

8-8-2011

Hoagland v. Ada County Clerk's Record v. 2 Dckt. 38775

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8. As a matter of professionalism, it is this office's and my own personal practice to contact opposing counsel when setting hearing dates in order to avoid scheduling conflict and to provide a fair time frame to all interested parties for responding to the motions. When I spoke with Sherry Morgan, I expressed my disappointment that that practice was not being followed by the defendants when they have repeatedly set hearing dates without contacting anyone at our office.

9. After agreeing to our request for an extension of time, defense counsel contact this Court's scheduling clerk and rescheduled the hearing dates on several motions without coordination with anyone at our office. Plaintiffs' counsel did not object, however, since the dates selected ultimately presented no scheduling conflicts and they did provide sufficient time to file responsive briefs. Defense counsel did contact me after the fact to confirm that the dates they had selected worked for our office.


10. On June 11, 2010, while I was in the process of amending the complaint and responding to the Defendants' motion for summary judgment, I received additional materials from the defendants that were relevant to both the amended complaint and the response to their motion for summary judgment. Specifically, the training transcript of James Johnson while he was an employee of Ada County Jail. That log indicated that at the time he spoke with Bradley Munroe, he was a new hire, had not participated in the Ada County Jail's training on suicide assessment and prevention. I have attached a copy of the transcript as Exhibit A that I received on June 11, 2010.

11. In preparing the amended complaint and response to the motion for summary judgment, I needed to view the VICON footage from September 28, 2008 in order to assess what the officers faced with Bradley Munroe's behavior that night. Of greater importance was the

need to observe James Johnson's interaction with Bradley Munroe on the morning of September 29, 2008. However, there has been no audio or video recordings produced covering that interaction. It was my understanding, based on the other VIACON video produced, that there would have been video of the interaction between Johnson and Munroe.


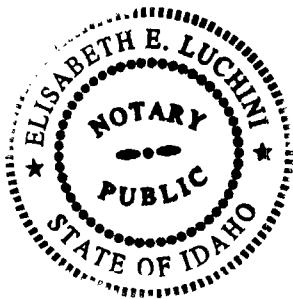
12. I am the individual to whom Mr. Dickinson refers when he discusses our office representing that we "intended to amend the Complaint by May 21, 2010." It is true I indicated that we anticipated amending the complaint. At the time, I indicated that a fair estimate was May 21, 2010. That was, however, just an estimate. The actual project took considerable effort on my part to review discovery materials, condense the materials to an understandable form and draft the complaint with the factual specificity that the defendants have demanded of the Plaintiffs. In that conversation, I indicated that I did not think that we would be adding counts, and it was clear that I was not committing myself. The entire conversation was to inform defense counsel that a motion for summary judgment, if filed by the defendants, would likely be largely rendered moot. Defendants went forward with moving for summary judgment anyway.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



DARWIN OVERSON

SUBSCRIBED AND SWORN TO before me this 6th day of July, 2010.



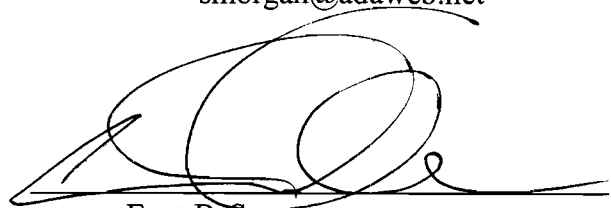
Notary Public for Idaho
My Commission Expires 7.8.12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

U.S. Mail
 Fax: 287-7719
 Overnight Delivery
 Messenger Delivery
 Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT A

**To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint**

EXHIBIT A

**To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint**

Eric B. Swartz, ISB #6396
Darwin L. Overson, ISB #5887
Joy M. Bingham, ISB #7887
JONES & SWARTZ PLLC
1673 W. Shoreline Drive, Suite 200 [83702]
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joy@jonesandswartzlaw.com

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as
Personal Representative of the ESTATE OF BRADLEY
MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail;
MARSHALL MCKINLEY, individually and in his
capacity as a correctional officer for the Ada County Jail;
MICHAEL VINEYARD, individually and in his
capacity as a correctional officer for the Ada County Jail;
PAUL REIGER, individually and in his capacity as a
correctional officer for the Ada County Jail;
KEVIN MANNING, individually and in his capacity as a
correctional officer for the Ada County Jail;
KIRT TAYLOR, individually and in his capacity as a
correctional officer for the Ada County Jail;
ADAM ARNOLD, individually and in his capacity as a
correctional officer for the Ada County Jail;
LESLIE ROBINSON, individually and in her capacity as
Director of Health Services for the Ada County Jail; and

Case No. CV-OC-2009-01461

**PLAINTIFFS' FIRST SET OF
INTERROGATORIES,
REQUESTS FOR
PRODUCTION, AND
REQUESTS FOR ADMISSION
TO DEFENDANT ADA
COUNTY SHERIFF GARY
RANEY**

PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR
ADMISSION TO DEFENDANT ADA COUNTY SHERIFF, GARY RANEY – 1

001005

JOHN DOES I THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sherriff's Office or the Ada County Jail,

Defendants.

TO: DEFENDANT ADA COUNTY SHERIFF GARY RANEY and ATTORNEYS OF RECORD

Plaintiff Estate of Bradley Munroe, by and through its counsel of record, Jones & Swartz PLLC, and pursuant to Idaho Rules of Civil Procedure 26, 33, 34 and 36, hereby requests that you serve written answers and responses to the following Interrogatories, Request for Production and Requests for Admission within thirty (30) days from the date of service hereof.

PRELIMINARY STATEMENT

- A. When answering and responding to the following Interrogatories, Requests for Production, and Requests for Admission, you are requested to furnish all information within your possession, custody, or control, including information and documents in the possession, custody, or control of your attorneys, investigators, insurers, employees, officers, directors, agents, representatives, or any other person or persons acting on your behalf, and not merely such information or documents as is known or possessed by you personally. If any document or piece of evidence has been destroyed or is no longer in your possession, custody or control, please identify:
1. The date of destruction, who was responsible for the same, and why said document or evidence was destroyed; or if the document or evidence was not destroyed but is no longer in your possession, custody, and control, please identify:
 2. Who is in possession, custody, or control of such document or evidence, and how to contact them.
- B. If you cannot answer any of the following Interrogatories, Requests for Production, and Requests for Admission in full, after exercising due diligence to secure the information to do so, please state as much and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portions.
- C. Each Interrogatory, Request for Production, and Request for Admission is intended to and does request that each and every, all and singular, and the particulars and parts thereof, be answered with the same force and effect as if each part and particular were the

subject of and were asked by a separate Interrogatory, Request for Production, and Request for Admission.

- D. These Interrogatories, Requests for Production, and Requests for Admission are deemed continuing and your answers and responses thereto are to be supplemented as additional information, documents and knowledge becomes available or known to you.
- E. Plaintiffs hereby request that you serve answers and responses to these Interrogatories, Requests for Production, and Requests for Admission within thirty (30) days of the date of service hereof. Plaintiff further requests that you serve responses to these Requests for Production and produce each of the documents requested or, in the alternative, provide copies of the documents requested, at the office of Jones & Swartz PLLC, at the address listed above, within thirty (30) days of the date of service hereof.
- F. If any document or portion thereof which is responsive to any request herein is or will be withheld from production, inspection or copying, please fully identify such document or portion thereof in your response, and fully state in your response the reason it is or will be withheld. In addition, if any document is practically impossible of production, inspection or copying, please fully identify such document and the reason for the practical impossibility.
- G. For every Interrogatory, Request for Production, and Request for Admission that you object to on the basis of any privilege, pursuant to your obligations under Idaho Rule of Civil Procedure 26(b)(5), please provide a "privilege log" that includes the following information:
 - 1. The person to whom the purportedly privileged communication was made;
 - 2. All parties privy to the purportedly privileged communication;
 - 3. The subject matter of the purportedly privileged communication;
 - 4. The date(s) that the purportedly privileged communication took place; and
 - 5. Whether the purportedly privileged communication was oral or written.

DEFINITIONS

As used throughout these Interrogatories, Requests for Production, and Requests for Admission, terms and phrases should be given their plain and well-accepted meaning as found in common forms of usage but should also be interpreted to include the following particulars:

- 1. The term "communication" or "communications" shall mean, unless otherwise specified, any of the following:
 - (a) any written letter, memorandum, document, or any other writing;

- (b) any telephone call between two or more persons, whether or not such call was by chance or prearranged, formal or informal; and
 - (c) any conversation or meeting between two or more persons, whether or not such contact was by chance or prearranged, formal or informal, including without limitation conversations or meetings occurring via telephone, teleconference, video conference, electronic mail (email), or instant electronic messenger.
2. The term "documents" shall mean and include any and all:
- (a) Tangible things or items, whether handwritten, typed, printed, tape recorded, electronically recorded, videotape recorded, visually reproduced, stenographically reproduced or reproduced in any other manner;
 - (b) Any writing or communication stored on a computer or backed up to any electronic storage media;
 - (c) Any spreadsheet in draft, preliminary or final form;
 - (d) Originals and copies of any and all communications;
 - (e) Writings of any kind or type whatsoever;
 - (f) Books and pamphlets;
 - (g) Microtape, microfilm, photographs, movies, records, recordings, tape recordings, computer disks, and videotape recordings, stenographically or otherwise reproduced;
 - (h) Diaries and appointment books;
 - (i) Cables, wires, memoranda, reports, notes, minutes and inter-office communications;
 - (j) Letters, correspondence, and emails;
 - (k) Drawings, blueprints, sketches and charts;
 - (l) Contracts or agreements;
 - (m) Other legal instruments or official documents;
 - (n) Published material of any kind;

- (o) Vouchers, receipts, invoices, bills, orders, billings and checks;
- (p) Investigation or incident reports;
- (q) Files and records;
- (r) Notes or summaries of conferences, meetings, discussions, interviews or telephone conversations or messages; and
- (s) Drafts or draft copies of any of the above.

3. The term “identify” when referring to an individual, corporation or other entity, shall mean to set forth:

- (a) The name;
- (b) Title/Position;
- (c) Dates the individual held their title/position;
- (d) Job description;
- (e) To whom they report or reported;
- (f) Present or last known address;
- (g) Date of hire; and if applicable
- (h) Date of termination or resignation of employment, and reason(s) therefor, if applicable.

4. The term “identify” when referring to a communication means to state the date thereof, the individual(s) witness thereto, the place where said conversation, statement or communication took place, and the substance of the same.

5. The term “identify” when referring to a document shall mean to set forth:

- (a) The name of the document;
- (b) The contents of the document;
- (c) The author of the document;

- (d) The date of the document;
- (e) The document's present location and the name of its custodian;
- (f) The nature and substance of the document with sufficient particularity to enable it to be subpoenaed; and
- (g) Whether it will be voluntarily made available for inspection and copying.

In lieu of the identification required by subparts (a)-(g) above, you may attach a legible copy of the document to your answers to these Interrogatories if your answer to the particular Interrogatory and subpart thereof: (i) is sufficient to enable a reader thereof to determine which document or documents are referred to by your answer, and (ii) contains all information requested by subparts (a)-(f) above not contained in the document itself.

6. The term "identify" when referring to any other matter means establish the identity of someone or something with sufficient detail and characteristics that the propounding party has an understanding equal to that of the answering or responding party.

7. The terms "you" and "your" mean Defendant and all or any of your affiliated or associated companies, agents, insurers, representatives, employees, attorneys, parent and subsidiary companies, and every person acting or purporting to act, or who has ever acted or purported to act, on your behalf. "You" means also the person or persons responding to these requests, and "your" refers to the same persons to which "you" refers.

8. "Persons" means and includes any natural person, partnership, corporation, joint venture, unincorporated association, governmental entity (or agency or board thereof), quasi-public entity or other form of entity, and any combinations thereof.

9. "Incident or accident that forms the subject matter of this action" means the allegations set forth in Plaintiff's Complaint, including but not limited to the injuries that the

Plaintiffs allege they sustained as a result of the incident herein and all damages arising therefrom.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

INTERROGATORY NO. 2: For each such person that you identify in your answer to Interrogatory No. 1., state whether you, your attorneys, agents, or representatives have taken a statement (whether oral or written) regarding any facts or matters which relate to the present action. If so, state the date on which said statement was taken, by whom, and who has custody thereof.

INTERROGATORY NO. 3: Please identify each and every person you may call as a witness at the trial, and for each person, state the substance of his/her expected testimony.

INTERROGATORY NO. 4: Please identify each and every person you expect to call as an expert witness at the trial of this matter, and for each such person state:

- (a) The qualifications upon which you intend to rely to establish the person as an expert witness;
- (b) A complete statement of all opinions to be expressed, and the bases and reasons therefor;
- (c) Each and every fact, document, data or other information relied upon or provided to each expert witness in forming and rendering his or her opinions or inferences, in accordance with Idaho Rule of Evidence 705 and Idaho Rule of Civil Procedure 26;

REQUEST FOR ADMISSION NO. 56: Admit that there was a failure to observe and/or monitor Bradley Munroe for suicidal thoughts and behaviors.

DATED this 24 day of July, 2009.

JONES & SWARTZ, PLLC

By 

ERIC B. SWARTZ

DARWIN L. OVERSON

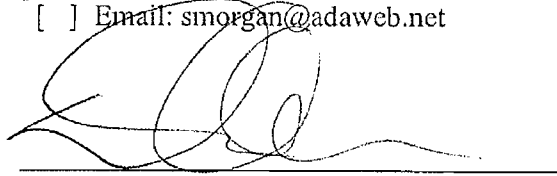
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2009, a true and correct copy of the foregoing document was served on the following individual by the method indicated:

Sherry A. Morgan
Ada County Prosecutor's Office
200 W. Front Street, Room 3191
Boise, ID 83702

- U.S. Mail
- Fax: 287-7709
- Overnight Delivery
- Messenger Delivery
- Email: smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT B

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

EXHIBIT B

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Deputy Prosecuting Attorney

RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division

200 West Front Street, Room. 3191
Boise, ID 83702
(208) 287-7700
Idaho State Bar Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

v.)

ADA COUNTY SHERIFF, GARY RANEY, an)
elected official of Ada County and operator)
of the Ada County Sheriff's Office and Ada)
County Jail; MARSHALL MCKINLEY,)
individually and in his capacity as a correctional)
officer for the Ada County Jail; MICHAEL)
VINEYARD, individually and in his capacity as a)
correctional officer for the Ada County Jail;)
PAUL REIGER, individually and in his)
capacity as a correctional officer for the Ada)
County Jail; KEVIN MANNING, individually)
and in his capacity as a correctional officer for)
the Ada County Jail; KIRT TAYLOR,)
individually and in his capacity as a correctional)
officer for the Ada County Jail; ADAM)

Case No. CV OC 0901461

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES, REQUESTS
FOR PRODUCTION AND
REQUESTS FOR ADMISSION TO
DEFENDANT ADA COUNTY
SHERIFF GARY RANEY**

DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS
FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF
GARY RANEY – PAGE 1

g:\jkd\munroe\discovery\def's resp to pl's 1st interros, rfps and adm.doc

ARNOLD, individually and in his capacity as a)
 correctional officer for the Ada County Jail;)
 LESLIE ROBINSON, individually and in her)
 capacity as Director of Health Services for the)
 Ada County Jail; and JOHN DOES 1)
 THRU X, individually and in their capacity as)
 correctional officers for the Ada County Jail)
 and/or other staff or officers for the Ada County)
 Sheriff's Office or the Ada County Jail,)
)
 Defendants.)
)

COME NOW, named Ada County Defendants (hereinafter "County"), by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and Answer and Respond to Plaintiffs' First Set Of Interrogatories, Requests For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

ANSWER: Named Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection:

1. Rita Hoagland, Plaintiff in this matter. Named Defendants assume she has knowledge as to facts about the case, about Mr. Munroe's life and alleged damages.

2. Greg Hoagland is Ms. Hoagland's husband. Named Defendants assume he has knowledge as to facts about the case, Mr. Munroe's life and alleged damages.
3. John Munroe. Named Defendants assume he has knowledge as to facts about the case, about Mr. Munroe and alleged damages.
4. Kathleen Saucier. Named Defendants assume she has knowledge as to facts of the case, about Mr. Munroe and alleged damages.
5. Joseph Mallet, Ada County Sheriff's Office Legal Advisor. Mr. Mallet has come to know information regarding the allegations in this matter in his capacity as the attorney for the Ada County Sheriff. His knowledge and communications with him are protected by the attorney-client privilege as well as work product.
6. Linda Scown. Ms. Scown gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
7. Scott Johnson. Mr. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
8. Gary Grunewald. Mr. Grunewald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

9. Aaron Shepherd. Mr. Shepherd gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
10. Bart Hamilton. Mr. Hamilton gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
11. Pat Schneider. Mr. Schneider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
12. Jaimie Barker. Mr. Barker gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
13. Matt Buie. Mr. Buie gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
14. Jared Watson. Mr. Watson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

15. Laurie Kidwell. Ms. Kidwell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
16. Tony Keller. Mr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
17. Darryl Meacham. Mr. Meacham gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
18. Gary Ambrosek. Mr. Ambrosek gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
19. Adam Arnold. Mr. Arnold gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
20. Nancy Bolen. Ms. Bolen gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also

- possesses information about the jail and its operation, both generally and in this instance.
21. Christopher Bones. Mr. Bones gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
 22. Candace Bowles. Ms. Bowles gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
 23. Gregory Brown. Mr. Brown gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
 24. Ryan Donaldson. Mr. Donald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
 25. Mike Drinkall. Mr. Drinkall gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

26. TJ Dyer. Mr. Dyer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
27. Clarence Goldsmith. Mr. Goldsmith gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
28. Terisa Howell. Ms. Howell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
29. Erica Johnson. Ms. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
30. Meghan Keilty. Ms. Keilty gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
31. Daniel Lawson. Mr. Lawson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

32. Mark Losh. Mr. Losh gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
33. Adam Lowe. Mr. Lowe gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
34. Kevin Manning. Mr. Manning gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
35. Marshall McKinley. Mr. McKinley gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
36. Brian Munz. Mr. Munz gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
37. Germain Neumann. Mr. Neumann gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

38. Michael Petet. Mr. Petet gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

39. Kellee Rassau. Ms. Rassau gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

40. Joseph Richardson. Mr. Richardson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

41. Paul Rieger. Mr. Rieger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

42. Jeremiah Scott. Mr. Scott gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

43. Nick Shaffer. Mr. Shaffer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
44. Darrin Snider. Mr. Snider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
45. Tyler Stenger. Mr. Stenger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
46. Robert Trejo. Mr. Trejo gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
47. Michael Vineyard. Mr. Vineyard gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
48. Jeremy Wroblewski. Mr. Wroblewski gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office.

He also possesses information about the jail and its operation, both generally and in this instance.

49. Chris Zieglmier. Mr. Zieglmier gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
50. Kate Pape. Ms. Pape gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pape possesses information about the jail and medical unit both generally and in this instance.
51. Jeffrey Keller. Mr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Keller possesses information about the jail and medical unit both generally and in this instance.
52. Karen Barrett. Ms. Barrett gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Barrett possesses information about the jail and medical unit both generally and in this instance.
53. Deb Mabbutt. Ms. Mabbutt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Mabbutt possesses information about the jail and medical unit both generally and in this instance.
54. Rick Steinburg. Mr. Steinburg gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr.

Steinburg possesses information about the jail and medical unit both generally and in this instance.

55. Cindy Hosmer. Ms. Hosmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hosmer possesses information about the jail and medical unit both generally and in this instance.

56. Sandra Hughes. Ms. Hughes gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hughes possesses information about the jail and medical unit both generally and in this instance.

57. Roberto Negrón. Mr. Negrón gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Negrón possesses information about the jail and medical unit both generally and in this instance.

58. James Saccamondo. Mr. Saccamondo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Saccamondo possesses information about the jail and medical unit both generally and in this instance.

59. James Johnson. Mr. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the jail and medical unit both generally and in this instance.

60. Shanna Phillips. Ms. Phillips gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Phillips possesses information about the jail and medical unit both generally and in this instance.
61. Laura Senderowicz. Ms. Senderowicz gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Senderowicz possesses information about the jail and medical unit both generally and in this instance.
62. Timothy Huff. Mr. Huff gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Huff possesses information about the jail and medical unit both generally and in this instance.
63. Jenny Babbitt. Ms. Babbitt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Babbitt possesses information about the jail and medical unit both generally and in this instance.
64. Andrew Archuleta. Mr. Archuleta gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Archuleta possesses information about the jail and medical unit both generally and in this instance.
65. David Weich. Mr. Weich gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Weich possesses information about the jail and medical unit both generally and in this instance.

66. Michael Brewer. Mr. Brewer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Brewer possesses information about the jail and medical unit both generally and in this instance.
67. Susan Cochran. Ms. Cochran gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Cochran possesses information about the jail and medical unit both generally and in this instance.
68. Peni Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.
69. Sally McNees. Ms. McNees gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. McNees possesses information about the jail and medical unit both generally and in this instance.
70. Frances Pederson. Ms. Pederson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pederson possesses information about the jail and medical unit both generally and in this instance.
71. Cindy Callaway. Ms. Callaway gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Callaway possesses information about the jail and medical unit both generally and in this instance.

72. Lanea Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.
73. Lisa Farmer. Ms. Farmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Farmer possesses information about the jail and medical unit both generally and in this instance.
74. Marsha Halstead. Ms. Halstead gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Halstead possesses information about the jail and medical unit both generally and in this instance.
75. Juana Hernandez. Ms. Hernandez gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hernandez possesses information about the jail and medical unit both generally and in this instance.
76. Holly Kington. Ms. Kington gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Kington possesses information about the jail and medical unit both generally and in this instance.
77. Judy Skinner. Ms. Skinner gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Skinner possesses information about the jail and medical unit both generally and in this instance.

78. Edward Walker. Mr. Walker gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Walker possesses information about the jail and medical unit both generally and in this instance.
79. Chelsy Weaver. Ms. Weaver gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Weaver possesses information about the jail and medical unit both generally and in this instance.
80. Leslie Robertson. Ms. Robertson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Robertson possesses information about the jail and medical unit both generally and in this instance.
81. Samra Hamzic. Ms. Hamzic gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hamzic possesses information about the jail and medical unit both generally and in this instance.
82. Robyn Malone. Ms. Malone gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Malone possesses information about the jail and medical unit both generally and in this instance.
83. Meliha Dzindo. Ms. Dzindo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dzindo

- possesses information about the jail and medical unit both generally and in this instance.
84. Charity Hine. Ms. Hine gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hine possesses information about the jail and medical unit both generally and in this instance.
85. Gayle Waite. Ms. Waite gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Waite possesses information about the jail and medical unit both generally and in this instance.
86. Terra Wills. Ms. Wills gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Wills possesses information about the jail and medical unit both generally and in this instance.
87. Jacob Nichols. Officer Nichols is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Nichols has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.
88. Eric Urian. Officer Urian is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Urian has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.
89. Kevin Luby. Mr. Luby is an Ada County Paramedic who treated Mr. Munroe. Mr. Luby has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

90. Peter Dina. Mr. Dina is an Ada County Paramedic who treated Mr. Munroe. Mr. Dina has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.
91. Tina Rossi. Ms. Rossi is an Ada County Paramedic who treated Mr. Munroe. Ms. Rossi has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.
92. Jason Barnard. Mr. Barnard is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.
93. Bert Torkelson. Mr. Torkelson is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.
94. Ryan Clever. Mr. Clever is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.
95. Brandon J. Wilding. Dr. Wilding is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.
96. Jason M. Quinn. Dr. Quinn is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.
97. Dan LNU. Dan is an employee at St. Alphonsus Regional Medical Center. Dan has knowledge of Mr. Munroe after he was transported to the hospital.
98. Erwin Sonnenberg. Mr. Sonnenberg is the Ada County Coroner. Mr. Sonnenberg's office performed an investigation and autopsy after Mr. Munroe's death.

99. Glen R. Groben. Dr. Groben is the forensic pathologist employed by the Ada County Coroner's office. Dr. Groben performed the autopsy of Mr. Munroe. Dr. Groben formed an opinion as to the cause and manner of Mr. Munroe's death.
100. Robert Karinen. Mr. Karinen is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.
101. Tom Howell. Mr. Howell is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death, including witness interviews and evidence gathering.
102. Doug Tucker. Mr. Tucker is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.
103. Cole Kelly. Ms. Kelly is a technician with the Ada County Coroner's Office. She can testify about the procedures taken after Mr. Munroe passed away.
104. Christopher K. Buck. Mr. Buck was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
105. Everett Bruce Cole. Mr. Cole was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
106. Charles G. Fordyce. Mr. Fordyce was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
107. Garrett M. McCoy. Mr. McCoy was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
108. Witnesses to the robbery of the Maverick Store, including customers and Maverick employees.
109. Past educators and school counselors of Mr. Munroe.

110. Friends of Mr. Munroe.
111. Past treating physicians of Mr. Munroe.
112. Past mental health counselors of Mr. Munroe.
113. Kim LNU, an employee of St. Alphonsus Regional Medical Center.

INTERROGATORY NO. 2: For each such person that you identify in your answer to Interrogatory No. 1, state whether you, your attorneys, agents, or representatives have taken a statement (whether oral or written) regarding any facts or matters which relate to the present action. If so, state the date on which said statement was taken, by whom, and who has custody thereof.

ANSWER: Named Defendants object to Interrogatory No. 2 to the extent Plaintiffs seek to obtain information protected by the attorney-client privilege and work product doctrine. To the extent attorneys, agents or representatives obtained a statement (whether oral or written) regarding any facts or matters which relate to Mr. Munroe's death, or to the extent that information was created or gathered by attorneys or agents in anticipation of litigation, it is protected and privileged pursuant to either the attorney-client privilege and/or work product doctrine. Without waiving said objections, please see written statements provided herewith.

INTERROGATORY NO. 3: Please identify each and every person you may call as a witness at the trial, and for each person, state the substance of his/her expected testimony.

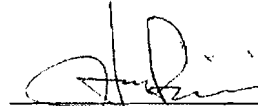
ANSWER: Named Defendants object to Plaintiff's Interrogatory No. 3 as it seeks Named Defendants' trial strategy, and the determination as to who may be called as a witness for trial is protected from discovery. Without waiving said objections, see response to Interrogatory No. 1.

INTERROGATORY NO. 4: Please identify each and every person you expect to call as an expert witness at the trial of this matter, and for each such person state:

DATED this 11 day of September 2009.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



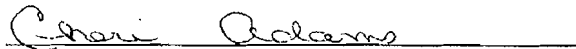
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September 2009, I served a true and correct copy of the foregoing DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY to the following persons by the following method:

Eric B. Swartz, Esq.
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile



VERIFICATION

STATE OF IDAHO)
) ss.
County of Ada)

Gary Raney, being first duly sworn upon oath deposes and says:

I am a named Defendant in the above-entitled matter. I have read the within and foregoing DEFENDANTS' ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF, GARY RANEY and that the statements therein contained are true to the best of my knowledge.

DATED this 8 day of April, 2010.

[Handwritten signature of Gary Raney]
Gary Raney
Ada County Sheriff

STATE OF IDAHO)
) ss.
County of Ada)

On this 8 day of April, 2010, before me, a notary public, personally appeared Gary Raney, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



[Handwritten signature of Robert Meyers]
Notary Public for Idaho
Residing at Boise ID
Commission Expires 6/18/2012

EXHIBIT C

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

EXHIBIT C

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

FEB 17 2010

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Deputy Prosecuting Attorney

RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 West Front Street, Room. 3191
Boise, ID 83702
(208) 287-7700
Idaho State Bar Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)
Plaintiffs,)

Case No. CV OC 0901461

v.)

ADA COUNTY SHERIFF, GARY RANEY, an)
elected official of Ada County and operator)
of the Ada County Sheriff's Office and Ada)
County Jail; MARSHALL McKINLEY,)
individually and in his capacity as a correctional)
officer for the Ada County Jail; MICHAEL)
VINEYARD, individually and in his capacity as a)
correctional officer for the Ada County Jail;)
PAUL REIGER, individually and in his)
capacity as a correctional officer for the Ada)
County Jail; KEVIN MANNING, individually)
and in his capacity as a correctional officer for)
the Ada County Jail; KIRT TAYLOR,)
individually and in his capacity as a correctional)
officer for the Ada County Jail; ADAM)

**DEFENDANTS' FOURTH
SUPPLEMENTAL RESPONSE TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES, REQUESTS
FOR PRODUCTION AND
REQUESTS FOR ADMISSION TO
DEFENDANT ADA COUNTY
SHERIFF GARY RANEY**

ARNOLD, individually and in his capacity as a)
 correctional officer for the Ada County Jail;)
 LESLIE ROBINSON, individually and in her)
 capacity as Director of Health Services for the)
 Ada County Jail; and JOHN DOES 1)
 THRU X, individually and in their capacity as)
 correctional officers for the Ada County Jail)
 and/or other staff or officers for the Ada County)
 Sheriff's Office or the Ada County Jail,)
)
 Defendants.)
)

COME NOW, named Ada County Defendants (hereinafter "Defendants"), by and through
 their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy
 Prosecuting Attorneys, and Answer and Respond to Plaintiffs' First Set Of Interrogatories, Requests
 For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as
 follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who
 has knowledge or who purports to have knowledge of any of the facts of this case, whether relating
 to a claim or a defense, or concerning either the issues of damages or liability, and for each such
 person, state and describe what you believe each such person knows or purports to know about the
 facts of this case.

SUPPLEMENTAL ANSWER: Named Defendants object, to the extent Plaintiffs'
 Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their
 knowledge from protected or privileged sources. Without waiving said objection, please find
 supplemental information appended.

INTERROGATORY NO. 2: For each such person that you identify in your answer to
 Interrogatory No. 1, state whether you, your attorneys, agents, or representatives have taken a

- b. All audio;
- c. All video;
- d. All photographs;
- e. All Ada County Sheriff/Jail Protocol, Guidelines and/or Standard Operating Procedures (“SOP”) considered, reviewed, or relied upon as part of or during the investigation.
- f. The autopsy report.

SUPPLEMENTAL RESPONSE: Named Defendants object to the extent Request for Production No. 13 seeks information protected by the attorney-client privilege and/or work product doctrine including information prepared in anticipation of litigation. Without waiving said objections, see documents provided herewith.

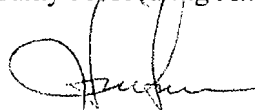
REQUEST FOR PRODUCTION NO. 25: Please produce all photographs, video recordings, audio recordings, written descriptions, hand notes produced during or otherwise recording the scene where Bradley Munroe was found unconscious in his cell on September 29, 2008.

SUPPLEMENTAL RESPONSE: Named Defendants object to the extent Request for Production No. 25 seeks information protected by the attorney-client privilege and/or work product doctrine. Without waiving said objection, see information provided.

DATED this 17 day of February, 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 day of February, 2010, I served a true and correct copy of the foregoing DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY to the following persons by the following method:

Eric B. Swartz, Esq.
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile

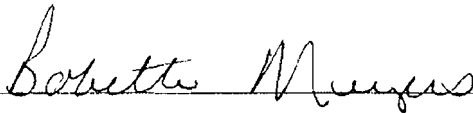


EXHIBIT D

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

EXHIBIT D

To Affidavit of Darwin Overson in Support of Plaintiffs'
Motion for Leave to File an Amended Complaint

APR 21 2010

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Deputy Prosecuting Attorney

RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 West Front Street, Room. 3191
Boise, ID 83702
(208) 287-7700
Idaho State Bar Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)	
capacity as Personal Representative of the)	
ESTATE OF BRADLEY MUNROE,	)	Case No. CV OC 0901461
)	
Plaintiffs,	)	DEFENDANTS' EIGHTH
	)	SUPPLEMENTAL RESPONSE
v.	)	TO PLAINTIFFS' FIRST SET OF
	)	INTERROGATORIES,
ADA COUNTY SHERIFF, GARY RANEY,	)	REQUESTS FOR PRODUCTION
an elected official of Ada County and operator	)	AND REQUESTS FOR
of the Ada County Sheriff's Office and Ada	)	ADMISSION TO DEFENDANT
County Jail; MARSHALL McKINLEY,	)	ADA COUNTY SHERIFF GARY
individually and in his capacity as a	)	RANEY
correctional officer for the Ada County Jail;)	
MICHAEL VINEYARD, individually and in)	
his capacity as a correctional officer for the)	
Ada County Jail;)	
PAUL REIGER, individually and in his)	
capacity as a correctional officer for the Ada)	
County Jail; KEVIN MANNING, individually)	

DEFENDANTS' EIGHTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION
TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY – PAGE 1

and in his capacity as a correctional officer for)
the Ada County Jail; KIRT TAYLOR,)
individually and in his capacity as a)
correctional officer for the Ada County Jail;)
ADAM ARNOLD, individually and in his)
capacity as a correctional officer for the Ada)
County Jail; LESLIE ROBINSON,)
individually and in her capacity as Director of)
Health Services for the)
Ada County Jail; and JOHN DOES 1)
THRU X, individually and in their capacity as)
correctional officers for the Ada County Jail)
and/or other staff or officers for the Ada)
County Sheriff’s Office or the Ada County)
Jail,)
))
Plaintiffs,)
_____)

COME NOW, the named Defendants (hereinafter “Named Defendants”), by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and supplement their answers and responses to Plaintiffs’ First Set Of Interrogatories, Requests For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

SUPPLEMENTAL ANSWER NO. 1: Named Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection, the address for the individuals identified in numbers 5 through 86 below is 7200 Barrister, Boise, Idaho, and can be contacted through counsel. Please also see Bates Nos. 00001 to 00085 provided herewith, and the following:

1. Rita Hoagland, Plaintiff in this matter. Named Defendants assume she has knowledge as to facts about the case, about Mr. Munroe's life and alleged damages.
2. Greg Hoagland is Ms. Hoagland's husband. Named Defendants assume he has knowledge as to facts about the case, Mr. Munroe's life and alleged damages.
3. John Munroe. Named Defendants assume he has knowledge as to facts about the case, about Mr. Munroe and alleged damages.
4. Kathleen Saucier. Named Defendants assume she has knowledge as to facts of the case, about Mr. Munroe and alleged damages.
5. Joseph Mallet, Ada County Sheriff's Office Legal Advisor, Administration. Mr. Mallet has come to know information regarding the allegations in this matter in his capacity as the attorney for the Ada County Sheriff. His knowledge and communications with him are protected by the attorney-client privilege as well as work product.

6. Linda Scown, Captain, Director of Jail and Court Services Bureau. Captain Scown gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
7. Scott Johnson, Lieutenant, Jail and Court Services Bureau. Lt. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
8. Gary Grunewald, Administration Sergeant, Acting Lieutenant, Jail and Court Services Bureau. Sgt. Grunewald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
9. Aaron Shepherd, Lieutenant, Jail and Court Services Bureau. Lt. Shepherd gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

10. Bart Hamilton, Lieutenant, Investigations, Police Services Bureau (no longer employed). Lt. Hamilton gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
11. Pat Schneider, Sergeant, Major Crimes Unit, Police Services Bureau. Sgt. Schneider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
12. Jaimie Barker, Detective, Major Crimes Unit, Police Services Bureau. Detective Barker gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
13. Matt Buie, Detective, Major Crimes Unit, Police Services Bureau. Detective Buie gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

14. Jared Watson, Detective, Major Crimes Unit, Police Services Bureau. Detective Watson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
15. Laurie Kidwell, Field Services Technician, Crime Lab, Police Services Bureau. Ms. Kidwell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
16. Tony Keller, Sergeant, Police Services Bureau. Sgt. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
17. Darryl Meacham, Sergeant, Jail and Court Services Bureau. Sgt. Meacham gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
18. Gary Ambrosek, Commissioned Deputy, Jail and Court Services Bureau. Deputy Ambrosek gained information about Mr. Munroe, his stays at the jail

and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

19. Adam Arnold, Commissioned Deputy, Jail and Court Services Bureau. Deputy Arnold gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
20. Nancy Bolen, LE Records Technician, Inmate Records, Jail and Court Services Bureau (no longer employed). Ms. Bolen gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
21. Christopher Bones, Commissioned Deputy, Jail and Court Services Bureau. Deputy Bones gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
22. Candace Bowles, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Bowles gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's

Office. She also possesses information about the jail and its operation, both generally and in this instance.

23. Gregory Brown, Commissioned Deputy, Jail and Court Services Bureau. Deputy Brown gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
24. Ryan Donelson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Donelson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
25. Mike Drinkall, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Drinkall gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
26. TJ Dyer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Dyer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses

information about the jail and its operation, both generally and in this instance.

27. Clarence Goldsmith, Commissioned Deputy, Jail and Court Services Bureau. Deputy Goldsmith gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
28. Terisa Howell, Commissioned Deputy, Jail and Court Services Bureau. Deputy Howell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
29. Erica Johnson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Johnson gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
30. Meghan Keilty, Commissioned Deputy, Jail and Court Services Bureau. Deputy Keilty gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also

possesses information about the jail and its operation, both generally and in this instance.

31. Daniel Lawson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Lawson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

32. Mark Losh, Commissioned Deputy, Jail and Court Services Bureau. Deputy Losh gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

33. Adam Love, Commissioned Deputy, Jail and Court Services Bureau. Deputy Love gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

34. Kevin Manning, Commissioned Deputy, Jail and Court Services Bureau. Deputy Manning gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

35. Marshall McKinley, Commissioned Deputy, Jail and Court Services Bureau. Deputy McKinley gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
36. Brian Munz, Commissioned Deputy, Jail and Court Services Bureau. Deputy Munz gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
37. Germain Neumann, Commissioned Deputy, Jail and Court Services Bureau. Deputy Neumann gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
38. Michael Petet, Commissioned Deputy, Jail and Court Services Bureau. Deputy Petet gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

- possesses information about the jail and its operation, both generally and in this instance.
39. Kellee Rassau, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rassau gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.
40. Joseph Richardson, Commissioned Deputy, Transport, Jail and Court Services Bureau. Deputy Richardson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
41. Paul Rieger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rieger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
42. Jeremiah Scott, Commissioned Deputy, Jail and Court Services Bureau. Deputy Scott gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

43. Nick Shaffer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Shaffer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

44. Darrin Snider, Commissioned Deputy, Jail and Court Services Bureau. Deputy Snider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

45. Tyler Stenger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Stenger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

46. Robert Trejo, Commissioned Deputy, Patrol, Jail and Court Services Bureau. Deputy Trejo gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

47. Michael Vineyard, Commissioned Deputy, Jail and Court Services Bureau. Deputy Vineyard gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
48. Jeremy Wroblewski, Commissioned Deputy, Jail and Court Services Bureau. Deputy Wroblewski gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
49. Chris Zieglmeier, Commissioned Deputy, Jail and Court Services Bureau. Deputy Zieglmeier gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.
50. Kate Pape, Health Services Administrator, Jail Medical Services, Jail and Court Services Bureau. Ms. Pape gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office.

Ms. Pape possesses information about the jail and medical unit both generally and in this instance.

51. Jeffrey Keller, M.D., Physician, Jail Medical Services, Jail and Court Services Bureau. Dr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with Ada County. Dr. Keller possesses information about the jail and medical unit both generally and in this instance.
52. Karen Barrett, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau. Ms. Barrett gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Barrett possesses information about the jail and medical unit both generally and in this instance.
53. Deb Mabbutt, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Mabbutt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Mabbutt possesses information about the jail and medical unit both generally and in this instance.
54. Rick Steinburg, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Steinburg gained information about Mr. Munroe, his stays at the jail and his passing through employment

- with the Sheriff's Office. Mr. Steinburg possesses information about the jail and medical unit both generally and in this instance.
55. Cindy Hosmer, Certified Medical Assistant, Jail Medical Services, Jail and Court Services Bureau. Ms. Hosmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hosmer possesses information about the jail and medical unit both generally and in this instance.
56. Sandra Hughes. Ms. Hughes gained information about Mr. Munroe, his stays at the jail and his passing through her contract employment with the Sheriff's Office. Ms. Hughes possesses information about the jail and medical unit both generally and in this instance, but no longer works there.
57. Roberto Negrón. Mr. Negrón gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with the Sheriff's Office. Mr. Negrón possesses information about the jail and medical unit both generally and in this instance, but no longer works there.
58. James Saccamondo. Mr. Saccamondo gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with the Sheriff's Office. Mr. Saccamondo possesses information about the jail and medical unit both generally and in this instance, but no longer works there.
59. James Johnson, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Johnson gained information

about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the jail and medical unit both generally and in this instance.

60. Shanna Phillips, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Phillips gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Phillips possesses information about the jail and medical unit both generally and in this instance.

61. Laura Senderowicz, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Senderowicz gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Senderowicz possesses information about the jail and medical unit both generally and in this instance.

62. Timothy Huff, DDS, Dentist, Jail Medical Services, Jail and Court Services Bureau. Dr. Huff gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with Ada County. Dr. Huff possesses information about the jail and medical unit both generally and in this instance.

63. Jenny Babbitt, Inmate Healthcare Supervisor, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Babbitt gained information about Mr. Munroe, his stays at the jail and his passing through

employment with the Sheriff's Office. Ms. Babbitt possesses information about the jail and medical unit both generally and in this instance.

64. Andrew Archuleta, Medial Attendant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Archuleta gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Archuleta possesses information about the jail and medical unit both generally and in this instance.
65. David Weich, Medical Attendant, Jail Medical Services, Jail and Court Services Bureau. Mr. Weich gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Weich possesses information about the jail and medical unit both generally and in this instance.
66. Michael Brewer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Mr. Brewer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Brewer possesses information about the jail and medical unit both generally and in this instance.
67. Susan Cochran. Ms. Cochran may have gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Cochran possesses information about the jail and

medical unit both generally and in this instance. She is no longer employed by the Sheriff.

68. Peni Dean, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.
69. Sally McNees, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. McNees gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. McNees possesses information about the jail and medical unit both generally and in this instance.
70. Frances Pederson, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Pederson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pederson possesses information about the jail and medical unit both generally and in this instance.
71. Cindy Callaway, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Callaway gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Callaway

possesses information about the jail and medical unit both generally and in this instance.

72. Lanea Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.
73. Lisa Farmer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Farmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Farmer possesses information about the jail and medical unit both generally and in this instance.
74. Marsha Halstead, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Halstead gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Halstead possesses information about the jail and medical unit both generally and in this instance.
75. San Juana Hernandez, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Hernandez gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hernandez possesses information about the jail and medical unit both generally and in this instance.

76. Holly Kington (Harris), LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Kington gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Kington possesses information about the jail and medical unit both generally and in this instance.
77. Judy Skinner, LPN, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Skinner gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Skinner possesses information about the jail and medical unit both generally and in this instance.
78. Edward Walker, LPN, Jail Medical Services, Jail and Court Services Bureau. Mr. Walker gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Walker possesses information about the jail and medical unit both generally and in this instance.
79. Chelsy Weaver, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Weaver gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Weaver possesses information about the jail and medical unit both generally and in this instance.
80. Leslie Robertson, Healthcare Administrative Supervisor, Jail Medical Services, Jail and Court Services Bureau. Ms. Robertson gained information

about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Robertson possesses information about the jail and medical unit both generally and in this instance.

81. Samra Hamzic, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hamzic gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hamzic possesses information about the jail and medical unit both generally and in this instance.

82. Robyn Malone, CNA, Jail Medical Services, Jail and Court Services Bureau. Ms. Malone gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Malone possesses information about the jail and medical unit both generally and in this instance.

83. Meliha Dzindo, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Dzindo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dzindo possesses information about the jail and medical unit both generally and in this instance.

84. Charity Hine, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hine gained information about Mr. Munroe, his stays at the jail and his passing through employment with the

- Sheriff's Office. Ms. Hinc possesses information about the jail and medical unit both generally and in this instance.
85. Gayle Waite, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Waite gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Waite possesses information about the jail and medical unit both generally and in this instance.
86. Terra Wills, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Wills gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Wills possesses information about the jail and medical unit both generally and in this instance.
87. Jacob Nichols. Officer Nichols is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Nichols has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.
88. Eric Urian. Officer Urian is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Urian has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

89. Kevin Luby. Mr. Luby is an Ada County Paramedic who treated Mr. Munroe. Mr. Luby has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.
90. Peter Dina. Mr. Dina is an Ada County Paramedic who treated Mr. Munroe. Mr. Dina has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.
91. Tina Rossi. Ms. Rossi is an Ada County Paramedic who treated Mr. Munroe. Ms. Rossi has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.
92. Jason Barnard. Mr. Barnard is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.
93. Bert Torkelson. Mr. Torkelson is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.
94. Ryan Clever. Mr. Clever is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

95. Brandon J. Wilding. Dr. Wilding is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.
96. Jason M. Quinn. Dr. Quinn is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.
97. Dan LNU. Dan is an employee at St. Alphonsus Regional Medical Center. Dan has knowledge of Mr. Munroe after he was transported to the hospital.
98. Erwin Sonnenberg. Mr. Sonnenberg is the Ada County Coroner. Mr. Sonnenberg's office performed an investigation and autopsy after Mr. Munroe's death.
99. Glen R. Groben. Dr. Groben is the forensic pathologist employed by the Ada County Coroner's office. Dr. Groben performed the autopsy of Mr. Munroe. Dr. Groben formed an opinion as to the cause and manner of Mr. Munroe's death.
100. Robert Karinen. Mr. Karinen is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.
101. Tom Howell. Mr. Howell is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death, including witness interviews and evidence gathering.

102. Doug Tucker. Mr. Tucker is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.
103. Cole Kelly. Ms. Kelly is a technician with the Ada County Coroner's Office. She can testify about the procedures taken after Mr. Munroe passed away.
104. Christopher K. Buck. Mr. Buck was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
105. Everett Bruce Cole. Mr. Cole was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
106. Charles G. Fordyce. Mr. Fordyce was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
107. Garrett M. McCoy. Mr. McCoy was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.
108. Witnesses to the robbery of the Maverick Store, including customers and Maverick employees.
109. Past educators and school counselors of Mr. Munroe.
110. Friends of Mr. Munroe.
111. Past treating physicians of Mr. Munroe.
112. Past mental health counselors of Mr. Munroe.
113. Kim LNU, an employee of St. Alphonsus Regional Medical Center.

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INTERROGATORY NO. 6: Please identify each and every letter, writing, or other document or thing (as well as those in electronic format), including all those items defined as “writings,” “recordings,” and “photographs” in Idaho Rules of Evidence 1001(1) and 1001(2) respectively, that relate to or support any claim or defense you allege, or that you intend to offer as an exhibit at the trial of this action.

SUPPLEMENTAL ANSWER NO. 6: Named Defendants object to Interrogatory No. 6 as it requests information protected by the attorney-client privilege and the work product doctrine. Interrogatory No. 6 requests trial strategy by requesting evidence intended to be offered as an exhibit in the trial of this action. Without waiving said objections, Named Defendants are still investigating the details of Plaintiffs’ allegations – to the extent trial exhibits are determined, they will be provided as required by the Idaho Rules of Civil Procedure and the Court. As to unprotected and/or non-privileged writings, recordings and photographs, please see Exhibit A and Bates Nos. 00001 to 00598 provided herewith.

INTERROGATORY NO. 7: If you are aware of any statements or reports made by any of the parties to this action, or their agents or representatives, other than statements made to retained counsel, whether those statements were oral or written, and other than given in discovery proceedings pursuant to Idaho Rule of Civil procedure 26, which relate in any way to any of the issues involved in this action, and for each such statement, please identify the person making the statement; the person(s) to whom the statement was made; the date and time it was made; whether it was oral or written; and the substance of the statement; and if written who remains in possession of such statement.

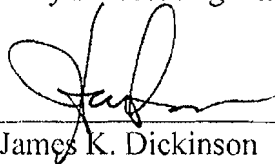
REQUEST FOR PRODUCTION NO. 25: Please produce all photographs, video recordings, audio recordings, written descriptions, hand notes produced during or otherwise recording the scene where Bradley Munroe was found unconscious in his cell on September 29, 2008.

SUPPLEMENTAL RESPONSE NO. 25: Named Defendants object to the extent Request for Production No. 25 seeks information protected by the attorney-client privilege and/or work product doctrine. Without waiving said objection, please see Exhibit A provided herewith.

DATED this 21 day of April, 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____



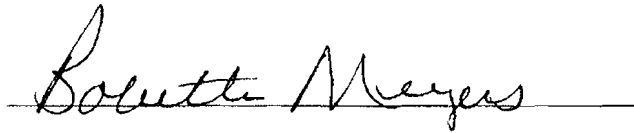
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2010, I served a true and correct copy of the foregoing DEFENDANTS' EIGHTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY to the following persons by the following method:

Eric B. Swartz
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile



JUL 07 2010

J. DAVID NAVARRO, Clerk
By CARLY LATIMORE
DEPUTY

ORIGINAL

Eric B. Swartz, ISB #6396
Darwin L. Overson, ISB #5887
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joy@jonesandswartzlaw.com

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFF'S REPLY
MEMORANDUM RE MOTION
FOR LEAVE TO FILE
AMENDED COMPLAINT**

Plaintiffs hereby reply to Defendants' Objection to Plaintiffs' Motion for Leave to Amend their Complaint.

There has been no undue delay, bad faith, or prejudice to the Defendants by Plaintiffs seeking to amend their Complaint dismissing certain Defendants and identifying others who were only known to the Plaintiffs as John Does I-X when they filed their original Complaint.

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Under Idaho law, plaintiffs are entitled to name unknown parties in their complaint and amend the complaint when the true names of the parties are discovered. IRCP 10(a)(4); IRCP 15(a); *Hallstrom v. Garden City*, 991 F.2d 1473, 1486 n.31 (9th Cir. 1992); *see Chacon v. Sperry Corp.*, 111 Idaho 270 (1986) (where amending party acted with diligence to determine the true names of Does and thereafter amended the complaint, amended complaint related back); *see also Watts v. Lynn*, 125 Idaho 341, 347-8 (1994) (necessity to identify unknown defendant as being an entity whose true name was unknown).

A party's amended complaint naming previously unknown defendants will relate back to the original pleadings where the court finds:

- (1) The party seeking to amend can establish that just cause existed for not earlier determining the name of the fictitiously described defendants;
- (2) That after filing the complaint designating fictitious party, due diligence was exercised to discover the party's identity;
- (3) The amended complaint was timely filed;
- (4) The identified party was timely served with the amended complaint;
- (5) The identified party had notice of the complaint; and
- (6) That no prejudice is shown to the defendant by late service of summons and complaint after the statute of limitations has run.

Chacon, 111 Idaho at 275. Here, though the statute still has not run, the *Chacon* analysis provides this Court with guidance in determining whether to allow the Plaintiffs' Amended Complaint.

When the Plaintiffs initially filed their Complaint, they had a good faith basis for their claims against the Defendants named in the Complaint. An investigation was undertaken to determine whether there was liability, which included requests for public records, interviewing jail inmates, and consideration of statements made to Rita Hoagland by county officials shortly

after Munroe's death.¹ Just cause exists for Plaintiffs not naming John Does I-X because Plaintiffs had taken all reasonable steps to determine the names of all individuals who might be responsible for Munroe's death, and John Does I-X were still unknown to the Plaintiffs.²

Plaintiffs exercised due diligence to discover the true identity of John Does I-X. The Plaintiffs' first interrogatory served on Defendant Raney asked for the identity of "every person known to you who has knowledge or purports to have knowledge of any of the facts of this case" and what those individuals are believed to have known.³ In response, Defendant provided a list of 113 names of individuals with descriptions of what was thought to be known by each that was so vague and uninformative as to be of little value in identifying who John Does I-X were.⁴ For example, C. K. Buck was identified as an inmate of the jail who "can testify as to what he observed."⁵ Jeremy Wroblewski, a person with key information that would provide the Plaintiffs with the identity of James Johnson, was described as having "gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office."⁶ Those responses were served on the Plaintiffs on September 11, 2009.⁷ Defendant Raney identified James Johnson, perhaps the person with the most liability for Mr. Munroe's death, as follows:⁸

¹ *Aff. of D. Overson in Support of Pltfs' Mot. For Leave to File Am. Complaint*, ¶2.

² *Id.*

³ *Id.* at ¶3.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

59. James Johnson. Mr. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the jail and medical unit both generally and in this instance.

The definition of the term "identify" in the interrogatory set was sufficiently specific as to make it clear to any reasonable person that the identification provided by Defendant Raney was deficient.⁹

On April 8, 2010, Defendants provided their fourth supplemental response to Interrogatory No. 1 by a general reference to 638 pages of documents.¹⁰ An eighth supplemental response was served on the Plaintiffs on April 21, 2010, which again included a generalized reference to the accompanying 597 pages of documents.¹¹ Slightly more specific answers were provided to Interrogatory No. 1 though they were still objectively deficient. Defendant Raney's answer regarding Jeremy Wroblewski was typical:

Jeremy Wroblewski, Commissioned Deputy, Jail and Court Services Bureau. Deputy Wroblewski gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information regarding the jail and its operation, both generally and in this instance.¹²

The Plaintiffs were diligent in seeking to learn the identities of John Does I-X.

Information regarding the various identified individuals trickled in right up until just before the Plaintiffs sought leave to amend their Complaint.¹³ On this record, it is clear the Plaintiffs were unable to determine the names of John Does I-X at the time they filed their

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.* at 5.

¹² *Id.*

Complaint, that they diligently sought the identity of John Does I-X, and that upon learning their true identity, the Plaintiffs sought to amend their Complaint in a timely fashion. The first three elements of *Chacon* are met in this case.

The newly identified Defendants named in Plaintiffs' Amended Complaint have yet to be served as the Defendants are objecting to the Plaintiffs' motion for leave to file the Amended Complaint. The fourth element is therefore inapplicable in this particular case.

The newly identified Defendants are certainly on notice since they are all represented by the Defendants' attorneys in the Ada County Prosecutor's office and most all of them have provided affidavits that are now on file with this Court. Accordingly, the fifth *Chacon* element is satisfied.

Defendants have provided no basis for this Court to find that they have been prejudiced by the timing of Plaintiffs' Amended Complaint. Any delays in filing for leave to amend were largely due to the delays in the discovery process. The documentary evidence is quite large in this case and it has taken time for Defendants to gather, review and produce some 4,000 pages of documents. Similarly, it has taken considerable efforts and time to review and digest what has been produced.

Defendants are also unable to demonstrate prejudice because they agreed to the scheduling order governing this case. The deadline for amending complaints is not until August 13, 2010. Furthermore, the statute of limitations will not run until September 29, 2010.

Defendants appear to argue that they have been somewhat prejudiced by the Amended Complaint because it comes on the heels of their motion for summary judgment. However, the

¹³ *Id.* at ¶¶10-11; see Plaintiffs' Rule 56(f) motion for a detailed description of the history of Defendants' discovery production to Plaintiffs' various requests for discovery.

Defendants' attorneys had fair notice that Plaintiffs would be amending their Complaint.¹⁴ No specific date was set by Plaintiffs' attorneys as to when that would be accomplished, and the May 21, 2010 date was merely an estimate.¹⁵ As such, Defendants can hardly say they have been prejudiced in some manner related to their motion for summary judgment.

The record is absolutely clear that Defendants have not been prejudiced by the timing of the Amended Complaint. The record is such that the sixth element of the *Chacon* analysis weighs heavily in Plaintiffs' favor to permit leave to file their Amended Complaint. As such, Defendants' objections should be overruled and the Court should grant Plaintiffs leave to file their Amended Complaint.

Other courts have permitted the filing of amended complaints under similar circumstances where the defendant has moved for summary judgment during or even after the discovery cut off. For instance, in *Rentz v. Spokane County*, 438 F. Supp.2d 1252, 1256 (E.D. Wa. 2006), the defendants made a similar argument as the Defendants are in this case.

Defendants contend the plaintiffs' proposed complaint also has an improper purpose in that it seeks to circumvent the summary judgment sought by defendants. To the extent the proposed amended complaint alleges wrongful death causes of action under state law, those causes of action remain subject to summary judgment . . . because there is no dispute that the parents and siblings of decedent were not financially dependant upon him at the time of his death. Furthermore, allowing an amended complaint which drops the Eighth Amendment cause of action effectively achieves the same result as the summary judgment sought by defendants with regard to that cause of action. The "Joint Motion to Amend Complaint" does not circumvent the summary judgment motion filed by defendants via their reply brief.

438 F. Supp.2d at 1256.

¹⁴ *Id.* at ¶¶7, 12.

¹⁵ *Id.* at ¶¶6-12.

The *Rentz* court similarly rejected the defendants' argument that since the amended complaint set forth new causes of action, it should not be permitted by the court.

It is true the original complaint filed by the plaintiffs and the "Complaint In Intervention" filed by William Rentz are not as clear about asserting wrongful death and survival actions for the benefit of decedent's estate and the beneficiaries designated under Washington's wrongful death and survival statutes. The proposed amended complaint makes that clear and in doing so, does not prejudice the defendants. Furthermore, defendants are not prejudiced since the court is also granting the plaintiffs' "Joint Motion To Continue Trial."

There being no bad faith or dilatory motive on the part of plaintiffs, and the defendants not suffering any prejudice, justice requires that plaintiffs be given leave to amend their complaints pursuant to Fed.R.Civ.P. 15(a). Plaintiffs' "Joint Motion To Amend Complaint" (Ct.Rec.66) is GRANTED. Plaintiffs' "Second Joint Amended Complaint" (Ct.Rec.77) will hereby serve as the complaint of record for all of the Plaintiffs, including Plaintiff-Intervenor. This complaint shall be served upon the new defendants in accordance with the Federal Rules of Civil Procedure.

438 F.Supp.2d at 1256-57. The context within which *Rentz* was decided was a jail suicide case very similar to the facts in this case.

Similarly, in *Blackhawk v. City of Chubbuck*, 2005 WL 3244406, the District Court of Idaho permitted the plaintiffs to amend their complaint after the deadline for making amendments to the pleadings. *Blackhawk*, *1. It appeared from the court's opinion that a factor that weighed heavily in the plaintiffs' favor was that the documents produced to the plaintiffs by the defendants took "nearly two months to compile [and it] understandably took plaintiffs' attorney more than three weeks." *Id.*

In situations where the identity of certain defendants cannot be known to the plaintiff when a complaint is filed, "the plaintiff should be given an opportunity through discovery to

identify the unknown defendants, unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds.” *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). Here, discovery is ongoing and the Plaintiffs have been able to determine the identities of Defendants John Does I-X, and the Defendants have presented no “other grounds” on which to dismiss the complaint. As such, Defendants’ objections to Plaintiffs’ motion for leave to file their Amended Complaint should be overruled.

DATED this 6th day of July, 2010.

JONES & SWARTZ PLLC

By 

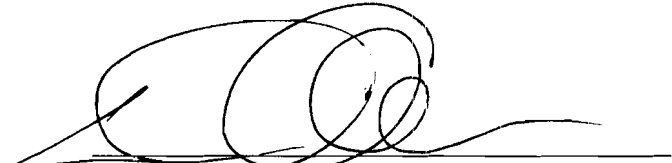
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

[] U.S. Mail
 Fax: 287-7719
[] Overnight Delivery
[] Messenger Delivery
[] Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

441
10/17/2008
JAMES K. DICKINSON
200 W. FRONT STREET
BOISE, IDAHO 83702

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney

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Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY SHERIFF, GARY RANEY, an)
elected official of Ada County and operator of the)
Ada County Sheriff's Office and Ada County Jail;)
et al.,)

Defendants.)

Case No. CV OC 0901461
AFFIDAVIT OF SHERRY A. MORGAN IN OBJECTION TO AFFIDAVIT OF DARWIN OVERSON IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT

STATE OF IDAHO)
) ss.
County of Ada)

Sherry A. Morgan, being first duly sworn upon oath, and being over the age of eighteen (18) and otherwise competent to testify in this matter, deposes and says:

m

1. I am counsel of record for the named Ada County Defendants (“Defendants”) in the above-entitled matter.

2. On the morning of June 14, 2010, Jim Dickinson, Ray Chacko and I received an e-mail from Darwin Overson asking us to call him. Shortly after reading the e-mail, I called Mr. Overson. Mr. Overson stated to me that they would have nothing for us that day (referring to Plaintiffs’ response to Defendants’ Motion for Summary Judgment), and asked if they could have an additional week to file their response. I stated that an additional week would require a change to the summary judgment hearing date, and that I would need to check with my co-counsel. Mr. Overson stated he was disappointed that we did not contact his office when setting the summary judgment hearing date.

3. I immediately conferred with Mr. Dickinson and Mr. Chacko, and we decided that we would agree to the one-week extension. I then called the Court’s clerk and asked if we could move the Summary Judgment hearing and the hearing on Defendants’ Motion for Discovery Protection from June 28, 2010, to July 8, 2010, since we already had a hearing set for that date (Defendants’ Motion to Amend Expert Disclosure Deadlines was already scheduled to be heard on that date). The Court’s clerk agreed to this, but stated we would need to move the hearing on the Motion to Amend Expert Disclosure Deadlines, which was reset to July 21, 2010.

4. I then called Mr. Overson back and relayed my conversation with the Court’s clerk to him. I asked if July 8, 2010 would be an acceptable hearing date, and he agreed. I also explained the Court’s need to move the hearing on the Motion to Amend Expert Disclosure Deadlines, and he agreed with that new date as well. Mr. Overson agreed to file Plaintiffs’ response brief by June 21, 2010. I stated that I would send a letter confirming our conversation,

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July 2010, I served a true and correct copy of the foregoing AFFIDAVIT OF SHERRY A. MORGAN IN OBJECTION TO AFFIDAVIT OF DARWIN OVERSON IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT to the following person by the following method:

Eric B. Swartz
Darwin Overson
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, Idaho 83707-7808

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile





**ADA COUNTY
PROSECUTING ATTORNEY**

GREG H. BOWER

200 W. Front Street, Rm 3191
Boise, Idaho 83702

**CRIMINAL
DIVISION**

Phone (208) 287-7700
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**CIVIL
DIVISION**

Phone (208) 287-7700
Fax (208) 287-7719

June 14, 2010

VIA FACSIMILE (208) 489-8988

Darwin L. Overson
Jones & Swartz
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

RE: *Rita Hoagland v. Ada County Sheriff, et al.*
Case No. CV PI 0901461

Dear Darwin:

As we discussed on the phone this morning, we have moved the summary judgment hearing date to accommodate your request for one additional week in which to file your response to our summary judgment motion. The hearing date is now Thursday, July 8, 2010 at 3:00 p.m.

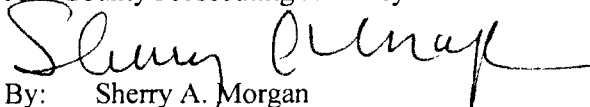
You have agreed to file your response by June 21, 2010 (instead of June 14th as allowed by the IRCP), making our reply due July 1, 2010. This gives the Defendants three additional days to file our reply, since you are receiving an additional week for your response.

The hearing on the Defendants' Motion for Discovery Protection has also been moved to July 8th at 3:00 p.m. As Judge Wilper's clerk would rather not have all three motions heard at the same time, we have moved the Defendants' Motion to Amend Expert Disclosure Deadlines from July 8th to July 21, 2010, at 3:00 p.m.

We will send out amended hearing notices reflecting the new dates and times. Thank you for your continued cooperation in this case.

Sincerely,

GREG H. BOWER
Ada County Prosecuting Attorney


By: Sherry A. Morgan
Deputy Prosecuting Attorney

SAM:bm

ORIGINAL

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of
Idaho; ADA COUNTY SHERIFF, GARY RANEY, an
elected official of Defendant Ada County and the operator
of the Ada County Sheriff's Office and Ada County Jail, in
his individual and official capacity; LINDA SCOWN, in
her individual and official capacity; KATE PAPE, in her
individual and official capacity; STEVEN GARRETT,
M.D., in his individual and official capacity; MICHAEL E.
ESTESS, M.D., in his individual and official capacity;
RICKY LEE STEINBERG, in his individual and official
capacity; KAREN BARRETT, in her individual and
official capacity; JENNY BABBITT, in her individual and
official capacity; JAMES JOHNSON, in his individual and
official capacity; DAVID WEICH, in his individual and
official capacity; LISA FARMER, in her individual and
official capacity; and JOHN DOES I-X, unknown persons/
entities who may be liable to the Plaintiffs,

Defendants.

Case No. CV-OC-2009-01461

**AMENDED COMPLAINT
FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

4

3

COME NOW the above-named Plaintiffs, by and through their counsel of record, Jones & Swartz PLLC, and complain against the named Defendants as follows:

I. PARTIES

1. Rita Hoagland (“Ms. Hoagland”) is the natural mother of the deceased, Bradley Munroe, and has been duly appointed to serve as the personal representative of the Estate of Bradley Munroe in Case No. CV-IE-2008-20235 filed in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada. Ms. Hoagland is a resident of Canyon County.

2. Bradley Munroe (“Munroe”) died while a resident and inmate of the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho.

3. Ada County is a municipality and political subdivision of the State of Idaho.

4. Gary Raney (“Raney”) is and at all times herein mentioned was the elected Sheriff of Ada County and the operator and supervisor of the Ada County Sheriff’s Office (“ACSO”) and Ada County Jail and all of the staff and officers employed thereby.

5. Upon information and belief, Defendant Linda Scown (“Scown”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO as Captain. She is and at all time herein mentioned was the Director of Health Services at the ACSO and, other than Defendant Raney, is the highest ranking official responsible for operation of the “Ada County Jail Medical Unit.”

6. Upon information and belief, Defendant Kate Pape (“Pape”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail, with the title of “Health Services Administrator,” also at times referred to

by Defendants as the "Health Services Manager." The Health Services Administrator at the Ada County Jail is responsible for, among other duties, the following:

a. Plans, directs, coordinates and supervises the delivery of medical and mental health services within the jail, and works in a collaborative manner to ensure the jail medical and mental health services are provided to inmates of the jail in a manner consistent with constitutional requirements;

b. Supervises the Nursing Supervisor, Physician's Assistants, Social Workers, and the Health Services Administrative Supervisor;

c. Ensures quality and consistent services are delivered in compliance with ACSO written policies, professional standards, constitutional standards, and state and federal law;

d. Develops and establishes policies, procedures and protocols to administer effective and efficient standards of management, care, and delivery of medical and mental health services in the jail;

e. Oversees staff development, including performance appraisals, and training;

f. Ensures healthcare providers comply with contractual obligations;

g. Ensures periodic inspections of clients and facilities are completed to ensure that the healthcare delivery system operates effectively and efficiently, and documents such inspections to meet National Commission on Correctional Health Care standards ("NCCHC Standards"); and

h. Ensures medical programs and related documentation are maintained in such a manner that the Ada County Jail's NCCHC accreditation is not jeopardized.

7. Upon information and belief, Defendant Steven Garrett, M.D. ("Garrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, and

a. Defendant Garrett at all times relevant to this Amended Complaint was providing medical services to inmates of the Ada County Jail pursuant to a written contract with Ada County and ACSO ("Supervising Physician's Contract");

b. In the Supervising Physician's Contract, Defendant Garrett agreed to assist the ACSO in meeting its duties imposed by state and federal law for the provision of healthcare to

inmates of the Ada County Jail; by the Ada County and ACSO written policies for the provision of healthcare to inmates of the Ada County Jail; and by the NCCHC Standards;

c. In the Supervising Physician's Contract, Defendant Garret agreed to fulfill the role of "Supervising Physician," which position mandated by ACSO written policy as having final medical decision authority for all healthcare provided to inmates in the custody of the ACSO, including the Ada County Jail Medical Unit; and

d. In the Supervising Physician's Contract, Defendant Garrett agreed to coordinate the healthcare of persons in the custody of the ACSO with the ACSO's "Contracted Psychiatrist," staff social workers, and the "ACSO's "Inmate Healthcare Supervisor."

8. Upon information and belief, Defendant Michael E. Estess, M.D. ("Estess") is and at all times herein mentioned was an adult resident of Ada County, Idaho, and

a. Defendant Estess at all times relevant to this Amended Complaint was contracted with Ada County and ACSO to be the "Contract Psychiatrist" and to provide psychiatric healthcare on a regular basis to inmates of the Ada County Jail ("Psychiatrist Contract"); and

b. In the Psychiatrist's Contract, Defendant Estess agreed to assist the ACSO and Ada County Jail medical staff in meeting its duties imposed by Ada County's written policies, Ada County Jail's written policies, state and federal law, and NCCHC Standards.

9. Upon information and belief, Defendant Ricky Lee Steinberg ("Steinberg") is and at all times herein mentioned was an adult resident of Ada County, Idaho, and

a. Defendant Steinberg at all times relevant to this Amended Complaint was contracted with the ACSO to provide medical services as a Physician's Assistant to inmates of the Ada County Jail ("Physician Assistant's Contract");

b. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide Healthcare Assessments of inmates of the Ada County Jail that meet the requirements imposed by the Supervising Physician, Ada County and ACSO written policies, and the NCCHC Standards;

c. In the Physician Assistant's Contract, Defendant Steinberg agreed to complete all necessary forms and documentation required by the ACSO, the Supervising Physician, or governing agencies;

d. In the Physician Assistant's Contract, Defendant Steinberg agreed to refer medical issues discovered during Inmate Assessments to ACSO medical staff for follow-up other than when immediate action is required to safeguard the physical or mental health of the inmate; and,

e. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide all appropriate care to the inmate under those circumstances where immediate action is appropriate and care cannot be handed off to another ACSO provider, until such time as ACSO medical staff is able to take on such care of the inmate.

10. Upon information and belief, Defendant Jenny Babbitt ("Babbitt") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Nursing Supervisor and Inmate Healthcare Supervisor, and

a. At all times relevant to this Amended Complaint, the Nursing Supervisor had, among other duties, the duty to confirm licensing of all medical care providers within the Ada County Jail and maintain records thereof;

b. At all times relevant to this Amended Complaint, the Inmate Healthcare Supervisor was charged with the following duties, among others:

- i. Co-supervise and co-manage various components of the healthcare system in the Ada County Jail.
- ii. Supervise and direct county employees delivering healthcare, including the pharmacy charge nurse, to ensure compliance with constitutional requirements.
- iii. Perform professional nursing work consisting of assessments, developing treatment plans, and monitoring inmates' physical condition.
- iv. Coordinate with other jail and court services bureau supervisors to maximize the safety of staff, community and inmates, security and the wellbeing of staff and inmates.
- v. Ensure the medical services are delivered in compliance with Idaho Jail Standards and ACSO written policies and procedures.
- vi. Ensure all personnel under their direct supervision adhere to the ACSO written policies and procedures.
- vii. Supervise registered nurses, licensed practical nurses, and other county employees who provide healthcare services to inmates.
- viii. Conduct performance evaluations in accordance with the ACSO written policies and procedures.
- ix. Supervise the distribution/issue of pharmaceuticals to inmates.
- x. Ensure inventories of medical supplies and equipment and re-orders when necessary.
- xi. Conduct periodic inspections of jail inmates and jail facilities to ensure that the inmate healthcare delivery system operates effectively and efficiently and documents such inspections to meet NCCHC Standards.
- xii. Ensure jail medical programs/documentation is maintained in such a manner to ensure continuous NCCHC accreditations.
- xiii. Schedule and participate in meetings with the Health Services Manager, medical personnel, shift supervisors, and others as required to discuss issues relating to the maintenance of NCCHC accreditation.

- xiv. Interview applicants for medical staff positions and make hiring recommendations.
- xv. Make recommendations relating to the contract between Ada County and contractual healthcare providers.
- xvi. Develop and manage training of healthcare staff and security staff as it relates to medical issues.

c. At all times relevant to this Amended Complaint, the Inmate Healthcare Supervisor had direct supervision and control over the Pharmacy Charge Nurses of the Ada County Jail Medical Unit, who in turn were charged with the following duties, among others:

- i. Overseeing and providing patients care through the processing of medications, medication disbursement and maintenance of pharmacy stock and supplies.
- ii. Ensuring accurate documentation in the electronic medical records.
- iii. Overseeing pharmacy employees' processing of medications, medication disbursements, documentation and maintenance of pharmacy stock.
- iv. Communicating essential information with healthcare and security team members.
- v. Assisting registered nurses, nurse practitioners, physician's assistants, and physicians on the follow-up on all medication orders.
- vi. Participating in quarterly pharmacy reviews to meet NCCHC Standards.

11. Upon information and belief, Defendant Lisa Farmer ("Farmer") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with ACSO within the Ada County Jail with the title of Registered Nurse, and at all times relevant to this Amended Complaint, she was charged with the following duties, among others:

- a. Administer treatments and medications prescribed and supervised by the Medical Authority for patients;
- b. Maintain treatment records, making note of all medications given, doctor visits and related activities;

c. Monitor, store, and control medications and medical supplies according to Ada County written policies and procedures;

d. Provide coordination of care duties with community health services to promote inmate continuity of care;

e. Observe the physical condition and behavior of inmates to ensure maximum healthcare is provided;

f. Prepare for sick call by screening kites sent by inmates and assessing problems, pull charts or make new charts, and list those who need to be seen by the physician, psychologist, and mid-level providers;

g. Review all medical intake information and assess who needs to be seen sooner than routine sick call;

h. Prepare medication renewal orders for the physician and mid-level providers to sign;

i. Schedule inmates with mental problems to see the psychologist and prepare the necessary records; and

j. Coordinate orders from the physician's assistant and the physician with the pharmacist.

12. Upon information and belief, Defendant Karen Barrett ("Barrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Senior Physician's Assistant, and at all times relevant to this Amended Complaint, she was charged with the following duties:

a. Provide direct and indirect basic medical care to meet physiological, psychosocial, and emotional needs of the inmates in the Ada County Jail;

b. Supervise the work of physician's assistants and/or nurse practitioners;

c. Respond to and initiate care for medical emergencies throughout the facility;

d. Assess inmates in a variety of settings such as initial intake area, healthcare unit for sick call, emergency situations in housing, chronic care clinics and infirmary;

e. Identify inmates' health problems and prescribe treatment under the direction of a physician;

f. Obtain histories and perform physical examinations to determine normal and abnormal adult health status;

g. Implement medical care utilizing therapeutic regimens approved by a physician;

h. Make appropriate, timely referrals and initiate treatments based on institutional policies and procedures and physician's direction;

i. Act as the primary contact for physicians;

j. Supervise the work of physician's assistants and/or nurse practitioners to ensure consistency of patient care as described by the physician;

k. Assist with the recruitment, hiring and training of physician's assistants and/or nurse practitioners; and

l. Make recommendations regarding policies and procedures.

13. Upon information and belief, Defendant James Johnson ("Johnson") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the Ada County Jail within the Ada County Jail Medical Unit with the title of Masters of Social Work or MSW, and:

a. Defendant Johnson's job duties included but were not limited to:

i. Providing psychiatric social work services to Ada County Jail inmates;

ii. Providing clinical consultations with Ada County Jail staff;

iii. Conducting bio-psycho-social and risk assessments to determine inmates' needs and eligibility for services and their level of care needed;

iv. Providing inmates with crisis intervention services and individual counseling;

v. Promoting inmate self-determination by addressing special needs of inmates;

vi. Participating in interdisciplinary team staffing to formulate treatment plans;

- vii. Identifying and teaming with other community resource agencies to design, coordinate, and provide inmate assistance and intervention;
- viii. Taking action to reduce risk to inmates upon being discharged from the jail by organizing emergency, crisis intervention and after-hours on-call services;
- ix. Conducting on-going suicide risk assessments and implementing crisis intervention accordingly;
- x. Preparing written inmate assessment reports;
- xi. Designing and implementing inmate case plans using community resources; and
- xii. Maintaining a Social Worker license in the State of Idaho.

b. At no time has Defendant Johnson held a Social Worker license in the state of Idaho.

14. Upon information and belief, Defendant David Weich (“Weich”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Medical Attendant and Certified Correctional Health Professional, and at all times relevant to this Amended Complaint had, among others, the following job duties:

- a. Preparing medication renewal orders for medical staff to sign;
- b. Scheduling inmates with mental problems to see the psychologist and preparing necessary records, including charting observations;
- c. Transcribing orders from the medical staff on the inmate medication prescription roster; and
- d. Updating medical/nursing personnel credentials information.

15. Upon information and belief, Defendants John Does I through X are individuals or entities who at this time the Plaintiffs are unable to identify but who are employed by the Ada County Jail or by another division of Ada County, or contract with Ada County, and are

responsible for the violation of Munroe's rights under the Fourteenth Amendment of the United States Constitution and for his death.

II. JURISDICTION AND VENUE

16. Jurisdiction is proper with this Court pursuant to Idaho Code § 5-514, and the amount in controversy exceeds this Court's jurisdictional minimum.

17. Venue is appropriate in this Court pursuant to Idaho Code § 5-404.

III. GENERAL ALLEGATIONS

POLICIES

18. At all times relevant to this Amended Complaint, Ada County was responsible for providing health care to inmates incarcerated and confined in the Ada County Jail. At all times relevant to this Amended Complaint, inmates of the Ada County Jail were to have access to care to meet their serious medical and mental health needs.

19. At all times relevant to this Amended Complaint, Ada County was required to designate a Health Authority for the Ada County Jail in order to satisfy its medical and mental health obligations to inmates at the Ada County Jail.

20. At all times relevant to this Amended Complaint, Ada County written policy required that the Health Authority for the Ada County Jail "shall be the Medical Services Administrator."

21. At all times relevant to this Amended Complaint, Ada County written policy mandated that the responsibilities of the Medical Services Administrator were to ensure "that quality, accessible health care services are available to inmates at the Ada County Jail. The Medical Services Administrator will coordinate all levels of health care provided at the Ada County Jail."

22. At all times relevant to this Amended Complaint, Ada County written policy mandated that the Medical Services Administrator was required to participate in quarterly meetings with the Sheriff or his designee, the Security Services Captain, the responsible physician, and other healthcare and security staff to address, among other things, the overall healthcare services being provided to inmates, including psychiatric services. Monthly meetings were also required to take place between the Medical Services Administrator and the health services staff in accordance with Ada County's written policy.

23. At all times relevant to this Amended Complaint, ACSO failed to employ or otherwise contract for the services of a Medical Services Administrator and was therefore operating the Ada County Jail without a Health Authority.

24. At all times relevant to this Amended Complaint, Ada County written policy required that the Medical Services Administrator and Nursing Supervisor were to ensure that each healthcare provider providing medical and mental health services to Ada County Jail inmates was licensed, registered, certified, or exempt in the state of Idaho.

25. At all times relevant to this Amended Complaint, Ada County written policy required the Medical Services Administrator to prepare and approve a training program that would instruct detention officers in administering medications to inmates.

26. At all times relevant to this Amended Complaint, Ada County had in place a written policy that it would maintain a written manual that "will at a minimum contain a policy statement and detailed procedures for each of the 72 standards presented in the Standards for Health Services in Jails by the National Commission on Correctional Health Care."

27. The NCCHC is a nationally recognized non-profit organization that sets standards for the provision of health care to incarcerated inmates and provides accreditation to jails and

other correctional institutions based on its established 72 standards set forth in the NCCHC Standards.

28. At all times relevant to this Amended Complaint, Ada County had written policies in place that adopted the NCCHC Standards for the operation of the Ada County Jail.

29. At all times relevant to this Amended Complaint, Ada County written policy provided that within the Ada County Jail Medical Unit “final medical judgment rests with a single designated physician licensed in the State of Idaho. The medical doctor designated as the responsible physician will be identified in the contractual agreement.”

30. At all times relevant to this Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “single designated physician” referenced in the Ada County written policies.

31. At all relevant times to this Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “responsible physician” that was “identified in the contractual agreement” and therefore was the person with “final medical judgment” as to all medical and mental healthcare services provided to inmates in the Ada County Jail.

32. In the Supervising Physician’s Contract, ACSO acknowledged its duty to operate the Ada County Jail in conformance with NCCHC Standards, and Defendant Garrett agreed to provide medical and mental healthcare services under the Contract in conformance with NCCHC Standards, and further agreed to assist the ACSO with meeting its duties described in NCCHC Standards.

33. In the Supervising Physician’s Contract, Defendant Garrett agreed to perform periodic and timely reviews of inmate medical records to evaluate the medical services provided to inmates and to make adjustments and improvements as necessary to ensure compliance with

“all applicable state and federal laws and with the Standard for Health Care Services in Jails, 2003.”

34. In the Supervising Physician’s Contract, Defendant Garrett agreed to provide direct inmate healthcare, including but not limited to prescribing appropriate medication to inmates, evaluating inmate medical conditions referred by ACSO staff and/or medical staff, and coordinating health care for inmates with ACSO contracted psychiatrist, ACSO social workers staff, and ACSO Inmate Health Care Supervisor.

35. Defendant Garrett also agreed in the Supervising Physician’s Contract to provide indirect inmate care which included the obligation to undertake supervision, direction and responsibility for all medical acts and inmate healthcare services performed and/or provided by the psychiatrist assistant(s) employed by the ACSO, and to provide on-site supervision at the Ada County Jail and personally observe, monitor and direct the quality of care provided to inmates.

36. The Supervising Physician’s Contract provided that ACSO agreed to inform Defendant Garrett of any known health condition or complaint of an inmate and of any “suspected health conditions or concerns which may arise through observation of an inmate’s actions and behaviors.”

37. Defendant Garrett failed to provide medical services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards governing the provision of medical and mental health services to inmates, and failed to sufficiently assist the medical and security staff with meeting NCCHC Standards.

38. Defendant Garrett failed to provide the medical health services he agreed in the Supervising Physician's Contract to provide to the ACSO and the inmates of the Ada County Jail.

39. At all times relevant to this Amended Complaint and pursuant to the Physician's Assistant Contract, Defendant Steinberg was to provide professional medical services to inmates of the Ada County Jail in the capacity of a Physician's Assistant.

40. Under the Physician's Assistant Contract, Defendant Steinberg was to "maintain current licensure and required professional relationship with Steven Garrett, M.D., the supervising physician at the Ada County Jail."

41. Under the Physician's Assistant Contract, Defendant Steinberg was to provide to the ACSO a copy of all current licenses, license numbers, and other required documents within two days of executing the agreement, for compliance with NCCHC Standards.

42. Under the Physician's Assistant Contract, Defendant Steinberg agreed to provide the ACSO with, among other things, the following services:

a. "Provide health assessments for designated inmates that meet the requirements set forth by the Supervising Physician and that meet the NCCHC Standards to inmates of the Ada County Jail; and

b. Complete all necessary forms and documentation that may be required by the ACSO, the supervising physician or governing agencies."

43. At all times relevant to this Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would assist "ACSO and Jail medical staff in meeting its duties as described in the 'Ada County Mental Health Protocol' and other Jail, county and state

documents and assist in meeting such duties as are imposed by federal and state laws and regulations.”

44. At all times relevant to this Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following direct patient services, among others: Case Supervision, Discharge Planning, Medication Recommendation and Management, Supervision of Inmate Psychosocial Care, and Staffing Individual Cases with the ACSO Medical Staff.

45. At all times relevant to this Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following indirect patient services, among others: Consult with the Medical Program Administrator and Other Medical and Mental Health Professionals to Improve Quality of Overall Mental Health Delivery Program in the Jail, and Monitor and Direct Appropriate Mental Health Staff in the Delivery of Mental Health Services to the Inmates at the Jail.

46. Defendant Estess failed to provide mental health and psychiatric services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards, and failed to assist Defendants Ada County and Raney with meeting NCCHC Standards.

47. Defendant Estess failed to perform the services he agreed to provide under the Psychiatrist Contract.

48. Defendant Estess failed to supervise the provision of mental health services within the Ada County Jail, including but not limited to the failure to implement discharge planning, failure to supervise psychosocial care of inmates, failure to monitor and direct appropriate mental health staff in the delivery of mental health services to the inmates in the Ada

County Jail, and failure to manage medications being prescribed to inmates in the Ada County Jail.

49. At all times relevant to this Amended Complaint, Ada County had in place a written policy that “in all cases, health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies” in meeting its medical and mental health obligations to Ada County Jail inmates.

50. Ada County Jail was accredited by the NCCHC until its accreditation was withdrawn in November 2008 as a result of an NCCHC survey of the Jail in August 2008.

51. Ada County Jail’s accreditation was withdrawn in November 2008 for its failure to meet NCCHC Standards for NCCHC accreditation.

52. In August and September 2008, Defendants were not operating the Ada County Jail according to the NCCHC Standards or in accord with Ada County written policies adopting NCCHC Standards.

53. According to NCCHC Standards, a “Potentially Suicidal Inmate” is to be observed at staggered intervals not to exceed every 15 minutes.

54. According to NCCHC Standards, a Potentially Suicidal Inmate placed in isolation must be observed constantly.

55. According to NCCHC Standards, a Potentially Suicidal Inmate is not actively suicidal but has expressed suicidal ideation and/or has a recent history of self-destructive behavior.

56. According to NCCHC Standards and Ada County written policy in effect at all times relevant to this Amended Complaint, each member of the Jail staff was responsible to immediately notify the medical staff when an inmate exhibited symptoms that are bizarre and

could constitute mental illness, including the inmate making threats of suicide, having delusions and/or hallucinations.

57. At all times relevant to this Amended Complaint, Ada County written policies included a protocol that, upon admission to the Jail and prior to being placed in a housing unit, an inmate was required to assist the booking officer in the completion of a medical screening questionnaire.

58. Some of the questions on the medical screening questionnaire deal with mental health, past mental health treatment, and any history of suicide attempts or suicidal thoughts.

59. As part of the medical screening questionnaire completion process, the inmate was to be asked if he or she was taking any medications or was under the care of a medical or psychological doctor.

60. As part of the medical screening questionnaire completion process, if the inmate indicates that he or she was being treated or taking medication for mental health or was contemplating or had in the past attempted suicide, the medical screening questionnaire was to be marked as such and sent to the Ada County Jail Medical Unit staff for review.

61. At all times relevant to this Amended Complaint, Ada County written policy stated: "Inmates who appear to security personnel to be suicidal or otherwise mentally ill at booking, or at any time while in the jail, shall be housed in a unit that is appropriate for the inmate's condition."

62. At all times relevant to this Amended Complaint, Ada County written policy required that within 14 days of admission and confinement, each inmate was to receive a health assessment. During the assessment the health care provider was to observe the inmate for

abnormal behavior which may indicate a psychological problem. The intake medical screening form was to be reviewed during the health assessment. The Ada County written policy states:

The mental health evaluation will be documented on the physical exam form and will focus on the following areas:

- (1) History of psychiatric hospitalization and outpatient treatment,
- (2) Current psychotropic medication, and/or exhibiting violent behavior,
- (3) Suicidal ideation and history of suicidal behavior,
- (4) Drug and alcohol usage,
- (5) History of sex offenses,
- (6) History of behavior suggestive of intermittent explosive disorder,
- (7) Special education treatment,
- (8) History of cerebral trauma or seizure,
- (9) Emotional responses to incarceration,
- (10) To time, place and person oriented.

63. A full health assessment was not provided to Munroe during the incarceration period of August 28, 2008 to September 26, 2008.

64. On information and belief, Defendants had adopted the custom of forgoing such health assessments of inmates at the Ada County Jail.

65. Alternatively, if Munroe was provided a 14-day health assessment, it was not documented with a focus on the mental health evaluation in the inmate's medical record, as is required by Ada County's written policies.

66. At all times relevant to this Amended Complaint, Ada County written policy required that a special needs program be maintained to serve individual inmates who have special medical and mental health needs, such as "mental illness, including inmates with suicidal ideation and/or behavior."

