to provide Casey Norred with immediate crisis stabilization care despite knowledge of her need for intensive and structured care;
- k failing to adequately respond to Casey Norred's mental health crises despite knowledge of her self-harm attempt history and tendencies;
- l failing to address Casey Norred's feelings of isolation, rejection, unworthiness, fear, lack of exercise, fresh air, friendship, good diet, and physical well-being;
- m in the absence of addressing her mental health needs, failing to at least place Casey Norred under adequate suicidal preventive measures, despite knowledge of the risks to suicidal inmates, including, but not limited to, the deteriorative effect on mental illnesses, access to instrumentalities for suicide, and the lack of persons to watch over the at-risk inmate.

164. At all times material, to the extent the Hon Walter McNeil's agents and employees were acting in the course and scope of their employment, on behalf of Sheriff McNeil, Sheriff McNeil is vicariously liable.

165. As a direct and proximate result of Defendant McNeil's failure to perform his duty to ensure Jennifer Casey Norred's safety, directly or through his employees and agents, Jennifer Casey Norred suffered and died by suicide.

166. Jennifer Casey Norred's Survivors are as follows:

SURVIVOR	ADDRESS	RELATIONSHIP
Elizabeth Meta Frederick	1590 Lee Avenue, Tallahassee, Florida 32303	Mother
William James Norred	6220 Veterans Memorial Dr., Tallahassee, FL 32309	Father

167. Decedent would have been entitled to maintain this action had death not ensued.

WHEREFORE, Plaintiff prays for judgment as noted below.

**VI. Claims under § 415.1111, Florida Statutes: McNeil and Petersen**

168. Plaintiff re-alleges the Common Allegations by reference.

169. Plaintiff is entitled to relief against Defendant McNeil and Jail Administrator

Kimberly Peterson under the Adult Protective Services Act, § 415.1111

Florida Statutes in that decedent met the definition of a “vulnerable adult.”

170. Decedent was an adult whose ability to perform normal activities of daily living or to provide for her own care was impaired due to mental illness.

171. Defendant McNeil and Petersen, their agents and employees, in accepting the care and custody of Jennifer Casey Norred assumed the responsibility for a caregiver relationship, involving the regular and frequent care of Jennifer Casey Norred, or the provision of services on a temporary basis.

172. Defendants McNeil and Petersen had a duty to avoid neglect or abuse that caused significant impairment to decedent’s physical health.

173. Defendants McNeil and Petersen had a duty of care to decedent to provide care, supervision and services necessary to maintain her health, including medical treatment and therapies, which a prudent person would consider necessary for such a vulnerable adult.

174. Defendants McNeil and Petersen, their agents or employees, breached that duty of care by neglect that could reasonably be expected to cause serious

physical injury or substantial risk of death, and by abusive acts or omissions.

175. Defendants McNeil and Petersen breached their duties owed to decedent as noted in the Wrongful Death Claim and in one or more of the following:

- a. failing to provide suicidal inmates with regular mental health treatment and monitoring by qualified mental health professionals;
- b. failing to provide suicidal inmates with adequate crisis stabilization care;
- c. failing to adequately and timely respond to suicidal inmates' mental health emergencies;
- d. failing to properly screen, supervise and discipline correctional officers and employees involved in the incarceration and care of the decedent;
- e. failing to train correctional officers and medical staff to communicate with each other and with mental health professionals to deal with suicide risk;
- f. failing to house Casey Norred with suicide-safe bedding and clothing and preventing access to suicide instrumentalities like hanging anchor points;
- g. failing to timely transport decedent to a properly staffed and equipped facility for treatment of a serious mental health condition;
- h. failing to address Ms. Norred's feelings of unworthiness, rejection, isolation fear, lack of exercise, fresh air, friendship, and well-being;
- i. Failing to protect Jennifer Casey Norred from abuse and neglect.

176. As a direct and proximate result of Defendant McNeil's breach of duty to the decedent, Plaintiff's decedent suffered injuries as described above.

177. Defendants' acts and omissions as stated above constitute "abuse" as that term is defined in § 415.102(1), Florida Statutes, as well as "neglect" as that term is defined in § 415.102(15), Florida Statutes.

178. Pursuant to § 415.1111, Florida Statutes, Plaintiff is entitled to actual

damages from Defendants, as well as attorneys' fees and costs.

179. Plaintiffs will seek punitive damages as provided for in the statute.

180. Plaintiffs also seek all survival damages permissible under Florida law including but not limited to pain and suffering and mental distress damages.

WHEREFORE, Plaintiff prays for judgment as noted below.

### **Damages**

A. The Estate of Jennifer Casey Norred has sustained the following damages:

1. funeral and burial expenses incurred as a result of decedent's death that have become a charge against her Estate or that were paid on her behalf;
2. decedent's conscious pain and suffering as permitted by law;
3. pre- and post-judgment interest.

B. The Survivors have sustained the following damages:

1. great mental pain, anguish, and suffering from the date of injury and continuing for the remainder of her life;
2. pre- and post-judgment interest; and
3. medical and funeral expenses due to the death of Casey Norred.

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs seek judgment as follows:

- A. Compensatory damages against each of the defendants herein;
- B. Punitive damages against defendants sued individually;

- C. Damages and fees pursuant to the ADA and Rehabilitation Act;
- D. All damages permitted under Chapter 415, Florida Statutes;
- E. Attorney's fees pursuant to 42 U.S.C. § 1988 and costs of litigation;
- F. A trial by jury on all issues so triable;
- G. Such further relief as the Court deems just and proper.

Respectfully Submitted, s/James V. Cook

JAMES V. COOK, ESQ.  
Florida Bar Number 0966843  
Law Office of James Cook  
314 West Jefferson Street  
Tallahassee, Florida 32301  
(850) 222-8080; 561-0836 fax  
[cookjv@gmail.com](mailto:cookjv@gmail.com)

ATTORNEY FOR PLAINTIFF

I CERTIFY a true copy hereof was served on 8/20/19 on all attorneys of record registered with the Court's Electronic Filing System. *s/James Cook*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

ELIZABETH FREDERICK,

Plaintiff,

v.

WALTER McNEIL, *et ano.*,

Defendants.

Case No. 4:19-cv-162-MW-MAF

**PLAINTIFF'S NOTICE OF SETTLEMENT  
AS TO SHERIFF McNEIL ONLY**

Pursuant to Local Rule 16.2(A)(1), Plaintiff Elizabeth Frederick hereby gives notice that all claims against Defendant Walter McNeil, Sheriff of Leon County, Florida, have been settled this afternoon. Counsel for Plaintiff and Sheriff McNeil anticipate filing a joint stipulation of dismissal of Sheriff McNeil with prejudice and with each party to bear their own fees and costs in the near future after the parties have completed their settlement papers and the terms of settlement. This notice is submitted so that the Court might avoid further judicial labor associated with Plaintiff's claims against Sheriff McNeil.

Dated: August 31, 2022.

SLATER LEGAL PLLC

By: /s/ James M. Slater

James M. Slater  
Florida Bar No. 111779  
113 S. Monroe Street  
Tallahassee, Florida 32301  
james@slater.legal  
Tel. (305) 523-9023

-and-

LAW OFFICE OF JAMES COOK

James V. Cook  
Florida Bar No. 0966843  
314 W. Jefferson Street  
Tallahassee, Florida 32301  
cookjv@gmail.com  
Tel. (850) 222-8080  
Fax (850) 561-0836

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2022, I electronically filed the foregoing document with the Clerk by using the CM/ECF system, which will serve a copy on all counsel of record.

By: /s/ James M. Slater

James M. Slater