

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JULIA ANNE PETERS, as Personal)
Representative of the Estate of)
TIMOTHY LEE PETERS, Deceased,)
)
Plaintiff,)
)
v.)
)
AL NIENHUIS,)
as HERNANDO COUNTY SHERIFF,)
DEPUTY SHARLENE CARR, CORPORAL)
ROBERT ZASIMOVITCH, DEPUTY)
JONATHAN HOFFMAN, CORPORAL)
JONATHAN MENDEZ, DEPUTY ANTHONY)
BECKER, SERGEANT JOSE PABON,)
CANDI HICKS, RN, CHRISTINE ANDREWS,)
LPN, ANN MARIE GUADAGNINO, RN, and)
ROBERT MCPHEE, MD)
)
Defendants.)
)
_____)

CASE NO:

COMPLAINT AND DEMAND FOR JURY TRIAL

Now comes Plaintiff, Julia Anne Peters, as Personal Representative of the Estate of Timothy Lee Peters, deceased, by and through counsel, and states and avers as follows for her complaint against the above-named Defendants.

PRELIMINARY STATEMENT

1. This is a civil rights action in which Plaintiff seeks relief for violation of the decedent’s rights secured and guaranteed by Title 42, Section 1983 of the United States Code (“U.S.C.”), the Fourth, Eighth and/or Fourteenth Amendments to the United States Constitution, the laws of the United States, and the laws of the State of Florida.

2. The claims asserted here arise from the events between April 13 and the date of April 16, 2022, the date of death of Timothy Lee Peters (“Plaintiff’s decedent”), age 49, and more specifically the events of April 15, 2022, when Plaintiff’s decedent, a pretrial detainee, was excessively pepper sprayed, restrained to a chair with multiple spit hoods over his head and face and then subjected to restraint maneuvers that deprived him of oxygen while in the custody of the Hernando County Sheriff while being detained on charges.

3. The claims asserted herein arise from acts, failures to act, and omissions committed, and policies, procedures, and customs in place and/or implemented, while Timothy Lee Peters was in the custody of the Hernando County Sheriff and during his detention at the Hernando County Jail from April 13 – 15, 2022, during which time Defendants, all of whom were acting under the color of law, violated the known and clearly established Constitutional rights of Timothy Lee Peters to be free from the use of excessive force, to due process of law, and deprived of necessary medical and mental health care and treatment for serious medical and mental health conditions that known by the Defendants.

4. Defendants, Deputy Sharlene Carr (“Carr”), Corporal Robert Zasimovitch (“Zasimovitch”), Deputy Jonathan Hoffman (“Hoffman”), Corporal Jonathan Mendez (“Mendez”), Deputy Anthony Becker (“Becker”) and Sergeant Jose Pabon (“Sergeant Pabon”) (collectively, the “Corrections Officer Defendants), were employed by the Hernando County Sheriff’s office, participated in, authorized, ratified, and/or failed to intervene to prevent unreasonable, outrageous, and excessive uses of force under the circumstances, and acted willfully, wantonly, maliciously, and with deliberate indifference

to and callous disregard for Timothy Lee Peters' constitutional rights, and in a manner that shocks the conscience and offends traditional notions of decency, all of which led to his wrongful and untimely death.

5. Defendant Hernando County Sheriff Al Nienhuis ("Sheriff Nienhuis") implemented and/or had in place, at all times relevant, policies, procedures and customs that violated and/or that were applied in such a way that they violated the constitutional rights of pre-trial detainees at the Hernando County Jail, including Timothy Lee Peters, to be free from the use of excessive force and to prompt and adequate medical and mental health care to treat serious medical and mental health needs.

6. Plaintiff seeks monetary damages (compensatory and punitive), as well as an award of costs and reasonable attorney's fees, and all such other relief as the Court deems appropriate.

PRELIMINARY ALLEGATIONS

7. This action is brought under Title 42 U.S.C § 1983 and under the Fourteenth Amendment of the United States Constitution pursuant to the general laws of the United States and the laws of the state of Florida.

8. Plaintiff alleges that the conduct of each Defendant deprived Timothy Lee Peters of his constitutional right to life, and to medical and mental health care for his serious medical and mental condition(s) and needs and caused Timothy Lee Peters to suffer grievous physical and mental pain, suffering, anxiety, harm, and death while detained in the Hernando County Jail and under the direct and continuous custody, control, supervision, and care of the Defendants.

9. Each Defendant named in the following Claims for Relief caused and is responsible for the unlawful conduct and resulting harm by, *inter alia*, personally participating in the conduct, or acting jointly and in concert with others who did; by authorizing, acquiescing, or failing or refusing, taking action maliciously and sadistically for the purpose of causing harm with deliberate indifference to and reckless disregard for Timothy Lee Peters' clearly established and known rights, to initiate and maintain adequate training, supervision, and staffing; by failing to maintain proper and adequate policies, procedures and protocols, and customs and practices; and by ratifying the unlawful conduct performed by agents and officers, deputies, medical providers, personnel, and employees under their direction, supervision, and control.

JURISDICTION AND VENUE

10. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as certain claims asserted herein arise under the Constitution and laws of the United States, to wit, the Fourth, Eighth and/or Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

11. Venue in this judicial district is proper pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(1) and (e)(2).

PARTIES

12. Plaintiff Julia Anne Peters is the duly appointed Personal Representative of the Estate of Timothy Lee Peters, deceased, Circuit Court for Hernando County, Florida, Probate Court Case No. 24000316CPAXMX (*Letters of Administration attached hereto as*

Exhibit A), and at all times relevant is and was a citizen of the United States of America, residing in the State of Florida.

13. In bringing this action against the above-named Defendants, Plaintiff Julia Anne Peters acts in her representative capacity for the benefit and on behalf of the Estate of Timothy Lee Peters.

14. Prior to his death, Timothy Lee Peters was a citizen of the United States of America residing in the State of Florida and entitled to the protections of the Constitutions and laws of the United States of America and the State of Florida.

15. At all times relevant, Defendant Sheriff Nienhuis was the lawful Sheriff of Hernando County, Florida, and through the Hernando County Sheriff's Office and its employees and agents, was the Sheriff of a duly authorized law enforcement agency, with the ability to sue and be sued, residing in Hernando County in the Middle District of Florida.

16. At all times relevant, Defendant Sheriff Nienhuis was responsible for the administration, operation, and supervision of the Hernando County Jail/ detention system and facilities, including the Hernando County Jail, and for the promulgation, enforcement and review of rules, regulations, policies, customs, and practices relevant thereto, who was acting under the color of law. Defendant Sheriff Nienhuis is sued in his official capacity.

17. Defendant Sheriff Nienhuis operated, maintained and/or controlled the Hernando County Jail at which Timothy Lee Peters was detained from April 13-15, 2022, during which time he was under the exclusive custody, control and care of Defendant

Sheriff Nienhuis including the employees and agents of the Hernando County Sheriff's Office.