67. Special Needs inmates were to be identified during the initial assessment as part of the booking process and, once it was determined that an inmate is a Special Needs inmate, a

treatment plan was required to be prepared that included short- and long-term goals to be met by addressing “collaborative problems requiring multidisciplinary involvement.”

68. Although Munroe should have been identified as a Special Needs inmate due to his suicidal history, he was not, and a treatment plan was never developed for him at the Ada County Jail.

69. At all times relevant to this Amended Complaint, Ada County written policy stated that all rooms within the Medical Unit were to be equipped with cameras to allow constant visual observation.

70. Inmates would be housed in the Medical Unit most often due to possible detoxification symptoms or mental health problems which presented a danger to self or others, including psychotic disorders, suspicion of psychotic depression, or suicidal ideation.

71. At all times relevant to this Amended Complaint, it was the Ada County written policy that the Medical Unit would accept any and all inmates referred by the security staff.

72. Medical staff was to assess the inmate and before they could return the inmate to general population, clearance by the medical staff was required and must have been “well documented” in the inmate’s medical file. Information provided by the inmate to security staff was required to be regarded as bona fide per Ada County written policy.

73. At all times relevant to this Amended Complaint, Ada County written policy stated that it is the responsibility of all Jail staff to identify inmates who may be at risk of suicide, and to initiate reasonable intervention to reduce the risks to inmates who may be suicidal.

74. During the medical intake procedure in booking, the inmate was to be asked at least three direct questions: (1) Have you ever been treated for depression? (2) Have you ever tried to commit suicide? (3) Are you contemplating suicide now?

75. Also during the medical intake procedure, the officer was required to make and document an observation directed at the question of whether the inmate's behavior suggests depression, suicide or assault.

76. Officers who become aware of an inmate who presented a potential suicide risk during the intake procedure, whether they became aware of it from the arresting officer or through direct questioning and observation, are required to immediately notify the Medical Unit and provide all available information on the potentially suicidal inmate.

77. At all times relevant to this Amended Complaint, Ada County written policy stated that once a security officer notifies the Medical Unit of a potentially suicidal inmate, the Medical Unit staff is required to conduct and document an assessment to ascertain the level of suicide risk associated with the inmate.

78. The level of suicide risk assigned to an inmate is to be used to determine the level of intervention and housing.

79. The Medical Unit staff member who performs the assessment is required to document the assessment and intervention in a topic report.

80. At all times relevant to this Amended Complaint, Ada County written policy sets forth specific factors that were to be used in assessing an inmate's level of suicide risk.

81. Inmates assessed to present a potential risk for suicide are to be assigned a risk level of low, moderate, or high according to established assessment guidelines and clinical and security judgment.

82. The guideline features of a high suicide risk inmate are identified as follows:

- a. Mood may be labile (unsettled) to depressed or exhibits recent unexplained improvement in mood;

- b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
- c. May report depression;
- d. Specific report of suicidal ideation especially with a specific workable plan;
- e. Previous suicide gestures/attempts;
- f. Under the influence of any substance;
- g. Has perceived recent major life trauma;
- h. Male;
- i. Age <25;
- j. First arrest;
- k. Incarcerated <48 hours;
- l. Makes poor or no eye contact;
- m. Verbally stunted—difficult to or will not engage in conversation;
- n. Lacks future orientation; has unrealistic expectation of self;
- o. Will not agree to no self harm;
- p. Projects elements of hopelessness, helplessness;
- q. Exhibits diminished or complete loss of self esteem;

83. The guideline features of a moderate suicide risk inmate were identified as follows:

- a. Mood may be labile (unsettled); possibly depressed;
- b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
- c. May report depression;
- d. Vague to specific report of suicidal ideation; vague or impractical plan;

- e. Under the influence of any substance;
 - f. May have perceived recent major life trauma;
 - g. Male;
 - h. Age <25;
 - i. Makes poor eye contact;
 - j. Verbally stunted—requires effort to engage in conversation;
 - k. Unsure of future orientation; some unrealistic expectations of self;
 - l. Ambivalent regarding no self-harm agreement;
 - m. Projects elements of hopelessness, helplessness;
 - n. Exhibits diminished self esteem.
84. The guideline features of a low suicide risk inmate were identified as follows:
- a. Good to labile (unsettled) mood;
 - b. Affect is congruent to mood—inmate reports sadness and gives the appearance of sadness;
 - c. May report depression;
 - d. Vague report of suicidal ideation; has no plan;
 - e. No previous suicidal gestures/attempts;
 - f. Not under the influence of any substance;
 - g. No perceived recent major life trauma;
 - h. Female;
 - i. Age >25;
 - j. Makes good eye contact;
 - k. Verbally appropriate—engages easily in conversation;
 - l. Future oriented; realistic expectations of self;

m. Agrees not to harm self.

85. At all times relevant to this Amended Complaint, Ada County written policy states that any potentially suicidal inmate must be housed where he or she could be monitored in accordance with the level of suicide risk involved.

86. At all times relevant to this Amended Complaint, Ada County written policy states low risk inmates could be housed in the general population but they were not to be housed in a single cell environment without medical/supervisor clearance unless the area had 15-minute wellbeing checks being conducted and documented.

87. At all times relevant to this Amended Complaint, Ada County written policy states moderate risk inmates could be housed in general population only with clearance from medical/supervisor.

88. At all times relevant to this Amended Complaint, Ada County written policy states housing a moderate risk inmate in a single cell environment outside the Medical Unit could only be done with medical/supervisor clearance.

89. At all times relevant to this Amended Complaint, Ada County written policy states high risk inmates are required to be housed in the Medical Unit until seen by a mid-level practitioner or medical doctor.

90. At all times relevant to this Amended Complaint, Ada County written policy states high risk inmates are required to be referred to a psychologist, be on 15-minute wellbeing checks, and have additional safeguards in place when the inmate is housed in the Medical Unit.

91. At all times relevant to this Amended Complaint, Ada County written policy requires that an Inmate Encounter Form be completed by the Medical Unit healthcare provider

“describing the medical contact with that inmate, including information on the medical complaint, results of the examination, diagnosis, recommendation, and prescriptions.”

92. At all times relevant to this Amended Complaint, Ada County written policy dictates that all inmates/prisoners who appeared to have an injury or illness or complain of such an injury or illness are required to be offered proper medical treatment, and if an inmate/prisoner refused medical treatment for an injury or illness, the deputy is required to request that the inmate/ prisoner sign a medical treatment refusal form. The deputy is also required to document the injury, illness or complaint, and all medical assistance offered.

FACTUAL EVENTS LEADING TO THE DEATH OF MUNROE

93. At all times relevant to this Amended Complaint, Munroe suffered from mental illness that caused episodes of suicidal thinking and behavior.

94. On or about October 27, 2007, 18-year-old Munroe was booked into the Ada County Jail by an ACSO's deputy on a charge of Petite Theft.

95. On or about October 27, 2007, an Initial Classification, Temporary Cell Assignment form relating to Munroe was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provides space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form includes a “Medical Intake and History/Receiving Screening” wherein the officer is to ask the inmate questions relating to the inmate's physical and mental health. One of the questions in that portion of the form is “Have you ever attempted suicide? When? Where?”

The deputy placed a question mark in the space allocated on the form for recording the inmate's response. The deputy recorded a no response next to a question asking if the inmate had ever contemplated suicide.

96. On another form used by the Ada County Jail entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535" it indicated that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between October 27, 2007 and October 28, 2007.

97. Munroe was released from the Ada County Jail on or about October 29, 2007.

98. On or about July 4, 2008, Munroe was booked into the Ada County Jail for failing to appear in court on the petite theft charge.

99. On or about July 4, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provided space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer is required to ask the inmate questions relating to the inmate's physical and mental health.

100. The July 4, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

a. "Yes – Have you ever been in a mental institution or had psychiatric care?"

"List: Bi-polar and OCD when 13 YOA"

b. "Yes – Have you ever contemplated suicide? When? when attempted Where?"

c. "Yes – Have you ever attempted suicide? When? January Where?"

"List: Sacramento Mental Health"

101. Though an Initial Classification, Temporary Cell Assignment form was filled out on or about July 4, 2008, Munroe received no classification.

102. Ada County Jail maintains a computer system for entering information regarding inmates and their histories that is referred to as JICS.

103. With regard to Munroe, the JICS on July 4, 2008, includes an entry that states: "Bi-polar and OCD when 13 YOA."

104. Another JICS review entry by an Ada County Jail employee named Peni Dean states: "Per JICS patient has been treated for bipolar and OCD 13 years ago. Patient attempted suicide in January at Sacramento Mental Health. No SI or other medical issues at this time."

105. On another form entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535," a record entry states that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between July 4, 2008 and July 7, 2008.

106. Munroe was released on July 7, 2008, without a discharge plan in place for him.

107. There is no documentation in Munroe's medical records at the Ada County Jail indicating that Munroe received any medications or mental health treatment during his incarceration from July 4, 2008 to July 7, 2008.

108. On or about August 28, 2008, Munroe was again booked into the Ada County Jail to serve his sentence on the conviction he received on the petite theft charge.

109. When Munroe was booked into the Ada County Jail on or about August 28, 2008, he was carrying his prescription medications consisting of Celexa and Perphenazine.

110. Munroe told the booking deputy that he had been prescribed these two medications by his doctor, Stephen Bushi.

111. Celexa is an antidepressant. In 2004 and again in 2007, the FDA directed manufacturers of certain antidepressants to update their black box warnings to include warnings of increased suicidality when their product is prescribed to young adults between 18 and 24 years of age during the initial treatment period of one to two months. Celexa was one of the antidepressants included in the FDA directive. When Celexa is initially started or when dosages are adjusted up or down, patients, families and caregivers are advised to be alert to the emergence of anxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness, impulsivity, akathisia (psychomotor restlessness), hypomania, mania, other unusual changes in behavior, worsening of depression, and suicidal ideation. A portion of the warning states:

Families and caregivers of patients should be advised to observe for the emergence of such symptoms on a day-to-day basis, since changes may be abrupt. Such symptoms should be reported to the patient's prescriber or health professional, especially if they are severe, abrupt in onset, or were not part of the patient's presenting symptoms. Symptoms such as these may be associated with an increased risk for suicidal thinking and behavior and indicate a need for very close monitoring and possibly changes in the medication.

112. Perphenazine is an antipsychotic medication that is used to treat bi-polar and schizophrenic patients. In 2007, the FDA added Perphenazine to the list of drugs like Celexa that it was requiring manufacturers to include the warnings regarding risks of suicidality.

113. The use of Celexa or Perphenazine doubles the risk of suicidality in patients during initial treatment and during periods of dosage changes.

114. On or about August 28, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is

unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form had space for indicating whether the Medical Director Designee was notified, the space was left empty.

115. Part of the form included a “Medical Intake and History/Receiving Screening” wherein the officer was required ask the inmate questions relating to the inmate’s physical and mental health.

116. The August 28, 2008 “Medical Intake and History/Receiving Screening” form recorded the following information regarding Munroe:

- a. “Yes – Is the inmate carrying any medications?”
- b. “Yes – Are you presently taking medications?”
“List: perphenazine, citalopram”
- c. “Yes – Are you under a doctor’s care?”
“List: Stephen Bushi”
- d. “Yes – Self-inflicted injury scars on wrists, legs, neck?”
- e. “Yes – Seeing visions?”
- f. “Yes – Hearing voices?”
- g. “Yes – Depressed?”
- h. “Yes – Confused?”
- i. “Comments: Says if he doesn’t take meds he gets bad mood swings. Has a 4 in scar on right arm that is self inflicted. Says his meds are for depression, manic, ocd, bi-polar.”
- j. “Yes – Have you ever been in a mental institution or had psychiatric care?”

“List: intrmntn 2 weeks ago”

k. “Yes – Have you ever contemplated suicide? When? Where?”

l. “Yes – Have you ever attempted suicide? When?”

“List: cut his arm and try to od”

117. Based on the August 28, 2008 Initial Classification, Temporary Cell Assignment form, Munroe was classified as 3-Med.High.

118. Though the Initial Classification, Temporary Cell Assignment form was filled out on August 28, 2008, Munroe was not classified until August 31, 2008, when it was determined that he would be given the classification of “3-Med.High with a High Risk and Special Condition Code of SUIHIST” for Suicide History.

119. On August 30, 2008, Defendant Farmer, a Registered Nurse in the Ada County Jail Medical Unit, made an entry in the computerized record system JICS which stated that Munroe was “on meds from provider already – see’s Stephen Bushi, was in Intermountain 2 weeks ago for attempted SI.”

120. On August 30, 2008, Lisa Farmer requested that a social worker perform a suicide assessment on Munroe and gave it a “priority 1 (high).”

121. The assessment was postponed by social worker Defendant Johnson.

122. On August 31, 2008, a JICS entry was made by an Ada County Deputy identified only as ID #4186 stating the following regarding Munroe: “During the interview I got the feeling that Munroe has the potential to be a problematic inmate. No medical issue or identified enemies. He will be sent to mcu.” MCU is an acronym meaning maximum custody unit.

123. On September 1, 2008, Defendant Johnson spoke to Munroe and cleared him for general population housing.

124. Ada County Jail records state the following notations made by Defendant Johnson documenting subjective impressions of Munroe on September 1, 2008: “per JICS – was in Intermountain 2 weeks for attempted suicide. MSW met with patient. He reports that he has a long history of treatment for mental disorders—currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time.”

125. The September 1, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

126. Munroe was initially housed in cells 1N, 2W, CCUSP until September 1, 2008, when he was moved to cell 763, where he stayed until September 21, 2008.

127. On September 21, 2008, Munroe was moved to cell 713, where he remained until he was released on September 26, 2008.

128. Cells 763 and 713 are general population housing.

129. On all of the aforementioned incarcerations when Munroe was in the custody of the Ada County Jail, he was “mishoused” according to his classification.

130. There are no records indicating that anyone at the Ada County Jail attempted at any time to communicate with Dr. Stephen Bushi regarding Munroe’s medical condition or treatment.

131. From August 28 through September 26, 2008, Ada County Jail records appear to indicate that Munroe may have received some of his prescribed medications but not all, although

due to the absence or incompleteness of the records maintained by the Ada County Jail, it cannot be confirmed whether he received all medications that were prescribed to him for his mental illness.

132. During the period between August 28 and September 29, 2008, Ada County had a written policy requiring that each time an inmate is administered a medication, a "Medication Administration Sheet" is to be used to record whether the medication was provided and whether the inmate received it or refused it.

133. Additionally, the policy required that on each occasion when medication is administered to an inmate, the officer or medical staff administering the medication to the inmate is required to sign the Medication Administration Sheet indicating whether the medication was received or refused by the inmate.

134. The inmate is also supposed to sign the Medication Administration Sheet indicating whether the medication was received or refused.

135. The Medication Administration Sheet is supposed to be made part of the inmate's medical file at the Jail.

136. The Medication Administration Sheets in Munroe's medical file at the Ada County Jail are not signed by either an officer or Medical Unit staff member, nor are they signed by Munroe.

137. On August 29, 2008, Ada County Jail Medical Unit records indicate a prescription order was placed for Munroe's Celexa and Perphenazine. The records also indicate another prescription order placed on September 4, 2008.

138. On two occasions while incarcerated between August 28 and September 26, 2008, a Five Dollar charge was made against Munroe's commissary account for medications ordered

on his behalf. It is not clear from the records whether either or both of the charges were for Munroe's Celexa and Perphenazine medications, and it is not clear what quantity, if any, of those two medications was provided to Munroe.

139. The only record that exists at the Ada County Jail of Munroe actually receiving his medications is a kite submitted by Munroe asking why his medication schedule for his Celexa had been changed from mornings to evenings.

140. There is no documentation of anyone prescribing Munroe Celexa or Perphenazine during his incarceration at the Ada County Jail between August 28 and September 26, 2008.

141. Despite Ada County written policy at the time, Ada County Jail Medical Unit did not perform a 14-day health assessment of Munroe between August 28 and September 26, 2008.

142. There are no records at the Ada County Jail indicating that Munroe was ever seen by the psychiatrist or medical doctor during any of his stays at the Ada County Jail, or that any doctor was contacted regarding Munroe's medical and mental health needs.

143. Munroe was released on September 26, 2008, after serving his sentence on the petite theft conviction.

144. At all time relevant to this Amended Complaint, Ada County written policy required that when inmates are released from the Ada County Jail, a protocol is to be followed by the Ada County Jail Medical Unit to ensure that inmates receive their medication upon release from jail.

145. Under that protocol, the Nursing Supervisor shall review the list of inmates scheduled to be released and check to see if they are inmates who were receiving medications while in the Jail and, if they were receiving medications, the Medical Unit is to gather and package the medications to be released with the inmate.

146. The Nursing Supervisor is also to complete a medication release form, and count each medication, noting the number of pills left, and deliver the medication and paperwork to booking in the Jail.

147. On September 26, 2008, Defendant Babbitt was the Supervising Nurse.

148. There is no documentation that Defendant Babbitt reviewed the list of inmates scheduled to be released on September 26, 2008, which included Munroe.

149. There is no documentation that Defendant Babbitt checked to see if Munroe was receiving medications in the Jail.

150. Defendant Babbitt did not complete a medication release form for Munroe or deliver his medications and paperwork to booking at any time.

151. At all times relevant to this Amended Complaint, an Ada County written policy was in place at the Ada County Jail that provided a protocol to be followed by the booking officer when preparing an inmate to be released from the Ada County Jail.

152. Under that protocol, the booking officer is to “inquire if they had personal medications while in the jail,” and if there are personal medications, the booking officer is to call the Medical Unit to have the medications brought to booking for release.

153. The protocol further requires that, prior to releasing the inmate, the booking officer is to complete a medication release form, which is to be signed by the inmate and the releasing officer. The inmate is to sign on one line if accepting the medications and on another if refusing the medication.

154. At all times relevant to this Amended Complaint, the ACSO had another policy at the Ada County Jail that required that an inmate who had been receiving medication while in the

Jail is to receive a two-week supply of the medication upon being released in order to maintain continuity of care.

155. The policy also requires that an inmate is to be provided contact information for community resources where they can obtain medical care to continue their treatment.

156. A record exists within the Ada County Jail indicating that when Munroe was released on September 26, 2008, Defendant Weich, a CMS and Certified Correctional Health Professional, filled out the medication release form.

157. However, the medication release form from September 26, 2008, does not indicate that Munroe was released with his medications, or if he was, or whether he accepted them or refused them.

158. Additionally, the medication release form was not signed by Munroe, Defendant Weich, or anyone else from the Ada County Jail.

159. There is also no indication that Munroe received a copy of the medication release form that would have provided contact information for community resources where he could continue his medical care in the community.

160. On information and belief, Munroe received his prescribed Celexa and Perphenazine at inconsistent intervals while incarcerated at the Ada County Jail between August 28 and September 26, 2008.

161. On information and belief, Munroe was not provided any of his medications, by Defendant Weich or anyone else at the Ada County Jail, when he was released on September 26, 2008.

162. When Munroe was released on September 26, 2008, there was no discharge plan in place for him.

163. While Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, there was no treatment plan in place for him.

164. On September 28, 2008, Munroe entered a Maverick Country Store in Boise and placed a backpack on the counter. He was wearing black shorts and no shirt. He had scratches across his face, sores on his hands, and a fresh cut to the back of his head. He screamed at the cashier to give him all the money in the cash register while threatening to have a bomb in the backpack. When the cashier did not respond to his demands for money, Munroe started banging his fists on the counter and repeatedly screamed at the cashier, "Do you want to die!" After obtaining \$239.88 in cash, Munroe fled the scene on a bicycle. He was apprehended a short distance away by Boise City Police.

165. Initially, Munroe was cooperative with law enforcement. He stepped off his bike, removed the backpack and stepped away from both. He followed the officers' command to lay flat on the ground. He identified himself and informed the officers that there was no bomb and the money was in his backpack. However, when Boise City Police placed Munroe in a squad car to be transported, Munroe's disposition changed suddenly. He began to hit his head against the car's window and alternately attempted to kick the windows out of the car. Officers placed Munroe in hobbles and transported him to the Boise City Police Criminal Investigations Division. There he admitted to consuming alcohol.

166. Once Munroe was inside the interview room, he began spitting and swearing at officers, and attempting to remove the hobbles. He refused to identify himself to the officers, even though he had earlier identified himself at the scene. While in such a state, Munroe defecated in his shorts. Paramedics were called to evaluate Munroe because of his extreme

behavior. Paramedics transported him to St. Alphonsus Regional Medical Center (“St. Al’s”) to be further evaluated.

167. Boise City Police Officer Eric Urian, who attempted to interview Munroe at the Criminal Investigations Division, reported that he terminated the interview and had Munroe transferred to the hospital because of Munroe’s “extreme behavior.”

168. Officer Urian reported that the “suspect was highly emotional and was showing great mood swings. . . . [b]ased on the suspect’s actions and his state of mind I decided that an interview was not going to be appropriate. On a second contact with Munroe he screamed at me that he wanted his attorney.”

169. Boise City Police Officers Jacob Nichols and Eric Urian transported Munroe to St. Al’s.

170. Upon arrival at St. Al’s, Munroe told Dr. Brandon J. Wilding that he had been taking Celexa and Trilafon (Perphenazine).

171. The doctor indicated in Munroe’s medical record that the past medical history was “significant for depression . . . He also reports a history of psychosis. Reviewing an older chart April 1, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning.”

172. Dr. Wilding also noted that Munroe reported to him his depression and that “if he is discharged from jail, he will commit suicide; however, he denies any plan to attempt suicide tonight. He does admit to being intoxicated.”

173. Dr. Wilding medically cleared Munroe for the Jail in part because he could not confirm the prescriptions of Celexa and Perphenazine, and because Officers Nichols and Urian

represented to Dr. Wilding that they thought the Ada County Jail Medical Unit would be able to make that determination.

174. Munroe was taken to the Ada County Jail by Boise City Police officers.

175. At the Ada County Jail, Deputy Erica Johnson began filling out Munroe's booking sheet and the booking process.

176. It appeared to Deputy Erica Johnson that when Munroe arrived at the Jail, he was under the influence of alcohol and/or drugs.

177. Deputy Erica Johnson further observed that Munroe was yelling, screaming, was rowdy, and was not making a lot of sense when speaking.

178. Due to Munroe's demeanor, Deputy Erica Johnson could not complete the booking process, and Munroe was placed in a holding cell in the booking area for his own wellbeing, where all but his boxer shorts were taken from him.

179. Boise City Police Officers Nichols and Urian remained at the Ada County Jail and assisted Ada County Jail deputies as they tried to deal with Munroe and his behavior.

180. At approximately 10:42 p.m., Munroe urinated under the cell door. Ada County Jail officers moved him to another holding cell.

181. At approximately 11:05 p.m., Ada County Jail Deputy Brewer, ID #4778, a Registered Nurse employed within the Ada County Jail Medical Unit, indicated on an Inmate Housing Security Check Log that Munroe was masturbating inside his cell and that his "clothes were removed from him as he was trying to take string and wrap [it] around his neck. Apparently paramedics did see him on scene. Possible consumption of illegal substance. Let him sober."

182. The only clothing Munroe possessed at the time was his boxer underwear. He had torn the boxers into string or strips and then wrapped them around his neck.

183. On the Inmate Housing Security Check Log there were separate boxes for indicating whether a prisoner/inmate was combative, needing to detox, was suicidal, or other, and none of those boxes were marked by Ada County Jail staff.

184. From approximately 11:20 p.m. until approximately 7:52 a.m., Munroe was held in the same holding cell with no clothes and only a safe blanket to keep him warm.

185. Inside the cell was a slightly raised padded safe cot on which he spent most of the evening sleeping. Because Munroe had had all of his clothing taken away, a curtain was placed over the windows to his cell. Ada County Jail staff checked on Munroe periodically throughout the night. Most all of the reports indicated that he was sleeping when checked on.

186. Deputy Brewer checked on Munroe on multiple occasions, but only made one entry on the log sheet. On information and belief, Brewer made a notation in the margin of the log sheet stating: "Very DK, Possible High on illegal ch, caution spitter."

187. There are no records at the Ada County Jail indicating that Deputy Brewer checked Munroe's medical record at the Ada County Jail that would have confirmed Munroe's history of suicidality, major depression, psychosis and prescription history.

188. Munroe remained in the holding cell until approximately 7:52 a.m. on September 29, 2008, when he was escorted out of the cell by ACSO's Deputy Daniel Lawson, ID #4756, and taken to be processed into the Jail on charges of robbery and consumption by a minor.

189. At approximately 7:55 a.m., Munroe was moved to a cell identified by Ada County Jail records as 2W.

190. At 8:00 a.m., ACSO Deputy Wroblewski, ID #5118, took Munroe into the booking room and started obtaining Munroe's fingerprints as part of the booking process.

191. Defendant Johnson entered the booking room at 8:01 a.m. while Deputy Wroblewski continued the fingerprinting process with Munroe.

192. Defendant Johnson had been contacted earlier to "interview Munroe about his past and present suicide tendencies." Defendant Johnson interviewed Munroe while Deputy Wroblewski continued to fingerprint Munroe.

193. Defendant Johnson spoke to Munroe until 8:04 a.m., and then left the room.

194. Before leaving, Defendant Johnson asked Munroe if he had any current suicide thoughts. Munroe responded by saying "No, I don't have any thoughts right now and I don't want any of your help."

195. Defendant Johnson asked other questions of Munroe regarding Munroe's suicidal history and mental status. Munroe again stated, "I don't want anybody's help. I am fine." Deputy Wroblewski completed the fingerprinting process with Munroe at 8:05 a.m.

196. At 8:13 a.m. on September 29, 2008, Defendant Johnson made a documentation entry on the JICS computer system indicating that he had completed a suicide assessment of Munroe and cleared Munroe from "JICS – High Risk: Suicide Watch":

Subjective: assess suicide risk in booking. MSW met with pt. who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This morning he denies suicidal ideation or intent. Additionally states that he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request.

197. The September 29, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson

made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

198. Defendant Johnson did not obtain a signed refusal for treatment from Munroe as is required by Ada County written policy.

199. Defendant Johnson cleared Munroe for general population housing after reviewing his medical records at the Ada County Jail and speaking to Munroe for approximately four minutes.

200. Defendant Johnson’s assessment of Munroe was that he posed no risk of suicide.

201. At no time prior to Munroe’s death did Defendant Johnson review Munroe’s September 29, 2008 Initial Classification, Temporary Cell Assignment form that included the medical questionnaire.

202. While Defendant Johnson holds a Master’s Degree in Social Work, he has never held a license in the state of Idaho as a social worker.

203. It is a violation of Idaho Code § 54-3214 for a person to represent themselves “as a social worker by the use of the titles ‘social worker,’ ‘masters social worker’ . . . unless licensed” in the state of Idaho as a social worker.

204. Defendant Johnson was not qualified as a social worker to perform suicide assessments such as that which was required to be done on Munroe on September 29, 2008, as part of the classification and housing process at the Ada County Jail.

205. At the time Defendant Johnson spoke to Munroe on September 29, 2008, about whether Munroe posed a likely risk of suicide, Defendant Johnson was a recent hire to the Ada

County Jail Medical Unit, having completed his “New Employee Orientation” training course on June 10, 2008.

206. While employed with the Ada County Jail and prior to the death of Munroe, Defendant Johnson had not completed the suicide assessment or prevention courses required of all other Ada County Jail employees who have contact with inmates.

207. On information and belief, prior to the death of Munroe, Defendant Johnson had no training on the written policies of Ada County relating to suicide prevention.

208. Defendant Johnson did not conduct a complete suicide assessment of Munroe on September 29, 2008.

209. The suicide assessment Defendant Johnson conducted of Munroe was inadequate to the point of demonstrating recklessness and indifference to whether Munroe was likely to commit suicide.

210. Had Defendant Johnson conducted an adequate suicide assessment and considered all factors that were set out in Ada County’s written policies at the time for assessing suicide risk, or those factors commonly viewed by trained and licensed social workers for assessing suicide risk, Munroe would have likely been classified as either high or moderate suicide risk; and would have thereby been provided greater protection against the risk of suicide.

211. With Munroe’s suicidal history, Munroe should have been at least assessed as being a low risk of suicide, which would have provided some minimum protections against Munroe committing suicide.

212. After completing the fingerprinting process, Deputy Wroblewski began interviewing Munroe as part of the medical screening process. Deputy Wroblewski reported the following information:

When I got to the questions concerning mental health, I asked Munroe "Are you seeing visions and hearing voices?" Munroe stated, "Yes, I see the shadow people." I then asked, "Are you seeing them right now?" Munroe stated, "He wasn't." I then asked Munroe if they talked to him? Munroe stated, "That they do." I asked Munroe what do they say to you? Munroe stated, "To run."

213. Deputy Wroblewski filled out the Initial Classification, Temporary Cell Assignment form and provided the following information:

- a. Poor Physical Condition at intake;
- b. ? as to whether there were visible signs of injury or illness requiring immediate treatment or care;
- c. Yes to whether he appeared to be under influence of alcohol, or exhibit signs;
- d. No to whether he appeared to be under the influence of drugs;
- e. No to whether he was carrying any medications;
- f. Yes to having been taken to the hospital but nothing as to what treatment was received;
- g. As to the question "Does behavior suggest need for immediate psychiatric treatment?" it is marked NO;
- h. As to whether he was taking medications, it states "Celexa";
- i. Are you under a doctor's care? NO;
- j. Yes to whether he was taken to hospital. List 9/28/08;
- k. Yes to understanding the questions;
- l. Yes to assault/violent behavior;
- m. Yes to angry or hostile behavior;
- n. No to loud/obnoxious behavior;
- o. No to "Self-Inflicted injury scars on wrists, legs, neck";
- p. No to Bizarre behavior;

- q. Yes to seeing visions;
- r. Yes to hearing voices;
- s. Yes to odor of alcohol;
- t. No to Uncooperative;
- u. COMMENTS: "Was hostile toward deputies and officer upon intake. Seeing shadow people, voices in head";
- v. Yes to whether he had been in a mental institution and identifies Intermountain;
- w. Yes as to whether he ever contemplated suicide. When and where are left blank;
- x. Yes to have you ever attempted suicide. When and where are left blank;
- y. Yes to are you now contemplating suicide;
- z. Yes to "does the inmate's behavior suggest a risk of suicide?"

214. Deputy Wroblewski finished his screening and filling out the Initial Classification, Temporary Cell Assignment form at 8:33 a.m.

215. Neither Deputy Wroblewski, Defendant Johnson, nor Munroe signed the Initial Classification, Temporary Cell Assignment form, even though there are signature lines for the inmate, the officer, and the physician/nurse.

216. Additionally, the areas designated to mark whether and when the notification to medical director was made, name and identification number of booking officer were all left blank.

217. In contradiction to the Ada County written policy in place at the time, Deputy Wroblewski did not contact the Medical Unit staff after Munroe relayed the information contained in the Initial Classification, Temporary Cell Assignment form.

218. The applicable Ada County written policy required that Deputy Wroblewski refer Munroe to health services once Munroe gave positive answers to having been treated for mental health issues, being on medications for mental health treatment, to contemplating suicide, and to having attempted suicide in the past.

219. Ada County written policy also required that Munroe be referred to health services because Deputy Wroblewski indicated on the form that he had observed behavior in Munroe that suggested a risk of suicide.

220. In contradiction to the direction of Defendant Johnson that, if indicated by Munroe or staff, follow-up services were to occur, Deputy Wroblewski did not contact anyone for follow-up services.

221. Deputy Wroblewski disregarded the new information that Munroe had disclosed during the intake process that strongly suggested that Munroe was suffering a psychotic break and/or posed a greater risk of suicide than what had previously been assessed by Defendant Johnson. The information that Munroe disclosed to Deputy Wroblewski while working through the Initial Classification, Temporary Cell Assignment placed Munroe squarely in the high suicide risk classification.

222. At 8:37 a.m., ACSO Deputy Ryan Donelson, ID #4800, placed Munroe in a holding cell identified as 1H CCU.

223. Deputy Donelson reported that while he was escorting Munroe to be housed in general population, Munroe stopped walking and began to speak to Deputy Donelson. Munroe said to Deputy Donelson, "I need to be on PC [Protective Custody]. I can't live with other people. Everyone wants to kill me."

224. Deputy Donelson asked Munroe whom he was having problems with, so that he could help to determine where to house Munroe. Deputy Donelson asked Munroe if he was having problems with people over drugs. Munroe did not respond. Deputy Donelson asked Munroe if he was having troubles with gangs. Munroe said "I'm into a lot of stuff and everyone wants to kill me." Deputy Donelson asked Munroe if he knew the names of any of the people who want to kill him. Munroe said, "No." Munroe again told Deputy Donelson that he needed to be on protective custody and that he could not live with other people. Deputy Donelson secured Munroe in the CCU large holding cell 1-1.

225. Deputy Donelson then spoke to classifications Deputy Drinkall, ID #4221, about his discussion with Munroe.

226. Deputy Drinkall looked up Munroe's history on JICS.

227. Deputy Drinkall also reviewed the Inmate Housing Security Check Log on which Deputy Brewer had documented Munroe's suicidal behavior of attempting to wrap clothes around his neck.

228. After reviewing Munroe's information, Deputy Drinkall noted that Munroe had a suicidal history.

229. Deputy Drinkall contacted Defendant Johnson, and Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but was very agitated.

230. Based on the information he obtained from Defendant Johnson, Deputy Drinkall determined that Munroe should be housed in the side chute of Cellblock 7. Munroe was then placed inside cell 735.

231. When Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but merely agitated, Defendant Johnson still had not reviewed the September 29, 2008 Initial

Classification, Temporary Cell Assignment form completed by Deputy Wroblewski as part of the medical screening of Munroe.

232. Cell 735 contained, among other things, a bunk bed and a set of sheets.

233. It was a single inmate cell located at the end of the side chute where the cell cannot be easily observed by security staff or other inmates.

234. Defendant Johnson approved Munroe for being housed in a single cell environment, despite Munroe being at least a low suicide risk.

235. Munroe had also been provided standard general population clothing.

236. The upper bunk bed in Munroe's cell 735 was constructed in such a fashion that there were holes in the upper bunk that were an inch or two in diameter.

237. A known risk of placing a suicidal inmate in a cell with these items is that the inmate will use the those items to commit suicide by feeding the sheet up through one of the top bunk's holes and tying the sheet off with a knot that cannot be pulled down through the hole, and then use the sheet as a ligature with which to hang themselves.

238. Cell 735 posed a known and obvious risk of suicide to Munroe.

239. At approximately 10:37 a.m. on September 29, 2008, Munroe's mother, Ms. Hoagland, spoke with Leslie Robertson, the Ada County Jail Medical Unit's Health Services Administrative Supervisor, by telephone.

240. Leslie Robertson made the following entry on the JICS system:

Date: 09-29-08 10:37 PC Rita Hoagland mother 495-XXXX, 871-XXXX.¹ Called concerned that son is back in custody. He was released on Friday and returned sometime early this morning. He has made 3 serious suicide attempts in past (attempted to jump off bridge, overdose, and cut self). He has been in Intermountain and other hospitals as recently as this summer. He has had made (sic) when in community and told mother that we gave him meds

¹ The actual entry included her telephone numbers, but they have been redacted here for privacy purposes.

here. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

241. Upon receiving additional information from Ms. Hoagland regarding Munroe's suicidal intentions, Defendant Johnson did not re-evaluate his assessment that Munroe posed no risk of suicide.

242. When Ms. Hoagland spoke with Leslie Robertson, Leslie Robertson assured Ms. Hoagland that she would follow up to see if Munroe was receiving his medications.

243. At approximately 11:57 a.m. on September 29, 2008, Defendant Farmer made the following entry on the JICS system: "JICS review- on celexa (none brought in), see @ St. Al's before coming to ACJ, has SI hx, seen at Intermountain. Inmate is OOC." OOC is an acronym for Out of Control.

244. Despite conducting a JICS review of Munroe's history which stated that he became suicidal when off his medications, Defendant Farmer did nothing that would ensure that Munroe received his medications on September 29, 2008.

245. At 1:30 p.m. on September 29, 2008, Munroe was taken through video arraignment on the charges of Robbery and Possession/Consumption of Alcohol by a Minor.

246. As a matter of Idaho law, Munroe would have been told by the arraignment judge the maximum punishments for each of the charges should he be convicted.

247. After being arraigned, Munroe was returned to cell 735.

248. There is no record at the Ada County Jail of Munroe receiving either his prescribed Celexa or Perphenazine while incarcerated on September 28 and 29, 2008.

249. Defendant Barrett was the on-call provider of medications at the Ada County Jail on September 28 and 29, 2008.

250. As the on-call provider, Defendant Barrett would have to have approved any orders or requests for Munroe's medications and would have determined how and when they would be provided to Munroe.

251. No medications were requested, prescribed, or provided to Munroe by anyone at the Ada County Jail on September 28 or 29, 2008.

252. Defendant Barrett, as the Senior Physician's Assistant/Nurse Practitioner, and Defendant Babbitt, as the Nursing Supervisor/Inmate Healthcare Supervisor, each had a duty to supervise and control Defendant Farmer.

253. On information and belief, there is a *de facto* policy established by custom and practice of not timely and consistently providing inmates with needed medication.

254. Defendants Barrett, Babbitt and Farmer each had a duty to ensure that each inmate at the Ada County Jail timely received needed medications once these Defendants became aware that the inmate has been prescribed medical treatment that includes psychotropic medications such as Celexa and Perphenazine.

255. Defendants Barrett, Babbitt and Farmer each had a duty to Munroe to ensure that on September 28 and 29, 2008, he timely received his Celexa and Perphenazine.

256. At some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, Munroe successfully committed suicide by hanging himself in cell 735 from the upper bunk of his bed.

257. He had placed a sheet up through one of the holes and tied the sheet off on one end while using the other to wrap around his neck. He was later pronounced dead at St. Al's.

258. At approximately 11:00 p.m. on September 29, 2008, Ms. Hoagland answered her door to find Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker there to speak to her about her son Bradley Munroe.

259. When Ms. Hoagland asked if her son was okay, Sheriff Raney asked her to sit down and then informed her that her son had taken his life while incarcerated at the Ada County Jail.

260. They informed her that he had taken his life by hanging himself from a sheet in the cell and that he accomplished the act by tying the sheet to the upper bunk of his bed.

261. They could not answer her when she asked them why he had been placed in a cell by himself, with sheets, and a bunk bed.

262. They could not answer her when she asked them why he was not put on suicide watch.

263. As a result of the news of the death of her son, Ms. Hoagland suffered severe mental shock and emotional distress.

264. Detective Buie of the ACSO conducted an investigation of Munroe's suicide. Part of that investigation consisted of interviewing Defendant Johnson.

265. During that interview, Defendant Johnson stated to Detective Buie that he had been told by someone that on the morning of September 29, 2008, Munroe was saying that he was no longer suicidal, although Defendant Johnson has not been able to identify who that person was that made that statement to him.

266. Defendant Johnson further stated to Detective Buie that when he spoke to Munroe, Munroe said that he had made some stupid statements the night prior when he was "high."

267. Munroe did not tell Defendant Johnson that he had been high on September 28, 2008, when he was arrested and brought to the Jail.

268. Munroe was not high on any illegal drugs when he was brought to the Ada County Jail.

269. Defendant Johnson also told Detective Buie during his interview that Munroe had told him that he was not going to hurt himself. Defendant Johnson stated that Munroe told him he was not taking any medication and did not want mental health follow-up or any medications. Defendant Johnson indicated to Detective Buie that he observed Munroe while he was being fingerprinted and Munroe appeared to him to be reacting appropriately to people, and that based on his observations, Defendant Johnson assigned Munroe to regular housing.

270. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that it was very important for him to observe Munroe, his affect, and how he interacted with and answered the booking detention deputy's questions.

271. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that Munroe possessed a number of risk factors for suicide including his age, the fact that he was incarcerated, prior substance abuse, and that he had been treated for mental illness.

272. When Defendant Johnson spoke with Munroe and concluded he posed no risk of suicide, Defendant Johnson had reviewed Munroe's medical records at the Jail and noted Munroe's hospitalizations for prior suicide attempts, his prior incarcerations, Defendant Johnson's own prior contact with Munroe wherein Defendant Johnson documented that Munroe's medications controlled his suicidal thoughts and behaviors.

273. Defendant Johnson told Detective Buie that after he spoke with Munroe on September 29, 2008, Leslie Robertson spoke to him about her conversation with Ms. Hoagland.

274. Leslie Robertson had conveyed to Defendant Johnson that Ms. Hoagland had informed her of Munroe's serious suicide attempts in the past, and that he had been talking about committing suicide.

275. After speaking with Leslie Robertson, Defendant Johnson did not do a second suicide assessment of Munroe.

276. On September 30, 2008, Defendant Johnson wrote the following statement regarding Munroe's suicide and his "assessment" of Munroe on September 29, 2008:

The reason for this assessment is clearly stated—he is at risk by virtue of recent statements of suicidal ideation and/or intent in jail setting and in the community, resulting in hospitalization. He has additional risk factors—age, incarceration, treatment for mental illness, and substance abuse, which were also taken into consideration. However he had already told security staff that he was no longer suicidal and repeated to me that he did not have suicidal ideas or intentions to harm himself. He included a very common rationale for his suicidal statements the night before—that he was intoxicated/high. By observation and verbal interaction he was alert, calm, cooperative, able to follow directions, and respond appropriately to questions. There was no evidence of current sadness, distress, emotional lability (sic), inattention, distractibility, response to stimuli other than that of the security staff and social worker, or of any distortion of his thought process. In other words he appeared to be coping with his current circumstances and interacting with staff without difficulty.

I noted that I did not take a full history for assessment purposes. This was true due primarily to the request of the inmate that he not have medical or mental health services at the time. Asking numerous questions regarding personal history of the inmate when he had declined the service did not make sense. Additionally, some history had been gathered in early September when there was another assessment of this inmate, in which he also denied suicidal ideation or intent at that time. Given that he reported that he was thinking better at this time denied ideas or intent to harm himself and appeared to be fully capable cognitively of giving or of refusing consent to treatment, it seemed respectful of his choice not to pursue extensive questioning. One possible exception would have been to explore the reason/explanation of why he did not want treatment at this time. I possibly would have gotten clues

regarding his hopelessness or intentions by doing so. Absent those clues there was no reason to believe that this young man, who had repeatedly denied current suicidal intent, was going to kill himself now.

Given that many individuals stop and start medications or treatment several times, and that they episodically are bothered by symptoms or can be free of symptoms for periods of time I left open the opportunity for further evaluation or treatment. This was noted by statement that if indicated by pt. or staff that follow-up services would occur as indicated.

277. On October 1, 2008, Ada County Jail Medical Unit employee Holly Kington, LPN, made an entry on the JICS system stating that Munroe's Celexa had been "left here in the pharmacy in bottom drawer."

278. Despite all the aforementioned events and warnings, and in contravention of the Ada County written policies that were in place to protect inmates such as Munroe from committing suicide in the Ada County Jail, Munroe was not identified as a suicide risk; he was not properly classified; and he was housed incorrectly for the classification he received, which resulted in his being placed in general population, inside a single inmate cell, with a bunk bed and two sheets with which to hang himself.

279. Despite perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide, as a matter of practice and custom the named Defendants in this case do not follow those written policies.

280. Instead, they follow *de facto* policies that lack the necessary protections and lack the proper protocol for administering adequate medical and mental healthcare to inmates of the Ada County Jail.

281. The *de facto* policies that are actually implemented at the Ada County Jail are such that it is likely that those policies will result in the violation of inmates' constitutionally protected rights to medical and mental healthcare and security.

282. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg adopted *de facto* policies that were contrary to Ada County's written policies relating to the provision of professional medical and mental health care, including those policies governing suicide identification and prevention, and medication management and training.

283. These Defendants abandoned Ada County's perfectly reasonable written policies in favor of a set of *ad hoc* policies created by their own practices and customs, and the practices and customs of their agents over whom they exercised supervisory control.

284. Each of these Defendants, either by their status or their position, set the actual policies under which the Ada County Jail was actually operated by their failures to train, supervise, and control the employees of the Ada County Jail in a manner that would ensure that written policies were followed. Additionally, there was an absence of enforcement protocol that would have ensured that written policies were followed.

285. The long-standing practices and customs employed by these Defendants and their employees in the operation of the Jail were such that the Ada County Jail was no longer being operated in compliance with its own written policies and NCCHC Standards.

286. The substandard operation of the Ada County Jail was long-standing practice and custom.

287. NCCHC does not withdraw accreditation of a jail because of isolated incidents where written policies are not followed.

288. NCCHC does withdraw accreditation of a jail for failure to have policies in place that conform to NCCHC standards.

289. NCCHC does withdraw accreditation of a jail when there is a pattern of a jail's actual practices being inconsistent with NCCHC standards.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

290. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

291. Count I is brought by Ms. Hoagland on behalf of the Estate of Bradley Munroe, and herself as an heir to the estate, pursuant to Idaho Code § 5-311 and 42 U.S.C. § 1983, against Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson, and Weich for violations of Munroe's constitutional rights under the Eighth and Fourteenth Amendments of the United States Constitution for failure to provide Munroe with adequate medical and mental health care and adequate security under circumstances where those failures resulted in Munroe's death, and for such violations Plaintiff is entitled to special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

292. Count I is brought against Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson, and Weich in their individual and official capacities.

293. At all times relevant to this Amended Complaint, Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson and Weich were government officials acting under the color of state law.

294. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Amended Complaint was charged with the operation of the Ada County Jail.

295. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies and procedures governing the provision of medical and mental healthcare and security at the Ada County Jail.

296. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg were charged with the responsibility to train, supervise and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

297. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg knew that security and medical staff were not properly trained, supervised and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

298. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg's failure to properly train, supervise and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

299. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

300. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

301. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution.

302. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

303. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

304. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garret, Estess, Steinberg, Johnson, and Weich each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

305. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

306. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bi-polar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

307. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in indentifying the risks posed to Munroe by the course

of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

308. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

309. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

310. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

311. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

312. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

313. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

314. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

315. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

316. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

317. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

318. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

319. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

320. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

321. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

322. As a result of the acts and omissions of Defendants Johnson and Weich, Munroe was mishoused on September 29, 2008.

323. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, of mishousing of inmates.

324. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" when he was put in a single inmate cell with all the implements needed to commit suicide on September 29, 2008.

325. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe's suicide.

326. Throughout the period of August 28 to September 26, 2008, Defendants Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson knew that Munroe, and other similarly situated inmates who objectively should have been assessed as "Special Needs Inmates," were

not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

327. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

328. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

329. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

330. At all times relevant to this Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

331. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could be avoided by professional application of Ada County's written suicide assessment and prevention policies.

332. On September 26, 2008, Defendants Barrett, Babbitt, and Weich knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that Munroe came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

333. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including suicide, that would result from not following that protocol.

334. Defendants Barrett, Babbitt, and Weich were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

335. From August 28 to September 26, 2008, Defendant Barrett was aware of that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

336. From August 28 to September 26, 2008, Defendant Barrett was aware that that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

337. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

338. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

339. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

340. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

341. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

342. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings,

engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

343. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment where Munroe would be isolated with access to all the implements necessary to hang himself.

344. On September 29, 2008, prior to Munroe's death, Defendants Farmer and Johnson had personal knowledge that Munroe would not be receiving medications that day.

345. From August 28 to September 26, 2008, Defendants Pape, Barrett, Babbitt, Farmer, and Johnson had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

346. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

347. On September 29, 2008, prior to Munroe's death, Defendants Farmer and Johnson had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

348. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him

from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

349. Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

350. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

351. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

352. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

353. Defendant Johnson knew that a suicidal inmate given a single inmate cell away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

354. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell with sheets and a bunk bed.

355. Defendant Johnson was deliberately indifferent to the serious likely harm of clearing Munroe for housing in a single inmate cell with a bunk bed and sheets.

356. Defendant Johnson had personal knowledge that he was committing a criminal offense pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217 by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

357. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

358. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

359. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether

precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

360. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

361. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

362. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

363. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

364. Defendants Ada County, Raney, Scown, Pape, Babbitt, Garrett, Estess and Steinberg failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

365. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County

Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett, and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

366. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

367. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson and Weich each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

368. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson and Weich knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

369. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg knew that their failure to ensure that Ada County's written policies, including

NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

370. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, and Steinberg knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

371. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg operated the Ada County Jail under *de facto* policies set by practices and customs that did not conform to the written policies of Ada County and the NCCHC Standards.

372. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, and including its policies governing suicide assessment and prevention.

373. Wherefore, Plaintiff Hoagland on behalf of the Estate of Bradley Munroe, and on her own behalf as the heir to the Estate, demands judgment pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected

rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe in a sum to be proven at trial in the form of special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

374. Plaintiff Hoagland on behalf of the Estate of Bradley Munroe reserves the right to seek to further amend her Complaint to add a claim for punitive damages as against all named Defendants.

COUNT II
(Civil Rights Violations – 42 U.S.C. §1983)

375. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

376. Count II of this Amended Complaint is brought by Ms. Hoagland individually and on her own behalf as Munroe's mother pursuant to Idaho Code §5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 against Defendants Ada County, Raney, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson, and Weich for interference with Ms. Hoagland's familial relations, society and companionship interest with her son, Munroe, which is a due process interest protected under the Fourteenth Amendment of the United States Constitution for which she is entitled to recover for her injuries, including but not limited to loss of the companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.

377. Count II is brought against Defendants Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson, and Weich in their individual and official capacities.

378. At all times relevant to this Amended Complaint, Defendants Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson, and Weich were government officials acting under the color of state law.

379. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Amended Complaint was charged with the operation of the Ada County Jail.

380. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies and procedures governing the provision of medical and mental healthcare and security at the Ada County Jail.

381. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg were charged with the responsibility to train, supervise and control security and medical staff at the Ada County Jail to ensure that Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

382. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg knew that security and medical staff were not properly trained, supervised and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

383. Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg's failure to properly train, supervise and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference

to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

384. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County's written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in the violation of Ada County Jail inmates' constitutional rights that the failure of Defendants Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess and Steinberg constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

385. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

386. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution.

387. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health

illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

388. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

389. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garret, Estess, Steinberg, Johnson, and Weich each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

390. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

391. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bi-polar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

392. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

393. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe as being at risk of suicide.

394. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered involving Munroe's risk for suicide.

395. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

396. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and a discharge plans were put in place for Special Needs inmates such as Munroe.

397. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because of a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

398. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

399. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

400. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

401. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

402. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

403. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

404. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his having not received and taken his prescribed medications.

405. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

406. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

407. As a result of the acts and omissions of Defendants Johnson and Weich, Munroe was mishoused on September 29, 2008.

408. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, of mishousing of inmates.

409. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson, and Weich, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" when he was put in a single inmate cell with all the implements needed to commit suicide on September 29, 2008.

410. The mishousing of Munroe on September 29, 2008, was a moving force in his suicide.

411. Throughout the period of August 28 to September 26, 2008, Defendants Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as "Special Needs Inmates" were

not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

412. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

413. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

414. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

415. At all times relevant to this Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

416. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could be avoided by professional application of Ada County's written suicide assessment and prevention policies.

417. On September 26, 2008, Defendants Barrett, Babbitt, and Weich knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that Munroe came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

418. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates that would result from not following that protocol, including suicide.

419. Defendants Barrett, Babbitt, and Weich were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

420. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

421. From August 28 to September 26, 2008, Defendant Barrett was aware that that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

422. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

423. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

424. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

425. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

426. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated, and the need to keep Munroe under observation for suicidality when he was not on his medications.

427. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaging in suicidal behavior, experiencing extreme and abrupt mood swings,

engaging in bizarre behaviors, experiencing hallucinations, and demonstrating symptoms of mania and depression.

428. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment where Munroe would be isolated, with access to all the implements necessary to hang himself.

429. On September 29, 2008, prior to Munroe's death, Defendants Farmer and Johnson had personal knowledge that Munroe would not be receiving medications that day.

430. From August 28 to September 26, 2008, Defendants Pape, Barrett, Babbitt, Farmer, and Johnson had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

431. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Farmer, and Johnson had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

432. On September 29, 2008, prior to Munroe's death, Defendants Farmer and Johnson had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

433. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him

from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

434. Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

435. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk "assessment" of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

436. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

437. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

438. Defendant Johnson knew that a suicidal inmate given a single inmate cell away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

439. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell with sheets and a bunk bed.

440. Defendant Johnson was deliberately indifferent to the serious likely harm of clearing Munroe for housing in a single inmate cell with a bunk bed and sheets.

441. Defendant Johnson had personal knowledge that he was committing a criminal offense pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217 by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

442. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Farmer, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

443. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

444. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether Munroe was a suicide risk and

whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

445. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and security.

446. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

447. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

448. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg failed to train, supervise and control Defendant Johnson and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for Munroe's safety.

449. Defendants Ada County, Raney, Scown, Pape, Babbitt, Garrett, Estess and Steinberg failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail without a license to provide social work services in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

450. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County

Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett, and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

451. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

452. Defendants Ada County, Raney, Scown, Pape, Garrett, and Estess failed to supervise and train, and were negligent, grossly negligent or reckless in their retention of, Defendant Steinberg to provide medical services to the inmates of the Ada County Jail.

453. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, Steinberg, Johnson and Weich each knew that Ada County's written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

454. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Johnson and Weich knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC

Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

455. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

456. Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Farmer, Garrett, Estess, and Steinberg knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

457. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg operated the Ada County Jail under *de facto* policies set by practices and customs that did not conform to the written policies of Ada County and the NCCHC Standards.

458. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, and Steinberg governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own

written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

459. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Barrett, Babbitt, Garrett, Estess, Steinberg, Farmer, Johnson and Weich complained of herein, Ms. Hoagland's constitutionally protected due process rights have been violated by the permanent loss of her familial relationship with Munroe and the loss of his companionship and society.

460. Wherefore, Ms. Hoagland demands judgment pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe and the termination of Ms. Hoagland's familial relationship with Munroe and the loss of his society and companionship. For her damages, Ms. Hoagland seeks general damages, including but not limited to loss of companionship and society, and her own pain, suffering, anguish, and emotional distress caused by the loss of her son, along with attorney fees and court costs in a sum to be proven at trial.

461. Plaintiff Hoagland reserves the right to seek to further amend her Complaint to add a claim for punitive damages as against all named Defendants.

ATTORNEY FEES AND COSTS

Plaintiffs have been forced to incur attorney fees and costs related to the prosecution of this matter. Plaintiffs are entitled to recover their reasonable costs and attorney fees pursuant to Idaho Code §§ 6-918A and 12-121, 42 U.S.C. § 1988, and Rule 54 of the Idaho Rules of Civil Procedure, and/or other applicable law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of no less than twelve (12) persons on all issues to be tried.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against the Defendants as follows:

1. An award of special and general damages to the Plaintiffs for their losses incurred as a result of the Defendants' violation of the Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution in an amount that will fully and fairly compensate the Plaintiffs for their losses and deter similar wrongful conduct in the future, all in an amount to be determined at trial;

2. An award of special and general damages that fully and fairly compensates Plaintiff Hoagland in her capacity as personal representative of the Estate of Bradley Munroe for the wrongful death of Munroe and that would sufficiently deter similar official misconduct as alleged herein;

3. Pre- and post-judgment interest as allowed by law;

4. An award of attorney fees and costs pursuant to I.C. §§ 6-918A and 12-121, 42 U.S.C. § 1988, and Rule 54 of the Idaho Rules of Civil Procedure, and/or any other applicable law, or in the event judgment is taken by default, in an amount of \$10,000;


5. Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail;

6. For all other and further relief as the Court deems just and equitable and to which Plaintiffs are due as a matter of law and equity, including but not limited to punitive damages — a claim for which the Plaintiffs expressly reserve the right to add hereto upon moving and being permitted by this Court to so do.

7. Plaintiffs reserve the right to seek to further amend their Complaint to add claims for punitive damages as against all named Defendants.

DATED this 21st day of June, 2010.

JONES & SWARTZ PLLC

By 

ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

ORIGINAL

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFFS' MOTION FOR
LEAVE TO FILE A SECOND
AMENDED COMPLAINT**

COME NOW the Plaintiffs, by and through their counsel of record, and pursuant to Idaho Rules of Civil Procedure 7(b)(1) and 15(a), move this Court for leave to file their Second Amended Complaint to conform to the evidence and add two parties. This Motion is timely as it is brought within the time frame set forth in the scheduling order. Plaintiffs have not served Defendants with their first Amended Complaint and no answers to the first Amended Complaint have been filed by any of the Defendants.

NO. _____ FILED _____
A.M. _____ P.M. *3:30*

AUG 12 2010

J. DAVID NAVARRO, Clerk
By PATRICIA A DWONCH
DEPUTY


JS

Plaintiffs' proposed Second Amended Complaint is attached hereto as Exhibit A.

This Motion is made and supported by the pleadings of record herein as well as the Memorandum in Support of Plaintiffs' Motion for Leave to File a Second Amended Complaint filed contemporaneously herewith.

DATED this 12th day of August, 2010.

JONES & SWARTZ PLLC

By 


ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

U.S. Mail
 Fax: 287-7719
 Overnight Delivery
 Messenger Delivery
 Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT A
To Plaintiffs' Motion for Leave to File a
Second Amended Complaint

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To Plaintiffs' Motion for Leave to File a
Second Amended Complaint

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as
Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho;
ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Defendant Ada County and the operator of the Ada
County Sheriff's Office and Ada County Jail, in his individual
and official capacity; LINDA SCOWN, in her individual and
official capacity; KATE PAPE, in her individual and official
capacity; STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D., in his
individual and official capacity; RICKY LEE STEINBERG,
in his individual and official capacity; KAREN BARRETT, in
her individual and official capacity; JENNY BABBITT, in her
individual and official capacity; JAMES JOHNSON, in his
individual and official capacity; JEREMY WROBLEWSKI,
in his individual and official capacity; DAVID WEICH, in his
individual and official capacity; LISA FARMER, in her
individual and official capacity; JAMIE ROACH, in her
individual and official capacity; and JOHN DOES I-X,
unknown persons/entities who may be liable to the Plaintiffs,

Defendants.

Case No. CV-OC-2009-01461

**SECOND AMENDED
COMPLAINT FOR
DAMAGES AND DEMAND
FOR JURY TRIAL**

COME NOW the above-named Plaintiffs, by and through their counsel of record, Jones & Swartz PLLC, and complain against the named Defendants as follows:

I. PARTIES

1. Rita Hoagland (“Ms. Hoagland”) is the natural mother of the deceased, Bradley Munroe, and has been duly appointed to serve as the personal representative of the Estate of Bradley Munroe in Case No. CV-IE-2008-20235 filed in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada. Ms. Hoagland is a resident of Canyon County.

2. Bradley Munroe (“Munroe”) died while a resident and inmate of the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho.

3. Ada County is a municipality and political subdivision of the State of Idaho.

4. Gary Raney (“Raney”) is and at all times herein mentioned was the elected Sheriff of Ada County and the operator and supervisor of the Ada County Sheriff’s Office (“ACSO”) and Ada County Jail and all of the staff and officers employed thereby. Plaintiffs have brought suit against Defendant Raney in his individual and official capacity.

5. Upon information and belief, Defendant Linda Scown (“Scown”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO as Captain. She is and at all times herein mentioned was the Director of Health Services at the ACSO and, other than Defendant Raney, is the highest ranking official responsible for operation of the “Ada County Jail Medical Unit.” Plaintiffs have brought suit against Defendant Scown in her individual and official capacity.

6. Upon information and belief, Defendant Kate Pape (“Pape”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within

the Ada County Jail, with the title of "Health Services Administrator," also at times referred to by Defendants as the "Health Services Manager." Plaintiffs have brought suit against Defendant Pape in her individual and official capacity. The Health Services Administrator at the Ada County Jail is responsible for, among other duties, the following:

a. Plans, directs, coordinates and supervises the delivery of medical and mental health services within the jail, and works in a collaborative manner to ensure the jail medical and mental health services are provided to inmates of the jail in a manner consistent with constitutional requirements;

b. Supervises the Nursing Supervisor, Physician's Assistants, Social Workers, and the Health Services Administrative Supervisor;

c. Ensures quality and consistent services are delivered in compliance with ACSO written policies, professional standards, constitutional standards, and state and federal law;

d. Develops and establishes policies, procedures and protocols to administer effective and efficient standards of management, care, and delivery of medical and mental health services in the jail;

e. Oversees staff development, including performance appraisals, and training;

f. Ensures healthcare providers comply with contractual obligations;

g. Ensures periodic inspections of clients and facilities are completed to ensure that the healthcare delivery system operates effectively and efficiently, and documents such inspections to meet National Commission on Correctional Health Care standards ("NCCHC Standards"); and

h. Ensures medical programs and related documentation are maintained in such a manner that the Ada County Jail's NCCHC accreditation is not jeopardized.

7. Upon information and belief, Defendant Steven Garrett, M.D. ("Garrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Garrett in his individual and official capacity.

a. At all times relevant to this Second Amended Complaint, Defendant Garrett was providing medical services to inmates of the Ada County Jail pursuant to a written contract

with Ada County and ACSO (“Supervising Physician’s Contract”);

b. In the Supervising Physician’s Contract, Defendant Garrett agreed to assist the ACSO in meeting its duties imposed by: state and federal law for the provision of healthcare to inmates of the Ada County Jail; the Ada County and ACSO written policies for the provision of healthcare to inmates of the Ada County Jail; and the NCCHC Standards;

c. In the Supervising Physician’s Contract, Defendant Garret agreed to fulfill the role of “Supervising Physician,” which position is mandated by ACSO written policy as having final medical decision authority for all healthcare provided to inmates in the custody of the ACSO, including the Ada County Jail Medical Unit; and

d. In the Supervising Physician’s Contract, Defendant Garrett agreed to coordinate the healthcare of persons in the custody of the ACSO with the ACSO’s “Contracted Psychiatrist,” staff social workers, and the ACSO’s “Inmate Healthcare Supervisor.”

8. Upon information and belief, Defendant Michael E. Estess, M.D. (“Estess”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Estess in his individual and official capacity.

a. At all times relevant to this Second Amended Complaint, Defendant Estess was contracted with Ada County and ACSO to be the “Contract Psychiatrist” and to provide psychiatric healthcare on a regular basis to inmates of the Ada County Jail (“Psychiatrist Contract”); and

b. In the Psychiatrist’s Contract, Defendant Estess agreed to assist the ACSO and Ada County Jail medical staff in meeting its duties imposed by Ada County’s written polices, the Ada County Jail’s written policies, state and federal law, and NCCHC Standards.

9. Upon information and belief, Defendant Ricky Lee Steinberg (“Steinberg”) is and

at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Steinberg in his individual and official capacity.

a. At all times relevant to this Second Amended Complaint, Defendant Steinberg was contracted with the ACSO to provide medical services as a Physician's Assistant to inmates of the Ada County Jail ("Physician Assistant's Contract");

b. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide Healthcare Assessments of inmates of the Ada County Jail that meet the requirements imposed by the Supervising Physician, Ada County and ACSO written policies, and the NCCHC Standards;

c. In the Physician Assistant's Contract, Defendant Steinberg agreed to complete all necessary forms and documentation required by the ACSO, the Supervising Physician, or governing agencies;

d. In the Physician Assistant's Contract, Defendant Steinberg agreed to refer medical issues discovered during Inmate Assessments to ACSO medical staff for follow-up other than when immediate action is required to safeguard the physical or mental health of the inmate; and

e. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide all appropriate care to the inmate under those circumstances where immediate action is appropriate and care cannot be handed off to another ACSO provider, until such time as ACSO medical staff is able to take on such care of the inmate.

10. Upon information and belief, Defendant Jenny Babbitt ("Babbitt") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Nursing Supervisor and Inmate Healthcare

Supervisor. Plaintiffs have brought suit against Defendant Babbitt in her individual and official capacity.

a. At all times relevant to this Second Amended Complaint, the Nursing Supervisor had, among other duties, the duty to confirm licensing of all medical care providers within the Ada County Jail, and maintain records thereof;

b. At all times relevant to this Second Amended Complaint, the Inmate Healthcare Supervisor was charged with the following duties, among others:

- i. Co-supervise and co-manage various components of the healthcare system in the Ada County Jail.
- ii. Supervise and direct county employees delivering healthcare, including the pharmacy charge nurse, to ensure compliance with constitutional requirements.
- iii. Perform professional nursing work consisting of assessments, developing treatment plans, and monitoring inmates' physical condition.
- iv. Coordinate with other jail and court services bureau supervisors to maximize the safety of staff, community and inmates, security and the wellbeing of staff and inmates.
- v. Ensure the medical services are delivered in compliance with Idaho Jail Standards and ACSO written policies and procedures.
- vi. Ensure all personnel under their direct supervision adhere to the ACSO written policies and procedures.
- vii. Supervise registered nurses, licensed practical nurses, and other county employees who provide healthcare services to inmates.
- viii. Conduct performance evaluations in accordance with the ACSO written policies and procedures.
- ix. Supervise the distribution and issuing of pharmaceuticals to inmates.
- x. Ensure inventories of medical supplies and equipment and re-orders when necessary.
- xi. Conduct periodic inspections of jail inmates and jail facilities to ensure

that the inmate healthcare delivery system operates effectively and efficiently, and documents such inspections to meet NCCHC Standards.

- xii. Ensure jail medical programs/documentation is maintained in such a manner to ensure continuous NCCHC accreditations.
- xiii. Schedule and participate in meetings with the Health Services Manager, medical personnel, shift supervisors, and others as required to discuss issues relating to the maintenance of NCCHC accreditation.
- xiv. Interview applicants for medical staff positions and make hiring recommendations.
- xv. Make recommendations relating to the contract between Ada County and contractual healthcare providers.
- xvi. Develop and manage training of healthcare staff and security staff as it relates to medical issues.

c. At all times relevant to this Second Amended Complaint, the Inmate Healthcare Supervisor had direct supervision and control over the Pharmacy Charge Nurses of the Ada County Jail Medical Unit, who in turn were charged with the following duties, among others:

- i. Overseeing and providing patient care through the processing of medications, medication disbursements and maintenance of pharmacy stock and supplies.
- ii. Ensuring accurate documentation in the electronic medical records.
- iii. Overseeing pharmacy employees' processing of medications, medication disbursements, documentation and maintenance of pharmacy stock.
- iv. Communicating essential information with healthcare and security team members.
- v. Assisting registered nurses, nurse practitioners, physician's assistants, and physicians on the follow-up on all medication orders.
- vi. Participating in quarterly pharmacy reviews to meet NCCHC Standards.

11. Upon information and belief, Defendant Lisa Farmer ("Farmer") is and at all

times herein mentioned was an adult resident of Ada County, Idaho, employed with ACSO within the Ada County Jail with the title of Registered Nurse. Plaintiffs have brought suit against Defendant Farmer in her individual and official capacity. At all times relevant to this Second Amended Complaint, Defendant Farmer was charged with the following duties, among others:

a. Administer treatments and medications prescribed and supervised by the Medical Authority for patients;

b. Maintain treatment records, making note of all medications given, doctor visits and related activities;

c. Monitor, store, and control medications and medical supplies according to Ada County written policies and procedures;

d. Provide coordination of care duties with community health services to promote inmate continuity of care;

e. Observe the physical condition and behavior of inmates to ensure maximum healthcare is provided;

f. Prepare for sick call by screening kites sent by inmates and assessing problems, pull charts or make new charts, and list those who need to be seen by the physician, psychologist, and mid-level providers;

g. Review all medical intake information and assess who needs to be seen sooner than routine sick call;

h. Prepare medication renewal orders for the physician and mid-level providers to sign;

i. Schedule inmates with mental problems to see the psychologist and prepare the necessary records; and

j. Coordinate orders from the physician's assistant and the physician with the pharmacist.

12. Upon information and belief, Defendant Karen Barrett ("Barrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Senior Physician's Assistant. Plaintiffs have brought

suit against Defendant Barrett in her individual and official capacity. At all times relevant to this Second Amended Complaint, Defendant Barrett was charged with the following duties, among others:

- a. Provide direct and indirect basic medical care to meet the physiological, psychosocial, and emotional needs of the inmates in the Ada County Jail;
- b. Supervise the work of physician's assistants and/or nurse practitioners;
- c. Respond to and initiate care for medical emergencies throughout the facility;
- d. Assess inmates in a variety of settings such as initial intake area, healthcare unit for sick call, emergency situations in housing, chronic care clinics and infirmary;
- e. Identify inmates' health problems and prescribe treatment under the direction of a physician;
- f. Obtain histories and perform physical examinations to determine normal and abnormal adult health status;
- g. Implement medical care utilizing therapeutic regimens approved by a physician;
- h. Make appropriate, timely referrals and initiate treatments based on institutional policies and procedures and physician's direction;
- i. Act as the primary contact for physicians;
- j. Supervise the work of physician's assistants and/or nurse practitioners to ensure consistency of patient care as described by the physician;
- k. Assist with the recruitment, hiring and training of physician's assistants and/or nurse practitioners; and
- l. Make recommendations regarding policies and procedures.

13. Upon information and belief, at all times herein mentioned Defendant James Johnson ("Johnson") was an adult resident of Ada County, Idaho, employed with the Ada County Jail within the Ada County Jail Medical Unit with the title of Masters of Social Work or MSW. Plaintiffs have brought suit against Defendant Johnson in his individual and official

capacity. At all times relevant to this Second Amended Complaint, Defendant Johnson's job duties included but were not limited to:

- a. Providing psychiatric social work services to Ada County Jail inmates;
 - b. Providing clinical consultations with Ada County Jail staff;
 - c. Conducting bio-psycho-social and risk assessments to determine inmates' needs and eligibility for services and their level of care needed;
 - d. Providing inmates with crisis intervention services and individual counseling;
 - e. Promoting inmate self-determination by addressing special needs of inmates;
 - f. Participating in interdisciplinary team staffing to formulate treatment plans;
 - g. Identifying and teaming with other community resource agencies to design, coordinate, and provide inmate assistance and intervention;
 - h. Taking action to reduce risk to inmates upon being discharged from the jail by organizing emergency, crisis intervention and after-hours on-call services;
 - i. Conducting on-going suicide risk assessments and implementing crisis intervention accordingly;
 - j. Preparing written inmate assessment reports;
 - k. Designing and implementing inmate case plans using community resources;
- and
- l. Maintaining a Social Worker license in the state of Idaho.

14. Upon information and belief, Defendant David Weich ("Weich") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Medical Attendant and Certified Correctional Health Professional. Plaintiffs have brought suit against Defendant Weich in his individual and official capacity. At all times relevant to this Second Amended Complaint, Defendant Weich had, among others, the following job duties:

- a. Preparing medication renewal orders for medical staff to sign;

b. Scheduling inmates with mental problems to see the psychologist and preparing necessary records, including charting observations;

c. Transcribing orders from the medical staff on the inmate medication prescription roster; and

d. Updating medical/nursing personnel credentials information.

15. Upon information and belief, Defendant Jeremy Wroblewski (“Wroblewski”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Wroblewski in his individual and official capacity.

16. Upon information and belief, Defendant Jamie Roach (“Roach”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Roach in her individual and official capacity.

17. Upon information and belief, Defendants John Does I through X are individuals or entities who at this time the Plaintiffs are unable to identify but who are employed by the Ada County Jail or by another division of Ada County, or contract with Ada County, and are responsible for the violation of Munroe’s rights under the Fourteenth Amendment of the United States Constitution and for his death.

II. JURISDICTION AND VENUE

18. Jurisdiction is proper with this Court pursuant to Idaho Code § 5-514, and the amount in controversy exceeds this Court’s jurisdictional minimum.

19. Venue is appropriate in this Court pursuant to Idaho Code § 5-404.

III. GENERAL ALLEGATIONS

POLICIES

20. At all times relevant to this Second Amended Complaint, Ada County was responsible for providing health care to inmates incarcerated and confined in the Ada County Jail. At all times relevant to this Second Amended Complaint, inmates of the Ada County Jail were to have access to care to meet their serious medical and mental health needs.

21. At all times relevant to this Second Amended Complaint, Ada County was required to designate a Health Authority for the Ada County Jail in order to satisfy its medical and mental health obligations to inmates at the Ada County Jail.

22. At all times relevant to this Second Amended Complaint, Ada County written policy required that the Health Authority for the Ada County Jail “shall be the Medical Services Administrator.”

23. At all times relevant to this Second Amended Complaint, Ada County written policy mandated that the responsibilities of the Medical Services Administrator were to ensure “that quality, accessible health care services are available to inmates at the Ada County Jail. The Medical Services Administrator will coordinate all levels of health care provided at the Ada County Jail.”

24. At all times relevant to this Second Amended Complaint, Ada County written policy mandated that the Medical Services Administrator was required to participate in quarterly meetings with the Sheriff or his designee, the Security Services Captain, the responsible physician, and other healthcare and security staff to address, among other things, the overall healthcare services being provided to inmates, including psychiatric services. Monthly meetings were also required to take place between the Medical Services Administrator and the healthcare

services staff in accordance with Ada County's written policy.

25. At all times relevant to this Second Amended Complaint, ACSO failed to employ or otherwise contract for the services of a Medical Services Administrator and was therefore operating the Ada County Jail without a Health Authority.

26. At all times relevant to this Second Amended Complaint, Ada County written policy required that the Medical Services Administrator and Nursing Supervisor were to ensure that each healthcare provider providing medical and mental health services to Ada County Jail inmates was licensed, registered, certified, or exempt in the state of Idaho.

27. At all times relevant to this Second Amended Complaint, Ada County written policy required that the Medical Services Administrator prepare and approve a training program that would instruct detention officers in administering medications to inmates.

28. At all times relevant to this Second Amended Complaint, Ada County had in place a written policy that it would maintain a written manual that "will at a minimum contain a policy statement and detailed procedures for each of the 72 standards presented in the Standards for Health Services in Jails by the National Commission on Correctional Health Care."

29. The NCCHC is a nationally recognized non-profit organization that sets standards for the provision of health care to incarcerated inmates, and provides accreditation to jails and other correctional institutions based on its established 72 standards set forth in the NCCHC Standards.

30. At all times relevant to this Second Amended Complaint, Ada County had written policies in place that adopted the NCCHC Standards for the operation of the Ada County Jail.

31. At all times relevant to this Second Amended Complaint, Ada County written policy provided that within the Ada County Jail Medical Unit "final medical judgment rests with

a single designated physician licensed in the State of Idaho. The medical doctor designated as the responsible physician will be identified in the contractual agreement.”

32. At all times relevant to this Second Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “single designated physician” referenced in the Ada County written policies.

33. At all relevant times to this Second Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “responsible physician” that was “identified in the contractual agreement” and therefore was the person with “final medical judgment” as to all medical and mental healthcare services provided to inmates in the Ada County Jail.

34. In the Supervising Physician’s Contract, ACSO acknowledged its duty to operate the Ada County Jail in conformance with NCCHC Standards, and Defendant Garrett agreed to provide medical and mental healthcare services under the Contract in conformance with NCCHC Standards, and further agreed to assist the ACSO with meeting its duties described in NCCHC Standards.

35. In the Supervising Physician’s Contract, Defendant Garrett agreed to perform periodic and timely reviews of inmate medical records to evaluate the medical services provided to inmates, and to make adjustments and improvements as necessary to ensure compliance with “all applicable state and federal laws and with the Standard for Health Care Services in Jails, 2003.”

36. In the Supervising Physician’s Contract, Defendant Garrett agreed to provide direct inmate healthcare, including but not limited to prescribing appropriate medication to inmates, evaluating inmate medical conditions referred by ACSO staff and/or medical staff, and

coordinating healthcare for inmates with ACSO contracted psychiatrist, ACSO social workers staff, and ACSO Inmate Health Care Supervisor.

37. Defendant Garrett also agreed in the Supervising Physician's Contract to provide indirect inmate care which included the obligation to undertake supervision, direction and responsibility for all medical acts and inmate healthcare services performed and/or provided by the psychiatrist assistant(s) employed by the ACSO, and to provide on-site supervision at the Ada County Jail and personally observe, monitor and direct the quality of care provided to inmates.

38. The Supervising Physician's Contract provided that ACSO agreed to inform Defendant Garrett of any known health condition or complaint of an inmate and of any "suspected health conditions or concerns which may arise through observation of an inmate's actions and behaviors."

39. Defendant Garrett failed to provide medical services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards governing the provision of medical and mental health services to inmates, and failed to sufficiently assist the medical and security staff with meeting NCCHC Standards.

40. Defendant Garrett failed to provide the medical health services he agreed in the Supervising Physician's Contract to provide to the ACSO and the inmates of the Ada County Jail.

41. At all times relevant to this Second Amended Complaint and pursuant to the Physician's Assistant Contract, Defendant Steinberg was to provide professional medical services to inmates of the Ada County Jail in the capacity of a Physician's Assistant.

42. Under the Physician's Assistant Contract, Defendant Steinberg was to "maintain

current licensure and required professional relationship with Steven Garrett, M.D., the supervising physician at the Ada County Jail.”

43. Under the Physician’s Assistant Contract, Defendant Steinberg was to provide to the ACSO a copy of all current licenses, license numbers, and other required documents within two days of executing the agreement, for compliance with NCCHC Standards.

44. Under the Physician’s Assistant Contract, Defendant Steinberg agreed to provide the ACSO with, among other things, the following services:

a. “Provide health assessments for designated inmates that meet the requirements set forth by the Supervising Physician and that meet the NCCHC Standards to inmates of the Ada County Jail; and

b. Complete all necessary forms and documentation that may be required by the ACSO, the supervising physician or governing agencies.”

45. At all times relevant to this Second Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would assist “ACSO and Jail medical staff in meeting its duties as described in the ‘Ada County Mental Health Protocol’ and other Jail, county and state documents and assist in meeting such duties as are imposed by federal and state laws and regulations.”

46. At all times relevant to this Second Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following direct patient services, among others: Case Supervision, Discharge Planning, Medication Recommendation and Management, Supervision of Inmate Psychosocial Care, and Staffing Individual Cases with the ACSO Medical Staff.

47. At all times relevant to this Second Amended Complaint, the Psychiatrist Contract

provided that Defendant Estess would perform the following indirect patient services, among others: Consult with the Medical Program Administrator and Other Medical and Mental Health Professionals to Improve Quality of Overall Mental Health Delivery Program in the Jail, and Monitor and Direct Appropriate Mental Health Staff in the Delivery of Mental Health Services to the Inmates at the Jail.

48. Defendant Estess failed to provide mental health and psychiatric services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards, and failed to assist Defendants Ada County and Raney with meeting NCCHC Standards.

49. Defendant Estess failed to perform the services he agreed to provide under the Psychiatrist Contract.

50. Defendant Estess failed to supervise the provision of mental health services within the Ada County Jail, including but not limited to the failure to implement discharge planning, failure to supervise psychosocial care of inmates, failure to monitor and direct appropriate mental health staff in the delivery of mental health services to the inmates in the Ada County Jail, and failure to manage medications being prescribed to inmates in the Ada County Jail.

51. At all times relevant to this Second Amended Complaint, Ada County had in place a written policy that “in all cases, health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies” in meeting its medical and mental health obligations to Ada County Jail inmates.

52. Ada County Jail was accredited by the NCCHC until its accreditation was withdrawn in November 2008 as a result of an NCCHC survey of the Jail in August 2008.

53. Ada County Jail's accreditation was withdrawn in November 2008 for its failure to meet NCCHC Standards for NCCHC accreditation.

54. In August and September 2008, Defendants were not operating the Ada County Jail according to the NCCHC Standards or in accordance with Ada County written policies adopting NCCHC Standards.

55. According to NCCHC Standards, a "Potentially Suicidal Inmate" is to be observed at staggered intervals not to exceed every 15 minutes.

56. According to NCCHC Standards, a Potentially Suicidal Inmate placed in isolation must be observed constantly.

57. According to NCCHC Standards, a Potentially Suicidal Inmate is not actively suicidal but has expressed suicidal ideation and/or has a recent history of self-destructive behavior.

58. According to NCCHC Standards and Ada County written policy in effect at all times relevant to this Second Amended Complaint, each member of the Jail staff was responsible to immediately notify the medical staff when an inmate exhibited symptoms that are bizarre and could constitute mental illness, including the inmate making threats of suicide, having delusions and/or hallucinations.

59. At all times relevant to this Second Amended Complaint, Ada County written policies included a protocol that, upon admission to the Jail and prior to being placed in a housing unit, an inmate was required to assist the booking officer in the completion of a medical screening questionnaire.

60. Some of the questions on the medical screening questionnaire deal with mental health, past mental health treatment, and any history of suicide attempts or suicidal thoughts.

61. As part of the medical screening questionnaire completion process, the inmate was to be asked if he or she was taking any medications or was under the care of a medical or psychological doctor.

62. As part of the medical screening questionnaire completion process, if the inmate indicates that he or she was being treated or taking medication for mental health or was contemplating or had in the past attempted suicide, the medical screening questionnaire was to be marked as such and sent to the Ada County Jail Medical Unit staff for review.

63. At all times relevant to this Second Amended Complaint, Ada County written policy stated: "Inmates who appear to security personnel to be suicidal or otherwise mentally ill at booking, or at any time while in the jail, shall be housed in a unit that is appropriate for the inmate's condition."

64. At all times relevant to this Second Amended Complaint, Ada County written policy required that within 14 days of admission and confinement, each inmate was to receive a health assessment. During the assessment, the healthcare provider was to observe the inmate for abnormal behavior which may indicate a psychological problem. The intake medical screening form was to be reviewed during the health assessment. The Ada County written policy states:

The mental health evaluation will be documented on the physical exam form and will focus on the following areas:

- (1) History of psychiatric hospitalization and outpatient treatment,
- (2) Current psychotropic medication, and/or exhibiting violent behavior,
- (3) Suicidal ideation and history of suicidal behavior,
- (4) Drug and alcohol usage,
- (5) History of sex offenses,
- (6) History of behavior suggestive of intermittent explosive disorder,
- (7) Special education treatment,
- (8) History of cerebral trauma or seizure,

- (9) Emotional responses to incarceration,
- (10) To time, place and person oriented.

65. A full health assessment was not provided to Munroe during the incarceration period of August 28, 2008 to September 26, 2008.

66. On information and belief, Defendants had adopted the custom of forgoing such health assessments of inmates at the Ada County Jail.

67. Alternatively, if Munroe was provided a 14-day health assessment, it was not documented with a focus on the mental health evaluation in the inmate's medical record, as is required by Ada County's written policies.

68. At all times relevant to this Second Amended Complaint, Ada County written policy required that a special needs program be maintained to serve individual inmates who have special medical and mental health needs, such as "mental illness, including inmates with suicidal ideation and/or behavior."

69. Special Needs inmates were to be identified during the initial assessment as part of the booking process and, once it was determined that an inmate is a Special Needs inmate, a treatment plan was required to be prepared that included short- and long-term goals to be met by addressing "collaborative problems requiring multidisciplinary involvement."

70. Although Munroe should have been identified as a Special Needs inmate due to his suicidal history, he was not, and a treatment plan was never developed for him at the Ada County Jail.

71. At all times relevant to this Second Amended Complaint, Ada County written policy stated that all rooms within the Medical Unit were to be equipped with cameras to allow constant visual observation.

72. Inmates would be housed in the Medical Unit most often due to possible

detoxification symptoms or mental health problems which presented a danger to self or others, including psychotic disorders, suspicion of psychotic depression, or suicidal ideation.

73. At all times relevant to this Second Amended Complaint, it was the Ada County written policy that the Medical Unit would accept any and all inmates referred by the security staff.

74. Medical staff was to assess the inmate and before they could return the inmate to general population, clearance by the medical staff was required and must have been "well documented" in the inmate's medical file. Information provided by the inmate to security staff was required to be regarded as bona fide per Ada County written policy.

75. At all times relevant to this Second Amended Complaint, Ada County written policy stated that it is the responsibility of all Jail staff to identify inmates who may be at risk of suicide, and to initiate reasonable intervention to reduce the risks to inmates who may be suicidal.

76. During the medical intake procedure in booking, the inmate was to be asked at least three direct questions: (1) Have you ever been treated for depression? (2) Have you ever tried to commit suicide? (3) Are you contemplating suicide now?

77. Also during the medical intake procedure, the officer was required to make and document an observation directed at the question of whether the inmate's behavior suggests depression, suicide or assault.

78. Officers who become aware of an inmate who presented a potential suicide risk during the intake procedure, whether they became aware of it from the arresting officer or through direct questioning and observation, are required to immediately notify the Medical Unit and provide all available information on the potentially suicidal inmate.

79. At all times relevant to this Second Amended Complaint, Ada County written policy stated that once a security officer notifies the Medical Unit of a potentially suicidal inmate, the Medical Unit staff is required to conduct and document an assessment to ascertain the level of suicide risk associated with the inmate.

80. The level of suicide risk assigned to an inmate is to be used to determine the level of intervention and housing.

81. The Medical Unit staff member who performs the assessment is required to document the assessment and intervention in a topic report.

82. At all times relevant to this Second Amended Complaint, Ada County written policy sets forth specific factors that were to be used in assessing an inmate's level of suicide risk.

83. Inmates assessed to present a potential risk for suicide are to be assigned a risk level of low, moderate, or high according to established assessment guidelines and clinical and security judgment.

84. The guideline features of a high suicide risk inmate are identified as follows:
- a. Mood may be labile (unsettled) to depressed or exhibits recent unexplained improvement in mood;
 - b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
 - c. May report depression;
 - d. Specific report of suicidal ideation especially with a specific workable plan;
 - e. Previous suicide gestures/attempts;
 - f. Under the influence of any substance;
 - g. Has perceived recent major life trauma;

- h. Male;
 - i. Age <25;
 - j. First arrest;
 - k. Incarcerated <48 hours;
 - l. Makes poor or no eye contact;
 - m. Verbally stunted—difficult to or will not engage in conversation;
 - n. Lacks future orientation; has unrealistic expectation of self;
 - o. Will not agree to no self harm;
 - p. Projects elements of hopelessness, helplessness;
 - q. Exhibits diminished or complete loss of self esteem;
85. The guideline features of a moderate suicide risk inmate are identified as follows:
- a. Mood may be labile (unsettled); possibly depressed;
 - b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
 - c. May report depression;
 - d. Vague to specific report of suicidal ideation; vague or impractical plan;
 - e. Under the influence of any substance;
 - f. May have perceived recent major life trauma;
 - g. Male;
 - h. Age <25;
 - i. Makes poor eye contact;
 - j. Verbally stunted—requires effort to engage in conversation;
 - k. Unsure of future orientation; some unrealistic expectations of self;
 - l. Ambivalent regarding no self-harm agreement;

m. Projects elements of hopelessness, helplessness;

n. Exhibits diminished self esteem.

86. The guideline features of a low suicide risk inmate are identified as follows:

a. Good to labile (unsettled) mood;

b. Affect is congruent to mood—inmate reports sadness and gives the appearance of sadness;

c. May report depression;

d. Vague report of suicidal ideation; has no plan;

e. No previous suicidal gestures/attempts;

f. Not under the influence of any substance;

g. No perceived recent major life trauma;

h. Female;

i. Age >25;

j. Makes good eye contact;

k. Verbally appropriate—engages easily in conversation;

l. Future oriented; realistic expectations of self;

m. Agrees not to harm self.

87. At all times relevant to this Second Amended Complaint, Ada County written policy states that any potentially suicidal inmate must be housed where he or she could be monitored in accordance with the level of suicide risk involved.