18. At all times relevant, Defendant Sheriff Nienhuis was under a non-delegable duty to refrain from using excessive and/or unreasonable force on those detained at the Hernando County Jail, and to ensure that detainees at the Hernando County Jail were not subjected to excessive and/or unreasonable force in violation of their Constitutional rights.

19. At all times relevant, Defendant Sheriff Nienhuis was under a non-delegable duty to promulgate policies, practices, procedures, and/or customs to ensure that detainees at the Hernando County Jail were not subjected to excessive and/or unreasonable force in violation of their Constitutional rights.

20. At all times relevant, Defendant Sheriff Nienhuis was under a non-delegable duty to promulgate policies, practices, procedures, and/or customs to ensure that detainees at the Hernando County Jail were provided with adequate, necessary, and reasonable medical and mental health care, screening, assessment, treatment, intervention, referral, and attention.

21. At all times relevant, Defendant Sheriff Nienhuis was under a non-delegable duty to provide adequate, necessary, and reasonable medical and mental health care, screening, assessment, treatment, intervention, referral, and attention to those detained at the Hernando County Jail.

22. At all times relevant, Defendant Carr was a Corrections Deputy/ Officer acting within the course and scope of her employment with the Hernando County Sheriff,

and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Carr is sued in her individual capacity.

23. At all times relevant, Defendant Zasimovitch was a Corrections Deputy/ Officer acting within the course and scope of his employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Zasimovitch is sued in his individual capacity.

24. At all times relevant, Defendant Hoffman was a Corrections Deputy/ Officer acting within the course and scope of his employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Hoffman is sued in his individual capacity.

25. At all times relevant, Defendant Mendez was a Corrections Deputy/ Officer acting within the course and scope of his employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Mendez is sued in his individual capacity.

26. At all times relevant, Defendant Becker was a Corrections Deputy/ Officer acting within the course and scope of his employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody,

supervision, and care at the Hernando County Jail. Defendant Becker is sued in his individual capacity.

27. At all times relevant, Defendant Sergeant Pabon was a Corrections Sergeant acting within the course and scope of his employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Pabon is being sued in his individual capacity.

28. At all times relevant, Defendant Hicks was a licensed nurse acting within the course and scope of her employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Hicks is being sued in her individual capacity.

29. At all times relevant, Defendant Andrews was a licensed nurse acting within the course and scope of her employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Andrews is being sued in her individual capacity.

30. At all times relevant, Defendant Guadagnino was a licensed nurse acting within the course and scope of her employment with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant Guadagnino is being sued in her individual capacity.

31. At all times relevant, Defendant McPhee was a licensed physician acting within the course and scope of his agreement with the Hernando County Sheriff, and under the color of law, who was directly responsible for Timothy Lee Peters' custody, supervision, and care at the Hernando County Jail. Defendant McPhee is being sued in his individual capacity.

GENERAL FACTUAL ALLEGATIONS

32. Timothy Lee Peters was detained at the Hernando County Jail from April 13 – 15, 2022. During these periods of detention, Timothy was within the continuous exclusive custody, supervision, and control of Defendant Sheriff Nienhuis and the Corrections Officer Defendants as a pre-trial detainee. During the time incarcerated prior to the events of April 15, 2022 described below, Plaintiff's decedent clearly exhibited signs and symptoms of both a mental health and medical crisis that were not, with deliberate indifference, treated or addressed.

33. During his period of detention at the Hernando County Jail, the Corrections Officer Defendants purposefully, maliciously, wantonly and/or with deliberate indifference to and/or callous and reckless disregard for his rights, health, and safety, used, participated in, or authorized: the failure to provide medical and mental health care and treatment for a known and serious medical and mental health condition by either obtaining a consultation with a licensed and trained professional or with a transfer of the inmate to a hospital for emergency medical and mental health care; the use of excessive force and/or a failure to prevent and in fact an acquiescence in the use of outrageous and excessive force on Timothy, including, but not limited to: excessive applications of Oleoresin Capsicum spray ("O.C.

spray” or “pepper spray”) to Timothy’s head, face, and/or body, without proper decontamination and medical evaluation; the restraint of Timothy with a spit hood over his head and face and at times with two spit hoods over his head and face; the use of a restraint chair; and the use of excessive restraint procedures including, kneeling of the inmates back with the inmate in a prone position and hyperflexion of the neck in a position with his chin to his chest, both of which combined, deprived Timothy from oxygen for an excessive period of time.

34. Upon information and belief, on April 13,14 and 15, 2022, Timothy was noted to be in his cell, exhibiting signs and symptoms of both a mental health and medical crisis. He was seen observed by the corrections officers and medical staff on April 13, 14 and 15, 2022 and the following observations were documented in the correctional file and medical chart: he was seen “jumping around like a monkey” and that all the nurses were continuously telling inmate Peters to settled down; he reminded a corrections officer “of someone who had really bad PTSD” and was noted to be sweating profusely and really strung out; he was also noted to “the panic button” anytime a uniformed corrections officer came to his jail cell and would scream “stop, stop, stop”; he was observed speaking incoherently and in incomplete sentences, he was hallucinating and told a nurse that his “job was to eat her”; he was observed continuously making repeated references to religious figures and stating to officers “I’m here to save you”; and he told the nursing staff that he was seeing things that were not present in his cell like deceased family mebers on the floor of his cell. On April 15, 2022, at 10:51 and 11:03, he is observed vomiting in his cell with

abdominal distention and he continued thereafter to exhibit signs of extreme agitation with psychotic behavior.

35. At 13:57 on April 15, 2022, without any medical or mental health treatment for his serious conditions, the corrections officers and medical staff decided to extract Timothy from his cell and pepper sprayed Timothy with 3 bursts, such that Mr. Peters was completely debilitated. The corrections officers then entered his jail cell, handcuffed his hands and legs, and applied a spit hood over his head, despite the fact that Timothy had been seen vomiting. The use of a spit hood in this situation is a direct contravention of the jail policies and procedures, which indicate that spit hoods should not be used on inmates that have been vomiting.

36. The Defendant Corrections Officers and medical staff put Timothy into a restraint chair and transported him to a shower, for the purpose of removing what they thought was fecal matter from his body. The corrections officers and medical staff improperly “decontaminated” Timothy by using the shower without removing the spit hood, in violation of the jail policy.

37. After the shower, the corrections officers and medical staff, while attempting to move Timothy to a different restraint chair, used an excessive means of force on Timothy, where they knelt on his back while he was in a prone position, a maneuver known to deprive custodial inmates of oxygen.

38. Despite Timothy’s struggles, the hood remained over his head and face when they attempted to shower Timothy, and then despite that, they noted bleeding coming from his head and neck area after the shower. Defendants callously applied a second spit

hood while Timothy was restrained in the restraint chair. The use of excessive and deadly force continued with callous administration of the hyperflexion maneuver for an extended period of time, which deprived Plaintiff's decedent of oxygen and caused him to become flacid, lifeless and unresponsive.

39. Defendants callously applied deadly force to the back of Mr. Peters' head pushing his chin towards his chest, in direct contravention of the use of force policy at the jail, such that when the detective arrived to investigate Timothy's death, the corrections officers and medical staff repeatedly expressed concerns to the investigative detective about whether Timothy's neck had been broken from the excessive use of force.

40. The hyperflexion maneuver is known to reduce the ability of a person to breathe and properly exchange oxygen and constitutes deliberate indifference to the rights and safety of an inmate.

41. At or about 2:40 p.m., while restrained in the chair with two spit hoods covering his head and face, after having been pepper sprayed, and after the use of excessive and deadly force, Timothy was found without a pulse and was not breathing.

42. After Defendants found Timothy pulseless, they unreasonable delayed, with deliberate indifference, the administration of life saving CPR and timely notification of emergency medical assistance – as it was documented that EMS was notified 14 minutes after he was noted to be unresponsive.

43. The next day, because of the events that transpired above and because the use of excessive and deadly force, Timothy was pronounced deceased.

44. On June 2, 2022, the Florida State Medical Examiner issued a Certificate of Death declaring Timothy's manner of death "Undetermined" but upon information and belief, his death was the direct and proximate cause of the Defendants' excessive use of force and the callous use of excessive amounts of pepper spray, the use of spit hoods with an inmate that was vomiting and bleeding and administration of the hyperflexion restraint maneuver designed to incapacitate the individual because of an inability to breathe while the procedure is administered.

45. At all times relevant, it was the policy, practice, custom and/or procedure of Defendant Sheriff Nienhuis, and/or his employees who have final decision-making authority to use excessive force and/or not to prevent the use of excessive force, including, but not limited to, the use of the hyperflexion maneuver to restrain an inmate, and the excessive, outrageous, and improper use of O.C. spray, spit hoods, and restraint maneuvers on pre-trial detainees in the custody of the Hernando County Sheriff at the Hernando County Jail. This policy, practice, custom and/or procedure constitutes deliberate indifference to and/or a callous disregard for the known and clearly established Constitutional due process rights of Timothy Lee Peters and other pre-trial detainees in the custody of the Hernando County Sheriff at the Hernando County Jail, all of which shocks the conscience and violates traditional notions of decency.

46. At all times relevant, Defendant Sheriff Nienhuis failed and/or refused to adequately train and/or supervise his deputies, officers, and employees, in the reasonable and appropriate use of force, including the appropriate and reasonable use of O.C. spray,

spit hoods, and restraint maneuvers on pre-trial detainees in the custody of the Hernando County Sheriff at the Hernando County jail, including Timothy Lee Peters.

47. At all times relevant, Defendant Sheriff Nienhuis' use of force and use of force training policies, customs, practices, and/or procedures were so deficient, inadequate and/or unreasonable that violations of Constitutional rights of pre-trial detainees, including Timothy Lee Peters, were certain and likely to, and in fact did occur. These policies, practices, customs and/or procedures constitute deliberate indifference to and/or a callous disregard for the known and clearly established Constitutional due process rights of Timothy Lee Peters, and other pre-trial detainees in the custody of the Hernando County Sheriff at the Hernando County Jail, all of which shocks the conscience and violates traditional notions of decency.

FIRST CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Carr, in her Individual Capacity, for Excessive Force in Violation of the Fourteenth Amendment.)

48. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

49. On April 15, 2022, Hernando County Jail Corrections Officers sprayed Timothy Lee Peters in the face with an excessive amount of O.C. spray while he was confined inside a cell at the Hernando County Jail. Timothy was not properly decontaminated and then subjected to excessive use of force that is designed to impair the flow of oxygen.

50. Defendant Carr participated in the restraint of Peters and held his shoulders down and watched the other corrections officers restrain Peters and then she watched as they performed CPR and further supervised and approved and/or ratified this force.

51. Thereafter, Defendants Zsimevitch, Hoffman, and Mendez restrained Timothy to a restraint chair pursuant to the order of Sergeant Pabon, with a spit hood over his head and without properly decontaminating him.

52. Defendant Carr did not intervene or notify medical and mental health staff of the need for an immediate medical assessment prior to, or after, applying excessive force and/or restraining him to a chair.

53. Defendant Carr ignored Timothy's need for medical and mental health treatment and watched as a second spit hood was placed over Peters' head, indirect contravention of the jail policy because Peters had been seen vomiting and bleeding from his mouth before the second spit hood was placed. Defendant Carr failed to intervene to prevent the excessive use of lethal force as she watched Deputy Hoffman use the hyperflexion restraint technique that resulted in Peters becoming unresponsive.

54. Defendant Carr heard someone say, "no, you can't, you can only put one on him" when the second spit hood was being placed, yet she ratified and watched the acts, omissions and callous behavior of the correctional and nursing staff noted above, including but not limited to, the excessive application of O.C. spray to the head, face, and body of Timothy Lee Peters, restraining Timothy to a restraint chair with two spit hoods over his head and then allowing the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, and neglecting his need for medical and

mental health treatment and participating in the foregoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts taken with malicious and sadistic intent to harm, and acquiescing, failing and/or refusing to prevent the foregoing acts and omissions, constitute conduct under the color of state law, which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

55. As a direct and proximate result of the foregoing conduct, Defendant Carr deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant, Carr deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

56. As a direct and proximate result of Defendant Carr's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Carr for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;

- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

SECOND CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Zasimovitch, in his Individual Capacity for Excessive Force in Violation of the Fourteenth Amendment.)

57. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

58. On April 15, 2022, Hernando County Jail Corrections Officer Zasimovitch watched as Peters vomited in his cell and then sprayed Timothy Lee Peters in the face with an excessive amount of O.C. spray while he was confined inside a cell at the Hernando County Jail. Defendant Zasimovitch then watched as a spit hood was placed over Peters' head in direct violation of the jail policy, which indicates that the use of a spit hood is contraindicated in the event an inmate is vomiting. Further, Zasimovitch watched and participated as Peters was subjected to excessive use of lethal force that is designed to impair the flow of oxygen.

59. Defendant Zasimovitch further supervised and approved and/or ratified the excessive force used on Peters and was in fact standing behind the chair as the excessive and lethal use of force was used on Peters – yet he took no action to intervene and prevent the use of force.

60. Thereafter, Defendants Carr, Zasimovitch, Hoffman and Mendez, continued with restraining Timothy to a restraint chair pursuant to the order of Sergeant Pabon, with a spit hood over his head and without properly decontaminating Timothy and then subjected Timothy to excessive use of force that is designed to impair the flow of oxygen.

61. Defendant Zasimovitch did not notify medical staff of the need for an immediate medical and mental health assessment prior to, or after, applying excessive force and/or restraining him to a chair.

62. Defendant Zasimovitch ignored Timothy's need for medical and mental health treatment and the need to have the spit hoods removed so that he could breathe and to further intervene to prevent the excessive use of force.

63. The acts and omissions of Defendant Zasimovitch including but not limited to, the excessive application of O.C. spray to the head, face, and body of Timothy Lee Peters, restraining Timothy to a restraint chair with a spit hood over his head – not once but twice, and then allowing the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, neglecting his need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

64. As a direct and proximate result of the foregoing conduct, Defendant Zasimovitch deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Zasimovitch deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

65. As a direct and proximate result of Defendant Zasimovitch's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Zasimovitch for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
and
- d. All such other relief which the Court deems appropriate.