88. At all times relevant to this Second Amended Complaint, Ada County written policy states low risk inmates could be housed in the general population but they were not to be housed in a single cell environment without medical/supervisor clearance unless the area had 15-minute wellbeing checks being conducted and documented.

89. At all times relevant to this Second Amended Complaint, Ada County written policy states moderate risk inmates could be housed in general population only with clearance from medical/supervisor.

90. At all times relevant to this Second Amended Complaint, Ada County written policy states housing a moderate risk inmate in a single cell environment outside the Medical Unit could only be done with medical/supervisor clearance.

91. At all times relevant to this Second Amended Complaint, Ada County written policy states high risk inmates are required to be housed in the Medical Unit until seen by a mid-level practitioner or medical doctor.

92. At all times relevant to this Second Amended Complaint, Ada County written policy states high risk inmates are required to be referred to a psychologist, be on 15-minute wellbeing checks, and have additional safeguards in place when the inmate is housed in the Medical Unit.

93. At all times relevant to this Second Amended Complaint, Ada County written policy requires that an Inmate Encounter Form be completed by the Medical Unit healthcare provider “describing the medical contact with that inmate, including information on the medical complaint, results of the examination, diagnosis, recommendation, and prescriptions.”

94. At all times relevant to this Second Amended Complaint, Ada County written policy dictates that all inmates/prisoners who appeared to have an injury or illness or complain of such an injury or illness are required to be offered proper medical treatment, and if an inmate/prisoner refused medical treatment for an injury or illness, the deputy is required to request that the inmate/prisoner sign a medical treatment refusal form. The deputy is also required to document the injury, illness or complaint, and all medical assistance offered.

FACTUAL EVENTS LEADING TO THE DEATH OF MUNROE

95. At all times relevant to this Second Amended Complaint, Munroe suffered from mental illness that caused episodes of suicidal thinking and behavior.

96. On or about October 27, 2007, 18-year-old Munroe was booked into the Ada County Jail by an ACSO deputy on a charge of petite theft.

97. On or about October 27, 2007, an Initial Classification, Temporary Cell Assignment form relating to Munroe was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provides space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form includes a "Medical Intake and History/Receiving Screening" wherein the officer is to ask the inmate questions relating to the inmate's physical and mental health. One of the questions in that portion of the form is "Have you ever attempted suicide? When? Where?" The deputy placed a question mark in the space allocated on the form for recording the inmate's response. The deputy recorded a no response next to a question asking if the inmate had ever contemplated suicide.

98. On another form used by the Ada County Jail entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535" it indicated that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between October 27, 2007 and October 28, 2007.

99. Munroe was released from the Ada County Jail on or about October 29, 2007.

100. On or about July 4, 2008, Munroe was booked into the Ada County Jail for failing to appear in court on the petite theft charge.

101. On or about July 4, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provided space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer is required to ask the inmate questions relating to the inmate's physical and mental health.

102. The July 4, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: Bi-polar and OCD when 13 YOA"
- b. "Yes – Have you ever contemplated suicide? When? when attempted
Where?"
- c. "Yes – Have you ever attempted suicide? When? January Where?"
"List: Sacramento Mental Health"

103. Although an Initial Classification, Temporary Cell Assignment form was filled out on or about July 4, 2008, Munroe received no classification.

104. Ada County Jail maintains a computer system for entering information regarding inmates and their histories that is referred to as JICS.

105. With regard to Munroe, the JICS on July 4, 2008, includes an entry by an Ada County Jail employee named Peni Dean that states: "Per JICS patient has been treated for

bipolar and OCD 13 years ago. Patient attempted suicide in January at Sacramento Mental Health. No SI or other medical issues at this time.”

106. On another form entitled “History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535,” a record entry states that Munroe was “mishoused” when he was placed in cell 2W and then 1E during the period between July 4, 2008 and July 7, 2008.

107. Munroe was released on July 7, 2008, without a discharge plan in place for him.

108. There is no documentation in Munroe’s medical records at the Ada County Jail indicating that he received any medications or mental health treatment during his incarceration from July 4, 2008 to July 7, 2008.

109. On or about August 28, 2008, Munroe was again booked into the Ada County Jail to serve his sentence on the conviction he received on the petite theft charge.

110. When Munroe was booked into the Ada County Jail on or about August 28, 2008, he was carrying his prescription medications consisting of Celexa and Perphenazine.

111. Munroe told the booking deputy that he had been prescribed these two medications by his doctor, Stephen Bushi.

112. Celexa is an antidepressant. In 2004 and again in 2007, the FDA directed manufacturers of certain antidepressants to update their black box warnings to include warnings of increased suicidality when their product is prescribed to young adults between 18 and 24 years of age during the initial treatment period of one to two months. Celexa was one of the antidepressants included in the FDA directive. When Celexa is initially started or when dosages are adjusted up or down, patients, families and caregivers are advised to be alert to the emergence of anxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness, impulsivity, akathisia (psychomotor restlessness), hypomania, mania, other unusual changes in

behavior, worsening of depression, and suicidal ideation. A portion of the warning states:

Families and caregivers of patients should be advised to observe for the emergence of such symptoms on a day-to-day basis, since changes may be abrupt. Such symptoms should be reported to the patient's prescriber or health professional, especially if they are severe, abrupt in onset, or were not part of the patient's presenting symptoms. Symptoms such as these may be associated with an increased risk for suicidal thinking and behavior and indicate a need for very close monitoring and possibly changes in the medication.

113. Perphenazine is an antipsychotic medication that is used to treat bipolar and schizophrenic patients. In 2007, the FDA added Perphenazine to the list of drugs like Celexa that it was requiring manufacturers to include the warnings regarding risks of suicidality.

114. The use of Celexa or Perphenazine doubles the risk of suicidality in patients during initial treatment and during periods of dosage changes.

115. On or about August 28, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form had space for indicating whether the Medical Director Designee was notified, the space was left empty.

116. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer was required ask the inmate questions relating to the inmate's physical and mental health.

117. The August 28, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Is the inmate carrying any medications?"
- b. "Yes – Are you presently taking medications?"
"List: perphenazine, citalopram"
- c. "Yes – Are you under a doctor's care?"
"List: Stephen Bushi"
- d. "Yes – Self-inflicted injury scars on wrists, legs, neck?"
- e. "Yes – Seeing visions?"
- f. "Yes – Hearing voices?"
- g. "Yes – Depressed?"
- h. "Yes – Confused?"
- i. "Comments: Says if he doesn't take meds he gets bad mood swings. Has a 4 in scar on right arm that is self inflicted. Says his meds are for depression, manic, ocd, bi-polar."
- j. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: intrmtn 2 weeks ago"
- k. "Yes – Have you ever contemplated suicide? When? Where?"
- l. "Yes – Have you ever attempted suicide? When?"
"List: cut his arm and try to od"

118. Based on the August 28, 2008 Initial Classification, Temporary Cell Assignment form, Munroe was classified as 3-Med.High.

119. Although the Initial Classification, Temporary Cell Assignment form was filled out on August 28, 2008, Munroe was not classified until August 31, 2008, when it was determined that he would be given the classification of "3-Med.High with a High Risk and Special Condition Code of SUIHIST" for Suicide History.

120. On August 30, 2008, Defendant Farmer, a Registered Nurse in the Ada County Jail Medical Unit, made an entry in the computerized record system JICS which stated that

Munroe was “on meds from provider already – see’s Stephen Bushi, was in Intermountain 2 weeks ago for attempted SI.”

121. On August 30, 2008, Defendant Farmer requested that a social worker perform a suicide assessment on Munroe and gave it a “priority 1 (high).”

122. The assessment was postponed by social worker Defendant Johnson.

123. On August 31, 2008, a JICS entry was made by an Ada County Deputy identified only as ID #4186 stating the following regarding Munroe: “During the interview I got the feeling that Munroe has the potential to be a problematic inmate. No medical issue or identified enemies. He will be sent to mcu.” MCU is an acronym meaning medium custody unit.

124. On September 1, 2008, Defendant Johnson spoke to Munroe and cleared him for general population housing.

125. Ada County Jail records state the following notations made by Defendant Johnson, documenting subjective impressions of Munroe on September 1, 2008: “per JICS – was in Intermountain 2 weeks for attempted suicide. MSW met with patient. He reports that he has a long history of treatment for mental disorders—currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time.”

126. The September 1, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

127. Munroe was initially housed in cells 1N, 2W, CCUSP until September 1, 2008,

when he was moved to cell 763, where he stayed until September 21, 2008.

128. On September 21, 2008, Munroe was moved to cell 713, where he remained until he was released on September 26, 2008.

129. Cells 763 and 713 are general population housing.

130. On all of the aforementioned incarcerations when Munroe was in the custody of the Ada County Jail, he was "mishoused" according to his classification.

131. There are no records indicating that anyone at the Ada County Jail attempted at any time to communicate with Dr. Stephen Bushi regarding Munroe's medical condition or treatment.

132. From August 28 through September 26, 2008, Ada County Jail records appear to indicate that Munroe may have received some of his prescribed medications but not all, although due to the absence or incompleteness of the records maintained by the Ada County Jail, it cannot be confirmed whether he received all medications that were prescribed to him for his mental illness.

133. During the period of August 28 to September 29, 2008, Ada County had a written policy requiring that each time an inmate is administered a medication, a "Medication Administration Sheet" is to be used to record whether the medication was provided and whether the inmate received it or refused it.

134. Additionally, the policy required that on each occasion when medication is administered to an inmate, the officer or medical staff administering the medication to the inmate is required to sign the Medication Administration Sheet indicating whether the medication was received or refused by the inmate.

135. The inmate is also supposed to sign the Medication Administration Sheet

indicating whether the medication was received or refused.

136. The Medication Administration Sheet is supposed to be made part of the inmate's medical file at the Jail.

137. The Medication Administration Sheets in Munroe's medical file at the Ada County Jail are not signed by either an officer or Medical Unit staff member, nor are they signed by Munroe.

138. On August 29, 2008, Ada County Jail Medical Unit records indicate a prescription order was placed for Munroe's Celexa and Perphenazine. The records also indicate another prescription order placed on September 4, 2008.

139. On two occasions while incarcerated between August 28 and September 26, 2008, a \$5.00 charge was made against Munroe's commissary account for medications ordered on his behalf. It is not clear from the records whether either or both of the charges were for Munroe's Celexa and Perphenazine medications, and it is not clear what quantity, if any, of those two medications was provided to Munroe.

140. The only record that exists at the Ada County Jail of Munroe actually receiving his medications is a kite submitted by Munroe asking why his medication schedule for his Celexa had been changed from mornings to evenings.

141. There is no documentation of anyone prescribing Celexa or Perphenazine for Munroe during his incarceration at the Ada County Jail between August 28 and September 26, 2008.

142. Despite Ada County written policy at the time, Ada County Jail Medical Unit did not perform a 14-day health assessment of Munroe between August 28 and September 26, 2008.

143. There are no records at the Ada County Jail indicating that Munroe was ever seen

by the psychiatrist or medical doctor during any of his stays at the Ada County Jail, or that any doctor was contacted regarding Munroe's medical and mental health needs.

144. Munroe was released on September 26, 2008, after serving his sentence on the petite theft conviction.

145. At all times relevant to this Second Amended Complaint, Ada County written policy required that when inmates are released from the Ada County Jail, a protocol is to be followed by the Ada County Jail Medical Unit to ensure that inmates receive their medication upon release from jail.

146. Under that protocol, the Nursing Supervisor shall review the list of inmates scheduled to be released and check to see if they were receiving medications while in the Jail and, if they were receiving medications, the Medical Unit is to gather and package the medications to be released with the inmate.

147. The Nursing Supervisor is also to complete a medication release form, and count each medication, noting the number of pills left, and deliver the medication and paperwork to booking in the Jail.

148. On September 26, 2008, Defendant Babbitt was the Nursing Supervisor.

149. There is no documentation that Defendant Babbitt reviewed the list of inmates scheduled to be released on September 26, 2008, which included Munroe.

150. There is no documentation that Defendant Babbitt checked to see if Munroe was receiving medications in the Jail.

151. Defendant Babbitt did not complete a medication release form for Munroe or deliver his medications and paperwork to booking at any time.

152. At all times relevant to this Second Amended Complaint, an Ada County written

policy was in place at the Ada County Jail that provided a protocol to be followed by the booking officer when preparing an inmate to be released from the Ada County Jail.

153. Under that protocol, the booking officer is to “inquire if they had personal medications while in the jail,” and if there are personal medications, the booking officer is to call the Medical Unit to have the medications brought to booking for release.

154. The protocol further requires that, prior to releasing the inmate, the booking officer is to complete a medication release form, which is to be signed by the inmate and the releasing officer. The inmate is to sign on one line if accepting the medications, and on another line if refusing the medication.

155. Defendant Roach was the booking deputy who processed Munroe for release on September 26, 2008, and whose duty it was to ensure that Munroe was released with his medications. On information and belief, Defendant Roach was deliberately indifferent to the serious medical needs of Munroe to have his prescribed medication at the time of his release from the jail on September 26, 2008, when Munroe was released without his medications.

156. At all times relevant to this Second Amended Complaint, the ACSO had another policy at the Ada County Jail which required that an inmate who had been receiving medication while in the Jail is to receive a two-week supply of the medication upon being released in order to maintain continuity of care.

157. The policy also requires that an inmate is to be provided contact information for community resources where they can obtain medical care to continue their treatment.

158. A record exists within the Ada County Jail indicating that when Munroe was released on September 26, 2008, Defendant Weich, a CMS and Certified Correctional Health Professional, filled out the medication release form.

159. However, the medication release form from September 26, 2008, does not indicate that Munroe was released with his medications, or if he was, or whether he accepted them or refused them.

160. Additionally, the medication release form was not signed by Munroe, Defendant Weich, or anyone else from the Ada County Jail.

161. There is also no indication that Munroe received a copy of the medication release form that would have provided contact information for community resources where he could continue his medical care in the community.

162. On information and belief, Munroe received his prescribed Celexa and Perphenazine at inconsistent intervals while incarcerated at the Ada County Jail between August 28 and September 26, 2008.

163. On information and belief, Munroe was not provided any of his medications, by Defendant Weich, Defendant Roach, or anyone else at the Ada County Jail, when he was released on September 26, 2008.

164. While Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, there was no treatment plan in place for him.

165. When Munroe was released on September 26, 2008, there was no discharge plan in place for him.

166. On information and belief, without his medications, and without a discharge plan or treatment plan in place for him, Munroe's mental state deteriorated into a manic psychotic state that placed him in a condition where he was not in control of his mental processes.

167. On September 28, 2008, Munroe entered a Maverick Country Store in Boise and placed a backpack on the counter. He was wearing black shorts and no shirt. He had scratches

across his face, sores on his hands, and a fresh cut to the back of his head. He screamed at the cashier to give him all the money in the cash register, while threatening to have a bomb in the backpack. When the cashier did not respond to his demands for money, Munroe started banging his fists on the counter and repeatedly screamed at the cashier, "Do you want to die!" After obtaining \$239.88 in cash, Munroe fled the scene on a bicycle. He was apprehended a short distance away by Boise City Police.

168. Initially, Munroe was cooperative with law enforcement. He stepped off his bike, removed the backpack and stepped away from both. He followed the officers' command to lay flat on the ground. He identified himself and informed the officers that there was no bomb and the money was in his backpack. However, when Boise City Police placed Munroe in a squad car to be transported, Munroe's disposition changed suddenly. He began to hit his head against the car's window and alternately attempted to kick the windows out of the car. Officers placed Munroe in hobbles and transported him to the Boise City Police Criminal Investigations Division. There he admitted to consuming alcohol.

169. Once Munroe was inside the interview room, he began spitting and swearing at officers, and attempting to remove the hobbles. He refused to identify himself to the officers, even though he had earlier identified himself at the scene. While in such a state, Munroe defecated in his shorts. Paramedics were called to evaluate Munroe because of his extreme behavior. Paramedics transported him to St. Alphonsus Regional Medical Center ("St. Al's") to be further evaluated.

170. Boise City Police Officer Eric Urian, who attempted to interview Munroe at the Criminal Investigations Division, reported that he terminated the interview and had Munroe transferred to the hospital because of Munroe's "extreme behavior."

171. Officer Urian reported that the “suspect was highly emotional and was showing great mood swings. . . . [b]ased on the suspect’s actions and his state of mind I decided that an interview was not going to be appropriate. On a second contact with Munroe he screamed at me that he wanted his attorney.”

172. Boise City Police Officers Jacob Nichols and Eric Urian transported Munroe to St. Al’s.

173. Upon arrival at St. Al’s, Munroe told Dr. Brandon J. Wilding that he had been taking Celexa and Trilafon (Perphenazine).

174. The doctor indicated in Munroe’s medical record that the past medical history was “significant for depression . . . He also reports a history of psychosis. Reviewing an older chart April 1, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning.”

175. Dr. Wilding also noted that Munroe reported to him his depression and that “if he is discharged from jail, he will commit suicide; however, he denies any plan to attempt suicide tonight. He does admit to being intoxicated.”

176. Dr. Wilding medically cleared Munroe for the Jail in part because he could not confirm the prescriptions of Celexa and Perphenazine, and because Officers Nichols and Urian represented to Dr. Wilding that they thought the Ada County Jail Medical Unit would be able to make that determination.

177. Munroe was taken to the Ada County Jail by Boise City Police officers.

178. At the Ada County Jail, Deputy Erica Johnson began filling out Munroe’s booking sheet and the booking process.

179. It appeared to Deputy Erica Johnson that when Munroe arrived at the Jail, he was under the influence of alcohol and/or drugs.

180. Deputy Erica Johnson further observed that Munroe was yelling, screaming, was rowdy, and was not making a lot of sense when speaking.

181. Due to Munroe's demeanor, Deputy Erica Johnson could not complete the booking process, and Munroe was placed in a holding cell in the booking area for his own wellbeing, where all but his boxer shorts were taken from him.

182. Boise City Police Officers Nichols and Urian remained at the Ada County Jail and assisted Ada County Jail deputies as they tried to deal with Munroe and his behavior.

183. At approximately 10:42 p.m., Munroe urinated under the cell door. Ada County Jail officers moved him to another holding cell.

184. At approximately 11:05 p.m., Ada County Jail Deputy Brewer, ID #4778, a Registered Nurse employed within the Ada County Jail Medical Unit, indicated on an Inmate Housing Security Check Log that Munroe was masturbating inside his cell and that his "clothes were removed from him as he was trying to take string and wrap [it] around his neck. Apparently paramedics did see him on scene. Possible consumption of illegal substance. Let him sober."

185. The only clothing Munroe possessed at the time was his boxer underwear. He had torn the boxers into string or strips and then wrapped them around his neck.

186. On the Inmate Housing Security Check Log there were separate boxes for indicating whether a prisoner/inmate was combative, needing to detox, was suicidal, or other, and none of those boxes were marked by Ada County Jail staff.

187. From approximately 11:20 p.m. until approximately 7:52 a.m., Munroe was held

in the same holding cell with no clothes and only a safe blanket to keep him warm.

188. Inside the cell was a slightly raised padded safe cot on which he spent most of the evening sleeping. Because Munroe had had all of his clothing taken away, a curtain was placed over the windows to his cell. Ada County Jail staff checked on Munroe periodically throughout the night. Most all of the reports indicated that he was sleeping when checked on.

189. Deputy Brewer checked on Munroe on multiple occasions, but only made one entry on the log sheet. On information and belief, Brewer made a notation in the margin of the log sheet stating: "Very DK, Possible High on illegal ch, caution spitter."

190. There are no records at the Ada County Jail indicating that Deputy Brewer checked Munroe's medical record at the Ada County Jail that would have confirmed Munroe's history of suicidality, major depression, psychosis and prescription history.

191. Munroe remained in the holding cell until approximately 7:52 a.m. on September 29, 2008, when he was escorted out of the cell by ACSO Deputy Daniel Lawson, ID #4756, and taken to be processed into the Jail on charges of robbery and consumption by a minor.

192. At approximately 7:55 a.m., Munroe was moved to a cell identified by Ada County Jail records as 2W.

193. At approximately 8:00 a.m., Defendant Wroblewski took Munroe into the booking room and started obtaining Munroe's fingerprints as part of the booking process.

194. At 8:01 a.m., Defendant Johnson spoke with Munroe from the hallway just outside the booking room while Defendant Wroblewski continued the fingerprinting process with Munroe.

195. Defendant Johnson had been contacted earlier to "interview Munroe about his

past and present suicide tendencies.”

196. Defendant Johnson spoke to Munroe until 8:04 a.m., and then left.

197. Before leaving, Defendant Johnson asked Munroe if he had any current suicide thoughts. Munroe responded by saying “No, I don’t have any thoughts right now and I don’t want any of your help.”

198. Defendant Johnson asked other questions of Munroe regarding Munroe’s suicidal history and mental status. Munroe again stated, “I don’t want anybody’s help. I am fine.”

199. When Defendant Johnson approached the area where he spoke with Munroe, he held in his hand a pen. He did not have any paper and did not write anything throughout his interaction with Munroe.

200. After Defendant Johnson left, Defendant Wroblewski completed the fingerprinting process with Munroe at 8:05 a.m.

201. At 8:13 a.m. on September 29, 2008, Defendant Johnson made a documentation entry on the JICS computer system indicating that he had completed a suicide assessment of Munroe and then he cleared Munroe from “JICS – High Risk: Suicide Watch”:

Subjective: assess suicide risk in booking. MSW met with pt. who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This morning he denies suicidal ideation or intent. Additionally states that he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request.

202. The September 29, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and

it is labeled "blank."

203. Defendant Johnson did not obtain a signed refusal for treatment from Munroe as is required by Ada County written policy.

204. Defendant Johnson cleared Munroe for general population housing after reviewing his medical records at the Ada County Jail and speaking to Munroe for approximately three minutes.

205. Defendant Johnson's assessment of Munroe was that he posed no risk of suicide.

206. At no time prior to Munroe's death did Defendant Johnson review Munroe's September 29, 2008 Initial Classification, Temporary Cell Assignment form that included the medical questionnaire.

207. While Defendant Johnson holds a Master's Degree in Social Work, he has never held a license in the state of Idaho as a social worker.

208. It is a violation of Idaho Code § 54-3214 for a person to represent themselves "as a social worker by the use of the titles 'social worker,' 'masters social worker' . . . unless licensed" in the state of Idaho as a social worker.

209. Defendant Johnson was not qualified as a social worker to perform suicide assessments such as that which was required to be done on Munroe on September 29, 2008, as part of the classification and housing process at the Ada County Jail.

210. At the time Defendant Johnson spoke to Munroe on September 29, 2008, about whether Munroe posed a likely risk of suicide, Defendant Johnson was a recent hire to the Ada County Jail Medical Unit, having completed his "New Employee Orientation" training course on June 10, 2008.

211. While employed with the Ada County Jail and prior to the death of Munroe,

Defendant Johnson had not completed the suicide assessment or prevention courses required of all other Ada County Jail employees who have contact with inmates.

212. On information and belief, prior to the death of Munroe, Defendant Johnson had no training on the written policies of Ada County relating to suicide prevention.

213. Defendant Johnson did not conduct a complete suicide assessment of Munroe on September 29, 2008.

214. The suicide assessment Defendant Johnson conducted of Munroe was inadequate to the point of demonstrating recklessness and indifference to whether Munroe was likely to commit suicide.

215. Had Defendant Johnson conducted an adequate suicide assessment and considered all factors that were set out in Ada County's written policies at the time for assessing suicide risk, or those factors commonly viewed by trained and licensed social workers for assessing suicide risk, Munroe would have likely been classified as either high or moderate suicide risk; and would have thereby been provided greater protection against the risk of suicide.

216. With Munroe's suicidal history, he should have at least been assessed as being a low risk of suicide, which would have provided some minimum protections against Munroe committing suicide.

217. After completing the fingerprinting process, Defendant Wroblewski began interviewing Munroe as part of the medical screening process, and reported the following:

When I got to the questions concerning mental health, I asked Munroe "Are you seeing visions and hearing voices?" Munroe stated, "Yes, I see the shadow people." I then asked, "Are you seeing them right now?" Munroe stated, "He wasn't." I then asked Munroe if they talked to him? Munroe stated, "That they do." I asked Munroe what do they say to you? Munroe stated, "To run."

218. Defendant Wroblewski filled out the Initial Classification, Temporary Cell Assignment form and provided the following information:

- a. Poor Physical Condition at intake;
- b. ? as to whether there were visible signs of injury or illness requiring immediate treatment or care;
- c. Yes to whether he appeared to be under influence of alcohol, or exhibit signs;
- d. No to whether he appeared to be under the influence of drugs;
- e. No to whether he was carrying any medications;
- f. Yes to having been taken to the hospital but nothing as to what treatment was received;
- g. As to the question "Does behavior suggest need for immediate psychiatric treatment?" it is marked NO;
- h. As to whether he was taking medications, it states "Celexa";
- i. Are you under a doctor's care? NO;
- j. Yes to whether he was taken to hospital. List 9/28/08;
- k. Yes to understanding the questions;
- l. Yes to assault/violent behavior;
- m. Yes to angry or hostile behavior;
- n. No to loud/obnoxious behavior;
- o. No to "Self-Inflicted injury scars on wrists, legs, neck";
- p. No to Bizarre behavior;
- q. Yes to seeing visions;
- r. Yes to hearing voices;
- s. Yes to odor of alcohol;
- t. No to Uncooperative;

- u. COMMENTS: "Was hostile toward deputies and officer upon intake. Seeing shadow people, voices in head";
- v. Yes to whether he had been in a mental institution and identifies Intermountain;
- w. Yes as to whether he ever contemplated suicide. When and where are left blank;
- x. Yes to have you ever attempted suicide. When and where are left blank;
- y. Yes to are you now contemplating suicide;
- z. Yes to "does the inmate's behavior suggest a risk of suicide?"

219. Defendant Wroblewski finished his screening and filling out the Initial Classification, Temporary Cell Assignment form at 8:33 a.m.

220. Neither Defendant Wroblewski, Defendant Johnson, nor Munroe signed the Initial Classification, Temporary Cell Assignment form, even though there are signature lines for the inmate, the officer, and the physician/nurse.

221. Additionally, the areas designated to mark whether and when the notification to medical director was made, name and identification number of booking officer were all left blank.

222. In contradiction to the Ada County written policy in place at the time, Defendant Wroblewski did not contact the Medical Unit staff after Munroe relayed the information contained in the Initial Classification, Temporary Cell Assignment form.

223. The applicable Ada County written policy required that Defendant Wroblewski refer Munroe to Health Services once Munroe gave positive answers to having been treated for mental health issues, being on medications for mental health treatment, to contemplating suicide, and to having attempted suicide in the past.

224. Ada County written policy also required that Munroe be referred to Health

Services because Defendant Wroblewski indicated on the form that he had observed behavior in Munroe that suggested a risk of suicide.

225. In contradiction to the direction of Defendant Johnson that, if indicated by Munroe or staff, follow-up services were to occur, Defendant Wroblewski did not contact anyone for follow-up services.

226. Defendant Wroblewski disregarded the new information that Munroe had disclosed during the intake process that strongly suggested that Munroe was suffering a psychotic break and/or posed a greater risk of suicide than what had previously been assessed by Defendant Johnson. The information that Munroe disclosed to Defendant Wroblewski while working through the Initial Classification, Temporary Cell Assignment placed Munroe squarely in the high suicide risk classification.

227. At 8:37 a.m., ACSO Deputy Ryan Donelson, ID #4800, placed Munroe in a holding cell identified as 1H CCU.

228. Deputy Donelson reported that while he was escorting Munroe to be housed in general population, Munroe stopped walking and began to speak to Deputy Donelson. Munroe said to Deputy Donelson, "I need to be on PC [Protective Custody]. I can't live with other people. Everyone wants to kill me."

229. Deputy Donelson asked Munroe whom he was having problems with, so that he could help to determine where to house Munroe. Deputy Donelson asked Munroe if he was having problems with people over drugs. Munroe did not respond. Deputy Donelson asked Munroe if he was having troubles with gangs. Munroe said "I'm into a lot of stuff and everyone wants to kill me." Deputy Donelson asked Munroe if he knew the names of any of the people who want to kill him. Munroe said, "No." Munroe again told Deputy Donelson that he needed

to be on protective custody and that he could not live with other people. Deputy Donelson secured Munroe in the CCU large holding cell 1-1.

230. Deputy Donelson then spoke to classifications Deputy Drinkall, ID #4221, about his discussion with Munroe.

231. Deputy Drinkall looked up Munroe's history on JICS.

232. Deputy Drinkall also reviewed the Inmate Housing Security Check Log on which Deputy Brewer had documented Munroe's suicidal behavior of attempting to wrap clothes around his neck.

233. After reviewing Munroe's information, Deputy Drinkall noted that Munroe had a suicidal history.

234. Deputy Drinkall contacted Defendant Johnson, and Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but was very agitated.

235. Based on the information he obtained from Defendant Johnson, Deputy Drinkall determined that Munroe should be housed in the side chute of Cellblock 7. Munroe was then placed inside cell 735.

236. When Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but merely agitated, Defendant Johnson still had not reviewed the September 29, 2008 Initial Classification, Temporary Cell Assignment form completed by Defendant Wroblewski as part of the medical screening of Munroe.

237. Cell 735 contained, among other things, a bunk bed and a set of sheets.

238. It was a single inmate cell located at the end of the side chute where the cell cannot be easily observed by security staff or other inmates.

239. Defendant Johnson approved Munroe for being housed in a single cell

environment, despite Munroe being at least a low suicide risk.

240. Munroe had also been provided standard general population clothing.

241. The upper bunk bed in Munroe's cell 735 was constructed in such a fashion that there were holes in the upper bunk that were an inch or two in diameter.

242. A known risk of placing a suicidal inmate in a cell with these items is that the inmate will use the items to commit suicide by feeding the sheet up through one of the top bunk's holes and tying the sheet off with a knot that cannot be pulled down through the hole, and then use the sheet as a ligature with which to hang themselves.

243. Cell 735 posed a known and obvious risk of suicide to Munroe.

244. At approximately 10:37 a.m. on September 29, 2008, Munroe's mother, Ms. Hoagland, spoke with Leslie Robertson, the Ada County Jail Medical Unit's Health Services Administrative Supervisor, by telephone.

245. Leslie Robertson made the following entry on the JICS system:

Date: 09-29-08 10:37 PC Rita Hoagland mother 495-XXXX, 871-XXXX.¹ Called concerned that son is back in custody. He was released on Friday and returned sometime early this morning. He has made 3 serious suicide attempts in past (attempted to jump off bridge, overdose, and cut self). He has been in Intermountain and other hospitals as recently as this summer. He has had made (sic) when in community and told mother that we gave him meds here. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

246. Upon receiving additional information from Ms. Hoagland regarding Munroe's suicidal intentions, Defendant Johnson did not re-evaluate his assessment that Munroe posed no risk of suicide.

¹ Telephone numbers have been redacted for privacy purposes.

247. When Ms. Hoagland spoke with Leslie Robertson, Leslie Robertson assured Ms. Hoagland that she would follow up to see if Munroe was receiving his medications.

248. At approximately 11:57 a.m. on September 29, 2008, Defendant Farmer made the following entry on the JICS system: "JICS review - on celexa (none brought in), see @ St. Al's before coming to ACJ, has SI hx, seen at Intermountain. Inmate is OOC." OOC is an acronym for Out of Control.

249. Despite conducting a JICS review of Munroe's history which stated that he became suicidal when off his medications, Defendant Farmer did nothing to ensure that Munroe received his medications on September 29, 2008.

250. At 1:30 p.m. on September 29, 2008, Munroe was taken through video arraignment on the charges of Robbery and Possession/Consumption of Alcohol by a Minor.

251. As a matter of Idaho law, Munroe would have been told by the arraignment judge the maximum punishments for each of the charges should he be convicted.

252. After being arraigned, Munroe was returned to cell 735.

253. There is no record at the Ada County Jail of Munroe receiving either his prescribed Celexa or Perphenazine while incarcerated on September 28 and 29, 2008.

254. Defendant Barrett was the on-call provider of medications at the Ada County Jail on September 28 and 29, 2008.

255. As the on-call provider, Defendant Barrett would have to have approved any orders or requests for Munroe's medications and would have determined how and when they would be provided to Munroe.

256. No medications were requested, prescribed, or provided to Munroe by anyone at the Ada County Jail on September 28 or 29, 2008.

257. Defendant Barrett, as the Senior Physician's Assistant/Nurse Practitioner, and Defendant Babbitt, as the Nursing Supervisor/Inmate Healthcare Supervisor, each had a duty to supervise and control Defendant Farmer.

258. On information and belief, there is a *de facto* policy established by custom and practice at the Ada County Jail of not timely and consistently providing inmates with needed medication.

259. Defendants Barrett, Babbitt and Farmer each had a duty to ensure that each inmate at the Ada County Jail timely received needed medications once these Defendants became aware that the inmate has been prescribed medical treatment that includes psychotropic medications such as Celexa and Perphenazine.

260. Defendants Barrett, Babbitt and Farmer each had a duty to Munroe to ensure that on September 28 and 29, 2008, he timely received his Celexa and Perphenazine.

261. At some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, Munroe successfully committed suicide by hanging himself in cell 735 from the upper bunk of his bed.

262. He had placed a sheet up through one of the holes and tied the sheet off on one end while using the other to wrap around his neck. He was later pronounced dead at St. Al's.

263. At approximately 11:00 p.m. on September 29, 2008, Ms. Hoagland answered her door to find Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker there to speak to her about her son Bradley Munroe.

264. When Ms. Hoagland asked if her son was okay, Sheriff Raney asked her to sit down and then informed her that her son had taken his life while incarcerated at the Ada County Jail.

265. They informed her that he had taken his life by hanging himself from a sheet in

the cell and that he accomplished the act by tying the sheet to the upper bunk of his bed.

266. When she asked them why her son had been placed in a cell by himself, with sheets and a bunk bed, they could not answer her.

267. When she asked them why her son was not put on suicide watch, they could not answer her.

268. As a result of the news of the death of her son, Ms. Hoagland suffered severe mental shock and emotional distress.

269. Detective Buie of the ACSO conducted an investigation of Munroe's suicide. Part of that investigation consisted of interviewing Defendant Johnson.

270. During that interview, Defendant Johnson stated to Detective Buie that he had been told by someone that on the morning of September 29, 2008, Munroe was saying that he was no longer suicidal, although Defendant Johnson has not been able to identify who the person was that made that statement to him.

271. Defendant Johnson further stated to Detective Buie that when he spoke to Munroe, Munroe said that he had made some stupid statements the night prior when he was "high."

272. Munroe did not tell Defendant Johnson that he had been high on September 28, 2008, when he was arrested and brought to the Jail.

273. Munroe was not high on any illegal drugs when he was brought to the Ada County Jail.

274. Defendant Johnson also told Detective Buie during his interview that Munroe had told him that he was not going to hurt himself. Defendant Johnson stated that Munroe told him he was not taking any medication and did not want mental health follow-up or any medications.

Defendant Johnson indicated to Detective Buie that he observed Munroe while he was being fingerprinted and Munroe appeared to him to be reacting appropriately to people, and that based on his observations, Defendant Johnson assigned Munroe to regular housing.

275. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that it was very important for him to observe Munroe, his affect, and how he interacted with and answered the booking detention deputy's questions.

276. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that Munroe possessed a number of risk factors for suicide including his age, the fact that he was incarcerated, prior substance abuse, and that he had been treated for mental illness.

277. When Defendant Johnson spoke with Munroe and concluded he posed no risk of suicide, Defendant Johnson had reviewed Munroe's medical records at the Jail and noted Munroe's hospitalizations for prior suicide attempts, his prior incarcerations, and Defendant Johnson's own prior contact with Munroe wherein Defendant Johnson documented that Munroe's medications controlled his suicidal thoughts and behaviors.

278. Defendant Johnson told Detective Buie that after he spoke with Munroe on September 29, 2008, Leslie Robertson spoke to him about her conversation with Ms. Hoagland.

279. Leslie Robertson had conveyed to Defendant Johnson that Ms. Hoagland had informed her of Munroe's serious suicide attempts in the past, and that he had been talking about committing suicide.

280. After speaking with Leslie Robertson, Defendant Johnson did not do a second suicide assessment of Munroe.

281. On September 30, 2008, Defendant Johnson wrote the following statement regarding Munroe's suicide and his "assessment" of Munroe on September 29, 2008:

The reason for this assessment is clearly stated—he is at risk by virtue of recent statements of suicidal ideation and/or intent in jail setting and in the community, resulting in hospitalization. He has additional risk factors—age, incarceration, treatment for mental illness, and substance abuse, which were also taken into consideration. However he had already told security staff that he was no longer suicidal and repeated to me that he did not have suicidal ideas or intentions to harm himself. He included a very common rationale for his suicidal statements the night before—that he was intoxicated/high. By observation and verbal interaction he was alert, calm, cooperative, able to follow directions, and respond appropriately to questions. There was no evidence of current sadness, distress, emotional lability (sic), inattention, distractibility, response to stimuli other than that of the security staff and social worker, or of any distortion of his thought process. In other words he appeared to be coping with his current circumstances and interacting with staff without difficulty.

I noted that I did not take a full history for assessment purposes. This was true due primarily to the request of the inmate that he not have medical or mental health services at the time. Asking numerous questions regarding personal history of the inmate when he had declined the service did not make sense. Additionally, some history had been gathered in early September when there was another assessment of this inmate, in which he also denied suicidal ideation or intent at that time. Given that he reported that he was thinking better at this time denied ideas or intent to harm himself and appeared to be fully capable cognitively of giving or of refusing consent to treatment, it seemed respectful of his choice not to pursue extensive questioning. One possible exception would have been to explore the reason/explanation of why he did not want treatment at this time. I possibly would have gotten clues regarding his hopelessness or intentions by doing so. Absent those clues there was no reason to believe that this young man, who had repeatedly denied current suicidal intent, was going to kill himself now.

Given that many individuals stop and start medications or treatment several times, and that they episodically are bothered by symptoms or can be free of symptoms for periods of time I left open the opportunity for further evaluation or treatment. This was noted by statement that if indicated by pt. or staff that follow-up services would occur as indicated.

282. On October 1, 2008, Ada County Jail Medical Unit employee Holly Kington, LPN, made an entry on the JICS system stating that Munroe's Celexa had been "left here in the pharmacy in bottom drawer."

283. Despite all the aforementioned events and warnings, and in contravention of the Ada County written policies that were in place to protect inmates such as Munroe from committing suicide in the Ada County Jail, Munroe was not identified as a suicide risk; he was not properly classified; and he was housed incorrectly for the classification he received, which resulted in his being placed in general population, inside a single inmate cell, with a bunk bed and two sheets with which to hang himself.

284. Despite perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide, as a matter of practice and custom, the named Defendants in this case do not follow those written policies.

285. Instead, they follow *de facto* policies that lack the necessary protections and lack the proper protocol for administering adequate medical and mental healthcare to inmates of the Ada County Jail.

286. The *de facto* policies that are actually implemented at the Ada County Jail are such that it is likely that those policies will result in the violation of inmates' constitutionally protected rights to medical and mental healthcare and security.

287. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt adopted *de facto* policies that were contrary to Ada County's written policies relating to the provision of professional medical and mental healthcare, including those policies governing suicide identification and prevention, and medication management and training.

288. These Defendants abandoned Ada County's perfectly reasonable written policies

in favor of a set of *ad hoc* policies created by their own practices and customs, and the practices and customs of their agents over whom they exercised supervisory control.

289. Each of these Defendants, either by their status or their position, set the actual policies under which the Ada County Jail was actually operated by their failures to train, supervise, and control the employees of the Ada County Jail in a manner that would ensure that written policies were followed. Additionally, there was an absence of enforcement protocol that would have ensured that written policies were followed.

290. The long-standing practices and customs employed by these Defendants and their employees in the operation of the Jail were such that the Ada County Jail was no longer being operated in compliance with its own written policies and NCCHC Standards.

291. The substandard operation of the Ada County Jail was long-standing practice and custom.

292. NCCHC does not withdraw accreditation of a jail because of isolated incidents where written policies are not followed.

293. NCCHC does withdraw accreditation of a jail for failure to have policies in place that conform to NCCHC Standards.

294. NCCHC does withdraw accreditation of a jail when there is a pattern of a jail's actual practices being inconsistent with NCCHC Standards.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

295. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

296. Count I is brought by Ms. Hoagland on behalf of the Estate of Bradley Munroe, and herself as an heir to the Estate, pursuant to Idaho Code § 5-311 and 42 U.S.C. § 1983,

against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for violations of Munroe's constitutional rights under the Eighth and Fourteenth Amendments of the United States Constitution for failure to provide Munroe with adequate medical and mental healthcare and adequate security under circumstances where those failures resulted in Munroe's death, and for such violations Plaintiff is entitled to special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

297. Count I is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

298. At all times relevant to this Second Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

299. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Second Amended Complaint was charged with the operation of the Ada County Jail.

300. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

301. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt

were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

302. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

303. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

304. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to

avoid the likely serious harm of inmate suicides, including Munroe's.

305. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

306. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

307. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

308. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

309. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney,

Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

310. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

311. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

312. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

313. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

314. The health assessment and treatment of Munroe during his various incarcerations

at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

315. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

316. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

317. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

318. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

319. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

320. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention

policies.

321. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

322. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

323. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

324. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

325. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

326. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

327. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

328. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

329. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby “mishoused” on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

330. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe’s suicide.

331. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

332. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

333. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

334. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

335. At all times relevant to this Second Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

336. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

337. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

338. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

339. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

340. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

341. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

342. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

343. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

344. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

345. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

346. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

347. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

348. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of

mania and depression.

349. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

350. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

351. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

352. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

353. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

354. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a

professional assessment identifying Munroe's true risk of suicide.

355. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

356. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

357. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

358. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

359. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

360. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets

and a bunk bed.

361. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

362. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

363. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

364. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

365. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

366. By denying Munroe access to professional medical and mental health assessment

and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

367. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

368. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

369. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

370. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

371. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and

NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

372. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

373. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

374. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

375. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

376. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with

Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

377. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

378. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

379. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

380. Wherefore, Plaintiff Hoagland, on behalf of the Estate of Bradley Munroe, and on

her own behalf as the heir to the Estate, demands judgment pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe in a sum to be proven at trial in the form of special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

381. Plaintiff Hoagland, on behalf of the Estate of Bradley Munroe, reserves the right to seek to further amend her Complaint to add a claim for punitive damages as against all named Defendants.

COUNT II
(Civil Rights Violations – 42 U.S.C. § 1983)

382. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

383. Count II of this Second Amended Complaint is brought by Ms. Hoagland individually and on her own behalf as Munroe's mother pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for interference with Ms. Hoagland's familial relations, society and companionship interest with her son, Munroe, which is a due process interest protected under the Fourteenth Amendment of the United States Constitution for which she is entitled to recover for her injuries, including but not limited to loss of the companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.

384. Count II is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual

and official capacities.

385. At all times relevant to this Second Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

386. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Second Amended Complaint was charged with the operation of the Ada County Jail.

387. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

388. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

389. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined, and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to

inmates.

390. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

391. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

392. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

393. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights

under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

394. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

395. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

396. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

397. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

398. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar,

manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

399. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

400. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

401. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

402. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

403. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment

plans and discharge plans were put in place for Special Needs inmates such as Munroe.

404. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

405. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

406. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

407. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

408. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

409. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

410. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including

his experiencing suicidal thoughts.

411. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

412. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

413. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

414. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

415. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

416. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" on

September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

417. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe's suicide.

418. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as "Special Needs" inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

419. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

420. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

421. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

422. At all times relevant to this Second Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the

state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

423. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

424. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

425. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

426. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

427. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

428. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

429. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

430. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

431. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

432. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

433. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

434. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

435. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

436. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

437. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

438. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an

inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

439. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

440. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

441. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

442. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

443. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCHC Standards for healthcare services in jails, including the NCHC Standards addressing suicide assessments and prevention.

444. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

445. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

446. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

447. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

448. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

449. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

450. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett,

Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

451. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

452. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

453. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

454. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

455. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

456. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and

security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

457. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

458. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

459. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

460. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards

for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

461. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

462. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

463. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

464. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

465. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

466. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

467. Wherefore, Ms. Hoagland demands judgment pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe and the termination of Ms. Hoagland's familial relationship with Munroe and the loss of his society and companionship. For her damages, Ms. Hoagland seeks general damages, including but not limited to loss of companionship and society, and her own pain, suffering, anguish, and emotional distress caused by the loss of her son, along with attorney fees and court costs in a sum to be proven at trial.

468. Plaintiff Hoagland reserves the right to seek to further amend her Complaint to add a claim for punitive damages as against all named Defendants.

ATTORNEY FEES AND COSTS

Plaintiffs have been forced to incur attorney fees and costs related to the prosecution of this matter. Plaintiffs are entitled to recover their reasonable costs and attorney fees pursuant to Idaho Code §§ 6-918A and 12-121, 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or other applicable law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of no less than twelve (12) persons on all issues to be tried.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against the Defendants as follows:

1. An award of special and general damages to the Plaintiffs for their losses incurred as a result of the Defendants' violation of Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution in an amount that will fully and fairly compensate the Plaintiffs for their losses, all in an amount to be determined at trial;
2. Pre- and post-judgment interest as allowed by law;
3. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or any other applicable law, or, in the event judgment is taken by default, in the amount of \$10,000;
4. Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail;

5. For all other and further relief as the Court deems just and equitable and to which Plaintiffs are due as a matter of law and equity; and

6. Plaintiffs reserve the right to seek to further amend their Complaint to add claims for punitive damages as against all named Defendants.

DATED this _____ day of August, 2010.

JONES & SWARTZ PLLC

By _____

ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson	<input type="checkbox"/>	U.S. Mail
Sherry A. Morgan	<input type="checkbox"/>	Fax: 287-7719
Ray J. Chacko	<input type="checkbox"/>	Overnight Delivery
Deputy Prosecuting Attorneys	<input type="checkbox"/>	Messenger Delivery
Civil Division	<input type="checkbox"/>	Email: jimd@adaweb.net
ADA COUNTY PROSECUTOR'S OFFICE		smorgan@adaweb.net
200 W. Front Street, Room 3191		
Boise, ID 83702		

ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

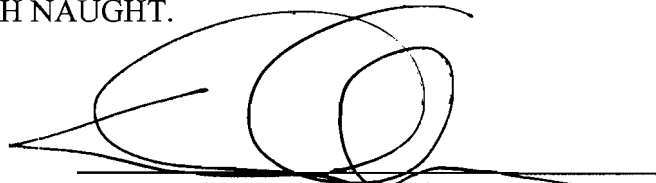
for the Plaintiffs in the above-captioned lawsuit.

2. I make this affidavit based upon my own personal knowledge of the matters set forth herein, and if called upon to testify about the same I could do so competently.

3. Attached hereto as Exhibit 1 is a true and correct copy of the July 15, 2010 letter sent to our office by defense counsel, Sherry A. Morgan, identifying the person whose badge number was 4936 as Jamie Roach.

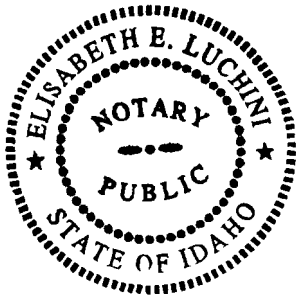
4. The July 15, 2010 letter was in response to an email from Eric Swartz to defense counsel requesting the identity of the person assigned to that badge number. Attached hereto as Exhibit 2 is a true and correct copy of the email from Mr. Swartz, dated June 11, 2010.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



DARWIN OVERSON

SUBSCRIBED AND SWORN TO before me this 12th day of August, 2010.



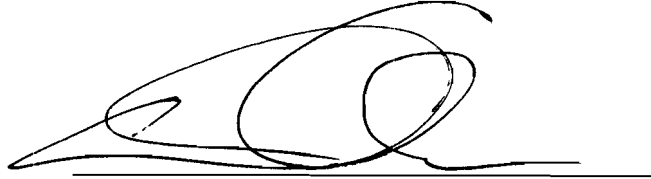
Elisabeth E. Luchini
Notary Public for Idaho
My Commission expires 7.8.12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

- U.S. Mail
- Fax: 287-7719
- Overnight Delivery
- Messenger Delivery
- Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT 1
To Affidavit of Counsel in Support of
Plaintiffs' Motion for Leave to File a
Second Amended Complaint

EXHIBIT 1
To Affidavit of Counsel in Support of
Plaintiffs' Motion for Leave to File a
Second Amended Complaint



ADA COUNTY
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191
Boise, Idaho 83702

CRIMINAL
DIVISION

Phone (208) 287-7700
Fax (208) 287-7709

CIVIL
DIVISION

Phone (208) 287-7700
Fax (208) 287-7719

July 15, 2010

Eric B. Swartz
Jones & Swartz
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

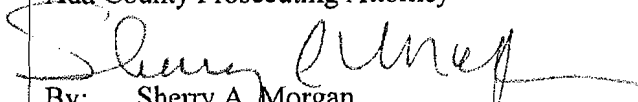
RE: *Rita Hoagland v. Ada County Sheriff, et al.*
Case No. CV PI 0901461

Dear Mr. Swartz:

In response to your e-mails inquiring as to "the identity of the person assigned badge no. 4936," Deputy Jamie Roach is assigned that Ada number.

Sincerely,

GREG H. BOWER
Ada County Prosecuting Attorney


By: Sherry A. Morgan
Senior Deputy Prosecuting Attorney

SAM:mmd

EXHIBIT 2
To Affidavit of Counsel in Support of
Plaintiffs' Motion for Leave to File a
Second Amended Complaint

EXHIBIT 2
To Affidavit of Counsel in Support of
Plaintiffs' Motion for Leave to File a
Second Amended Complaint

From: Eric Swartz
Sent: Friday, June 11, 2010 3:22 PM
To: 'Jim Dickinson'
Cc: 'Sherry Morgan'; Darwin Overson
Subject: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936
Jim:

Thank you for today's production of suicide prevention training materials and training completion logs. A number of pages are redacted, but I did not see a privilege log. Although it may not be everything that was redacted, visible redactions appear on the following pages: 94, 96, 98-102, 104, 106, 108, 110, 112-113, 115-116, 118-119, and 121-124. Please provide a log that describes what is redacted on each page and the basis therefor.

Also, we are not finding anything that identifies badge No. 4936. Please identify this individual's name and position. Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989
Fax (208) 489-8988

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AUG 12 2010

J. DAVID NAVARRO, Clerk
By PATRICIA A. DWONCH
REPLY

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**MEMORANDUM IN SUPPORT
OF PLAINTIFFS' MOTION FOR
LEAVE TO FILE A SECOND
AMENDED COMPLAINT**

I.

STANDARD OF REVIEW

In Idaho, leave to amend a complaint should be freely given where justice so requires. See I.R.C.P. 15(a). In considering whether to grant a motion for leave to amend, a trial court may consider whether the amended pleading sets out a valid claim, whether the opposing party

would be prejudiced by any undue delay, or whether the opposing party has an available defense to the newly added claim. *Spur Products Corp. v. Stoel Rives LLP*, 142 Idaho 41, 44, 122 P.3d 300, 303 (2005); citations omitted. The court may not, however, weigh the sufficiency of the evidence related to the additional claim. *Spur Products, supra*; citations omitted. Timeliness of a motion for leave to amend is not decisive, but it “is important in view of ... factors such as undue delay, bad faith, and prejudice to the opponent.” *Id.*

II.

ARGUMENT

A. Overview of Second Amended Complaint

This Court recently granted Plaintiffs leave to file an Amended Complaint, which the Plaintiffs have done. The Amended Complaint has yet to be served as it has taken Defendants time to contact their respective clients to obtain consent to accept service of process. No Defendant has filed an answer to the Amended Complaint.

Plaintiffs are seeking to further amend the Complaint to add two Defendants.

Thomas W. White, Ph.D., is a nationally recognized expert in the area of suicide and suicide in jails and prisons. Plaintiffs were recently advised by Dr. White that, based on his review of materials in this case, it is his professional opinion that Deputy Jeremy Wroblewski was deliberately indifferent to the serious risk of suicide that Munroe posed once Deputy Wroblewski completed a suicide questionnaire form with Munroe. The Second Amended Complaint adds Deputy Wroblewski as a Defendant.

The Second Amended Complaint also seeks to add Deputy Jamie Roach as a Defendant. Until July 15, 2010, Plaintiffs were only able to identify Deputy Roach by her badge number. Deputy Roach is the officer who handled the release of Munroe on September 26, 2008 and did

not document medications that should have been provided to him upon his release.

No additional claims are included in the Second Amended Complaint.

B. The Request to Amend is Timely

This is Plaintiffs' second request for leave to amend their Complaint, and the request is timely. The Order Setting Proceedings and Trial states that the deadline for filing a motion for leave to amend the Complaint is August 13, 2010.¹ The parties jointly agreed to this date at the September 29, 2009 Rule 16 Scheduling Conference.

As the Court is aware, both parties have been pursuing discovery in this case with diligence.

C. Justice Requires that Leave to Amend the Complaint be Given

Justice requires that the Plaintiffs be freely granted leave to amend their Complaint. Deputy Wroblewski and Social Worker Johnson (already a Defendant pursuant to the first Amended Complaint) were the individuals with the most interaction and the most information about the risk of suicide facing Munroe the day he died.

Deputy Roach is the officer who is alleged in the Second Amended Complaint to have released Munroe without providing him his antipsychotic and antidepressant medications. Over the following two days, Munroe became psychotic and delusional, which likely contributed to his behavior that resulted in his becoming suicidal when he was arrested two days later, and ultimately when he took his life.

D. Defendants Will Not Be Prejudiced

The Defendants will not be prejudiced by Plaintiffs' requested leave. The deadline for seeking leave has not lapsed; the statute of limitations on Plaintiffs' ability to bring claims has

¹ Order Setting Proceedings and Trial, ¶ 7, filed October 9, 2010.

not run; the discovery cut-off is not until December 26, 2010; and trial is not until February 2011.² Further, Plaintiffs have filed this motion to amend as soon as they were able to obtain the information necessary to do so.

III.

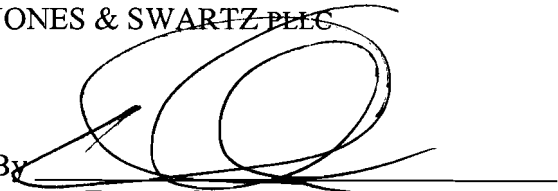
CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant their Rule 15(a) Motion for Leave to Amend in its entirety.

DATED this 12th day of August, 2010.

JONES & SWARTZ PLLC

By



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

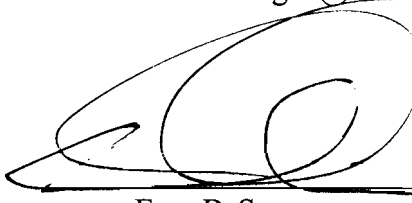
² Order Setting Proceedings and Trial, ¶ 7, filed October 9, 2010.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

- U.S. Mail
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AUG 13 2010

J. DAVID NAVARRO, Clerk
By L. AMES
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
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ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFFS' MOTION FOR
LEAVE TO FILE A THIRD
AMENDED COMPLAINT TO
ADD A CLAIM FOR PUNITIVE
DAMAGES**

COME NOW the Plaintiffs, by and through their counsel of record, and pursuant to Idaho Rules of Civil Procedure 7(b)(1) and 15(a), move this Court for leave to file their Third Amended Complaint to include a claim for punitive damages.

Alternative grounds for this Motion are afforded by Idaho Code § 6-1604, which requires parties to file a motion prior to seeking to add a claim for punitive damages associated with state law claims. However, Plaintiffs' position is that Idaho Code § 6-1604 is not applicable where

W

federal law controls, and further that Idaho Code § 6-1604 is inconsistent with the policies that 42 U.S.C. § 1983 is intended to advance and is therefore preempted by federal law.

In an abundance of caution, however, and purely in the alternative, Plaintiffs move under Idaho Code § 6-1604 for leave to file a Third Amended Complaint to add a claim for punitive damages. If the Court finds Idaho Code § 6-1604 is mandatory in 42 U.S.C. § 1983 claims brought in state court, then a hearing is mandatory and hereby requested.

This Motion is timely as it is brought within the time frame set forth in the scheduling order. Plaintiffs have not served Defendants with their first Amended Complaint and no answers to the first Amended Complaint have been filed by any of the Defendants.

Plaintiffs' proposed Third Amended Complaint is attached hereto as Exhibit A. The Third Amended Complaint is identical in every way to the Second Amended Complaint other than the addition of a claim for punitive damages.

This Motion is made and supported by the pleadings and affidavits of record herein as well as the Memorandum in Support of Plaintiffs' Motion for Leave to File a Third Amended Complaint filed contemporaneously herewith.

DATED this 13th day of August, 2010.

JONES & SWARTZ PLLC

By 

ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

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ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT A
To Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

EXHIBIT A
To Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as
Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho;
ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Defendant Ada County and the operator of the Ada
County Sheriff's Office and Ada County Jail, in his individual
and official capacity; LINDA SCOWN, in her individual and
official capacity; KATE PAPE, in her individual and official
capacity; STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D., in his
individual and official capacity; RICKY LEE STEINBERG,
in his individual and official capacity; KAREN BARRETT, in
her individual and official capacity; JENNY BABBITT, in her
individual and official capacity; JAMES JOHNSON, in his
individual and official capacity; JEREMY WROBLEWSKI,
in his individual and official capacity; DAVID WEICH, in his
individual and official capacity; LISA FARMER, in her
individual and official capacity; JAMIE ROACH, in her
individual and official capacity; and JOHN DOES I-X,
unknown persons/entities who may be liable to the Plaintiffs,

Defendants.

Case No. CV-OC-2009-01461

**THIRD AMENDED
COMPLAINT FOR
DAMAGES AND DEMAND
FOR JURY TRIAL**

COME NOW the above-named Plaintiffs, by and through their counsel of record, Jones & Swartz PLLC, and complain against the named Defendants as follows:

I. PARTIES

1. Rita Hoagland (“Ms. Hoagland”) is the natural mother of the deceased, Bradley Munroe, and has been duly appointed to serve as the personal representative of the Estate of Bradley Munroe in Case No. CV-IE-2008-20235 filed in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada. Ms. Hoagland is a resident of Canyon County.

2. Bradley Munroe (“Munroe”) died while a resident and inmate of the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho.

3. Ada County is a municipality and political subdivision of the State of Idaho.

4. Gary Raney (“Raney”) is and at all times herein mentioned was the elected Sheriff of Ada County and the operator and supervisor of the Ada County Sheriff’s Office (“ACSO”) and Ada County Jail and all of the staff and officers employed thereby. Plaintiffs have brought suit against Defendant Raney in his individual and official capacity.

5. Upon information and belief, Defendant Linda Scown (“Scown”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO as Captain. She is and at all times herein mentioned was the Director of Health Services at the ACSO and, other than Defendant Raney, is the highest ranking official responsible for operation of the “Ada County Jail Medical Unit.” Plaintiffs have brought suit against Defendant Scown in her individual and official capacity.

6. Upon information and belief, Defendant Kate Pape (“Pape”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within

the Ada County Jail, with the title of “Health Services Administrator,” also at times referred to by Defendants as the “Health Services Manager.” Plaintiffs have brought suit against Defendant Pape in her individual and official capacity. The Health Services Administrator at the Ada County Jail is responsible for, among other duties, the following:

a. Plans, directs, coordinates and supervises the delivery of medical and mental health services within the jail, and works in a collaborative manner to ensure the jail medical and mental health services are provided to inmates of the jail in a manner consistent with constitutional requirements;

b. Supervises the Nursing Supervisor, Physician’s Assistants, Social Workers, and the Health Services Administrative Supervisor;

c. Ensures quality and consistent services are delivered in compliance with ACSO written policies, professional standards, constitutional standards, and state and federal law;

d. Develops and establishes policies, procedures and protocols to administer effective and efficient standards of management, care, and delivery of medical and mental health services in the jail;

e. Oversees staff development, including performance appraisals, and training;

f. Ensures healthcare providers comply with contractual obligations;

g. Ensures periodic inspections of clients and facilities are completed to ensure that the healthcare delivery system operates effectively and efficiently, and documents such inspections to meet National Commission on Correctional Health Care standards (“NCCHC Standards”); and

h. Ensures medical programs and related documentation are maintained in such a manner that the Ada County Jail’s NCCHC accreditation is not jeopardized.

7. Upon information and belief, Defendant Steven Garrett, M.D. (“Garrett”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Garrett in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Garrett was providing medical services to inmates of the Ada County Jail pursuant to a written contract with

Ada County and ACSO (“Supervising Physician’s Contract”);

b. In the Supervising Physician’s Contract, Defendant Garrett agreed to assist the ACSO in meeting its duties imposed by: state and federal law for the provision of healthcare to inmates of the Ada County Jail; the Ada County and ACSO written policies for the provision of healthcare to inmates of the Ada County Jail; and the NCCHC Standards;

c. In the Supervising Physician’s Contract, Defendant Garret agreed to fulfill the role of “Supervising Physician,” which position is mandated by ACSO written policy as having final medical decision authority for all healthcare provided to inmates in the custody of the ACSO, including the Ada County Jail Medical Unit; and

d. In the Supervising Physician’s Contract, Defendant Garrett agreed to coordinate the healthcare of persons in the custody of the ACSO with the ACSO’s “Contracted Psychiatrist,” staff social workers, and the ACSO’s “Inmate Healthcare Supervisor.”

8. Upon information and belief, Defendant Michael E. Estess, M.D. (“Estess”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Estess in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Estess was contracted with Ada County and ACSO to be the “Contract Psychiatrist” and to provide psychiatric healthcare on a regular basis to inmates of the Ada County Jail (“Psychiatrist Contract”); and

b. In the Psychiatrist’s Contract, Defendant Estess agreed to assist the ACSO and Ada County Jail medical staff in meeting its duties imposed by Ada County’s written polices, the Ada County Jail’s written policies, state and federal law, and NCCHC Standards.

9. Upon information and belief, Defendant Ricky Lee Steinberg (“Steinberg”) is and

at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Steinberg in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Steinberg was contracted with the ACSO to provide medical services as a Physician's Assistant to inmates of the Ada County Jail ("Physician Assistant's Contract");

b. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide Healthcare Assessments of inmates of the Ada County Jail that meet the requirements imposed by the Supervising Physician, Ada County and ACSO written policies, and the NCCHC Standards;

c. In the Physician Assistant's Contract, Defendant Steinberg agreed to complete all necessary forms and documentation required by the ACSO, the Supervising Physician, or governing agencies;

d. In the Physician Assistant's Contract, Defendant Steinberg agreed to refer medical issues discovered during Inmate Assessments to ACSO medical staff for follow-up other than when immediate action is required to safeguard the physical or mental health of the inmate; and

e. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide all appropriate care to the inmate under those circumstances where immediate action is appropriate and care cannot be handed off to another ACSO provider, until such time as ACSO medical staff is able to take on such care of the inmate.

10. Upon information and belief, Defendant Jenny Babbitt ("Babbitt") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Nursing Supervisor and Inmate Healthcare

Supervisor. Plaintiffs have brought suit against Defendant Babbitt in her individual and official capacity.

a. At all times relevant to this Third Amended Complaint, the Nursing Supervisor had, among other duties, the duty to confirm licensing of all medical care providers within the Ada County Jail, and maintain records thereof;

b. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor was charged with the following duties, among others:

- i. Co-supervise and co-manage various components of the healthcare system in the Ada County Jail.
- ii. Supervise and direct county employees delivering healthcare, including the pharmacy charge nurse, to ensure compliance with constitutional requirements.
- iii. Perform professional nursing work consisting of assessments, developing treatment plans, and monitoring inmates' physical condition.
- iv. Coordinate with other jail and court services bureau supervisors to maximize the safety of staff, community and inmates, security and the wellbeing of staff and inmates.
- v. Ensure the medical services are delivered in compliance with Idaho Jail Standards and ACSO written policies and procedures.
- vi. Ensure all personnel under their direct supervision adhere to the ACSO written policies and procedures.
- vii. Supervise registered nurses, licensed practical nurses, and other county employees who provide healthcare services to inmates.
- viii. Conduct performance evaluations in accordance with the ACSO written policies and procedures.
- ix. Supervise the distribution and issuing of pharmaceuticals to inmates.
- x. Ensure inventories of medical supplies and equipment and re-orders when necessary.
- xi. Conduct periodic inspections of jail inmates and jail facilities to ensure

that the inmate healthcare delivery system operates effectively and efficiently, and documents such inspections to meet NCCHC Standards.

- xii. Ensure jail medical programs/documentation is maintained in such a manner to ensure continuous NCCHC accreditations.
- xiii. Schedule and participate in meetings with the Health Services Manager, medical personnel, shift supervisors, and others as required to discuss issues relating to the maintenance of NCCHC accreditation.
- xiv. Interview applicants for medical staff positions and make hiring recommendations.
- xv. Make recommendations relating to the contract between Ada County and contractual healthcare providers.
- xvi. Develop and manage training of healthcare staff and security staff as it relates to medical issues.

c. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor had direct supervision and control over the Pharmacy Charge Nurses of the Ada County Jail Medical Unit, who in turn were charged with the following duties, among others:

- i. Overseeing and providing patient care through the processing of medications, medication disbursements and maintenance of pharmacy stock and supplies.
- ii. Ensuring accurate documentation in the electronic medical records.
- iii. Overseeing pharmacy employees' processing of medications, medication disbursements, documentation and maintenance of pharmacy stock.
- iv. Communicating essential information with healthcare and security team members.
- v. Assisting registered nurses, nurse practitioners, physician's assistants, and physicians on the follow-up on all medication orders.
- vi. Participating in quarterly pharmacy reviews to meet NCCHC Standards.

11. Upon information and belief, Defendant Lisa Farmer ("Farmer") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with ACSO

within the Ada County Jail with the title of Registered Nurse. Plaintiffs have brought suit against Defendant Farmer in her individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Farmer was charged with the following duties, among others:

- a. Administer treatments and medications prescribed and supervised by the Medical Authority for patients;
- b. Maintain treatment records, making note of all medications given, doctor visits and related activities;
- c. Monitor, store, and control medications and medical supplies according to Ada County written policies and procedures;
- d. Provide coordination of care duties with community health services to promote inmate continuity of care;
- e. Observe the physical condition and behavior of inmates to ensure maximum healthcare is provided;
- f. Prepare for sick call by screening kites sent by inmates and assessing problems, pull charts or make new charts, and list those who need to be seen by the physician, psychologist, and mid-level providers;
- g. Review all medical intake information and assess who needs to be seen sooner than routine sick call;
- h. Prepare medication renewal orders for the physician and mid-level providers to sign;
- i. Schedule inmates with mental problems to see the psychologist and prepare the necessary records; and
- j. Coordinate orders from the physician's assistant and the physician with the pharmacist.

12. Upon information and belief, Defendant Karen Barrett ("Barrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Senior Physician's Assistant. Plaintiffs have brought suit against Defendant Barrett in her individual and official capacity. At all times relevant to this

Third Amended Complaint, Defendant Barrett was charged with the following duties, among others:

- a. Provide direct and indirect basic medical care to meet the physiological, psychosocial, and emotional needs of the inmates in the Ada County Jail;
- b. Supervise the work of physician's assistants and/or nurse practitioners;
- c. Respond to and initiate care for medical emergencies throughout the facility;
- d. Assess inmates in a variety of settings such as initial intake area, healthcare unit for sick call, emergency situations in housing, chronic care clinics and infirmary;
- e. Identify inmates' health problems and prescribe treatment under the direction of a physician;
- f. Obtain histories and perform physical examinations to determine normal and abnormal adult health status;
- g. Implement medical care utilizing therapeutic regimens approved by a physician;
- h. Make appropriate, timely referrals and initiate treatments based on institutional policies and procedures and physician's direction;
- i. Act as the primary contact for physicians;
- j. Supervise the work of physician's assistants and/or nurse practitioners to ensure consistency of patient care as described by the physician;
- k. Assist with the recruitment, hiring and training of physician's assistants and/or nurse practitioners; and
- l. Make recommendations regarding policies and procedures.

13. Upon information and belief, at all times herein mentioned Defendant James Johnson ("Johnson") was an adult resident of Ada County, Idaho, employed with the Ada County Jail within the Ada County Jail Medical Unit with the title of Masters of Social Work or MSW. Plaintiffs have brought suit against Defendant Johnson in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Johnson's job

duties included but were not limited to:

- a. Providing psychiatric social work services to Ada County Jail inmates;
 - b. Providing clinical consultations with Ada County Jail staff;
 - c. Conducting bio-psycho-social and risk assessments to determine inmates' needs and eligibility for services and their level of care needed;
 - d. Providing inmates with crisis intervention services and individual counseling;
 - e. Promoting inmate self-determination by addressing special needs of inmates;
 - f. Participating in interdisciplinary team staffing to formulate treatment plans;
 - g. Identifying and teaming with other community resource agencies to design, coordinate, and provide inmate assistance and intervention;
 - h. Taking action to reduce risk to inmates upon being discharged from the jail by organizing emergency, crisis intervention and after-hours on-call services;
 - i. Conducting on-going suicide risk assessments and implementing crisis intervention accordingly;
 - j. Preparing written inmate assessment reports;
 - k. Designing and implementing inmate case plans using community resources;
- and
- l. Maintaining a Social Worker license in the state of Idaho.

14. Upon information and belief, Defendant David Weich ("Weich") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Medical Attendant and Certified Correctional Health Professional. Plaintiffs have brought suit against Defendant Weich in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Weich had, among others, the following job duties:

- a. Preparing medication renewal orders for medical staff to sign;
- b. Scheduling inmates with mental problems to see the psychologist and

preparing necessary records, including charting observations;

c. Transcribing orders from the medical staff on the inmate medication prescription roster; and

d. Updating medical/nursing personnel credentials information.

15. Upon information and belief, Defendant Jeremy Wroblewski (“Wroblewski”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Wroblewski in his individual and official capacity.

16. Upon information and belief, Defendant Jamie Roach (“Roach”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Roach in her individual and official capacity.

17. Upon information and belief, Defendants John Does I through X are individuals or entities who at this time the Plaintiffs are unable to identify but who are employed by the Ada County Jail or by another division of Ada County, or contract with Ada County, and are responsible for the violation of Munroe’s rights under the Fourteenth Amendment of the United States Constitution and for his death.

II. JURISDICTION AND VENUE

18. Jurisdiction is proper with this Court pursuant to Idaho Code § 5-514, and the amount in controversy exceeds this Court’s jurisdictional minimum.

19. Venue is appropriate in this Court pursuant to Idaho Code § 5-404.

III. GENERAL ALLEGATIONS

POLICIES

20. At all times relevant to this Third Amended Complaint, Ada County was

responsible for providing health care to inmates incarcerated and confined in the Ada County Jail. At all times relevant to this Third Amended Complaint, inmates of the Ada County Jail were to have access to care to meet their serious medical and mental health needs.

21. At all times relevant to this Third Amended Complaint, Ada County was required to designate a Health Authority for the Ada County Jail in order to satisfy its medical and mental health obligations to inmates at the Ada County Jail.

22. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Health Authority for the Ada County Jail “shall be the Medical Services Administrator.”

23. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the responsibilities of the Medical Services Administrator were to ensure “that quality, accessible health care services are available to inmates at the Ada County Jail. The Medical Services Administrator will coordinate all levels of health care provided at the Ada County Jail.”

24. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the Medical Services Administrator was required to participate in quarterly meetings with the Sheriff or his designee, the Security Services Captain, the responsible physician, and other healthcare and security staff to address, among other things, the overall healthcare services being provided to inmates, including psychiatric services. Monthly meetings were also required to take place between the Medical Services Administrator and the healthcare services staff in accordance with Ada County’s written policy.

25. At all times relevant to this Third Amended Complaint, ACSO failed to employ or otherwise contract for the services of a Medical Services Administrator and was therefore

operating the Ada County Jail without a Health Authority.

26. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator and Nursing Supervisor were to ensure that each healthcare provider providing medical and mental health services to Ada County Jail inmates was licensed, registered, certified, or exempt in the state of Idaho.

27. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator prepare and approve a training program that would instruct detention officers in administering medications to inmates.

28. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that it would maintain a written manual that “will at a minimum contain a policy statement and detailed procedures for each of the 72 standards presented in the Standards for Health Services in Jails by the National Commission on Correctional Health Care.”

29. The NCCHC is a nationally recognized non-profit organization that sets standards for the provision of health care to incarcerated inmates, and provides accreditation to jails and other correctional institutions based on its established 72 standards set forth in the NCCHC Standards.

30. At all times relevant to this Third Amended Complaint, Ada County had written policies in place that adopted the NCCHC Standards for the operation of the Ada County Jail.

31. At all times relevant to this Third Amended Complaint, Ada County written policy provided that within the Ada County Jail Medical Unit “final medical judgment rests with a single designated physician licensed in the State of Idaho. The medical doctor designated as the responsible physician will be identified in the contractual agreement.”

32. At all times relevant to this Third Amended Complaint and pursuant to the

Supervising Physician's Contract, Defendant Garrett was the "single designated physician" referenced in the Ada County written policies.

33. At all relevant times to this Third Amended Complaint and pursuant to the Supervising Physician's Contract, Defendant Garrett was the "responsible physician" that was "identified in the contractual agreement" and therefore was the person with "final medical judgment" as to all medical and mental healthcare services provided to inmates in the Ada County Jail.

34. In the Supervising Physician's Contract, ACSO acknowledged its duty to operate the Ada County Jail in conformance with NCCHC Standards, and Defendant Garrett agreed to provide medical and mental healthcare services under the Contract in conformance with NCCHC Standards, and further agreed to assist the ACSO with meeting its duties described in NCCHC Standards.

35. In the Supervising Physician's Contract, Defendant Garrett agreed to perform periodic and timely reviews of inmate medical records to evaluate the medical services provided to inmates, and to make adjustments and improvements as necessary to ensure compliance with "all applicable state and federal laws and with the Standard for Health Care Services in Jails, 2003."

36. In the Supervising Physician's Contract, Defendant Garrett agreed to provide direct inmate healthcare, including but not limited to prescribing appropriate medication to inmates, evaluating inmate medical conditions referred by ACSO staff and/or medical staff, and coordinating healthcare for inmates with ACSO contracted psychiatrist, ACSO social workers staff, and ACSO Inmate Health Care Supervisor.

37. Defendant Garrett also agreed in the Supervising Physician's Contract to provide

indirect inmate care which included the obligation to undertake supervision, direction and responsibility for all medical acts and inmate healthcare services performed and/or provided by the psychiatrist assistant(s) employed by the ACSO, and to provide on-site supervision at the Ada County Jail and personally observe, monitor and direct the quality of care provided to inmates.

38. The Supervising Physician's Contract provided that ACSO agreed to inform Defendant Garrett of any known health condition or complaint of an inmate and of any "suspected health conditions or concerns which may arise through observation of an inmate's actions and behaviors."

39. Defendant Garrett failed to provide medical services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards governing the provision of medical and mental health services to inmates, and failed to sufficiently assist the medical and security staff with meeting NCCHC Standards.

40. Defendant Garrett failed to provide the medical health services he agreed in the Supervising Physician's Contract to provide to the ACSO and the inmates of the Ada County Jail.

41. At all times relevant to this Third Amended Complaint and pursuant to the Physician's Assistant Contract, Defendant Steinberg was to provide professional medical services to inmates of the Ada County Jail in the capacity of a Physician's Assistant.

42. Under the Physician's Assistant Contract, Defendant Steinberg was to "maintain current licensure and required professional relationship with Steven Garrett, M.D., the supervising physician at the Ada County Jail."

43. Under the Physician's Assistant Contract, Defendant Steinberg was to provide to

the ACSO a copy of all current licenses, license numbers, and other required documents within two days of executing the agreement, for compliance with NCCHC Standards.

44. Under the Physician's Assistant Contract, Defendant Steinberg agreed to provide the ACSO with, among other things, the following services:

a. "Provide health assessments for designated inmates that meet the requirements set forth by the Supervising Physician and that meet the NCCHC Standards to inmates of the Ada County Jail; and

b. Complete all necessary forms and documentation that may be required by the ACSO, the supervising physician or governing agencies."

45. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would assist "ACSO and Jail medical staff in meeting its duties as described in the 'Ada County Mental Health Protocol' and other Jail, county and state documents and assist in meeting such duties as are imposed by federal and state laws and regulations."

46. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following direct patient services, among others: Case Supervision, Discharge Planning, Medication Recommendation and Management, Supervision of Inmate Psychosocial Care, and Staffing Individual Cases with the ACSO Medical Staff.

47. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following indirect patient services, among others: Consult with the Medical Program Administrator and Other Medical and Mental Health Professionals to Improve Quality of Overall Mental Health Delivery Program in the Jail, and

Monitor and Direct Appropriate Mental Health Staff in the Delivery of Mental Health Services to the Inmates at the Jail.

48. Defendant Estess failed to provide mental health and psychiatric services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards, and failed to assist Defendants Ada County and Raney with meeting NCCHC Standards.

49. Defendant Estess failed to perform the services he agreed to provide under the Psychiatrist Contract.

50. Defendant Estess failed to supervise the provision of mental health services within the Ada County Jail, including but not limited to the failure to implement discharge planning, failure to supervise psychosocial care of inmates, failure to monitor and direct appropriate mental health staff in the delivery of mental health services to the inmates in the Ada County Jail, and failure to manage medications being prescribed to inmates in the Ada County Jail.

51. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that “in all cases, health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies” in meeting its medical and mental health obligations to Ada County Jail inmates.

52. Ada County Jail was accredited by the NCCHC until its accreditation was withdrawn in November 2008 as a result of an NCCHC survey of the Jail in August 2008.

53. Ada County Jail’s accreditation was withdrawn in November 2008 for its failure to meet NCCHC Standards for NCCHC accreditation.

54. In August and September 2008, Defendants were not operating the Ada County

Jail according to the NCCHC Standards or in accordance with Ada County written policies adopting NCCHC Standards.

55. According to NCCHC Standards, a "Potentially Suicidal Inmate" is to be observed at staggered intervals not to exceed every 15 minutes.

56. According to NCCHC Standards, a Potentially Suicidal Inmate placed in isolation must be observed constantly.

57. According to NCCHC Standards, a Potentially Suicidal Inmate is not actively suicidal but has expressed suicidal ideation and/or has a recent history of self-destructive behavior.

58. According to NCCHC Standards and Ada County written policy in effect at all times relevant to this Third Amended Complaint, each member of the Jail staff was responsible to immediately notify the medical staff when an inmate exhibited symptoms that are bizarre and could constitute mental illness, including the inmate making threats of suicide, having delusions and/or hallucinations.

59. At all times relevant to this Third Amended Complaint, Ada County written policies included a protocol that, upon admission to the Jail and prior to being placed in a housing unit, an inmate was required to assist the booking officer in the completion of a medical screening questionnaire.

60. Some of the questions on the medical screening questionnaire deal with mental health, past mental health treatment, and any history of suicide attempts or suicidal thoughts.

61. As part of the medical screening questionnaire completion process, the inmate was to be asked if he or she was taking any medications or was under the care of a medical or psychological doctor.

62. As part of the medical screening questionnaire completion process, if the inmate indicates that he or she was being treated or taking medication for mental health or was contemplating or had in the past attempted suicide, the medical screening questionnaire was to be marked as such and sent to the Ada County Jail Medical Unit staff for review.

63. At all times relevant to this Third Amended Complaint, Ada County written policy stated: "Inmates who appear to security personnel to be suicidal or otherwise mentally ill at booking, or at any time while in the jail, shall be housed in a unit that is appropriate for the inmate's condition."

64. At all times relevant to this Third Amended Complaint, Ada County written policy required that within 14 days of admission and confinement, each inmate was to receive a health assessment. During the assessment, the healthcare provider was to observe the inmate for abnormal behavior which may indicate a psychological problem. The intake medical screening form was to be reviewed during the health assessment. The Ada County written policy states:

The mental health evaluation will be documented on the physical exam form and will focus on the following areas:

- (1) History of psychiatric hospitalization and outpatient treatment,
- (2) Current psychotropic medication, and/or exhibiting violent behavior,
- (3) Suicidal ideation and history of suicidal behavior,
- (4) Drug and alcohol usage,
- (5) History of sex offenses,
- (6) History of behavior suggestive of intermittent explosive disorder,
- (7) Special education treatment,
- (8) History of cerebral trauma or seizure,
- (9) Emotional responses to incarceration,
- (10) To time, place and person oriented.

65. A full health assessment was not provided to Munroe during the incarceration period of August 28, 2008 to September 26, 2008.

66. On information and belief, Defendants had adopted the custom of forgoing such health assessments of inmates at the Ada County Jail.

67. Alternatively, if Munroe was provided a 14-day health assessment, it was not documented with a focus on the mental health evaluation in the inmate's medical record, as is required by Ada County's written policies.

68. At all times relevant to this Third Amended Complaint, Ada County written policy required that a special needs program be maintained to serve individual inmates who have special medical and mental health needs, such as "mental illness, including inmates with suicidal ideation and/or behavior."

69. Special Needs inmates were to be identified during the initial assessment as part of the booking process and, once it was determined that an inmate is a Special Needs inmate, a treatment plan was required to be prepared that included short- and long-term goals to be met by addressing "collaborative problems requiring multidisciplinary involvement."

70. Although Munroe should have been identified as a Special Needs inmate due to his suicidal history, he was not, and a treatment plan was never developed for him at the Ada County Jail.

71. At all times relevant to this Third Amended Complaint, Ada County written policy stated that all rooms within the Medical Unit were to be equipped with cameras to allow constant visual observation.

72. Inmates would be housed in the Medical Unit most often due to possible detoxification symptoms or mental health problems which presented a danger to self or others, including psychotic disorders, suspicion of psychotic depression, or suicidal ideation.

73. At all times relevant to this Third Amended Complaint, it was the Ada County

written policy that the Medical Unit would accept any and all inmates referred by the security staff.

74. Medical staff was to assess the inmate and before they could return the inmate to general population, clearance by the medical staff was required and must have been "well documented" in the inmate's medical file. Information provided by the inmate to security staff was required to be regarded as bona fide per Ada County written policy.

75. At all times relevant to this Third Amended Complaint, Ada County written policy stated that it is the responsibility of all Jail staff to identify inmates who may be at risk of suicide, and to initiate reasonable intervention to reduce the risks to inmates who may be suicidal.

76. During the medical intake procedure in booking, the inmate was to be asked at least three direct questions: (1) Have you ever been treated for depression? (2) Have you ever tried to commit suicide? (3) Are you contemplating suicide now?

77. Also during the medical intake procedure, the officer was required to make and document an observation directed at the question of whether the inmate's behavior suggests depression, suicide or assault.

78. Officers who become aware of an inmate who presented a potential suicide risk during the intake procedure, whether they became aware of it from the arresting officer or through direct questioning and observation, are required to immediately notify the Medical Unit and provide all available information on the potentially suicidal inmate.

79. At all times relevant to this Third Amended Complaint, Ada County written policy stated that once a security officer notifies the Medical Unit of a potentially suicidal inmate, the Medical Unit staff is required to conduct and document an assessment to ascertain

the level of suicide risk associated with the inmate.

80. The level of suicide risk assigned to an inmate is to be used to determine the level of intervention and housing.

81. The Medical Unit staff member who performs the assessment is required to document the assessment and intervention in a topic report.

82. At all times relevant to this Third Amended Complaint, Ada County written policy sets forth specific factors that were to be used in assessing an inmate's level of suicide risk.

83. Inmates assessed to present a potential risk for suicide are to be assigned a risk level of low, moderate, or high according to established assessment guidelines and clinical and security judgment.

84. The guideline features of a high suicide risk inmate are identified as follows:

- a. Mood may be labile (unsettled) to depressed or exhibits recent unexplained improvement in mood;
- b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
- c. May report depression;
- d. Specific report of suicidal ideation especially with a specific workable plan;
- e. Previous suicide gestures/attempts;
- f. Under the influence of any substance;
- g. Has perceived recent major life trauma;
- h. Male;
- i. Age <25;
- j. First arrest;

- k. Incarcerated <48 hours;
 - l. Makes poor or no eye contact;
 - m. Verbally stunted—difficult to or will not engage in conversation;
 - n. Lacks future orientation; has unrealistic expectation of self;
 - o. Will not agree to no self harm;
 - p. Projects elements of hopelessness, helplessness;
 - q. Exhibits diminished or complete loss of self esteem;
85. The guideline features of a moderate suicide risk inmate are identified as follows:
- a. Mood may be labile (unsettled); possibly depressed;
 - b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
 - c. May report depression;
 - d. Vague to specific report of suicidal ideation; vague or impractical plan;
 - e. Under the influence of any substance;
 - f. May have perceived recent major life trauma;
 - g. Male;
 - h. Age <25;
 - i. Makes poor eye contact;
 - j. Verbally stunted—requires effort to engage in conversation;
 - k. Unsure of future orientation; some unrealistic expectations of self;
 - l. Ambivalent regarding no self-harm agreement;
 - m. Projects elements of hopelessness, helplessness;
 - n. Exhibits diminished self esteem.
86. The guideline features of a low suicide risk inmate are identified as follows:

- a. Good to labile (unsettled) mood;
- b. Affect is congruent to mood—inmate reports sadness and gives the appearance of sadness;
- c. May report depression;
- d. Vague report of suicidal ideation; has no plan;
- e. No previous suicidal gestures/attempts;
- f. Not under the influence of any substance;
- g. No perceived recent major life trauma;
- h. Female;
- i. Age >25;
- j. Makes good eye contact;
- k. Verbally appropriate—engages easily in conversation;
- l. Future oriented; realistic expectations of self;
- m. Agrees not to harm self.

87. At all times relevant to this Third Amended Complaint, Ada County written policy states that any potentially suicidal inmate must be housed where he or she could be monitored in accordance with the level of suicide risk involved.

88. At all times relevant to this Third Amended Complaint, Ada County written policy states low risk inmates could be housed in the general population but they were not to be housed in a single cell environment without medical/supervisor clearance unless the area had 15-minute wellbeing checks being conducted and documented.

89. At all times relevant to this Third Amended Complaint, Ada County written policy states moderate risk inmates could be housed in general population only with clearance from medical/supervisor.

90. At all times relevant to this Third Amended Complaint, Ada County written policy states housing a moderate risk inmate in a single cell environment outside the Medical Unit could only be done with medical/supervisor clearance.

91. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be housed in the Medical Unit until seen by a mid-level practitioner or medical doctor.

92. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be referred to a psychologist, be on 15-minute wellbeing checks, and have additional safeguards in place when the inmate is housed in the Medical Unit.

93. At all times relevant to this Third Amended Complaint, Ada County written policy requires that an Inmate Encounter Form be completed by the Medical Unit healthcare provider “describing the medical contact with that inmate, including information on the medical complaint, results of the examination, diagnosis, recommendation, and prescriptions.”

94. At all times relevant to this Third Amended Complaint, Ada County written policy dictates that all inmates/prisoners who appeared to have an injury or illness or complain of such an injury or illness are required to be offered proper medical treatment, and if an inmate/prisoner refused medical treatment for an injury or illness, the deputy is required to request that the inmate/prisoner sign a medical treatment refusal form. The deputy is also required to document the injury, illness or complaint, and all medical assistance offered.

FACTUAL EVENTS LEADING TO THE DEATH OF MUNROE

95. At all times relevant to this Third Amended Complaint, Munroe suffered from mental illness that caused episodes of suicidal thinking and behavior.