THIRD CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Hoffman, in his Individual Capacity for Excessive Force in Violation of the Fourteenth Amendment.)

66. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

67. On April 15, 2022, Hernando County Jail Corrections Officers sprayed Timothy Lee Peters in the face with an excessive amount of O.C. spray while he was confined inside a cell at the Hernando County Jail. Defendant Hoffman then participated in the extraction of Peters from his cell and assisted as a spit hood was placed over Peters' head, despite the fact that he had been vomiting, and excessive use of force under jail policy.

68. Thereafter, Defendants Hoffman, Carr, Zasimovitch, and Mendez continued to restrain Timothy to a restraint chair pursuant to the order of Sergeant Pabon, with a spit hood over his head and without properly decontaminating him.

69. Defendant Hoffman callously and with deliberate indifference to the rights and safety, participated in and supervised, approved and/or ratified this use of excessive force and then callously and with sadistic intent when Hoffman employed the hyperflexion restraint maneuver on Timothy with such force that Peters was immediately noted after this use of lethal force to be flacid and unresponsive.

70. Defendant Hoffman did not notify medical staff of the need for an immediate medical assessment prior to, or after, applying excessive force and/or restraining him to a chair and in fact, EMS was not called for another 14 minutes after Peters was noted to be unresponsive.

71. Defendant Hoffman ignored Timothy's need for medical and mental health treatment and the need to have the spit hoods removed so that he could breathe and to further intervene to prevent the excessive and lethal use of force.

72. The acts and omissions of Defendant Hoffman including but not limited to, the excessive application of O.C. spray to the head, face, and body of Timothy Lee Peters, restraining Timothy to a restraint chair with a spit hood over his head – not once but twice, and then allowing his use of excessive and lethal force with the use of a restraint measure that is known to impair the intake of oxygen, ignoring his need for medical and mental health treatment and participating in the foregoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

73. As a direct and proximate result of the foregoing conduct, Defendant Hoffman deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Hoffman deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

74. As a direct and proximate result of Defendant Hoffman's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Hoffman for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

FOURTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Mendez, in his Individual Capacity, for Excessive Force in Violation of the Fourteenth Amendment.)

75. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

76. On April 15, 2022, after the Hernando County Jail Corrections Officers sprayed Timothy Lee Peters in the face with an excessive amount of O.C. spray while he was confined inside a cell at the Hernando County Jail, Defendant Mendez arrived and

participated in the excessive use of force and the improper use of a spit hood on Mr. Peters and then subjected to excessive use of force that is designed to impair the flow of oxygen.

77. Thereafter, Defendant Mendez continued to restrain Timothy to a restraint chair pursuant to the order of Sergeant Pabon, and participated in the placement of a second spit hood over Peters' head in direct contravention of the jail policy, which indicated that spit hoods cannot be used on patients that have been vomiting and/or bleeding.

78. Defendant Mendez participated in, supervised and approved and/or ratified this force without intervention.

79. Defendant Mendez did not notify medical staff of the need for an immediate medical assessment prior to, or after, applying excessive force and/or restraining him to a chair.

80. Defendant Mendez ignored Timothy's need for medical and mental health treatment and the need to have the spit hoods removed so that he could breathe and to further intervene to prevent the excessive and lethal use of force.

81. The acts and omissions of Defendant Mendez including but not limited to, the excessive application of O.C. spray to the head, face, and body of Timothy Lee Peters, restraining Timothy to a restraint chair with a spit hood over his head – not once but twice, and then allowing the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, neglecting his need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and

sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

82. As a direct and proximate result of the foregoing conduct, Defendant Mendez deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Mendez deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

83. As a direct and proximate result of Defendant Mendez's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against the Defendant Mendez for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;

- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
and
- d. All such other relief which the Court deems appropriate.

FIFTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Becker, in his Individual Capacity, for Excessive Force in Violation of the Fourteenth Amendment.)

84. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

85. On April 14, 2022, Hernando County Jail Corrections Officer Becker noted that Timothy Peters appeared to be “out of it, not very cognizant of what was going on around him.” He further noted that Peters was talking to himself most of the night and rambling while he was confined inside a cell at the Hernando County Jail.

86. Defendant Becker knew that Timothy Peters had objectively serious medical and mental health needs and said Defendant acted with deliberate indifference by failing to report Mr. Peters' medical and psychiatric needs to his supervisor and further by failing to ignore Mr. Peters' medical and psychiatric care that he needed. Left unattended, the serious medical and mental health conditions posed a substantial risk of serious harm to Timothy.

87. Defendant Becker ignored Timothy's need for medical and mental health treatment because he witnessed Mr. Peters' incoherent speech, hallucinations, and objectively obvious medical and psychiatric needs. By witnessing Mr. Peters' actions, Defendant Becker had direct knowledge of the risk of serious harm. Defendant Becker

disregarded that risk and acted with deliberate indifference as to the serious medical and mental health conditions and the for medical and mental health treatment.

88. Defendant Becker after witnessing Timothy Peters in the jail exhibit signs and symptoms of serious medical and mental health conditions, was aware of the facts from which an inference could be drawn that a substantial risk of serious harm exists and further, Defendant Becker did in fact draw the inference and was aware of said risk during Timothy's period of incarceration. Defendant Becker ignored Timothy's need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

89. As a direct and proximate result of the foregoing conduct, Defendant Becker deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Becker deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

90. As a direct and proximate result of Defendant Becker's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely

death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Becker for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

SIXTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Sergeant Pabon, in his Individual Capacity, for Excessive Force in Violation of the Fourteenth Amendment.)

91. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

92. On April 15, 2022, Hernando County Jail Corrections Officers, under the direction of Sergeant Pabon, sprayed Timothy Lee Peters in the face with an excessive amount of O.C. spray while he was confined inside a cell at the Hernando County Jail. Under the further direction of Sergeant Pabon, Timothy was subjected to the use of a spit hood in direct contravention of the jail policy and then ratified and participated in the excessive and lethal use of force that is designed to impair the flow of oxygen.

93. Thereafter, Defendants Carr, Zsimevitch, Hoffman and Mendez restrained Timothy to a restraint chair, and placed a second spit hood over his head and without properly decontaminating him, pursuant to the orders of Defendant Sergeant Pabon.

94. Defendant Sergeant Pabon did not notify medical staff of the need for an immediate medical assessment prior to, or after, the application of excessive and lethal use of force and/or restraint of Peters to a chair.

95. Defendant Sergeant Pabon, who was standing at Peters' side during the events, watched and ignored Timothy's need for medical and mental health treatment and the need to have the spit hoods removed so that he could breathe and failed to further intervene to prevent the excessive and lethal use of force. Defendant Pabon then failed to call for EMS until 14 minutes after Peters became unresponsive.