96. On or about October 27, 2007, 18-year-old Munroe was booked into the Ada County Jail by an ACSO deputy on a charge of petite theft.

97. On or about October 27, 2007, an Initial Classification, Temporary Cell Assignment form relating to Munroe was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provides space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form includes a "Medical Intake and History/Receiving Screening" wherein the officer is to ask the inmate questions relating to the inmate's physical and mental health. One of the questions in that portion of the form is "Have you ever attempted suicide? When? Where?" The deputy placed a question mark in the space allocated on the form for recording the inmate's response. The deputy recorded a no response next to a question asking if the inmate had ever contemplated suicide.

98. On another form used by the Ada County Jail entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535" it indicated that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between October 27, 2007 and October 28, 2007.

99. Munroe was released from the Ada County Jail on or about October 29, 2007.

100. On or about July 4, 2008, Munroe was booked into the Ada County Jail for failing to appear in court on the petite theft charge.

101. On or about July 4, 2008, an Initial Classification, Temporary Cell Assignment

form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provided space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer is required to ask the inmate questions relating to the inmate's physical and mental health.

102. The July 4, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: Bi-polar and OCD when 13 YOA"
- b. "Yes – Have you ever contemplated suicide? When? when attempted
Where?"
- c. "Yes – Have you ever attempted suicide? When? January Where?"
"List: Sacramento Mental Health"

103. Although an Initial Classification, Temporary Cell Assignment form was filled out on or about July 4, 2008, Munroe received no classification.

104. Ada County Jail maintains a computer system for entering information regarding inmates and their histories that is referred to as JICS.

105. With regard to Munroe, the JICS on July 4, 2008, includes an entry by an Ada County Jail employee named Peni Dean that states: "Per JICS patient has been treated for bipolar and OCD 13 years ago. Patient attempted suicide in January at Sacramento Mental Health. No SI or other medical issues at this time."

106. On another form entitled "History of Cells Occupied by Inmate During This Stay

Munroe, Bradley Jacob #687535,” a record entry states that Munroe was “mishoused” when he was placed in cell 2W and then 1E during the period between July 4, 2008 and July 7, 2008.

107. Munroe was released on July 7, 2008, without a discharge plan in place for him.

108. There is no documentation in Munroe’s medical records at the Ada County Jail indicating that he received any medications or mental health treatment during his incarceration from July 4, 2008 to July 7, 2008.

109. On or about August 28, 2008, Munroe was again booked into the Ada County Jail to serve his sentence on the conviction he received on the petite theft charge.

110. When Munroe was booked into the Ada County Jail on or about August 28, 2008, he was carrying his prescription medications consisting of Celexa and Perphenazine.

111. Munroe told the booking deputy that he had been prescribed these two medications by his doctor, Stephen Bushi.

112. Celexa is an antidepressant. In 2004 and again in 2007, the FDA directed manufacturers of certain antidepressants to update their black box warnings to include warnings of increased suicidality when their product is prescribed to young adults between 18 and 24 years of age during the initial treatment period of one to two months. Celexa was one of the antidepressants included in the FDA directive. When Celexa is initially started or when dosages are adjusted up or down, patients, families and caregivers are advised to be alert to the emergence of anxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness, impulsivity, akathisia (psychomotor restlessness), hypomania, mania, other unusual changes in behavior, worsening of depression, and suicidal ideation. A portion of the warning states:

Families and caregivers of patients should be advised to observe for the emergence of such symptoms on a day-to-day basis, since changes may be abrupt. Such symptoms should be reported to the patient’s prescriber or health professional, especially if they are

severe, abrupt in onset, or were not part of the patient's presenting symptoms. Symptoms such as these may be associated with an increased risk for suicidal thinking and behavior and indicate a need for very close monitoring and possibly changes in the medication.

113. Perphenazine is an antipsychotic medication that is used to treat bipolar and schizophrenic patients. In 2007, the FDA added Perphenazine to the list of drugs like Celexa that it was requiring manufacturers to include the warnings regarding risks of suicidality.

114. The use of Celexa or Perphenazine doubles the risk of suicidality in patients during initial treatment and during periods of dosage changes.

115. On or about August 28, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form had space for indicating whether the Medical Director Designee was notified, the space was left empty.

116. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer was required ask the inmate questions relating to the inmate's physical and mental health.

117. The August 28, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Is the inmate carrying any medications?"
- b. "Yes – Are you presently taking medications?"
"List: perphenazine, citalopram"
- c. "Yes – Are you under a doctor's care?"

“List: Stephen Bushi”

- d. “Yes – Self-inflicted injury scars on wrists, legs, neck?”
- e. “Yes – Seeing visions?”
- f. “Yes – Hearing voices?”
- g. “Yes – Depressed?”
- h. “Yes – Confused?”
- i. “Comments: Says if he doesn’t take meds he gets bad mood swings. Has a 4 in scar on right arm that is self inflicted. Says his meds are for depression, manic, ocd, bi-polar.”
- j. “Yes – Have you ever been in a mental institution or had psychiatric care?”
“List: intrmntn 2 weeks ago”
- k. “Yes – Have you ever contemplated suicide? When? Where?”
- l. “Yes – Have you ever attempted suicide? When?”
“List: cut his arm and try to od”

118. Based on the August 28, 2008 Initial Classification, Temporary Cell Assignment form, Munroe was classified as 3-Med.High.

119. Although the Initial Classification, Temporary Cell Assignment form was filled out on August 28, 2008, Munroe was not classified until August 31, 2008, when it was determined that he would be given the classification of “3-Med.High with a High Risk and Special Condition Code of SUIHIST” for Suicide History.

120. On August 30, 2008, Defendant Farmer, a Registered Nurse in the Ada County Jail Medical Unit, made an entry in the computerized record system JICS which stated that Munroe was “on meds from provider already – see’s Stephen Bushi, was in Intermountain 2 weeks ago for attempted SI.”

121. On August 30, 2008, Defendant Farmer requested that a social worker perform a

suicide assessment on Munroe and gave it a “priority 1 (high).”

122. The assessment was postponed by social worker Defendant Johnson.

123. On August 31, 2008, a JICS entry was made by an Ada County Deputy identified only as ID #4186 stating the following regarding Munroe: “During the interview I got the feeling that Munroe has the potential to be a problematic inmate. No medical issue or identified enemies. He will be sent to mcu.” MCU is an acronym meaning medium custody unit.

124. On September 1, 2008, Defendant Johnson spoke to Munroe and cleared him for general population housing.

125. Ada County Jail records state the following notations made by Defendant Johnson, documenting subjective impressions of Munroe on September 1, 2008: “per JICS – was in Intermountain 2 weeks for attempted suicide. MSW met with patient. He reports that he has a long history of treatment for mental disorders—currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time.”

126. The September 1, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

127. Munroe was initially housed in cells 1N, 2W, CCUSP until September 1, 2008, when he was moved to cell 763, where he stayed until September 21, 2008.

128. On September 21, 2008, Munroe was moved to cell 713, where he remained until he was released on September 26, 2008.

129. Cells 763 and 713 are general population housing.

130. On all of the aforementioned incarcerations when Munroe was in the custody of the Ada County Jail, he was “mishoused” according to his classification.

131. There are no records indicating that anyone at the Ada County Jail attempted at any time to communicate with Dr. Stephen Bushi regarding Munroe’s medical condition or treatment.

132. From August 28 through September 26, 2008, Ada County Jail records appear to indicate that Munroe may have received some of his prescribed medications but not all, although due to the absence or incompleteness of the records maintained by the Ada County Jail, it cannot be confirmed whether he received all medications that were prescribed to him for his mental illness.

133. During the period of August 28 to September 29, 2008, Ada County had a written policy requiring that each time an inmate is administered a medication, a “Medication Administration Sheet” is to be used to record whether the medication was provided and whether the inmate received it or refused it.

134. Additionally, the policy required that on each occasion when medication is administered to an inmate, the officer or medical staff administering the medication to the inmate is required to sign the Medication Administration Sheet indicating whether the medication was received or refused by the inmate.

135. The inmate is also supposed to sign the Medication Administration Sheet indicating whether the medication was received or refused.

136. The Medication Administration Sheet is supposed to be made part of the inmate’s medical file at the Jail.

137. The Medication Administration Sheets in Munroe's medical file at the Ada County Jail are not signed by either an officer or Medical Unit staff member, nor are they signed by Munroe.

138. On August 29, 2008, Ada County Jail Medical Unit records indicate a prescription order was placed for Munroe's Celexa and Perphenazine. The records also indicate another prescription order placed on September 4, 2008.

139. On two occasions while incarcerated between August 28 and September 26, 2008, a \$5.00 charge was made against Munroe's commissary account for medications ordered on his behalf. It is not clear from the records whether either or both of the charges were for Munroe's Celexa and Perphenazine medications, and it is not clear what quantity, if any, of those two medications was provided to Munroe.

140. The only record that exists at the Ada County Jail of Munroe actually receiving his medications is a kite submitted by Munroe asking why his medication schedule for his Celexa had been changed from mornings to evenings.

141. There is no documentation of anyone prescribing Celexa or Perphenazine for Munroe during his incarceration at the Ada County Jail between August 28 and September 26, 2008.

142. Despite Ada County written policy at the time, Ada County Jail Medical Unit did not perform a 14-day health assessment of Munroe between August 28 and September 26, 2008.

143. There are no records at the Ada County Jail indicating that Munroe was ever seen by the psychiatrist or medical doctor during any of his stays at the Ada County Jail, or that any doctor was contacted regarding Munroe's medical and mental health needs.

144. Munroe was released on September 26, 2008, after serving his sentence on the

petite theft conviction.

145. At all times relevant to this Third Amended Complaint, Ada County written policy required that when inmates are released from the Ada County Jail, a protocol is to be followed by the Ada County Jail Medical Unit to ensure that inmates receive their medication upon release from jail.

146. Under that protocol, the Nursing Supervisor shall review the list of inmates scheduled to be released and check to see if they were receiving medications while in the Jail and, if they were receiving medications, the Medical Unit is to gather and package the medications to be released with the inmate.

147. The Nursing Supervisor is also to complete a medication release form, and count each medication, noting the number of pills left, and deliver the medication and paperwork to booking in the Jail.

148. On September 26, 2008, Defendant Babbitt was the Nursing Supervisor.

149. There is no documentation that Defendant Babbitt reviewed the list of inmates scheduled to be released on September 26, 2008, which included Munroe.

150. There is no documentation that Defendant Babbitt checked to see if Munroe was receiving medications in the Jail.

151. Defendant Babbitt did not complete a medication release form for Munroe or deliver his medications and paperwork to booking at any time.

152. At all times relevant to this Third Amended Complaint, an Ada County written policy was in place at the Ada County Jail that provided a protocol to be followed by the booking officer when preparing an inmate to be released from the Ada County Jail.

153. Under that protocol, the booking officer is to “inquire if they had personal

medications while in the jail,” and if there are personal medications, the booking officer is to call the Medical Unit to have the medications brought to booking for release.

154. The protocol further requires that, prior to releasing the inmate, the booking officer is to complete a medication release form, which is to be signed by the inmate and the releasing officer. The inmate is to sign on one line if accepting the medications, and on another line if refusing the medication.

155. Defendant Roach was the booking deputy who processed Munroe for release on September 26, 2008, and whose duty it was to ensure that Munroe was released with his medications. On information and belief, Defendant Roach was deliberately indifferent to the serious medical needs of Munroe to have his prescribed medication at the time of his release from the jail on September 26, 2008, when Munroe was released without his medications.

156. At all times relevant to this Third Amended Complaint, the ACSO had another policy at the Ada County Jail which required that an inmate who had been receiving medication while in the Jail is to receive a two-week supply of the medication upon being released in order to maintain continuity of care.

157. The policy also requires that an inmate is to be provided contact information for community resources where they can obtain medical care to continue their treatment.

158. A record exists within the Ada County Jail indicating that when Munroe was released on September 26, 2008, Defendant Weich, a CMS and Certified Correctional Health Professional, filled out the medication release form.

159. However, the medication release form from September 26, 2008, does not indicate that Munroe was released with his medications, or if he was, or whether he accepted them or refused them.

160. Additionally, the medication release form was not signed by Munroe, Defendant Weich, or anyone else from the Ada County Jail.

161. There is also no indication that Munroe received a copy of the medication release form that would have provided contact information for community resources where he could continue his medical care in the community.

162. On information and belief, Munroe received his prescribed Celexa and Perphenazine at inconsistent intervals while incarcerated at the Ada County Jail between August 28 and September 26, 2008.

163. On information and belief, Munroe was not provided any of his medications, by Defendant Weich, Defendant Roach, or anyone else at the Ada County Jail, when he was released on September 26, 2008.

164. While Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, there was no treatment plan in place for him.

165. When Munroe was released on September 26, 2008, there was no discharge plan in place for him.

166. On information and belief, without his medications, and without a discharge plan or treatment plan in place for him, Munroe's mental state deteriorated into a manic psychotic state that placed him in a condition where he was not in control of his mental processes.

167. On September 28, 2008, Munroe entered a Maverick Country Store in Boise and placed a backpack on the counter. He was wearing black shorts and no shirt. He had scratches across his face, sores on his hands, and a fresh cut to the back of his head. He screamed at the cashier to give him all the money in the cash register, while threatening to have a bomb in the backpack. When the cashier did not respond to his demands for money, Munroe started banging

his fists on the counter and repeatedly screamed at the cashier, "Do you want to die!" After obtaining \$239.88 in cash, Munroe fled the scene on a bicycle. He was apprehended a short distance away by Boise City Police.

168. Initially, Munroe was cooperative with law enforcement. He stepped off his bike, removed the backpack and stepped away from both. He followed the officers' command to lay flat on the ground. He identified himself and informed the officers that there was no bomb and the money was in his backpack. However, when Boise City Police placed Munroe in a squad car to be transported, Munroe's disposition changed suddenly. He began to hit his head against the car's window and alternately attempted to kick the windows out of the car. Officers placed Munroe in hobbles and transported him to the Boise City Police Criminal Investigations Division. There he admitted to consuming alcohol.

169. Once Munroe was inside the interview room, he began spitting and swearing at officers, and attempting to remove the hobbles. He refused to identify himself to the officers, even though he had earlier identified himself at the scene. While in such a state, Munroe defecated in his shorts. Paramedics were called to evaluate Munroe because of his extreme behavior. Paramedics transported him to St. Alphonsus Regional Medical Center ("St. Al's") to be further evaluated.

170. Boise City Police Officer Eric Urian, who attempted to interview Munroe at the Criminal Investigations Division, reported that he terminated the interview and had Munroe transferred to the hospital because of Munroe's "extreme behavior."

171. Officer Urian reported that the "suspect was highly emotional and was showing great mood swings. ... [b]ased on the suspect's actions and his state of mind I decided that an interview was not going to be appropriate. On a second contact with Munroe he screamed at me

that he wanted his attorney.”

172. Boise City Police Officers Jacob Nichols and Eric Urian transported Munroe to St. Al’s.

173. Upon arrival at St. Al’s, Munroe told Dr. Brandon J. Wilding that he had been taking Celexa and Trilafon (Perphenazine).

174. The doctor indicated in Munroe’s medical record that the past medical history was “significant for depression . . . He also reports a history of psychosis. Reviewing an older chart April 1, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning.”

175. Dr. Wilding also noted that Munroe reported to him his depression and that “if he is discharged from jail, he will commit suicide; however, he denies any plan to attempt suicide tonight. He does admit to being intoxicated.”

176. Dr. Wilding medically cleared Munroe for the Jail in part because he could not confirm the prescriptions of Celexa and Perphenazine, and because Officers Nichols and Urian represented to Dr. Wilding that they thought the Ada County Jail Medical Unit would be able to make that determination.

177. Munroe was taken to the Ada County Jail by Boise City Police officers.

178. At the Ada County Jail, Deputy Erica Johnson began filling out Munroe’s booking sheet and the booking process.

179. It appeared to Deputy Erica Johnson that when Munroe arrived at the Jail, he was under the influence of alcohol and/or drugs.

180. Deputy Erica Johnson further observed that Munroe was yelling, screaming, was

rowdy, and was not making a lot of sense when speaking.

181. Due to Munroe's demeanor, Deputy Erica Johnson could not complete the booking process, and Munroe was placed in a holding cell in the booking area for his own wellbeing, where all but his boxer shorts were taken from him.

182. Boise City Police Officers Nichols and Urian remained at the Ada County Jail and assisted Ada County Jail deputies as they tried to deal with Munroe and his behavior.

183. At approximately 10:42 p.m., Munroe urinated under the cell door. Ada County Jail officers moved him to another holding cell.

184. At approximately 11:05 p.m., Ada County Jail Deputy Brewer, ID #4778, a Registered Nurse employed within the Ada County Jail Medical Unit, indicated on an Inmate Housing Security Check Log that Munroe was masturbating inside his cell and that his "clothes were removed from him as he was trying to take string and wrap [it] around his neck. Apparently paramedics did see him on scene. Possible consumption of illegal substance. Let him sober."

185. The only clothing Munroe possessed at the time was his boxer underwear. He had torn the boxers into string or strips and then wrapped them around his neck.

186. On the Inmate Housing Security Check Log there were separate boxes for indicating whether a prisoner/inmate was combative, needing to detox, was suicidal, or other, and none of those boxes were marked by Ada County Jail staff.

187. From approximately 11:20 p.m. until approximately 7:52 a.m., Munroe was held in the same holding cell with no clothes and only a safe blanket to keep him warm.

188. Inside the cell was a slightly raised padded safe cot on which he spent most of the evening sleeping. Because Munroe had had all of his clothing taken away, a curtain was placed

over the windows to his cell. Ada County Jail staff checked on Munroe periodically throughout the night. Most all of the reports indicated that he was sleeping when checked on.

189. Deputy Brewer checked on Munroe on multiple occasions, but only made one entry on the log sheet. On information and belief, Brewer made a notation in the margin of the log sheet stating: "Very DK, Possible High on illegal ch, caution spitter."

190. There are no records at the Ada County Jail indicating that Deputy Brewer checked Munroe's medical record at the Ada County Jail that would have confirmed Munroe's history of suicidality, major depression, psychosis and prescription history.

191. Munroe remained in the holding cell until approximately 7:52 a.m. on September 29, 2008, when he was escorted out of the cell by ACSO Deputy Daniel Lawson, ID #4756, and taken to be processed into the Jail on charges of robbery and consumption by a minor.

192. At approximately 7:55 a.m., Munroe was moved to a cell identified by Ada County Jail records as 2W.

193. At approximately 8:00 a.m., Defendant Wroblewski took Munroe into the booking room and started obtaining Munroe's fingerprints as part of the booking process.

194. At 8:01 a.m., Defendant Johnson spoke with Munroe from the hallway just outside the booking room while Defendant Wroblewski continued the fingerprinting process with Munroe.

195. Defendant Johnson had been contacted earlier to "interview Munroe about his past and present suicide tendencies."

196. Defendant Johnson spoke to Munroe until 8:04 a.m., and then left.

197. Before leaving, Defendant Johnson asked Munroe if he had any current suicide

thoughts. Munroe responded by saying “No, I don’t have any thoughts right now and I don’t want any of your help.”

198. Defendant Johnson asked other questions of Munroe regarding Munroe’s suicidal history and mental status. Munroe again stated, “I don’t want anybody’s help. I am fine.”

199. When Defendant Johnson approached the area where he spoke with Munroe, he held in his hand a pen. He did not have any paper and did not write anything throughout his interaction with Munroe.

200. After Defendant Johnson left, Defendant Wroblewski completed the fingerprinting process with Munroe at 8:05 a.m.

201. At 8:13 a.m. on September 29, 2008, Defendant Johnson made a documentation entry on the JICS computer system indicating that he had completed a suicide assessment of Munroe and then he cleared Munroe from “JICS – High Risk: Suicide Watch”:

Subjective: assess suicide risk in booking. MSW met with pt. who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This morning he denies suicidal ideation or intent. Additionally states that he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request.

202. The September 29, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

203. Defendant Johnson did not obtain a signed refusal for treatment from Munroe as is required by Ada County written policy.

204. Defendant Johnson cleared Munroe for general population housing after reviewing his medical records at the Ada County Jail and speaking to Munroe for approximately three minutes.

205. Defendant Johnson's assessment of Munroe was that he posed no risk of suicide.

206. At no time prior to Munroe's death did Defendant Johnson review Munroe's September 29, 2008 Initial Classification, Temporary Cell Assignment form that included the medical questionnaire.

207. While Defendant Johnson holds a Master's Degree in Social Work, he has never held a license in the state of Idaho as a social worker.

208. It is a violation of Idaho Code § 54-3214 for a person to represent themselves "as a social worker by the use of the titles 'social worker,' 'masters social worker' . . . unless licensed" in the state of Idaho as a social worker.

209. Defendant Johnson was not qualified as a social worker to perform suicide assessments such as that which was required to be done on Munroe on September 29, 2008, as part of the classification and housing process at the Ada County Jail.

210. At the time Defendant Johnson spoke to Munroe on September 29, 2008, about whether Munroe posed a likely risk of suicide, Defendant Johnson was a recent hire to the Ada County Jail Medical Unit, having completed his "New Employee Orientation" training course on June 10, 2008.

211. While employed with the Ada County Jail and prior to the death of Munroe, Defendant Johnson had not completed the suicide assessment or prevention courses required of all other Ada County Jail employees who have contact with inmates.

212. On information and belief, prior to the death of Munroe, Defendant Johnson had

no training on the written policies of Ada County relating to suicide prevention.

213. Defendant Johnson did not conduct a complete suicide assessment of Munroe on September 29, 2008.

214. The suicide assessment Defendant Johnson conducted of Munroe was inadequate to the point of demonstrating recklessness and indifference to whether Munroe was likely to commit suicide.

215. Had Defendant Johnson conducted an adequate suicide assessment and considered all factors that were set out in Ada County's written policies at the time for assessing suicide risk, or those factors commonly viewed by trained and licensed social workers for assessing suicide risk, Munroe would have likely been classified as either high or moderate suicide risk; and would have thereby been provided greater protection against the risk of suicide.

216. With Munroe's suicidal history, he should have at least been assessed as being a low risk of suicide, which would have provided some minimum protections against Munroe committing suicide.

217. After completing the fingerprinting process, Defendant Wroblewski began interviewing Munroe as part of the medical screening process, and reported the following:

When I got to the questions concerning mental health, I asked Munroe "Are you seeing visions and hearing voices?" Munroe stated, "Yes, I see the shadow people." I then asked, "Are you seeing them right now?" Munroe stated, "He wasn't." I then asked Munroe if they talked to him? Munroe stated, "That they do." I asked Munroe what do they say to you? Munroe stated, "To run."

218. Defendant Wroblewski filled out the Initial Classification, Temporary Cell Assignment form and provided the following information:

- a. Poor Physical Condition at intake;

- b. ? as to whether there were visible signs of injury or illness requiring immediate treatment or care;
- c. Yes to whether he appeared to be under influence of alcohol, or exhibit signs;
- d. No to whether he appeared to be under the influence of drugs;
- e. No to whether he was carrying any medications;
- f. Yes to having been taken to the hospital but nothing as to what treatment was received;
- g. As to the question "Does behavior suggest need for immediate psychiatric treatment?" it is marked NO;
- h. As to whether he was taking medications, it states "Celexa";
- i. Are you under a doctor's care? NO;
- j. Yes to whether he was taken to hospital. List 9/28/08;
- k. Yes to understanding the questions;
- l. Yes to assault/violent behavior;
- m. Yes to angry or hostile behavior;
- n. No to loud/obnoxious behavior;
- o. No to "Self-Inflicted injury scars on wrists, legs, neck";
- p. No to Bizarre behavior;
- q. Yes to seeing visions;
- r. Yes to hearing voices;
- s. Yes to odor of alcohol;
- t. No to Uncooperative;
- u. COMMENTS: "Was hostile toward deputies and officer upon intake. Seeing shadow people, voices in head";
- v. Yes to whether he had been in a mental institution and identifies Intermountain;

- w. Yes as to whether he ever contemplated suicide. When and where are left blank;
- x. Yes to have you ever attempted suicide. When and where are left blank;
- y. Yes to are you now contemplating suicide;
- z. Yes to “does the inmate’s behavior suggest a risk of suicide?”

219. Defendant Wroblewski finished his screening and filling out the Initial Classification, Temporary Cell Assignment form at 8:33 a.m.

220. Neither Defendant Wroblewski, Defendant Johnson, nor Munroe signed the Initial Classification, Temporary Cell Assignment form, even though there are signature lines for the inmate, the officer, and the physician/nurse.

221. Additionally, the areas designated to mark whether and when the notification to medical director was made, name and identification number of booking officer were all left blank.

222. In contradiction to the Ada County written policy in place at the time, Defendant Wroblewski did not contact the Medical Unit staff after Munroe relayed the information contained in the Initial Classification, Temporary Cell Assignment form.

223. The applicable Ada County written policy required that Defendant Wroblewski refer Munroe to Health Services once Munroe gave positive answers to having been treated for mental health issues, being on medications for mental health treatment, to contemplating suicide, and to having attempted suicide in the past.

224. Ada County written policy also required that Munroe be referred to Health Services because Defendant Wroblewski indicated on the form that he had observed behavior in Munroe that suggested a risk of suicide.

225. In contradiction to the direction of Defendant Johnson that, if indicated by

Munroe or staff, follow-up services were to occur, Defendant Wroblewski did not contact anyone for follow-up services.

226. Defendant Wroblewski disregarded the new information that Munroe had disclosed during the intake process that strongly suggested that Munroe was suffering a psychotic break and/or posed a greater risk of suicide than what had previously been assessed by Defendant Johnson. The information that Munroe disclosed to Defendant Wroblewski while working through the Initial Classification, Temporary Cell Assignment placed Munroe squarely in the high suicide risk classification.

227. At 8:37 a.m., ACSO Deputy Ryan Donelson, ID #4800, placed Munroe in a holding cell identified as 1H CCU.

228. Deputy Donelson reported that while he was escorting Munroe to be housed in general population, Munroe stopped walking and began to speak to Deputy Donelson. Munroe said to Deputy Donelson, "I need to be on PC [Protective Custody]. I can't live with other people. Everyone wants to kill me."

229. Deputy Donelson asked Munroe whom he was having problems with, so that he could help to determine where to house Munroe. Deputy Donelson asked Munroe if he was having problems with people over drugs. Munroe did not respond. Deputy Donelson asked Munroe if he was having troubles with gangs. Munroe said "I'm into a lot of stuff and everyone wants to kill me." Deputy Donelson asked Munroe if he knew the names of any of the people who want to kill him. Munroe said, "No." Munroe again told Deputy Donelson that he needed to be on protective custody and that he could not live with other people. Deputy Donelson secured Munroe in the CCU large holding cell 1-1.

230. Deputy Donelson then spoke to classifications Deputy Drinkall, ID #4221, about

his discussion with Munroe.

231. Deputy Drinkall looked up Munroe's history on JICS.

232. Deputy Drinkall also reviewed the Inmate Housing Security Check Log on which Deputy Brewer had documented Munroe's suicidal behavior of attempting to wrap clothes around his neck.

233. After reviewing Munroe's information, Deputy Drinkall noted that Munroe had a suicidal history.

234. Deputy Drinkall contacted Defendant Johnson, and Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but was very agitated.

235. Based on the information he obtained from Defendant Johnson, Deputy Drinkall determined that Munroe should be housed in the side chute of Cellblock 7. Munroe was then placed inside cell 735.

236. When Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but merely agitated, Defendant Johnson still had not reviewed the September 29, 2008 Initial Classification, Temporary Cell Assignment form completed by Defendant Wroblewski as part of the medical screening of Munroe.

237. Cell 735 contained, among other things, a bunk bed and a set of sheets.

238. It was a single inmate cell located at the end of the side chute where the cell cannot be easily observed by security staff or other inmates.

239. Defendant Johnson approved Munroe for being housed in a single cell environment, despite Munroe being at least a low suicide risk.

240. Munroe had also been provided standard general population clothing.

241. The upper bunk bed in Munroe's cell 735 was constructed in such a fashion that

there were holes in the upper bunk that were an inch or two in diameter.

242. A known risk of placing a suicidal inmate in a cell with these items is that the inmate will use the items to commit suicide by feeding the sheet up through one of the top bunk's holes and tying the sheet off with a knot that cannot be pulled down through the hole, and then use the sheet as a ligature with which to hang themselves.

243. Cell 735 posed a known and obvious risk of suicide to Munroe.

244. At approximately 10:37 a.m. on September 29, 2008, Munroe's mother, Ms. Hoagland, spoke with Leslie Robertson, the Ada County Jail Medical Unit's Health Services Administrative Supervisor, by telephone.

245. Leslie Robertson made the following entry on the JICS system:

Date: 09-29-08 10:37 PC Rita Hoagland mother 495-XXXX, 871-XXXX.¹ Called concerned that son is back in custody. He was released on Friday and returned sometime early this morning. He has made 3 serious suicide attempts in past (attempted to jump off bridge, overdose, and cut self). He has been in Intermountain and other hospitals as recently as this summer. He has had made (sic) when in community and told mother that we gave him meds here. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

246. Upon receiving additional information from Ms. Hoagland regarding Munroe's suicidal intentions, Defendant Johnson did not re-evaluate his assessment that Munroe posed no risk of suicide.

247. When Ms. Hoagland spoke with Leslie Robertson, Leslie Robertson assured Ms. Hoagland that she would follow up to see if Munroe was receiving his medications.

248. At approximately 11:57 a.m. on September 29, 2008, Defendant Farmer made the

¹ Telephone numbers have been redacted for privacy purposes.

following entry on the JICS system: "JICS review - on celexa (none brought in), see @ St. Al's before coming to ACJ, has SI hx, seen at Intermountain. Inmate is OOC." OOC is an acronym for Out of Control.

249. Despite conducting a JICS review of Munroe's history which stated that he became suicidal when off his medications, Defendant Farmer did nothing to ensure that Munroe received his medications on September 29, 2008.

250. At 1:30 p.m. on September 29, 2008, Munroe was taken through video arraignment on the charges of Robbery and Possession/Consumption of Alcohol by a Minor.

251. As a matter of Idaho law, Munroe would have been told by the arraignment judge the maximum punishments for each of the charges should he be convicted.

252. After being arraigned, Munroe was returned to cell 735.

253. There is no record at the Ada County Jail of Munroe receiving either his prescribed Celexa or Perphenazine while incarcerated on September 28 and 29, 2008.

254. Defendant Barrett was the on-call provider of medications at the Ada County Jail on September 28 and 29, 2008.

255. As the on-call provider, Defendant Barrett would have to have approved any orders or requests for Munroe's medications and would have determined how and when they would be provided to Munroe.

256. No medications were requested, prescribed, or provided to Munroe by anyone at the Ada County Jail on September 28 or 29, 2008.

257. Defendant Barrett, as the Senior Physician's Assistant/Nurse Practitioner, and Defendant Babbitt, as the Nursing Supervisor/Inmate Healthcare Supervisor, each had a duty to supervise and control Defendant Farmer.

258. On information and belief, there is a *de facto* policy established by custom and practice at the Ada County Jail of not timely and consistently providing inmates with needed medication.

259. Defendants Barrett, Babbitt and Farmer each had a duty to ensure that each inmate at the Ada County Jail timely received needed medications once these Defendants became aware that the inmate has been prescribed medical treatment that includes psychotropic medications such as Celexa and Perphenazine.

260. Defendants Barrett, Babbitt and Farmer each had a duty to Munroe to ensure that on September 28 and 29, 2008, he timely received his Celexa and Perphenazine.

261. At some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, Munroe successfully committed suicide by hanging himself in cell 735 from the upper bunk of his bed.

262. He had placed a sheet up through one of the holes and tied the sheet off on one end while using the other to wrap around his neck. He was later pronounced dead at St. Al's.

263. At approximately 11:00 p.m. on September 29, 2008, Ms. Hoagland answered her door to find Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker there to speak to her about her son Bradley Munroe.

264. When Ms. Hoagland asked if her son was okay, Sheriff Raney asked her to sit down and then informed her that her son had taken his life while incarcerated at the Ada County Jail.

265. They informed her that he had taken his life by hanging himself from a sheet in the cell and that he accomplished the act by tying the sheet to the upper bunk of his bed.

266. When she asked them why her son had been placed in a cell by himself, with sheets and a bunk bed, they could not answer her.

267. When she asked them why her son was not put on suicide watch, they could not answer her.

268. As a result of the news of the death of her son, Ms. Hoagland suffered severe mental shock and emotional distress.

269. Detective Buie of the ACSO conducted an investigation of Munroe's suicide. Part of that investigation consisted of interviewing Defendant Johnson.

270. During that interview, Defendant Johnson stated to Detective Buie that he had been told by someone that on the morning of September 29, 2008, Munroe was saying that he was no longer suicidal, although Defendant Johnson has not been able to identify who the person was that made that statement to him.

271. Defendant Johnson further stated to Detective Buie that when he spoke to Munroe, Munroe said that he had made some stupid statements the night prior when he was "high."

272. Munroe did not tell Defendant Johnson that he had been high on September 28, 2008, when he was arrested and brought to the Jail.

273. Munroe was not high on any illegal drugs when he was brought to the Ada County Jail.

274. Defendant Johnson also told Detective Buie during his interview that Munroe had told him that he was not going to hurt himself. Defendant Johnson stated that Munroe told him he was not taking any medication and did not want mental health follow-up or any medications. Defendant Johnson indicated to Detective Buie that he observed Munroe while he was being fingerprinted and Munroe appeared to him to be reacting appropriately to people, and that based on his observations, Defendant Johnson assigned Munroe to regular housing.

275. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that it was very important for him to observe Munroe, his affect, and how he interacted with and answered the booking detention deputy's questions.

276. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that Munroe possessed a number of risk factors for suicide including his age, the fact that he was incarcerated, prior substance abuse, and that he had been treated for mental illness.

277. When Defendant Johnson spoke with Munroe and concluded he posed no risk of suicide, Defendant Johnson had reviewed Munroe's medical records at the Jail and noted Munroe's hospitalizations for prior suicide attempts, his prior incarcerations, and Defendant Johnson's own prior contact with Munroe wherein Defendant Johnson documented that Munroe's medications controlled his suicidal thoughts and behaviors.

278. Defendant Johnson told Detective Buie that after he spoke with Munroe on September 29, 2008, Leslie Robertson spoke to him about her conversation with Ms. Hoagland.

279. Leslie Robertson had conveyed to Defendant Johnson that Ms. Hoagland had informed her of Munroe's serious suicide attempts in the past, and that he had been talking about committing suicide.

280. After speaking with Leslie Robertson, Defendant Johnson did not do a second suicide assessment of Munroe.

281. On September 30, 2008, Defendant Johnson wrote the following statement regarding Munroe's suicide and his "assessment" of Munroe on September 29, 2008:

The reason for this assessment is clearly stated—he is at risk by virtue of recent statements of suicidal ideation and/or intent in jail

setting and in the community, resulting in hospitalization. He has additional risk factors—age, incarceration, treatment for mental illness, and substance abuse, which were also taken into consideration. However he had already told security staff that he was no longer suicidal and repeated to me that he did not have suicidal ideas or intentions to harm himself. He included a very common rationale for his suicidal statements the night before—that he was intoxicated/high. By observation and verbal interaction he was alert, calm, cooperative, able to follow directions, and respond appropriately to questions. There was no evidence of current sadness, distress, emotional lability (sic), inattention, distractibility, response to stimuli other than that of the security staff and social worker, or of any distortion of his thought process. In other words he appeared to be coping with his current circumstances and interacting with staff without difficulty.

I noted that I did not take a full history for assessment purposes. This was true due primarily to the request of the inmate that he not have medical or mental health services at the time. Asking numerous questions regarding personal history of the inmate when he had declined the service did not make sense. Additionally, some history had been gathered in early September when there was another assessment of this inmate, in which he also denied suicidal ideation or intent at that time. Given that he reported that he was thinking better at this time denied ideas or intent to harm himself and appeared to be fully capable cognitively of giving or of refusing consent to treatment, it seemed respectful of his choice not to pursue extensive questioning. One possible exception would have been to explore the reason/explanation of why he did not want treatment at this time. I possibly would have gotten clues regarding his hopelessness or intentions by doing so. Absent those clues there was no reason to believe that this young man, who had repeatedly denied current suicidal intent, was going to kill himself now.

Given that many individuals stop and start medications or treatment several times, and that they episodically are bothered by symptoms or can be free of symptoms for periods of time I left open the opportunity for further evaluation or treatment. This was noted by statement that if indicated by pt. or staff that follow-up services would occur as indicated.

282. On October 1, 2008, Ada County Jail Medical Unit employee Holly Kington, LPN, made an entry on the JICS system stating that Munroe's Celexa had been "left here in the pharmacy in bottom drawer."

283. Despite all the aforementioned events and warnings, and in contravention of the Ada County written policies that were in place to protect inmates such as Munroe from committing suicide in the Ada County Jail, Munroe was not identified as a suicide risk; he was not properly classified; and he was housed incorrectly for the classification he received, which resulted in his being placed in general population, inside a single inmate cell, with a bunk bed and two sheets with which to hang himself.

284. Despite perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide, as a matter of practice and custom, the named Defendants in this case do not follow those written policies.

285. Instead, they follow *de facto* policies that lack the necessary protections and lack the proper protocol for administering adequate medical and mental healthcare to inmates of the Ada County Jail.

286. The *de facto* policies that are actually implemented at the Ada County Jail are such that it is likely that those policies will result in the violation of inmates' constitutionally protected rights to medical and mental healthcare and security.

287. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt adopted *de facto* policies that were contrary to Ada County's written policies relating to the provision of professional medical and mental healthcare, including those policies governing suicide identification and prevention, and medication management and training.

288. These Defendants abandoned Ada County's perfectly reasonable written policies in favor of a set of *ad hoc* policies created by their own practices and customs, and the practices and customs of their agents over whom they exercised supervisory control.

289. Each of these Defendants, either by their status or their position, set the actual

policies under which the Ada County Jail was actually operated by their failures to train, supervise, and control the employees of the Ada County Jail in a manner that would ensure that written policies were followed. Additionally, there was an absence of enforcement protocol that would have ensured that written policies were followed.

290. The long-standing practices and customs employed by these Defendants and their employees in the operation of the Jail were such that the Ada County Jail was no longer being operated in compliance with its own written policies and NCCHC Standards.

291. The substandard operation of the Ada County Jail was long-standing practice and custom.

292. NCCHC does not withdraw accreditation of a jail because of isolated incidents where written policies are not followed.

293. NCCHC does withdraw accreditation of a jail for failure to have policies in place that conform to NCCHC Standards.

294. NCCHC does withdraw accreditation of a jail when there is a pattern of a jail's actual practices being inconsistent with NCCHC Standards.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

295. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

296. Count I is brought by Ms. Hoagland on behalf of the Estate of Bradley Munroe, and herself as an heir to the Estate, pursuant to Idaho Code § 5-311 and 42 U.S.C. § 1983, against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for violations of Munroe's constitutional rights under the Eighth and Fourteenth Amendments of the United States

Constitution for failure to provide Munroe with adequate medical and mental healthcare and adequate security under circumstances where those failures resulted in Munroe's death, and for such violations Plaintiff is entitled to special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

297. Count I is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

298. At all times relevant to this Third Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

299. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

300. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

301. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of

the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

302. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

303. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

304. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

305. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from

custody on September 26, 2008, Munroe was a “prisoner” for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

306. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a “pretrial detainee” for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

307. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

308. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

309. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life’s necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

310. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

311. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

312. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

313. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

314. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

315. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

316. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

317. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

318. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

319. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

320. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

321. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was

released from the Jail on September 26, 2008.

322. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

323. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

324. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

325. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

326. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

327. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

328. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

329. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby “mishoused” on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

330. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe’s suicide.

331. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

332. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

333. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was

likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

334. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

335. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

336. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

337. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

338. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and

receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

339. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

340. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

341. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

342. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

343. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

344. From August 28 to September 26, 2008, Defendant Barrett was deliberately

indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

345. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

346. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

347. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

348. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

349. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed

Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

350. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

351. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

352. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

353. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

354. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

355. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to

determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

356. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

357. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

358. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

359. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

360. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

361. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

362. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

363. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

364. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

365. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

366. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

367. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

368. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

369. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

370. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

371. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

372. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

373. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

374. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

375. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

376. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those

written policies and standards.

377. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

378. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

379. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

380. Wherefore, Plaintiff Hoagland, on behalf of the Estate of Bradley Munroe, and on her own behalf as the heir to the Estate, demands judgment pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that

resulted in the wrongful death of Munroe in a sum to be proven at trial in the form of special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

COUNT II
(Civil Rights Violations – 42 U.S.C. § 1983)

381. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

382. Count II of this Third Amended Complaint is brought by Ms. Hoagland individually and on her own behalf as Munroe’s mother pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for interference with Ms. Hoagland’s familial relations, society and companionship interest with her son, Munroe, which is a due process interest protected under the Fourteenth Amendment of the United States Constitution for which she is entitled to recover for her injuries, including but not limited to loss of the companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.

383. Count II is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

384. At all times relevant to this Third Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

385. Defendant Ada County is a municipality with its policies, practices and customs

set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

386. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

387. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

388. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined, and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

389. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical

and mental healthcare and to adequate safety.

390. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

391. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

392. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

393. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health

illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

394. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

395. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

396. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

397. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

398. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

399. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

400. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

401. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

402. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

403. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

404. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

405. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

406. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

407. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

408. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

409. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

410. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

411. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

412. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

413. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

414. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

415. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

416. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe's suicide.

417. Throughout the period of August 28 to September 26, 2008, Defendants Ada

County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

418. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

419. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

420. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

421. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

422. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County’s written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional

judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

423. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

424. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

425. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

426. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

427. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of

documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

428. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

429. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

430. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

431. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

432. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

433. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson

and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

434. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

435. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

436. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

437. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

438. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the

Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

439. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

440. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

441. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

442. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

443. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

444. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

445. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

446. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

447. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

448. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

449. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

450. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29,

2008.

451. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

452. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

453. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

454. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

455. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

456. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker

when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

457. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

458. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

459. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

460. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC

Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

461. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

462. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

463. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

464. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada

County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

465. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

466. Wherefore, Ms. Hoagland demands judgment pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe and the termination of Ms. Hoagland's familial relationship with Munroe and the loss of his society and companionship. For her damages, Ms. Hoagland seeks general damages, including but not limited to loss of companionship and society, and her own pain, suffering, anguish, and emotional distress caused by the loss of her son, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

ATTORNEY FEES AND COSTS

Plaintiffs have been forced to incur attorney fees and costs related to the prosecution of this matter. Plaintiffs are entitled to recover their reasonable costs and attorney fees pursuant to Idaho Code §§ 6-918A and 12-121, 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or other applicable law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of no less than twelve (12) persons on all issues to be tried.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against the Defendants as follows:

1. An award of special and general damages to the Plaintiffs for their losses incurred as a result of the Defendants' violation of Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution in an amount that will fully and fairly compensate the Plaintiffs for their losses, all in an amount to be determined at trial;
2. An award of punitive damages against all Defendants sued in their individual capacities in an amount to deter similar official misconduct;
3. Pre- and post-judgment interest as allowed by law;
4. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or any other applicable law, or, in the event judgment is taken by default, in the amount of \$10,000;
5. Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail; and
6. For all other and further relief as the Court deems just and equitable and to which Plaintiffs are due as a matter of law and equity.

DATED this ____ day of August, 2010.

JONES & SWARTZ PLLC

By _____
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By L. AMES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**MEMORANDUM IN SUPPORT
OF PLAINTIFFS' MOTION FOR
LEAVE TO FILE A THIRD
AMENDED COMPLAINT TO
ADD A CLAIM FOR PUNITIVE
DAMAGES**

Plaintiffs respectfully submit the following Memorandum in Support of their Motion filed under I.R.C.P. 7(b)(1) and 15(a) for leave to file a Third Amended Complaint in order to add a claim for punitive damages.

I. ALTERNATIVE GROUNDS

Plaintiffs move alternatively under Idaho Code § 6-1604 for leave to file a Third Amended Complaint in order to add a claim for punitive damages. Idaho Code § 6-1604 limits

the availability of punitive damages in several respects: First, by requiring that punitive damages be proven by clear and convincing evidence that the defendant acted oppressively, fraudulently, maliciously, or outrageously. I.C. § 6-1604(1). Second, by requiring that before a party may plead a claim for punitive damages, the party must first file a motion to add a claim for punitive damages. I.C. § 6-1604(2). The court shall allow the amendment if “after weighing the evidence presented, the court concludes that, the moving party has established at such hearing a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages.” *Id.* The statute further limits punitive damages to \$250,000 or three times compensatory damages. I.C. § 6-1604(3).

Plaintiffs’ position is that I.C. § 6-1604 is the substantive law of Idaho, which is inapplicable to federal claims brought under 42 U.S.C. § 1983. Application of I.C. § 6-1604 to this case is inconsistent with the policies that 42 U.S.C. § 1983 is intended to advance, and is therefore preempted by federal law.

In an abundance of caution, however, and purely in the alternative, Plaintiffs have moved under I.C. § 6-1604 for leave to file a Third Amended Complaint to add a claim for punitive damages. If the Court finds I.C. § 6-1604 is mandatory in 42 U.S.C. § 1983 claims brought in state court, then a hearing is mandatory and hereby requested.

The Motion is timely as it is brought within the time frame set forth in the scheduling order. Plaintiffs have not served Defendants with their first Amended Complaint and no answers to the first Amended Complaint have been filed by any of the Defendants. A copy of Plaintiffs’ proposed Third Amended Complaint is attached to the Motion as Exhibit A. The Third Amended Complaint is identical in every way to the Second Amended Complaint other than the addition of a claim for punitive damages.

II. ARGUMENT

A. Idaho Code § 6-1604 is Inapplicable to Federal Law Claims Filed in State Court Because it is State Substantive Law and Not State Procedural Law

Where a federal court sits in a diversity case, state claims are to be governed by state substantive law even though federal law will govern procedural matters.¹ “It is a long-recognized principle that federal courts sitting in diversity ‘apply state substantive law and federal procedural law.’”²

Furthermore, because this personal injury action is before the court based on diversity jurisdiction, Idaho Code § 6-1604(2) applies. *See Windsor v. Guarantee Trust Life Ins. Co.*, 684 F. Supp. 630, 633 (D. Idaho 1988). Idaho Code § 6-1604(2) is substantive in nature and therefore controlling in federal court in a diversity case.³

Conversely, federal substantive law governs federal claims brought in state courts, including claims brought under 42 U.S.C. § 1983.⁴ Unless otherwise restricted, states have concurrent jurisdiction with the federal courts to enforce rights created by federal law, including § 1983.⁵ As noted by the Supreme Court, Congress “surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action.”⁶

¹ *Erie R.R. v. Tompkins*, 304 U.S. 64 (1938).

² *Shady Grove Orthop. Assoc. v. Allstate Ins. Co.*, 130 S. Ct. 1431, 1448, 176 L. Ed. 2d 311 (2010) (citing *Hanna v. Plumer*, 380 U.S. 460, 465 (1965)); *Doe v. Cutter Biological*, 844 F. Supp. 602 (D. Idaho 1994) (Idaho Code § 6-1604 will be applied in federal court to state claims in diversity action).

³ *Cutter Biological*, 844 F. Supp. at 609.

⁴ *Nation v. Colla*, 841 P.2d 1370, 1380 (Ariz. App. 1991) (“Federal law controls the substantive issues in a federal civil rights action brought under 42 U.S.C. § 1983.”).

⁵ *See, Charles Dowd Box Co. v. Courtney*, 368 U.S. 502, 507-08 (1962).

⁶ *Felder v. Casey*, 487 U.S. 131, 144 (1988) (quoting *Wilson v. Garcia*, 471 U.S. 261, 269 (1985)).

The Idaho Supreme Court has similarly concluded that federal substantive law applies to federal claims brought in state court, though state procedural law will still be applied.

[I]n *Stobie v. Potlatch Forests, Inc.*, the Court made clear that procedural matters would be governed by Idaho law even though the claim was made under federal law. In denying a petition for rehearing, the Court was explicit: “However, this Court is only required to apply federal substantive law.” Procedural law is governed by state practice.⁷

The reasoning is that state law claims are an expression of the policy decision of the state legislative and executive branches of state government, while federal claims are an expression of the policy decision of the legislative and executive branches of the federal government.

The Arizona Court of Appeals put it succinctly in *Baker v. Rolnick*:⁸

[W]hen Arizona courts have concurrent jurisdiction over federal claims such as § 1983, they apply the federal substantive law along with the attendant federal rules and policies governing such causes of action, including exhaustion requirements.⁹

Here, I.C. § 6-1604 has no application because the case is brought under 42 U.S.C. § 1983 and I.C. § 6-1604 is Idaho substantive law. The state policies which I.C. § 6-1604 was enacted to advance have been acknowledged repeatedly by Idaho’s state and federal courts.¹⁰ “Idaho Code

⁷ *Stanley v. McDaniel*, 134 Idaho 630, 632 (2000) (citations omitted).

⁸ 210 P.2d 321, 325 (Ariz. App. 2005).

⁹ *Id.* (citing *Kerr v. Waddell*, 916 P.2d 1173, 1176 (Ariz. App. 1996) (stating the “tax court’s subject matter jurisdiction to hear state-law tax claims and § 1983 tax claims is subject to the exhaustion of administrative remedies”)); *Zeigler v. Kirschner*, 781 P.2d 54, 59-60 (Ariz. App. 1989) (overturning dismissal for failure to exhaust administrative remedies in § 1983 suit against state health care director because no exhaustion was required under § 1983); *see also, Badia v. City of Casa Grande*, 988 P.2d 134, 141 (Ariz. App. 1999) (discussing supremacy of federal law permitting recovery of punitive damages against state actors under § 1983 over statutory immunity from punitive damages).

¹⁰ *Windsor v. Guarantee Trust Life Ins.*, 684 F. Supp. 630, 633 (D. Idaho 1988).

§ 6-1604 is part of Idaho's tort reform scheme passed by the state legislature in 1987."¹¹ The statute also expresses Idaho's policy disfavoring punitive damages.¹²

The tort reform policies expressed in I.C. § 6-1604 are clearly state and not federal policies. Under subsection (1), a claim for punitive damages must be proven by clear and convincing evidence.¹³ A state statute such as § 6-1604 that raises the burden of proof for punitive damages in a § 1983 case from a preponderance of the evidence to a clear and convincing evidence standard is inconsistent with the policy goals of § 1983 and cannot be applied.¹⁴ State law burdens of proof for punitive damages do not apply to federal civil rights

¹¹ *Id.* Subsection 6-1604(1) was amended in 2003 changing the required burden of proof from preponderance of the evidence to clear and convincing. 2003 Idaho Laws Ch. 122 (H.B. 92).

¹² *Saint Alphonsus Diversified Care, Inc. v. MRI Associates, LLP*, 2009 WL 3365651; *O'Neil v. Vasseur*, 118 Idaho 257 (1990).

¹³ *Id.*

¹⁴ *See, Karnes v. SCI Colorado Funeral Services*, 162 F.3d 1077, 1080 (10th Cir. 1998) (finding federal law supplies a suitable rule to apply for the burden of proof required to award punitive damages). *See, Nelson v. Emerald People's Util. Dist.*, 862 P.2d 1293, 1300 (Or. 1993) (the federal standard of proof for punitive damages under § 1983 is a preponderance of the evidence); *Community Hosp. v. Fail*, 969 P.2d 667, 681 (Colo. 1998) (in federal civil rights cases burden of proof for punitive damages is preponderance of the evidence irrespective of state statute setting standard to beyond a reasonable doubt); *Stender v. Lucky Stores Inc.*, 803 F. Supp. 259, 324 (N.D. Cal. 1992) (same); *Adams v. Pinole Point Steel Co.*, Nos. C 92-1962 MHP, C 93-3708 MHP, 1995 WL 73088, at *5 (N.D. Cal. Feb.10, 1995) (same); *Bird v. Figel*, 725 F. Supp. 406, 412 (N.D. Ind. 1989) (same); *Patrykus v. Gomilla*, Nos. 86 C 9748, 87 C 2083, and 87 C 7925, 1989 WL 8610, at *3 (N.D. Ill. Feb.2, 1989) (same) (citing *Spanish Action Comm. of Chicago v. City of Chicago*, 766 F.2d 315, 318 n. 2 (7th Cir. 1985)); *Norris v. City of Easton*, Civ. A. No. 88-3028, 1989 WL 49520, at *3 (E.D. Pa. May 8, 1989) (same); *Rowlett v. Anheuser-Busch, Inc.*, 832 F.2d 194, 205 n. 5 (1st Cir. 1987) (same); *Wren v. Spurlock*, 798 F.2d 1313, 1322 (10th Cir. 1986) (same); *McKinley v. Trattles*, 732 F.2d 1320, 1326 n. 2 (7th Cir. 1984) (same); *Cerjan v. Fasula*, 539 F. Supp. 1226, 1235 (N.D. Ohio 1981) (same). *Compare, Mitchell v. Keith*, 752 F.2d 385, 390 (9th Cir. 1985) (applying California law to set standard for punitive damages) with *Woods v. Graphic Communications*, 925 F.2d 1195, 1204-06 (9th Cir. 1991) (applying federal law to set punitive damages standard).

litigation in state court.¹⁵ The federal rule for the burden of proof to award punitive damages is by a preponderance of the evidence.¹⁶ It is purely a matter of substantive law.

Furthermore, a state statute limiting the availability of punitive damages does not apply to federal civil rights suits.¹⁷ Because the § 1983 damages principles enunciated by the Supreme Court in *Smith v. Wade*¹⁸ are based on federal standards, state law monetary limitations on the recovery of damages, such as those found in I.C. § 6-1604(3), should not be applied to § 1983 claims.¹⁹ Several courts have held that state rules limiting the amount of damages recoverable for a violation of federally protected rights are inconsistent with § 1983 because they frustrate Congress's purpose of providing full compensation for deprivation of federal constitutional rights.²⁰ "[T]he availability of damages under § 1983 is a question of federal law . . . state statutes purporting to limit the damages available in a suit against a state actor are not applicable to suits brought under § 1983."²¹

The Civil Rights Act of 1871, 42 U.S.C. § 1983, was enacted in order to advance the federal policy of providing a vehicle for enforcement of the United States Constitution through providing damages that would compensate victims and deter wrongdoers. Punitive damages

¹⁵ *Karnes*, 162 F.3d at 1080.

¹⁶ *Karnes*, 162 F.3d at 1080.

¹⁷ *Hartman ex rel Douglas v. Correctional Medical Servs.*, 960 F. Supp. 1577 (M.D. Fla. 1996).

¹⁸ 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983) (holding federal law provided the *mens rea* necessary to justify a punitive damages award).

¹⁹ *Bell v. City of Milwaukee*, 746 F.2d 1205, 1251-52 (7th Cir. 1984).

²⁰ *Bell*, 746 F.2d 1205, 1251-53 (7th Cir. 1984); *Rosa v. Cantrell*, 705 F.2d 1208 (10th Cir. 1982), *cert. denied*, 464 U.S. 821 (1983); *Hegarty v. Somerset County*, 848 F. Supp. 257 (D. Me. 1994), *aff'd in part*, 53 F.3d 1367 (1st Cir. 1995); *Patrick v. City of Florala*, 793 F. Supp. 301 (M.D. Ala. 1992); *Sager v. City of Woodland Park*, 543 F. Supp. 282 (D. Colo. 1982); *Los Angeles v. Superior Court*, 78 Cal. App. 4th 212, 92 Cal. Rptr. 2d 668 (Ct. App. 2000); *Thompson v. Village of Hales Comers*, 115 Wisc. 2d 289, 340 N.W.2d 704 (1983).

²¹ *Patrick*, 793 F. Supp. 302.

have repeatedly been recognized as playing an important part in advancing the policies underlying § 1983.²² “[W]hen 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,” a plaintiff may be awarded punitive damages.²³ As with compensatory damages, federal law governs the availability of punitive damages in a federal civil rights action under § 1983.²⁴

Since § 6-1604(2) is substantive state law, it has no application in the case at hand since the claims brought are purely a matter of federal law.²⁵ As such, this Court should grant leave to Plaintiffs to file a Third Amended Complaint without application of I.C. § 6-1604.

B. Alternatively, Plaintiffs Will Meet Their Burden Under Idaho Code § 6-1604(2)

While Plaintiffs do not believe I.C. § 6-1604 has any application to this case, out of an abundance of caution, they alternatively move for an order under § 1604(2) permitting them leave to file a Third Amended Complaint to add a prayer for punitive damages.

A motion under § 1604(2) should be granted where the plaintiff shows a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages.²⁶ The mental state required to support an award of punitive damages includes gross negligence, deliberate indifference, recklessness, and willfulness, among others.²⁷ An award of punitive damages will be sustained when it is shown that the conduct of the defendant was an extreme

²² *Smith v. Wade*, 461 U.S. 30, 56 (1983).

²³ *Id.*

²⁴ *Wulf v. City of Wichita*, 883 F.2d 842, 867 (10th Cir. 1989).

²⁵ *See, Windsor v. Guarantee Trust Life Ins. Co.*, 684 F. Supp. 630 (D. Id. 1988) (§ 6-1604(2) prohibiting claim for damages containing prayer for punitive damages and requiring hearing before allowing amendment to pleadings to include prayer for relief seeking punitive damages was substantive in nature, and therefore controlling in federal court in diversity case).

²⁶ *Doe v. Cutter Biological*, 844 F. Supp. 602 (D. Idaho 1994); *Bendocci v. Howmedica, Inc.*, 2 Fed. Appx. 711, 2001 WL 50711; *Vendelin v. Costco Wholesale Corp.*, 140 Idaho 416 (2004).

²⁷ *Vendelin, supra.*

deviation from reasonable standards of conduct and that the defendant acted with an understanding of or disregard for its likely consequence.²⁸

Here, because the claims are brought as a § 1983 civil rights action to enforce the Plaintiffs' rights under the Eighth and Fourteenth Amendments of the United States Constitution, the standard for recovery is deliberate indifference. As a matter of law, a showing of deliberate indifference would support an award of punitive damages against the Defendants.

Plaintiffs have previously filed the Affidavit of Counsel in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment and Second Affidavit of Darwin Overson in Opposition to Defendants' Motion for Summary Judgment. The exhibits thereto are more than a sufficient showing that there is a reasonable likelihood that the Plaintiffs will prove facts at trial sufficient to support an award of punitive damages. Furthermore, adding to the sufficiency of Plaintiffs' showing are the following affidavits in the record: Affidavit of Plaintiff Rita Hoagland in Support of Plaintiffs' Opposition to Defendants' Motion For Summary Judgment (filed June 23, 2010); Affidavit of Aaron Shephard; Affidavit of Kate Pape (served on May 28, 2010); Affidavit of Kate Pape (served on July 1); Affidavit of Erica Johnson (served May 28, 2010); Affidavit of Melissa Robinson (filed under seal and served May 28, 2010); Affidavit of Ryan Donelson (served May 28, 2010); Affidavit of Eric Urian (served May 28, 2010); Affidavit of Raquel Durrant (served May 28, 2010); Affidavit of Leslie Robertson (served May 28, 2010); Affidavit of James Johnson (served May 28, 2010); Affidavit of Jeremy Wroblewski (served May 28, 2010); Affidavit of James K. Dickinson (served May 28, 2010); Affidavit of Marshal McKinley (served May 28, 2010); and Affidavit of Mike Drinkall (served May 28, 2010).

²⁸ *Id.*

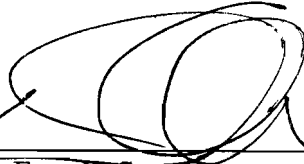
While the affidavits on record are a sufficient showing, in the event this Court finds that I.C. § 1604 is applicable, Plaintiffs respectfully request an evidentiary hearing at which time additional testimony will be presented in support of Plaintiffs' motion.

III. CONCLUSION

Accordingly, Plaintiffs respectfully request an order of this Court granting leave to file their Third Amended Complaint to include a prayer for relief that includes punitive damages.

DATED this 13th day of August, 2010.

JONES & SWARTZ PLLC

By 

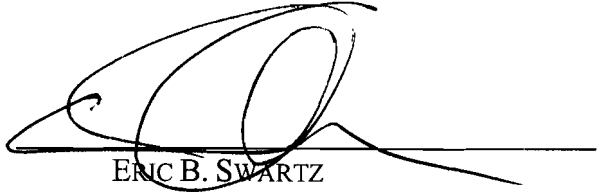
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
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ORIGINAL

FILED 4/21
A.M.

AUG 13 2010

J. DAVID NAV. CLERK
By L. AMES
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joy@jonesandswartzlaw.com

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFFS' MOTION
TO ENLARGE TIME FOR
AMENDING THE COMPLAINT
TO INCLUDE PUNITIVE
DAMAGES**

Plaintiffs respectfully move to enlarge the time in which Plaintiffs may seek leave to add a claim for punitive damages.

This Motion is filed in the alternative to Plaintiffs' Motion for Leave to File a Third Amended Complaint to Add a Claim for Punitive Damages because Plaintiffs' position is that they are not required to file a motion pursuant to I.C. § 6-1604 in order to amend the pleading to

mw

add punitive damages. Rather, I.R.C.P. 15 is the only applicable requirement, and Plaintiffs have already sought leave under I.R.C.P. 15 to file their Third Amended Complaint.

This Motion is being brought in an abundance of caution in the event that this Court finds I.C. § 6-1604 is applicable and the affidavits of record are insufficient to demonstrate a reasonable basis for a jury to award punitive damages in this case.


Good cause exists for this Motion as it is timely and additional time to complete discovery may be required to meet the burden of I.C. § 6-1604.

This Motion is supported by the Memorandum filed contemporaneously herewith and the affidavits that have already been made part of the record.

Accordingly, Plaintiffs seek to move the deadline for amending the Complaint to add punitive damages to October 12, 2010, to coincide with Plaintiffs' expert disclosure deadline.

DATED this 13th day of August, 2010.

JONES & SWARTZ PLLC

By 

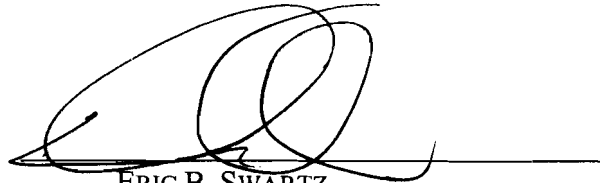
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DARWIN L. OVERSON
JOY M. BINGHAM

3. The deadline for amending pleadings and adding parties is August 13, 2010. An extension of that deadline has been requested as it may apply to amending the pleadings to seek punitive damages.

4. Documentary discovery in this case has been extensive, with there now being over 4,000 pages of documents, multiple videos, audio recordings and other tangible items.

5. According to documents received in discovery from Defendants, the Ada County Jail underwent an accreditation survey in August 2008 by the National Commission on Correctional Health Care (NCCHC). The NCCHC includes as part of its accreditation survey a portion of suicide assessment and prevention.

6. Munroe died in the Ada County Jail on September 29, 2008.

7. NCCHC withdrew the Ada County Jail's accreditation several months later as a result of its findings during the survey.

8. Plaintiffs made a request for production under I.R.C.P. 34 for the August 2008 NCCHC survey report and all reports thereafter. In response, Defendants represented that they did not have the reports and that Plaintiffs would have to obtain them from NCCHC directly.

9. My paralegal contacted NCCHC to inquire whether they would accept service of a subpoena, and they agreed that they would.

10. A subpoena was prepared, but when NCCHC received the subpoena, they declined to accept service and declined to produce the records.

11. I contacted defense counsel regarding the need for us to obtain from them an authorization for release of the records. I was told that Defendants would instead obtain the records directly from NCCHC and provide them pursuant to Plaintiffs' Rule 34 request for production. To date, those records have not been received by Plaintiffs.

12. Defendants have produced in discovery NCCHC survey reports from years prior to 2008. In those reports, NCCHC surveyors reviewed the Ada County Jail's suicide assessment and prevention procedures and practices.


13. There are many items of discovery that have not yet been provided to the Plaintiffs that would be relevant to a hearing on whether Plaintiffs have satisfied their burden under I.C. § 6-1604, including video of Munroe in the jail just prior to his death.

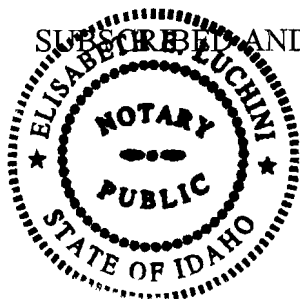
14. To complete discovery in this case, multiple depositions need to be taken. To date, the parties have been focused on documentary discovery, so no depositions have yet been taken. Plaintiffs have requested of the Defendants convenient dates for those depositions and the parties are working to accomplish the goal of scheduling those depositions.

15. I spoke with Plaintiffs' expert, Dr. Thomas White, an expert in the area of jail suicide and NCCHC standards. He has requested deposition testimony prior to his rendering a complete opinion.


16. I believe a fair deadline for amending the Complaint to add a claim for punitive damages would be October 12, 2010, to coincide with the deadline for Plaintiffs' expert disclosures.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


DARWIN L. OVERSON



SUBSCRIBED AND SWORN TO before me this 13th day of August, 2010.

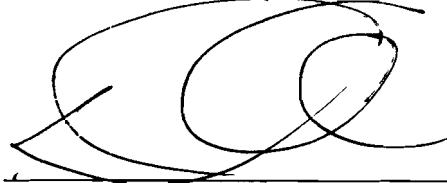

Notary Public for Idaho
My Commission expires 7.8.12

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DARWIN L. OVERSON
JOY M. BINGHAM

ORIGINAL

NO. _____ FILED 4/21
A.M. _____ P.M.

AUG 13 2010

J. DAVID NAVARRO, Clerk
By L. AMES
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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**MEMORANDUM IN SUPPORT
OF PLAINTIFFS' MOTION TO
ENLARGE TIME FOR
AMENDING THE COMPLAINT
TO INCLUDE PUNITIVE
DAMAGES**

I. INTRODUCTION

Plaintiffs' Motion to Enlarge Time has been filed in the alternative to Plaintiffs' Motion for Leave to File a Third Amended Complaint to Add a Claim for Punitive Damages. This Motion is made in the alternative because Plaintiffs' position is that they are not required to file a motion pursuant to I.C. § 6-1604 in order to amend the pleading to add punitive damages.

W

Rather, I.R.C.P. 15 is the only applicable requirement, and Plaintiffs have already sought leave under I.R.C.P. 15 to file their Third Amended Complaint.

This Motion is being brought in an abundance of caution in the event that this Court finds I.C. § 6-1604 is applicable and the affidavits of record are insufficient to demonstrate a reasonable basis for a jury to award punitive damages in this case.

II. ARGUMENT

Good cause exists for this Motion as it is timely and additional time to complete discovery may be required to meet the burden of I.C. § 6-1604. The deadline for amending the pleadings is August 13, 2010.

As this Court is aware, documentary discovery has been extensive in this case.¹ At this stage of the proceedings, it appears the parties have a loose handle on the documentary evidence, though they have not completed all discovery in that regard. For instance, the Ada County Jail's NCCHC accreditation reports from August 2008's survey and all subsequent survey reports were first requested from the Defendants under Rule 34 (Requests for Production).² Defendants indicated they do not have the 2008 survey report and that we should obtain it from NCCHC directly.³ Plaintiffs served a subpoena on NCCHC after that entity agreed to accept service.⁴ After NCCHC received the subpoena, they declined to either produce the documents or even accept service.⁵ Plaintiffs then requested an authorization from Defendants for the release of the

¹ Affidavit of Counsel in Support of Plaintiffs' Motion to Enlarge Time for Amending the Complaint to Include Punitive Damages, ¶ 4.

² *Id.* at ¶ 8.

³ *Id.*

⁴ *Id.* at ¶¶ 9-10.

⁵ *Id.* at ¶ 0.

information.⁶ Defendants then indicated they would obtain the materials and produce them in accordance with our discovery request.⁷ We have yet to receive them.⁸ The NCCHC reports are critical evidence in this case since the Ada County Jail lost its accreditation for the same period that the suicide took place.⁹ Part of the NCCHC accreditation survey consists of a jail's suicide assessment and prevention procedures.¹⁰ There are many items of discovery that have not been provided yet that would be relevant to a hearing on whether Plaintiffs have satisfied their burden under I.C. § 6-1604, including video of Munroe in the jail just prior to his death.¹¹

Similarly, multiple depositions need to be taken.¹² To date, the parties have been focused on documentary discovery, so no depositions have yet been taken.¹³ Plaintiffs have requested of Defendants convenient dates for those depositions and the parties are working to accomplish that goal.¹⁴ Plaintiffs' expert, Dr. Thomas White, an expert in the area of jail suicide, has asked that depositions be taken prior to his rendering a complete opinion as to each of the Defendants.¹⁵

While the parties are earnestly working to complete discovery, there is a considerable amount of discovery to be completed before the parties will have a complete picture of the events leading up to Munroe's death. Accordingly, Plaintiffs seek to move the deadline for amending the Complaint to add punitive damages to October 12, 2010, to coincide with Plaintiffs' expert disclosure deadline.

⁶ *Id.* at ¶ 1.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at ¶¶ 5-7.

¹⁰ *Id.* at ¶ 5.

¹¹ *Id.* at ¶ 13.

¹² *Id.* at ¶ 14.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at ¶ 15.

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court enlarge the deadline for amending the Complaint to add punitive damages to October 12, 2010.

Dated this 13th day of August, 2010.

JONES & SWARTZ PLLC



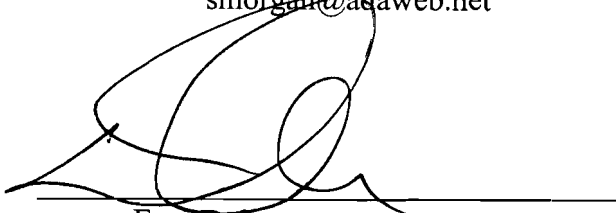
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matters set forth herein, and if called upon to testify about the same I could do so competently.

2. On June 21, 2010, I filed with the Court an Affidavit of Counsel in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment. To that motion were attached 32 Exhibits. Defendants sought to strike portions of the affidavit on various grounds. I am filing this affidavit in an attempt to cure some of Defendants' concerns with that affidavit. This affidavit is filed in support of Plaintiffs' Motion For Leave to File a Third Amended Complaint to Include Punitive Damages. Many of the exhibits contained in my Affidavit of Counsel in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment support Plaintiffs' claim for punitive damages. Rather than re-file those exhibits, I will reference them throughout this affidavit.

3. On July 9, 2010, I filed with the Court a Second Affidavit of Darwin Overson in Opposition to Defendants' Motion for Summary Judgment. Attached as Exhibit A to that affidavit was Plaintiffs' Corrected Requests for Admissions Nos. 97, 98, and 99 to Defendant Ada County Sheriff, Gary Raney. Attached as Exhibit B to that affidavit was Defendants' Responses to Plaintiffs' Corrected Request for Admissions Nos. 97, 98 and 99 to Defendant Ada County Sheriff Raney. Both of those exhibits addressed foundational issues Defendants had with Plaintiff submitting a medication insert for the anti-depressant Celexa and were filed to replace Exhibit 18 of my original affidavit in opposition to the Defendants' motion for summary judgment.

4. Exhibit 1 of Affidavit of Counsel in Support of Plaintiffs' Opposition to Defendants Motion For Summary Judgment (hereinafter "Original Affidavit") is a true and correct copy of the Letters of Administration appointing Plaintiff Rita Hoagland the personal representative of Bradley Munroe's estate, along with a true and correct copy of the death

certificate of Bradley Munroe.

5. Exhibit 2 of the Original Affidavit includes a true and correct copy of Defendants 8th Supplemental Response to Plaintiffs' First Request For Production page 1. It appears to be a chart showing the chain of command for the portion of the Ada County Jail over which Defendant Scown is responsible.

6. Exhibit 3 of the Original Affidavit consists of a true and correct copy of portions of Defendants Eight Supplemental Response to Plaintiffs' First Set of Interrogatories, Requests for Production and Requests for Admission to Defendant Ada County Sheriff Raney. The portions included are those identifying certain employees of Ada County, their job titles and a general description of the knowledge of Bradley Munroe.

7. Exhibit 4 of the Original Affidavit consists of true and correct copies of a number of documents consisting of job descriptions for job titles of employees of Ada County Jail identified by the Defendants in Exhibit 3 of the Original Affidavit. The job descriptions included are those for each of the named Defendants in Plaintiffs' Amended Complaint with the exception of Defendants Ada County, Raney, and Scown. All of the documents contained in Exhibit 4 were produced by the Defendants in response to Plaintiffs' discovery requests.

8. Exhibit 6 of the Original Affidavit consists of a true and correct copy of a Professional Services Agreement for Medical Services executed between Defendant Steven Garrett and Ada County for Ada County Sheriff's Office to provide professional medical care services for persons in the custody of the Ada County Sheriff. The agreement was produced by the Defendants pursuant to Plaintiffs' discovery requests.

9. Exhibit 7 of the Original Affidavit consists of true and correct copies of written policies of Ada County. The first is the Ada County Jail Inmate Handbook produced by

Defendants in response to Plaintiffs' request for discovery. The document was not bates stamped when received by the Plaintiffs. Next are relevant portions of Ada County Jail Medical Standard Operating Procedures. Next are relevant portions of the Ada County Jail Court Services Bureau Standard Operating Procedure that were produced by Defendants in response to Plaintiffs' discovery requests. Next is one page from Ada County's Standard Operating Procedures of the Ada County Sheriff's Office produced by Defendants in response to Plaintiffs' discovery requests. In Plaintiffs' discovery requests to which these documents were responsive, Plaintiffs ask that the Defendants produce the written policies under which Ada County operates the Sheriff's Office, the Ada County Jail and the Ada County Jail Medical Unit.

10. Exhibit 8 of the Original Affidavit consists of a true and correct copy Psychiatric Services Agreement executed between Defendant Michael E. Estess and Ada County for Ada County Sheriff's Office to provide professional psychiatric medical care services for persons in the custody of the Ada County Sheriff. The agreement was produced by the Defendants pursuant to Plaintiffs' discovery requests.

11. Exhibit 9 of the Original Affidavit consists of a true and correct copy Professional Services Agreement With Ricky Lee Steinberg, Physician's Assistant-C executed between Defendant Ricky Lee Steinberg and Ada County Sheriff's Office to provide professional physician's assistant services for persons in the custody of the Ada County Sheriff. The agreement was produced by the Defendants pursuant to Plaintiffs' discovery requests.

12. Exhibit 10 of the Original Affidavit consists of a true and correct copy of a November 13, 2008 letter from the National Commission on Correctional Health Care to Defendant Gary Raney informing him that the National Commission on Correctional Health Care was withdrawing its accreditation of the Ada County Jail due to its survey of August 2008

of the jail. Also included in Exhibit 10 is Defendants' Answers and Responses to Plaintiffs' Second Set of Interrogatories, Requests for Production and Requests for Admissions to Defendant Ada County Sheriff Raney. All of these documents were produced by Defendant Sheriff Raney in response to Plaintiffs' discovery requests.

13. Exhibit 11 of the Original Affidavit consists of a true and correct copy of a July 13, 2005 letter from the National Commission on Correctional Health Care informing Defendant Raney that the National Commission on Correctional Health Care was continuing its accreditation of the Ada County Jail. These documents were produced by Defendants in response to Plaintiff's discovery requests.

14. Exhibit 12 of the Original Affidavit consists of a true and correct copy what appear to be psychiatric records of Bradley Munroe. These documents were produced by Defendants in response to Plaintiffs' discovery requests.

15. Exhibit 13 of the Original Affidavit consists of a true and correct copy of Ada County Jail records concerning Bradley Munroe's booking of October 27, 2007 into the Ada County Jail. These records were produced by Defendants in response to Plaintiffs' discovery requests.

16. Exhibit 14 of the Original Affidavit consists of a true and correct copy of Ada County Jail records concerning Bradley Munroe's booking of July 4, 2008 into the Ada County Jail. These records were produced by Defendants in response to Plaintiffs' discovery requests.

17. Exhibit 15 of the Original Affidavit consists of a true and correct copy of Ada County Jail records concerning Bradley Munroe's booking of August 28, 2008 into the Ada County Jail and his stay there. These records were produced by Defendants in response to Plaintiffs' discovery requests.

18. Exhibit 16 of the Original Affidavit consists of a true and correct copy of Ada County Jail records concerning Bradley Munroe's booking of September 28, 2008 into the Ada County Jail and his stay there. These records were produced by Defendants in response to Plaintiffs' discovery requests.

19. Exhibit 17 of the Original Affidavit consists of a true and correct copy of Ada County Jail medical records concerning medical treatment Bradley Munroe received while incarcerated at the Ada County Jail during each of his incarcerations there. These records were produced by Defendants in response to Plaintiffs' discovery requests.

20. Exhibit 18 of the Original Affidavit consists of a true and correct copy of the FDA drug safety information for patients and providers for a class of anti-psychotic drugs that includes Perphenazine—medication Bradley Munroe was prescribed. In the upper right hand corner of the document is the web site address where I retrieved this document. I printed the document from that web site on June 21, 2010 at 12:28 p.m. as indicated on the document. The document identifies Perphenazine as being an antipsychotic medication. The next document in Exhibit 18 is a true and correct print out from the FDA's website as indicated in the upper right hand corner. I printed the document from the FDA's website on June 21, 2010 at 12:30 p.m.. The document states that that on May 2, 2007, the FDA proposed makers of antidepressant medications update the existing black box warnings to include information about the increased risk of suicidal thinking and behavior of persons during initiation of the medication who fall into the age range of 18 to 24 years old. Initiation of the medication is indicated as being the first month to two months. Among the medications included are Perphenazine and Celexa, two medications Bradley Munroe was prescribed just shortly before being booked into the Ada County Jail on August 28, 2008. The next document in Exhibit 18 consists of a true and correct

copy of a Revision to Medication Guide providing guidance and warning of increased risks of suicidality with the use of drugs such as Perphenazine and Celexa. I printed this from the FDA's web site on June 21, 2010. Next is the updated black box warning proposed by the FDA for the referenced class of antidepressants, including Perphenazine and Celexa. The final document is the Celexa insert discussed in paragraph 3 of this affidavit.

21. Exhibit 19 of the Original Affidavit consists of a true and correct copy of a blue print of the Ada County Jail showing the general lay out of the jail where Bradley Munroe was housed. The cell where Bradley Munroe was housed when he took his life was 735 which appears on the document at the far right hand end of a hall way. The blue print was produced to Plaintiffs by Defendants in discovery.

22. Exhibit 20 of the Original Affidavit consists of a true and correct copy of relevant portions of Defendants' Responses to Plaintiffs' Corrected Request For Admission Nos. 87, 98, and 99 to Defendant Sheriff Raney. In Response No. 97, Defendant Raney admits that the Jail Initial Classification Temporary Cell Assignment Form reflects Bradley Munroe "says if he doesn't take meds he gets bad mood swings. has [sic] a 4 in scar on right arm that is self inflicted. says [sic] his meds are for depression, manic, ocd, bi-polar" and also reflects Bradley Munroe provide information that he had previously contemplated and attempted suicide.

23. Exhibit 21 of the Original Affidavit consists of a true and correct copy of Boise Police Department reports relating to Bradley Munroe's arrest of September 28, 2008. Also included in Exhibit 21 are true and correct copies of Saint Alphonsus documents produced by Defendants to Plaintiffs in discovery relating to the medical clearance Bradley Munroe received their on the night of September 28, 2008 prior to be transported to the Ada County Jail by Boise City Deputies. The next document in Exhibit 21 is a true and correct copy of an Ada County Jail

Inmate Housing Security Check Log dated September 28, 2009. The third entry on the log made at 11:05 p.m. appears to state that Bradley Munroe had been wrapping string around his neck. I have reviewed videotaped evidence of Bradley Munroe during this period of time while he was in the jail and that statement is consistent with the observations I made watching the videotape. All these documents comprising Exhibit 21 were produced by Defendants in response to Plaintiffs' discovery requests.

24. Exhibit 22 of the Original Affidavit consists of a true and correct copy of a typed statement of Ada County Deputy Jeremy Wroblewski recounting the events surrounding the booking of Bradley Munroe on September 29, 2008. The next document in Exhibit 22 is a true and correct copy of the Affidavit of Jeremy Wroblewski again recounting the events surrounding the booking of Bradley Munroe on September 29, 2008. Both documents were produced to Plaintiffs by the Defendants.

25. Exhibit 23 of the Original Affidavit consists of a true and correct copy of a typed statement of Defendant James Johnson recounting his interview with Bradley Munroe on September 29, 2008. The next document in Exhibit 23 is a true and correct copy of the Affidavit of James Johnson again recounting the events surrounding his interview with Bradley Munroe on September 29, 2008. Both documents were produced to Plaintiffs by the Defendants.

26. Exhibit 24 of the Original Affidavit consists of a true and correct copy of a May 25, 2010 letter from Mary Jo Beig, Deputy Attorney General responding to a subpoena I had served on the Department of Health and Welfare asking for any and all minutes of weekly meetings between jail medical staff and Health and Welfare Psychological Services regarding Bradley Munroe. The letter states that there are no such records. Also included in Exhibit 24 is an Affidavit of Compliance responsive to a subpoena I had served on the Bureau of Occupational

Licenses. The letter indicates that Defendant James Johnson hold no license in the State of Idaho to practice as a social worker.

27. Exhibit 25 of the Original Affidavit consists of a true and correct copy of the training transcript of Defendant James Johnson while employed at the Ada County Jail indicating that he did his new employee training on June 10, 2008 and did his suicide assessment training on May 19, 2009.

28. Exhibit 26 of the Original Affidavit consists of a true and correct copy of the Affidavit of Erica Johnson which was previously filed with the Court by Defendants.

29. Exhibit 27 of the Original Affidavit consists of a true and correct copy is a true and correct copy of the Affidavit of Ryan Donelson which was previously filed with the Court by Defendants.

30. Exhibit 28 of the Original Affidavit consists of a true and correct copy of the Affidavit of Mike Drinkall which was previously filed with the Court by Defendants.

31. Exhibit 29 of the Original Affidavit consists of a true and correct copy of the Affidavit of Leslie Robertson which was previously filed with the Court by Defendants. Also included in Exhibit 29 are true and correct copies of photographs that were produced by Defendants in response to Plaintiffs' discovery requests of the interior of the jail cell where Bradley Munroe took his life. These photographs, it has been represented in Defendants' discovery responses, were taken as part of the investigation undertaken by Ada County Detective Buie. In preparing the exhibits to the Original Affidavit the photographs were inadvertently included in Exhibit 29. They should have been included in Exhibit 30 as they are part of the investigation into Munroe's death.

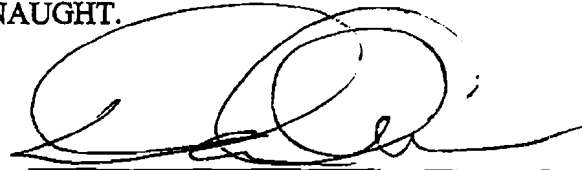
32. Exhibit 30 of the Original Affidavit consists of a true and correct copy of the Ada

County Sheriff's Office report of Detective Buie's investigation into the death of Bradley Munroe.

33. Exhibit 31 of the Original Affidavit consists of a true and correct copy of the Affidavit of Plaintiff Rita Hoagland which was previously filed with the Court by Plaintiffs.

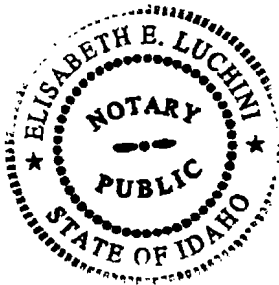
34. Exhibit 32 of the Original Affidavit consists of a true and correct copy of the Ada County Coroner's Report relating to the death of Bradley Munroe.

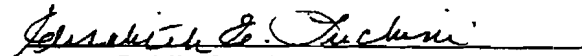
FURTHER YOUR AFFLIANT SAYETH NAUGHT.



DARWIN OVERSON

SUBSCRIBED AND SWORN TO before me this 13th day of August, 2010.



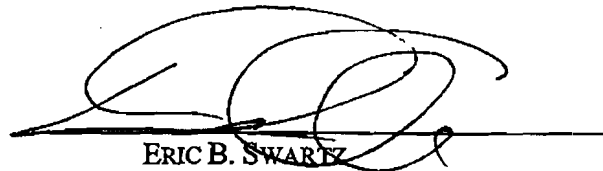

Notary Public for Idaho
My Commission Expires 7.8.12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
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ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

NO. _____ FILED _____
A.M. _____ 4/21

SEP 9 2010

J. DAVID NAVARETO, Clerk
By E. HOLMES
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV OC 0901461

MEMORANDUM IN RESPONSE TO PLAINTIFFS' MOTIONS FOR LEAVE TO FILE A SECOND AND THIRD AMENDED COMPLAINT, AND RESPONSE TO PLAINTIFFS' MOTION TO ENLARGE TIME

COME NOW, the Defendants, by and through their counsel of record, and hereby respond and object to Plaintiffs' three (3) Motions pending before the Court: (1) Plaintiffs' Motion for Leave to File a Second Amended Complaint; (2) Plaintiffs' Motion to Enlarge Time

MEMORANDUM IN RESPONSE TO PLAINTIFFS' MOTIONS FOR LEAVE TO FILE A SECOND AND THIRD AMENDED COMPLAINT, AND RESPONSE TO PLAINTIFFS' MOTION TO ENLARGE TIME – PAGE 1

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for Amending the Complaint to Include Punitive Damages; and (3) Plaintiffs' Motion for Leave to File a Third Amended Complaint to Add a Claim for Punitive Damages.¹

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On January 23, 2009, Plaintiffs filed an eleven page Complaint in this matter. Plaintiffs alleged tort claims against the Ada County Sheriff, and tort claims and 42 U.S.C. § 1983 violations against six detention deputies and the administrative assistant in the Jail's Health Services Unit. The gist of the lawsuit was that the deputies were watching a televised football game instead of Mr. Munroe. This distraction, the Complaint posited, allowed Mr. Munroe to commit suicide.

Three months ago Defendants filed a Summary Judgment Motion to terminate the Plaintiffs' lawsuit. In response, Plaintiffs withdrew their lawsuit and replaced it with an Amended Complaint embarking on entirely new theories.² The new Complaint is 89 pages long and includes 461 paragraphs. Plaintiffs now allege that Ada County, the Sheriff and his entire Jail management team – including the Jail Captain, Health Services Supervisor, contracted physicians, the contracted psychiatrist, a contracted physician's assistant, nurses and newly named deputies – committed 42 U.S.C. § 1983 violations arising out of the Jail's policies and customs. These theories are vastly different from those in the original Complaint.

Plaintiffs are now asking the Court to amend the Complaint twice again. Plaintiffs are asking for leave to file a Second Amended Complaint, which adds two previously unnamed deputies as defendants, and for leave to file a Third Amended Complaint, which includes a claim for punitive damages. Plaintiffs also ask the Court to grant them more time in which to amend

¹ For the Court's convenience, since the issues in all three (3) Motions are interwoven, Defendants are filing one (1) response which addresses all three (3) Motions.

² The Court allowed Plaintiffs to amend their Complaint, which Plaintiffs filed on July 12, 2010. To date, the new Defendants have not been served with the Amended Complaint.

their Complaint. For the reasons discussed below, Defendants respectfully request that the Court deny each of the Motions.

II. ARGUMENT

A. PLAINTIFFS' MOTION FOR LEAVE TO FILE A THIRD AMENDED COMPLAINT TO ADD A CLAIM FOR PUNITIVE DAMAGES SHOULD BE DENIED.

Plaintiffs invite the Court to skip the first step in a proper punitive damages analysis and proceed to argue the applicability of Idaho Code § 6-1604 to a lawsuit filed in state court pursuant to 42 U.S. § 1983. However, the United States Supreme Court has made it clear that punitive damages are not allowed against a municipality or individuals named in their official capacity, and the Defendants forward that they are not allowed against those named in their individual capacity as well.

However, even if the Plaintiffs *could* bring a punitive damages claim, the Plaintiffs must still comply with Idaho Code § 6-1604, which, as the facts show, the Plaintiffs simply cannot do. Further, § 1983 case law only allows punitive damages in the most egregious of circumstances which, again, the facts do not support.

1. Plaintiffs Are Not Entitled to Bring a Punitive Damages Claim Against Any of the Defendants.

The seminal § 1983 punitive damages case is missing from Plaintiffs' Memorandum. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 101 S. Ct. 2748, 69 L. Ed. 2d 616 (1981), decided the law in this area. In *Newport*, the district court jury returned a verdict containing a punitive damage award against the city of the same name. The city appealed.

The Supreme Court was very clear in its ruling, "we hold that a municipality is [absolutely] immune from punitive damages under 42 U.S.C. § 1983." *Id.* at 271, 2762. The rationale behind this holding is apparent – the Court was very concerned about the impact an

award of punitive damages could have on governmental budgets, since an award of punitive damages against a municipality is in essence an award against the taxpayers.

We see no reason to believe that Congress' opposition to punishing innocent taxpayers and bankrupting local governments would have been less applicable with regard to the novel specter of punitive damages against municipalities.

Id. at 266, 2759.

Continuing this theme, the Court expanded:

[I]t remains true that an award of punitive damages against a municipality “punishes” only the taxpayers, who took no part in the commission of the tort. These damages are assessed over and above the amount necessary to compensate the injured party Indeed, punitive damages imposed on a municipality are in effect a windfall to a fully compensated plaintiff, and are likely accompanied by an increase in taxes or a reduction of public services for the citizens footing the bill. Neither reason nor justice suggests that such retribution should be visited upon the shoulders of blameless or unknowing taxpayers.

Id. at 267, 2759-2760.

Plaintiffs have added Ada County as a defendant in this case, and now ask this Court to allow a claim of punitive damages against it. Based on the unequivocal holding of the United States Supreme Court, Ada County is absolutely immune from such a claim.

Plaintiffs also seek an award of punitive damages against the individually named Defendants who are sued in both their *official* and *individual* capacities. The United States Supreme Court explained that in a § 1983 lawsuit, when named in one’s *official capacity* the suit is actually against the government.

Official-capacity suits . . . “generally represent only another way of pleading an action against an entity of which an officer is an agent.” *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 690, n. 55, 98 S.Ct. 2018, 2035, n. 55, 56 L.Ed.2d 611 (1978). As long as the government entity receives notice and an opportunity to respond, an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity. *Brandon, supra*, 469 U.S., at 471-472, 105 S.Ct., at 878.

Kentucky v. Graham, 473 U.S. 159, 165-166, 105S. Ct. 3099, 3105, 87 L. Ed. 2d 114 (1985).

Consequently, an award of punitive damages against an officer in his official capacity “is in reality an assessment against the county, which is immune from such damages.” *Mitchell v. Dupnik*, 75 F.3d 517, 527 (9th Cir. 1996). In the present case, the individually named Defendants, when sued in their official capacities, are immune from an award of punitive damages.

Plaintiffs also attempt to seek an award of punitive damages against the Defendants in their *individual* capacities. In a § 1983 action, when sued in his *individual capacity*, a government employee may be *personally* liable for damages.³ However, an award of damages against an official in his individual capacity can be executed only against the official's *personal assets*. See *Kentucky*, 473 U.S. at 166, 105 S. Ct. at 3105.

This distinction between official capacity immunity and the potential personal liability of individual capacity defendants is pivotally important. The Supreme Court in *Newport* made clear it was immunizing governments against punitive damages since taxpayer funds were at risk, but left other instances where punitive damages could be allowed:

Moreover, there is available a more effective means of deterrence. By allowing juries and courts to assess punitive damages in *appropriate circumstances* against the offending official, based on his *personal financial resources*, the statute directly advances the public's interest in preventing repeated constitutional deprivations.

Newport, 453 U.S. at 269, 101 S. Ct. at 2761 (emphasis added).

In Idaho, this is a distinction without a difference. No governmental employee will be faced with damages against his personal assets. Idaho Code § 6-903(b) requires governmental entities in Idaho to defend and *indemnify* their employees:

³ However, this is not the situation in Idaho. See Idaho Code § 6-903(b).

[A] governmental entity shall provide a defense to its employee, including a defense and *indemnification against any claims brought against the employee in the employee's individual capacity* when the claims are related to the course and scope of employment, and be *responsible for the payment of any judgment* on any claim or civil lawsuit against an employee for money damages. . . .

Idaho Code § 6-903(b) (emphasis added).

As such, a claim of punitive damages must not be allowed against the Defendants named in their individual capacity.⁴ Ada County is self-insured, and all litigation costs and any applicable indemnification (including an award of punitive damages) will be paid from tax dollars. This is the very practice prohibited by the United States Supreme Court. As explained in *Newport* – a punitive damage award is ineffective when taxpayers are at risk.

One of the Court's primary concerns is valid in this instance:

The impact of such a windfall recovery is likely to be both unpredictable and, at times, substantial, and we are sensitive to the possible strain on local treasuries, and therefore on services available to the public at large. Absent a compelling reason for approving such an award, not present here, we deem it unwise to inflict the risk.

Newport, 453 U.S. at 270-271, 101 S. Ct. at 2761-6762.

⁴ There is further support for this conclusion. The Idaho Legislature retained common-law immunity from punitive damages. The Idaho Tort Claims Act (Idaho Code §§ 6-901, *et. seq.*) waived certain of its sovereign immunities to allow some litigation and damages against the state and its subdivisions. However, the Act *did not* waive immunity from punitive damages. In fact, the reservation of that immunity is blunt: "Governmental entities and their employees shall not be liable for punitive damages on any claim allowed under the provisions of this act." Idaho Code § 6-918. Noteworthy is the fact that the *Newport* decision gave great weight to common-law immunities:

One important assumption underlying the Court's decisions in this area is that members of the 42d Congress were familiar with common-law principles, including defenses previously recognized in ordinary tort litigation, and that they likely intended these common-law principles to obtain, absent specific provisions to the contrary.

Newport, 453 U.S. at 258, 101 S. Ct. at 2755.

Based the above, Plaintiffs are precluded from bringing punitive damages claims against Ada County and all of the Defendants named in both their official and individual capacities. The Plaintiffs' Motion should be denied.

2. *Even if Plaintiffs Could Bring a Punitive Damages Claim, They Cannot Meet the Standard Required for Such an Award.*

If the Court allows the Plaintiffs to amend their Complaint to include a claim for punitive damages against the Defendants in their individual capacities, Plaintiffs cannot meet the burden required to allow such an award. The standard set by the United States Supreme Court is purposefully high:

We hold that a jury may be permitted to assess punitive damages in an action under § 1983 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.

Smith v. Wade, 461 U.S. 30, 56; 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

The Court explained the basis for this high standard:

Punitive damages are awarded in the jury's discretion "to punish [the defendant] for his outrageous conduct and to deter him and others like him from similar conduct in the future." Restatement (Second) of Torts § 908(1) (1977). The focus is on the character of the tortfeasor's conduct-whether it is of the sort that calls for deterrence and punishment *over and above* that provided by compensatory awards.

Id. at 54, 1639.

Plaintiffs simply cannot meet this standard. None of the facts in this case indicate that any of the Defendants' actions were motivated by "evil intent." In fact, an examination of the facts shows the opposite. When Mr. Munroe arrived at the Jail the evening of September 28, 2008, he was initially uncooperative, so the decision was made for his care and well-being to house him in a holding cell near the booking area, where he was monitored every 15 minutes. Early the next morning, James Johnson, a masters level psychiatric social worker employed by

the Jail, was asked by the booking deputy⁵ to evaluate Mr. Munroe with respect to suicidal comments Mr. Munroe made the night before. Before meeting with Mr. Munroe, Mr. Johnson reviewed the medical file and recalled that Mr. Munroe was the same young man he had evaluated during his previous 30 day Jail stay.

During the morning's evaluation, Mr. Munroe assured Mr. Johnson that he was no longer suicidal; he explained his comments were made when he was "high." Mr. Munroe assured both Mr. Johnson and the booking deputy (Wroblewski) that he would not hurt himself.

Mr. Johnson stayed to observe Mr. Munroe's interaction with the booking deputy. Mr. Munroe followed directions, was not distracted and expressed himself clearly. His thought process was clear, and his reaction to instructions was appropriate. He was calm and clear, and did not present as nervous or artificial.

Mr. Munroe told Mr. Johnson that he had taken medication before, but did not want it now. He said he would send a written message (kite) to the medical unit if he changed his mind. Based on Mr. Johnson's observations, training and over 20 years of experience, he determined that Mr. Munroe was no longer suicidal.

Coincidentally, Mr. Munroe's mother, Plaintiff Rita Hoagland, placed a call to the Jail's Health Services Unit that same morning. Ms. Hoagland relayed her concern about Mr. Munroe and his past suicide attempts. That information was shared with Mr. Johnson, who just returned from his interview and assessment of Mr. Munroe. Mr. Johnson integrated the information into his assessment.

Mr. Munroe was now ready for housing, and was assigned to a multi-person cell. While walking to the cell, he shared with the escorting deputy that he had enemies who wished to kill

⁵ The booking deputy was Jeremy Wroblewski, a deputy that Plaintiffs are attempting to add as a defendant.

him. When the deputy asked who wanted to cause him harm, Mr. Munroe responded that “he was into a lot of stuff and everyone want[ed] to kill him.” The escorting deputy called the classification unit and obtained a protective custody cell for Mr. Munroe’s safety.

Well-being checks on Mr. Munroe were conducted during the day. At 8:38 p.m., during a routine well-being check (only 18 minutes after the previous check, during which nothing out of the ordinary was observed), Mr. Munroe was seen in a sitting posture at the end of his bunk with a sheet around his neck. The deputy immediately called for help and entered Mr. Munroe’s cell. CPR was begun, and minutes later paramedics arrived and worked to save Mr. Munroe. Mr. Munroe died at St. Alphonsus hospital an hour later.

Nothing in these facts shows an evil intent on the part of any of the Defendants. In fact, Plaintiffs’ current allegations, titrated to their essence, and combined with the luxury of 20/20 hindsight, allege that the Jail should have predicted Mr. Munroe’s actions. If this case had not occurred in a jail, it would be a negligence action. Since this occurred in a jail, the standard is much higher. The Plaintiffs must show “deliberate indifference” in their case-in-chief, and “evil intent” for punitives.

Since the Supreme Court’s purposefully high standard for punitive damages cannot be met, Plaintiffs should not be allowed to amend their Complaint to allege such a claim.

3. *Plaintiffs Must Still Comply With Idaho Law Regarding Punitive Damage Allegations – Idaho Code § 6-1604.*

If the Court allows Plaintiffs to amend their Complaint to include a prayer for punitive damages, Plaintiffs must still follow the procedure set out in Idaho Code § 6-1604. Plaintiffs forward this section is *substantive* and therefore not applicable to a 42 U.S.C. § 1983 lawsuit. Defendants, however, advance this statute is *procedural* and must be followed.

Idaho Code § 6-1604 provides in part:

(1) In any action seeking recovery of punitive damages, *the claimant must prove, by clear and convincing evidence, oppressive, fraudulent, malicious or outrageous conduct* by the party against whom the claim for punitive damages is asserted.

(2) In all civil actions in which punitive damages are permitted, no claim for damages shall be filed containing a prayer for relief seeking punitive damages. However, a party may, pursuant to a pretrial motion and after hearing before the court, amend the pleadings to include a prayer for relief seeking punitive damages. *The court shall allow the motion to amend the pleadings if, after weighing the evidence presented, the court concludes that, the moving party has established at such hearing a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages.* A prayer for relief added pursuant to this section shall not be barred by lapse of time under any applicable limitation on the time in which an action may be brought or claim asserted, if the time prescribed or limited had not expired when the original pleading was filed.

Idaho Code § 6-1604 (emphasis added).

Plaintiffs cite the 1988 Idaho Federal District Court opinion *Windsor v. Guarantee Trust Life Insurance*, 684 F. Supp. 630 (D. Idaho 1988), holding that the requirement that a plaintiff must show support for punitive damages is “substantive,” and must therefore be followed by Idaho federal courts sitting in diversity cases since state substantive law must be applied.

The case at bar is the mirror image of the *Windsor* case – an action in state court which must follow state procedural and federal substantive law. The Plaintiffs make the following argument – if the federal district court finds the Idaho punitive damages law to be substantive, it should not be followed in a § 1983 case in state court since only federal substantive law should apply.

This analysis would be persuasive if the Idaho case had been decided more recently (the federal courts’ analysis is no longer the same) and if *Windsor’s* determination of “substantive” meant what Plaintiffs forward it does.

In 2000, the Eleventh Circuit had occasion to review this issue. Florida's punitive damages statute, but for a few differences, has a pleading requirement like Idaho's punitive damages statute. *Cohen v. Office Depot, Inc.*, 204 F.3d 1069 (11th Cir. 2000), upheld and adopted the decision by an appellate panel finding the statute inapplicable in a diversity case in federal court because *federal procedural law* applied. *Cohen v. Office Depot, Inc.*, 184 F.3d 1292 (11th Cir. 1999) (vacated on other grounds).

The first *Cohen* Eleventh Circuit decision explained how an earlier Florida federal district court case (which undertook the same analysis as the Idaho federal district court in *Windsor*) “jumble[d] up” the proper “questions.” *Id.* at 1296. The court explained:

Under *Hanna*, the proper question to ask is not whether the state law provision is procedural or substantive; instead, the court must ask whether the state law provision conflicts with a federal procedural rule. If it does, the federal procedural rule applies and the state provision does not. Stated another way, if the state law conflicts with a federal procedural rule, the state law is procedural for *Erie/Hanna* purposes, regardless of how it may be characterized for other purposes.

Id. The Court continued, again criticizing the earlier federal district court's approach:

To reiterate the important point that is sometimes overlooked: where state law conflicts with a federal rule of procedure, the substance versus procedure question is asked only about the federal rule, not about the state law provision. That is the first prong of the *Hanna* test.

Id. at 1297.

In other words – if the Florida punitive damages statute was procedural, the Federal Rules of Civil Procedure would conflict with it – and since this matter was filed in federal court, federal, not state procedural law would apply.

The Eleventh Circuit, taking advantage of the progression of federal legal analysis since *Windsor*, corrected the analytical error made in its own district court, explaining that if state law collided with the Federal Rules of Civil Procedure, federal law applies. The federal courts

determine procedure in their courts – Idaho courts do the same. The fact a federal procedural rule conflicts with a state statute requiring a showing before punitive damages can be pled underscores the *procedural* nature of the statute. Because Idaho state courts apply Idaho procedural law, Idaho Code § 6-1604 applies to the case at bar because it is procedural. And, Plaintiffs must follow Idaho procedural requirements.

Both federal and state law precludes Plaintiffs from seeking punitive damages here. Foreclosing punitive damages in an action is substantive. Idaho Code § 6-1604 does not do that. Rather, it provides a gate-keeping function to ensure that where certain relief is sought the Plaintiffs can justify it. Idaho Code § 6-1604 obligates Plaintiffs to show, before adding a punitive damage prayer to their complaint, that they have sufficient evidence. On its face, given that this is part of the *procedure* Idaho plaintiffs must follow, it is logically procedural. To the extent this Court allows the prayer, there is no impairment. If the Court finds the Plaintiffs cannot meet the required standard, it works like a Motion in Limine.

B. THE GRANTING OF PLAINTIFFS' MOTIONS WILL PREJUDICE THE DEFENDANTS.

I.R.C.P. 15(a) provides that leave to amend a pleading shall be freely given when justice so requires; however, this decision is left to the sound discretion of the trial court. *Jones v. Watson*, 98 Idaho 606, 610, 570 P.2d 284, 288 (1977). Undue delay, bad faith, and prejudice to the opponent are all factors the trial court may consider when ruling on a motion to amend. *Spur Products Corp. v. Stoel Rives LLP*, 142 Idaho 41, 44, 122 P.3d 300, 303 (2005).

On or about June 21, 2010, Plaintiffs filed their Motion for Leave to Amend Their Complaint, in which they replaced the existing Defendants with eleven new Defendants, along with entirely new causes of action. Now, over two months later, Plaintiffs are again asking the

Court to allow them to add more defendants, to add a punitive damages claim, and to give them more time to assumedly make even more amendments to the Complaint.

These repeated attempts to amend the Complaint are prejudicing the Defendants. Although they argue otherwise, Plaintiffs had all of the information needed to add these two additional defendants and the punitive damages claim *two months ago* when they filed their original Motion to Amend Complaint, all of which could have easily been included in that first Motion. Instead, however, Plaintiffs waited until *the last day* in which they could file an amendment to the Complaint to yet again ask the Court to amend.⁶ This undue delay by the Plaintiffs caused the Defendants to have to file another response, and the Court and Defendants to have another hearing. And, we are two months closer to trial.

Regarding the addition of the two deputies as defendants, Plaintiffs argue that they could not make the latest amendment any earlier because they did not have the name of Deputy Roach. However, Deputy Roach has always been listed in the documents supplied to the Plaintiffs, and has always been identified by her Ada number. When asked by Plaintiffs to identify the deputy by name, the Defendants identified her name and sent a letter apprising the Plaintiffs of the same. Furthermore, the identity of Deputy Wroblewski (who Plaintiffs also ask to name) was known to Plaintiffs in November of 2009.⁷

Plaintiffs also blame their undue delay on the Defendants for not supplying them with reports from the National Commission on Correctional Health Care (NCCHC). The NCCHC is an organization that a small percentage of American jails voluntarily invite for jail certification.

⁶ Pursuant to the Court's Scheduling Order, Plaintiffs' last day to *file* an amendment to the Complaint was August 13, 2010. The only complaint on file with the Court by this deadline is the First Amended Complaint.

⁷ It appears this late amendment is based upon recent advice from Plaintiffs' expert, as opposed to not knowing the identity of the deputies.

There is no requirement that a jail be inspected by the NCCHC. In Ada County's case, previous inspections and certifications by the NCCHC were voluntary. The Ada County Jail has always met or exceeded Idaho required jail standards.

Plaintiffs asked for NCCHC documents early in discovery. The Defendants produced such documents in the possession of the Sheriff's Office. Apparently not satisfied with this production, Plaintiffs again requested that the Defendants produce all of the NCCHC reports. Defendants explained via phone call and letter that after double-checking, all such documents had been produced. Still not satisfied, Plaintiffs then requested records directly from the NCCHC offices, but the NCCHC refused to comply with the Plaintiffs' request.

Plaintiffs brought the refusal to the attention of Defendants. The Sheriff's Office (the NCCHC's client) ordered the reports from the NCCHC, which sent the reports in its possession to the Sheriff. All of the reports identified by the NCCHC were already shared with Plaintiffs in discovery, with the exception of two reports that had later been revised. The final reports had already been disclosed. These two NCCHC reports were copied and shared with Plaintiffs. Plaintiffs' arguments to the contrary are disingenuous.

Defendants will also be prejudiced by an order enlarging the time in which to amend the Complaint to add punitive damages. The Court's Scheduling Order was entered in October 2009, and Plaintiffs have known about the amendment deadline since then. As previously stated, Plaintiffs drastically changed their case theory when they filed their Amended Complaint. They earlier requested more time to prepare and respond to the Defendants' Motion for Summary Judgment filed in May, and based their request on their expert's inability to proceed. They asserted that the Defendants would not be prejudiced.

Now, over two months later, Plaintiffs again ask for two more months to support their Third Amended Complaint. Again, they assert that their expert needs more time – two additional months. Again, they assert the Defendants will not be prejudiced.

Despite Plaintiffs' characterizations, this undue delay *does* prejudice the Defendants. October 12, 2010, the date they wish to support their Third Amended Complaint, is the same date they are required to share their expert's opinion. Defendants are concerned that the current expert disclosure dates will result in the Defense being forced to move for a later trial setting. Defendants' deadline to name defense experts is November 11, 2010. That allows the Defendants a mere 22 working days from obtaining the names of the Plaintiffs' experts to identify, locate, obtain client approval and hire opposing experts. Defense experts must then review (in some instances) over 3,500 documents, conduct applicable research, interviews and inspections and then prepare a written report in those same 22 days.⁸ This appears extremely difficult, if not impossible, given the new issues in this case.

Further, in the limited few months before trial the Defendants will file a Motion to Dismiss when they are finally served with the new Complaint. Defendants will also file a Motion for Summary Judgment on the newly allowed Complaint.⁹ A time extension pushes the filing of Defendants' dispositive motions that much closer to trial.

Plaintiffs' latest amendments will be argued five (5) months before trial. Because of this late filing, Defendants have been forced to redirect their efforts from motion practice and trial

⁸ This is the same information Plaintiffs have been asking for more time to gather for their own experts to review and digest.

⁹ Defendants wish to underscore that their Motion for Summary Judgment on the original Complaint was filed in May 2010 to avoid last minute filings, arguments and decisions before and by the Court. However, that attempt to give both parties and the Court ample time has not borne out. Instead, Plaintiffs requested that response times be pushed toward the trial date, and then filed an entirely new case.

preparation to locating, arranging meetings and making determinations as to whether Ada County will provide a defense and indemnification to each defendant.¹⁰

The defense team is now meeting with its new clients to develop information to answer the lengthy factual allegations forwarded in the new 89-page Complaint. Defending an ever-changing case this close to trial is prejudicial.

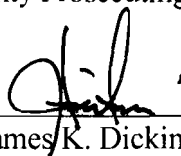
III. CONCLUSION

Based on the above arguments, Defendants respectfully request that the Court deny Plaintiffs' Motion for Leave to File a Second Amended Complaint; Plaintiffs' Motion to Enlarge Time for Amending the Complaint to Include Punitive Damages; and Plaintiffs' Motion for Leave to File a Third Amended Complaint to Add a Claim for Punitive Damages.

DATED this 3rd day of September 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



James K. Dickinson
Senior Deputy Prosecuting Attorney

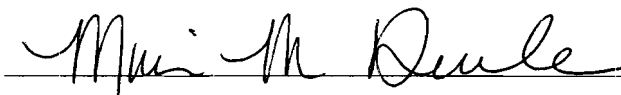
¹⁰ In fact, Defendants have had to make arrangements for private counsel to represent one of the new Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September 2010, I served a true and correct copy of the foregoing MEMORANDUM IN RESPONSE TO PLAINTIFFS' MOTIONS FOR LEAVE TO FILE A SECOND AND THIRD AMENDED COMPLAINT, AND RESPONSE TO PLAINTIFFS' MOTION TO ENLARGE TIME to the following persons by the following method:

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ORIGINAL

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and
in her capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

**REPLY MEMORANDUM IN
SUPPORT OF PLAINTIFFS'
MOTIONS FOR LEAVE TO
FILE SECOND AND THIRD
AMENDED COMPLAINTS,
AND MOTION TO ENLARGE
TIME**

Plaintiffs respectfully submit the following reply memorandum relating to their Motion for Leave to File a Second Amended Complaint, Motion for Leave to File a Third Amended Complaint, and Motion to Enlarge Time.

NO. _____ FILED _____
A.M. _____ P.M. _____
SEP 09 2009
J. DAVID NAVARRO, Clerk
By E. HOLMES
CLERK

OFFICIAL v. INDIVIDUAL CAPACITY

Plaintiffs are not seeking punitive damages against any of the Defendants in their official capacity. Plaintiffs are seeking punitive damages against the Defendants in their individual capacity only. The Third Amended Complaint which Plaintiffs seek leave to file is absolutely clear in its Prayer for Relief that punitive damages are sought “against all Defendants sued in their individual capacities” Defendants’ argument regarding the availability of punitive damages in official capacity suits is moot.

PUNITIVE DAMAGES AGAINST INDIVIDUALS

Defendants argue that because Idaho Code § 6-903(b) provides for the indemnification of government employees sued in their individual capacity, those employees are immune from punitive damages in the same manner as they are when sued in their official capacity. However, that Idaho has decided to extend indemnification to its employees as a benefit of government employment does not automatically render those employees immune from punitive damages in a 42 U.S.C. § 1983 case. Federal law is clear that punitive damages are not available in official capacity suits but they are available in individual capacity suits to advance the policies of 42 U.S.C. § 1983.¹

The State of Idaho cannot frustrate federal law by passage of Idaho Code § 6-903(b).² Permitting a state statute to do so undermines the entire purpose of deterrence and enforcement

¹ *Smith v. Wade*, 461 U.S. 30, 56 (1983); *Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981); *Kentucky v. Graham*, 473 U.S. 159, 167 n.13 (1985).

² *Felder v. Casey*, 487 U.S. 131, 140-41, 144 (1988) (quoting *Wilson v. Garcia*, 471 U.S. 261, 269 (1985)); *Badia v. City of Casa Grande*, 988 P.2d 134, 141 (Ariz. App. 1999); *Bell v. City of Milwaukee*, 746 F.2d 1205, 1251-53 (7th Cir. 1984); *Rosa v. Cantrell*, 705 F.2d 1208 (10th Cir. 1982), *cert. denied*, 464 U.S. 821 (1983); *Hegarty v. Somerset County*, 848 F. Supp. 257 (D. Me. 1994), *aff'd in part*, 53 F.3d 1367 (1st Cir. 1995); *Patrick v. City of Florala*, 793 F. Supp. 301 (M.D. Ala. 1992); *Sager v. City of Woodland Park*, 543 F. Supp. 282 (D. Colo. 1982); *Los Angeles v. Superior Court*, 78 Cal. App. 4th 212, 92 Cal. Rptr. 2d 668 (Ct. App. 2000); *Thompson v. Village of Hales Comers*, 115 Wisc. 2d 289, 340 N.W.2d 704 (1983); *see, Karnes v. SCI Colorado Funeral Services*, 162 F.3d 1077, 1080 (10th Cir. 1998)

for which § 1983 was enacted.³ Principles of the Supremacy Clause of the United States Constitution and federal preemption come into play to render such an interpretation of Idaho Code § 6-903(b) constitutionally unsound.⁴

This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.⁵

Similarly, the Fourteenth Amendment of the United States Constitution states that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

The Defendants invite an interpretation of Idaho Code § 6-903(b) that is inconsistent with the Supremacy Clause, the Fourteenth Amendment, and 42 U.S.C. § 983, and therefore such an invitation must be declined. The United States Supreme Court in *Felder v. Casey* rejected a

(finding federal law supplies a suitable rule to apply for the burden of proof required to award punitive damages). See, *Nelson v. Emerald People's Util. Dist.*, 862 P.2d 1293, 1300 (Or. 1993) (the federal standard of proof for punitive damages under § 1983 is a preponderance of the evidence); *Community Hosp. v. Fail*, 969 P.2d 667, 681 (Colo. 1998) (in federal civil rights cases burden of proof for punitive damages is preponderance of the evidence irrespective of state statute setting standard to beyond a reasonable doubt); *Stender v. Lucky Stores, Inc.*, 803 F. Supp. 259, 324 (N.D. Cal. 1992) (same); *Adams v. Pinole Point Steel Co.*, Nos. C 92-1962 MHP, C 93-3708 MHP, 1995 WL 73088, at *5 (N.D. Cal. Feb.10, 1995) (same); *Bird v. Figel*, 725 F. Supp. 406, 412 (N.D. Ind. 1989) (same); *Patrykus v. Gomilla*, Nos. 86 C 9748, 87 C 2083, and 87 C 7925, 1989 WL 8610, at *3 (N.D. Ill. Feb.2, 1989) (same) (citing *Spanish Action Comm. of Chicago v. City of Chicago*, 766 F.2d 315, 318 n. 2 (7th Cir. 1985)); *Norris v. City of Easton*, Civ. A. No. 88-3028, 1989 WL 49520, at *3 (E.D. Pa. May 8, 1989) (same); *Rowlett v. Anheuser-Busch, Inc.*, 832 F.2d 194, 205 n. 5 (1st Cir. 1987) (same); *Wren v. Spurlock*, 798 F.2d 1313, 1322 (10th Cir. 1986) (same); *McKinley v. Trattles*, 732 F.2d 1320, 1326 n. 2 (7th Cir. 1984) (same); *Cerjan v. Fasula*, 539 F. Supp. 1226, 1235 (N.D. Ohio 1981) (same). Compare, *Mitchell v. Keith*, 752 F.2d 385, 390 (9th Cir. 1985) (applying California law to set standard for punitive damages) with *Woods v. Graphic Communications*, 925 F.2d 1195, 1204-06 (9th Cir. 1991) (applying federal law to set punitive damages standard and discussing supremacy of federal law permitting recovery of punitive damages against state actors under § 1983 over statutory immunity from punitive damages).

³ See footnote 2 and cases cited therein.

⁴ UNITED STATES CONSTITUTION, ART. VI, Clause 2; *Felder v. Casey*, 487 U.S. at 140-41, 150-51.

⁵ *Id.*

similar argument overturning the Wisconsin Supreme Court's decision that a state notice-of-claim statute applied when a § 1983 claim was brought in state court.⁶ There, the defendants made the following argument:

Litigants who choose to bring their civil rights actions in state courts presumably do so in order to obtain the benefit of certain procedural advantages in those courts, or to draw their juries from urban populations. Having availed themselves of these benefits, civil rights litigants must comply as well with those state rules they find less to their liking.⁷

In rejecting the argument, the United States Supreme Court explained:

However equitable this bitter-with-the-sweet argument may appear in the abstract, it has no place under our Supremacy Clause analysis. Federal law takes state courts as it finds them only insofar as those courts employ rules that do not "impose unnecessary burdens upon rights of recovery authorized by federal laws." States may make the litigation of federal rights as congenial as they see fit—not as a *quid pro quo* for compliance with other, uncongenial rules, but because such congeniality does not stand as an obstacle to the accomplishment of Congress' goals. As we have seen, enforcement of the notice-of-claim statute in § 1983 actions brought in state court so interferes with and frustrates the substantive right Congress created that, under the Supremacy Clause, it must yield to the federal interest. This interference, however, is not the only consequence of the statute that renders its application in § 1983 cases invalid. In a State that demands compliance with such a statute before a § 1983 action may be brought or maintained in its courts, the outcome of federal civil rights litigation will frequently and predictably depend on whether it is brought in state or federal court. Thus, the very notions of federalism upon which respondents rely dictate that the State's outcome-determinative law must give way when a party asserts a federal right in state court.⁸

⁶ 487 U.S. at 134.

⁷ *Felder*, 487 U.S. at 150.

⁸ *Id.* at 150-51 (citations omitted).

Application of Idaho Code § 6-903(b) to shield the individual Defendants from punitive damages claims in this purely federal civil rights action would “impose unnecessary burdens upon rights of recovery authorized by federal law” and therefore it cannot be applied in this case.⁹

COMMON LAW IMMUNITIES

Defendants argue that because the Idaho Tort Claims Act retains common law sovereign immunity against punitive damages, punitive damages are not available in a § 1983 case. That argument is misplaced since the Idaho Tort Claims Act only applies to state claims, and all claims brought in this case are brought under federal law. The same Supremacy Clause and federal preemption concerns that exist with Defendants’ Idaho Code § 6-903(b) argument undermine their Idaho Torts Claims Act, Idaho Code § 6-901, argument. While § 6-901 may not have waived common law immunity for punitive damages against individual state actors, Congress pierced such immunity by enacting § 1983.¹⁰

INAPPLICABILITY OF IDAHO CODE § 6-1604

Defendants’ reliance on the Eleventh Circuit Court of Appeals’ decision in *Cohn v. Office Depot, Inc.*¹¹ is misplaced since the Florida state courts have more recently held that their punitive damages statute grants the defendant a substantive legal right:

[Section 768.72] creates for defendants “a substantive legal right not to be subject to a punitive damages claim and ensuing financial worth discovery until the trial court makes a determination that there is a reasonable evidentiary basis for recovery of punitive damages.” *Globe Newspaper Co. v. King*, 658 So.2d 518, 519 (Fla. 1995). If the defendant is wrongfully subjected to discovery of otherwise confidential financial information, the cat is out of the bag and appeal at the conclusion of the case will not provide an adequate remedy. *Id.* at 520 (“a plenary appeal cannot restore a

⁹ See *Id.* at 150.

¹⁰ See footnote 2 and cases cited therein.

¹¹ 184 F.3d 1292 (1999), *vacated in part on rehearing* by 204 F.3d 1069 (2000), cert. denied 531 U.S. 957 (2000).

defendant's statutory right under section 768.72 to be free of punitive damages allegations in a complaint until there is a reasonable showing by evidence in the record or proffered by the claimant."').¹²

In light of the fact that the Florida Supreme Court in *Globe Newspaper Co.* held that the Florida statute was substantive law, the holding in *Cohn* is highly suspect under the *Erie* doctrine.¹³

Nonetheless, even under *Cohn*, Defendants' argument fails. The *Cohn* case ultimately held that Fed. R. Civ. P. 8 preempted Florida's statute because it was in conflict with that rule of procedure.¹⁴ The court there explained that irrespective of whether the statute was characterized as procedural or substantive, the question was whether the state statute conflicted with federal law.¹⁵ If it did, *Erie/Hanna* principles would render the statute preempted by the federal law.¹⁶ The same would be true where a federal claim is brought in state court.¹⁷ If the state statute is in conflict with federal law, the state statute must give way under principles of preemption to the federal law.¹⁸ What the Defendants urge this Court to do is to apply a reverse preemption rule that simply has never been recognized in any court.

Additionally, Florida's statute is substantially different than Idaho Code § 6-1604. The Idaho statute not only burdens the plaintiff in a civil rights action with having to bring a separate motion and demonstrate by evidence in the record a reasonable likelihood of obtaining punitive damages, it sets the burden of proof at trial much higher than what is permitted by federal law.¹⁹

¹² *Estate of Esterline v. Avante at Leesburg*, 845 So.2d 1028, 1029-30 (5th D. App. Fla. 2003); *see also Leavins v. Crystal*, 3 So.3d 1270, 1272 (1st D. App. Fla. 2009) (same).

¹³ *Erie Railroad Co. v. Tomkins*, 304 U.S. 64 (1938) (where federal court sits in a diversity action, the substantive state law of the state wherein the district exists is the applicable law of decision).

¹⁴ 184 F.3d at 1296-97.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *See* footnote 2 and cases cited therein.

¹⁸ *Cohen*, 184 F.3d at 1296-97; *see* footnote 2 and cases cited therein.

¹⁹ *See* footnote 2 and cases cited therein.

The statute sets the burden of proof at clear and convincing evidence, which federal and state courts have repeatedly determined to be unacceptable in a civil rights action brought under § 1983.²⁰

THE FACTS SUPPORT A PUNITIVE DAMAGES AWARD

The standard set in jail suicide cases for denial of necessary medical care and security is that of deliberate indifference. Deliberate indifference is the *mens rea* required for punitive damages.²¹ In *Smith v. Wade*, the United States Supreme Court held that a guard could be held liable for punitive damages upon a finding of reckless or careless disregard or indifference to the inmate's rights or safety.²² The standard for imposing compensatory damages is the same as for imposing punitive damages in Eighth and Fourteenth Amendment cases alleging a failure to provide medical care or security.²³ The argument advanced by the Defendants that the "Plaintiffs must show 'deliberate indifference' in their case-in-chief, and 'evil intent' for punitives," is the exact argument advanced by the guard in *Smith* and rejected by the United States Supreme Court.²⁴ Accordingly, this Court must reject the Defendants' argument.

The factual predicate for punitive damages may be found in the affidavits cited in Plaintiffs' opening memorandum. Further support is forthcoming from Plaintiffs' experts. Without rehashing the entire litany of factual support for punitive damages, it should be pointed out that the Defendants' description of events is selective and unsupported. One prime example is that from the Defendants' description, one may get the impression that Social Worker James Johnson spent a considerable amount of time observing Munroe prior to concluding that Munroe

²⁰ See footnote 2 and cases cited therein.

²¹ *Smith v. Wade*, 461 U.S. 30 (1983).

²² *Id.* at 51-56.

²³ *Id.*

²⁴ *Id.*

posed no risk of suicide. In fact, Johnson spent but three minutes talking to Munroe.²⁵ Throughout the interaction, Johnson makes no documentation of his conversation with Munroe as he has nothing on which to write.²⁶ Johnson's "suicide assessment" was extremely brief and haphazard at best. In light of all the other information Johnson possessed, a jury could easily find he was deliberately indifferent to Munroe's medical and safety needs.

For the reasons stated herein, Idaho Code § 6-1604 has no application to this case brought solely as a civil rights action under § 1983.

CORRECTIONS REGARDING ADDITIONAL DEFENDANTS AND NCCHC REPORTS

NCCHC REPORTS

To date, Defendants have produced NCCHC Accreditation Survey Reports for the years 1998, 2001, 2004 and 2005 with accompanying letters indicating NCCHC was granting accreditation for those years.²⁷ Defendants also produced a letter from NCCHC withdrawing accreditation for 2008. Defendants have never produced the 2008 NCCHC Accreditation Survey Report.²⁸ The 2008 report is the most relevant to this litigation.

DEPUTY ROACH – BADGE NO. 4936

Defendants failed to identify Deputy Roach in their Response to Plaintiffs' First Set of Interrogatories, Interrogatory No. 1 asking the identity of every person known to the Defendants who has or purports to have knowledge of any of the facts of this case.²⁹ Defendants similarly failed to identify Deputy Roach in any of their now 11 supplemental responses to Plaintiffs'

²⁵ Second Affidavit of Darwin Overson, ¶ 2.

²⁶ *Id.*

²⁷ Second Affidavit of Darwin Overson, ¶ 3.

²⁸ *Id.*

²⁹ Second Affidavit of Darwin Overson, ¶ 4.

Interrogatory No. 1. In none of the records produced by the Defendants is Deputy Roach identified by name. All references to her were to her badge number. In fact, when Plaintiffs requested her identity, Defense counsel had to ask what document referred to badge number 4936. Not until July 15, 2010, did Defendants identify Deputy Roach.

CONCLUSION

This Court should grant Plaintiffs' Motion for Leave to File a Third Amended Complaint and find that neither Idaho Code §§ 6-901, *et. seq.*, nor § 6-1604 stand as barriers to Plaintiffs' claims for punitive damages as against Defendants sued in their individual capacities.

DATED this 9th day of September, 2010.

JONES & SWARTZ PLLC

By 

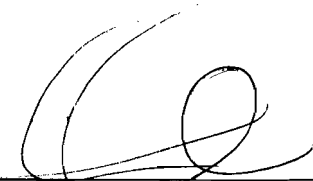
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of September, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

U.S. Mail
 Fax: 287-7719
 Overnight Delivery
 Messenger Delivery
 Email: jimd@adaweb.net
smorgan@adaweb.net



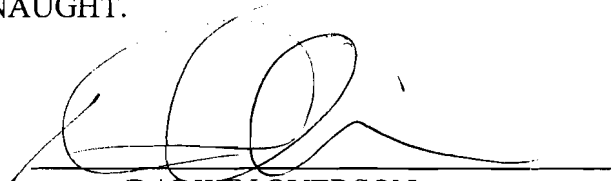
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

2. Defendants' Eleventh Supplemental Response to Plaintiffs' First Request for Production to Sheriff Raney included a video of Social Worker James Johnson's interaction with Munroe on the morning of September 29, 2008, during which time Johnson claims to have performed a suicide assessment of Munroe. Johnson is seen on the video holding a pen in his hands but has nothing to write on and does not write on anything throughout the interaction. The entire interaction between Johnson and Munroe spans but three minutes. Attached hereto as **Exhibit A** is a true and correct copy of the video of that interaction.

3. To date, Defendants have produced to the Plaintiffs NCCHC Accreditation Reports for the years 1998, 2001, 2004 and 2005 with accompanying letters indicating NCCHC was granting accreditation for those years. Defendants also produced a letter from NCCHC withdrawing accreditation for 2008. Defendants have never produced the 2008 NCCHC Accreditation Survey Report.

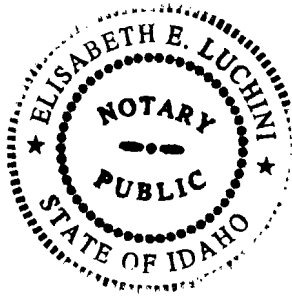
4. Attached hereto as **Exhibit B** are true and correct copies of email communications between Plaintiffs' counsel and Defendants' counsel regarding Deputy Roach and the NCCHC reports. Defendants failed to identify Deputy Roach in their Answers to Plaintiffs' First Set of Interrogatories, Interrogatory No. 1 asking the identity of every person known to the Defendants who has or purports to have knowledge of any of the facts of this case. Defendants similarly failed to identify Deputy Roach in any of their now 11 supplemental responses to Plaintiffs' Interrogatory No. 1. In none of the records produced by the Defendants is Deputy Roach identified by name. All references to her were to her badge number only. In fact, when Plaintiffs requested her identity, Defense counsel had to ask what document referred to badge number 4936. Not until July 15, 2010, did Defendants identify Deputy Roach.

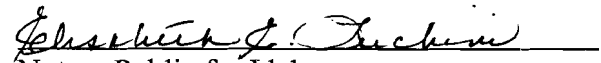
FURTHER YOUR AFFIANT SAYETH NAUGHT.



DARWIN OVERSON

SUBSCRIBED AND SWORN TO before me this 9th day of September, 2010.



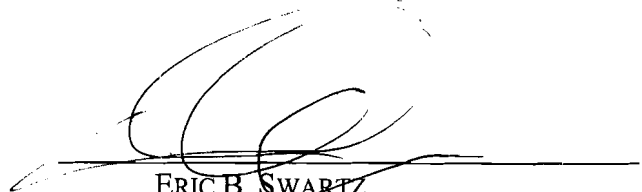

Notary Public for Idaho
My Commission expires 1.8.12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of September, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

U.S. Mail
 Fax: 287-7719
 Overnight Delivery
 Messenger Delivery
 Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT A

To Second Affidavit of Darwin Overson in Support of
Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

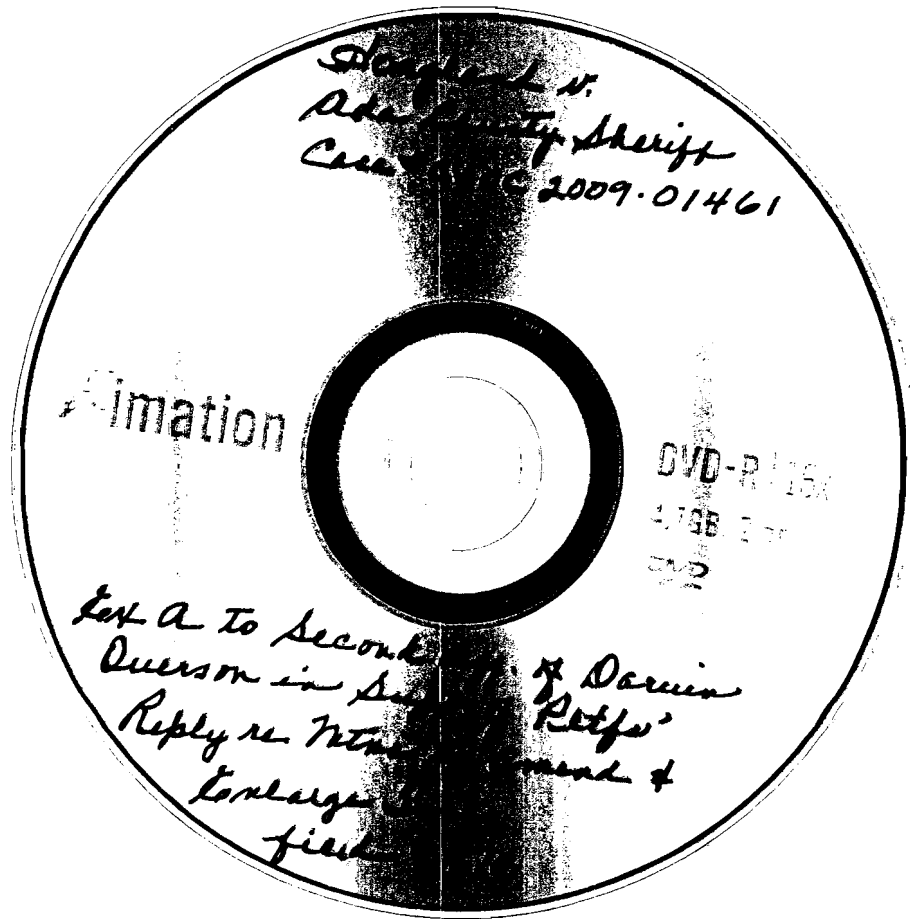


EXHIBIT A

To Second Affidavit of Darwin Overson in Support of
Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

EXHIBIT B

To Second Affidavit of Darwin Overson in Support of
Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

EXHIBIT B

To Second Affidavit of Darwin Overson in Support of
Plaintiffs' Motion for Leave to File a Third Amended
Complaint to Add a Claim for Punitive Damages

Darwin Overson

From: Eric Swartz
Sent: Monday, July 12, 2010 2:35 PM
To: 'Jim Dickinson'
Cc: 'Ray Chacko'; 'Sherry Morgan'; Darwin Overson
Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff: NCCHC Subpoena
Jim:

I am writing to follow up on my July 6 email (below) requesting that your client sign the waiver allowing NCCHC to produce materials responsive to the subpoena. Any word from your client? Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989
Fax (208) 489-8988

From: Eric Swartz
Sent: Tuesday, July 06, 2010 12:57 PM
To: 'Jim Dickinson'
Cc: 'Ray Chacko'; 'Sherry Morgan'; Darwin Overson
Subject: 2276.2 Munroe v. Ada Co. Sheriff: NCCHC Subpoena

Jim:

We received the attached letter from the NCCHC today. NCCHC is objecting to our subpoena requesting the accreditation file on your clients. NCCHC is claiming that your client holds a privilege on the materials that we have requested in our subpoena.

Where, as here, your client's NCCHC file is incomplete, and you have directed us to obtain the additional materials from the NCCHC directly, I presume that your client will consent to NCCHC disclosing the materials? In anticipation of your client's cooperation, I have attached a consent to disclosure for your client to sign and return to us for delivery to NCCHC.

Please respond by 5p this Thursday by either: (1) returning the consent form signed; or (2) advising us that your client is refusing to sign the same. Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989

001442

9/8/2010

Fax (208) 489-8988

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Darwin Overson

From: Darwin Overson
Sent: Wednesday, July 14, 2010 5:08 PM
To: 'Sherry Morgan'
Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936
Thank you.

Darwin L. Overson
Jones & Swartz PLLC
1673 W. Shoreline Drive Ste 200
PO Box 7808
Boise, ID 83707-7808
208-489-8989
208-489-8988 fax
darwin@jonesandswartzlaw.com

From: Sherry Morgan [mailto:smorgan@adaweb.net]
Sent: Wednesday, July 14, 2010 4:37 PM
To: Darwin Overson
Cc: Jim Dickinson; Ray Chacko
Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Thanks Darwin.

I talked to them this morning about the NCCHC matter and will call them again to follow up. We are still working on the service issue.

Sherry

From: Darwin Overson [mailto:darwin@jonesandswartzlaw.com]
Sent: Wednesday, July 14, 2010 2:17 PM
To: Sherry Morgan
Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Sherry,

It's the officer who appears to have handled Bradley's release on 9/26/08. See your 2nd supplemental response to our 1st request for production, bates stamp 00074.

Have you heard back from your clients regarding (1) the NCCHC waiver and (2) whether you will be able to accept service?

Darwin L. Overson
Jones & Swartz PLLC
1673 W. Shoreline Drive Ste 200
PO Box 7808
Boise, ID 83707-7808
208-489-8989
208-489-8988 fax
darwin@jonesandswartzlaw.com

From: Sherry Morgan [mailto:smorgan@adaweb.net]
Sent: Wednesday, July 14, 2010 1:50 PM
To: Eric Swartz; Jim Dickinson

001444

9/8/2010

Cc: Darwin Overson; Ray Chacko

Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Eric:

Would you point me to the document in which you find badge no. 4936?

Thanks.

Sherry A. Morgan
Senior Deputy Prosecuting Attorney, Civil Division
Ada County Prosecuting Attorney's Office
200 W. Front Street
Boise, Idaho 83702
(208) 287-7700

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From: Eric Swartz [mailto:eric@jonesandswartzlaw.com]

Sent: Monday, July 12, 2010 2:01 PM

To: Jim Dickinson

Cc: Sherry Morgan; Darwin Overson; Ray Chacko

Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Jim:

I am writing to follow up on my June 11 and 22 emails (below) requesting a privilege log for the redactions on your clients' June 11 production and further requesting the identity of the person assigned badge no. 4936. Please advise when we can expect a response. Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989
Fax (208) 489-8988

From: Eric Swartz

Sent: Tuesday, June 22, 2010 11:38 AM

To: 'Jim Dickinson'

Cc: 'Sherry Morgan'; Darwin Overson; 'Ray Chacko'

Subject: RE: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Jim:

I am writing to follow up on my June 11 email (below) requesting a privilege log for the redactions on your clients' production and further requesting the identity of the person assigned badge no. 4936. Please advise

001445

9/8/2010

when we can expect a response. Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989
Fax (208) 489-8988

From: Eric Swartz
Sent: Friday, June 11, 2010 3:22 PM
To: 'Jim Dickinson'
Cc: 'Sherry Morgan'; Darwin Overson
Subject: 2276.2 Munroe v. Ada Co. Sheriff et al: Your Production Today and Badge No. 4936

Jim:

Thank you for today's production of suicide prevention training materials and training completion logs. A number of pages are redacted, but I did not see a privilege log. Although it may not be everything that was redacted, visible redactions appear on the following pages: 94, 96, 98-102, 104, 106, 108, 110, 112-113, 115-116, 118-119, and 121-124. Please provide a log that describes what is redacted on each page and the basis therefor.

Also, we are not finding anything that identifies badge No. 4936. Please identify this individual's name and position. Thank you.

Regards,

Eric B. Swartz
Jones & Swartz PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702
Ph. (208) 489-8989
Fax (208) 489-8988

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ADA COUNTY
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191
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CRIMINAL
DIVISION

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DIVISION

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July 15, 2010

Eric B. Swartz
Jones & Swartz
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

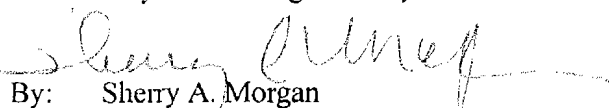
RE: *Rita Hoagland v. Ada County Sheriff, et al.*
Case No. CV PI 0901461

Dear Mr. Swartz:

In response to your e-mails inquiring as to "the identity of the person assigned badge no. 4936," Deputy Jamie Roach is assigned that Ada number.

Sincerely,

GREG H. BOWER
Ada County Prosecuting Attorney


By: Sherry A. Morgan
Senior Deputy Prosecuting Attorney

SAM:mmd

Darwin Overson

From: Darwin Overson
Sent: Thursday, July 22, 2010 2:56 PM
To: Jim Dickinson; 'Sherry Morgan'; Ray Chacko; Eric Swartz; Darwin Overson
Subject: 2276-2; Munroe v. Ada Co.; NCCHC Waiver

Jim,

At the last hearing you indicated that you would be speaking to your client regarding a waiver for the NCCHC to facilitate our obtaining their 2008 report. What is the status?

You also mentioned that there was additional video. When might we expect to see that?

Darwin L. Overson
Jones & Swartz PLLC
1673 W. Shoreline Drive Ste 200
PO Box 7808
Boise, ID 83707-7808
208-489-8989
208-489-8988 fax
darwin@jonesandswartzlaw.com

Darwin Overson

From: Sherry Morgan [smorgan@adaweb.net]
Sent: Monday, July 26, 2010 6:22 PM
To: Darwin Overson; Eric Swartz
Cc: Jim Dickinson; Ray Chacko; Monica Devroude
Subject: Hoagland v. Ada County
Darwin:

Thank you for your e-mails. We will address all of your questions in this response.

1. We are contacting and setting meetings with the newly named defendants. However, several are either contract employees or are no longer employed by the Sheriff (though they may still be clients), so we must first locate and then speak with them. We will contact you when we know how they wish for us to proceed. If you are concerned about the amount of time this might take, please feel free to have them served.
2. We spoke to the Sheriff's Office about your NCCHC request. The Sheriff's Office contacted the NCCHC and requested that they forward their information directly to the Sheriff. We believe they are working to accomplish that, so at this juncture it doesn't appear a release is necessary.
3. Our investigator copied the James Johnson portion of the VICON video -- which was included in our 11th supplemental discovery we already sent to you.
4. We will contact each of your intended deponents, determine their shifts/availability and ours and send proposed dates and times to you. Would you let us know how long you think each deposition might take? That way we could schedule more than one a day. Also, we already shared via letter that Ada # 4936 is Deputy Jamie Roach -- we will include her in those we notify.
5. As you know, we have expressed concerns that your client removed all of Mr. Munroe's school records before we were able to obtain them from the Melba School District. You indicate that you have possession of the records now. Can you tell us if you obtained the records directly from the School District, or from your client after they were removed? While we can come to your office to view them, we would appreciate it if you could send copies to us.
6. On another note, we continue to look forward to the items we have requested in discovery and by letter, including (but not limited to) medical/psychological/counseling records for Ms. Hoagland, records from the Sacramento hospital that treated Mr. Munroe for cuts on his arm, contact information for persons with knowledge in your discovery responses, prescription records, including the pharmacy/medical office where Mr. Munroe obtained prescriptions, production of your privilege log, as well as the confidential items set out in your Bates stamped document # 704. We earlier requested but don't have record of receiving new copies of # 753 and # 756 which arrived blank, the second page for # 253 (as # 254 is not that second page), a new # 268 which is too light to read, new # 287 and # 258 which were cut off, and # 293 is an envelope without a corresponding letter -- when can we expect to receive these?

Thank you.

Sherry

Sherry A. Morgan
Senior Deputy Prosecuting Attorney, Civil Division
Ada County Prosecuting Attorney's Office
200 W. Front Street
Boise, Idaho 83702
(208) 287-7700

001449

9/8/2010

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ORIGINAL

NO. FILED
A.M. P.M.

SEP 14 2010

J. DAVID NAVARRO, Clerk
By CARLY LATIMORE
DEPUTY

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho;
ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Defendant Ada County and the operator of the Ada
County Sheriff's Office and Ada County Jail, in his individual
and official capacity; LINDA SCOWN, in her individual and
official capacity; KATE PAPE, in her individual and official
capacity; STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D., in his
individual and official capacity; RICKY LEE STEINBERG,
in his individual and official capacity; KAREN BARRETT, in
her individual and official capacity; JENNY BABBITT, in her
individual and official capacity; JAMES JOHNSON, in his
individual and official capacity; JEREMY WROBLEWSKI,
in his individual and official capacity; DAVID WEICH, in his
individual and official capacity; LISA FARMER, in her
individual and official capacity; JAMIE ROACH, in her
individual and official capacity; and JOHN DOES I-X,
unknown persons/entities who may be liable to the Plaintiffs,

Defendants.

Case No. CV-OC-2009-01461

**THIRD AMENDED
COMPLAINT FOR
DAMAGES AND
DEMAND FOR
JURY TRIAL**

an

COME NOW the above-named Plaintiffs, by and through their counsel of record, Jones & Swartz PLLC, and complain against the named Defendants as follows:

I. PARTIES

1. Rita Hoagland (“Ms. Hoagland”) is the natural mother of the deceased, Bradley Munroe, and has been duly appointed to serve as the personal representative of the Estate of Bradley Munroe in Case No. CV-IE-2008-20235 filed in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada. Ms. Hoagland is a resident of Canyon County.

2. Bradley Munroe (“Munroe”) died while a resident and inmate of the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho.

3. Ada County is a municipality and political subdivision of the State of Idaho.

4. Gary Raney (“Raney”) is and at all times herein mentioned was the elected Sheriff of Ada County and the operator and supervisor of the Ada County Sheriff’s Office (“ACSO”) and Ada County Jail and all of the staff and officers employed thereby. Plaintiffs have brought suit against Defendant Raney in his individual and official capacity.

5. Upon information and belief, Defendant Linda Scown (“Scown”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO as Captain. She is and at all times herein mentioned was the Director of Health Services at the ACSO and, other than Defendant Raney, is the highest ranking official responsible for operation of the “Ada County Jail Medical Unit.” Plaintiffs have brought suit against Defendant Scown in her individual and official capacity.

6. Upon information and belief, Defendant Kate Pape (“Pape”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within

the Ada County Jail, with the title of “Health Services Administrator,” also at times referred to by Defendants as the “Health Services Manager.” Plaintiffs have brought suit against Defendant Pape in her individual and official capacity. The Health Services Administrator at the Ada County Jail is responsible for, among other duties, the following:

a. Plans, directs, coordinates and supervises the delivery of medical and mental health services within the jail, and works in a collaborative manner to ensure the jail medical and mental health services are provided to inmates of the jail in a manner consistent with constitutional requirements;

b. Supervises the Nursing Supervisor, Physician’s Assistants, Social Workers, and the Health Services Administrative Supervisor;

c. Ensures quality and consistent services are delivered in compliance with ACSO written policies, professional standards, constitutional standards, and state and federal law;

d. Develops and establishes policies, procedures and protocols to administer effective and efficient standards of management, care, and delivery of medical and mental health services in the jail;

e. Oversees staff development, including performance appraisals, and training;

f. Ensures healthcare providers comply with contractual obligations;

g. Ensures periodic inspections of clients and facilities are completed to ensure that the healthcare delivery system operates effectively and efficiently, and documents such inspections to meet National Commission on Correctional Health Care standards (“NCCHC Standards”); and

h. Ensures medical programs and related documentation are maintained in such a manner that the Ada County Jail’s NCCHC accreditation is not jeopardized.

7. Upon information and belief, Defendant Steven Garrett, M.D. (“Garrett”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Garrett in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Garrett was providing medical services to inmates of the Ada County Jail pursuant to a written contract with

Ada County and ACSO (“Supervising Physician’s Contract”);

b. In the Supervising Physician’s Contract, Defendant Garrett agreed to assist the ACSO in meeting its duties imposed by: state and federal law for the provision of healthcare to inmates of the Ada County Jail; the Ada County and ACSO written policies for the provision of healthcare to inmates of the Ada County Jail; and the NCCHC Standards;

c. In the Supervising Physician’s Contract, Defendant Garret agreed to fulfill the role of “Supervising Physician,” which position is mandated by ACSO written policy as having final medical decision authority for all healthcare provided to inmates in the custody of the ACSO, including the Ada County Jail Medical Unit; and

d. In the Supervising Physician’s Contract, Defendant Garrett agreed to coordinate the healthcare of persons in the custody of the ACSO with the ACSO’s “Contracted Psychiatrist,” staff social workers, and the ACSO’s “Inmate Healthcare Supervisor.”

8. Upon information and belief, Defendant Michael E. Estess, M.D. (“Estess”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Estess in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Estess was contracted with Ada County and ACSO to be the “Contract Psychiatrist” and to provide psychiatric healthcare on a regular basis to inmates of the Ada County Jail (“Psychiatrist Contract”); and

b. In the Psychiatrist’s Contract, Defendant Estess agreed to assist the ACSO and Ada County Jail medical staff in meeting its duties imposed by Ada County’s written policies, the Ada County Jail’s written policies, state and federal law, and NCCHC Standards.

9. Upon information and belief, Defendant Ricky Lee Steinberg (“Steinberg”) is and

at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Steinberg in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Steinberg was contracted with the ACSO to provide medical services as a Physician's Assistant to inmates of the Ada County Jail ("Physician Assistant's Contract");

b. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide Healthcare Assessments of inmates of the Ada County Jail that meet the requirements imposed by the Supervising Physician, Ada County and ACSO written policies, and the NCCHC Standards;

c. In the Physician Assistant's Contract, Defendant Steinberg agreed to complete all necessary forms and documentation required by the ACSO, the Supervising Physician, or governing agencies;

d. In the Physician Assistant's Contract, Defendant Steinberg agreed to refer medical issues discovered during Inmate Assessments to ACSO medical staff for follow-up other than when immediate action is required to safeguard the physical or mental health of the inmate; and

e. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide all appropriate care to the inmate under those circumstances where immediate action is appropriate and care cannot be handed off to another ACSO provider, until such time as ACSO medical staff is able to take on such care of the inmate.

10. Upon information and belief, Defendant Jenny Babbitt ("Babbitt") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Nursing Supervisor and Inmate Healthcare

Supervisor. Plaintiffs have brought suit against Defendant Babbitt in her individual and official capacity.

a. At all times relevant to this Third Amended Complaint, the Nursing Supervisor had, among other duties, the duty to confirm licensing of all medical care providers within the Ada County Jail, and maintain records thereof;

b. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor was charged with the following duties, among others:

- i. Co-supervise and co-manage various components of the healthcare system in the Ada County Jail.
- ii. Supervise and direct county employees delivering healthcare, including the pharmacy charge nurse, to ensure compliance with constitutional requirements.
- iii. Perform professional nursing work consisting of assessments, developing treatment plans, and monitoring inmates' physical condition.
- iv. Coordinate with other jail and court services bureau supervisors to maximize the safety of staff, community and inmates, security and the wellbeing of staff and inmates.
- v. Ensure the medical services are delivered in compliance with Idaho Jail Standards and ACSO written policies and procedures.
- vi. Ensure all personnel under their direct supervision adhere to the ACSO written policies and procedures.
- vii. Supervise registered nurses, licensed practical nurses, and other county employees who provide healthcare services to inmates.
- viii. Conduct performance evaluations in accordance with the ACSO written policies and procedures.
- ix. Supervise the distribution and issuing of pharmaceuticals to inmates.
- x. Ensure inventories of medical supplies and equipment and re-orders when necessary.
- xi. Conduct periodic inspections of jail inmates and jail facilities to ensure

that the inmate healthcare delivery system operates effectively and efficiently, and documents such inspections to meet NCCHC Standards.

- xii. Ensure jail medical programs/documentation is maintained in such a manner to ensure continuous NCCHC accreditations.
- xiii. Schedule and participate in meetings with the Health Services Manager, medical personnel, shift supervisors, and others as required to discuss issues relating to the maintenance of NCCHC accreditation.
- xiv. Interview applicants for medical staff positions and make hiring recommendations.
- xv. Make recommendations relating to the contract between Ada County and contractual healthcare providers.
- xvi. Develop and manage training of healthcare staff and security staff as it relates to medical issues.

c. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor had direct supervision and control over the Pharmacy Charge Nurses of the Ada County Jail Medical Unit, who in turn were charged with the following duties, among others:

- i. Overseeing and providing patient care through the processing of medications, medication disbursements and maintenance of pharmacy stock and supplies.
- ii. Ensuring accurate documentation in the electronic medical records.
- iii. Overseeing pharmacy employees' processing of medications, medication disbursements, documentation and maintenance of pharmacy stock.
- iv. Communicating essential information with healthcare and security team members.
- v. Assisting registered nurses, nurse practitioners, physician's assistants, and physicians on the follow-up on all medication orders.
- vi. Participating in quarterly pharmacy reviews to meet NCCHC Standards.

11. Upon information and belief, Defendant Lisa Farmer ("Farmer") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with ACSO

within the Ada County Jail with the title of Registered Nurse. Plaintiffs have brought suit against Defendant Farmer in her individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Farmer was charged with the following duties, among others:

- a. Administer treatments and medications prescribed and supervised by the Medical Authority for patients;
- b. Maintain treatment records, making note of all medications given, doctor visits and related activities;
- c. Monitor, store, and control medications and medical supplies according to Ada County written policies and procedures;
- d. Provide coordination of care duties with community health services to promote inmate continuity of care;
- e. Observe the physical condition and behavior of inmates to ensure maximum healthcare is provided;
- f. Prepare for sick call by screening kites sent by inmates and assessing problems, pull charts or make new charts, and list those who need to be seen by the physician, psychologist, and mid-level providers;
- g. Review all medical intake information and assess who needs to be seen sooner than routine sick call;
- h. Prepare medication renewal orders for the physician and mid-level providers to sign;
- i. Schedule inmates with mental problems to see the psychologist and prepare the necessary records; and
- j. Coordinate orders from the physician's assistant and the physician with the pharmacist.

12. Upon information and belief, Defendant Karen Barrett ("Barrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Senior Physician's Assistant. Plaintiffs have brought suit against Defendant Barrett in her individual and official capacity. At all times relevant to this

Third Amended Complaint, Defendant Barrett was charged with the following duties, among others:

- a. Provide direct and indirect basic medical care to meet the physiological, psychosocial, and emotional needs of the inmates in the Ada County Jail;
- b. Supervise the work of physician's assistants and/or nurse practitioners;
- c. Respond to and initiate care for medical emergencies throughout the facility;
- d. Assess inmates in a variety of settings such as initial intake area, healthcare unit for sick call, emergency situations in housing, chronic care clinics and infirmary;
- e. Identify inmates' health problems and prescribe treatment under the direction of a physician;
- f. Obtain histories and perform physical examinations to determine normal and abnormal adult health status;
- g. Implement medical care utilizing therapeutic regimens approved by a physician;
- h. Make appropriate, timely referrals and initiate treatments based on institutional policies and procedures and physician's direction;
- i. Act as the primary contact for physicians;
- j. Supervise the work of physician's assistants and/or nurse practitioners to ensure consistency of patient care as described by the physician;
- k. Assist with the recruitment, hiring and training of physician's assistants and/or nurse practitioners; and
- l. Make recommendations regarding policies and procedures.

13. Upon information and belief, at all times herein mentioned Defendant James Johnson ("Johnson") was an adult resident of Ada County, Idaho, employed with the Ada County Jail within the Ada County Jail Medical Unit with the title of Masters of Social Work or MSW. Plaintiffs have brought suit against Defendant Johnson in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Johnson's job

duties included but were not limited to:

- a. Providing psychiatric social work services to Ada County Jail inmates;
 - b. Providing clinical consultations with Ada County Jail staff;
 - c. Conducting bio-psycho-social and risk assessments to determine inmates' needs and eligibility for services and their level of care needed;
 - d. Providing inmates with crisis intervention services and individual counseling;
 - e. Promoting inmate self-determination by addressing special needs of inmates;
 - f. Participating in interdisciplinary team staffing to formulate treatment plans;
 - g. Identifying and teaming with other community resource agencies to design, coordinate, and provide inmate assistance and intervention;
 - h. Taking action to reduce risk to inmates upon being discharged from the jail by organizing emergency, crisis intervention and after-hours on-call services;
 - i. Conducting on-going suicide risk assessments and implementing crisis intervention accordingly;
 - j. Preparing written inmate assessment reports;
 - k. Designing and implementing inmate case plans using community resources;
- and
- l. Maintaining a Social Worker license in the state of Idaho.

14. Upon information and belief, Defendant David Weich ("Weich") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Medical Attendant and Certified Correctional Health Professional. Plaintiffs have brought suit against Defendant Weich in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Weich had, among others, the following job duties:

- a. Preparing medication renewal orders for medical staff to sign;
- b. Scheduling inmates with mental problems to see the psychologist and

preparing necessary records, including charting observations;

c. Transcribing orders from the medical staff on the inmate medication prescription roster; and

d. Updating medical/nursing personnel credentials information.

15. Upon information and belief, Defendant Jeremy Wroblewski (“Wroblewski”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Wroblewski in his individual and official capacity.

16. Upon information and belief, Defendant Jamie Roach (“Roach”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Roach in her individual and official capacity.

17. Upon information and belief, Defendants John Does I through X are individuals or entities who at this time the Plaintiffs are unable to identify but who are employed by the Ada County Jail or by another division of Ada County, or contract with Ada County, and are responsible for the violation of Munroe’s rights under the Fourteenth Amendment of the United States Constitution and for his death.

II. JURISDICTION AND VENUE

18. Jurisdiction is proper with this Court pursuant to Idaho Code § 5-514, and the amount in controversy exceeds this Court’s jurisdictional minimum.

19. Venue is appropriate in this Court pursuant to Idaho Code § 5-404.

III. GENERAL ALLEGATIONS

POLICIES

20. At all times relevant to this Third Amended Complaint, Ada County was

responsible for providing health care to inmates incarcerated and confined in the Ada County Jail. At all times relevant to this Third Amended Complaint, inmates of the Ada County Jail were to have access to care to meet their serious medical and mental health needs.

21. At all times relevant to this Third Amended Complaint, Ada County was required to designate a Health Authority for the Ada County Jail in order to satisfy its medical and mental health obligations to inmates at the Ada County Jail.

22. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Health Authority for the Ada County Jail “shall be the Medical Services Administrator.”

23. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the responsibilities of the Medical Services Administrator were to ensure “that quality, accessible health care services are available to inmates at the Ada County Jail. The Medical Services Administrator will coordinate all levels of health care provided at the Ada County Jail.”

24. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the Medical Services Administrator was required to participate in quarterly meetings with the Sheriff or his designee, the Security Services Captain, the responsible physician, and other healthcare and security staff to address, among other things, the overall healthcare services being provided to inmates, including psychiatric services. Monthly meetings were also required to take place between the Medical Services Administrator and the healthcare services staff in accordance with Ada County’s written policy.

25. At all times relevant to this Third Amended Complaint, ACSO failed to employ or otherwise contract for the services of a Medical Services Administrator and was therefore

operating the Ada County Jail without a Health Authority.

26. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator and Nursing Supervisor were to ensure that each healthcare provider providing medical and mental health services to Ada County Jail inmates was licensed, registered, certified, or exempt in the state of Idaho.

27. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator prepare and approve a training program that would instruct detention officers in administering medications to inmates.

28. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that it would maintain a written manual that “will at a minimum contain a policy statement and detailed procedures for each of the 72 standards presented in the Standards for Health Services in Jails by the National Commission on Correctional Health Care.”

29. The NCCHC is a nationally recognized non-profit organization that sets standards for the provision of health care to incarcerated inmates, and provides accreditation to jails and other correctional institutions based on its established 72 standards set forth in the NCCHC Standards.

30. At all times relevant to this Third Amended Complaint, Ada County had written policies in place that adopted the NCCHC Standards for the operation of the Ada County Jail.

31. At all times relevant to this Third Amended Complaint, Ada County written policy provided that within the Ada County Jail Medical Unit “final medical judgment rests with a single designated physician licensed in the State of Idaho. The medical doctor designated as the responsible physician will be identified in the contractual agreement.”

32. At all times relevant to this Third Amended Complaint and pursuant to the

Supervising Physician's Contract, Defendant Garrett was the "single designated physician" referenced in the Ada County written policies.

33. At all relevant times to this Third Amended Complaint and pursuant to the Supervising Physician's Contract, Defendant Garrett was the "responsible physician" that was "identified in the contractual agreement" and therefore was the person with "final medical judgment" as to all medical and mental healthcare services provided to inmates in the Ada County Jail.

34. In the Supervising Physician's Contract, ACSO acknowledged its duty to operate the Ada County Jail in conformance with NCCHC Standards, and Defendant Garrett agreed to provide medical and mental healthcare services under the Contract in conformance with NCCHC Standards, and further agreed to assist the ACSO with meeting its duties described in NCCHC Standards.

35. In the Supervising Physician's Contract, Defendant Garrett agreed to perform periodic and timely reviews of inmate medical records to evaluate the medical services provided to inmates, and to make adjustments and improvements as necessary to ensure compliance with "all applicable state and federal laws and with the Standard for Health Care Services in Jails, 2003."

36. In the Supervising Physician's Contract, Defendant Garrett agreed to provide direct inmate healthcare, including but not limited to prescribing appropriate medication to inmates, evaluating inmate medical conditions referred by ACSO staff and/or medical staff, and coordinating healthcare for inmates with ACSO contracted psychiatrist, ACSO social workers staff, and ACSO Inmate Health Care Supervisor.

37. Defendant Garrett also agreed in the Supervising Physician's Contract to provide

indirect inmate care which included the obligation to undertake supervision, direction and responsibility for all medical acts and inmate healthcare services performed and/or provided by the psychiatrist assistant(s) employed by the ACSO, and to provide on-site supervision at the Ada County Jail and personally observe, monitor and direct the quality of care provided to inmates.

38. The Supervising Physician's Contract provided that ACSO agreed to inform Defendant Garrett of any known health condition or complaint of an inmate and of any "suspected health conditions or concerns which may arise through observation of an inmate's actions and behaviors."

39. Defendant Garrett failed to provide medical services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards governing the provision of medical and mental health services to inmates, and failed to sufficiently assist the medical and security staff with meeting NCCHC Standards.

40. Defendant Garrett failed to provide the medical health services he agreed in the Supervising Physician's Contract to provide to the ACSO and the inmates of the Ada County Jail.

41. At all times relevant to this Third Amended Complaint and pursuant to the Physician's Assistant Contract, Defendant Steinberg was to provide professional medical services to inmates of the Ada County Jail in the capacity of a Physician's Assistant.

42. Under the Physician's Assistant Contract, Defendant Steinberg was to "maintain current licensure and required professional relationship with Steven Garrett, M.D., the supervising physician at the Ada County Jail."

43. Under the Physician's Assistant Contract, Defendant Steinberg was to provide to

the ACSO a copy of all current licenses, license numbers, and other required documents within two days of executing the agreement, for compliance with NCCHC Standards.

44. Under the Physician’s Assistant Contract, Defendant Steinberg agreed to provide the ACSO with, among other things, the following services:

a. “Provide health assessments for designated inmates that meet the requirements set forth by the Supervising Physician and that meet the NCCHC Standards to inmates of the Ada County Jail; and

b. Complete all necessary forms and documentation that may be required by the ACSO, the supervising physician or governing agencies.”

45. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would assist “ACSO and Jail medical staff in meeting its duties as described in the ‘Ada County Mental Health Protocol’ and other Jail, county and state documents and assist in meeting such duties as are imposed by federal and state laws and regulations.”

46. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following direct patient services, among others: Case Supervision, Discharge Planning, Medication Recommendation and Management, Supervision of Inmate Psychosocial Care, and Staffing Individual Cases with the ACSO Medical Staff.

47. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following indirect patient services, among others: Consult with the Medical Program Administrator and Other Medical and Mental Health Professionals to Improve Quality of Overall Mental Health Delivery Program in the Jail, and

Monitor and Direct Appropriate Mental Health Staff in the Delivery of Mental Health Services to the Inmates at the Jail.

48. Defendant Estess failed to provide mental health and psychiatric services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards, and failed to assist Defendants Ada County and Raney with meeting NCCHC Standards.

49. Defendant Estess failed to perform the services he agreed to provide under the Psychiatrist Contract.

50. Defendant Estess failed to supervise the provision of mental health services within the Ada County Jail, including but not limited to the failure to implement discharge planning, failure to supervise psychosocial care of inmates, failure to monitor and direct appropriate mental health staff in the delivery of mental health services to the inmates in the Ada County Jail, and failure to manage medications being prescribed to inmates in the Ada County Jail.

51. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that “in all cases, health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies” in meeting its medical and mental health obligations to Ada County Jail inmates.

52. Ada County Jail was accredited by the NCCHC until its accreditation was withdrawn in November 2008 as a result of an NCCHC survey of the Jail in August 2008.

53. Ada County Jail’s accreditation was withdrawn in November 2008 for its failure to meet NCCHC Standards for NCCHC accreditation.

54. In August and September 2008, Defendants were not operating the Ada County

Jail according to the NCCHC Standards or in accordance with Ada County written policies adopting NCCHC Standards.

55. According to NCCHC Standards, a “Potentially Suicidal Inmate” is to be observed at staggered intervals not to exceed every 15 minutes.

56. According to NCCHC Standards, a Potentially Suicidal Inmate placed in isolation must be observed constantly.

57. According to NCCHC Standards, a Potentially Suicidal Inmate is not actively suicidal but has expressed suicidal ideation and/or has a recent history of self-destructive behavior.

58. According to NCCHC Standards and Ada County written policy in effect at all times relevant to this Third Amended Complaint, each member of the Jail staff was responsible to immediately notify the medical staff when an inmate exhibited symptoms that are bizarre and could constitute mental illness, including the inmate making threats of suicide, having delusions and/or hallucinations.

59. At all times relevant to this Third Amended Complaint, Ada County written policies included a protocol that, upon admission to the Jail and prior to being placed in a housing unit, an inmate was required to assist the booking officer in the completion of a medical screening questionnaire.

60. Some of the questions on the medical screening questionnaire deal with mental health, past mental health treatment, and any history of suicide attempts or suicidal thoughts.

61. As part of the medical screening questionnaire completion process, the inmate was to be asked if he or she was taking any medications or was under the care of a medical or psychological doctor.

62. As part of the medical screening questionnaire completion process, if the inmate indicates that he or she was being treated or taking medication for mental health or was contemplating or had in the past attempted suicide, the medical screening questionnaire was to be marked as such and sent to the Ada County Jail Medical Unit staff for review.

63. At all times relevant to this Third Amended Complaint, Ada County written policy stated: "Inmates who appear to security personnel to be suicidal or otherwise mentally ill at booking, or at any time while in the jail, shall be housed in a unit that is appropriate for the inmate's condition."

64. At all times relevant to this Third Amended Complaint, Ada County written policy required that within 14 days of admission and confinement, each inmate was to receive a health assessment. During the assessment, the healthcare provider was to observe the inmate for abnormal behavior which may indicate a psychological problem. The intake medical screening form was to be reviewed during the health assessment. The Ada County written policy states:

The mental health evaluation will be documented on the physical exam form and will focus on the following areas:

- (1) History of psychiatric hospitalization and outpatient treatment,
- (2) Current psychotropic medication, and/or exhibiting violent behavior,
- (3) Suicidal ideation and history of suicidal behavior,
- (4) Drug and alcohol usage,
- (5) History of sex offenses,
- (6) History of behavior suggestive of intermittent explosive disorder,
- (7) Special education treatment,
- (8) History of cerebral trauma or seizure,
- (9) Emotional responses to incarceration,
- (10) To time, place and person oriented.

65. A full health assessment was not provided to Munroe during the incarceration period of August 28, 2008 to September 26, 2008.

66. On information and belief, Defendants had adopted the custom of forgoing such health assessments of inmates at the Ada County Jail.

67. Alternatively, if Munroe was provided a 14-day health assessment, it was not documented with a focus on the mental health evaluation in the inmate's medical record, as is required by Ada County's written policies.

68. At all times relevant to this Third Amended Complaint, Ada County written policy required that a special needs program be maintained to serve individual inmates who have special medical and mental health needs, such as "mental illness, including inmates with suicidal ideation and/or behavior."

69. Special Needs inmates were to be identified during the initial assessment as part of the booking process and, once it was determined that an inmate is a Special Needs inmate, a treatment plan was required to be prepared that included short- and long-term goals to be met by addressing "collaborative problems requiring multidisciplinary involvement."

70. Although Munroe should have been identified as a Special Needs inmate due to his suicidal history, he was not, and a treatment plan was never developed for him at the Ada County Jail.

71. At all times relevant to this Third Amended Complaint, Ada County written policy stated that all rooms within the Medical Unit were to be equipped with cameras to allow constant visual observation.

72. Inmates would be housed in the Medical Unit most often due to possible detoxification symptoms or mental health problems which presented a danger to self or others, including psychotic disorders, suspicion of psychotic depression, or suicidal ideation.

73. At all times relevant to this Third Amended Complaint, it was the Ada County

written policy that the Medical Unit would accept any and all inmates referred by the security staff.

74. Medical staff was to assess the inmate and before they could return the inmate to general population, clearance by the medical staff was required and must have been “well documented” in the inmate’s medical file. Information provided by the inmate to security staff was required to be regarded as bona fide per Ada County written policy.

75. At all times relevant to this Third Amended Complaint, Ada County written policy stated that it is the responsibility of all Jail staff to identify inmates who may be at risk of suicide, and to initiate reasonable intervention to reduce the risks to inmates who may be suicidal.

76. During the medical intake procedure in booking, the inmate was to be asked at least three direct questions: (1) Have you ever been treated for depression? (2) Have you ever tried to commit suicide? (3) Are you contemplating suicide now?

77. Also during the medical intake procedure, the officer was required to make and document an observation directed at the question of whether the inmate’s behavior suggests depression, suicide or assault.

78. Officers who become aware of an inmate who presented a potential suicide risk during the intake procedure, whether they became aware of it from the arresting officer or through direct questioning and observation, are required to immediately notify the Medical Unit and provide all available information on the potentially suicidal inmate.

79. At all times relevant to this Third Amended Complaint, Ada County written policy stated that once a security officer notifies the Medical Unit of a potentially suicidal inmate, the Medical Unit staff is required to conduct and document an assessment to ascertain

the level of suicide risk associated with the inmate.

80. The level of suicide risk assigned to an inmate is to be used to determine the level of intervention and housing.

81. The Medical Unit staff member who performs the assessment is required to document the assessment and intervention in a topic report.

82. At all times relevant to this Third Amended Complaint, Ada County written policy sets forth specific factors that were to be used in assessing an inmate's level of suicide risk.

83. Inmates assessed to present a potential risk for suicide are to be assigned a risk level of low, moderate, or high according to established assessment guidelines and clinical and security judgment.

84. The guideline features of a high suicide risk inmate are identified as follows:

- a. Mood may be labile (unsettled) to depressed or exhibits recent unexplained improvement in mood;
- b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
- c. May report depression;
- d. Specific report of suicidal ideation especially with a specific workable plan;
- e. Previous suicide gestures/attempts;
- f. Under the influence of any substance;
- g. Has perceived recent major life trauma;
- h. Male;
- i. Age <25;
- j. First arrest;

- k. Incarcerated <48 hours;
 - l. Makes poor or no eye contact;
 - m. Verbally stunted—difficult to or will not engage in conversation;
 - n. Lacks future orientation; has unrealistic expectation of self;
 - o. Will not agree to no self harm;
 - p. Projects elements of hopelessness, helplessness;
 - q. Exhibits diminished or complete loss of self esteem;
85. The guideline features of a moderate suicide risk inmate are identified as follows:
- a. Mood may be labile (unsettled); possibly depressed;
 - b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
 - c. May report depression;
 - d. Vague to specific report of suicidal ideation; vague or impractical plan;
 - e. Under the influence of any substance;
 - f. May have perceived recent major life trauma;
 - g. Male;
 - h. Age <25;
 - i. Makes poor eye contact;
 - j. Verbally stunted—requires effort to engage in conversation;
 - k. Unsure of future orientation; some unrealistic expectations of self;
 - l. Ambivalent regarding no self-harm agreement;
 - m. Projects elements of hopelessness, helplessness;
 - n. Exhibits diminished self esteem.
86. The guideline features of a low suicide risk inmate are identified as follows:

- a. Good to labile (unsettled) mood;
- b. Affect is congruent to mood—inmate reports sadness and gives the appearance of sadness;
- c. May report depression;
- d. Vague report of suicidal ideation; has no plan;
- e. No previous suicidal gestures/attempts;
- f. Not under the influence of any substance;
- g. No perceived recent major life trauma;
- h. Female;
- i. Age >25;
- j. Makes good eye contact;
- k. Verbally appropriate—engages easily in conversation;
- l. Future oriented; realistic expectations of self;
- m. Agrees not to harm self.

87. At all times relevant to this Third Amended Complaint, Ada County written policy states that any potentially suicidal inmate must be housed where he or she could be monitored in accordance with the level of suicide risk involved.

88. At all times relevant to this Third Amended Complaint, Ada County written policy states low risk inmates could be housed in the general population but they were not to be housed in a single cell environment without medical/supervisor clearance unless the area had 15-minute wellbeing checks being conducted and documented.

89. At all times relevant to this Third Amended Complaint, Ada County written policy states moderate risk inmates could be housed in general population only with clearance from medical/supervisor.

90. At all times relevant to this Third Amended Complaint, Ada County written policy states housing a moderate risk inmate in a single cell environment outside the Medical Unit could only be done with medical/supervisor clearance.

91. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be housed in the Medical Unit until seen by a mid-level practitioner or medical doctor.

92. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be referred to a psychologist, be on 15-minute wellbeing checks, and have additional safeguards in place when the inmate is housed in the Medical Unit.

93. At all times relevant to this Third Amended Complaint, Ada County written policy requires that an Inmate Encounter Form be completed by the Medical Unit healthcare provider “describing the medical contact with that inmate, including information on the medical complaint, results of the examination, diagnosis, recommendation, and prescriptions.”

94. At all times relevant to this Third Amended Complaint, Ada County written policy dictates that all inmates/prisoners who appeared to have an injury or illness or complain of such an injury or illness are required to be offered proper medical treatment, and if an inmate/prisoner refused medical treatment for an injury or illness, the deputy is required to request that the inmate/prisoner sign a medical treatment refusal form. The deputy is also required to document the injury, illness or complaint, and all medical assistance offered.

FACTUAL EVENTS LEADING TO THE DEATH OF MUNROE

95. At all times relevant to this Third Amended Complaint, Munroe suffered from mental illness that caused episodes of suicidal thinking and behavior.

96. On or about October 27, 2007, 18-year-old Munroe was booked into the Ada County Jail by an ACSO deputy on a charge of petite theft.

97. On or about October 27, 2007, an Initial Classification, Temporary Cell Assignment form relating to Munroe was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provides space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form includes a "Medical Intake and History/Receiving Screening" wherein the officer is to ask the inmate questions relating to the inmate's physical and mental health. One of the questions in that portion of the form is "Have you ever attempted suicide? When? Where?" The deputy placed a question mark in the space allocated on the form for recording the inmate's response. The deputy recorded a no response next to a question asking if the inmate had ever contemplated suicide.

98. On another form used by the Ada County Jail entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535" it indicated that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between October 27, 2007 and October 28, 2007.

99. Munroe was released from the Ada County Jail on or about October 29, 2007.

100. On or about July 4, 2008, Munroe was booked into the Ada County Jail for failing to appear in court on the petite theft charge.

101. On or about July 4, 2008, an Initial Classification, Temporary Cell Assignment

form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provided space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer is required to ask the inmate questions relating to the inmate's physical and mental health.

102. The July 4, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: Bi-polar and OCD when 13 YOA"
- b. "Yes – Have you ever contemplated suicide? When? when attempted
Where?"
- c. "Yes – Have you ever attempted suicide? When? January Where?"
"List: Sacramento Mental Health"

103. Although an Initial Classification, Temporary Cell Assignment form was filled out on or about July 4, 2008, Munroe received no classification.

104. Ada County Jail maintains a computer system for entering information regarding inmates and their histories that is referred to as JICS.

105. With regard to Munroe, the JICS on July 4, 2008, includes an entry by an Ada County Jail employee named Peni Dean that states: "Per JICS patient has been treated for bipolar and OCD 13 years ago. Patient attempted suicide in January at Sacramento Mental Health. No SI or other medical issues at this time."

106. On another form entitled "History of Cells Occupied by Inmate During This Stay

Munroe, Bradley Jacob #687535,” a record entry states that Munroe was “mishoused” when he was placed in cell 2W and then 1E during the period between July 4, 2008 and July 7, 2008.