96. The acts and omissions of Defendant Sergeant Pabon including but not limited to, the excessive application of O.C. spray to the head, face, and body of Timothy Lee Peters, restraining Timothy to a restraint chair with a spit hood over his head – not once but twice, and then allowing the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, neglecting his need for medical and mental health treatment and participating in the foregoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

97. As a direct and proximate result of the foregoing conduct, Defendant Sergeant Pabon deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Sergeant Pabon deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

98. As a direct and proximate result of Defendant Sergeant Pabon's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Sergeant Pabon for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
and
- d. All such other relief which the Court deems appropriate.

SEVENTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Candi Hicks, RN in her Individual Capacity, for Deliberate Indifference to Serious Medical and Mental Health conditions and Allowance and ratification of Excessive Force in Violation of the Fourteenth Amendment.)

99. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

100. On April 15, 2022, Defendant Candi Hicks, RN knew that Timothy Peters had objectively serious medical and mental health needs and said Defendant acted with deliberate indifference by failing to report his medical and psychiatric needs to her supervisor and further by failing to ignore Mr. Peters' medical and psychiatric care that he needed. Left unattended, the serious medical and mental health conditions posed a substantial risk of serious harm to Timothy.

101. Defendant Hicks ignored Timothy's need for medical and mental health treatment because she witnessed Mr. Peters' incoherent speech, hallucinations, and objectively obvious medical and psychiatric needs. By witnessing Mr. Peters' actions, Defendant Hicks had direct knowledge of the risk of serious harm. Defendant Hicks disregarded that risk and acted with deliberate indifference as to the serious medical and mental health conditions and the for medical and mental health treatment.

102. Defendant Hicks after witnessing Timothy Peters in the jail exhibit signs and symptoms of serious medical and mental health conditions, was aware of the facts from which an inference could be drawn that a substantial risk of serious harm exists and further, Defendant Hicks did in fact draw the inference and was aware of said risk of during Timothy's period of incarceration. Defendant Hicks ignored Timothy's need for medical

and mental health treatment and participated in the use of excessive force and the placement of the spit hoods on April 15, 2022, and all forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

103. The medical and nursing staff, including Candi Hicks, RN, further ignored Timothy's alcohol withdrawal and serious side effects and other medical conditions exhibited by the vomiting and distention and callously refused to administer medical and mental health treatment for his serious medical conditions.

104. The medical and nursing staff ignored Timothy's serious medical and mental health conditions and further refused to transport Timothy to the hospital for further evaluation.

105. The right to receive medical treatment has been clearly established that any reasonable official in like her similar circumstances, would have known that certain treatment was necessary; and the refusal to provide, or a delay in the provision of the treatment constitutes a deliberate indifference and violates the detainee's Fourteenth and Eighth Amendment rights.

106. Defendant Candi Hicks, RN did not notify medical staff of the need for an immediate medical assessment prior to, or after, the corrections officers applied excessive force and/or restraining him to a chair.

107. Defendant Candi Hicks, RN ignored Timothy's need for medical and mental health treatment and the need to have the spit hoods removed so that he could breathe and to further intervene to prevent the excessive use of force.

108. The medical and nursing staff, including Candi Hicks, RN further had knowledge of the need for medical and mental health care, and any reasonable official, and like or similar circumstances, would have known that certain treatment was necessary to prevent a deprivation of constitutional rights.

109. The acts and omissions of Defendant Candi Hicks, RN, including but not limited to, the refusal to transfer Timothy Peters to the hospital, despite the known medical and mental health crisis, the refusal to call EMS when it was known that Timothy Peters had no pulse, the refusal to intervene, and prevent the corrections officers, excessive use of force, the allowance and participation in the use of two spit hoods, despite the fact that the inmate had been vomiting and bleeding in direct violation of the written policies and procedures, and the refusal to bring the inmates, serious mental health and medical conditions to the attention of a physician constitute deliberate indifference as it relates to Timothy Peters' known serious medical condition. Further, Candi Hicks, RN's allowance of the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, and neglecting his need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters

of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

110. As a direct and proximate result of the foregoing conduct, Defendant Candi Hicks, RN deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Candi Hicks, RN deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

111. As a direct and proximate result of Defendant Candi Hicks, RN's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Candi Hicks, RN for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;

- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
and
- d. All such other relief which the Court deems appropriate.

EIGHTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Christine Andrews, LPN in her Individual Capacity, for Deliberate Indifference to Serious Medical and Mental Health conditions in Violation of the Fourteenth Amendment.)

112. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

113. On April 14, 2022, Defendant Christine Andrews, LPN witnessed Peters and noted that Peters had a bizzare thought process and that he stated that "I am going to hell and it doesn't matter, I am going to die." Defendant Andrews knew that Timothy Peters had objectively serious medical and mental health needs and said Defendant acted with deliberate indifference by failing to take any action to address this serious medical condition or report his medical and psychiatric needs to her supervisor and further, by failing to ignore Mr. Peters' medical and psychiatric care that he needed. Left unattended, the serious medical and mental health conditions posed a substantial risk of serious harm to Timothy.

114. Defendant Andrews ignored Timothy's need for medical and mental health treatment because she witnessed Mr. Peters' incoherent speech, hallucinations, and objectively obvious medical and psychiatric needs. By witnessing Mr. Peters' actions, Defendant Andrews had direct knowledge of the risk of serious harm. Defendant Andrews

disregarded that risk and acted with deliberate indifference as to the serious medical and mental health conditions and the for medical and mental health treatment.

115. Defendant Andrews after witnessing Timothy Peters in the jail exhibit signs and symptoms of serious medical and mental health conditions, was aware of the facts from which an inference could be drawn that a substantial risk of serious harm exists and further, Defendant Andrews did in fact draw the inference and was aware of said risk of during Timothy's period of incarceration. Defendant Andrews ignored Timothy's need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

116. As a direct and proximate result of the foregoing conduct, Defendant Christine Andrews, LPN deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Christine Andrews, LPN deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

117. As a direct and proximate result of Defendant Christine Andrews, LPN's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and

untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Christine Andrews, LPN for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

NINTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Ann Marie Guadagnino, RN in her Individual Capacity, for Deliberate Indifference to Serious Medical and Mental Health conditions in Violation of the Fourteenth Amendment.)

118. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

119. On April 15, 2022, Defendant Ann Marie Guardagnino, RN knew that Timothy Peters had objectively serious medical and mental health needs and said Defendant acted with deliberate indifference by failing to report his medical and psychiatric needs to her supervisor and further, by failing to ignore Mr. Peters' medical

and psychiatric care that he needed. Left unattended, the serious medical and mental health conditions posed a substantial risk of serious harm to Timothy.

120. Defendant Guardagnino ignored Timothy's need for medical and mental health treatment because she witnessed Mr. Peters' incoherent speech, hallucinations, and objectively obvious medical and psychiatric needs. By witnessing Mr. Peters' actions and then placing the second spit hood over Mr. Peters' face, Defendant Guardagnino had direct knowledge of the risk of serious harm. Defendant Guardagnino disregarded that risk and acted with deliberate indifference as to the serious medical and mental health conditions and the for medical and mental health treatment.