107. Munroe was released on July 7, 2008, without a discharge plan in place for him.

108. There is no documentation in Munroe’s medical records at the Ada County Jail indicating that he received any medications or mental health treatment during his incarceration from July 4, 2008 to July 7, 2008.

109. On or about August 28, 2008, Munroe was again booked into the Ada County Jail to serve his sentence on the conviction he received on the petite theft charge.

110. When Munroe was booked into the Ada County Jail on or about August 28, 2008, he was carrying his prescription medications consisting of Celexa and Perphenazine.

111. Munroe told the booking deputy that he had been prescribed these two medications by his doctor, Stephen Bushi.

112. Celexa is an antidepressant. In 2004 and again in 2007, the FDA directed manufacturers of certain antidepressants to update their black box warnings to include warnings of increased suicidality when their product is prescribed to young adults between 18 and 24 years of age during the initial treatment period of one to two months. Celexa was one of the antidepressants included in the FDA directive. When Celexa is initially started or when dosages are adjusted up or down, patients, families and caregivers are advised to be alert to the emergence of anxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness, impulsivity, akathisia (psychomotor restlessness), hypomania, mania, other unusual changes in behavior, worsening of depression, and suicidal ideation. A portion of the warning states:

Families and caregivers of patients should be advised to observe for the emergence of such symptoms on a day-to-day basis, since changes may be abrupt. Such symptoms should be reported to the patient’s prescriber or health professional, especially if they are

severe, abrupt in onset, or were not part of the patient's presenting symptoms. Symptoms such as these may be associated with an increased risk for suicidal thinking and behavior and indicate a need for very close monitoring and possibly changes in the medication.

113. Perphenazine is an antipsychotic medication that is used to treat bipolar and schizophrenic patients. In 2007, the FDA added Perphenazine to the list of drugs like Celexa that it was requiring manufacturers to include the warnings regarding risks of suicidality.

114. The use of Celexa or Perphenazine doubles the risk of suicidality in patients during initial treatment and during periods of dosage changes.

115. On or about August 28, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form had space for indicating whether the Medical Director Designee was notified, the space was left empty.

116. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer was required ask the inmate questions relating to the inmate's physical and mental health.

117. The August 28, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Is the inmate carrying any medications?"
- b. "Yes – Are you presently taking medications?"
"List: perphenazine, citalopram"
- c. "Yes – Are you under a doctor's care?"

“List: Stephen Bushi”

- d. “Yes – Self-inflicted injury scars on wrists, legs, neck?”
- e. “Yes – Seeing visions?”
- f. “Yes – Hearing voices?”
- g. “Yes – Depressed?”
- h. “Yes – Confused?”
- i. “Comments: Says if he doesn’t take meds he gets bad mood swings. Has a 4 in scar on right arm that is self inflicted. Says his meds are for depression, manic, ocd, bi-polar.”
- j. “Yes – Have you ever been in a mental institution or had psychiatric care?”
“List: intrmntn 2 weeks ago”
- k. “Yes – Have you ever contemplated suicide? When? Where?”
- l. “Yes – Have you ever attempted suicide? When?”
“List: cut his arm and try to od”

118. Based on the August 28, 2008 Initial Classification, Temporary Cell Assignment form, Munroe was classified as 3-Med.High.

119. Although the Initial Classification, Temporary Cell Assignment form was filled out on August 28, 2008, Munroe was not classified until August 31, 2008, when it was determined that he would be given the classification of “3-Med.High with a High Risk and Special Condition Code of SUIHIST” for Suicide History.

120. On August 30, 2008, Defendant Farmer, a Registered Nurse in the Ada County Jail Medical Unit, made an entry in the computerized record system JICS which stated that Munroe was “on meds from provider already – see’s Stephen Bushi, was in Intermountain 2 weeks ago for attempted SI.”

121. On August 30, 2008, Defendant Farmer requested that a social worker perform a

suicide assessment on Munroe and gave it a “priority 1 (high).”

122. The assessment was postponed by social worker Defendant Johnson.

123. On August 31, 2008, a JICS entry was made by an Ada County Deputy identified only as ID #4186 stating the following regarding Munroe: “During the interview I got the feeling that Munroe has the potential to be a problematic inmate. No medical issue or identified enemies. He will be sent to mcu.” MCU is an acronym meaning medium custody unit.

124. On September 1, 2008, Defendant Johnson spoke to Munroe and cleared him for general population housing.

125. Ada County Jail records state the following notations made by Defendant Johnson, documenting subjective impressions of Munroe on September 1, 2008: “per JICS – was in Intermountain 2 weeks for attempted suicide. MSW met with patient. He reports that he has a long history of treatment for mental disorders—currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time.”

126. The September 1, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

127. Munroe was initially housed in cells 1N, 2W, CCUSP until September 1, 2008, when he was moved to cell 763, where he stayed until September 21, 2008.

128. On September 21, 2008, Munroe was moved to cell 713, where he remained until he was released on September 26, 2008.

129. Cells 763 and 713 are general population housing.

130. On all of the aforementioned incarcerations when Munroe was in the custody of the Ada County Jail, he was “mishoused” according to his classification.

131. There are no records indicating that anyone at the Ada County Jail attempted at any time to communicate with Dr. Stephen Bushi regarding Munroe’s medical condition or treatment.

132. From August 28 through September 26, 2008, Ada County Jail records appear to indicate that Munroe may have received some of his prescribed medications but not all, although due to the absence or incompleteness of the records maintained by the Ada County Jail, it cannot be confirmed whether he received all medications that were prescribed to him for his mental illness.

133. During the period of August 28 to September 29, 2008, Ada County had a written policy requiring that each time an inmate is administered a medication, a “Medication Administration Sheet” is to be used to record whether the medication was provided and whether the inmate received it or refused it.

134. Additionally, the policy required that on each occasion when medication is administered to an inmate, the officer or medical staff administering the medication to the inmate is required to sign the Medication Administration Sheet indicating whether the medication was received or refused by the inmate.

135. The inmate is also supposed to sign the Medication Administration Sheet indicating whether the medication was received or refused.

136. The Medication Administration Sheet is supposed to be made part of the inmate’s medical file at the Jail.

137. The Medication Administration Sheets in Munroe's medical file at the Ada County Jail are not signed by either an officer or Medical Unit staff member, nor are they signed by Munroe.

138. On August 29, 2008, Ada County Jail Medical Unit records indicate a prescription order was placed for Munroe's Celexa and Perphenazine. The records also indicate another prescription order placed on September 4, 2008.

139. On two occasions while incarcerated between August 28 and September 26, 2008, a \$5.00 charge was made against Munroe's commissary account for medications ordered on his behalf. It is not clear from the records whether either or both of the charges were for Munroe's Celexa and Perphenazine medications, and it is not clear what quantity, if any, of those two medications was provided to Munroe.

140. The only record that exists at the Ada County Jail of Munroe actually receiving his medications is a kite submitted by Munroe asking why his medication schedule for his Celexa had been changed from mornings to evenings.

141. There is no documentation of anyone prescribing Celexa or Perphenazine for Munroe during his incarceration at the Ada County Jail between August 28 and September 26, 2008.

142. Despite Ada County written policy at the time, Ada County Jail Medical Unit did not perform a 14-day health assessment of Munroe between August 28 and September 26, 2008.

143. There are no records at the Ada County Jail indicating that Munroe was ever seen by the psychiatrist or medical doctor during any of his stays at the Ada County Jail, or that any doctor was contacted regarding Munroe's medical and mental health needs.

144. Munroe was released on September 26, 2008, after serving his sentence on the

petite theft conviction.

145. At all times relevant to this Third Amended Complaint, Ada County written policy required that when inmates are released from the Ada County Jail, a protocol is to be followed by the Ada County Jail Medical Unit to ensure that inmates receive their medication upon release from jail.

146. Under that protocol, the Nursing Supervisor shall review the list of inmates scheduled to be released and check to see if they were receiving medications while in the Jail and, if they were receiving medications, the Medical Unit is to gather and package the medications to be released with the inmate.

147. The Nursing Supervisor is also to complete a medication release form, and count each medication, noting the number of pills left, and deliver the medication and paperwork to booking in the Jail.

148. On September 26, 2008, Defendant Babbitt was the Nursing Supervisor.

149. There is no documentation that Defendant Babbitt reviewed the list of inmates scheduled to be released on September 26, 2008, which included Munroe.

150. There is no documentation that Defendant Babbitt checked to see if Munroe was receiving medications in the Jail.

151. Defendant Babbitt did not complete a medication release form for Munroe or deliver his medications and paperwork to booking at any time.

152. At all times relevant to this Third Amended Complaint, an Ada County written policy was in place at the Ada County Jail that provided a protocol to be followed by the booking officer when preparing an inmate to be released from the Ada County Jail.

153. Under that protocol, the booking officer is to “inquire if they had personal

medications while in the jail,” and if there are personal medications, the booking officer is to call the Medical Unit to have the medications brought to booking for release.

154. The protocol further requires that, prior to releasing the inmate, the booking officer is to complete a medication release form, which is to be signed by the inmate and the releasing officer. The inmate is to sign on one line if accepting the medications, and on another line if refusing the medication.

155. Defendant Roach was the booking deputy who processed Munroe for release on September 26, 2008, and whose duty it was to ensure that Munroe was released with his medications. On information and belief, Defendant Roach was deliberately indifferent to the serious medical needs of Munroe to have his prescribed medication at the time of his release from the jail on September 26, 2008, when Munroe was released without his medications.

156. At all times relevant to this Third Amended Complaint, the ACSO had another policy at the Ada County Jail which required that an inmate who had been receiving medication while in the Jail is to receive a two-week supply of the medication upon being released in order to maintain continuity of care.

157. The policy also requires that an inmate is to be provided contact information for community resources where they can obtain medical care to continue their treatment.

158. A record exists within the Ada County Jail indicating that when Munroe was released on September 26, 2008, Defendant Weich, a CMS and Certified Correctional Health Professional, filled out the medication release form.

159. However, the medication release form from September 26, 2008, does not indicate that Munroe was released with his medications, or if he was, or whether he accepted them or refused them.

160. Additionally, the medication release form was not signed by Munroe, Defendant Weich, or anyone else from the Ada County Jail.

161. There is also no indication that Munroe received a copy of the medication release form that would have provided contact information for community resources where he could continue his medical care in the community.

162. On information and belief, Munroe received his prescribed Celexa and Perphenazine at inconsistent intervals while incarcerated at the Ada County Jail between August 28 and September 26, 2008.

163. On information and belief, Munroe was not provided any of his medications, by Defendant Weich, Defendant Roach, or anyone else at the Ada County Jail, when he was released on September 26, 2008.

164. While Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, there was no treatment plan in place for him.

165. When Munroe was released on September 26, 2008, there was no discharge plan in place for him.

166. On information and belief, without his medications, and without a discharge plan or treatment plan in place for him, Munroe's mental state deteriorated into a manic psychotic state that placed him in a condition where he was not in control of his mental processes.

167. On September 28, 2008, Munroe entered a Maverick Country Store in Boise and placed a backpack on the counter. He was wearing black shorts and no shirt. He had scratches across his face, sores on his hands, and a fresh cut to the back of his head. He screamed at the cashier to give him all the money in the cash register, while threatening to have a bomb in the backpack. When the cashier did not respond to his demands for money, Munroe started banging

his fists on the counter and repeatedly screamed at the cashier, "Do you want to die!" After obtaining \$239.88 in cash, Munroe fled the scene on a bicycle. He was apprehended a short distance away by Boise City Police.

168. Initially, Munroe was cooperative with law enforcement. He stepped off his bike, removed the backpack and stepped away from both. He followed the officers' command to lay flat on the ground. He identified himself and informed the officers that there was no bomb and the money was in his backpack. However, when Boise City Police placed Munroe in a squad car to be transported, Munroe's disposition changed suddenly. He began to hit his head against the car's window and alternately attempted to kick the windows out of the car. Officers placed Munroe in hobbles and transported him to the Boise City Police Criminal Investigations Division. There he admitted to consuming alcohol.

169. Once Munroe was inside the interview room, he began spitting and swearing at officers, and attempting to remove the hobbles. He refused to identify himself to the officers, even though he had earlier identified himself at the scene. While in such a state, Munroe defecated in his shorts. Paramedics were called to evaluate Munroe because of his extreme behavior. Paramedics transported him to St. Alphonsus Regional Medical Center ("St. Al's") to be further evaluated.

170. Boise City Police Officer Eric Urian, who attempted to interview Munroe at the Criminal Investigations Division, reported that he terminated the interview and had Munroe transferred to the hospital because of Munroe's "extreme behavior."

171. Officer Urian reported that the "suspect was highly emotional and was showing great mood swings. ... [b]ased on the suspect's actions and his state of mind I decided that an interview was not going to be appropriate. On a second contact with Munroe he screamed at me

that he wanted his attorney.”

172. Boise City Police Officers Jacob Nichols and Eric Urian transported Munroe to St. Al’s.

173. Upon arrival at St. Al’s, Munroe told Dr. Brandon J. Wilding that he had been taking Celexa and Trilafon (Perphenazine).

174. The doctor indicated in Munroe’s medical record that the past medical history was “significant for depression . . . He also reports a history of psychosis. Reviewing an older chart April 1, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning.”

175. Dr. Wilding also noted that Munroe reported to him his depression and that “if he is discharged from jail, he will commit suicide; however, he denies any plan to attempt suicide tonight. He does admit to being intoxicated.”

176. Dr. Wilding medically cleared Munroe for the Jail in part because he could not confirm the prescriptions of Celexa and Perphenazine, and because Officers Nichols and Urian represented to Dr. Wilding that they thought the Ada County Jail Medical Unit would be able to make that determination.

177. Munroe was taken to the Ada County Jail by Boise City Police officers.

178. At the Ada County Jail, Deputy Erica Johnson began filling out Munroe’s booking sheet and the booking process.

179. It appeared to Deputy Erica Johnson that when Munroe arrived at the Jail, he was under the influence of alcohol and/or drugs.

180. Deputy Erica Johnson further observed that Munroe was yelling, screaming, was

rowdy, and was not making a lot of sense when speaking.

181. Due to Munroe's demeanor, Deputy Erica Johnson could not complete the booking process, and Munroe was placed in a holding cell in the booking area for his own wellbeing, where all but his boxer shorts were taken from him.

182. Boise City Police Officers Nichols and Urian remained at the Ada County Jail and assisted Ada County Jail deputies as they tried to deal with Munroe and his behavior.

183. At approximately 10:42 p.m., Munroe urinated under the cell door. Ada County Jail officers moved him to another holding cell.

184. At approximately 11:05 p.m., Ada County Jail Deputy Brewer, ID #4778, a Registered Nurse employed within the Ada County Jail Medical Unit, indicated on an Inmate Housing Security Check Log that Munroe was masturbating inside his cell and that his "clothes were removed from him as he was trying to take string and wrap [it] around his neck. Apparently paramedics did see him on scene. Possible consumption of illegal substance. Let him sober."

185. The only clothing Munroe possessed at the time was his boxer underwear. He had torn the boxers into string or strips and then wrapped them around his neck.

186. On the Inmate Housing Security Check Log there were separate boxes for indicating whether a prisoner/inmate was combative, needing to detox, was suicidal, or other, and none of those boxes were marked by Ada County Jail staff.

187. From approximately 11:20 p.m. until approximately 7:52 a.m., Munroe was held in the same holding cell with no clothes and only a safe blanket to keep him warm.

188. Inside the cell was a slightly raised padded safe cot on which he spent most of the evening sleeping. Because Munroe had had all of his clothing taken away, a curtain was placed

over the windows to his cell. Ada County Jail staff checked on Munroe periodically throughout the night. Most all of the reports indicated that he was sleeping when checked on.

189. Deputy Brewer checked on Munroe on multiple occasions, but only made one entry on the log sheet. On information and belief, Brewer made a notation in the margin of the log sheet stating: "Very DK, Possible High on illegal ch, caution spitter."

190. There are no records at the Ada County Jail indicating that Deputy Brewer checked Munroe's medical record at the Ada County Jail that would have confirmed Munroe's history of suicidality, major depression, psychosis and prescription history.

191. Munroe remained in the holding cell until approximately 7:52 a.m. on September 29, 2008, when he was escorted out of the cell by ACSO Deputy Daniel Lawson, ID #4756, and taken to be processed into the Jail on charges of robbery and consumption by a minor.

192. At approximately 7:55 a.m., Munroe was moved to a cell identified by Ada County Jail records as 2W.

193. At approximately 8:00 a.m., Defendant Wroblewski took Munroe into the booking room and started obtaining Munroe's fingerprints as part of the booking process.

194. At 8:01 a.m., Defendant Johnson spoke with Munroe from the hallway just outside the booking room while Defendant Wroblewski continued the fingerprinting process with Munroe.

195. Defendant Johnson had been contacted earlier to "interview Munroe about his past and present suicide tendencies."

196. Defendant Johnson spoke to Munroe until 8:04 a.m., and then left.

197. Before leaving, Defendant Johnson asked Munroe if he had any current suicide

thoughts. Munroe responded by saying “No, I don’t have any thoughts right now and I don’t want any of your help.”

198. Defendant Johnson asked other questions of Munroe regarding Munroe’s suicidal history and mental status. Munroe again stated, “I don’t want anybody’s help. I am fine.”

199. When Defendant Johnson approached the area where he spoke with Munroe, he held in his hand a pen. He did not have any paper and did not write anything throughout his interaction with Munroe.

200. After Defendant Johnson left, Defendant Wroblewski completed the fingerprinting process with Munroe at 8:05 a.m.

201. At 8:13 a.m. on September 29, 2008, Defendant Johnson made a documentation entry on the JICS computer system indicating that he had completed a suicide assessment of Munroe and then he cleared Munroe from “JICS – High Risk: Suicide Watch”:

Subjective: assess suicide risk in booking. MSW met with pt. who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This morning he denies suicidal ideation or intent. Additionally states that he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request.

202. The September 29, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

203. Defendant Johnson did not obtain a signed refusal for treatment from Munroe as is required by Ada County written policy.

204. Defendant Johnson cleared Munroe for general population housing after reviewing his medical records at the Ada County Jail and speaking to Munroe for approximately three minutes.

205. Defendant Johnson's assessment of Munroe was that he posed no risk of suicide.

206. At no time prior to Munroe's death did Defendant Johnson review Munroe's September 29, 2008 Initial Classification, Temporary Cell Assignment form that included the medical questionnaire.

207. While Defendant Johnson holds a Master's Degree in Social Work, he has never held a license in the state of Idaho as a social worker.

208. It is a violation of Idaho Code § 54-3214 for a person to represent themselves "as a social worker by the use of the titles 'social worker,' 'masters social worker' . . . unless licensed" in the state of Idaho as a social worker.

209. Defendant Johnson was not qualified as a social worker to perform suicide assessments such as that which was required to be done on Munroe on September 29, 2008, as part of the classification and housing process at the Ada County Jail.

210. At the time Defendant Johnson spoke to Munroe on September 29, 2008, about whether Munroe posed a likely risk of suicide, Defendant Johnson was a recent hire to the Ada County Jail Medical Unit, having completed his "New Employee Orientation" training course on June 10, 2008.

211. While employed with the Ada County Jail and prior to the death of Munroe, Defendant Johnson had not completed the suicide assessment or prevention courses required of all other Ada County Jail employees who have contact with inmates.

212. On information and belief, prior to the death of Munroe, Defendant Johnson had

no training on the written policies of Ada County relating to suicide prevention.

213. Defendant Johnson did not conduct a complete suicide assessment of Munroe on September 29, 2008.

214. The suicide assessment Defendant Johnson conducted of Munroe was inadequate to the point of demonstrating recklessness and indifference to whether Munroe was likely to commit suicide.

215. Had Defendant Johnson conducted an adequate suicide assessment and considered all factors that were set out in Ada County's written policies at the time for assessing suicide risk, or those factors commonly viewed by trained and licensed social workers for assessing suicide risk, Munroe would have likely been classified as either high or moderate suicide risk; and would have thereby been provided greater protection against the risk of suicide.

216. With Munroe's suicidal history, he should have at least been assessed as being a low risk of suicide, which would have provided some minimum protections against Munroe committing suicide.

217. After completing the fingerprinting process, Defendant Wroblewski began interviewing Munroe as part of the medical screening process, and reported the following:

When I got to the questions concerning mental health, I asked Munroe "Are you seeing visions and hearing voices?" Munroe stated, "Yes, I see the shadow people." I then asked, "Are you seeing them right now?" Munroe stated, "He wasn't." I then asked Munroe if they talked to him? Munroe stated, "That they do." I asked Munroe what do they say to you? Munroe stated, "To run."

218. Defendant Wroblewski filled out the Initial Classification, Temporary Cell Assignment form and provided the following information:

a. Poor Physical Condition at intake;

- b. ? as to whether there were visible signs of injury or illness requiring immediate treatment or care;
- c. Yes to whether he appeared to be under influence of alcohol, or exhibit signs;
- d. No to whether he appeared to be under the influence of drugs;
- e. No to whether he was carrying any medications;
- f. Yes to having been taken to the hospital but nothing as to what treatment was received;
- g. As to the question “Does behavior suggest need for immediate psychiatric treatment?” it is marked NO;
- h. As to whether he was taking medications, it states “Celexa”;
- i. Are you under a doctor’s care? NO;
- j. Yes to whether he was taken to hospital. List 9/28/08;
- k. Yes to understanding the questions;
- l. Yes to assault/violent behavior;
- m. Yes to angry or hostile behavior;
- n. No to loud/obnoxious behavior;
- o. No to “Self-Inflicted injury scars on wrists, legs, neck”;
- p. No to Bizarre behavior;
- q. Yes to seeing visions;
- r. Yes to hearing voices;
- s. Yes to odor of alcohol;
- t. No to Uncooperative;
- u. COMMENTS: “Was hostile toward deputies and officer upon intake. Seeing shadow people, voices in head”;
- v. Yes to whether he had been in a mental institution and identifies Intermountain;

- w. Yes as to whether he ever contemplated suicide. When and where are left blank;
- x. Yes to have you ever attempted suicide. When and where are left blank;
- y. Yes to are you now contemplating suicide;
- z. Yes to “does the inmate’s behavior suggest a risk of suicide?”

219. Defendant Wroblewski finished his screening and filling out the Initial Classification, Temporary Cell Assignment form at 8:33 a.m.

220. Neither Defendant Wroblewski, Defendant Johnson, nor Munroe signed the Initial Classification, Temporary Cell Assignment form, even though there are signature lines for the inmate, the officer, and the physician/nurse.

221. Additionally, the areas designated to mark whether and when the notification to medical director was made, name and identification number of booking officer were all left blank.

222. In contradiction to the Ada County written policy in place at the time, Defendant Wroblewski did not contact the Medical Unit staff after Munroe relayed the information contained in the Initial Classification, Temporary Cell Assignment form.

223. The applicable Ada County written policy required that Defendant Wroblewski refer Munroe to Health Services once Munroe gave positive answers to having been treated for mental health issues, being on medications for mental health treatment, to contemplating suicide, and to having attempted suicide in the past.

224. Ada County written policy also required that Munroe be referred to Health Services because Defendant Wroblewski indicated on the form that he had observed behavior in Munroe that suggested a risk of suicide.

225. In contradiction to the direction of Defendant Johnson that, if indicated by

Munroe or staff, follow-up services were to occur, Defendant Wroblewski did not contact anyone for follow-up services.

226. Defendant Wroblewski disregarded the new information that Munroe had disclosed during the intake process that strongly suggested that Munroe was suffering a psychotic break and/or posed a greater risk of suicide than what had previously been assessed by Defendant Johnson. The information that Munroe disclosed to Defendant Wroblewski while working through the Initial Classification, Temporary Cell Assignment placed Munroe squarely in the high suicide risk classification.

227. At 8:37 a.m., ACSO Deputy Ryan Donelson, ID #4800, placed Munroe in a holding cell identified as 1H CCU.

228. Deputy Donelson reported that while he was escorting Munroe to be housed in general population, Munroe stopped walking and began to speak to Deputy Donelson. Munroe said to Deputy Donelson, "I need to be on PC [Protective Custody]. I can't live with other people. Everyone wants to kill me."

229. Deputy Donelson asked Munroe whom he was having problems with, so that he could help to determine where to house Munroe. Deputy Donelson asked Munroe if he was having problems with people over drugs. Munroe did not respond. Deputy Donelson asked Munroe if he was having troubles with gangs. Munroe said "I'm into a lot of stuff and everyone wants to kill me." Deputy Donelson asked Munroe if he knew the names of any of the people who want to kill him. Munroe said, "No." Munroe again told Deputy Donelson that he needed to be on protective custody and that he could not live with other people. Deputy Donelson secured Munroe in the CCU large holding cell 1-1.

230. Deputy Donelson then spoke to classifications Deputy Drinkall, ID #4221, about

his discussion with Munroe.

231. Deputy Drinkall looked up Munroe's history on JICS.

232. Deputy Drinkall also reviewed the Inmate Housing Security Check Log on which Deputy Brewer had documented Munroe's suicidal behavior of attempting to wrap clothes around his neck.

233. After reviewing Munroe's information, Deputy Drinkall noted that Munroe had a suicidal history.

234. Deputy Drinkall contacted Defendant Johnson, and Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but was very agitated.

235. Based on the information he obtained from Defendant Johnson, Deputy Drinkall determined that Munroe should be housed in the side chute of Cellblock 7. Munroe was then placed inside cell 735.

236. When Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but merely agitated, Defendant Johnson still had not reviewed the September 29, 2008 Initial Classification, Temporary Cell Assignment form completed by Defendant Wroblewski as part of the medical screening of Munroe.

237. Cell 735 contained, among other things, a bunk bed and a set of sheets.

238. It was a single inmate cell located at the end of the side chute where the cell cannot be easily observed by security staff or other inmates.

239. Defendant Johnson approved Munroe for being housed in a single cell environment, despite Munroe being at least a low suicide risk.

240. Munroe had also been provided standard general population clothing.

241. The upper bunk bed in Munroe's cell 735 was constructed in such a fashion that

there were holes in the upper bunk that were an inch or two in diameter.

242. A known risk of placing a suicidal inmate in a cell with these items is that the inmate will use the items to commit suicide by feeding the sheet up through one of the top bunk's holes and tying the sheet off with a knot that cannot be pulled down through the hole, and then use the sheet as a ligature with which to hang themselves.

243. Cell 735 posed a known and obvious risk of suicide to Munroe.

244. At approximately 10:37 a.m. on September 29, 2008, Munroe's mother, Ms. Hoagland, spoke with Leslie Robertson, the Ada County Jail Medical Unit's Health Services Administrative Supervisor, by telephone.

245. Leslie Robertson made the following entry on the JICS system:

Date: 09-29-08 10:37 PC Rita Hoagland mother 495-XXXX, 871-XXXX.¹ Called concerned that son is back in custody. He was released on Friday and returned sometime early this morning. He has made 3 serious suicide attempts in past (attempted to jump off bridge, overdose, and cut self). He has been in Intermountain and other hospitals as recently as this summer. He has had made (sic) when in community and told mother that we gave him meds here. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

246. Upon receiving additional information from Ms. Hoagland regarding Munroe's suicidal intentions, Defendant Johnson did not re-evaluate his assessment that Munroe posed no risk of suicide.

247. When Ms. Hoagland spoke with Leslie Robertson, Leslie Robertson assured Ms. Hoagland that she would follow up to see if Munroe was receiving his medications.

248. At approximately 11:57 a.m. on September 29, 2008, Defendant Farmer made the

¹ Telephone numbers have been redacted for privacy purposes.

following entry on the JICS system: “JICS review - on celexa (none brought in), see @ St. Al’s before coming to ACJ, has SI hx, seen at Intermountain. Inmate is OOC.” OOC is an acronym for Out of Control.

249. Despite conducting a JICS review of Munroe’s history which stated that he became suicidal when off his medications, Defendant Farmer did nothing to ensure that Munroe received his medications on September 29, 2008.

250. At 1:30 p.m. on September 29, 2008, Munroe was taken through video arraignment on the charges of Robbery and Possession/Consumption of Alcohol by a Minor.

251. As a matter of Idaho law, Munroe would have been told by the arraignment judge the maximum punishments for each of the charges should he be convicted.

252. After being arraigned, Munroe was returned to cell 735.

253. There is no record at the Ada County Jail of Munroe receiving either his prescribed Celexa or Perphenazine while incarcerated on September 28 and 29, 2008.

254. Defendant Barrett was the on-call provider of medications at the Ada County Jail on September 28 and 29, 2008.

255. As the on-call provider, Defendant Barrett would have to have approved any orders or requests for Munroe’s medications and would have determined how and when they would be provided to Munroe.

256. No medications were requested, prescribed, or provided to Munroe by anyone at the Ada County Jail on September 28 or 29, 2008.

257. Defendant Barrett, as the Senior Physician’s Assistant/Nurse Practitioner, and Defendant Babbitt, as the Nursing Supervisor/Inmate Healthcare Supervisor, each had a duty to supervise and control Defendant Farmer.

258. On information and belief, there is a *de facto* policy established by custom and practice at the Ada County Jail of not timely and consistently providing inmates with needed medication.

259. Defendants Barrett, Babbitt and Farmer each had a duty to ensure that each inmate at the Ada County Jail timely received needed medications once these Defendants became aware that the inmate has been prescribed medical treatment that includes psychotropic medications such as Celexa and Perphenazine.

260. Defendants Barrett, Babbitt and Farmer each had a duty to Munroe to ensure that on September 28 and 29, 2008, he timely received his Celexa and Perphenazine.

261. At some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, Munroe successfully committed suicide by hanging himself in cell 735 from the upper bunk of his bed.

262. He had placed a sheet up through one of the holes and tied the sheet off on one end while using the other to wrap around his neck. He was later pronounced dead at St. Al's.

263. At approximately 11:00 p.m. on September 29, 2008, Ms. Hoagland answered her door to find Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker there to speak to her about her son Bradley Munroe.

264. When Ms. Hoagland asked if her son was okay, Sheriff Raney asked her to sit down and then informed her that her son had taken his life while incarcerated at the Ada County Jail.

265. They informed her that he had taken his life by hanging himself from a sheet in the cell and that he accomplished the act by tying the sheet to the upper bunk of his bed.

266. When she asked them why her son had been placed in a cell by himself, with sheets and a bunk bed, they could not answer her.

267. When she asked them why her son was not put on suicide watch, they could not answer her.

268. As a result of the news of the death of her son, Ms. Hoagland suffered severe mental shock and emotional distress.

269. Detective Buie of the ACSO conducted an investigation of Munroe's suicide. Part of that investigation consisted of interviewing Defendant Johnson.

270. During that interview, Defendant Johnson stated to Detective Buie that he had been told by someone that on the morning of September 29, 2008, Munroe was saying that he was no longer suicidal, although Defendant Johnson has not been able to identify who the person was that made that statement to him.

271. Defendant Johnson further stated to Detective Buie that when he spoke to Munroe, Munroe said that he had made some stupid statements the night prior when he was "high."

272. Munroe did not tell Defendant Johnson that he had been high on September 28, 2008, when he was arrested and brought to the Jail.

273. Munroe was not high on any illegal drugs when he was brought to the Ada County Jail.

274. Defendant Johnson also told Detective Buie during his interview that Munroe had told him that he was not going to hurt himself. Defendant Johnson stated that Munroe told him he was not taking any medication and did not want mental health follow-up or any medications. Defendant Johnson indicated to Detective Buie that he observed Munroe while he was being fingerprinted and Munroe appeared to him to be reacting appropriately to people, and that based on his observations, Defendant Johnson assigned Munroe to regular housing.

275. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that it was very important for him to observe Munroe, his affect, and how he interacted with and answered the booking detention deputy's questions.

276. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that Munroe possessed a number of risk factors for suicide including his age, the fact that he was incarcerated, prior substance abuse, and that he had been treated for mental illness.

277. When Defendant Johnson spoke with Munroe and concluded he posed no risk of suicide, Defendant Johnson had reviewed Munroe's medical records at the Jail and noted Munroe's hospitalizations for prior suicide attempts, his prior incarcerations, and Defendant Johnson's own prior contact with Munroe wherein Defendant Johnson documented that Munroe's medications controlled his suicidal thoughts and behaviors.

278. Defendant Johnson told Detective Buie that after he spoke with Munroe on September 29, 2008, Leslie Robertson spoke to him about her conversation with Ms. Hoagland.

279. Leslie Robertson had conveyed to Defendant Johnson that Ms. Hoagland had informed her of Munroe's serious suicide attempts in the past, and that he had been talking about committing suicide.

280. After speaking with Leslie Robertson, Defendant Johnson did not do a second suicide assessment of Munroe.

281. On September 30, 2008, Defendant Johnson wrote the following statement regarding Munroe's suicide and his "assessment" of Munroe on September 29, 2008:

The reason for this assessment is clearly stated—he is at risk by virtue of recent statements of suicidal ideation and/or intent in jail

setting and in the community, resulting in hospitalization. He has additional risk factors—age, incarceration, treatment for mental illness, and substance abuse, which were also taken into consideration. However he had already told security staff that he was no longer suicidal and repeated to me that he did not have suicidal ideas or intentions to harm himself. He included a very common rationale for his suicidal statements the night before—that he was intoxicated/high. By observation and verbal interaction he was alert, calm, cooperative, able to follow directions, and respond appropriately to questions. There was no evidence of current sadness, distress, emotional lability (sic), inattention, distractibility, response to stimuli other than that of the security staff and social worker, or of any distortion of his thought process. In other words he appeared to be coping with his current circumstances and interacting with staff without difficulty.

I noted that I did not take a full history for assessment purposes. This was true due primarily to the request of the inmate that he not have medical or mental health services at the time. Asking numerous questions regarding personal history of the inmate when he had declined the service did not make sense. Additionally, some history had been gathered in early September when there was another assessment of this inmate, in which he also denied suicidal ideation or intent at that time. Given that he reported that he was thinking better at this time denied ideas or intent to harm himself and appeared to be fully capable cognitively of giving or of refusing consent to treatment, it seemed respectful of his choice not to pursue extensive questioning. One possible exception would have been to explore the reason/explanation of why he did not want treatment at this time. I possibly would have gotten clues regarding his hopelessness or intentions by doing so. Absent those clues there was no reason to believe that this young man, who had repeatedly denied current suicidal intent, was going to kill himself now.

Given that many individuals stop and start medications or treatment several times, and that they episodically are bothered by symptoms or can be free of symptoms for periods of time I left open the opportunity for further evaluation or treatment. This was noted by statement that if indicated by pt. or staff that follow-up services would occur as indicated.

282. On October 1, 2008, Ada County Jail Medical Unit employee Holly Kington, LPN, made an entry on the JICS system stating that Munroe's Celexa had been "left here in the pharmacy in bottom drawer."

283. Despite all the aforementioned events and warnings, and in contravention of the Ada County written policies that were in place to protect inmates such as Munroe from committing suicide in the Ada County Jail, Munroe was not identified as a suicide risk; he was not properly classified; and he was housed incorrectly for the classification he received, which resulted in his being placed in general population, inside a single inmate cell, with a bunk bed and two sheets with which to hang himself.

284. Despite perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide, as a matter of practice and custom, the named Defendants in this case do not follow those written policies.

285. Instead, they follow *de facto* policies that lack the necessary protections and lack the proper protocol for administering adequate medical and mental healthcare to inmates of the Ada County Jail.

286. The *de facto* policies that are actually implemented at the Ada County Jail are such that it is likely that those policies will result in the violation of inmates' constitutionally protected rights to medical and mental healthcare and security.

287. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt adopted *de facto* policies that were contrary to Ada County's written policies relating to the provision of professional medical and mental healthcare, including those policies governing suicide identification and prevention, and medication management and training.

288. These Defendants abandoned Ada County's perfectly reasonable written policies in favor of a set of *ad hoc* policies created by their own practices and customs, and the practices and customs of their agents over whom they exercised supervisory control.

289. Each of these Defendants, either by their status or their position, set the actual

policies under which the Ada County Jail was actually operated by their failures to train, supervise, and control the employees of the Ada County Jail in a manner that would ensure that written policies were followed. Additionally, there was an absence of enforcement protocol that would have ensured that written policies were followed.

290. The long-standing practices and customs employed by these Defendants and their employees in the operation of the Jail were such that the Ada County Jail was no longer being operated in compliance with its own written policies and NCCHC Standards.

291. The substandard operation of the Ada County Jail was long-standing practice and custom.

292. NCCHC does not withdraw accreditation of a jail because of isolated incidents where written policies are not followed.

293. NCCHC does withdraw accreditation of a jail for failure to have policies in place that conform to NCCHC Standards.

294. NCCHC does withdraw accreditation of a jail when there is a pattern of a jail's actual practices being inconsistent with NCCHC Standards.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

295. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

296. Count I is brought by Ms. Hoagland on behalf of the Estate of Bradley Munroe, and herself as an heir to the Estate, pursuant to Idaho Code § 5-311 and 42 U.S.C. § 1983, against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for violations of Munroe's constitutional rights under the Eighth and Fourteenth Amendments of the United States

Constitution for failure to provide Munroe with adequate medical and mental healthcare and adequate security under circumstances where those failures resulted in Munroe's death, and for such violations Plaintiff is entitled to special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

297. Count I is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

298. At all times relevant to this Third Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

299. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

300. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

301. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCHC Standards governing the provision of medical and mental healthcare and security to inmates of

the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

302. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

303. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

304. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

305. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from

custody on September 26, 2008, Munroe was a “prisoner” for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

306. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a “pretrial detainee” for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

307. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

308. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

309. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life’s necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

310. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

311. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

312. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

313. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

314. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

315. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

316. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

317. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

318. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

319. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

320. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

321. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was

released from the Jail on September 26, 2008.

322. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

323. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

324. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

325. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

326. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

327. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

328. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

329. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby “mishoused” on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

330. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe’s suicide.

331. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

332. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

333. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was

likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

334. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

335. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

336. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

337. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

338. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and

receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

339. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

340. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

341. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

342. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

343. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

344. From August 28 to September 26, 2008, Defendant Barrett was deliberately

indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

345. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

346. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

347. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

348. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

349. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed

Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

350. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

351. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

352. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

353. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

354. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

355. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to

determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

356. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

357. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

358. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

359. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

360. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

361. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

362. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

363. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

364. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

365. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

366. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

367. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

368. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

369. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

370. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

371. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

372. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

373. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

374. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

375. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

376. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those

written policies and standards.

377. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

378. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

379. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

380. Wherefore, Plaintiff Hoagland, on behalf of the Estate of Bradley Munroe, and on her own behalf as the heir to the Estate, demands judgment pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that

resulted in the wrongful death of Munroe in a sum to be proven at trial in the form of special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

COUNT II
(Civil Rights Violations – 42 U.S.C. § 1983)

381. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

382. Count II of this Third Amended Complaint is brought by Ms. Hoagland individually and on her own behalf as Munroe’s mother pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for interference with Ms. Hoagland’s familial relations, society and companionship interest with her son, Munroe, which is a due process interest protected under the Fourteenth Amendment of the United States Constitution for which she is entitled to recover for her injuries, including but not limited to loss of the companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.

383. Count II is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

384. At all times relevant to this Third Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

385. Defendant Ada County is a municipality with its policies, practices and customs

set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

386. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

387. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

388. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined, and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

389. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical

and mental healthcare and to adequate safety.

390. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

391. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

392. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

393. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health

illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

394. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

395. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

396. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

397. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

398. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

399. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

400. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

401. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

402. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

403. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

404. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

405. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

406. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

407. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

408. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

409. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

410. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

411. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

412. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

413. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

414. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

415. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

416. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe's suicide.

417. Throughout the period of August 28 to September 26, 2008, Defendants Ada

County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

418. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

419. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

420. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

421. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

422. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County’s written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional

judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

423. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

424. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

425. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

426. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

427. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of

documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

428. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

429. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

430. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

431. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

432. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

433. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson

and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

434. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

435. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

436. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

437. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

438. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the

Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

439. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

440. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

441. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

442. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

443. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

444. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

445. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

446. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

447. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

448. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

449. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

450. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29,

2008.

451. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

452. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

453. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

454. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

455. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

456. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker

when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

457. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

458. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

459. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

460. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC

Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

461. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

462. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

463. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

464. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada

County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

465. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

466. Wherefore, Ms. Hoagland demands judgment pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe and the termination of Ms. Hoagland's familial relationship with Munroe and the loss of his society and companionship. For her damages, Ms. Hoagland seeks general damages, including but not limited to loss of companionship and society, and her own pain, suffering, anguish, and emotional distress caused by the loss of her son, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

ATTORNEY FEES AND COSTS

Plaintiffs have been forced to incur attorney fees and costs related to the prosecution of this matter. Plaintiffs are entitled to recover their reasonable costs and attorney fees pursuant to Idaho Code §§ 6-918A and 12-121, 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or other applicable law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of no less than twelve (12) persons on all issues to be tried.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against the Defendants as follows:

1. An award of special and general damages to the Plaintiffs for their losses incurred as a result of the Defendants' violation of Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution in an amount that will fully and fairly compensate the Plaintiffs for their losses, all in an amount to be determined at trial;
2. An award of punitive damages against all Defendants sued in their individual capacities in an amount to deter similar official misconduct;
3. Pre- and post-judgment interest as allowed by law;
4. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or any other applicable law, or, in the event judgment is taken by default, in the amount of \$10,000;
5. Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail; and
6. For all other and further relief as the Court deems just and equitable and to which Plaintiffs are due as a matter of law and equity.

DATED this 14th day of September, 2010.

JONES & SWARTZ PLLC

By 

~~ERIC B. SWARTZ~~

DARWIN L. OVERSON

JOY M. BINGHAM

NO. _____ FILED _____
A.M. _____ P.M. 4:44

SEP 20 2010

J. DAVID NAVARRO, Clerk
By J. RANDALL
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY, a political subdivision of the State)
of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual and)
official capacity; JENNY BABBITT, in her)

Case No. CV OC 0901461

**MOTION TO DISMISS
PURSUANT TO RULE 12(b)(6)**

individual and official capacity; JAMES)
 JOHNSON, in his individual and official capacity;)
 JEREMY WROBLEWSKI, in his individual and)
 official capacity; DAVID WEICH, in his individual)
 and official capacity; LISA FARMER, in her)
 individual and official capacity; JAMIE ROACH,)
 in her individual and official capacity; and JOHN)
 DOES I-X, unknown persons/entities who may be)
 liable to the Plaintiffs,)
)
 Defendants.)
 _____)


COMES NOW, Ada County Defendants, by and through counsel, pursuant to Rule 12(b)(6) of the Idaho Rules of Civil Procedure, and move this Court for an order dismissing all federal law claims and this action in its entirety on the grounds and for the reasons that:

1. Plaintiffs have failed to state a cause of action upon which relief can be granted since neither the Estate nor Hoagland are proper § 1983 plaintiffs.

This Motion is made and based upon the Memorandum filed contemporaneously herewith, as well as the pleadings and other documents on file with the Court.

DATED this 20th day of September 2010.

GREG H. BOWER
 Ada County Prosecuting Attorney

By: 

 Ray J. Chacko
 Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of September 2010, I served a true and correct copy of the foregoing MOTION TO DISMISS PURSUANT TO RULE 12(B)(6) to the following person(s) by the following method:

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Eric B. Swartz

Jones & Swartz, PLLC

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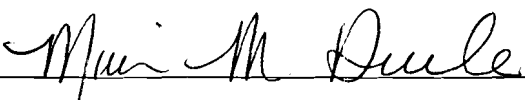
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NO. _____ FILED 4:44
A.M. _____ P.M.

SEP 20 2010

J. DAVID NAVARRO, Clerk
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DEPUTY

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ADA COUNTY PROSECUTING ATTORNEY

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY, a political subdivision of the)
State of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual)
and official capacity; JENNY BABBITT, in her)
individual and official capacity; JAMES)

Case No. CV OC 0901461

**MEMORANDUM IN SUPPORT
OF MOTION TO DISMISS**

JOHNSON, in his individual and official capacity;)
 JEREMY WROBLEWSKI, in his individual and)
 official capacity; DAVID WEICH, in his)
 individual and official capacity; LISA FARMER,)
 in her individual and official capacity; JAMIE)
 ROACH, in her individual and official capacity;)
 and JOHN DOES 1-X, unknown persons/entities)
 who may be liable to the Plaintiffs,)
)
 Defendants.)
 _____)

I. INTRODUCTION

During a hearing on September 13, 2010, the Estate of Bradley Munroe by his personal representative, Rita Hoagland, (the “Estate”) and Rita Hoagland individually as the mother of Bradley Munroe (“Hoagland”) (together the “Plaintiffs”) were given permission to file a third amended complaint in this matter alleging federal civil rights § 1983 claims against numerous Defendants.¹ The third amended complaint was filed on September 14, 2010 (the “Third Amended Complaint”), and served on Defendants Ada County, Gary Raney, Linda Scown, Kate Pape, Michael E. Estess, M.D., Karen Barrett, Jeremy Wroblewski, David Weich, Lisa Farmer, and Jamie Roach on September 17, 2010.

Though not all of the Defendants have been served in this case, it appears appropriate to move for dismissal given that the arguments for dismissal are premised on the improper status of the Plaintiffs as § 1983 plaintiffs (as opposed to the status of the Defendants) and are dispositive

¹ The Defendants are listed as: Ada County; Ada County Sheriff, Gary Raney; Linda Scown; Kate Pape; Steven Garrett, M.D.; Michael E. Estess, M.D.; Ricky Lee Steinberg; Karen Barrett; Jenny Babbitt; James Johnson; Jeremy Wroblewski; David Weich; Lisa Farmer; and Jamie Roach.

of all of the Plaintiffs' causes of action as a matter of law since neither the Estate nor Hoagland are valid § 1983 plaintiffs under Idaho law.²

II. STANDARD OF REVIEW

When deciding to grant a motion to dismiss a claim based on I.R.C.P. 12(b)(6), the standard is the same as for deciding a motion for summary judgment. *Coghlan v. Beta Theta Pi Fraternity*, 133 Idaho 388, 398, 987 P.2d 300, 310 (1999). “The grant of a 12(b)(6) motion will be affirmed where there are no genuine issues of material fact and the case can be decided as a matter of law.” *Id.* “After drawing all inferences in the non-moving party's favor, [the court] then ask[s] whether a claim for relief has been stated....‘The issue is not whether the plaintiff will ultimately prevail, but whether the party is entitled to offer evidence to support the claims.’” *Young v. City of Ketchum*, 137 Idaho 102, 104, 44 P.3d 1157, 1159 (2002). If a party has failed to make even a preliminary showing that they will be able to state a colorable claim and support it with evidence, then a 12(b)(6) motion to dismiss should be granted.

III. ARGUMENT

A. The Estate Is Not a Valid Plaintiff Under 42 U.S.C. § 1983 and Idaho Law.

Under Idaho law an estate may not bring a 42 U.S.C. § 1983 action. In *Evans v. Twin Falls County*, 118 Idaho 210, 796 P.2d 87 (1990), Mrs. Evans, along with her husband, brought § 1983 claims against Twin Falls County Sheriff's deputies arising from an altercation that took place during the execution of a writ. Mrs. Evans died during the pendency of the litigation. After her death, the complaint was amended to join her estate as a plaintiff and the district court

² The argument that the Estate is not a proper § 1983 plaintiff was originally referenced in the Defendants' May 28, 2010, Motion for Summary Judgment, which matter has been continued in light of the subsequent amendments to the original Complaint. However, since this argument is purely a matter of law (unlike other arguments raised in the summary judgment) and is related to the argument that Hoagland is not a proper § 1983 plaintiff, it is better addressed in the current 12(b)(6) motion to dismiss.

treated the matter as also including a wrongful death claim in light of the allegation that the death of Mrs. Evans was caused by the actions of the defendants:

Mr. Evans contends that the alleged grabbing and shaking of Mrs. Evans on April 15, 1987, had an ongoing deleterious effect that resulted in her ultimate death from cardiac arrest on March 23, 1988.

Id. at 213, 90.

In the *Evans* decision, the Idaho Supreme Court discussed 42 U.S.C. § 1983 claims and whether those constitutional claims survived Mrs. Evans' death. The Court held that "the common law has not been modified or changed in Idaho either by statute or the Constitution, and therefore the general common law rule that personal causes of action do not survive the death of the injured party is the rule in Idaho." *Id.* at 217, 94 (citation omitted). The Court then explained that "[t]he § 1983 cause of action, by virtue of the statute's express language, is a personal cause of action, actionable only by persons whose civil rights have been violated. Thus, under Idaho law Mrs. Evans' § 1983 action does not survive." *Id.*³

³ The *Evans* decision regarding the right of survival has been the law in this State for twenty years and is still controlling. *See also, Vulk v. Haley*, 112 Idaho 855, 857-59, 736 P.2d 1309, 1311-13 (1987) (representative of decedent not allowed to bring wrongful death claim against alleged tortfeasor causing the injury); *Doe v. Cutter Biological, Inc.*, 89 F.3d 844, 1996 WL 344615, *4 (9th Cir. 1996) (unpublished) (the Ninth Circuit analyzed and applied Idaho law, dismissing the plaintiff's appeal against the tortfeasors based upon the plaintiff's death, explaining:

Furthermore, the Idaho Supreme Court's decision in *Evans v. Twin Falls County*, 118 Idaho 210, 796 P.2d 87, supports the inescapable conclusion that Idaho does not recognize the survivability of any claim that did not survive at common law where the victim died before judgment. . . . Though Idaho modified the common law by creating a wrongful death cause of action, the court noted that Idaho has not abrogated "the common law rule of non-survival of causes of action *ex delicto* in cases where the victim dies before recovery." 118 Idaho at 215, 796 P.2d at 92. Accordingly, the court concluded that "the district court did not err in ... dismissing any survival claim of the estate of [the victim] on the basis that her claims did not survive her death." 118 Idaho at 216, 796 P.2d at 93 (emphasis added).)

Especially illustrative of the inability of an estate to bring a § 1983 claim in Idaho is Judge Boyle's decision in *Anderson v. Correctional Medical Services*, 2005 WL 3263896 (D.Idaho Nov. 18, 2005) (No. CV 02-155-S-LMB). In that case an inmate brought a § 1983 cause of action against a prison's health providers for failure to treat his cancer, but died during pendency of the action. The Idaho federal district court noted that "[a] cause of action under 42 U.S.C. § 1983 survives the death of a plaintiff for the benefit of plaintiff's estate only if the law of the forum state creates a right of survival" and that this issue was squarely dealt with in *Evans*. *Anderson* at *2. More importantly, and despite Judge Boyle's reservations, the court ruled that:

[T]he *Evans* holding appears to restrict all § 1983 claims in which the plaintiff dies before a trial, *including a scenario in which the defendant allegedly caused the death of the plaintiff*... This court can not, on its own initiative, limit the plainly-broad holding of *Evans* even to prevent abuses, i.e., even to discourage defendants from delaying litigation in the anticipation of a plaintiff's death in order to achieve an abatement of the claims against them.⁴ Clearly, *Evans* holds that *all* § 1983 claims abate upon the Plaintiff's death.

Id. at 3 (emphasis added).

Thus, not only has the Idaho Supreme Court squarely ruled that an estate cannot bring this type of action, but, in addition, an Idaho federal district court interpreting and applying that Supreme Court decision has reached the same conclusion. Any civil rights claim in this matter was personal to Mr. Munroe and did not survive his passing. The Estate cannot bring this action.

B. Hoagland Is Not a Valid Plaintiff Under 42 U.S.C. § 1983 and Idaho Law.

The remaining plaintiff in this lawsuit is Hoagland, the biological mother of Mr. Munroe. However, common law precludes Hoagland from bringing a § 1983 cause of action for the death of her adult child.

⁴ Such potential abuses are not a concern in the present action where delay is not an issue given that the claims arose as a result of a suicide.

(i) *Creation and Retraction of Parental § 1983 Cause of Action.*

In 1984 the Seventh Circuit became the first court to recognize a § 1983 cause of action for the incidental loss of society and companionship resulting from the death of an adult child. That case, *Bell v. City of Milwaukee*, 746 F.2d 1205 (7th Cir. 1984), involved the fatal shooting of a 23-year-old by a police officer during a chase. The Seventh Circuit allowed the father of the shooting victim to recover under § 1983 for the violation of the father's substantive due process right to associate with his adult son. This was the first ruling to open the door to this type of novel § 1983 claim. However, that door was later shut by the very same court upon further analysis.

In *Russ v. Watts*, 414 F.3d 783 (7th Cir. 2005), the Seventh Circuit faced a similar scenario where a 22-year-old student at Northwestern University was fatally shot by a Chicago police officer. The Seventh Circuit took this opportunity to retract its prior position on the ability of a parent to bring a § 1983 claim for the death of an adult child:

Since *Bell*, several of our sister circuits have considered whether the Constitution protects a parent's relationship with his adult children in the context of state action which has the incidental effect of severing the relationship. No other court of which we are aware has allowed a parent to recover for the loss of his relationship with his child in these circumstances. Most courts that have considered the issue have expressly declined to find a violation of the familial liberty interest where the state action at issue was not aimed at specifically interfering with the relationship.

Russ at 787.⁵

⁵ Citing *Trujillo v. Bd. of County Comm'rs*, 768 F.2d 1186, 1190 (10th Cir. 1985); *Valdivieso Ortiz v. Burgos*, 807 F.2d 6, 9 (1st Cir. 1986); *McCurdy v. Dodd*, 352 F.3d 820, 830 (3rd Cir. 2003); *Claybrook v. Birchwell*, 199 F.3d 350, 357-58 (6th Cir. 2000); *Shaw v. Stroud*, 13 F.3d 791, 804-05 (4th Cir. 1994).

Affording plaintiffs a constitutional due process right to recover against the state in these circumstances would create the risk of constitutionalizing all torts against individuals who happen to have families.

Russ at 790.

We therefore overrule our decision in *Bell* insofar as it recognized a constitutional right to recover for the loss of companionship of an adult child when that relationship is terminated as an incidental result of state action.⁶

Russ at 791.

(ii) *Current Dis-favor of Parental § 1983 Cause of Action.*

As discussed above, though the Seventh Circuit originally created a § 1983 cause of action for parents, after analyzing the matter in greater detail and acknowledging that such a cause of action was greatly frowned upon by its sister courts (including the 1st, 3rd, 4th, 6th, and 10th Circuits) and would likely be disfavored by the U.S. Supreme Court,⁷ the Seventh Circuit reversed its position. Thus, the common law does not recognize the type of claim now brought by Hoagland in the current action.

Nonetheless, in deference to Hoagland it should be noted that one (1) court, the Ninth Circuit, *might* allow her to bring this type of claim. This anomaly was noted by the Seventh Circuit, but did not dissuade the Seventh Circuit from rejecting the § 1983 parental cause of

⁶ The term “incidental” is used because the plaintiffs had not alleged that the police officer shot *Russ* for the specific purpose of terminating *Russ*’ relationship with his family. *Russ* at 790. Similarly, Hoagland has not alleged (and has no basis to allege) that Mr. Munroe’s death was the result of specific intent by any Defendant to terminate Hoagland’s relationship with Mr. Munroe.

⁷ The Seventh Circuit noted:

The Supreme Court has “always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open ended.” . . . The Court has cautioned that we must “exercise the utmost care” in extending constitutional protection to an asserted right or liberty interest because, in doing so, we “place the matter outside the arena of public debate and legislative action.”

Russ at 789 (citations omitted).

action.⁸ Furthermore, at least one (1) federal district court within the Ninth Circuit has noted that the Ninth Circuit is alone in this regard and criticized the Ninth Circuit for its position:

The development of Ninth Circuit precedent that parents are entitled to bring a companionship claim in the context of an adult child where the deprivation was incidental to the state action has, to say the least, not come about directly and explicitly, nor has it been supported by any extensive and rigorous analysis.

Rentz v. Spokane County, 438 F.Supp.2d 1252, 1264 (2006) (lamenting that though binding upon it, the Ninth Circuit's development of this precedent is "inadvertent and/or not particularly well thought out under Supreme Court precedent . . ."). *Id.* at 1265.

Given this context, allowing Hoagland to proceed with a § 1983 parental claim would go against the overwhelming jurisprudence on the subject and place this Court in the unenviable position of adopting an outlying disfavored analysis that is "inadvertent and/or not particularly well thought out under Supreme Court precedent" Unlike the federal district court in *Rentz*, this Court is not subject to the dictates of the Ninth Circuit. To the contrary, this Court must consider what the Idaho Supreme Court would do. Given the clear direction of the vast majority of the federal circuits (including the 1st, 3rd, 4th, 6th, 7th, and 10th) and the U.S. Supreme Court's cautious approach with regards to the expansion of substantive due process claims,⁹ it seems reasonable to conclude that the Idaho Supreme Court would follow the currently accepted application of substantive due process claims and not condone the adoption of a new § 1983 parental cause of action in favor of Hoagland.

IV. CONCLUSION

Based on the foregoing, the Plaintiffs' claims must be dismissed for failure to state a cause of action upon which relief can be granted since neither the Estate nor Hoagland are proper

⁸ See *Russ* at 788.

⁹ See fn. 7.

§ 1983 plaintiffs. The Defendants respectfully request this Court dismiss this case in its entirety as a matter of law.

DATED this 20th day of September 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

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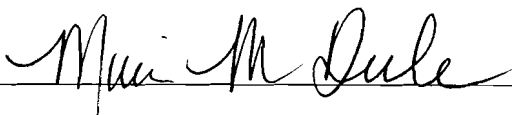
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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the
State of Idaho; *et al.*;

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFFS' MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

A. BOTH PLAINTIFFS HAVE A CAUSE OF ACTION UNDER § 1983

Defendants argue that neither of the Plaintiffs are “valid § 1983 plaintiffs under Idaho law.” Defendants base their argument on *Evans v. Twin Falls County*,¹ where the Idaho Supreme Court held that the civil rights claims of Mrs. Evans did not survive her death where there was no

¹ 118 Idaho 210 (1990).

medical evidence that her death was caused by the alleged actions of the police officers.² Defendants made this argument previously in their Motion for Summary Judgment. The argument must be rejected. It fails to acknowledge the *Evans* Court's heavy emphasis on the fact that Mrs. Evans died of causes unrelated to the defendants' actions and therefore the case was controlled by the United States Supreme Court case *Robertson v. Wegmann*:³

Since we have previously concluded that the uncontradicted medical evidence in the record justifies the trial court's summary judgment against plaintiff's claim that the alleged illegality of the officers caused the plaintiff's death, this case is controlled by the decision of the United States Supreme Court in the *Robertson* case, and "the fact that a particular action might abate surely would not adversely affect § 1983's rule in preventing official illegality...." Accordingly, we conclude that under the standards set out by the United States Supreme Court in *Robertson v. Wegmann*, application of the Idaho common law precluding survivability of a tort claim is not inconsistent with 42 U.S.C. §§ 1983, 1988.⁴

The *Robertson* Court was absolutely clear that its holding did not apply to § 1983 cases where the illegality of the defendant caused the decedent's death.⁵ The *Evans* Court quoted *Robertson* in making this point abundantly clear:

The goal of compensating those injured by a deprivation of rights provides no basis for requiring compensation of one who merely survives as the executor of the deceased's estate. And, given that most Louisiana actions survive the plaintiff's death, the fact that a particular action might abate surely would not adversely affect § 1983's rule in preventing official illegality, at least in situations in which there is no claim that the *illegality* caused the plaintiff's death.⁶

² *Id.* at 217-18.

³ 436 U.S. 584 (1978).

⁴ *Id.* at 218. *See also Id.* at 213-14, where the Court found that based on the absence of any medical evidence linking Mrs. Evans' death to the alleged illegality, the wrongful death claim was properly dismissed by the district court.

⁵ 436 U.S. at 592.

⁶ *Id.* (quoting *Robertson*, 436 U.S. 592).

The United States Supreme Court's italicized emphasis of the word "*illegality*" makes it clear that neither *Robertson* nor *Evans* is controlling when the illegality caused the plaintiff's death. Here, because the Third Amended Complaint alleges the Defendants caused Munroe's death, *Evans* has no application.

In both *Evans* and *Robertson*, the plaintiffs' deaths were unrelated to official misconduct. In *Evans*, as already discussed, the Court emphasized that Mrs. Evans' fatal heart attack was medically and temporally unrelated to the officers' actions.⁷ In *Robertson*, the plaintiff brought a § 1983 action for conspiracy and malicious prosecution of trumped-up perjury charges.⁸ The plaintiff died before trial of unrelated causes.⁹ The Court applied Louisiana's survivorship statute and found the personal claims abated upon the plaintiff's death.¹⁰ The Court emphasized its decision was narrow: "We intimate no view, moreover, about whether abatement based on state law could be allowed in a situation in which deprivation of federal rights caused death."¹¹

In *Carlson v. Green*, the United States Supreme Court again emphasized that *Robertson* was only applicable in cases where the victim dies of unrelated causes.¹² Referring to their *Robertson* decision, the Court stated: "There the plaintiff's death was not caused by the acts of the defendants upon which the suit was based."¹³ *Carlson* was a *Bivens*¹⁴ action brought against federal prison officials for causing the decedent's death by deliberate indifference to his medical

⁷ 118 Idaho at 213, 218.

⁸ 436 U.S. at 586.

⁹ *Id.*

¹⁰ *Id.* at 594.

¹¹ *Id.*

¹² 446 U.S. 14, 25 (1980).

¹³ *Id.*

¹⁴ Though § 1983 only applies to state actors, *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), provided an "equally effective" remedy against federal officials' misconduct as is provided under § 1983. *Bivens* actions were created purely as a matter of federal common law. *Id.* at 397.

needs.¹⁵ The Court held that federal law supplied the controlling rule of survivorship in *Bivens* actions brought against federal officials for illegally causing death.¹⁶ Under federal law, the Court held, the cause of action did not abate because to hold otherwise would undermine the very purpose for which *Bivens* actions were developed, *i.e.*, compensation and deterrence.¹⁷

Since *Robertson* and *Carlson*, federal law has developed to clarify that § 1983 claims survive lethal misconduct. Following the same reasoning as in *Carlson* and *Robertson*, the Ninth Circuit, in *Estate of Ferdinand Marcos, Human Rights Litigation*, held that personal injury and wrongful death claims arising out of official torture brought under international law survived the victim's death.¹⁸ Numerous federal courts have followed *Robertson* and *Carlson* to conclude that when a federal rights deprivation results in death, state laws that abate § 1983 claims or limit the damages recoverable are inconsistent with § 1983's purpose.¹⁹

The non-survivability rule has no application in a § 1983 case where official illegality causes death. The deterrence policy of § 1983 would be severely undermined by application of the non-survivability rule where the *serious harm likely to result* from officials' *deliberate indifference* to a citizen's rights is death. This is true of an entire class of cases where a death results from a Fourteenth Amendment violation.

¹⁵ *Carlson*, 446 U.S. at 14.

¹⁶ *Id.*

¹⁷ *Id.* at 24.

¹⁸ 25 F.3d 1467, 1476 (9th Cir. 1994).

¹⁹ *Bass v. Wallenstein*, 769 F.2d 1173 (7th Cir. 1985); *Bell v. City of Milwaukee*, 746 F.2d 1205, 1234-41 (7th Cir. 1984); *Jaco v. Bloechle*, 739 F.2d 239 (6th Cir. 1984); *Brazier v. Cherry*, 293 F.2d 402, cert. denied, 368 U.S. 921 (1961); *McFadden v. Sanchez*, 710 F.2d 907 (2nd Cir.), cert. denied, 464 U.S. 961 (1983); *Banks v. Yokemich*, 177 F. Supp. 2d 239 (S.D.N.Y. 2001); *Garcia v. Whitehead*, 961 F. Supp. 230 (C.D. Cal. 1997); *Williams v. Oakland*, 915 F. Supp. 1074 (N.D. Cal. 1996); *Tracy v. Bittles*, 820 F. Supp. 396 (N.D. Ind. 1993); *Davis v. City of Ellenburg*, 651 F. Supp. 1248 (E.D. Wa. 1987); *Heath v. City of Hialeah*, 560 F. Supp. 840 (S.D. Fla. 1983); *White v. Talboys*, 573 F. Supp. 49 (D. Colo. 1983); *Sager v. City of Woodland Park*, 543 F. Supp. 282, 297 (D. Colo. 1982); *Larson v. Wind*, 542 F. Supp. 25, 27 (N.D. Ill. 1982).

Application of the non-survivability rule to an entire class of cases would serve to have the opposite impact on official misconduct.²⁰ Instead of deterrence, it would serve to create incentive to ensure that the consequences of misconduct were most severe.²¹ The overarching purpose of § 1983 of enforcing the Fourteenth Amendment would be seriously undermined if only those who survived illegally inflicted pain and suffering were able to enforce those rights. Applying the non-survivability rule in cases where officials cause death eviscerates an entire class of civil rights actions brought to enforce the Fourteenth Amendment rights.

Even under Idaho law, a claim for wrongful death survives the decedent. In *Helgeson v. Powell*, the Court rejected the very argument the Defendants' advance here, finding that there was "no merit to the contention."²² There, the minor child of a man killed by a sheriff's unjustified shooting brought suit against the sheriff and his deputy.²³ The defendants advanced the common law rule that personal actions abate upon the plaintiff's death in order to defeat the child's claims for personal injury. The Court held that "there is no merit to the contention" that § 5-311 did not alter the common law to preserve actions for personal injuries resulting in death.²⁴ The *Helgeson* Court did not address the issue raised in *Evans*.²⁵

Defendant's reliance on *Anderson v. Correctional Medical Services*²⁶ is misplaced. First, Judge Boyle read *Evans* too broadly in the same manner the Defendants in this case have. Second, the plaintiff in that case died while the case was pending. Judge Boyle expressed no

²⁰ *Carlson v. Green*, 446 U.S. 14, 25 n.12 (1980) ("Otherwise, an official could know at the time he decided to act whether his intended victim's claim would survive.").

²¹ *Id.*

²² 34 P.2d at 960-61.

²³ *Id.* at 958-59.

²⁴ *Id.* at 961; *see Horner v. Sani-Top, Inc.*, 143 Idaho 230, (2006) (holding sufficient evidence of father's emotional distress stemming from child's death existed to justify an award of damages).

²⁵ *Id.* at 958-61; *Evans*, 118 Idaho at 217-18.

opinion as to whether the plaintiff's estate could bring an action under § 5-311 premised on § 1983. Similarly, Defendant's reliance on *Doe v. Cutter Biological, Inc.*²⁷ is misplaced since that was a diversity action involving only state tort causes of action.

Finally, Idaho has enacted a statutory exception to the common law non-survivor rule. *Evans* is no longer good law since the legislature enacted Idaho Code § 5-327(2) which provides that a "cause of action for personal injury or property damage caused by the wrongful act or negligence of another shall not abate upon the death of the injured person from causes not related to the wrongful act or negligence."

For the above stated reasons, Munroe's personal injury claims survive his death and therefore the Estate of Bradley Munroe is a proper Plaintiff.

B. HOAGLAND'S CIVIL RIGHTS CAUSE OF ACTION SURVIVES MUNROE'S DEATH

Hoagland's § 1983 claim for loss of companionship survives her son's death as it is personal to her. The Ninth Circuit Court, in *Strandberg v. City of Helena*,²⁸ held that parents of a 22-year-old who hung himself in jail could proceed with a § 1983 action against jail officials under the Fourteenth Amendment for loss of companionship.²⁹ Since *Strandberg*, the Ninth Circuit has repeatedly recognized a parent's liberty interest in the companionship of an adult child.³⁰ Furthermore, there is no requirement in the Ninth Circuit that Hoagland prove the

²⁶ 2005 WL 3263896 (D. Idaho).

²⁷ 89 F.3d 844*1 (9th Cir. 1996).

²⁸ 797 F.2d 744, 748 (1986).

²⁹ *Id.*

³⁰ *Toguchi v. Chung*, 391 F.3d 1051, 1060 (9th Cir. 2004); *Lee v. City of Los Angeles*, 250 F.3d 668, 685-86 (9th Cir. 2001); *Moreland v. Las Vegas Metro. Police Dept.*, 159 F.3d 365, 371 (9th Cir. 1998); *Byrd v. Guess*, 137 F.3d 1126, 1134 (9th Cir. 1998); *Ward v. City of San Jose*, 967 F.2d 280, 283 (9th Cir. 1992); *Curnow v. Ridgecrest Police*, 952 F.2d 321, 325 (9th Cir. 1991); *Smith v. City of Fontana*, 818 F.2d 1411, 1419 (9th Cir. 1987).

Defendants were deliberately indifferent to her rights.³¹ It is sufficient for her to prove the Defendants were deliberately indifferent to her son's rights, which in turn terminated her companionship interest.³² As such, Hoagland's claim vindicating her companionship interest survives Munroe's death.

Even if the United States Supreme Court were to adopt the requirement injected by the Tenth Circuit Court of Appeals in *Trujillo v. Board of County Commissioners of Santa Fe*,³³ Plaintiff Hoagland has alleged facts upon which a jury could conclude that the Defendants were deliberately indifferent to her protected relationship rights with her son. In paragraphs 244 to 247 and 263 to 268 of the Third Amended Complaint, Plaintiffs allege facts from which a jury could conclude that the Defendants were made aware that Ms. Hoagland was concerned that her son was at risk of committing suicide while at the jail. As recorded in the Jails' records by Defendant Leslie Robertson, Ms. Munroe informed her that she had received a telephone call from Munroe threatening suicide. Defendant Robertson conveyed the information to Defendant Johnson, who disregarded it even though he had knowledge of the serious nature of Munroe's past attempts at suicide. This information suggests deliberate indifference to not only the rights of Munroe but also to the rights of Ms. Hoagland.

Furthermore, should the issue reach the Idaho Supreme Court it is likely the Court would hold that Ms. Hoagland has standing to bring her claims. Idaho Code §5-311 grants the heirs the right to maintain an action for wrongful death. Ms. Hoagland is an heir pursuant to Idaho Code §15-1-201. Since at least 1908, the Idaho Supreme Court has recognized loss of society and

³¹ See *Ward*, 967 F.2d at 283-84, where the Court rejected Tenth Circuit precedent that required the parent to show a wrongful intent specifically directed at parent's interest.

³² See *Id.*

³³ 768 F.2d 1186, 1189 (10th 1985).

companionship as an element of damages in a wrongful death case.³⁴ The Idaho Supreme Court has always read the language of §5-311(1) expansively finding a presumption of loss of society and companionship damages.³⁵ The Court in *Meissner v. Smith*,³⁶ upheld the liberal reading of §5-311:

We assume, as did the court in *Checketts v. Bowman*,³⁷ *supra*, that the more liberal rule as to recoverable elements of damage is applicable in Idaho and that the base of allowable recovery to parents for the loss of a child includes the loss of prospective comfort, care, protection and assistance during the common life expectancy of the parents and child.³⁸

The Idaho Court of Appeals explain in *Sawyer v. Claar*, that §5-311 “did not prevent collateral relatives from recovering for the wrongful death of an adult family member.”³⁹ More recently, in *Horner v. Sani-Top, Inc* the Idaho Supreme Court reaffirmed its long standing position:

To reiterate, the *Hepp* language relied on in *Gardner* means that a plaintiff may recover general damages in a wrongful death action without pleading or proving special damages. In addition, general damages, such as loss of society and companionship, will be presumed upon death when the plaintiff is the spouse, parent or child of the decedent.⁴⁰

The federal courts often look to the state’s particular wrongful death statute when determining whether a plaintiff has standing to bring claims under §1983 for loss of comfort and society.⁴¹ In *Rhyne v. Henderson County*, the Fifth Circuit held that in determining whether a mother of a

³⁴ *Anderson v. Great Northern Ry. Co.*, 15 Idaho 513, 99 p. 91, 93(1908); *Kelly v. Lemhi Irrigation & Orchard Co.*, 30 Idaho 778, 168 P. 1076 1077 (1917).

³⁵ *Hepp v. Ader*, 64 Idaho 240, 130 P.2d 859, 862 (1942); *Gardner v. Hobbs*, 69 Idaho 288, 294 (1949); *Checketts v. Bowman*, 70 Idaho 463, 220 P.2d 682 (1950); *Hayward v. Yost*, 72 Idaho 415, 425 (1952); *Meissner v. Smith*, 94 Idaho 563, 570 (1972); *Sawyer v. Claar*, 115 Idaho 322, 326 (App. 1988); *Horner v. Sani-Top, Inc.*, 143 Idaho 230, 237 (2006).

³⁶ 94 Idaho 563, 570 (1972).

³⁷ 220 P.2d 682.

³⁸ *Id.*

³⁹ 115 Idaho at 326.

⁴⁰ 143 Idaho at 237.

pretrial detainee who committed suicide had standing under §1983 to recover for her own injuries resulting from the deprivation of her son's constitutional rights, the Court would look to Texas' wrongful death statute.⁴² In doing so, it explained that a state's wrongful death statute will be incorporated into 42 U.S.C. §1988 where federal law may be lacking so long as the state law is not inhospitable to the purposes and policies of §1983.

In *Rentz v. v. Spokane County*,⁴³ quoted by the Defendants, the Court explained the application of Washington's wrongful death and survivor statutes to a §1983 claim involving the jail suicide of the plaintiffs' adult son:

Where § 1983 does not provide suitable remedies for constitutional violations, the federal courts are instructed to turn to state law "so far as the same is not inconsistent with the Constitution and laws of the United States." 42 U.S.C. § 1988(a). In *Robertson v. Wegmann*,⁴⁴ the Supreme Court held that state law on survivorship of causes of action should control so long as that state law is not generally "inhospitable to survival of § 1983 actions ... [and] has no adverse effect on the policies underlying § 1983." The Supreme Court, however, has still not resolved the issue of whether wrongful death causes of action may be pursued under § 1983. Nevertheless, "[c]onfronted with standing problems, federal courts have 'borrowed' the wrongful death remedy as well as the survival remedy from state statutes under the vehicle of 42 U.S.C. § 1988, declining to apply state limitations on recovery if necessary to fairly compensate victims of constitutional deprivations and to deter police misconduct." *Davis v. City of Ellensburg*, 651 F.Supp. 1248, 1253 (E.D.Wash.1987), citing *Brazier v. Cherry*, 293 F.2d 401 (5th Cir.1961), and *Bell v. City of Milwaukee*, 746 F.2d 1205, 1238 (7th Cir.1984), among other cases.⁴⁵

⁴¹ *Rhyne v. Henderson County*, 973 F.2d 386, 391 (1992).

⁴² *Id.* at 390-91.

⁴³ 438 F. Supp.2d 1252 (E.D. Wa. 2006).

⁴⁴ 436 U.S. 584, 594, 98 S.Ct. 1991, 56 L.Ed.2d 554 (1978).

⁴⁵ *Rentz*, 438 F.Supp2d 1252; see also *Garcia v. Adams*, 2006 WL 403838 *10 (E.D. Cal.) (§1988 incorporates California's wrongful death and survival statutes).

Here, Idaho's wrongful death statute, §5-311, is incorporated in §1988 to provide a cause of action by which a §1983 claim may be asserted for a wrongful death caused by unlawful official conduct.⁴⁶ Where it is not otherwise inconsistent or inhospitable to the purposes and policies of §1983, Idaho's statute is incorporated into §1988.⁴⁷ Which is precisely why the Plaintiffs framed their causes of action under both §5-311 and §1983.

The Circuit that have declined to recognize a parent's standing such as those of the 1st, 3rd, 4th, 6th and 7th, have expressed a concern that to permit a parent to assert a claim under the Due Process clause for loss of companionship creates a problem where there may be no outer limit to which relationships give rise to such a right.⁴⁸ However, the problem those Circuits have struggled with is largely illusory in that each state's wrongful death and/or survivorship statutes set forth exactly which relationships are protected. Those statutes are each state's recognition of the importance of some relationships over others.

CONCLUSION

Where *Evans* and *Robertson* have no application to the federal law claims brought in this case, the Defendants' argument that this case should be dismissed is without merit.

Where Ninth Circuit precedent is controlling federal law in this case, Plaintiff Hoagland has an independent cause of action under § 1983 for loss of companionship.

And where Idaho's long history of recognizing an heir's standing to seek loss of society and companionship damages, Plaintiff Hoagland has an independent cause of action under Idaho Code §5-311 and §1983.

Accordingly, Defendants' motion to dismiss must be denied.

⁴⁶ See *Robertson v. Wegmann*, 436 U.S. 584, 594 (1978).

⁴⁷ See *id.*

⁴⁸ As noted in Defendants' Memorandum in Support of their Motion to Dismiss at footnote 7.

DATED this 27 day of September, 2010.

JONES & SWARTZ PLLC

By 

ERIC B. SWARTZ

DARWIN L. OVERSON

JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27 day of September, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY, a political subdivision of the)
State of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual)
and official capacity; JENNY BABBITT, in her)
individual and official capacity; JAMES)
JOHNSON, in his individual and official capacity;)
JEREMY WROBLEWSKI, in his individual and)

Case No. CV OC 0901461

**REPLY MEMORANDUM IN
SUPPORT OF MOTION TO
DISMISS**

EC

official capacity; DAVID WEICH, in his)
 individual and official capacity; LISA FARMER,)
 in her individual and official capacity; JAMIE)
 ROACH, in her individual and official capacity;)
 and JOHN DOES I-X, unknown persons/entities)
 who may be liable to the Plaintiffs,)
)
 Defendants.)
)
 _____)

I. INTRODUCTION

In Plaintiffs’ Memorandum in Opposition to Defendants’ Motion to Dismiss, filed September 27, 2010, the Estate of Bradley Munroe through its personal representative, Rita Hoagland, (the “Estate”) and Rita Hoagland individually as the mother of Bradley Munroe (“Hoagland”) (together the “Plaintiffs”) misconstrue the proper analysis regarding who can bring a § 1983 claim under Idaho and federal law. A closer reading of the case law Plaintiffs rely on demonstrates that neither the Estate nor Hoagland are valid § 1983 plaintiffs.

II. ARGUMENT

A. The Estate Is Not a Valid Plaintiff Under 42 U.S.C. § 1983 and Idaho Law.

As noted in Defendants’ Memorandum in Support of Motion to Dismiss, filed September 20, 2010 (the “Dismissal Memo”), *Evans v. Twin Falls County*, 118 Idaho 210, 796 P.2d 87 (1990), precludes an estate from bringing a 42 U.S.C. § 1983 action. Plaintiffs argue that this is an overbroad reading of the case based on their contention that the preclusion of an estate from bringing a § 1983 action is limited to instances in which the underlying cause of the claim did not result in the decedent’s death. However, the Idaho Supreme Court did not specify that its

holding was limited to such instances¹ and a federal district court in Idaho has already confirmed that:

[T]he *Evans* holding appears to restrict all § 1983 claims in which the plaintiff dies before a trial, *including a scenario in which the defendant allegedly caused the death of the plaintiff...* Clearly, *Evans* holds that *all* § 1983 claims abate upon the Plaintiff's death.

Anderson v. Correctional Medical Services, 2005 WL 3263896, *3 (D.Idaho Nov. 18, 2005) (No. CV 02-155-S-LMB) (emphasis added).

Despite these roadblocks, Plaintiffs continue to insist that an estate can bring a § 1983 action. They cite to various federal cases and even Idaho statutes to bolster their argument, but a careful reading of those sources demonstrates that the Plaintiffs' analysis is fundamentally flawed.

1. Plaintiffs Have Misread Existing Case Law.

Plaintiffs base most of their argument on their interpretation of *Robertson v. Wegmann*, 436 U.S. 584, 98 S.Ct. 1991 (1978). Unfortunately, this is problematic for at least two (2) reasons. First, in *Robertson*, the U.S. Supreme Court stated:

We intimate no view, moreover, about whether abatement based on state law could be allowed in a situation in which deprivation of federal rights caused death.

Id. at 594, 1997.

As such, the U.S. Supreme Court has noted that that specific issue (which is the issue in the current controversy) was not before them and they would not rule on it. Therefore, there is nothing in *Robertson* that precludes a state's survivorship laws from abating a § 1983 action.

Secondly, and more importantly, applying the U.S. Supreme Court's analysis in *Robertson* to a situation in which alleged "deprivation of federal rights caused death" leads to the

¹ In fact, this was a case where the plaintiff had alleged that the underlying cause of the claim did result in the decedent's death. *Evans* at 213, 90.

conclusion that abatement based on Idaho law would be allowed. The § 1983 survivorship analysis set forth in *Robertson* is as follows:

When federal law is thus “deficient,” § 1988 instructs us to turn to “the common law, as modified and changed by the constitution and statutes of the [forum] State,” as long as these are “not inconsistent with the Constitution and laws of the United States.”

Robertson at 588, 1994 (citations omitted). Thus, if federal law is insufficient we rely on the law of the forum State.

[O]ne specific area not covered by federal law is that relating to “the survival of civil rights actions under § 1983 upon the death of either the plaintiff or defendant.”

Robertson at 589, 1994 (citations omitted). Therefore, survivability of a § 1983 action is governed by the laws of the forum State.

Despite the broad sweep of § 1983, we can find nothing in the statute or its underlying policies to indicate that a state law causing abatement of a particular action should invariably be ignored in favor of a rule of absolute survivorship.

Robertson at 590, 1995. Even if the forum State’s laws would cause abatement of the § 1983 claims, such abatement laws are still applicable.

A state statute cannot be considered “inconsistent” with federal law merely because the statute causes the plaintiff to lose the litigation. If success of the § 1983 action were the only benchmark, there would be no reason at all to look to state law, for the appropriate rule would then always be one favoring the plaintiff, and its source would be essentially irrelevant.

Robertson at 593, 1996. Abatement of the § 1983 cause of action is not inconsistent with federal law.²

² This also nullifies any public policy argument that application of the proper Idaho legal standard would undermine the purpose of § 1983. Plaintiffs appear to miss the point that though Idaho law precludes § 1983 claims by an estate in a situation such as this, it does provide for other remedies through state tort claims that would deter misconduct by a potential wrong doer.

The *Robertson* Court used this analysis to conclude that a § 1983 action should be dismissed pursuant to Louisiana's survivorship statute.³ Applying the same analysis to the case at bar reaches the same result. As noted in Defendants' Dismissal Memo, "the common law has not been modified or changed in Idaho either by statute or the Constitution, and therefore the general common law rule that personal causes of action do not survive the death of the injured party is the rule in Idaho."⁴ *Evans* at 217, 94 (citation omitted); *see also, Doe v. Cutter Biological, Inc.*, 89 F.3d 844, 1996 WL 344615, *4 (9th Cir. 1996) (unpublished); *Craig v. Gellings*, 148 Idaho 192, _____, 219 P.3d 1208, 1210 (App. 2009) (Unmarried plaintiff's personal injury claims abate upon death). Applying Idaho's survivorship law results in abatement of any § 1983 claim that could be brought by Bradley Munroe and/or his Estate.

Thus, even if one could somehow argue that the holding in *Evans* was being read too broadly to require the dismissal of the Estate's § 1983 claims in this instance, the simple fact of the matter is that the combination of the U.S. Supreme Court's analysis on abatement of § 1983 claims with Idaho's survivorship laws leads to the inescapable conclusion that the Estate cannot bring a § 1983 action in Idaho.

2. Plaintiffs Have Misread Existing Statutory Authority.

Plaintiffs also appear to argue that changes in Idaho Code § 5-327 (regarding survival of actions) provide a basis for the Estate to bring a § 1983 claim. However, the changes to this statute actually demonstrate that the Idaho Legislature has confirmed that, in regards to situations

³ Plaintiffs have also cited to *Carlson v. Green*, 446 U.S. 14, 100 S.Ct. 1468 (1980) (a *Bivens* case) and *In re Estate of Ferdinand Marcos, Human Rights Litigation*, 25 F.3d 1467 (9th Cir. 1994) (a cause of action arising under the Alien Tort Act) to support their argument. However, neither of these cases arise under § 1983, and, as a result, are not subject to § 1988, Idaho law, or the analysis set forth in *Robertson*. Similarly, Plaintiffs' citations to other § 1983 cases outside Idaho are also inapplicable because they fail to factor in Idaho's survivability laws. Plaintiffs have failed to point to a single § 1983 case in Idaho that stands for the proposition they suggest.

⁴ This has recently been modified in part by a statutory amendment after the filing of this action, but that amendment does not change the end result in this situation as more fully set forth in section II.A(ii) below.

such as the current litigation, the non-survivability of personal causes of action is still the rule in Idaho. This statute was amended in July of 2010 to add a new provision, which provides in pertinent part:

(2) A cause of action for personal injury or property damage caused by the wrongful act or negligence of another shall not abate upon the death of the injured person from causes *not related* to the wrongful act or negligence. . . .

(Emphasis added.)

Prior to the recent adoption of this provision, Idaho followed the general common law rule that personal causes of action do not survive the death of the injured party. The Legislature has now carved out an exception for situations in which the death is *unrelated* to the cause of action. However, by making such an exception, and not including situations in which the death is *related* to the cause of action (as alleged by the Plaintiffs here), the 2010 Legislature confirmed that a personal claim based on actions resulting in the death of the injured party is abated under Idaho law.⁵

To further emphasize this point, one can look at *Andrews v. Neer*, 253 F.3d 1052 (8th Cir. 2001), where the Eighth Circuit was faced with a similar statutory scheme in Missouri allowing personal claims *not resulting* in death to survive, but abating such claims when they resulted in death. The court noted that if the estate of the decedent had attempted to bring a § 1983 claim, it would not have standing to pursue such claims because Missouri's survival statutes did not provide for such recovery. *Id.* at 1057.

⁵ Based on the Plaintiffs' briefing, it appears they have confused wrongful death claims under Idaho law with survivability of personal causes of action upon death. These are separate and distinct creatures. *See Doe* at *2. Idaho Code § 5-311 creates a new cause of action (wrongful death) for the benefit of heirs, but this is not the same as survivorship of personal causes of actions. A wrongful death claim doesn't survive the decedent since it can't come into existence until the decedent's death. Survivorship, on the other hand, is reflected by Idaho Code § 5-327, which allows (i) most personal causes of action to survive the death of the tortfeasor and (ii) personal causes of action that are *not related* to the death of the injured party to survive the injured party's death. The viability of an estate's § 1983 claim is dependent upon the forum state's survivability law (i.e. Idaho Code § 5-327) not wrongful death law as the Plaintiffs seem to suggest.

In light of the above, there is no basis to conclude that the Estate can bring a § 1983 claim in Idaho. This has already been demonstrated by the Idaho Supreme Court, an Idaho federal district court, application of the U.S. Supreme Court's § 1983 survivability analysis, and the Idaho Legislature.

B. Hoagland Is Not a Valid Plaintiff Under 42 U.S.C. § 1983 and Idaho Law.

As discussed in Defendants' Dismissal Memo, federal common law precludes a parent, such as Hoagland, from bringing a § 1983 cause of action for the death of her adult child. Nonetheless, Plaintiffs (masking the minority nature of the cases they cite to) urge this Court to adopt an outlying and outdated position on this issue and, in the process, create a new federal tort in Idaho.

In 1984, when the Seventh Circuit became the first court to recognize a § 1983 cause of action for the incidental loss of society and companionship resulting from the death of an adult child in *Bell v. City of Milwaukee*, 746 F.2d 1205 (7th Cir. 1984), it introduced a new federal cause of action that was rejected by most of its sister circuits. In 2005, the Seventh Circuit acknowledged its error and, in *Russ v. Watts*, 414 F.3d 783 (7th Cir. 2005), overruled its prior position, bringing its reasoning consistent with the majority of the federal circuits (i.e. the 1st, 3rd, 4th, 6th, 10th, 11th, and District of Columbia Circuits). See *Russ* at 787-88; *Trujillo v. Bd. of County Comm'rs*, 768 F.2d 1186, 1190 (10th Cir. 1985); *Valdivieso Ortiz v. Burgos*, 807 F.2d 6, 9 (1st Cir. 1986); *McCurdy v. Dodd*, 352 F.3d 820, 830 (3rd Cir. 2003); *Claybrook v. Birchwell*, 199 F.3d 350, 357-58 (6th Cir. 2000); *Shaw v. Stroud*, 13 F.3d 791, 804-05 (4th Cir. 1994);

Robertson v. Hecksel, 420 F.3d 1254, 1260 (11th Cir. 2005); *Butera v. District of Columbia*, 235 F.3d 637, 656 (D.C. Cir. 2001).⁶

Current federal common law does not recognize the federal tort that Plaintiffs want this Court to adopt. Plaintiffs have not been up front about the radical nature of their request and have also failed to acknowledge the U.S. Supreme Court's reluctance to create new federal causes of action.⁷ Instead, Plaintiffs take a circuitous route and proffer that the Idaho Supreme Court would expand Idaho Code § 5-311 (the wrongful death statute) and incorporate it into a constitutional right even though (i) this has never been done by that Court and (ii) the vast majority of federal circuits have already determined that there is no constitutional liberty interest created by the relationship between a parent and an independent adult child. *See Hannah v. City of Dover*, 152 Fed.Appx. 114, 116, 2005 WL 2496170 *2 (3rd Cir. 2005) (unpublished)⁸ and the other cases cited above.⁹

Plaintiffs inappropriately downplay the history and resounding rejection of their iteration of the parental § 1983 substantive cause of action. Nevertheless, at the risk of making too large a point of it, Defendants previously noted that before the Seventh Circuit extinguished the § 1983

⁶ Plaintiffs suggest that they can somehow bring a § 1983 parental claim for intentional severance of a parent's relationship with an adult child by alleging that the Defendants were deliberately indifferent to Hoagland's "protected relationship rights" with her son. However, Plaintiffs are confusing two separate standards. A finding of "deliberate indifference" is insufficient to establish specific intent to sever a parent's relationship. Instead, the Plaintiffs would need to show that each Defendant acted for the specific purpose of intentionally killing Mr. Munroe to harm Hoagland, which has not (and cannot) even be alleged in this case if for no other reason than that Mr. Munroe took his own life. *See Russ* at 790. Moreover, the current case does not even rise to the level of an intentional shooting by police, such as in *Russ*, where the required standard was still not met.

⁷ *See Russ* at 789.

⁸ Decided by a three (3) judge panel including the Honorable Samuel A. Alito, Jr., currently Associate Justice of the United States Supreme Court.

⁹ If one were to follow Plaintiffs' logic, any state tort (such as, but not limited to, Idaho's wrongful death statute) would instantly create a federal tort counterpart that is actionable under § 1983. This would be an outrageous result. For example, if a judge driving back from a judicial conference were to become involved in an automobile accident resulting in the unfortunate death of a fellow motorist, that judge would now not only be faced with potential liability under Idaho Code § 5-311, but also under § 1983 just because he could be considered to be a "state actor." *See Trujillo* at 1190.

parental cause of action it created, the Ninth Circuit (primarily relying on the Seventh Circuit's *Bell* decision), sprouted a progeny of cases, which Plaintiffs now cite to.¹⁰ However, even courts within its jurisdiction have noted that the development of Ninth Circuit law on the subject is "inadvertent and/or not particularly well thought out under Supreme Court precedent . . ." *Rentz v. Spokane County*, 438 F.Supp.2d 1252, 1265 (2006).¹¹ Moreover, "the state courts of Idaho were (and are) not bound to follow Ninth Circuit law." *Leavitt v. Arave*, 383 F.3d 809 (9th Cir. 2004).

In light of this, it would appear unreasonable for this Court (or the Idaho Supreme Court) to adopt a position regarding federal law that is contrary to the majority of the federal circuits (including the 1st, 3rd, 4th, 6th, 7th, 10th, 11th, and District of Columbia Circuits). Coupled with the U.S. Supreme Court's apprehension of creating new federal causes of action, and the Idaho Supreme Court's generally cautious approach to jurisprudence, there is little if any reason for this Court to crawl out on a shaky limb and impulsively expand § 1983 law to create a new federal tort in Idaho.

¹⁰ Notably, while federal circuits tend to be deferential to their sister circuits, in regards to this particular issue the Eleventh Circuit went out of its way to point out the Ninth Circuit's haphazard analysis of the matter. In *Robertson v. Hecksel*, 420 F.3d 1254, 1258 n.4 (11th Cir. 2005), the court noted that the seminal Ninth Circuit case which subsequent courts in that jurisdiction rely on in regards to the existence of a liberty interest for a parent of an adult child (*Strandberg v. City of Helena*, 791 F.2d 744 (9th Cir. 1986)) never actually addressed whether the asserted right existed. *Strandberg* is the same case relied on by Plaintiffs in their briefing.

¹¹ This is also true of the anomalous 1992 Fifth Circuit case of *Rhyne v. Henderson County*, 973 F.2d 386 (5th Cir. 1992).

III. CONCLUSION

In light of the above, Plaintiffs' § 1983 claims should be dismissed for failure to state a cause of action upon which relief can be granted since neither the Estate nor Hoagland are proper § 1983 plaintiffs.

DATED this 4th day of October 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By: 

Ray J. Chacko
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of October 2010, I served a true and correct copy of the foregoing REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS to the following person by the following method:

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NOV 02 2010

By ~~J. DAVID NAVARRO, Clerk~~
INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

Case No. CV-OC-09-01461

**MEMORANDUM AND
ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANTS' MOTION
TO DISMISS**

ADA COUNTY, a political subdivision of the
State of Idaho; ADA COUNTY SHERIFF,
GARY RANEY, an elected official of Defendant
Ada County and operator of the Ada County
Sheriff's Office and Ada County Jail, in his
individual and official capacity; LINDA SCOWN
in her individual and official capacity; KATE
PAPE, in her individual and official capacity;
STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D.,
in his individual and official capacity; RICKY
LEE STEINBERG, in his individual and official
Capacity; KAREN BARRETT, in her individual
and official capacity; JAMES JOHNSON, in his
individual and official capacity; JEREMY
WWROBLEWSKI, in his individual and official
capacity; DAVID WEICH, in his individual and
official capacity; LISA FARMER, in her
individual and official capacity; JAMIE ROACH,
in her individual and official capacity; and JOHN
DOES I-X, unknown persons/entities who may be
liable to Plaintiffs,

Defendants.

1 This matter came before the Court on Defendants' motion to dismiss for failure to state a
2 claim upon which relief can be granted. The Court heard oral arguments on Thursday, October 7,
3 2010. Darwin Overson appeared for the Plaintiffs. James Dickinson and Ray Chacko appeared for
4 the Defendants. The Court took the matter under advisement at that time. This Order now grants in
5 part and denies in part Defendants' motion to dismiss.

6 BACKGROUND

7 Bradley Munroe was incarcerated in the Ada County Jail from September 12-26, 2008. On
8 September 28, 2008, soon after his initial release, he was arrested on a robbery charge. Munroe was
9 again taken to the Ada County Jail. The following day, September 29, 2008, Munroe was found with
10 a bed sheet wrapped around his neck. Emergency resuscitation efforts were not successful.
11

12 Plaintiff Rita Hoagland is Munroe's mother. In her roles as the personal representative of
13 Munroe's estate and as his mother and heir, Ms. Hoagland sued Ada County, the Ada County sheriff,
14 and various Ada County Jail employees for the County's failure to administer proper healthcare and
15 failure to place Munroe on suicide watch. Ms. Hoagland asserts these failures resulted in her son's
16 suicide.
17

18 Her complaint contains two counts. Count I is brought by Ms. Hoagland on behalf of the Estate
19 of Bradley Munroe, and herself as an heir to the Estate, pursuant to I.C. 5-311 and 42 U.S.C. § 1983.

20 Count I alleges violations of Munroe's Constitutional rights under the Eighth and Fourteenth
21 Amendments of the U.S. Constitution for failure to provide Munroe with adequate medical and
22 mental health care and adequate security under circumstances where those failures resulted in
23 Munroe's death. Count II is brought by Ms. Hoagland, individually and on her own behalf as
24 Munroe's mother, pursuant to I.C. 5-311 and 42 U.S.C. §§ 1983, 1988. Count II alleges violations of
25

1 her Fourteenth Amendment due process interest in familial relations, society and companionship
2 with her son.

3 **STANDARD OF REVIEW**

4 An Idaho Rule of Civil Procedure 12(b)(6) motion to dismiss is appropriate when there are no
5 genuine issues of material fact and the case may be decided as a matter of law. *Coghlan v. Beta*
6 *Theta Pi Fraternity*, 133 Idaho 388, 398, 987 P.2d 300, 310 (1999). In considering a 12(b)(6) motion
7 to dismiss, the court may examine only those facts that appear in the complaint and any facts of
8 which the court may appropriately take judicial notice. *Hellickson v. Jenkins*, 118 Idaho 273, 276,
9 796 P.2d 150, 153 (Ct. App. 1990). “[T]he nonmoving party is entitled to have all inferences from
10 the record and pleadings viewed in its favor, and only then may the question be asked whether a
11 claim for relief has been stated.” *Coghlan*, 133 Idaho at 398, 987 P.2d at 310. “The issue is not
12 whether the plaintiff will ultimately prevail, but whether the party is entitled to offer evidence to
13 support the claims.” *Orthman v. Idaho Power Co.*, 126 Idaho 960, 962, 895 P.2d 561, 563 (1995)
14 (quoting *Greenfield v. Suzuki Motor Co. Ltd.*, 776 F. Supp. 698, 701 (E.D.N.Y.1991)).
15

16 **42 U.S.C. § 1983 ACTIONS**

17
18 42 U.S.C. § 1983¹ creates a personal cause of action for deprivation of federal statutory or
19 constitutional rights. *Evans v. Twin Falls County*, 118 Idaho 210, 216, 796 P.2d 87, 93 (1990).

20
21 ¹ 42 U.S.C. § 1983 states, in relevant part:

22 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State
23 or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the
24 United States or other person within the jurisdiction thereof to the deprivation of any rights,
25 privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured
26 in an action at law, suit in equity, or other proper proceeding for redress....

1 Section 1983 is not itself a source of substantive rights; instead, it provides a cause of action for the
2 vindication of federal rights. *Rinker v. Sipler*, 264 F. Supp. 2d 181, 186 (M.D. Pa. 2003). The
3 purpose of § 1983 is “to deter state actors from using the badge of their authority to deprive
4 individuals of their federally guaranteed rights and to provide relief to victims if such deterrence
5 fails.” *Wyatt v. Cole*, 504 U.S. 158, 161 (1992).

6 **A. 42 U.S.C. § 1983: SURVIVORSHIP CLAIMS**

7 Although § 1983 provides a cause of action for the vindication of federal rights, “federal law
8 simply does not ‘cover every issue that may arise in the context of a federal civil rights action.’”
9 *Robertson v. Wegmann*, 436 U.S. 584, 588 (1978) (quoting *Moor v. County of Alameda*, 411 U.S.
10 693, 703 (1973)). Accordingly, 42 U.S.C. § 1988 provides that when “federal laws are deficient in
11 the provisions necessary to furnish suitable remedies and punish offenses against law, the common
12 law, as modified and changed by the constitution and statutes of the [forum] State, shall be applied,
13 as long as such law is not ‘inconsistent with the Constitution and laws of the United States.’”
14 *Robertson*, 436 U.S. at 588 (quoting 42 U.S.C. § 1988). The *Robertson* court specifically addressed
15 the application of state survivorship law and noted that the “mere fact” that a forum state’s law
16 causes “abatement of a particular lawsuit is not sufficient ground to declare state law inconsistent
17 with federal law.” *Id.* at 594-95. Instead, a court should evaluate whether the state’s law is generally
18 hospitable to the survival of § 1983 actions and has “no independent adverse effect” on the § 1983
19 policies of compensation of persons injured by deprivation of federal rights and prevention of abuses
20 of power by those acting under color of state law. *Id.* at 590-91.

21 The *Robertson* court specifically stated that it was not addressing “whether abatement [of
22 survivorship claims] based on state law could be allowed in a situation in which deprivation of
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24
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1 federal rights caused death.” *Id.* Since *Robertson*, several state and federal courts have considered the
2 proper application of state survivability law when the § 1983 violation complained of is also the
3 alleged cause of death. In *Bell v. City of Milwaukee*, a shooting victim’s family brought multiple §
4 1983 claims against Milwaukee police officers. 746 F. 2d 1205 (7th Cir. 1984). In that case, the
5 court borrowed “Wisconsin’s wrongful death and survival causes of action but disregarded, as
6 inconsistent with constitutional and § 1983 policy, the limitations imposed by the state statutes, *i.e.*
7 the wrongful death statute’s preclusion of recovery by the victim’s estate for loss of life itself, and the
8 statute’s \$25,000 limit on damages for loss of society and companionship.” *Id.* at 1254.

9
10 In *Davis v. City of Ellensburg*, the family of a prisoner who died shortly after being taken into
11 custody brought § 1983 causes of action in conjunction with Washington state’s survivability and
12 wrongful death statutes. 651 F. Supp. 1248 (E.D. Wash. 1987). Similar to the Seventh Circuit in
13 *Bell*, the *Davis* court disregarded a provision of the Washington survivability statute that only
14 allowed parents to recover for the pre-death pain and suffering incurred by an adult child if the parent
15 was dependent upon the decedent adult child. *Id.* at 1256.

16 While the circuits and other states may provide guidance on the issue of survivability of
17 §1983 claims when the actions complained of are the alleged cause of death, they are not binding on
18 this court. More importantly, in *Evans v. Twin Falls County*, the Idaho Supreme Court has already
19 addressed the issue of Idaho survivorship law in the context of § 1983 actions. 118 Idaho 210, 796 P.
20 2d 87 (1990).

21
22 Mrs. Evans brought a § 1983 claim alleging that a Twin Falls sheriff’s deputy committed
23 assault and battery against her. Upon her death eleven months after the alleged assault and battery,
24 Mr. Evans maintained Mrs. Evans’ § 1983 claims on behalf of her estate, now also alleging wrongful
25

1 death. While the court did not find that the deputy's actions resulted in Mrs. Evans' death, the case is
2 still instructive here. The relevant claim in *Evans* involved whether Mrs. Evans' existing § 1983
3 claim survived her death so that her estate might continue the litigation. First, the court noted that by
4 its terms, § 1983 "grants a cause of action 'to the party injured.' Thus it is a personal action." *Id.* at
5 217 (quoting 42 U.S.C. §1983). The *Evans* court reiterated the common law rule that if the victim of
6 a tort died before she recovered a judgment, the victim's right to a cause of action also died. *Id.* at
7 215. The court then noted that, pursuant to I.C. § 73-116, common law rules are in effect in Idaho
8 unless modified by other legislative enactments. *Id.* Although the Idaho legislature has modified the
9 common law by providing a cause of action for wrongful death in I.C. §5-311, the legislature "has
10 not enacted any statute specifically abrogating the common law rule of non-survival of causes of
11 action *ex delicto* in cases where the victim dies before recovery." *Id.*

13 The *Evans* court next inquired whether Idaho's law was "inconsistent with the Constitution
14 and laws of the United States." *Robertson*, 436 U.S. at 587 (citing 42 U.S.C. §1988). Citing
15 *Robertson*, the *Evans* court concluded that:

16 [T]he fact that a particular action might abate surely would not adversely affect §
17 1983's rule in preventing official illegality....Accordingly, we conclude that under
18 the standards set out by the U.S. Supreme Court in *Roberston v. Wegmann*,
19 application of the Idaho common law precluding survivability of a tort claim is
not inconsistent with 42 U.S.C. §1983, 1988.

20 *Evans*, 118 Idaho at 218.

21 The *Evans* court did not explicitly state why Idaho survivorship law is not inconsistent with
22 the policy behind § 1983 actions. However, this Court notes that while an individual's tort action
23 abates upon his death in Idaho, his heirs are able to bring claims via Idaho's wrongful death statute.
24 Therefore, while Idaho's survivorship law does not allow compensation of a decedent's estate, the
25

1 negative connotations associated with wrongful death claims and the potential financial penalties
2 incurred as a result of wrongful death claims serve as deterrents to potential state actor tortfeasors.
3 Such considerations are in keeping with the U.S. Supreme Court's analysis of Louisiana's
4 survivorship law in *Robertson*.

5 In sum, Idaho law does not allow Munroe's estate to bring a claim. Standing alone, such an
6 outcome might be inconsistent with the policies underlying 42 U.S.C. § 1983. However, because,
7 when viewed through the larger lens of the entirety of Idaho's survivorship law, such an outcome is
8 not inconsistent with the U.S. Supreme Court's holding in *Robertson*, the claim brought on behalf of
9 Munroe's estate and by Ms. Hoagland as an heir to Munroe's estate must be dismissed. Therefore,
10 Defendants' motion to dismiss Count I of plaintiffs' complaint is GRANTED.
11

12 **B. 42 U.S.C. § 1983: WRONGFUL DEATH CLAIMS**

13 While the U.S. Supreme Court specifically addressed survivorship law in a § 1983 context in
14 *Robertson v. Wegmann*, that court has not specifically addressed the proper analysis of wrongful
15 death law in a § 1983 context. Without U.S. Supreme Court precedent, the circuits have addressed
16 the § 1983 wrongful death analysis in various manners.
17

18 The Fifth Circuit² views the absence of a federal § 1983 wrongful death policy as a
19 deficiency in federal law and, similar to the U.S. Supreme Court in *Robertson*, borrows state
20 wrongful death law in accordance with 42 U.S.C. § 1988. The Tenth Circuit³ evaluates whether a
21 defendant's conduct, which caused the alleged wrongful death, violated any constitutionally
22
23

24 ² *Rhyne v. Henderson County*, 973 F.2d 386, 391 (5th Cir. 1992); *Grandstaff v. City of Borger*, 767 F.2d 161, 172 (5th
25 Cir. 1985); *Brazier v. Cherry*, 293 F.2d 401, 404-06 (5th Cir. 1961).

26 ³ *Trujillo v. Bd. of County Comm'rs*, 768 F.2d 1186, 1189-90 (10th Cir. 1985).

1 protected rights of a surviving heir. Multiple circuits⁴ take the stance that a parent simply does not
2 have the right to bring a § 1983 cause of action for the wrongful death of an adult child, particularly
3 when the state action complained of “was not aimed at specifically interfering” with the parent-adult
4 child relationship.⁵ The Ninth Circuit⁶ stands alone in finding a constitutionally protected due
5 process interest in the parent-adult child relationship, allowing a surviving parent to bring a wrongful
6 death claim for loss of society and companionship. While all these analyses provide guidance, this
7 Court is not bound by any of them, including the Ninth Circuit, of which Idaho is a member.⁷

8
9 This Court now holds that the appropriate analysis of Idaho wrongful death claims in a §
10 1983 context is that followed by the Fifth Circuit in *Rhyne v. Henderson*, which is the analysis most
11 in keeping with the U. S. Supreme Court’s analysis in *Robertson*. Both of these cases instruct a court
12 to look to the forum state’s survivorship laws and apply them to § 1983 causes of action, as long as
13 the outcome of that application is not inconsistent with the policies underlying § 1983. Therefore, in
14 evaluating whether Ms. Hoagland’s wrongful death claims survive this motion to dismiss, whether
15 brought individually or as personal representative of Munroe’s estate, the Court looks to Idaho’s
16 wrongful death statute and analyzes its consistency with the policies underlying § 1983.

17
18 The right to recover for the wrongful death of another is statutory; therefore, in order to have
19 standing to bring a wrongful death claim, the person seeking to recover must qualify under the
20 statute. *Everett v. Trunnell*, 105 Idaho 787, 789, 673 P.2d 387, 389 (1983). In Idaho, the statute

21
22 ⁴ *Valdivieso v. Burgos*, 807 F.2d 6,9 (1st Cir. 1986); *McCurdy v. Dodd*, 352 F.3d 820, 830 (3d Cir. 2003); *Shaw v. Stroud*,
23 13 F.3d 791, 804-05 (4th Cir. 1994); *Claybrook v. Birchwell*, 199 F.3d 350, 357-58 (6th Cir. 2000); *Russ v. Watts*, 414
24 F.3d 783, 787 (7th Cir. 2005); *Butera v. District of Columbia*, 235 F.3d 637, 656 (D.C. Cir. 2001).

⁵ *Russ v. Watts*, 414 F.3d 783, 787 (7th Cir. 2005).

⁶ *Strandberg v. City of Helena*, 791 F.2d 744, 748 (9th Cir. 1986).

1 dictates that a decedent's mother is a proper wrongful death heir. I.C. § 5-311(2)(b). Furthermore, in
2 interpreting Idaho's wrongful death statute, the Idaho Supreme Court has held that no right of action
3 is given to the estate of the victim of a tort, but is granted only to his or her heirs. *Hagy v. State*, 137
4 Idaho 618, 623, 51 P.3d 432, 437 (Ct. App. 2002); *see also Moon v. Bullock*, 65 Idaho 594, 605, 151
5 P.2d 765, 770 (1944), *overruled on other grounds by Doggett v. Boiler Eng'g & Supply Co., Inc.*, 93
6 Idaho 888, 477 P.2d 511 (1970). If there are no heirs, no right of action vests in anybody. *Id.*

7 As her son's heir, Ms. Hoagland has standing to bring a wrongful death claim. *See* I.C. § 5-
8 311(2)(b). However, because the Idaho Supreme Court held in *Hagy* that "no right of action is given
9 to the estate of a victim of a tort," her attempt to bring a claim on behalf of his estate must be
10 dismissed. The Court finds this outcome to be consistent with the policies underlying 42 U.S.C. §
11 1983, particularly the policy of deterrence. At this time, the Court is not asked whether Ms.
12 Hoagland's § 1983 wrongful death claim will succeed; rather, the Court is simply determining that
13 she may bring a wrongful death claim.

14 SUMMARY

15 The Court is guided by *Robertson* in evaluating both counts of plaintiffs' complaint. Under
16 this analysis, defendants' motion to dismiss Count I of the complaint, which was brought by Ms.
17 Hoagland on behalf of Munroe's estate and herself as an heir to his estate, is GRANTED.
18 Defendants' motion to dismiss Count II of the complaint, brought by Ms. Hoagland individually and
19 on her own behalf as Munroe's mother and heir, is DENIED.

20 IT IS SO ORDERED.
21

22
23
24 ⁷ In a decision concerning a *habeus corpus* appeal from an Idaho Supreme Court decision, the Ninth Circuit stated: "the
25 state courts of Idaho are (and were) not bound to follow the Ninth Circuit." *Leavitt v. Arave*, 383 F.3d 809, 819 (9th Cir.

Dated this 9th day of November, 2010.



Ronald J. Wilper
DISTRICT JUDGE

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2004).

CERTIFICATE OF MAILING

I, HEREBY CERTIFY that on the 2 day of November, 2010, I caused a true and correct copy of the foregoing MEMORANDUM AND ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO DISMISS to be served by the method indicated below, and addressed to the following:

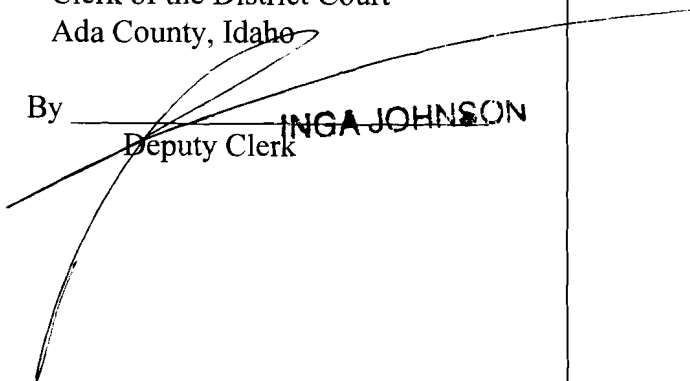
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J. DAVID NAVARRO
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Ada County, Idaho

By  INGA JOHNSON
Deputy Clerk

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A.M. _____ P.M.

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ADA COUNTY PROSECUTING ATTORNEY

NOV 17 2010

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the ESTATE)
OF BRADLEY MUNROE,)

Case No. CV OC 0901461

Plaintiffs,)

**ANSWER TO PLAINTIFFS'
THIRD AMENDED COMPLAINT
FOR DAMAGES**

vs.)

**JURY TRIAL DEMANDED
PURSUANT TO I.R.C.P. 38**

ADA COUNTY, a political subdivision of the State)
of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual and)
official capacity; JENNY BABBITT, in her)
individual and official capacity; JAMES)
JOHNSON, in his individual and official capacity;)
JEREMY WROBLEWSKI, in his individual and)

official capacity; DAVID WEICH, in his individual)
 and official capacity; LISA FARMER, in her)
 individual and official capacity; JAMIE ROACH,)
 in her individual and official capacity; and JOHN)
 DOES I-X, unknown persons/entities who may be)
 liable to the Plaintiffs,)
)
 Defendants.)
 _____)

COME NOW Defendants, Ada County, Ada County Sheriff Gary Raney, Linda Scown, Kate Pape, Michael E. Estess, M.D., Karen Barrett, Jeremy Wroblewski, David Weich, Lisa Farmer, and Jamie Roach (hereinafter “Defendants”)¹, by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and submit their Answer to Plaintiffs’ Third Amended Complaint for Damages and Demand for Jury Trial (“Third Amended Complaint”), and admit, deny, and allege as follows:

FIRST DEFENSE

Plaintiffs’ Third Amended Complaint fails to state a claim against Defendants upon which relief can be granted and should be dismissed pursuant to Rule 12(b) of the Idaho Rules of Civil Procedure.

SECOND DEFENSE

Defendants deny each and every allegation of Plaintiffs’ Third Amended Complaint not herein specifically and expressly admitted.

¹ As of the date of this filing, to the best of Defendants’ knowledge, Steven Garrett, Ricky Lee Steinburg, and James Johnson have not been served with the Third Amended Complaint. On October 7, 2010, Jenny Babbitt (who is represented by outside counsel) was voluntarily dismissed from this lawsuit by Plaintiffs and, as a result, is not included as a Defendant for purposes of this Answer. A determination has not been made regarding the representation of Steven Garrett by the Ada County Prosecuting Attorney’s Office.

THIRD DEFENSE

I. PARTIES

1. Answering Paragraph 1 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

2. Answering paragraph 2 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe passed away while an inmate in the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho. As to whether Bradley Munroe was a resident of the Ada County Jail and Ada County, the Defendants are without sufficient information to form a belief as to the truth of the allegations contained therein, and therefore deny the same. The Defendants deny the remaining allegations contained therein.

3. Answering paragraph 3 of Plaintiffs' Third Amended Complaint, the Defendants deny that Ada County is a "municipality." Defendants admit that Ada County is a duly formed and existing county pursuant to the laws and Constitution of the State of Idaho.

4. Answering paragraph 4 of Plaintiffs' Third Amended Complaint, the Defendants admit that Gary Raney is the elected Ada County Sheriff and that he is to take charge of and keep the Ada County Jail and the inmates therein and to oversee the Sheriff's employees. The Defendants deny the remaining allegations contained therein.

5. Answering paragraph 5 of Plaintiffs' Third Amended Complaint, the Defendants admit that Linda Scown is and was at all times mentioned an adult resident of Ada County, Idaho and was employed by the Ada County Sheriff as a Captain, and was the Director of the Ada County Jail and Court Services Bureau. The Defendants deny the remaining allegations contained therein.

6. Answering paragraph 6 of Plaintiffs' Third Amended Complaint, the Defendants admit that Kate Pape is and was at all times mentioned an adult resident of Ada County, Idaho and was employed by the Ada County Sheriff as the Health Services Administrator.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 6 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

7. Answering paragraph 7 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations regarding Dr. Garrett's past and current residency, and therefore deny the same.

Defendants admit Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 7 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

8. Answering paragraph 8 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Michael Estess, M.D. is and was at all times mentioned an adult resident of Ada County, Idaho.

Defendants admit Dr. Estess contracted with Ada County to provide mental health and psychiatric services for persons in the custody of the Ada County Sheriff, and that such contract was effective October 1, 2007, and continued in effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 8 of Plaintiffs' Third Amended

Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

9. Answering paragraph 9 of Plaintiffs' Third Amended Complaint, the Defendants admit that Ricky Lee Steinburg² is and was at all times mentioned an adult resident of Ada County, Idaho.

Defendants admit Mr. Steinburg contracted with Ada County to provide professional medical services for inmates in the custody of the Ada County Sheriff's Office, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 9 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

10. Answering paragraph 10 of Plaintiffs' Third Amended Complaint, the Defendants admit that Jenny Babbitt³ is and was at all times mentioned an adult resident of Ada County, Idaho and was employed as a Nursing Supervisor by the Ada County Sheriff.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 10 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

² The Third Amended Complaint incorrectly spells the last name of this Defendant. The correct spelling is Ricky Lee Steinburg.

³ On October 7, 2010, Jenny Babbitt (who is represented by outside counsel) was voluntarily dismissed from this lawsuit by Plaintiffs and, as a result, is not included as a Defendant for purposes of this Answer.

11. Answering paragraph 11 of Plaintiffs' Third Amended Complaint, the Defendants admit that Lisa Farmer is and was at all times mentioned an adult resident of Ada County, Idaho and was employed by the Ada County Sheriff as a registered nurse.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 11 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

12. Answering paragraph 12 of Plaintiffs' Third Amended Complaint, the Defendants admit that Karen Barrett is and was at all times mentioned an adult resident of Ada County, Idaho and was employed by (but is no longer) the Ada County Sheriff as a senior physician's assistant.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 12 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

13. Answering paragraph 13 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations regarding James Johnson's residency during the relevant times hereto, and therefore deny the same. The Defendants deny that James Johnson is a current resident of Ada County, Idaho. The Defendants admit James Johnson was employed by (but is no longer) the Ada County Sheriff as a psychiatric social worker.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 13 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

14. Answering paragraph 14 of Plaintiffs' Third Amended Complaint, the Defendants admit that David Weich is and was at all times mentioned an adult resident of Ada County, Idaho and was employed by the Ada County Sheriff as a Medical Attendant.

Defendants admit that the Ada County Sheriff has adopted written policies and job descriptions which speak for themselves. To the extent paragraph 14 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies or job descriptions, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

15. Answering paragraph 15 of Plaintiffs' Third Amended Complaint, the Defendants admit Jeremy Wroblewski is and was at all times mentioned an adult resident of Ada County, Idaho and was employed as a deputy by the Ada County Sheriff. The Defendants deny the remaining allegations contained therein.

16. Answering paragraph 16 of Plaintiffs' Third Amended Complaint, the Defendants admit Jamie Roach is and was at all times mentioned an adult resident of Ada County, Idaho and was employed as a deputy by the Ada County Sheriff. The Defendants deny the remaining allegations contained therein.

17. Answering paragraph 17 of Plaintiffs' Third Amended Complaint regarding the identity of John Does I through X, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same. The Defendants deny that any individual employed by the Ada County Sheriff or by another division of Ada County is responsible for the alleged violations of Mr. Munroe's rights and/or his death. The Defendants deny the remaining allegations contained therein.

II. JURISDICTION AND VENUE

18. Answering paragraph 18 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Fourth District Court of Idaho has subject matter jurisdiction over this matter, but are without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

19. Answering paragraph 19 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Fourth District Court of Idaho is an appropriate venue.

III. GENERAL ALLEGATIONS

POLICIES

20. Answering paragraph 20 of Plaintiffs' Third Amended Complaint, the Defendants admit that Ada County is responsible for providing health care services to Ada County Jail inmates. The Defendants deny the remaining allegations contained therein.

21. Answering paragraph 21 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 21 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

22. Answering paragraph 22 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak

for themselves. To the extent paragraph 22 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

23. Answering paragraph 23 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 23 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

24. Answering paragraph 24 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 24 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

25. Answering paragraph 25 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

26. Answering paragraph 26 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak

for themselves. To the extent paragraph 26 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

27. Answering paragraph 27 of Plaintiffs' Third Amended Complaint, the Defendants admit that at all times relevant hereto, the Ada County Sheriff had in place properly supervised medical and mental health services available to the inmates of the Ada County Jail. Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 27 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

28. Answering paragraph 28 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 28 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

29. Answering paragraph 29 of Plaintiffs' Third Amended Complaint, the Defendants admit that the National Commission on Correctional Health Care (NCCHC) is an organization which has a voluntary health services accreditation program, with only approximately 5% of the nation's jails subscribing to their program. The Defendants deny the remaining allegations contained therein.

30. Answering paragraph 30 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 30 of Plaintiffs' Third Amended Complaint fails to accurately

quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

31. Answering paragraph 31 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 31 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

32. Answering paragraph 32 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 32 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 32 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

33. Answering paragraph 33 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 33 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 33 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

34. Answering paragraph 34 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 34 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 34 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

35. Answering paragraph 35 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 35 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 35 of Plaintiffs' Third Amended

Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

36. Answering paragraph 36 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 36 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 36 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

37. Answering paragraph 37 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 37 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 37 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

38. Answering paragraph 38 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Garrett contracted with Ada County to provide professional medical services for persons in the custody of the Ada County Jail, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 38 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 38 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

39. Answering paragraph 39 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

40. Answering paragraph 40 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

41. Answering paragraph 41 of Plaintiffs' Third Amended Complaint, the Defendants admit that Mr. Steinburg contracted with Ada County to provide professional medical services for inmates in the custody of the Ada County Sheriff's Office, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 41 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 41 of Plaintiffs' Third Amended

Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

42. Answering paragraph 42 of Plaintiffs' Third Amended Complaint, the Defendants admit that Mr. Steinburg contracted with Ada County to provide professional medical services for inmates in the custody of the Ada County Sheriff's Office, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 42 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 42 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

43. Answering paragraph 43 of Plaintiffs' Third Amended Complaint, the Defendants admit that Mr. Steinburg contracted with Ada County to provide professional medical services for inmates in the custody of the Ada County Sheriff's Office, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 43 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 43 of Plaintiffs' Third Amended

Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

44. Answering paragraph 44 of Plaintiffs' Third Amended Complaint, the Defendants admit that Mr. Steinburg contracted with Ada County to provide professional medical services for inmates in the custody of the Ada County Sheriff's Office, and that such contract commenced on October 1, 2007, and continued in full force and effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 44 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 44 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

45. Answering paragraph 45 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Estess contracted with Ada County to provide mental health and psychiatric services for persons in the custody of the Ada County Sheriff, and that such contract was effective October 1, 2007, and continued in effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 45 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 45 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

46. Answering paragraph 46 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Estess contracted with Ada County to provide mental health and psychiatric services for persons in the custody of the Ada County Sheriff, and that such contract was effective October 1, 2007, and continued in effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 46 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 46 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

47. Answering paragraph 47 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Estess contracted with Ada County to provide mental health and psychiatric services for persons in the custody of the Ada County Sheriff, and that such contract was effective October 1, 2007, and continued in effect until September 30, 2008. Defendants admit that said contract speaks for itself. To the extent paragraph 47 of Plaintiffs' Third Amended Complaint fails to accurately quote the contract, Defendants deny the allegations contained therein.

Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 47 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

48. Answering paragraph 48 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

49. Answering paragraph 49 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

50. Answering paragraph 50 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

51. Answering paragraph 51 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 51 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

52. Answering paragraph 52 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Jail was accredited by the NCCHC until November 2008. The Defendants deny the remaining allegations contained therein.

53. Answering paragraph 53 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Jail was accredited by the NCCHC until November 2008. The Defendants deny the remaining allegations contained therein.

54. Answering paragraph 54 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

55. Answering paragraph 55 of Plaintiffs' Third Amended Complaint, the Defendants admit that the NCCHC is an organization which has a voluntary health services accreditation program, with only approximately 5% of the nation's jails subscribing to their program. The Defendants admit that the NCCHC has promulgated certain standards and that said standards speak for themselves. The Defendants deny the remaining allegations contained therein.

56. Answering paragraph 56 of Plaintiffs' Third Amended Complaint, the Defendants admit that the NCCHC is an organization which has a voluntary health services accreditation program, with only approximately 5% of the nation's jails subscribing to their program. The Defendants admit that the NCCHC has promulgated certain standards and that said standards speak for themselves. The Defendants deny the remaining allegations contained therein.

57. Answering paragraph 57 of Plaintiffs' Third Amended Complaint, the Defendants admit that the NCCHC is an organization which has a voluntary health services accreditation program, with only approximately 5% of the nation's jails subscribing to their program. The Defendants admit that the NCCHC has promulgated certain standards and that said standards speak for themselves. The Defendants deny the remaining allegations contained therein.

58. Answering paragraph 58 of Plaintiffs' Third Amended Complaint, the Defendants admit that the NCCHC is an organization which has a voluntary health services accreditation program, with only approximately 5% of the nation's jails subscribing to their program. The Defendants admit that the NCCHC has promulgated certain standards and that said standards speak for themselves.

The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 58 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

59. Answering paragraph 59 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 59 of Plaintiffs' Third Amended Complaint fails to accurately

quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

60. Answering paragraph 60 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification, Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 60 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

61. Answering paragraph 61 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification, Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 61 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

62. Answering paragraph 62 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification, Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 62 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 62 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

63. Answering paragraph 63 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 63 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

64. Answering paragraph 64 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 64 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

65. Answering paragraph 65 of Plaintiffs' Third Amended Complaint, the Defendants admit that Health Services Unit employees assessed Mr. Munroe's health concerns on multiple occasions during his August 28, 2008 to September 26, 2008 incarceration. The Defendants deny the remaining allegations contained therein.

66. Answering paragraph 66 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

67. Answering paragraph 67 of Plaintiffs' Third Amended Complaint, the Defendants are unclear as to the allegation and therefore must deny the allegations contained therein.

68. Answering paragraph 68 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 68 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

69. Answering paragraph 69 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 69 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

70. Answering paragraph 70 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

71. Answering paragraph 71 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 71 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

72. Answering paragraph 72 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 72 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

73. Answering paragraph 73 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 73 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

74. Answering paragraph 74 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 74 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

75. Answering paragraph 75 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 75 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

76. Answering paragraph 76 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 76 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

77. Answering paragraph 77 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification, Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 77 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 77 of Plaintiffs' Third Amended

Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

78. Answering paragraph 78 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification, Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 78 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 78 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

79. Answering paragraph 79 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 79 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

80. Answering paragraph 80 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 80 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

81. Answering paragraph 81 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for

themselves. To the extent paragraph 81 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

82. Answering paragraph 82 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 82 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

83. Answering paragraph 83 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 83 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

84. Answering paragraph 84 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 84 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

85. Answering paragraph 85 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 85 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

86. Answering paragraph 86 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 86 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

87. Answering paragraph 87 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 87 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

88. Answering paragraph 88 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 88 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

89. Answering paragraph 89 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 89 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

90. Answering paragraph 90 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 90 of Plaintiffs' Third Amended Complaint fails to accurately

quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

91. Answering paragraph 91 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 91 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

92. Answering paragraph 92 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 92 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

93. Answering paragraph 93 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 93 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

94. Answering paragraph 94 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 94 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

95. Answering paragraph 95 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

96. Answering paragraph 96 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

97. Answering paragraph 97 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment form relating to Bradley Munroe was completed on or about October 27, 2007. The Defendants admit that the Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 97 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that at that time, the Ada County Jail utilized the "off the shelf" software package known as the Jail Inmate Classification System (JICS), in which detention deputies completed such forms on computers.

The Defendants admit that signatures had not been required on the forms since 2006 because the electronic copy, not a printed copy, was the version that was relied on, as the Ada County Jail was striving to become "paperless" in its records.

The Defendants admit that if a question mark appears in an area where there is usually a Y or N on the Initial Classification, Temporary Cell Assignment form, it indicates the deputy did not insert an answer to that question.

The Defendants admit that due to other software issues with JICS, deputy booking numbers, among other information, would be unintentionally deleted when an inmate was released from custody.

The Defendants deny the remaining allegations contained therein.

98. Answering paragraph 98 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

99. Answering paragraph 99 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

100. Answering paragraph 100 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

101. Answering paragraph 101 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment form relating to Bradley Munroe was completed on or about July 4, 2008. The Defendants admit that the Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 101 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that at that time, the Ada County Jail utilized the "off the shelf" software package known as the Jail Inmate Classification System (JICS), in which detention deputies completed such forms on computers.

The Defendants admit that signatures had not been required on the forms since 2006 because the electronic copy, not a printed copy, was the version that was relied on, as the Ada County Jail was striving to become "paperless" in its records.

The Defendants admit that due to other software issues with JICS, deputy booking numbers, among other information, would be unintentionally deleted when an inmate was released from custody.

The Defendants deny the remaining allegations contained therein.

102. Answering paragraph 102 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 102 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

103. Answering paragraph 103 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment Form was completed for Bradley Munroe on or about July 4, 2008, and that Mr. Munroe received a temporary cell assignment, as do all arrestees when booked into the Ada County Jail. The Defendants deny the remaining allegations contained therein.

104. Answering Paragraph 104 of Plaintiffs' Third Amended Complaint, the Defendants admit that in September 2008, the Ada County Jail utilized software referred to as JICS. The JICS software is no longer used by the Jail; however, Defendants admit that the Jail maintains JICS for historical purposes. The Defendants deny the remaining allegations contained therein.

105. Answering Paragraph 105 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment Form was completed for Bradley Munroe on or about July 4, 2008, and that the Form speaks for itself. To the extent paragraph 105 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

106. Answering Paragraph 106 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

107. Answering Paragraph 107 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe was released from the Ada County Jail on or about July 7, 2008, and that Mr. Munroe did not qualify for a discharge plan. The Defendants deny the remaining allegations contained therein.

108. Answering Paragraph 108 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from July 4, 2008 to July 7, 2008, speak for themselves. To the extent paragraph 108 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

109. Answering Paragraph 109 of Plaintiffs' Third Amended Complaint, the Defendants admit Bradley Munroe was booked into the Ada County Jail on or about August 28, 2008. The Defendants deny the remaining allegations contained therein.

110. Answering Paragraph 110 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 110 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

111. Answering Paragraph 111 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

112. Answering Paragraph 112 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

113. Answering Paragraph 113 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

114. Answering Paragraph 114 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

115. Answering paragraph 115 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment form relating to Bradley Munroe was completed on or about August 28, 2008. The Defendants admit that the Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 115 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that at that time, the Ada County Jail utilized the "off the shelf" software package known as the Jail Inmate Classification System (JICS), in which detention deputies completed such forms on computers.

The Defendants admit that signatures had not been required on the forms since 2006 because the electronic copy, not a printed copy, was the version that was relied on, as the Ada County Jail was striving to become "paperless" in its records.

The Defendants admit that due to other software issues with JICS, deputy booking numbers, among other information, would be unintentionally deleted when an inmate was released from custody.

The Defendants deny the remaining allegations contained therein.

116. Answering paragraph 116 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Initial Classification Temporary Cell Assignment Form contains certain questions to be answered by the arrestee and booking deputy, and that said Form speaks for itself. To the extent paragraph 116 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

117. Answering Paragraph 117 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment Form was completed for Bradley Munroe on or about August 28, 2008, and that the Form speaks for itself. To the extent paragraph 117 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

118. Answering Paragraph 118 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

119. Answering Paragraph 119 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment Form was completed for Bradley Munroe on or about August 28, 2008, and that Mr. Munroe was given his security classification on or about August 31, 2008, and that based on his prior criminal history, he was given a security classification of 3-Med.High. The Defendants deny the remaining allegations contained therein.

120. Answering Paragraph 120 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 120 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

121. Answering Paragraph 121 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 121 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

122. Answering Paragraph 122 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe's appointment was rescheduled. The Defendants deny the remaining allegations contained therein.

123. Answering Paragraph 123 of Plaintiffs' Third Amended Complaint, the Defendants admit that the JICS entry speaks for itself. To the extent paragraph 123 of Plaintiffs' Third Amended Complaint fails to accurately quote the JICS entry, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

124. Answering Paragraph 124 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

125. Answering Paragraph 125 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 125 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

126. Answering Paragraph 126 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 126 of Plaintiffs' Third

Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

127. Answering Paragraph 127 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 127 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

128. Answering Paragraph 128 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 128 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

129. Answering Paragraph 129 of Plaintiffs' Third Amended Complaint, the Defendants admit that cells 763 and 713 are medium custody general population cells. The Defendants deny the remaining allegations contained therein.

130. Answering Paragraph 130 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

131. Answering Paragraph 131 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 131 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

132. Answering Paragraph 132 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

133. Answering paragraph 133 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 133 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

134. Answering paragraph 134 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 134 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

135. Answering paragraph 135 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 135 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

136. Answering paragraph 136 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 136 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

137. Answering Paragraph 137 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's various incarcerations in the Ada County Jail speak for themselves. To the extent paragraph 137 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants further admit that since the Ada County Jail was striving to become "paperless" in its records, signatures were often not required. The Defendants deny the remaining allegations contained therein.

138. Answering Paragraph 138 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 138 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

139. Answering Paragraph 139 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 139 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

140. Answering Paragraph 140 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

141. Answering Paragraph 141 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 141 of Plaintiffs' Third

Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

142. Answering Paragraph 142 of Plaintiffs' Third Amended Complaint, the Defendants admit that Health Services Unit employees assessed Mr. Munroe's health concerns on the 5th, 15th, 16th and 21st days of his incarceration. The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 142 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

143. Answering Paragraph 143 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's various incarcerations in the Ada County Jail speak for themselves. To the extent paragraph 143 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

144. Answering Paragraph 144 of Plaintiffs' Third Amended Complaint, the Defendants admit Bradley Munroe was released from the Ada County Jail on September 26, 2008, but deny that he had fulfilled his sentence. The Defendants deny the remaining allegations contained therein.

145. Answering Paragraph 145 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 145 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

146. Answering Paragraph 146 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 146 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

147. Answering Paragraph 147 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 147 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

148. Answering Paragraph 148 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

149. Answering Paragraph 149 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 149 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

150. Answering Paragraph 150 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 150 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

151. Answering Paragraph 151 of Plaintiffs' Third Amended Complaint, the Defendants admit a Health Summary/Medication Release Form was completed for Bradley Munroe. The Defendants are without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

152. Answering Paragraph 152 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 152 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

153. Answering Paragraph 153 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 153 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

154. Answering Paragraph 154 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 154 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

155. Answering Paragraph 155 of Plaintiffs' Third Amended Complaint, the Defendants admit that Defendant Roach was the booking deputy who processed Bradley Munroe for release on September 26, 2008. Defendants deny the remaining allegations contained therein.

156. Answering Paragraph 156 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 156 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

157. Answering Paragraph 157 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 157 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

158. Answering Paragraph 158 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 158 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

159. Answering Paragraph 159 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

160. Answering Paragraph 160 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 160 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants further admit that since the Ada County Jail was striving to

become “paperless” in its records, signatures were often not required. The Defendants deny the remaining allegations contained therein.

161. Answering Paragraph 161 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

162. Answering Paragraph 162 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

163. Answering Paragraph 163 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

164. Answering Paragraph 164 of Plaintiffs’ Third Amended Complaint, the Defendants admit that when Bradley Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, he did not qualify for a treatment plan. The Defendants deny the remaining allegations contained therein.

165. Answering Paragraph 165 of Plaintiffs’ Third Amended Complaint, the Defendants admit that Bradley Munroe was released from the Ada County Jail on or about September 26, 2008, and that he did not qualify for a discharge plan. The Defendants deny the remaining allegations contained therein.

166. Answering Paragraph 166 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

167. Answering Paragraph 167 of Plaintiffs’ Third Amended Complaint, the Defendants admit that the Boise City Police reports, witness statements, and affidavits on file herein concerning Bradley Munroe’s robbery of the Maverick Country Store on September 28, 2008 speak for themselves. To the extent the allegations contained in Paragraph 167 of Plaintiffs’ Third Amended

Complaint fail to accurately quote any one of these documents, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

168. Answering Paragraph 168 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Boise City Police reports, witness statements, and affidavits on file herein concerning Bradley Munroe's robbery of the Maverick Country Store on September 28, 2008 speak for themselves. To the extent the allegations contained in Paragraph 168 of Plaintiffs' Third Amended Complaint fail to accurately quote any one of these documents, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

169. Answering Paragraph 169 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Boise City Police reports, witness statements, and affidavits on file herein concerning Bradley Munroe's robbery of the Maverick Country Store on September 28, 2008 speak for themselves. To the extent the allegations contained in Paragraph 169 of Plaintiffs' Third Amended Complaint fail to accurately quote any one of these documents, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

170. Answering Paragraph 170 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

171. Answering Paragraph 171 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

172. Answering Paragraph 172 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

173. Answering Paragraph 173 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

174. Answering Paragraph 174 of Plaintiffs' Third Amended Complaint, the Defendants admit that Dr. Brandon J. Wilding indicated in Bradley Munroe's medical record that his past medical history was "significant for depression, back pain. He also reports a history of psychosis. Reviewing an older chart April 2, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning." The Defendants deny the remaining allegations contained therein.

175. Answering Paragraph 175 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

176. Answering Paragraph 176 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

177. Answering Paragraph 177 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

178. Answering Paragraph 178 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

179. Answering Paragraph 179 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

180. Answering Paragraph 180 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

181. Answering Paragraph 181 of Plaintiffs' Third Amended Complaint, the Defendants admit that due to Bradley Munroe's demeanor, Deputy Erica Johnson could not complete the booking process. Mr. Munroe was therefore placed in a holding cell in the booking area, due to his continued behavior and for his own wellbeing. The defendants deny the remaining allegations contained therein.

182. Answering Paragraph 182 of Plaintiffs' Third Amended Complaint, the Defendants admit that Boise City Police Officers Nichols and Urian were present at the Ada County Jail while Bradley Munroe's booking process began. The Defendants deny the remaining allegations contained therein.

183. Answering Paragraph 183 of Plaintiffs' Third Amended Complaint, the Defendants admit that a log entry of 22:42 in the Ada County Jail Inmate Housing Security Check Log indicates that there was urine under the door of Bradley Munroe's holding cell. The Defendants admit that Mr. Munroe was moved to a safety cell. The Defendants deny the remaining allegations contained therein.

184. Answering Paragraph 184 of Plaintiffs' Third Amended Complaint, the Defendants deny that Michael Brewer is a "deputy" and that # 4778 is an "ID" number. The Defendants admit the remaining allegations contained therein.

185. Answering Paragraph 185 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe possessed boxer underwear. The Defendants deny the remaining allegations contained therein.

186. Answering Paragraph 186 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Jail Inmate Housing Security Check Log speaks for itself and, to the extent applicable, Bradley Munroe's behavior was noted in the narrative portion of the Log entries. The Defendants deny the remaining allegations contained therein.

187. Answering Paragraph 187 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe was housed in a safety cell from approximately 11:20 p.m. on September 28, 2008, to approximately 7:55 a.m. on September 29, 2008. The Defendants deny the remaining allegations contained therein.

188. Answering Paragraph 188 of Plaintiffs' Third Amended Complaint, the Defendants admit that inside the safety cell is a raised padded cot, that curtains were placed over the windows to the cell, that Bradley Munroe was checked on at least thirty-seven (37) times while in the safety cell, during which time he mostly appeared to be sleeping. The Defendants deny the remaining allegations contained therein.

189. Answering Paragraph 189 of Plaintiffs' Third Amended Complaint, the Defendants admit that Nurse Brewer checked on Bradley Munroe on multiple occasions while in the safety cell, and that a notation was made on the Ada County Jail Inmate Housing Security Check Log stating "Very DK, Possible High on illegal dr, caution * spitter *" but the authorship of the notation is unclear. The Defendants deny the remaining allegations contained therein.

190. Answering Paragraph 190 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 190 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

191. Answering Paragraph 191 of Plaintiffs' Third Amended Complaint, the Defendants admit that according to VICON recordings, Bradley Munroe was let out of the safety cell at approximately 7:55 a.m. on September 29, 2008 to complete the booking process at the Ada County Jail on charges of Robbery and Illegal Consumption by a Minor. The Defendants deny the remaining allegations contained therein.

192. Answering Paragraph 192 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

193. Answering Paragraph 193 of Plaintiffs' Third Amended Complaint, the Defendants admit that at approximately 8:00 a.m. on September 29, 2008, Deputy Wroblewski began obtaining Bradley Munroe's fingerprints in the booking area of the Ada County Jail, as part of Mr. Munroe's booking process. The Defendants deny the remaining allegations contained therein.

194. Answering Paragraph 194 of Plaintiffs' Third Amended Complaint, the Defendants admit that at approximately 8:00 a.m. on September 29, 2008, James Johnson began observing Bradley Munroe in the booking area of the Ada County Jail, and at approximately 8:01 a.m., Mr. Johnson began speaking with Mr. Munroe while Deputy Wroblewski was fingerprinting Mr. Munroe as part of the booking process. The Defendants deny the remaining allegations contained therein.

195. Answering Paragraph 195 of Plaintiffs' Third Amended Complaint, the Defendants admit that in Deputy Wroblewski's statement dated October 1, 2008, he said that "Health Services Unit, social worker Jim Johnson, Ada #5115, was contacted earlier, via department phone, to interview Munroe about his past and present suicide tendencies." The Defendants deny the remaining allegations contained therein.

196. Answering Paragraph 196 of Plaintiffs' Third Amended Complaint, the Defendants admit that James Johnson observed, spoke and listened to Bradley Munroe until approximately 8:04 a.m. The Defendants denied the remaining allegations contained therein.

197. Answering Paragraph 197 of Plaintiffs' Third Amended Complaint, the Defendants admit that in Deputy Wroblewski's statement dated October 1, 2008, he said that in response to James Johnson asking Bradley Munroe if he had any current suicidal thoughts, Mr. Munroe responded, "No, I don't have any thoughts right now and that I don't want any of your help." The Defendants deny the remaining allegations contained therein.

198. Answering Paragraph 198 of Plaintiffs' Third Amended Complaint, the Defendants admit that in Deputy Wroblewski's statement dated October 1, 2008, he said that in response to James Johnson asking Bradley Munroe about his suicidal history and mental status, Mr. Munroe responded, "That he didn't want anybody's help and that he was fine." The Defendants deny the remaining allegations contained therein.

199. Answering Paragraph 199 of Plaintiffs' Third Amended Complaint, the Defendants admit that from VICON recordings of September 29, 2008, it appears that while observing, speaking and listening to Bradley Munroe, James Johnson held a writing instrument in his hand, but it is unclear whether James Johnson had any paper or wrote anything during this interaction. The Defendants deny the remaining allegations contained therein.

200. Answering Paragraph 200 of Plaintiffs' Third Amended Complaint, the Defendants admit that in Deputy Wroblewski's statement dated October 1, 2008, he stated that he completed Bradley Munroe's fingerprinting process at 8:05 a.m. The Defendants deny the remaining allegations contained therein.

201. Answering Paragraph 201 of Plaintiffs' Third Amended Complaint, the Defendants admit that the September 29, 2008 CorEMR entry by James Johnson speaks for itself, and to the extent applicable, Mr. Johnson's observations and impressions regarding Bradley Munroe were noted in the narrative portion of the CorEMR entry. To the extent paragraph 201 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

202. Answering Paragraph 202 of Plaintiffs' Third Amended Complaint, the Defendants admit that the September 29, 2008 CorEMR entry by James Johnson speaks for itself, and to the extent applicable, Mr. Johnson's observations and impressions regarding Bradley Munroe were

noted in the narrative portion of the CorEMR entry. To the extent paragraph 202 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

203. Answering Paragraph 203 of Plaintiffs' Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 203 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants further admit that since the Ada County Jail was striving to become "paperless" in its records, signatures were often not required. The Defendants deny the remaining allegations contained therein.

204. Answering Paragraph 204 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe was cleared for general population housing after James Johnson reviewed Mr. Munroe's medical records at the Ada County Jail, and observed, spoke and listened to Mr. Munroe for approximately four (4) minutes. The Defendants deny the remaining allegations contained therein.

205. Answering Paragraph 205 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

206. Answering Paragraph 206 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

207. Answering Paragraph 207 of Plaintiffs' Third Amended Complaint, the Defendants admit that James Johnson has been licensed as a clinical social worker in California since 1988, but

had not obtained a license in Idaho after arriving here in 2008. The Defendants deny the remaining allegations contained therein.

208. Answering Paragraph 208 of Plaintiffs' Third Amended Complaint, the Defendants admit that the statute speaks for itself, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

209. Answering Paragraph 209 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

210. Answering Paragraph 210 of Plaintiffs' Third Amended Complaint, the Defendants admit that when James Johnson observed, spoke and listened to Bradley Munroe on September 29, 2008, Mr. Johnson had worked for the Ada County Jail since May 27, 2008, and that Mr. Johnson's training records reflect that he completed his new employee orientation on June 10, 2008. The Defendants deny the remaining allegations contained therein.

211. Answering Paragraph 211 of Plaintiffs' Third Amended Complaint, the Defendants admit that James Johnson's training records from his employment with the Ada County Jail speak for themselves. To the extent paragraph 211 fails to accurately quote these records, the Defendants deny the allegations contained therein. The Defendants admit that Mr. Johnson holds a master's degree in social work, had previously worked in correctional facilities and received training in suicide assessment and prevention in addition to further training received at the Ada County Jail.

The Defendants further admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 211 of Plaintiffs' Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

212. Answering Paragraph 212 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

213. Answering Paragraph 213 of Plaintiffs' Third Amended Complaint, the Defendants admit that on September 29, 2008, James Johnson did not take a full written history for assessment purposes of Bradley Munroe, because Mr. Munroe requested that he not have medical or mental health services at the time. The Defendants deny the remaining allegations contained therein.

214. Answering Paragraph 214 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

215. Answering Paragraph 215 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

216. Answering Paragraph 216 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

217. Answering Paragraph 217 of Plaintiffs' Third Amended Complaint, the Defendants admit that Deputy Wroblewski's statement dated October 1, 2008, includes the quotation contained in paragraph 217. The Defendants deny the remaining allegations contained therein.

218. Answering Paragraph 218 of Plaintiffs' Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment Form was completed for Bradley Munroe on or about September 29, 2008, and that said Form speaks for itself. To the extent paragraph 218 of Plaintiffs' Third Amended Complaint fails to accurately quote said Form, the Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

219. Answering Paragraph 219 of Plaintiffs' Third Amended Complaint, the Defendants admit that in Deputy Wroblewski's statement dated October 1, 2008, he states that he "finished the

JICS process and added in the notes that Munroe was seen by medical staff and cleared. At approximately 0833, Munroe exited the JICS office to be housed.” The Defendants deny the remaining allegations contained therein.

220. Answering paragraph 220 of Plaintiffs’ Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment form relating to Bradley Munroe was completed on or about September 29, 2008, and that said Form speaks for itself. To the extent paragraph 220 of Plaintiffs’ Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that at that time, the Ada County Jail utilized the “off the shelf” software package known as the Jail Inmate Classification System (JICS), in which detention deputies completed such forms on computers.

The Defendants admit that signatures had not been required on the forms since 2006 because the electronic copy, not a printed copy, was the version that was relied on, as the Ada County Jail was striving to become “paperless” in its records.

The Defendants deny the remaining allegations contained therein.

221. Answering paragraph 221 of Plaintiffs’ Third Amended Complaint, the Defendants admit that an Initial Classification, Temporary Cell Assignment form relating to Bradley Munroe was completed on or about September 29, 2008, and that said Form speaks for itself. To the extent paragraph 221 of Plaintiffs’ Third Amended Complaint fails to accurately quote said Form, Defendants deny the allegations contained therein.

The Defendants further admit that at that time, the Ada County Jail utilized the “off the shelf” software package known as the Jail Inmate Classification System (JICS), in which detention deputies completed such forms on computers.

The Defendants admit that signatures had not been required on the forms since 2006 because the electronic copy, not a printed copy, was the version that was relied on, as the Ada County Jail was striving to become “paperless” in its records.

The Defendants admit that due to other software issues with JICS, deputy booking numbers, among other information, would be unintentionally deleted when an inmate was released from custody.

The Defendants deny the remaining allegations contained therein.

222. Answering Paragraph 222 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

223. Answering Paragraph 223 of Plaintiffs’ Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 223 of Plaintiffs’ Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

224. Answering Paragraph 224 of Plaintiffs’ Third Amended Complaint, the Defendants admit that the Ada County Sheriff has adopted written policies and that said policies speak for themselves. To the extent paragraph 224 of Plaintiffs’ Third Amended Complaint fails to accurately quote any one of these policies, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

225. Answering Paragraph 225 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

226. Answering Paragraph 226 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

227. Answering Paragraph 227 of Plaintiffs' Third Amended Complaint, the Defendants admit that at approximately 8:40 a.m., Deputy Ryan Donelson, Ada #4800, placed Bradley Munroe in a pre-classification cell. The Defendants deny the remaining allegations contained therein.

228. Answering Paragraph 228 of Plaintiffs' Third Amended Complaint, the Defendants admit that the information contained in paragraph 228 reflects the information contained in Deputy Donelson's statement dated October 1, 2008.

229. Answering Paragraph 229 of Plaintiffs' Third Amended Complaint, the Defendants admit that the information contained in paragraph 229 reflects the information contained in Deputy Donelson's statement dated October 1, 2008.

230. Answering Paragraph 230 of Plaintiffs' Third Amended Complaint, the Defendants admit that the information contained in paragraph 230 reflects the information contained in Deputy Donelson's statement dated October 1, 2008.

231. Answering Paragraph 231 of Plaintiffs' Third Amended Complaint, the Defendants admit that the information contained in paragraph 231 reflects the information contained in Deputy Donelson's statement dated October 1, 2008.

232. Answering Paragraph 232 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

233. Answering Paragraph 233 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

234. Answering Paragraph 234 of Plaintiffs' Third Amended Complaint, the Defendants admit that a JICS notation by Deputy Drinkall on September 29, 2008, states, "I spoke with Jim

Johnson about Munroe. Johnson did already talk to Munroe this morning in booking. He said Munroe was not suicidal but very agitated.” The Defendants deny the remaining allegations contained therein.

235. Answering Paragraph 235 of Plaintiffs’ Third Amended Complaint, the Defendants admit that Deputy Drinkall determined that the side chute of Cellblock 7 was appropriate to house an inmate who had requested protective custody, and that Mr. Munroe was placed in cell 735. The Defendants deny the remaining allegations contained therein.

236. Answering Paragraph 236 of Plaintiffs’ Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

237. Answering Paragraph 237 of Plaintiffs’ Third Amended Complaint, the Defendants admit that cell 735 contained, among other things, a bunk bed and bedding. The Defendants deny the remaining allegations contained therein.

238. Answering Paragraph 238 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

239. Answering Paragraph 239 of Plaintiffs’ Third Amended Complaint, the Defendants deny the allegations contained therein.

240. Answering Paragraph 240 of Plaintiffs’ Third Amended Complaint, the Defendants admit the allegations contained therein.

241. Answering Paragraph 241 of Plaintiffs’ Third Amended Complaint, the Defendants admit that the upper bunk bed in cell 735 contained holes that were approximately one (1) inch in diameter. The Defendants deny the remaining allegations contained therein.

242. Answering Paragraph 242 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

243. Answering Paragraph 243 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

244. Answering Paragraph 244 of Plaintiffs' Third Amended Complaint, the Defendants admit that at approximately 10:00 or 10:30 a.m. on September 29, 2008, Leslie Robertson, the Administrative Supervisor of the Ada County Jail's Health Services Unit, spoke with Bradley Munroe's mother, Rita Hoagland, by telephone. The Defendants deny the remaining allegations contained therein.

245. Answering Paragraph 245 of Plaintiffs' Third Amended Complaint, the Defendants admit that the JICS entry made by Leslie Robertson on September 29, 2008, at approximately 10:37 a.m. speaks for itself. To the extent paragraph 245 of Plaintiffs' Third Amended Complaint fails to accurately quote the JICS entry, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

246. Answering Paragraph 246 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

247. Answering Paragraph 247 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

248. Answering Paragraph 248 of Plaintiffs' Third Amended Complaint, the Defendants admit that the CorEMR entry made by Lisa Farmer on September 29, 2008, at approximately 11:57 a.m. speaks for itself. To the extent paragraph 248 of Plaintiffs' Third Amended Complaint fails to accurately quote the CorEMR entry, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

249. Answering Paragraph 249 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

250. Answering Paragraph 250 of Plaintiffs' Third Amended Complaint, the Defendants admit that Bradley Munroe was scheduled to appear at video arraignments at 1:30 p.m. on September 29, 2008, on the charge of Robbery. The Defendants deny the remaining allegations contained therein.

251. Answering Paragraph 251 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

252. Answering Paragraph 252 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

253. Answering Paragraph 253 of Plaintiffs' Third Amended Complaint, the Defendants admit that the records regarding Bradley Munroe's incarceration from August 28, 2008 to September 26, 2008, speak for themselves. To the extent paragraph 253 of Plaintiffs' Third Amended Complaint fails to accurately quote these records, Defendants deny the allegations contained therein. The Defendants further admit that Mr. Munroe had a therapeutic blood level of citalopram at the time of his death. The Defendants deny the remaining allegations contained therein.

254. Answering Paragraph 254 of Plaintiffs' Third Amended Complaint, the Defendants admit that Karen Barrett was the on-call physician's assistant at the Ada County Jail on September 28 and 29, 2008, and had responsibilities commensurate with her position. The Defendants deny the remaining allegations contained therein.

255. Answering Paragraph 255 of Plaintiffs' Third Amended Complaint, the Defendants admit that Karen Barrett was the on-call physician's assistant at the Ada County Jail on September 28 and 29, 2008, and had responsibilities commensurate with her position. The Defendants deny the remaining allegations contained therein.

256. Answering Paragraph 256 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

257. Answering Paragraph 257 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

258. Answering Paragraph 258 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

259. Answering Paragraph 259 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

260. Answering Paragraph 260 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

261. Answering Paragraph 261 of Plaintiffs' Third Amended Complaint, the Defendants admit that at some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, in cell 735, Bradley Munroe placed a sheet around his neck which resulted in his death due to asphyxiation. The Defendants deny the remaining allegations contained therein.

262. Answering Paragraph 262 of Plaintiffs' Third Amended Complaint, the Defendants admit that at some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, in cell 735, Bradley Munroe placed a sheet around his neck which resulted in his death due to asphyxiation.

The Defendants further admit that Bradley Munroe was pronounced dead at St. Al's on September 29, 2008. The Defendants deny the remaining allegations contained therein.

263. Answering Paragraph 263 of Plaintiffs' Third Amended Complaint, the Defendants admit that while the time is uncertain, on the night of September 29, 2008, Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker went to Rita Hoagland's residence to speak to her about her son Bradley Munroe. The Defendants deny the remaining allegations contained therein.

264. Answering Paragraph 264 of Plaintiffs' Third Amended Complaint, the Defendants admit that while the exact language used is uncertain, Sheriff Raney informed Ms. Hoagland that her son had taken his life while incarcerated at the Ada County Jail. The Defendants deny the remaining allegations contained therein.

265. Answering Paragraph 265 of Plaintiffs' Third Amended Complaint, the Defendants admit that while the exact language used is uncertain, Rita Hoagland was informed that Bradley Munroe had taken his life by hanging himself in a cell. The Defendants deny the remaining allegations contained therein.

266. Answering Paragraph 266 of Plaintiffs' Third Amended Complaint, the Defendants admit that in response to Rita Hoagland's questions, Sheriff Raney explained that an investigation was taking place. The Defendants deny the remaining allegations contained therein.

267. Answering Paragraph 267 of Plaintiffs' Third Amended Complaint, the Defendants admit that in response to Rita Hoagland's questions, Sheriff Raney explained that an investigation was taking place. The Defendants deny the remaining allegations contained therein.

268. Answering Paragraph 268 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

269. Answering Paragraph 269 of Plaintiffs' Third Amended Complaint, the Defendants admit the allegations contained therein.

270. Answering Paragraph 270 of Plaintiffs' Third Amended Complaint, the Defendants admit that Detective Buie's Report dated October 7, 2008, states that on September 29, 2008, "James was told that Bradley now says he is not suicidal. James spoke with Bradley in the Booking area and Bradley told him he was not suicidal anymore." The Defendants deny the remaining allegations contained therein.

271. Answering Paragraph 271 of Plaintiffs' Third Amended Complaint, the Defendants admit that Detective Buie's Report dated October 7, 2008, states that on September 29, 2008, "Bradley told James that he said stupid things the night before when he was 'high.'" The Defendants deny the remaining allegations contained therein.

272. Answering Paragraph 272 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

273. Answering Paragraph 273 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

274. Answering Paragraph 274 of Plaintiffs' Third Amended Complaint, the Defendants admit that Detective Buie's Report dated October 7, 2008, states that "Bradley told James he was not going to hurt himself. Bradley was not taking any medications and did not want any mental health follow up and did not want any medication. James observed Bradley for several minutes

while he was fingerprinted and Bradley seemed to be reacting appropriately with people. James had Bradley assigned to regular housing.” The Defendants deny the remaining allegations contained therein.

275. Answering Paragraph 275 of Plaintiffs’ Third Amended Complaint, the Defendants admit that James Johnson believed it was very important for him to observe Mr. Munroe, his affect, and how he interacted with and answered the booking detention deputy’s questions. The Defendants deny the remaining allegations contained therein.

276. Answering Paragraph 276 of Plaintiffs’ Third Amended Complaint, the Defendants admit that James Johnson was aware, based on his training and experience, that Mr. Munroe possessed a number of risk factors for suicide – his age, the fact he was incarcerated, prior substance abuse and that he had been treated for mental illness. The Defendants deny the remaining allegations contained therein.

277. Answering Paragraph 277 of Plaintiffs’ Third Amended Complaint, the Defendants admit that James Johnson had reviewed Mr. Munroe’s medical records at the Ada County Jail, noting Mr. Munroe’s prior incarcerations, and James Johnson’s prior contact with Mr. Munroe documenting his medications. The Defendants deny the remaining allegations contained therein.

278. Answering Paragraph 278 of Plaintiffs’ Third Amended Complaint, the Defendants admit the allegations contained therein.

279. Answering Paragraph 279 of Plaintiffs’ Third Amended Complaint, the Defendants admit that Detective Buie’s Report dated October 7, 2008, states that “James [Johnson] spoke with Leslie Robertson who just spoke with Rita, Bradley’s mother. James learned from that conversation that Rita spoke of Bradley’s serious suicide attempts in the past, and that he had been talking about it.” The Defendants deny the remaining allegations contained therein.

280. Answering Paragraph 280 of Plaintiffs' Third Amended Complaint, the Defendants admit that Detective Buie's Report dated October 7, 2008, states that "James [Johnson] did not do a second interview after that conversation because he had just finished the interview with Bradley." The Defendants deny the remaining allegations contained therein.

281. Answering Paragraph 281 of Plaintiffs' Third Amended Complaint, the Defendants admit that the September 30, 2008, statement of James Johnson speaks for itself. To the extent paragraph 281 of Plaintiffs' Third Amended Complaint fails to accurately quote the statement, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

282. Answering Paragraph 282 of Plaintiffs' Third Amended Complaint, the Defendants admit that the CorEMR entry made by Holly Klinton on October 1, 2008, speaks for itself. To the extent paragraph 282 of Plaintiffs' Third Amended Complaint fails to accurately quote the CorEMR entry, Defendants deny the allegations contained therein. The Defendants deny the remaining allegations contained therein.

283. Answering Paragraph 283 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

284. Answering Paragraph 284 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

285. Answering Paragraph 285 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

286. Answering Paragraph 286 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

287. Answering Paragraph 287 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

288. Answering Paragraph 288 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

289. Answering Paragraph 289 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

290. Answering Paragraph 290 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

291. Answering Paragraph 291 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

292. Answering Paragraph 292 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

293. Answering Paragraph 293 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

294. Answering Paragraph 294 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

295-380. Count I of Plaintiffs' Third Amended Complaint was dismissed by the Court on November 2, 2010 – Memorandum and Order Granting in Part and Denying in Part Defendants' Motion to Dismiss. As such, the Defendants are not required to answer paragraphs 295-380.

COUNT II
(Civil Rights Violations – 42 U.S.C. § 1983)

381. Answering paragraph 381 of Plaintiffs' Third Amended Complaint, the Defendants admit and deny the previous paragraphs as already set forth in this Answer.

382. Answering paragraph 382 of Plaintiffs' Third Amended Complaint, to the extent an answer is required, the Defendants deny the allegations contained therein.

383. Answering paragraph 383 of Plaintiffs' Third Amended Complaint, to the extent an answer is required, the Defendants deny the allegations contained therein.

384. Answering paragraph 384 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

385. Answering paragraph 385 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

386. Answering paragraph 386 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

387. Answering paragraph 387 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

388. Answering paragraph 388 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

389. Answering paragraph 389 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

390. Answering paragraph 390 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

391. Answering paragraph 391 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

392. Answering paragraph 392 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

393. Answering paragraph 393 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

394. Answering paragraph 394 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

395. Answering paragraph 395 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

396. Answering paragraph 396 of Plaintiffs' Third Amended Complaint, the paragraph calls for a legal conclusion, and the Defendants are not required to admit or deny an allegation calling for a legal conclusion.

397. Answering paragraph 397 of Plaintiffs' Third Amended Complaint, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

398. Answering paragraph 398 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

399. Answering paragraph 399 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

400. Answering paragraph 400 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

401. Answering paragraph 401 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

402. Answering paragraph 402 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

403. Answering paragraph 403 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

404. Answering paragraph 404 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

405. Answering paragraph 405 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

406. Answering paragraph 406 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

407. Answering paragraph 407 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

408. Answering paragraph 408 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

409. Answering paragraph 409 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

410. Answering paragraph 410 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

411. Answering paragraph 411 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

412. Answering paragraph 412 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

413. Answering paragraph 413 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

414. Answering paragraph 414 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

415. Answering paragraph 415 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

416. Answering paragraph 416 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

417. Answering paragraph 417 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

418. Answering paragraph 418 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

419. Answering paragraph 419 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

420. Answering paragraph 420 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

421. Answering paragraph 421 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

422. Answering paragraph 422 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

423. Answering paragraph 423 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

424. Answering paragraph 424 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

425. Answering paragraph 425 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

426. Answering paragraph 426 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

427. Answering paragraph 427 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

428. Answering paragraph 428 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

429. Answering paragraph 429 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

430. Answering paragraph 430 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

431. Answering paragraph 431 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

432. Answering paragraph 432 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

433. Answering paragraph 433 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

434. Answering paragraph 434 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

435. Answering paragraph 435 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

436. Answering paragraph 436 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

437. Answering paragraph 437 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

438. Answering paragraph 438 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

439. Answering paragraph 439 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

440. Answering paragraph 440 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

441. Answering paragraph 441 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

442. Answering paragraph 442 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

443. Answering paragraph 443 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

444. Answering paragraph 444 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

445. Answering paragraph 445 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

446. Answering paragraph 446 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

447. Answering paragraph 447 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

448. Answering paragraph 448 of Plaintiffs' Third Amended Complaint, the Defendants forward that the allegations contained therein consist of potential conduct that extends beyond the scope of Mr. Johnson's representation in this litigation. Therefore, the Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

449. Answering paragraph 449 of Plaintiffs' Third Amended Complaint, the Defendants forward that the allegations contained therein consist of potential conduct that extends beyond the scope of Mr. Johnson's representation in this litigation. Therefore, the Defendants are without

information sufficient to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

450. Answering paragraph 450 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

451. Answering paragraph 451 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

452. Answering paragraph 452 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

453. Answering paragraph 453 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

454. Answering paragraph 454 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

455. Answering paragraph 455 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

456. Answering paragraph 456 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

457. Answering paragraph 457 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

458. Answering paragraph 458 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

459. Answering paragraph 459 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

460. Answering paragraph 460 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

461. Answering paragraph 461 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

462. Answering paragraph 462 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

463. Answering paragraph 463 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

464. Answering paragraph 464 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

465. Answering paragraph 465 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

466. Answering paragraph 466 of Plaintiffs' Third Amended Complaint, the Defendants deny the allegations contained therein.

ATTORNEY FEES AND COSTS

Answering Plaintiffs' prayer for general and special damages, attorneys' fees, and other and further relief, the Defendants object to and/or deny each and every allegation contained therein.

FOURTH DEFENSE

As and for an affirmative defense, upon information and belief, the Defendants allege that Plaintiffs have failed to comply with the requirements of posting a bond pursuant to Idaho Code § 6-610, and their claims should be dismissed.

FIFTH DEFENSE

As and for an affirmative defense, the Defendants allege that, insofar as Plaintiffs' Third Amended Complaint sets forth claims based upon state law, said state law claims are either barred or limited by the Idaho Tort Claims Act.

SIXTH DEFENSE

As and for an affirmative defense, the Defendants allege that Plaintiffs failed to take reasonable action to mitigate their damages.

SEVENTH DEFENSE

As and for an affirmative defense, the Defendants allege that the acts or omissions of the Defendants, if any, were neither the proximate cause nor the cause in fact of the alleged injuries, damages, or death claimed by Plaintiffs, if any.

EIGHTH DEFENSE

As and for an affirmative defense, the Defendants allege that Plaintiffs have failed to name and/or join indispensable parties.

NINTH DEFENSE

As and for an affirmative defense, the Defendants allege that some or all of the alleged injuries of Plaintiffs were proximately caused, if at all, by the acts or omissions of persons or entities other than the Defendants.

TENTH DEFENSE

As and for an affirmative defense, the damages complained of by Plaintiffs, if any, were directly and proximately caused by superseding and intervening circumstances.

ELEVENTH DEFENSE

As and for an affirmative defense, the Defendants allege that any injury or damage alleged by Plaintiffs, if any, is barred by comparative negligence and/or fault that bars or reduces Plaintiffs' recovery.

TWELFTH DEFENSE

As and for an affirmative defense, the Defendants allege that Plaintiffs' claims are barred and/or limited by the operation of Idaho Code §§ 6-904 and/or 6-904A, *et seq.* (The Idaho Tort Claims Act).

THIRTEENTH DEFENSE

As and for an affirmative defense, the Defendants allege that Plaintiffs' claims are barred by the operation of Idaho Code § 6-904 as the Defendants assert they cannot be held liable for exercising ordinary care in the performance of a statutory or discretionary function.

FOURTEENTH DEFENSE

As and for an affirmative defense, insofar as Plaintiffs seek to recover attorneys' fees based upon state law claims, said attorneys fees are barred by Idaho Code §§ 6-918 and 6-918A.

FIFTEENTH DEFENSE

As and for an affirmative defense, to the extent Plaintiffs' Third Amended Complaint seeks to recover damages, said damages, if any, are limited by Idaho Code § 6-926.

SIXTEENTH DEFENSE

As and for an affirmative defense, the Defendants are immune from an award of punitive damages for either Plaintiffs' alleged state or federal causes of action.

SEVENTEENTH DEFENSE

As and for an affirmative defense, the Defendants allege that the acts or omissions, if any, complained of by the Plaintiffs do not rise to a level of deprivation of constitutionally protected rights.

EIGHTEENTH DEFENSE

As and for an affirmative defense, the Defendants are not liable for any alleged injury by any act or omission of another person under the theory of *respondeat superior* or vicarious liability.

NINETEENTH DEFENSE

As and for an affirmative defense, the Defendants allege that, to the extent Plaintiffs' Third Amended Complaint alleges violations of the Idaho Constitution, Idaho statutes or other Idaho law, such claims cannot form the basis of a cause of action under 42 U.S.C. § 1983.

TWENTIETH DEFENSE

As and for an affirmative defense, the Defendants allege that all acts and/or omissions, if any, of the Defendants were undertaken in good faith and without malice or criminal intent.

TWENTY-FIRST DEFENSE

As and for an affirmative defense, the Defendants allege that all acts and/or omissions, if any, of the Defendants were undertaken without gross negligence or reckless, willful and wanton conduct.

TWENTY-SECOND DEFENSE

As and for an affirmative defense, all actions by the Defendants were performed and undertaken under just and reasonable circumstances and in all respects reasonable, proper, legal and according to applicable rules and law.

TWENTY-THIRD DEFENSE

As and for an affirmative defense, the Defendants allege that their acts or omissions, if any, and those of their officials and employees, are entitled to absolute and/or qualified/good faith immunity from suit.

TWENTY-FOURTH DEFENSE

As and for an affirmative defense, the damages and injuries allegedly suffered by Plaintiffs, if any, were not legally or proximately caused by any acts, omissions, customs or policies (or lack thereof), or actions or inactions of any Defendant.

TWENTY-FIFTH DEFENSE

As and for an affirmative defense, the Defendants allege they did not participate in, or otherwise contribute to, the creation of a governmental custom or policy, nor was any Defendant the moving force behind any action or inaction that resulted in the alleged constitutional violations of which Plaintiffs complain.

TWENTY-SIXTH DEFENSE

As and for an affirmative defense, the Defendants allege that they neither implemented nor executed a policy, statement, regulation, or decision that resulted in any alleged constitutional violations or injuries of which Plaintiffs complain.

TWENTY-SEVENTH DEFENSE

As and for an affirmative defense, the Defendants allege Plaintiffs' Third Amended Complaint includes parties that cannot, by law, recover in this matter, and claims that are not viable in this matter.

TWENTY-EIGHTH DEFENSE

As and for an affirmative defense, the Defendants allege that at no time did there exist an agreement, mutual understanding, or meeting of the minds to deprive Plaintiffs of any civil rights.

TWENTY-NINTH DEFENSE

As and for an affirmative defense, the Defendants allege that, to the extent Plaintiffs' claims are brought against Defendants' officials and employees, the same are not state actors for the purposes of 42 U.S.C. § 1983.

THIRTIETH DEFENSE

As and for an affirmative defense, the Defendants have not been able to engage in sufficient discovery to learn all of the facts and circumstances relating to matters described in the Plaintiffs' Third amended Complaint and therefore request the Court to permit Defendants to amend their Answer to Plaintiffs' Third Amended Complaint and assert further affirmative defenses and other defenses once discovery has been completed.

ATTORNEY FEES

As a direct result of the filing of this action, the Defendants have been compelled to retain the services of the Ada County Prosecuting Attorney, Civil Division, and have and will continue to incur fees and costs in defense thereof and request that they be granted reasonable attorney fees pursuant to Idaho Code § 6-918A, § 12-121, § 12-117, I.R.C.P. 54, 42 U.S.C. § 1988, and/or 28 U.S.C. § 1927, and all applicable Idaho or federal law, or rules of civil procedure.

DEMAND FOR JURY TRIAL

Defendants hereby request a jury trial in this matter.

PRAYER FOR RELIEF

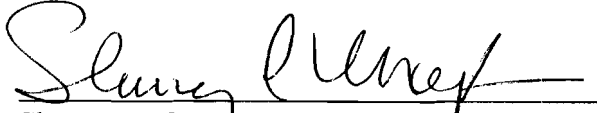
WHEREFORE, Defendants pray the Court enter judgment as follows:

1. That Plaintiffs take nothing by way of their Third Amended Complaint;
2. That the Third Amended Complaint be dismissed;
3. That judgment be entered in favor of Defendants on all claims for relief;
4. That the Court award reasonable attorney fees and costs necessarily incurred to Defendants in this action; and
5. That the Court grant such other and further relief as may be just under these circumstances.

DATED this 12th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



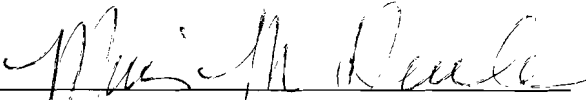
Sherry A. Morgan
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November 2010, I served a true and correct copy of the foregoing ANSWER TO PLAINTIFFS' THIRD AMENDED COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL to the following persons by the following method:

JONES & SWARTZ, PLLC
Eric B. Swartz
Darwin L. Overson
Joy M. Bingham
1673 W. Shoreline Dr., Ste 200
P.O. Box 7808
Boise, ID 83707-7808

Hand Delivery
 U.S. Mail
 Certified Mail
 Telecopy
 FAX



NOV 17 2000

J. DAVID NAVARRO, Clerk
By E. HOLMES
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Deputy Prosecuting Attorney

RAY J. CHACKO
Deputy Prosecuting Attorney

Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho; et al.

Defendants.

Case No. CV OC 0901461

RESTATED MOTION FOR SUMMARY JUDGMENT

COME NOW, the named Defendants by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan, and Ray J. Chacko, Deputy Prosecuting Attorneys, and move this Court for an Order Granting Summary Judgment upon the grounds and for the reason that there are no genuine issues of fact and that the Defendants are entitled to the judgment as a matter of law.

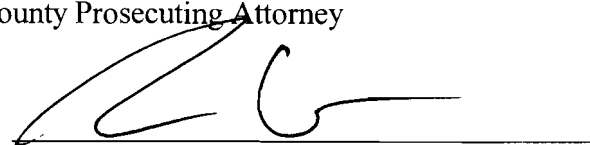
EU

This Motion is based upon Rule 56(b) of the Idaho Rules of Civil Procedure, the record and file herein, and the affidavits filed in this case in support thereof.

DATED this 12th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



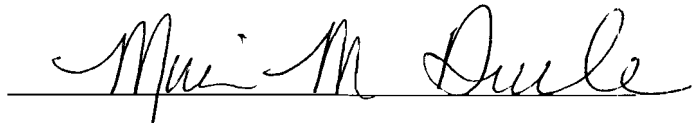
Ray J. Chacko
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November 2010, I served a true and correct copy of the foregoing RESTATED MOTION FOR SUMMARY JUDGMENT to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

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GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney

RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

NO. _____
AM. _____ FILED 313 PM

NOV 17 2009

J. DAVID NAVARRO, Clerk
By E. HOLMES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)
)
Plaintiffs,)
)
vs.)
)
ADA COUNTY, a political subdivision of the State)
of Idaho; et al.)
)
Defendants.)
_____)

Case No. CV OC 0901461

**MOTION TO DISMISS
PLAINTIFFS' THIRD
AMENDED COMPLAINT
PURSUANT TO I.R.C.P. 12(b)(8)**

COME NOW, Ada County Defendants, by and through counsel, pursuant to Rule 12(b)(8) of the Idaho Rules of Civil Procedure, and move this Court for an order dismissing the claims contained in Plaintiffs' Third Amended Complaint as there is another action pending

PC

between the same parties for the same cause. That action is pending in the U.S. District Court of Idaho, Case No. 10-cv-00486.

This Motion is made and based upon the Memorandum filed contemporaneously herewith, as well as the pleadings and other documents on file with the Court.

Oral argument is requested.

DATED this 12th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



Ray J. Chacko
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November 2010, I served a true and correct copy of the foregoing MOTION TO DISMISS PLAINTIFFS' THIRD AMENDED COMPLAINT PURSUANT TO I.R.C.P. 12(B)(8) to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
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P.O. Box 7808
Boise, ID 83707-7808

- Hand Delivery
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NOV 12 2009

J. DAVID NAVARRO, Clerk
By E. HOLMES
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
Deputy Prosecuting Attorney

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho; at al.

Defendants.

Case No. CV OC 0901461

MEMORANDUM IN SUPPORT OF RESTATED MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION AND PROCEDURAL BACKGROUND

The claims in this matter arise out of the suicide of Bradley Munroe on September 29, 2008, while he was incarcerated at the Ada County Jail. When the Estate of Bradley Munroe¹

¹ Through its personal representative, Rita Hoagland.