121. Defendant Guardagnino after witnessing Timothy Peters in the jail exhibit signs and symptoms of serious medical and mental health conditions, was aware of the facts from which an inference could be drawn that a substantial risk of serious harm exists and further, Defendant Guardagnino did in fact draw the inference and was aware of said risk of during Timothy's period of incarceration. Defendant Guardagnino ignored Timothy's need for medical and mental health treatment and participated in the reckless placement of the second spit hood over Mr. Peters' face and head and in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

122. As a direct and proximate result of the foregoing conduct, Defendant Ann Marie Guadagnino, RN deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Ann Marie Guadagnino, RN deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

123. As a direct and proximate result of Defendant Ann Marie Guadagnino, RN's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Ann Marie Guadagnino, RN for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

TENTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Robert McPhee, MD in his Individual Capacity, for Deliberate Indifference to Serious Medical and Mental Health conditions and Allowance and ratification of Excessive Force in Violation of the Fourteenth Amendment.)

124. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

125. On April 13-15, 2022, Hernando County Jail medical and mental health staff documented and witnessed Timothy Lee Peters' psychotic episodes, his hallucinations, his repeated use of incoherent speech and language, and references to religious figures out of context, such that they knew that Timothy was in the throes of an extreme psychotic episode and mental health crisis while he confined inside a cell at the Hernando County Jail.

126. The medical and nursing staff, including Defendant Robert McPhee, MD, who treated Timothy Peters and issued orders for Timothy's care, further ignored Timothy's alcohol withdrawal and serious side effects and other medical and psychiatric conditions exhibited by the vomiting, distention, hallucinations, and incoherent speech callously refused to administer medical and mental health treatment for his serious medical conditions.

127. The medical and nursing staff that operated in part under the supervision and the policies implemented by Defendant McPhee, ignored Timothy's serious medical and mental health conditions and further refused to transport Timothy to the hospital for further evaluation.

128. The right to receive medical treatment has been clearly established and any reasonable official in like his similar circumstances, would have known that certain medical and psychiatric treatment was necessary; and the refusal to provide, or a delay in the provision of the treatment constitutes a deliberate indifference and violates the detainees Fourteenth and Eighth Amendment rights.

129. Defendant Robert McPhee, MD treated Timothy and ignored Timothy's need for medical and mental health treatment such that, Defendant McPhee had sufficient knowledge of a risk of serious harm, disregarded that risk of harm, and his actions constitute a deliberate indifference to the serious medical condition of Mr. Peters. Defendant McPhee was aware of the serious mental health condition and from those facts from which an inference could be drawn that a substantial risk of serious harm exists, and in fact, Defendant McPhee did in fact draw that inference and was aware that his risk of serious harm existed to Mr. Peters.

130. The medical and nursing staff, including Robert McPhee, MD, further had knowledge of the need for medical and mental health care, and any reasonable official, and like or similar circumstances, would have known that certain treatment was necessary to prevent a deprivation of Constitutional rights.

131. The acts and omissions of Defendant Robert McPhee, MD, including but not limited to, the refusal to transfer Timothy Peters to the hospital for a psychiatric evaluation, despite the known medical and mental health crisis, the refusal to consult with a psychiatric expert and given the actions and the medical staff's refusal to intervene, and to prevent the corrections officers excessive use of force, the allowance and participation

in the use of two spit hoods, despite the fact that the inmate had been vomiting and bleeding in direct violation of the written policies and procedures, and the refusal to bring the inmate's serious mental health and medical conditions to the attention of a physician, constitute deliberate indifference as it relates to Timothy Peters' known serious medical condition. Further, Robert McPhee, MD's allowance of the use of excessive force and a restraint measure to be used that is known to impair the intake of oxygen, and neglecting his need for medical and mental health treatment and participating in the forgoing acts and omissions, ordering, authorizing, directing, supervising, approving and/or ratifying the foregoing acts and omissions, and acquiescing, failing and/or refusing to prevent the foregoing acts taken with malicious and sadistic intent to harm, constitute conduct under the color of state law which deprived Timothy Lee Peters of his clearly established and known rights, privileges, and immunities secured by the Constitution and laws of the United States.

132. Defendant McPhee, as an independent contractor, by contract, agreed to oversee the psychiatric policies and nursing staff and to adhere to the policies and procedures, and perform continuous quality improvement, risk management and utilization and review, approve and support treatment protocols, formularies, and policies, established by the facility, including compliance with prudent clinical documentation standards, and to review and evaluate the health care provided to inmates; however, as exhibited above, Defendant McPhee callously, with a deliberate indifference, ratified conduct such that the mental health, medical and psychiatric care was not provided to Timothy Peters despite the serious medical and mental health conditions which were known by Defendant McPhee

and further knew that the use of spit hoods in violation of policy when a detainee is vomiting or bleeding was force that was objectively unreasonable.

133. Defendant McPhee's knowledge of the policies and procedures, followed by the medical staff in violation of the detainee's constitutional rights, was so precise and pervasive that the refusal to prevent harm rises to the level of a custom or policy that deprived detainees of their Constitutional rights. Defendant McPhee instituted custom policies and practices that resulted in a deliberate indifference to the Constitutional rights of Timothy Peters and he further directed his subordinates to act unlawfully, or knew that his subordinates would act unlawfully and failed to stop them from doing so in direct violation of Timothy's Constitutional rights.

134. As a direct and proximate result of the foregoing conduct, Defendant Robert McPhee, MD deprived Timothy Lee Peters of his clearly established and known rights under the Fourteenth Amendment of the United States Constitution. More specifically, Defendant Robert McPhee, MD deprived Timothy of: (1) his right to be free from a deprivation of life and liberty without due process of law; and (2) his right to be free from the use of excessive, outrageous, and unreasonable force, which shocks the conscience and offends traditional notions of decency.

135. As a direct and proximate result of Defendant Robert McPhee, MD's violations of Timothy Lee Peters' Constitutional rights, which resulted in his wrongful and untimely death, Timothy was forced to endure and suffer extreme physical, mental, and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Robert McPhee, MD for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Punitive damages in an amount that will serve to adequately punish and deter the conduct alleged herein;
- c. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. All such other relief which the Court deems appropriate.

ELEVENTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Sheriff Nienhuis, in his Official Capacity for Failure to Supervise, Train, and Take Corrective Measures Causing Constitutional Violations.)

136. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

137. Plaintiff is informed and believes and thereon alleges that Defendant Sheriff Nienhuis knew or should have known of a history, custom, propensity, and pattern at times relevant to the allegations herein for Hernando County Corrections Officers, Deputies, nursing and medical staff at the Hernando County Jail for failing and/or refusing to provide prompt and competent access to and delivery of medical and mental health assessment, evaluation, care, intervention, referral, and treatment to detainees at the Hernando County Jail, including Timothy Lee Peters. Defendant Sheriff Nienhuis' disregard of this

knowledge, or failure and/or refusal to adequately investigate and discover and correct such history, customs and propensities, proximately caused the violation of the Constitutional rights of Timothy Lee Peters as alleged herein.

138. Plaintiff is informed and believes and thereon alleges that prior to the incident alleged herein, Sheriff Nienhuis and other nursing staff, deputies, officers, employees, agents, medical directors, medical and mental providers, and doctors, acting under their authority as officers and/or within the course and scope of their employment, committed similar acts of:

- a. Failing and/or refusing to provide timely adequate access to and delivery of mental health and medical care, assessment, evaluation, intervention, referral, and treatment for detainees at the Hernando County Jail with obvious and/or known serious mental and medical health conditions and needs;
- b. Failing and/or refusing to provide adequate housing and properly classify detainees at the Hernando County Jail so that they will have timely and adequate access to and delivery of necessary and indicated medical and mental health assessment, evaluation, care, intervention, referral, and treatment;
- c. Failing and/or refusing to designate certain types and modalities of force as medically contraindicated for certain detainees at the Hernando County Jail who have known, or knowable, serious medical and mental health conditions; and

d. Failure and/or refusal to provide adequate monitoring and housing for detainees at the Hernando County Jail who present risk of serious physical and/or mental harm and death.

139. Plaintiff is informed and believes and thereon alleges that Sheriff Nienhuis knew or should have known, of this pattern or practice of unconstitutional violations, or the existence of facts, practices, customs and/or habits, which create the strong potential for unconstitutional acts, and Sheriff Nienhuis had a duty to supervise, train, and instruct his subordinates to prevent similar acts to other detainees at the Hernando County Jail, including Timothy Lee Peters, but failed and/or refused to take reasonable and necessary steps to properly supervise, train, instruct, or investigate officers, physicians, nurses, medical and mental health personnel and as a direct and proximate result, Timothy Lee Peters was harmed and suffered death in the manner threatened by the patterns or practices.

140. At all times relevant, Sheriff Nienhuis had the duty:

- a. To train, supervise, and instruct deputies, officers, nurses, physicians, medical and mental health personnel, and other agents and employees to ensure that they respected and did not violate federal Constitutional and statutory rights of detainees at the Hernando County Jail with regard to providing necessary medical care and the reasonable and appropriate use of force;
- b. To objectively investigate incidents of in-custody injury, deaths, inadequate classifications and contraindicated housing, denials of

prescription medications, and incidents of in-custody use of excessive force and uses of contraindicated force, and to take necessary remedial action;

c. To provide access to and delivery of timely competent medical and mental health assessment, evaluation, intervention, referral, care, treatment, follow-up, and attention to medically and/or mentally ill detainees at the Hernando County Jail;

d. To monitor the medical and mental health care and treatment provided to mentally and physically ill detainees at the Hernando County Jail;

e. To monitor and periodically review the adequacy of medical and custodial staffing to ensure adequacy of medical and mental health care, treatment, intervention, referral, and attention rendered to mentally and physically ill detainees at the Hernando County Jail;

f. To monitor and periodically review the classification and housing of mentally and physically ill detainees at the Hernando County Jail to ensure they are properly classified and housed;

g. To comply with the statutory guidelines and the standard of care protecting detainees at the Hernando County Jail and/or custodial setting;

h. To adequately discipline and establish reasonable procedures to document and correct past violations, and to prevent future violations of Constitutional right of detainees at the Hernando County Jail, by not

condoning, ratifying and/or encouraging the violation of Timothy Lee Peters' and other detainees' constitutional rights; and

i. To adequately and periodically train custodial and medical and mental health staff on understanding, recognizing, reporting and responding to issues of physical and mental health episodes/symptoms of detainees at the Hernando County Jail.

141. Sheriff Nienhuis breached the foregoing duties by:

a. Failing and/or refusing to train, supervise, and instruct deputies, officers, nurses, physicians, medical and mental health personnel, and other employees at the Hernando County Jail, on the violations of the Constitutional rights of Timothy Lee Peters and other detainees;

b. Failing and/or refusing to objectively investigate in-custody injury, deaths, inadequate classifications and contraindicated housing, denials of prescription medications, and incidents of in-custody use of excessive force and uses of contraindicated force, and failing and/or refusing to take necessary remedial action;

c. Failing and/or refusing to provide timely competent medical and mental health assessment, evaluation, care, treatment, referral, and intervention for mentally and physically ill detainees at the Hernando County Jail, which resulted in serious injury or death;

d. Failing and/or refusing to monitor a detainee's medical and mental health condition, which resulted in serious injury or death;

e. Failing and/or refusing to monitor and periodically review the quality of medical and mental health assessment, evaluation, care, treatment, referral, and intervention provided to mentally and physically ill detainees;

f. Failing and/or refusing to monitor and periodically review the timelines and adequacy of medical and mental health assessment, evaluation, care, treatment, referral, and intervention rendered to mentally and physically ill detainees;

g. Failing and/or refusing to monitor and periodically review the classification of detainees at the Hernando County Jail to ensure they are properly housed;

h. Failing and/or refusing to comply with the statutory guidelines and the standards of care protecting detainees at the Hernando County Jail and/or in the custodial setting;

i. Failing and/or refusing to adequately discipline and establish reasonable procedures to documents and correct past violations, and to prevent future violations of Constitutional rights of detainees at the Hernando County Jail, by not condoning, ratifying, and/or encouraging the violation of Timothy Lee Peters' and other detainees' constitutional rights;

j. Failing and/or refusing to adequately and periodically train custodial and medical and mental health staff on understanding, recognizing,

reporting, and responding to issues of physical and mental health episodes/symptoms of detainees at the Hernando County Jail; and

k. Overseeing, supervising, authorizing, approving of and/or ratifying the medical and mental health care and access thereto provided and not provided to Timothy Lee Peters.

142. As a direct and proximate result of the conduct of Sheriff Nienhuis, Timothy Lee Peters was forced to endure and suffer extreme physical, mental and emotional pain and suffering, death, and pecuniary loss, including medical expenses, funeral and burial expenses, and lost earning and/or benefits.

WHEREFORE, Plaintiff prays for judgment against Defendant Sheriff Nienhuis, is his official capacity for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and Timothy Lee Peters' next of kin;
- b. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C § 1988; and
- c. All such relief which the Court deems appropriate.

TWELTH CLAIM FOR RELIEF

(Violation of 42 U.S.C. § 1983 Against Defendant Sheriff Nienhuis, in His Official Capacity, for Custom, Policy, or Practice Causing Constitutional Violations.)

143. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

144. At all times relevant, Defendant Sheriff Nienhuis promulgated and maintained a de facto unconstitutional custom, policy, or practice of permitting, ignoring, and condoning and/or encouraging officers, deputies, nurses, physicians, medical and mental health personnel, and other employees and agents to use contraindicated and/or excessive force, or to participate and/or acquiesce in the use of contraindicated and/or excessive force on detainees at the Hernando County Jail, including Timothy Lee Peters, all of which shocks the conscience and offends traditional notions of decency, including, but not limited to:

- a. The use of unreasonable and excessive force, including the over use, unnecessary use, excessive use, and use purely for punitive purposes, of O.C. spray, restraint chairs, O.C. spray while detainees, including Timothy Lee Peters are restrained in the restraint chair, or placed in restraints immediately after the application of O.C. spray, and the use of a hood to cover detainees' head and face while restrained in the restraint chair immediately after the O.C. spray application;
- b. The failure and/or refusal to provide timely and adequate decontamination to detainees, including Timothy Lee Peters, after application of O.C. spray/foggers;
- c. The use of contraindicated force on detainees, including Timothy Lee Peters, who are medically and/or mentally ill/infirm and/or who have

not been adequately assessed, evaluated and/or screened for medical and mental health conditions/ infirmities;

d. The placement of spit hoods over the heads and faces of detainees, including Timothy Lee Peters, while restrained in a restraint chair who have been vomiting and bleeding and immediately following application of O.C. spray, without decontamination.

e. The use of O.C. spray, restraint and restraint chairs and/or spit hoods, including the concurrent use of said modalities of force, exclusively for malicious and/or punitive purposes; and

f. The failure and/or refusal to provide timely and adequate medical and mental health assessment, evaluation, intervention, referral, treatment, and care following and/or during the uses of force described herein.

145. These customs, policies and/or practices were the direct and proximate cause of the Constitutional violations visited upon, and the injuries and death of Timothy Lee Peters. The Corrections Officer Defendants acting in accordance with these customs, policies, or practices used excessive, unreasonable, outrageous and impermissible force and/or otherwise acted in a manner that shocks the conscience and offends traditional notions of decency.

146. At all times relevant, the policies, customs and/or procedures referenced in this Claim for Relief were facially and/or de facto violative of the clearly established and known rights of detainees at the Hernando County Jail, including Timothy Lee Peters, and their implementation constitutes deliberate indifference to and/or reckless and callous

disregard for the Constitutional rights of detainees, secured by the Fourteenth Amendment of the United States Constitution, including the right to due process of law, life, liberty, and to be free from excessive and unreasonable uses of force which shook the conscience and offend traditional notions of decency.

147. At all times relevant, the policies, customs and/or procedures referenced in this Claim for Relief were applied in such a manner and so pervasive the refusal to prevent harm rises to the level of the customer policy of depriving detainees of their constitutional rights. These customs and policies and practice were known by Defendant Sheriff Nienhuis to be applied in such a manner, that violations of the Constitutional rights of detainees at the Hernando County Jail were likely and substantially certain to, and did, occur. Furthermore, the application and/or misapplication of these policies, practices, and/or procedures amount to violations of the Constitutional rights of Timothy Lee Peters, secured by the Fourteenth Amendment to the United States Constitution, including the right to due process of law, life, liberty, and to be free from excessive and unreasonable uses of force which shock the conscience and offend traditional notions of decency.

148. The aforementioned custom and policies resulted in deliberate indifference to the Constitutional rights of pre-trial detainees, and the Sheriff directed his subordinates to act unlawfully and knew that his subordinates would act unlawfully and failed to stop them from doing so and the failures to properly supervise his employees and contractor resulted in a widespread abuse of detainees.

WHEREFORE, Plaintiff prays for judgment against Defendant Sheriff Nienhuis for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- c. All such other relief which the Court deems appropriate.

THIRTEENTH CLAIM FOR RELIEF

(Violation of Section 1983 of the U.S. Code Against All Defendants in Their Individual and Official Capacity for Failure to Supervise, Train, and Take Corrective Measures Causing Constitutional Violations of the Fourteenth Amendment and Due Process (a Monell Claim pursuant to *Monell v. Dept. of Soc. Servs.*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978))

149. Plaintiff restates and incorporates all relevant previously stated paragraphs in the complaint by reference as if fully rewritten herein.

150. Plaintiff's decedent was a citizen of the United States.

151. Plaintiff's decedent was deprived of his federal rights of due process and against cruel and unusual punishment and excessive use of force.

152. His deprivation of rights was committed by all Defendants who were acting under the color of state law. Inmates and pre-trial detainees have a Constitutional right to be free from cruel and unusual punishment and excessive use of force. This right includes the right to be free from cruel and unusual punishment and excessive use of force by Defendants and their employees. *See Kallstrom v. City of Columbus*, 136 F. 3d 1055, 1062 (6th Cir. 1998).

153. There was a clear and persistent pattern of cruel and unusual punishment and excessive use of force.

154. The jail had notice and/or constructive notice.

155. All Defendants approved and/or ratified and/or tacitly approved the cruel and unusual punishment and excessive use of force which amounted to an official policy of inaction. This was the moving force behind Plaintiff's decedent's deprivation of rights and damages.

156. All Defendants knew of a custom, propensity, and pattern at times relevant to the allegations herein, as described above, that among corrections officers and staff, there was a pattern for failing and/or refusing to investigate and take seriously constitutional violations that included cruel and unusual punishment and excessive use of force. All Defendants' disregard of the knowledge, or failure and/or refusal to adequately investigate and discover and correct such customs and propensities, proximately caused the violation of the Constitutional rights of Plaintiff's decedent as alleged herein.

157. Plaintiff is informed and believes and thereon alleges that All Defendants knew or should have known of their pattern or practice of unconstitutional violations, or the existence of facts, practices, customs and/or habits, which create the strong potential for unconstitutional acts, and All Defendants had a duty to supervise, train, and instruct their subordinates to prevent similar acts to others and Plaintiff's decedent, but failed and/or refused to take reasonable and necessary steps to properly supervise, train, instruct, or investigate corrections officers and staff and as a direct and proximate result, Plaintiff's decedent was harmed by the patterns or practices.

WHEREFORE, Plaintiff prays for judgment against All Defendants for:

- a. Compensatory damages in an amount that will fully and fairly compensate Plaintiff, the Estate of Timothy Lee Peters, and his next of kin, for their injury, damage, and loss;
- b. Costs of suit and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- c. All such other relief which the Court deems appropriate.

Respectfully Submitted,

/s/ Thomas D. Robenalt

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Attorneys for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure on all triable issues.

Respectfully Submitted,

/s/ Thomas D. Robenalt

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IN THE CIRCUIT COURT FOR HERNANDO COUNTY,
FLORIDA PROBATE DIVISION

IN RE: ESTATE OF
TIMOTHY LEE PETERS

File No. 24000316CPAXMX

Division

Deceased.

LETTERS OF ADMINISTRATION
(single personal representative)

TO ALL WHOM IT MAY CONCERN:

WHEREAS, TIMOTHY LEE PETERS, a resident of Hernando County, Florida, died on April 16, 2022, owning assets in the State of Florida, and

WHEREAS, JULIA ANNE PETERS has been appointed Personal Representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned Circuit Judge, declare JULIA ANNE PETERS duly qualified under the laws of the State of Florida to act as Personal Representative of the estate of TIMOTHY LEE PETERS, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

Ordered on 4/1/2024



Circuit Judge

Copies furnished to:
GADEservice@GendersAlvarez.com

EXHIBIT A