EC

(the “Estate”) and Rita Hoagland² (“Hoagland”) (together, the “Plaintiffs”) originally brought this action, they framed it as a federal § 1983 and state tort action against various detention deputies and an administrative supervisor at the Ada County Jail³ (the “Original Ada County Defendants”), apparently based on the theory that the detention deputies were watching a televised football game instead of Mr. Munroe. In light of the lack of evidence to support such claims and the availability of other affirmative defenses, the Original Ada County Defendants filed a dispositive Motion for Summary Judgment, accompanying Memorandum in Support of Summary Judgment (the “Original Summary Judgment Memorandum”), and fourteen (14) supporting Affidavits on May 28, 2010.

On or about June 23, 2010, the Plaintiffs filed their Plaintiffs’ Opposition to Defendants’ Motion for Summary Judgment (the “Opposition Brief”). However, instead of addressing the vast majority of the arguments and defenses raised by the Original Ada County Defendants,⁴ the Plaintiffs elected to withdraw all of their state law claims and dismiss all of the Original Ada County Defendants against whom the federal § 1983 claims were directed. *See* Plaintiffs’ Opposition Brief at 1. Notwithstanding this turn of events, the Plaintiffs continued to keep this litigation alive by seeking leave to amend their Complaint to allege an entirely new cause of action under § 1983 against different defendants associated with the Ada County Jail regarding their medical treatment of Mr. Munroe prior to his suicide.

² Individually as the mother of Bradley Munroe.

³ These included Marshall McKinley, Michael Vineyard, Paul Reiger, Kevin Manning, Kirt Taylor, Adam Arnold, and Leslie Robertson. Though Sheriff Gary Raney was also named as a defendant with regards to the state tort claim, he was not named as a defendant in regards to the federal § 1983 claims.

⁴ The Original Ada County Defendants argued that summary judgment was appropriate in this case because (i) the Plaintiffs were not proper plaintiffs under Idaho law, (ii) the Original Ada County Defendants were entitled to the protections of immunities under federal and state law that precluded liability from the Plaintiffs, and/or (iii) the Plaintiffs failed to state a claim upon which relief could be granted.

At a hearing on July 8, 2010, regarding a variety of matters (including the Original Ada County Defendants' Motion for Summary Judgment and the Plaintiffs' Motion for Leave to Amend), this Court granted Plaintiffs' request to amend and to conduct further discovery and, as a result, continued the summary judgment proceeding indefinitely. Plaintiffs filed their Amended Complaint on July 12, 2010, but did not serve it on any of the defendants named therein. Instead, a month later on August 12, 2010, Plaintiffs sought leave to file a Second Amended Complaint to add additional allegations and defendants and, a day later on August 13, 2010, sought leave to file a Third Amended Complaint to add a claim for punitive damages. This Court took these matters up at a September 13, 2010, hearing and allowed the Plaintiffs to proceed with their Third Amended Complaint, which they filed on September 14, 2010.

The Third Amended Complaint, which is ninety (90) pages long and contains four hundred sixty-six (466) paragraphs, includes the same Plaintiffs and alleges federal § 1983 claims against the following defendants:⁵ Ada County; Ada County Sheriff, Gary Raney; Linda Scown; Kate Pape; Steven Garrett, M.D.; Michael E. Estess, M.D.; Ricky Lee Steinberg; Karen Barrett; Jenny Babbitt;⁶ James Johnson; Jeremy Wroblewski; David Weich; Lisa Farmer; and Jamie Roach (together, the "New Defendants").

⁵ None of these defendants were alleged to have committed federal civil rights violations in Plaintiffs' original Complaint.

⁶ On October 7, 2010, Ms. Babbitt (who is represented by outside counsel) was voluntarily dismissed from this lawsuit by Plaintiffs and, as a result, is not included as a New Defendant for purposes of the remainder of this brief.

On September 20, 2010, the Ada County Prosecuting Attorney's Office (on behalf of all of the similarly situated New Defendants)⁷ filed a Motion to Dismiss based on the ineligibility of the Estate and Hoagland as valid § 1983 plaintiffs under Idaho law. By Memorandum and Order dated November 2, 2010, this Court determined the Estate was not a valid plaintiff and dismissed Count I of the Third Amended Complaint. However, this Court determined Hoagland had standing to continue as a plaintiff under Count II by creating a new § 1983 federal wrongful death claim under Idaho law for a parent of an adult child.

In light of the dismissal of the Estate and the major shift in Hoagland's underlying theories and culpable parties over the past six (6) months, it appears appropriate to restate the summary judgment arguments so that they are tailored to the § 1983 claims alleged against the New Defendants in Count II of the Third Amended Complaint.⁸ In line with this, summary judgment is appropriate in this matter because (i) the governmental entity and individuals acting in their "official capacity" are not appropriate defendants in this lawsuit, (ii) the individuals acting in their "individual capacity" are entitled to the protections of immunities under federal law that preclude liability, (iii) Hoagland improperly attempts to invent constitutional standards that do not exist, and (iv) Hoagland has sought improper damages.

II. STATEMENT OF FACTS

In the interest of efficiency and because this Court is already familiar with the facts of this case from the Original Ada County Defendants' Motion for Summary Judgment, the New

⁷ The Ada County Prosecuting Attorney's Office ("ACPAO") generally acts as legal counsel for Ada County, its various subdivisions, elected officials, and employees acting within the scope of their employment. Although it was (and is still) not clear that the ACPAO represents all of the New Defendants (some of whom have not been served), it appeared appropriate to move for dismissal given that the arguments for dismissal were premised on the standing of the Plaintiffs.

⁸ Again, it appears appropriate to bring a global summary judgment given that the available defenses are generally uniform among the New Defendants and would be equally applicable.

Defendants will refrain from repeating such information here and instead, to the extent necessary, incorporate by reference the statement of facts contained in the Original Summary Judgment Memorandum, filed May 28, 2010, and the affidavits it is based on.

The New Defendants would also note that though the parties may not agree on all of the facts surrounding this matter, there do not appear to be any genuine issues of material fact relevant to summary judgment.

III. STANDARD FOR SUMMARY JUDGMENT

A moving party is entitled to summary judgment when “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” I.R.C.P. 56(c). Rule 56(c) requires entry of summary judgment against a nonmoving “party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case and in which that party will bear the burden of proof at trial.” *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 720-21, 791 P.2d 1285, 1299-1300 (1990) (citing *Celotex v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986)).

In opposing the motion, “a mere scintilla of evidence or only slight doubt as to the facts is *not sufficient* to create a genuine issue for purposes of summary judgment.” *Samuel v. Hepworth, Nungester & Lezamiz, Inc.*, 134 Idaho 84, 87, 996 P.2d 303, 306 (2000) (citations omitted) (emphasis added). “The non-moving party ‘must respond to the summary judgment motion with specific facts showing there is a genuine issue for trial.’” *Id.* (citations omitted). Moreover, “an adverse party may not rest upon the mere allegations or denials of that party’s pleadings” I.R.C.P. 56(e).

In § 1983 cases, such as this, the plaintiff must overcome additional obstacles to defeat summary judgment. “In a § 1983 case, plaintiff bears the burden of proof on the constitutional deprivation that underlies the claim, and must come forth with sufficient evidence to create genuine issue of material fact to avoid summary judgment.” *Cole v. Caul*, 2010 WL 3860375 *1 (E.D. Wis. Sep 30, 2010)(NO. 08CV695).

Furthermore, the court is not bound to accept as true legal conclusions couched as factual allegations. *Papasan v. Allain*, 478 U.S. 265, 286, 106 S.Ct. 2932, 2944 (1986). In addition, a liberal interpretation of a civil rights complaint may not supply essential elements of a claim that were lacking in the original pleadings. *Ivey v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). Lastly, to overcome dismissal, a plaintiff must offer more than mere vague and conclusory allegations of official participation in civil rights violations. *Id.* See also, *Hall v. Bodine Elec. Co.*, 276 F.3d 345, 354 (7th Cir. 2002) (“It is well-settled that conclusory allegations and self-serving affidavits without support in the record, do not create a triable issue of fact”).

IV. ARGUMENT

The ninety (90) page, four hundred sixty-six (466) paragraph Third Amended Complaint contains a litany of allegations that are needlessly repetitive and overlap one another. In light of this “kitchen sink” approach to pleading, it would appear to be inefficient and unduly burdensome to attempt to address Hoagland’s claims in a manner following the structure of the Third Amended Complaint. Instead, it appears a better course of action is to categorize the New Defendants and explain why Hoagland’s § 1983 claims fail with respect to them.

Hoagland’s Third Amended Complaint names Ada County and all of the following individuals as defendants:

Ada County Sheriff, Gary Raney;
Linda Scown;
Kate Pape;
Steven Garrett, M.D.;
Michael E. Estess, M.D.;
Ricky Lee Steinberg;
Karen Barrett;
James Johnson;
Jeremy Wroblewski;
David Weich;
Lisa Farmer; and
Jamie Roach.

As this Court is likely aware, federal law allows individual state actors to be named in their “individual capacity” and “official capacity.” In this litigation, Hoagland has chosen to sue all of these people in both capacities. As such, there are three (3) categories of defendants: (i) a governmental entity, (ii) individuals in their “official capacity,” and (iii) individuals in their “individual capacity.”

A. Ada County and the Official Capacity Defendants Are Entitled to Dismissal.

Since “official capacity” defendants are essentially treated as governmental entities, they will be addressed consecutively.

1. Ada County Is Not a Valid Defendant.

In *Nation v. State, Dept. of Correction*, 144 Idaho 177, 186, 158 P.3d 953, 962 (2007), the Idaho Supreme Court (incorporating U.S. Supreme Court precedent) explained the circumstances in which a government could be sued under § 1983:

Local governments can be sued directly under section 1983 where a “policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers” deprives an individual of his or her constitutional rights. *Monell v. Dep't of Soc. Servs. of the City of New York*, 436 U.S. 658, 690, 98 S.Ct. 2018, 2036, 56 L.Ed.2d 611, 635 (1978). Additionally, governmental entities may be sued if their unofficial custom works a constitutional deprivation. *Id.*

This is often referred to as a *Monell*⁹ claim and requires proving a widespread unconstitutional practice so persistent, permanent, and well-settled that the governing body of Ada County¹⁰ had actual or constructive notice of it. *See Bennett v. City of Slidell*, 735 F.2d 861, 862 (5th Cir. 1984) (en banc). Moreover, the policy must be a deliberate and conscious choice. *City of Canton v. Harris*, 489 U.S. 378, 389 109 S.Ct. 1197, 1205 (1989). In addition, “[t]here also must be a ‘direct causal link’ between the policy or custom and the injury . . .” *Anderson v. Warner*, 451 F.3d 1063, 1070 (9th Cir. 2006).

Thus, to be able to pursue a § 1983 claim against a government (such as Ada County), a plaintiff must demonstrate there is (i) an express unconstitutional policy (i.e. ordinance, resolution, etc.) that was enacted by the government or (ii) an unofficial unconstitutional custom adopted by the government. The plaintiff must also demonstrate a “direct causal link” between the policy or custom and the injury.

In this particular instance, it does not appear that Hoagland has alleged any Ada County policy to be unconstitutional. In fact, Hoagland appears to concede that Ada County had “perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide . . .” Third Amended Complaint at 54, ¶ 284. As a result, the only remaining avenue to pursue Ada County would be through an unconstitutional custom adopted by Ada County. Again, this requires a “custom or practice” to be so “persistent and widespread” that it constitutes a “permanent and well settled [county] policy.” *Monell* at 691, 2036; *Anderson* at 1070. However, this obstacle is difficult for a plaintiff to overcome since limited instances do not provide a sufficient basis to demonstrate the existence of a policy or custom: “A custom or

⁹ *Monell v. Dep't of Soc. Servs. of the City of New York*, 436 U.S. 658, 98 S.Ct. 2018 (1978).

¹⁰ The governing body of Ada County is the Board of Ada County Commissioners and its official designees. *See* Idaho Code § 31-602.

policy must be shown by a ‘clear and persistent pattern,’ and three discreet instances in one investigation is simply not enough [for a jury] to reasonably draw such a conclusion.” *Peet v. City of Detroit*, 502 F.3d 557, 568 (6th Cir. 2007); *see also*, *Anderson* at 1070 (the plaintiff “must be able to demonstrate that the injury resulted from a ‘permanent and well settled practice.’” (citing *McDade v. West*, 223 F.3d 1135, 1141 (9th Cir. 2000)).

Though it isn’t quite clear from the Third Amended Complaint, Hoagland appears to try to circumvent this requirement by inferring a “permanent and well settled” unconstitutional practice based on the alleged actions of some individuals. However, unlike state tort actions, there is no *respondeat superior* liability under § 1983 law. While government entities may sometimes be liable for their own constitutional violations under § 1983, such liability cannot arise under a theory of *respondeat superior*. *See Monell* at 694, 2037-38. Rather, “it is when execution of a government's policy or custom ... inflicts the injury that the government as an entity is responsible under § 1983.” *Id.* In other words, there must be a “*deliberate* action attributable to the [governmental entity] [that] directly caused a deprivation of federal rights.” *Bd. of County Comm'rs v. Brown*, 520 U.S. 397, 415, 117 S.Ct. 1382, 1394 (1997) (emphasis in original).

This was similarly echoed by the Idaho Supreme Court in *Nation*:

However, a governmental entity cannot be held liable under section 1983 for *respondeat superior*. [*Monell*] at 691, 98 S.Ct. at 2036, 56 L.Ed.2d at 635-36. Therefore, the county can only be held liable if the actions conducted pursuant to its official policies or customs caused a constitutional deprivation. *See id.* (cited in *Limbert v. Twin Falls County*, 131 Idaho 344, 347, 955 P.2d 1123, 1126 (Ct.App.1998)).

Nation at 186, 962.

While state tort claims may be filed against employers where the underlying action was by an employee, § 1983 law does not support such liability. A § 1983 lawsuit against Ada

County has to be based upon Ada County's "policy or custom," not merely on the actions of individuals who are employed by Ada County. Moreover, there must be a direct causal link to the alleged injury. Hoagland has the burden of proof in this matter and cannot merely rely on allegations in her pleadings.¹¹ See I.R.C.P. 56(e). Given the situation, Hoagland has not and cannot demonstrate that Ada County enacted any unconstitutional policy or "permanent and well settled" widespread custom that directly resulted in Mr. Munroe's death. As a result, Ada County must be dismissed from this litigation.

2. The Official Capacity Defendants Are Not Proper Defendants.

Official capacity lawsuits are lawsuits against the government, not against the individual:

Frontera concedes that his § 1983 claims against the individual defendants in their official capacities and against the CPD must satisfy the standard for municipal liability, which requires that he establish first that he was deprived of a constitutional right and second that this occurred as a result of state action.

Frontera v. City of Columbus, 2010 WL 3398880 *3 (6th Cir. Aug 30, 2010). See also, *Rentz v. Spokane County*, 438 F.Supp.2d 1252, 1255-56 (E.D. Wash 2006); *Kentucky v. Graham*, 473 U.S. 159, 165-66, 105 S.Ct. 3099, 3105 (1985) (an official capacity suit is to be treated as a suit against the government entity).

Since "official capacity" claims are really claims against the government (Ada County), Hoagland's claims against the "official capacity" New Defendants are repetitive and the prior analysis set forth in Section IV(A)(1) above is again applicable. Hoagland must show that Ada County deliberately enacted an unconstitutional policy or custom that caused Mr. Munroe's death, which she has not. Moreover, *respondeat superior* is not an available vehicle for

¹¹ As noted previously, a plaintiff must offer more than mere vague and conclusory allegations of official participation in civil rights violations. *Ivey v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982).

attaching liability under § 1983. As such, the New Defendants sued in their “official capacity” should similarly be dismissed from this case.

B. The Individual Capacity Defendants Are Entitled to Dismissal.

Turning now to the last category of New Defendants, the first issue to be addressed is whether each “individual capacity” defendant was personally involved in the alleged deprivation of Hoagland’s constitutional rights. If so, the issue then becomes whether they are nevertheless entitled to qualified immunity. However, before addressing the qualified immunity argument, it turns out most of the New Defendants don’t even meet the personal involvement criteria required by § 1983.

1. Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Weich, Farmer, and Roach Were Not Personally Involved and are Not Proper Defendants.

In *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998), the Ninth Circuit explains that: “A plaintiff must allege facts, not simply conclusions, that show that an individual was personally involved in the deprivation of his civil rights. Liability under § 1983 must be based on the personal involvement of the defendant.”

Section 1983 is a complex theory under which to bring a lawsuit. It requires a plaintiff to plead specific actions or risk having his case dismissed. However, in this matter, Hoagland instead relies on wide brush strokes to paint her picture of § 1983 liability against the “individual capacity” New Defendants. There are no sustainable allegations that Sheriff Raney, Linda Scown, Kate Pape, Dr. Garrett, Dr. Estess, Ricky Lee Steinberg, Karen Barrett, David Weich, Lisa Farmer, or Jamie Roach were personally involved in any actions that caused Mr. Munroe’s death. Furthermore, this group of individuals is comprised of supervisory personnel and/or individuals who had no contact with Mr. Munroe during his most recent incarceration at the Ada County Jail.

It appears Hoagland has named most of these individuals¹² as defendants based on the overly broad theory that (i) Mr. Munroe's mental health treatment at the Ada County Jail was inadequate, (ii) that these individuals were ultimately responsible for such treatment even though they had no interaction with Mr. Munroe, and (iii) the treatment somehow resulted in Mr. Munroe's death. This approach is not appropriate in the § 1983 context. As previously noted in Section IV(A)(1) above, *respondeat superior* is not a valid method of attaching liability in a § 1983 action. As such, Hoagland cannot be allowed to attribute the actions of others (including subordinates) to any of the individual defendants.

Furthermore, as noted in *Barren*, to survive summary judgment Hoagland must set forth specific personal actions by Sheriff Raney, Linda Scown, Kate Pape, Dr. Garrett, Dr. Estess, Ricky Lee Steinberg, Karen Barrett, David Weich, Lisa Farmer, and Jamie Roach that resulted in Mr. Munroe's death. The unsubstantiated and conclusory allegations in the Third Amended Complaint are insufficient to meet this requirement.¹³ See I.R.C.P. 56(e) and n. 11 above. As a result, each of these "individual capacity" New Defendants should be dismissed from this lawsuit for lack of personal involvement.

2. Qualified Immunity Precludes Liability Against the Individual Capacity Defendants.

Notwithstanding the fact that most of the "individual capacity" New Defendants should be dismissed from this matter outright as a result of Hoagland's inability to demonstrate their personal involvement in Mr. Munroe's death (as discussed above), said individuals and the

¹² Sheriff Raney, Linda Scown, Kate Pape, Dr. Garrett, Dr. Estess, Ricky Lee Steinberg, and Karen Barrett.

¹³ Because Hoagland has failed to fulfill her obligations, the New Defendants would have to speculate as to what evidence Hoagland believes she has to support her allegations. As a result, they are not currently in a position to set forth their own evidence to counter any potential offerings by Hoagland.

remaining New Defendants (James Johnson and Jeremy Wroblewski) are nonetheless also entitled to dismissal pursuant to qualified immunity.

(a) Purpose of Qualified Immunity.

Qualified immunity is protection from litigation. Courts understand that governments (i.e. Ada County) and their employees, by carrying out their jobs, must undertake risk-filled tasks. Often those tasks are undertaken with risky populations such as inmates. Since any interaction with a government that has a negative outcome often leads to litigation, courts have created protection from liability. That protection - qualified immunity - is to be decided as a matter of law, and must be applied by the court early in the process. To scale the high wall of qualified immunity, a plaintiff must show that government employees were aware of applicable law and intentionally chose not to follow it. This is how courts protect governmental entities from litigation that could overwhelm and bankrupt them. As such, this Court is charged with making a pre-trial legal determination as to whether Hoagland has forwarded enough evidence to get to trial.

In *Malley v. Briggs*, 475 U.S. 335, 341, 106 S.Ct. 1092, 1096 (1986), the U.S. Supreme Court explained that qualified immunity immunizes “all but the plainly incompetent or those who knowingly violate the law.” The Supreme Court recently revisited qualified immunity in the context of § 1983 actions in *Pearson v. Callahan*, --- U.S. ---, 129 S.Ct. 808 (2009), which involved a lawsuit against police officers in Utah. The Supreme Court reiterated the underlying rationale for government employee immunization:

Qualified immunity balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably. The protection of qualified immunity applies regardless of whether the government official's error is “a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact.” *Groh v. Ramirez*, 540 U.S.

551, 567, 124 S.Ct. 1284, 157 L.Ed.2d 1068 (2004) (KENNEDY, J., dissenting) (citing *Butz v. Economou*, 438 U.S. 478, 507, 98 S.Ct. 2894, 57 L.Ed.2d 895 (1978) (noting that qualified immunity covers “mere mistakes in judgment, whether the mistake is one of fact or one of law”)).

Pearson at ---, 815.

The Supreme Court has also noted because qualified immunity “is an *immunity from suit* rather than a mere defense to liability . . . it is effectively lost if a case is erroneously permitted to go to trial.” *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S.Ct. 2806, 2815 (1985). Accordingly, the Supreme Court underscored that “we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation.” *Hunter v. Bryant*, 502 U.S. 224, 227, 112 S.Ct. 534, 536 (1991).

These remarks are further echoed by other Supreme Court cases finding that under qualified immunity, a government actor will be protected from suit when he or “she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances . . .” *Brosseau v. Haugen*, 543 U.S. 194, 198, 125 S.Ct. 596, 599 (2004); *see also*, *Saucier v. Katz*, 533 U.S. 194, 206, 121 S.Ct. 2151, 2159 (2001). The standard is an objective one that leaves “ample room for mistaken judgments . . .” *Malley* at 343, 1097. In the recent case of *Mueller v. Auken*, 576 F.3d 979 (9th Cir. 2009) the Ninth Circuit noted:

The purpose of this doctrine is to recognize that holding officials liable for reasonable mistakes might unnecessarily paralyze their ability to make difficult decisions in challenging situations, thus disrupting the effective performance of their public duties. The Supreme Court has reminded us to recognize the demands of the real world in evaluating acts by members of the executive branch of government:

Nor is it always fair, or sound policy, to demand official compliance with statute and regulation on pain of money damages. Such officials as police officers or prison wardens, to say nothing of higher level executives ... who enjoy only qualified immunity, routinely make close decisions in the exercise of the broad authority that necessarily is delegated to them. These officials are subject to a plethora of rules, “often so voluminous,

ambiguous, and contradictory, and in such flux that officials can only comply with or enforce them selectively.” See P. Schuck, *Suing Government* 66 (1983). In these circumstances, officials should not err always on the side of caution. “[O]fficials with a broad range of duties and authority must often act swiftly and firmly at the risk that action deferred will be futile or constitute virtual abdication of office.”

Davis v. Scherer, 468 U.S. 183, 196, 104 S.Ct. 3012, 82 L.Ed.2d 139 (1984) (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 246, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974)).

Mueller at 993.

In essence, qualified immunity is a protection from suit that recognizes the need to provide government employees significant leeway in the judgments they make. Moreover, the application of qualified immunity is a threshold matter that must be decided before allowing litigation to proceed.¹⁴

(b) *The General Qualified Immunity Analysis.*

Having provided the background and purpose of qualified immunity, it may now be helpful to set forth the general framework of the qualified immunity analysis. When a court is presented with a qualified immunity defense, the central questions for the court are (i) whether the facts alleged, taken in the light most favorable to the plaintiff, demonstrate that the defendant’s conduct violated a constitutional right, and (ii) whether the right at issue was “clearly established.” *Saucier v. Katz*, 533 U.S. 194, 201, 121 S.Ct. 2151, 2156 (2001). This is a two-part test that a § 1983 plaintiff has the burden to prove before his/her case can proceed.

¹⁴ In *Pearson*, the Supreme Court again took the opportunity to emphasize that, “we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation” including “prior to discovery” or at the pleading stage since qualified immunity “is ‘an immunity from suit rather than a mere defense to liability’” that “‘is effectively lost if a case is erroneously permitted to go to trial.’” *Pearson*, at ---, 815 (citations omitted).

The Idaho Supreme Court has further defined the application of qualified immunity in Idaho cases involving federal civil rights claims, such as the current action. In *Nation*, the Idaho Supreme Court instructed that:

The contours of qualified immunity are the same under both Idaho and Federal law; generally government officials performing discretionary functions are shielded from civil liability as long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow*, 457 U.S. at 818-19, 102 S.Ct. at 2738-39, 73 L.Ed.2d at 410-11; *Lubcke v. Boise City/Ada County Housing Authority*, 124 Idaho 450, 462-63, 860 P.2d 653, 665-66 (1993). The issue of whether an official should have known that he or she acted unlawfully is a question of law. *Saucier v. Katz*, 533 U.S. 194, 197, 121 S.Ct. 2151, 2154, 150 L.Ed.2d 272, 278-79 (2001); *Lubcke*, 124 Idaho at 462, 860 P.2d at 665.

Nation at 186-87, 962-63.

Lastly, as a reflection of the importance attached to qualified immunity, it should be mentioned that an order denying qualified immunity is immediately appealable, even though it is interlocutory. *Scott v. Harris*, 550 U.S. 372, 376 fn.2, 127 S.Ct. 1769, 1774 fn.2 (2007).

With the proper analysis in mind, it is now appropriate to examine each of these steps separately with respect to the “individual capacity” New Defendants.

(i) *Did the “Individual Capacity” New Defendants’ Conduct Violate a Constitutional Right?*

In this particular instance, we are faced with the unique situation in which (in light of the New Defendants’ Motion to Dismiss) this Court determined for the first time under Idaho law that a parent of an adult child could bring a § 1983 wrongful death claim. In arriving at that conclusion, this Court stated that it “now holds the appropriate analysis of Idaho wrongful death claims in a § 1983 context is that followed by the Fifth Circuit in *Rhyne v. Henderson* . . .” November 2, 2010, Memorandum and Order at 8. The *Rhyne*¹⁵ Court had previously held that § 1988 could be used to incorporate Texas’ wrongful death remedy into a § 1983 claim allowing

¹⁵ *Rhyne v. Henderson County*, 973 F.2d 386 (5th Cir. 1992).

a mother to recover for “her injury caused by the state’s deprivation of her son’s constitutionally secured liberty interest.” *Rhyne* at 391.

However, in holding that Hoagland had standing to bring a claim, this Court pointed out that it was not making a determination as to “whether Ms. Hoagland’s § 1983 wrongful death claim will succeed; rather, the Court is simply determining that she may bring a wrongful death claim.” November 2, 2010, Memorandum and Order at 9. As a result, this Court appears to have limited its ruling to the issue of standing and has yet to specifically determine that any constitutional right exists and was violated. However, now that this matter has progressed to the qualified immunity analysis stage, (which did not occur in *Rhyne* since no “individual capacity” defendants were named and no qualified immunity analysis was necessary) this Court must make such a determination in order for this matter to proceed any further.¹⁶

As such, it appears appropriate to reiterate that, in a situation such as this, the majority of the federal circuits (i.e. the 1st, 3rd, 4th, 6th, 7th, 10th, 11th, and District of Columbia Circuits)¹⁷ do not recognize a parent’s constitutional right regarding the death of an adult child. In light of the majority viewpoint and *Rhyne*’s lack of applicability to any qualified immunity analysis, there is no basis for this Court to conclude that there is a constitutional right and that it was violated. In order for this case to proceed past the qualified immunity analysis, this Court must first create a constitutional right for the parent of an adult child (in contravention of federal common law) and then determine that such right was violated in this case. Given the lack of legal authority to

¹⁶ See Section IV(B)(2)(a) above.

¹⁷ See *Russ v. Watts*, 414 F.3d 783, 787-88, (7th Cir. 2005); *Trujillo v. Bd. of County Comm’rs*, 768 F.2d 1186, 1190 (10th Cir. 1985); *Valdivieso Ortiz v. Burgos*, 807 F.2d 6, 9 (1st Cir. 1986); *McCurdy v. Dodd*, 352 F.3d 820, 830 (3rd Cir. 2003); *Claybrook v. Birchwell*, 199 F.3d 350, 357-58 (6th Cir. 2000); *Shaw v. Stroud*, 13 F.3d 791, 804-05 (4th Cir. 1994); *Robertson v. Hecksel*, 420 F.3d 1254, 1260 (11th Cir. 2005); *Butera v. District of Columbia*, 235 F.3d 637, 656 (D.C. Cir. 2001); November 2, 2010, Memorandum and Order at 8.

support such a course of action, it would not appear appropriate to tread new ground in this regard. As a result, all of the “individual capacity” New Defendants should be dismissed from this action.

(ii) *Was the Constitutional Right Clearly Established?*

In light of the above, Hoagland cannot meet the first criteria under the qualified immunity analysis. However, even if she could, the “individual capacity” New Defendants would still be entitled to qualified immunity since a § 1983 plaintiff must not only demonstrate that a constitutional right was violated, but that the right in question was “clearly established” by applicable law prior to the defendant’s actions.

Under the second step, to attach liability “[t]he contours of the right must be sufficiently clear that a reasonable official would understand what he is doing violates that right.” *Anderson v. Creighton*, 483 U.S. 635, 640, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987). This framework means that “the right allegedly violated must be defined at the appropriate level of specificity before a court can determine if it was clearly established.” *Wilson v. Layne*, 526 U.S. 603, 615, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999).

Mueller at 993.

[I]f the plaintiff has satisfied this first step, the court must decide whether the right at issue was “clearly established” at the time of defendant's alleged misconduct. *Ibid.* Qualified immunity is applicable unless the official's conduct violated a clearly established constitutional right. *Anderson, supra*, at 640, 107 S.Ct. 3034.

Pearson at ---, 816; *See Nation* at 187 (“did the conduct of the party asserting qualified immunity violate a clearly established right of the party claiming the violation?”).

However, as noted above, this Court’s November 2, 2010, Memorandum and Order was the first decision under Idaho law to allow a plaintiff in Hoagland’s position to bring a § 1983 wrongful death claim of this type. Thus, to the extent that this Court may choose to somehow acknowledge the violation of a constitutional right in this unique scenario, by its own analysis

evidenced in the November 2, 2010, Memorandum and Order, there was no such “clearly established right of the party claiming the violation” in Idaho. As a result, the “individual capacity” New Defendants cannot be expected to have had prior notice that any of their actions could have violated a “clearly established” right regarding Hoagland’s § 1983 federal wrongful death claim since (i) it is not acknowledged by the majority of the federal circuits¹⁸ and (ii) it has not previously been recognized in Idaho appellate law.

Quite simply, the novelty of Hoagland’s federal claim under Idaho law intrinsically precludes liability pursuant to the second step of the qualified immunity analysis. As a result, all of the “individual capacity” New Defendants should be dismissed from this lawsuit.

C. Hoagland Improperly Attempts to Create Constitutional Standards.

Notwithstanding the fact that all of the New Defendants should be dismissed from this action per the above analysis, it should nevertheless be noted that Hoagland appears to allege constitutional violations based on standards she has invented. Therefore, the New Defendants will address some of these matters for the sake of clarification and to help avoid potential misunderstanding about applicable law.

1. NCCHC Standards Do Not Form Constitutional Minima.

Many of the allegations in Hoagland’s Third Amended Complaint appear to be based on the misguided theory that a *per se* constitutional violation exists because the Ada County Jail is not currently accredited with the National Commission on Correctional Health Care (“NCCHC”). However, the standards and guidelines of accreditation organizations are not determinative as to whether a constitutional right has been violated. As noted recently by a federal district court:

¹⁸ See n. 17 above.

The standards provided by the ACA [American Correctional Association] and NCCHC, however, do not establish the constitutional minima. The United States Supreme Court has stated that “while the recommendations of these various groups may be instructive in certain cases, they simply do not establish the constitutional minima; rather, they establish goals recommended by the organization in question.” *Rhodes*, 452 U.S. at 348. 101 S.Ct. at 2400 (*quoting Bell v. Wolfish*, 441 U.S. 520, 543-44, 99 S.Ct. 1861, 1876, 60 L.Ed.2d 447 (1979)); *also see Alexander S. By and Through Bowers v. Boyd*, 876 F.Supp. 773, 779 (D.S.C.1995)(finding that “[a]lthough ACA standards might represent desirable goals, it is well established that they do not represent the standards minimally acceptable under the Constitution.”) Therefore, Plaintiff’s argument that Medical Defendants clearly violated his constitutional rights by failing to comply with the ACA and NCCHC standards is without merit.

Motto v. Correctional Medical Services, Inc., 2010 WL 3852373, *16 (S.D.W.Va., Mar 23, 2010) (NO. CIV.A.5:06-0163).

Any alleged failure to follow guidelines of the NCCHC or maintain accreditation cannot form the basis of a constitutional violation claim. Hoagland’s continual reliance on this “evidence” of a constitutional violation is misplaced and she should not be allowed to continue to proffer arguments based on such theories.

2. Licensure Status Is Not a *Per Se* Constitutional Violation.

Along the same lines as her reliance on NCCHC standards to prove a constitutional violation, Hoagland similarly points to lack of social worker licensure status in Idaho as a *per se* constitutional violation. Again, however, licensure status in and of itself is not determinative of a constitutional violation.

Instead, the focus is on other factors such as whether an official “refused to treat [the prisoner or detainee], ignored his complaints, intentionally treated him incorrectly or engaged in any similar conduct that would clearly evince a wanton disregard for any serious medical needs.” *Jacobson v. Louisiana Dept. of Corrections*, 2008 WL 5552232, *9 (W.D.La. Dec 17, 2008) (NO. CIV.A. 08-1123) (finding that inmate had no right to distribution of medication by licensed

medical personnel) (adopted in part by *Jacobson v. Louisiana Dept. of Corrections*, 2009 WL 192499 (W.D.La. Jan 23, 2009) (NO. CIV.A. 08-1123)); *see also*, *Brown v. Crittenden County Sheriff's Dept.*, 2007 WL 2316493, *3 (E.D.Ark., Aug 8, 2007) (NO. 307-CV-00083-SWW-BD) (inmate failed to state constitutional violation based merely on allegations that defendants were “[u]nlicense[d], [u]nqualified, [u]ntrained[ed], and [u]ncertified to dispense medication”). This is similarly true in the mental health context where lack of formal licensure does not equate to a constitutional violation. *See Minix v. Canarecci*, 597 F.3d 824, 831 (7th Cir. 2010) (unlicensed mental health professional who conducted mental health assessment of inmate who later committed suicide was entitled to summary judgment).¹⁹

The underlying point is that licensure status is not a determinative factor of a constitutional violation as Hoagland suggests. As such, she should be prohibited from proceeding as if it was.

D. Hoagland Seeks Inappropriate Remedies.

Among other things, Hoagland’s Third Amended Complaint seeks declaratory and injunctive relief regarding compliance with policies and the NCCHC in addition to other types of damages that do not appear to be applicable to a plaintiff in Hoagland’s position. Given that these matters may likely influence the direction of further discovery and the trial itself, it is imperative that if this Court allows this controversy to continue it should rule on the appropriateness of Hoagland’s requests before further time and expense is invested in defending against such matters.

¹⁹ Reliance on licensure status alone also fails to take into account other criteria such as (i) proving a nexus between a defendant’s actions and the alleged injury and (ii) demonstrating subjective intent. *See Minix* at 831.

1. Hoagland's Request for Declaratory and Injunctive Relief Is Inappropriate.

In her Third Amended Complaint, Hoagland asks for:

Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail;

Third Amended Complaint at 89.

This request is improper for a number of reasons. To begin with, and as discussed previously, the standards and guidelines of accreditation organizations (such as the NCCHC) are not determinative as to whether a constitutional right has been violated. Since any alleged failure to follow guidelines of the NCCHC or maintain accreditation cannot form the basis of a constitutional violation claim, Hoagland's request for this Court to require adherence to such an organization's mandates is a red herring that has no legal basis as an available remedy.

Hoagland's request is also inappropriate because she cannot meet the standard for the type of remedy she seeks. Before a court can issue an injunction, it must determine that the legal remedy is inadequate. Furthermore, the plaintiff must show substantial and immediate irreparable injury if the injunction is not granted. In *City of Los Angeles v. Lyons*, 461 U.S. 95, 103 S.Ct. 1660 (1983), the U.S. Supreme Court held that a plaintiff who had been subjected to a dangerous chokehold by police after a traffic stop, could not enjoin the use of the chokehold because any claim of future injury to him was speculative and he therefore could not show the likelihood of irreparable injury. The key issue is whether the plaintiff is confronted with a

“likelihood of substantial and immediate irreparable injury” in the future. *Id.* at 111, 1670.²⁰ Moreover, his damages claim against the defendant already constituted an adequate remedy at law.

Similarly, Hoagland would need to prove that (i) the declaratory/injunctive relief she requests would likely (as opposed to possibly) prevent future irreparable injury *to her* and (ii) the compensatory and punitive damages she has already requested do not constitute an adequate remedy at law. It is difficult to understand how Hoagland could meet one, let alone, both parts of this test if for no other reasons than Mr. Munroe will not be housed in the Ada County Jail again and NCCHC standards do not reflect any type of constitutional threshold under the law.

2. In Light of This Court’s Creation of a § 1983 Wrongful Death Claim in Idaho, It Is Not Clear What Damages Hoagland Would Be Entitled to.

As discussed previously, based on this Court’s November 2, 2010 Memorandum and Order the New Defendants now find themselves in the unique position of litigating a “§ 1983 wrongful death claim” by a parent of an adult child in an Idaho state court for the first time. As a result, it is not clear which elements of damages would be available to a parent of an adult child in Hoagland’s position since § 1983 does not explicitly set forth such matters. It is the New Defendants’ understanding that this Court recognized Hoagland’s standing to bring a § 1983 wrongful death claim by incorporating Idaho’s wrongful death statute (Idaho Code

²⁰ This also raises other issues such as “case and controversy,” mootness, etc. *See Hayes v. Conway*, 144 Idaho 503, 508, 163 P.3d 1215, 1220 (Idaho App. 2007) (“If the questions presented are no longer live and if the parties lack a legally cognizable interest in the outcome, those issues are not justiciable, but are moot and therefore preclude review.”)

§ 5-311(2)(b)) into § 1983. As such, and since § 1983 is silent on the matter, does this mean that the available damages would similarly be based on Idaho's wrongful death law?²¹

In Count II of her Third Amended Complaint, Hoagland appears to request damages for “loss of companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.” Third Amended Complaint at 72, ¶ 382. However, these damages appear to go beyond the scope of allowable damages for wrongful death under Idaho law. For example, IDJI 9.05 – Damages for Wrongful Death, discusses loss of society, but specifically excludes damages based on grief or sorrow. As a result, would it be proper to allow Hoagland to seek damages for “her own pain, suffering, anguish and emotional distress caused by the death of her son” or would it be more appropriate to limit her damages to the reasonable value of the loss of society?

V. CONCLUSION

As more fully set forth above, Ada County, the “official capacity” New Defendants, and the “individual capacity” New Defendants are entitled to summary judgment in their favor. Moreover, Hoagland improperly invents her own constitutional standards and seeks remedies that are inapplicable in the current situation. Based on the foregoing, the New Defendants

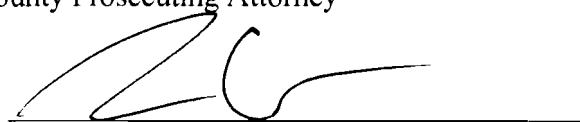
²¹ Based on the vehicle (Idaho Code § 5-311) utilized by this Court to recognize Hoagland's standing to continue this litigation pursuant to this Court's November 2, 2010 Memorandum and Order, the parties may also have to revisit the applicability of punitive damages in this matter since such damages are not applicable in wrongful death claims.

respectfully request this Court dismiss this matter in its entirety in accordance with the above analysis.

DATED this 12th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:




Ray J. Chacko
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November 2010, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF RESTATED MOTION FOR SUMMARY JUDGMENT to the following person by the following method:

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NO. _____
A.M. _____ P.M. 3:23

NOV 12 2010

J. DAVID NAVARRO, Clerk
By E. HOLMES
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State
of Idaho; ADA COUNTY SHERIFF, GARY
RANEY, an elected official of Defendant Ada
County and the operator of the Ada County
Sheriff's Office and Ada County Jail, in his
individual and official capacity; LINDA SCOWN,
in her individual and official capacity; KATE
PAPE, in her individual and official capacity;
STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D., in
his individual and official capacity; RICKY LEE
STEINBERG, in his individual and official
capacity; KAREN BARRETT, in her individual and
official capacity; JENNY BABBITT, in her
individual and official capacity; JAMES

Case No. CV OC 0901461

**MEMORANDUM IN SUPPORT
OF MOTION TO DISMISS
PLAINTIFFS' THIRD AMENDED
COMPLAINT PURSUANT TO
I.R.C.P. 12(b)(8)**

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS' THIRD
AMENDED COMPLAINT PURSUANT TO I.R.C.P. 12(b)(8) – PAGE 1

EC

JOHNSON, in his individual and official capacity;)
 JEREMY WROBLEWSKI, in his individual and)
 official capacity; DAVID WEICH, in his individual)
 and official capacity; LISA FARMER, in her)
 individual and official capacity; JAMIE ROACH, in)
 her individual and official capacity; and JOHN)
 DOES I-X, unknown persons/entities who may be)
 liable to the Plaintiffs,)
)
 Defendants.)
 _____)

Plaintiffs filed a federal lawsuit identical to the case at bar shortly before the Defendants' Motion to Dismiss was argued on October 7, 2010 (*Hoagland v. Ada County, et al.*, 10-cv-00486-EJL). During oral argument Defendants brought this concurrent federal court filing to this Court's attention. Plaintiffs explained they filed the federal lawsuit in an abundance of caution.

This Court then indicated it would take up the matter upon the formal filing of a motion to dismiss under I.R.C.P. 12(b)(8), which allows dismissal where there is "another action pending between the same parties for the same cause." Idaho case law interpreting I.R.C.P. 12(b)(8) allows a court latitude as to whether the Court must dismiss a case in a situation such as this. Nonetheless, judicial economy as well as limited defense resources must be taken into consideration before allowing a plaintiff to concurrently litigate the same lawsuit in state *and* federal court. As evidenced by the still-filed federal Complaint (a copy of which is attached hereto as Exhibit A), Plaintiff Hoagland continues to proceed with her federal court case.

Furthermore, Judge Lodge recently issued a Litigation Order in the federal lawsuit on October 5, 2010. A copy of the Litigation Order is attached hereto as Exhibit B. As a result, the parties in this case are ordered to file a Litigation Plan in the federal court action before December 28, 2010, and the federal requirements for discovery will be running concomitantly

with the taking of depositions in the state court case. Unless this Court dismisses the state case, Defendants will find themselves in the unenviable and unreasonable position of actively litigating the federal case at the same time they are preparing for trial in this case.

Defendants forward that it is reasonable for this Court to instruct the Plaintiffs to select their forum. Plaintiffs' stated reason for filing the federal lawsuit has ceased to exist; yet they refuse to dismiss their federal litigation. In light of Plaintiffs' unwillingness to withdraw their repetitive federal lawsuit, Defendants move this Court to dismiss this state lawsuit with prejudice so that this controversy is not unnecessarily litigated in multiple forums.

DATED this 12th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



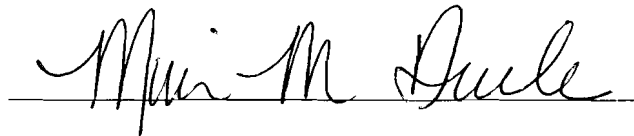
Ray J. Chacko
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November 2010, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS' THIRD AMENDED COMPLAINT PURSUANT TO I.R.C.P. 12(B)(8) to the following persons by the following method:

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MOTION TO DISMISS PURSUANT TO I.R.C.P.12(b)(8)

EXHIBIT A

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL
Case No. 10-cv-00486-EJL

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Attorneys for Plaintiffs

Certified to be a true and correct
copy of original filed in my office.
Elizabeth A. Smith, Clerk
United States Courts, District of Idaho
By Elizabeth A. Smith 11/8/2010
Deputy Dated

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho;
ADA COUNTY SHERIFF, GARY RANEY, an elected
official of Defendant Ada County and the operator of the Ada
County Sheriff's Office and Ada County Jail, in his individual
and official capacity; LINDA SCOWN, in her individual and
official capacity; KATE PAPE, in her individual and official
capacity; STEVEN GARRETT, M.D., in his individual and
official capacity; MICHAEL E. ESTESS, M.D., in his
individual and official capacity; RICKY LEE STEINBERG,
in his individual and official capacity; KAREN BARRETT, in
her individual and official capacity; JENNY BABBITT, in her
individual and official capacity; JAMES JOHNSON, in his
individual and official capacity; JEREMY WROBLEWSKI,
in his individual and official capacity; DAVID WEICH, in his
individual and official capacity; LISA FARMER, in her
individual and official capacity; JAMIE ROACH, in her
individual and official capacity; and JOHN DOES I-X,
unknown persons/entities who may be liable to the Plaintiffs,

Defendants.

Case No. 1:10-cv-486

**COMPLAINT FOR
DAMAGES AND
DEMAND FOR
JURY TRIAL**

COME NOW the above-named Plaintiffs, by and through their counsel of record, Jones & Swartz PLLC, and complain against the named Defendants as follows:

I. PARTIES

1. Rita Hoagland (“Ms. Hoagland”) is the natural mother of the deceased, Bradley Munroe, and has been duly appointed to serve as the personal representative of the Estate of Bradley Munroe in Case No. CV-IE-2008-20235 filed in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada. Ms. Hoagland is a resident of Canyon County.

2. Bradley Munroe (“Munroe”) died while a resident and inmate of the Ada County Jail, which is located in the city of Boise, county of Ada, state of Idaho.

3. Ada County is a municipality and political subdivision of the State of Idaho.

4. Gary Raney (“Raney”) is and at all times herein mentioned was the elected Sheriff of Ada County and the operator and supervisor of the Ada County Sheriff’s Office (“ACSO”) and Ada County Jail and all of the staff and officers employed thereby. Plaintiffs have brought suit against Defendant Raney in his individual and official capacity.

5. Upon information and belief, Defendant Linda Scown (“Scown”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO as Captain. She is and at all times herein mentioned was the Director of Health Services at the ACSO and, other than Defendant Raney, is the highest ranking official responsible for operation of the “Ada County Jail Medical Unit.” Plaintiffs have brought suit against Defendant Scown in her individual and official capacity.

6. Upon information and belief, Defendant Kate Pape (“Pape”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within

the Ada County Jail, with the title of “Health Services Administrator,” also at times referred to by Defendants as the “Health Services Manager.” Plaintiffs have brought suit against Defendant Pape in her individual and official capacity. The Health Services Administrator at the Ada County Jail is responsible for, among other duties, the following:

a. Plans, directs, coordinates and supervises the delivery of medical and mental health services within the jail, and works in a collaborative manner to ensure the jail medical and mental health services are provided to inmates of the jail in a manner consistent with constitutional requirements;

b. Supervises the Nursing Supervisor, Physician’s Assistants, Social Workers, and the Health Services Administrative Supervisor;

c. Ensures quality and consistent services are delivered in compliance with ACSO written policies, professional standards, constitutional standards, and state and federal law;

d. Develops and establishes policies, procedures and protocols to administer effective and efficient standards of management, care, and delivery of medical and mental health services in the jail;

e. Oversees staff development, including performance appraisals, and training;

f. Ensures healthcare providers comply with contractual obligations;

g. Ensures periodic inspections of clients and facilities are completed to ensure that the healthcare delivery system operates effectively and efficiently, and documents such inspections to meet National Commission on Correctional Health Care standards (“NCCHC Standards”); and

h. Ensures medical programs and related documentation are maintained in such a manner that the Ada County Jail’s NCCHC accreditation is not jeopardized.

7. Upon information and belief, Defendant Steven Garrett, M.D. (“Garrett”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Garrett in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Garrett was providing medical services to inmates of the Ada County Jail pursuant to a written contract with

Ada County and ACSO (“Supervising Physician’s Contract”);

b. In the Supervising Physician’s Contract, Defendant Garrett agreed to assist the ACSO in meeting its duties imposed by: state and federal law for the provision of healthcare to inmates of the Ada County Jail; the Ada County and ACSO written policies for the provision of healthcare to inmates of the Ada County Jail; and the NCCHC Standards;

c. In the Supervising Physician’s Contract, Defendant Garret agreed to fulfill the role of “Supervising Physician,” which position is mandated by ACSO written policy as having final medical decision authority for all healthcare provided to inmates in the custody of the ACSO, including the Ada County Jail Medical Unit; and

d. In the Supervising Physician’s Contract, Defendant Garrett agreed to coordinate the healthcare of persons in the custody of the ACSO with the ACSO’s “Contracted Psychiatrist,” staff social workers, and the ACSO’s “Inmate Healthcare Supervisor.”

8. Upon information and belief, Defendant Michael E. Estess, M.D. (“Estess”) is and at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Estess in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Estess was contracted with Ada County and ACSO to be the “Contract Psychiatrist” and to provide psychiatric healthcare on a regular basis to inmates of the Ada County Jail (“Psychiatrist Contract”); and

b. In the Psychiatrist’s Contract, Defendant Estess agreed to assist the ACSO and Ada County Jail medical staff in meeting its duties imposed by Ada County’s written polices, the Ada County Jail’s written policies, state and federal law, and NCCHC Standards.

9. Upon information and belief, Defendant Ricky Lee Steinberg (“Steinberg”) is and

at all times herein mentioned was an adult resident of Ada County, Idaho. Plaintiffs have brought suit against Defendant Steinberg in his individual and official capacity.

a. At all times relevant to this Third Amended Complaint, Defendant Steinberg was contracted with the ACSO to provide medical services as a Physician's Assistant to inmates of the Ada County Jail ("Physician Assistant's Contract");

b. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide Healthcare Assessments of inmates of the Ada County Jail that meet the requirements imposed by the Supervising Physician, Ada County and ACSO written policies, and the NCCHC Standards;

c. In the Physician Assistant's Contract, Defendant Steinberg agreed to complete all necessary forms and documentation required by the ACSO, the Supervising Physician, or governing agencies;

d. In the Physician Assistant's Contract, Defendant Steinberg agreed to refer medical issues discovered during Inmate Assessments to ACSO medical staff for follow-up other than when immediate action is required to safeguard the physical or mental health of the inmate; and

e. In the Physician Assistant's Contract, Defendant Steinberg agreed to provide all appropriate care to the inmate under those circumstances where immediate action is appropriate and care cannot be handed off to another ACSO provider, until such time as ACSO medical staff is able to take on such care of the inmate.

10. Upon information and belief, Defendant Jenny Babbitt ("Babbitt") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Nursing Supervisor and Inmate Healthcare

Supervisor. Plaintiffs have brought suit against Defendant Babbitt in her individual and official capacity.

a. At all times relevant to this Third Amended Complaint, the Nursing Supervisor had, among other duties, the duty to confirm licensing of all medical care providers within the Ada County Jail, and maintain records thereof;

b. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor was charged with the following duties, among others:

- i. Co-supervise and co-manage various components of the healthcare system in the Ada County Jail.
- ii. Supervise and direct county employees delivering healthcare, including the pharmacy charge nurse, to ensure compliance with constitutional requirements.
- iii. Perform professional nursing work consisting of assessments, developing treatment plans, and monitoring inmates' physical condition.
- iv. Coordinate with other jail and court services bureau supervisors to maximize the safety of staff, community and inmates, security and the wellbeing of staff and inmates.
- v. Ensure the medical services are delivered in compliance with Idaho Jail Standards and ACSO written policies and procedures.
- vi. Ensure all personnel under their direct supervision adhere to the ACSO written policies and procedures.
- vii. Supervise registered nurses, licensed practical nurses, and other county employees who provide healthcare services to inmates.
- viii. Conduct performance evaluations in accordance with the ACSO written policies and procedures.
- ix. Supervise the distribution and issuing of pharmaceuticals to inmates.
- x. Ensure inventories of medical supplies and equipment and re-orders when necessary.
- xi. Conduct periodic inspections of jail inmates and jail facilities to ensure

that the inmate healthcare delivery system operates effectively and efficiently, and documents such inspections to meet NCCHC Standards.

- xii. Ensure jail medical programs/documentation is maintained in such a manner to ensure continuous NCCHC accreditations.
- xiii. Schedule and participate in meetings with the Health Services Manager, medical personnel, shift supervisors, and others as required to discuss issues relating to the maintenance of NCCHC accreditation.
- xiv. Interview applicants for medical staff positions and make hiring recommendations.
- xv. Make recommendations relating to the contract between Ada County and contractual healthcare providers.
- xvi. Develop and manage training of healthcare staff and security staff as it relates to medical issues.

c. At all times relevant to this Third Amended Complaint, the Inmate Healthcare Supervisor had direct supervision and control over the Pharmacy Charge Nurses of the Ada County Jail Medical Unit, who in turn were charged with the following duties, among others:

- i. Overseeing and providing patient care through the processing of medications, medication disbursements and maintenance of pharmacy stock and supplies.
- ii. Ensuring accurate documentation in the electronic medical records.
- iii. Overseeing pharmacy employees' processing of medications, medication disbursements, documentation and maintenance of pharmacy stock.
- iv. Communicating essential information with healthcare and security team members.
- v. Assisting registered nurses, nurse practitioners, physician's assistants, and physicians on the follow-up on all medication orders.
- vi. Participating in quarterly pharmacy reviews to meet NCCHC Standards.

11. Upon information and belief, Defendant Lisa Farmer ("Farmer") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with ACSO

within the Ada County Jail with the title of Registered Nurse. Plaintiffs have brought suit against Defendant Farmer in her individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Farmer was charged with the following duties, among others:

a. Administer treatments and medications prescribed and supervised by the Medical Authority for patients;

b. Maintain treatment records, making note of all medications given, doctor visits and related activities;

c. Monitor, store, and control medications and medical supplies according to Ada County written policies and procedures;

d. Provide coordination of care duties with community health services to promote inmate continuity of care;

e. Observe the physical condition and behavior of inmates to ensure maximum healthcare is provided;

f. Prepare for sick call by screening kites sent by inmates and assessing problems, pull charts or make new charts, and list those who need to be seen by the physician, psychologist, and mid-level providers;

g. Review all medical intake information and assess who needs to be seen sooner than routine sick call;

h. Prepare medication renewal orders for the physician and mid-level providers to sign;

i. Schedule inmates with mental problems to see the psychologist and prepare the necessary records; and

j. Coordinate orders from the physician's assistant and the physician with the pharmacist.

12. Upon information and belief, Defendant Karen Barrett ("Barrett") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Senior Physician's Assistant. Plaintiffs have brought suit against Defendant Barrett in her individual and official capacity. At all times relevant to this

Third Amended Complaint, Defendant Barrett was charged with the following duties, among others:

- a. Provide direct and indirect basic medical care to meet the physiological, psychosocial, and emotional needs of the inmates in the Ada County Jail;
- b. Supervise the work of physician's assistants and/or nurse practitioners;
- c. Respond to and initiate care for medical emergencies throughout the facility;
- d. Assess inmates in a variety of settings such as initial intake area, healthcare unit for sick call, emergency situations in housing, chronic care clinics and infirmary;
- e. Identify inmates' health problems and prescribe treatment under the direction of a physician;
- f. Obtain histories and perform physical examinations to determine normal and abnormal adult health status;
- g. Implement medical care utilizing therapeutic regimens approved by a physician;
- h. Make appropriate, timely referrals and initiate treatments based on institutional policies and procedures and physician's direction;
- i. Act as the primary contact for physicians;
- j. Supervise the work of physician's assistants and/or nurse practitioners to ensure consistency of patient care as described by the physician;
- k. Assist with the recruitment, hiring and training of physician's assistants and/or nurse practitioners; and
- l. Make recommendations regarding policies and procedures.

13. Upon information and belief, at all times herein mentioned Defendant James Johnson ("Johnson") was an adult resident of Ada County, Idaho, employed with the Ada County Jail within the Ada County Jail Medical Unit with the title of Masters of Social Work or MSW. Plaintiffs have brought suit against Defendant Johnson in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Johnson's job

duties included but were not limited to:

- a. Providing psychiatric social work services to Ada County Jail inmates;
 - b. Providing clinical consultations with Ada County Jail staff;
 - c. Conducting bio-psycho-social and risk assessments to determine inmates' needs and eligibility for services and their level of care needed;
 - d. Providing inmates with crisis intervention services and individual counseling;
 - e. Promoting inmate self-determination by addressing special needs of inmates;
 - f. Participating in interdisciplinary team staffing to formulate treatment plans;
 - g. Identifying and teaming with other community resource agencies to design, coordinate, and provide inmate assistance and intervention;
 - h. Taking action to reduce risk to inmates upon being discharged from the jail by organizing emergency, crisis intervention and after-hours on-call services;
 - i. Conducting on-going suicide risk assessments and implementing crisis intervention accordingly;
 - j. Preparing written inmate assessment reports;
 - k. Designing and implementing inmate case plans using community resources;
- and
- l. Maintaining a Social Worker license in the state of Idaho.

14. Upon information and belief, Defendant David Weich ("Weich") is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Medical Attendant and Certified Correctional Health Professional. Plaintiffs have brought suit against Defendant Weich in his individual and official capacity. At all times relevant to this Third Amended Complaint, Defendant Weich had, among others, the following job duties:

- a. Preparing medication renewal orders for medical staff to sign;
- b. Scheduling inmates with mental problems to see the psychologist and

preparing necessary records, including charting observations;

c. Transcribing orders from the medical staff on the inmate medication prescription roster; and

d. Updating medical/nursing personnel credentials information.

15. Upon information and belief, Defendant Jeremy Wroblewski (“Wroblewski”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Wroblewski in his individual and official capacity.

16. Upon information and belief, Defendant Jamie Roach (“Roach”) is and at all times herein mentioned was an adult resident of Ada County, Idaho, employed with the ACSO within the Ada County Jail with the title of Deputy. Plaintiffs have brought suit against Defendant Roach in her individual and official capacity.

17. Upon information and belief, Defendants John Does I through X are individuals or entities who at this time the Plaintiffs are unable to identify but who are employed by the Ada County Jail or by another division of Ada County, or contract with Ada County, and are responsible for the violation of Munroe’s rights under the Fourteenth Amendment of the United States Constitution and for his death.

II. JURISDICTION AND VENUE

18. The Court’s federal question jurisdiction is invoked pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) and (4) as the controversy arises under the Constitution and laws of the United States, and is brought for the purposes of redressing the deprivation of Plaintiffs’ federally protected civil rights.

19. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

III. GENERAL ALLEGATIONS

POLICIES

20. At all times relevant to this Third Amended Complaint, Ada County was responsible for providing health care to inmates incarcerated and confined in the Ada County Jail. At all times relevant to this Third Amended Complaint, inmates of the Ada County Jail were to have access to care to meet their serious medical and mental health needs.

21. At all times relevant to this Third Amended Complaint, Ada County was required to designate a Health Authority for the Ada County Jail in order to satisfy its medical and mental health obligations to inmates at the Ada County Jail.

22. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Health Authority for the Ada County Jail “shall be the Medical Services Administrator.”

23. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the responsibilities of the Medical Services Administrator were to ensure “that quality, accessible health care services are available to inmates at the Ada County Jail. The Medical Services Administrator will coordinate all levels of health care provided at the Ada County Jail.”

24. At all times relevant to this Third Amended Complaint, Ada County written policy mandated that the Medical Services Administrator was required to participate in quarterly meetings with the Sheriff or his designee, the Security Services Captain, the responsible physician, and other healthcare and security staff to address, among other things, the overall healthcare services being provided to inmates, including psychiatric services. Monthly meetings were also required to take place between the Medical Services Administrator and the healthcare

services staff in accordance with Ada County's written policy.

25. At all times relevant to this Third Amended Complaint, ACSO failed to employ or otherwise contract for the services of a Medical Services Administrator and was therefore operating the Ada County Jail without a Health Authority.

26. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator and Nursing Supervisor were to ensure that each healthcare provider providing medical and mental health services to Ada County Jail inmates was licensed, registered, certified, or exempt in the state of Idaho.

27. At all times relevant to this Third Amended Complaint, Ada County written policy required that the Medical Services Administrator prepare and approve a training program that would instruct detention officers in administering medications to inmates.

28. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that it would maintain a written manual that "will at a minimum contain a policy statement and detailed procedures for each of the 72 standards presented in the Standards for Health Services in Jails by the National Commission on Correctional Health Care."

29. The NCCHC is a nationally recognized non-profit organization that sets standards for the provision of health care to incarcerated inmates, and provides accreditation to jails and other correctional institutions based on its established 72 standards set forth in the NCCHC Standards.

30. At all times relevant to this Third Amended Complaint, Ada County had written policies in place that adopted the NCCHC Standards for the operation of the Ada County Jail.

31. At all times relevant to this Third Amended Complaint, Ada County written policy provided that within the Ada County Jail Medical Unit "final medical judgment rests with

a single designated physician licensed in the State of Idaho. The medical doctor designated as the responsible physician will be identified in the contractual agreement.”

32. At all times relevant to this Third Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “single designated physician” referenced in the Ada County written policies.

33. At all relevant times to this Third Amended Complaint and pursuant to the Supervising Physician’s Contract, Defendant Garrett was the “responsible physician” that was “identified in the contractual agreement” and therefore was the person with “final medical judgment” as to all medical and mental healthcare services provided to inmates in the Ada County Jail.

34. In the Supervising Physician’s Contract, ACSO acknowledged its duty to operate the Ada County Jail in conformance with NCCHC Standards, and Defendant Garrett agreed to provide medical and mental healthcare services under the Contract in conformance with NCCHC Standards, and further agreed to assist the ACSO with meeting its duties described in NCCHC Standards.

35. In the Supervising Physician’s Contract, Defendant Garrett agreed to perform periodic and timely reviews of inmate medical records to evaluate the medical services provided to inmates, and to make adjustments and improvements as necessary to ensure compliance with “all applicable state and federal laws and with the Standard for Health Care Services in Jails, 2003.”

36. In the Supervising Physician’s Contract, Defendant Garrett agreed to provide direct inmate healthcare, including but not limited to prescribing appropriate medication to inmates, evaluating inmate medical conditions referred by ACSO staff and/or medical staff, and

coordinating healthcare for inmates with ACSO contracted psychiatrist, ACSO social workers staff, and ACSO Inmate Health Care Supervisor.

37. Defendant Garrett also agreed in the Supervising Physician's Contract to provide indirect inmate care which included the obligation to undertake supervision, direction and responsibility for all medical acts and inmate healthcare services performed and/or provided by the psychiatrist assistant(s) employed by the ACSO, and to provide on-site supervision at the Ada County Jail and personally observe, monitor and direct the quality of care provided to inmates.

38. The Supervising Physician's Contract provided that ACSO agreed to inform Defendant Garrett of any known health condition or complaint of an inmate and of any "suspected health conditions or concerns which may arise through observation of an inmate's actions and behaviors."

39. Defendant Garrett failed to provide medical services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards governing the provision of medical and mental health services to inmates, and failed to sufficiently assist the medical and security staff with meeting NCCHC Standards.

40. Defendant Garrett failed to provide the medical health services he agreed in the Supervising Physician's Contract to provide to the ACSO and the inmates of the Ada County Jail.

41. At all times relevant to this Third Amended Complaint and pursuant to the Physician's Assistant Contract, Defendant Steinberg was to provide professional medical services to inmates of the Ada County Jail in the capacity of a Physician's Assistant.

42. Under the Physician's Assistant Contract, Defendant Steinberg was to "maintain

current licensure and required professional relationship with Steven Garrett, M.D., the supervising physician at the Ada County Jail.”

43. Under the Physician’s Assistant Contract, Defendant Steinberg was to provide to the ACSO a copy of all current licenses, license numbers, and other required documents within two days of executing the agreement, for compliance with NCCHC Standards.

44. Under the Physician’s Assistant Contract, Defendant Steinberg agreed to provide the ACSO with, among other things, the following services:

a. “Provide health assessments for designated inmates that meet the requirements set forth by the Supervising Physician and that meet the NCCHC Standards to inmates of the Ada County Jail; and

b. Complete all necessary forms and documentation that may be required by the ACSO, the supervising physician or governing agencies.”

45. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would assist “ACSO and Jail medical staff in meeting its duties as described in the ‘Ada County Mental Health Protocol’ and other Jail, county and state documents and assist in meeting such duties as are imposed by federal and state laws and regulations.”

46. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract provided that Defendant Estess would perform the following direct patient services, among others: Case Supervision, Discharge Planning, Medication Recommendation and Management, Supervision of Inmate Psychosocial Care, and Staffing Individual Cases with the ACSO Medical Staff.

47. At all times relevant to this Third Amended Complaint, the Psychiatrist Contract

provided that Defendant Estess would perform the following indirect patient services, among others: Consult with the Medical Program Administrator and Other Medical and Mental Health Professionals to Improve Quality of Overall Mental Health Delivery Program in the Jail, and Monitor and Direct Appropriate Mental Health Staff in the Delivery of Mental Health Services to the Inmates at the Jail.

48. Defendant Estess failed to provide mental health and psychiatric services to inmates in the Ada County Jail in conformance with Ada County written policies and NCCHC Standards, and failed to assist Defendants Ada County and Raney with meeting NCCHC Standards.

49. Defendant Estess failed to perform the services he agreed to provide under the Psychiatrist Contract.

50. Defendant Estess failed to supervise the provision of mental health services within the Ada County Jail, including but not limited to the failure to implement discharge planning, failure to supervise psychosocial care of inmates, failure to monitor and direct appropriate mental health staff in the delivery of mental health services to the inmates in the Ada County Jail, and failure to manage medications being prescribed to inmates in the Ada County Jail.

51. At all times relevant to this Third Amended Complaint, Ada County had in place a written policy that “in all cases, health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies” in meeting its medical and mental health obligations to Ada County Jail inmates.

52. Ada County Jail was accredited by the NCCHC until its accreditation was withdrawn in November 2008 as a result of an NCCHC survey of the Jail in August 2008.

53. Ada County Jail's accreditation was withdrawn in November 2008 for its failure to meet NCCHC Standards for NCCHC accreditation.

54. In August and September 2008, Defendants were not operating the Ada County Jail according to the NCCHC Standards or in accordance with Ada County written policies adopting NCCHC Standards.

55. According to NCCHC Standards, a "Potentially Suicidal Inmate" is to be observed at staggered intervals not to exceed every 15 minutes.

56. According to NCCHC Standards, a Potentially Suicidal Inmate placed in isolation must be observed constantly.

57. According to NCCHC Standards, a Potentially Suicidal Inmate is not actively suicidal but has expressed suicidal ideation and/or has a recent history of self-destructive behavior.

58. According to NCCHC Standards and Ada County written policy in effect at all times relevant to this Third Amended Complaint, each member of the Jail staff was responsible to immediately notify the medical staff when an inmate exhibited symptoms that are bizarre and could constitute mental illness, including the inmate making threats of suicide, having delusions and/or hallucinations.

59. At all times relevant to this Third Amended Complaint, Ada County written policies included a protocol that, upon admission to the Jail and prior to being placed in a housing unit, an inmate was required to assist the booking officer in the completion of a medical screening questionnaire.

60. Some of the questions on the medical screening questionnaire deal with mental health, past mental health treatment, and any history of suicide attempts or suicidal thoughts.

61. As part of the medical screening questionnaire completion process, the inmate was to be asked if he or she was taking any medications or was under the care of a medical or psychological doctor.

62. As part of the medical screening questionnaire completion process, if the inmate indicates that he or she was being treated or taking medication for mental health or was contemplating or had in the past attempted suicide, the medical screening questionnaire was to be marked as such and sent to the Ada County Jail Medical Unit staff for review.

63. At all times relevant to this Third Amended Complaint, Ada County written policy stated: "Inmates who appear to security personnel to be suicidal or otherwise mentally ill at booking, or at any time while in the jail, shall be housed in a unit that is appropriate for the inmate's condition."

64. At all times relevant to this Third Amended Complaint, Ada County written policy required that within 14 days of admission and confinement, each inmate was to receive a health assessment. During the assessment, the healthcare provider was to observe the inmate for abnormal behavior which may indicate a psychological problem. The intake medical screening form was to be reviewed during the health assessment. The Ada County written policy states:

The mental health evaluation will be documented on the physical exam form and will focus on the following areas:

- (1) History of psychiatric hospitalization and outpatient treatment,
- (2) Current psychotropic medication, and/or exhibiting violent behavior,
- (3) Suicidal ideation and history of suicidal behavior,
- (4) Drug and alcohol usage,
- (5) History of sex offenses,
- (6) History of behavior suggestive of intermittent explosive disorder,
- (7) Special education treatment,
- (8) History of cerebral trauma or seizure,

- (9) Emotional responses to incarceration,
- (10) To time, place and person oriented.

65. A full health assessment was not provided to Munroe during the incarceration period of August 28, 2008 to September 26, 2008.

66. On information and belief, Defendants had adopted the custom of forgoing such health assessments of inmates at the Ada County Jail.

67. Alternatively, if Munroe was provided a 14-day health assessment, it was not documented with a focus on the mental health evaluation in the inmate's medical record, as is required by Ada County's written policies.

68. At all times relevant to this Third Amended Complaint, Ada County written policy required that a special needs program be maintained to serve individual inmates who have special medical and mental health needs, such as "mental illness, including inmates with suicidal ideation and/or behavior."

69. Special Needs inmates were to be identified during the initial assessment as part of the booking process and, once it was determined that an inmate is a Special Needs inmate, a treatment plan was required to be prepared that included short- and long-term goals to be met by addressing "collaborative problems requiring multidisciplinary involvement."

70. Although Munroe should have been identified as a Special Needs inmate due to his suicidal history, he was not, and a treatment plan was never developed for him at the Ada County Jail.

71. At all times relevant to this Third Amended Complaint, Ada County written policy stated that all rooms within the Medical Unit were to be equipped with cameras to allow constant visual observation.

72. Inmates would be housed in the Medical Unit most often due to possible

detoxification symptoms or mental health problems which presented a danger to self or others, including psychotic disorders, suspicion of psychotic depression, or suicidal ideation.

73. At all times relevant to this Third Amended Complaint, it was the Ada County written policy that the Medical Unit would accept any and all inmates referred by the security staff.

74. Medical staff was to assess the inmate and before they could return the inmate to general population, clearance by the medical staff was required and must have been “well documented” in the inmate’s medical file. Information provided by the inmate to security staff was required to be regarded as bona fide per Ada County written policy.

75. At all times relevant to this Third Amended Complaint, Ada County written policy stated that it is the responsibility of all Jail staff to identify inmates who may be at risk of suicide, and to initiate reasonable intervention to reduce the risks to inmates who may be suicidal.

76. During the medical intake procedure in booking, the inmate was to be asked at least three direct questions: (1) Have you ever been treated for depression? (2) Have you ever tried to commit suicide? (3) Are you contemplating suicide now?

77. Also during the medical intake procedure, the officer was required to make and document an observation directed at the question of whether the inmate’s behavior suggests depression, suicide or assault.

78. Officers who become aware of an inmate who presented a potential suicide risk during the intake procedure, whether they became aware of it from the arresting officer or through direct questioning and observation, are required to immediately notify the Medical Unit and provide all available information on the potentially suicidal inmate.

79. At all times relevant to this Third Amended Complaint, Ada County written policy stated that once a security officer notifies the Medical Unit of a potentially suicidal inmate, the Medical Unit staff is required to conduct and document an assessment to ascertain the level of suicide risk associated with the inmate.

80. The level of suicide risk assigned to an inmate is to be used to determine the level of intervention and housing.

81. The Medical Unit staff member who performs the assessment is required to document the assessment and intervention in a topic report.

82. At all times relevant to this Third Amended Complaint, Ada County written policy sets forth specific factors that were to be used in assessing an inmate's level of suicide risk.

83. Inmates assessed to present a potential risk for suicide are to be assigned a risk level of low, moderate, or high according to established assessment guidelines and clinical and security judgment.

84. The guideline features of a high suicide risk inmate are identified as follows:

- a. Mood may be labile (unsettled) to depressed or exhibits recent unexplained improvement in mood;
- b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
- c. May report depression;
- d. Specific report of suicidal ideation especially with a specific workable plan;
- e. Previous suicide gestures/attempts;
- f. Under the influence of any substance;
- g. Has perceived recent major life trauma;

- h. Male;
 - i. Age <25;
 - j. First arrest;
 - k. Incarcerated <48 hours;
 - l. Makes poor or no eye contact;
 - m. Verbally stunted—difficult to or will not engage in conversation;
 - n. Lacks future orientation; has unrealistic expectation of self;
 - o. Will not agree to no self harm;
 - p. Projects elements of hopelessness, helplessness;
 - q. Exhibits diminished or complete loss of self esteem;
85. The guideline features of a moderate suicide risk inmate are identified as follows:
- a. Mood may be labile (unsettled); possibly depressed;
 - b. Affect is flat or incongruent to mood—Inmate reports he feels fine but appears sad, depressed;
 - c. May report depression;
 - d. Vague to specific report of suicidal ideation; vague or impractical plan;
 - e. Under the influence of any substance;
 - f. May have perceived recent major life trauma;
 - g. Male;
 - h. Age <25;
 - i. Makes poor eye contact;
 - j. Verbally stunted—requires effort to engage in conversation;
 - k. Unsure of future orientation; some unrealistic expectations of self;
 - l. Ambivalent regarding no self-harm agreement;

- m. Projects elements of hopelessness, helplessness;
- n. Exhibits diminished self esteem.

86. The guideline features of a low suicide risk inmate are identified as follows:

- a. Good to labile (unsettled) mood;
- b. Affect is congruent to mood—inmate reports sadness and gives the appearance of sadness;
- c. May report depression;
- d. Vague report of suicidal ideation; has no plan;
- e. No previous suicidal gestures/attempts;
- f. Not under the influence of any substance;
- g. No perceived recent major life trauma;
- h. Female;
- i. Age >25;
- j. Makes good eye contact;
- k. Verbally appropriate—engages easily in conversation;
- l. Future oriented; realistic expectations of self;
- m. Agrees not to harm self.

87. At all times relevant to this Third Amended Complaint, Ada County written policy states that any potentially suicidal inmate must be housed where he or she could be monitored in accordance with the level of suicide risk involved.

88. At all times relevant to this Third Amended Complaint, Ada County written policy states low risk inmates could be housed in the general population but they were not to be housed in a single cell environment without medical/supervisor clearance unless the area had 15-minute wellbeing checks being conducted and documented.

89. At all times relevant to this Third Amended Complaint, Ada County written policy states moderate risk inmates could be housed in general population only with clearance from medical/supervisor.

90. At all times relevant to this Third Amended Complaint, Ada County written policy states housing a moderate risk inmate in a single cell environment outside the Medical Unit could only be done with medical/supervisor clearance.

91. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be housed in the Medical Unit until seen by a mid-level practitioner or medical doctor.

92. At all times relevant to this Third Amended Complaint, Ada County written policy states high risk inmates are required to be referred to a psychologist, be on 15-minute wellbeing checks, and have additional safeguards in place when the inmate is housed in the Medical Unit.

93. At all times relevant to this Third Amended Complaint, Ada County written policy requires that an Inmate Encounter Form be completed by the Medical Unit healthcare provider “describing the medical contact with that inmate, including information on the medical complaint, results of the examination, diagnosis, recommendation, and prescriptions.”

94. At all times relevant to this Third Amended Complaint, Ada County written policy dictates that all inmates/prisoners who appeared to have an injury or illness or complain of such an injury or illness are required to be offered proper medical treatment, and if an inmate/prisoner refused medical treatment for an injury or illness, the deputy is required to request that the inmate/prisoner sign a medical treatment refusal form. The deputy is also required to document the injury, illness or complaint, and all medical assistance offered.

FACTUAL EVENTS LEADING TO THE DEATH OF MUNROE

95. At all times relevant to this Third Amended Complaint, Munroe suffered from mental illness that caused episodes of suicidal thinking and behavior.

96. On or about October 27, 2007, 18-year-old Munroe was booked into the Ada County Jail by an ACSO deputy on a charge of petite theft.

97. On or about October 27, 2007, an Initial Classification, Temporary Cell Assignment form relating to Munroe was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provides space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form includes a "Medical Intake and History/Receiving Screening" wherein the officer is to ask the inmate questions relating to the inmate's physical and mental health. One of the questions in that portion of the form is "Have you ever attempted suicide? When? Where?" The deputy placed a question mark in the space allocated on the form for recording the inmate's response. The deputy recorded a no response next to a question asking if the inmate had ever contemplated suicide.

98. On another form used by the Ada County Jail entitled "History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535" it indicated that Munroe was "mishoused" when he was placed in cell 2W and then 1E during the period between October 27, 2007 and October 28, 2007.

99. Munroe was released from the Ada County Jail on or about October 29, 2007.

100. On or about July 4, 2008, Munroe was booked into the Ada County Jail for failing to appear in court on the petite theft charge.

101. On or about July 4, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form provided space for indicating whether the Medical Director Designee was notified, the space was left empty. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer is required to ask the inmate questions relating to the inmate's physical and mental health.

102. The July 4, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: Bi-polar and OCD when 13 YOA"
- b. "Yes -- Have you ever contemplated suicide? When? when attempted
Where?"
- c. "Yes -- Have you ever attempted suicide? When? January Where?"
"List: Sacramento Mental Health"

103. Although an Initial Classification, Temporary Cell Assignment form was filled out on or about July 4, 2008, Munroe received no classification.

104. Ada County Jail maintains a computer system for entering information regarding inmates and their histories that is referred to as JICS.

105. With regard to Munroe, the JICS on July 4, 2008, includes an entry by an Ada County Jail employee named Peni Dean that states: "Per JICS patient has been treated for

bipolar and OCD 13 years ago. Patient attempted suicide in January at Sacramento Mental Health. No SI or other medical issues at this time.”

106. On another form entitled “History of Cells Occupied by Inmate During This Stay Munroe, Bradley Jacob #687535,” a record entry states that Munroe was “mishoused” when he was placed in cell 2W and then 1E during the period between July 4, 2008 and July 7, 2008.

107. Munroe was released on July 7, 2008, without a discharge plan in place for him.

108. There is no documentation in Munroe’s medical records at the Ada County Jail indicating that he received any medications or mental health treatment during his incarceration from July 4, 2008 to July 7, 2008.

109. On or about August 28, 2008, Munroe was again booked into the Ada County Jail to serve his sentence on the conviction he received on the petite theft charge.

110. When Munroe was booked into the Ada County Jail on or about August 28, 2008, he was carrying his prescription medications consisting of Celexa and Perphenazine.

111. Munroe told the booking deputy that he had been prescribed these two medications by his doctor, Stephen Bushi.

112. Celexa is an antidepressant. In 2004 and again in 2007, the FDA directed manufacturers of certain antidepressants to update their black box warnings to include warnings of increased suicidality when their product is prescribed to young adults between 18 and 24 years of age during the initial treatment period of one to two months. Celexa was one of the antidepressants included in the FDA directive. When Celexa is initially started or when dosages are adjusted up or down, patients, families and caregivers are advised to be alert to the emergence of anxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness, impulsivity, akathisia (psychomotor restlessness), hypomania, mania, other unusual changes in

behavior, worsening of depression, and suicidal ideation. A portion of the warning states:

Families and caregivers of patients should be advised to observe for the emergence of such symptoms on a day-to-day basis, since changes may be abrupt. Such symptoms should be reported to the patient's prescriber or health professional, especially if they are severe, abrupt in onset, or were not part of the patient's presenting symptoms. Symptoms such as these may be associated with an increased risk for suicidal thinking and behavior and indicate a need for very close monitoring and possibly changes in the medication.

113. Perphenazine is an antipsychotic medication that is used to treat bipolar and schizophrenic patients. In 2007, the FDA added Perphenazine to the list of drugs like Celexa that it was requiring manufacturers to include the warnings regarding risks of suicidality.

114. The use of Celexa or Perphenazine doubles the risk of suicidality in patients during initial treatment and during periods of dosage changes.

115. On or about August 28, 2008, an Initial Classification, Temporary Cell Assignment form was filled out by an unknown Ada County Sheriff's Deputy. The Deputy is unknown because he or she did not sign or identify him- or herself on the form after completing it, even though there was a space on the form for doing so. There was also a space on the form for a physician or nurse to sign, which was left blank. There was also a space for Munroe to sign as the inmate, which was left blank. Where the form had space for indicating whether the Medical Director Designee was notified, the space was left empty.

116. Part of the form included a "Medical Intake and History/Receiving Screening" wherein the officer was required ask the inmate questions relating to the inmate's physical and mental health.

117. The August 28, 2008 "Medical Intake and History/Receiving Screening" form recorded the following information regarding Munroe:

- a. "Yes – Is the inmate carrying any medications?"
- b. "Yes – Are you presently taking medications?"
"List: perphenazine, citalopram"
- c. "Yes – Are you under a doctor's care?"
"List: Stephen Bushi"
- d. "Yes – Self-inflicted injury scars on wrists, legs, neck?"
- e. "Yes – Seeing visions?"
- f. "Yes – Hearing voices?"
- g. "Yes – Depressed?"
- h. "Yes – Confused?"
- i. "Comments: Says if he doesn't take meds he gets bad mood swings. Has a 4 in scar on right arm that is self inflicted. Says his meds are for depression, manic, ocd, bi-polar."
- j. "Yes – Have you ever been in a mental institution or had psychiatric care?"
"List: intrmtn 2 weeks ago"
- k. "Yes – Have you ever contemplated suicide? When? Where?"
- l. "Yes – Have you ever attempted suicide? When?"
"List: cut his arm and try to od"

118. Based on the August 28, 2008 Initial Classification, Temporary Cell Assignment form, Munroe was classified as 3-Med.High.

119. Although the Initial Classification, Temporary Cell Assignment form was filled out on August 28, 2008, Munroe was not classified until August 31, 2008, when it was determined that he would be given the classification of "3-Med.High with a High Risk and Special Condition Code of SUIHIST" for Suicide History.

120. On August 30, 2008, Defendant Farmer, a Registered Nurse in the Ada County Jail Medical Unit, made an entry in the computerized record system JICS which stated that

Munroe was “on meds from provider already – see’s Stephen Bushi, was in Intermountain 2 weeks ago for attempted SI.”

121. On August 30, 2008, Defendant Farmer requested that a social worker perform a suicide assessment on Munroe and gave it a “priority 1 (high).”

122. The assessment was postponed by social worker Defendant Johnson.

123. On August 31, 2008, a JICS entry was made by an Ada County Deputy identified only as ID #4186 stating the following regarding Munroe: “During the interview I got the feeling that Munroe has the potential to be a problematic inmate. No medical issue or identified enemies. He will be sent to mcu.” MCU is an acronym meaning medium custody unit.

124. On September 1, 2008, Defendant Johnson spoke to Munroe and cleared him for general population housing.

125. Ada County Jail records state the following notations made by Defendant Johnson, documenting subjective impressions of Munroe on September 1, 2008: “per JICS – was in Intermountain 2 weeks for attempted suicide. MSW met with patient. He reports that he has a long history of treatment for mental disorders—currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time.”

126. The September 1, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and it is labeled “blank.”

127. Munroe was initially housed in cells 1N, 2W, CCUSP until September 1, 2008,

when he was moved to cell 763, where he stayed until September 21, 2008.

128. On September 21, 2008, Munroe was moved to cell 713, where he remained until he was released on September 26, 2008.

129. Cells 763 and 713 are general population housing.

130. On all of the aforementioned incarcerations when Munroe was in the custody of the Ada County Jail, he was “mishoused” according to his classification.

131. There are no records indicating that anyone at the Ada County Jail attempted at any time to communicate with Dr. Stephen Bushi regarding Munroe’s medical condition or treatment.

132. From August 28 through September 26, 2008, Ada County Jail records appear to indicate that Munroe may have received some of his prescribed medications but not all, although due to the absence or incompleteness of the records maintained by the Ada County Jail, it cannot be confirmed whether he received all medications that were prescribed to him for his mental illness.

133. During the period of August 28 to September 29, 2008, Ada County had a written policy requiring that each time an inmate is administered a medication, a “Medication Administration Sheet” is to be used to record whether the medication was provided and whether the inmate received it or refused it.

134. Additionally, the policy required that on each occasion when medication is administered to an inmate, the officer or medical staff administering the medication to the inmate is required to sign the Medication Administration Sheet indicating whether the medication was received or refused by the inmate.

135. The inmate is also supposed to sign the Medication Administration Sheet

indicating whether the medication was received or refused.

136. The Medication Administration Sheet is supposed to be made part of the inmate's medical file at the Jail.

137. The Medication Administration Sheets in Munroe's medical file at the Ada County Jail are not signed by either an officer or Medical Unit staff member, nor are they signed by Munroe.

138. On August 29, 2008, Ada County Jail Medical Unit records indicate a prescription order was placed for Munroe's Celexa and Perphenazine. The records also indicate another prescription order placed on September 4, 2008.

139. On two occasions while incarcerated between August 28 and September 26, 2008, a \$5.00 charge was made against Munroe's commissary account for medications ordered on his behalf. It is not clear from the records whether either or both of the charges were for Munroe's Celexa and Perphenazine medications, and it is not clear what quantity, if any, of those two medications was provided to Munroe.

140. The only record that exists at the Ada County Jail of Munroe actually receiving his medications is a kite submitted by Munroe asking why his medication schedule for his Celexa had been changed from mornings to evenings.

141. There is no documentation of anyone prescribing Celexa or Perphenazine for Munroe during his incarceration at the Ada County Jail between August 28 and September 26, 2008.

142. Despite Ada County written policy at the time, Ada County Jail Medical Unit did not perform a 14-day health assessment of Munroe between August 28 and September 26, 2008.

143. There are no records at the Ada County Jail indicating that Munroe was ever seen

by the psychiatrist or medical doctor during any of his stays at the Ada County Jail, or that any doctor was contacted regarding Munroe's medical and mental health needs.

144. Munroe was released on September 26, 2008, after serving his sentence on the petite theft conviction.

145. At all times relevant to this Third Amended Complaint, Ada County written policy required that when inmates are released from the Ada County Jail, a protocol is to be followed by the Ada County Jail Medical Unit to ensure that inmates receive their medication upon release from jail.

146. Under that protocol, the Nursing Supervisor shall review the list of inmates scheduled to be released and check to see if they were receiving medications while in the Jail and, if they were receiving medications, the Medical Unit is to gather and package the medications to be released with the inmate.

147. The Nursing Supervisor is also to complete a medication release form, and count each medication, noting the number of pills left, and deliver the medication and paperwork to booking in the Jail.

148. On September 26, 2008, Defendant Babbitt was the Nursing Supervisor.

149. There is no documentation that Defendant Babbitt reviewed the list of inmates scheduled to be released on September 26, 2008, which included Munroe.

150. There is no documentation that Defendant Babbitt checked to see if Munroe was receiving medications in the Jail.

151. Defendant Babbitt did not complete a medication release form for Munroe or deliver his medications and paperwork to booking at any time.

152. At all times relevant to this Third Amended Complaint, an Ada County written

policy was in place at the Ada County Jail that provided a protocol to be followed by the booking officer when preparing an inmate to be released from the Ada County Jail.

153. Under that protocol, the booking officer is to “inquire if they had personal medications while in the jail,” and if there are personal medications, the booking officer is to call the Medical Unit to have the medications brought to booking for release.

154. The protocol further requires that, prior to releasing the inmate, the booking officer is to complete a medication release form, which is to be signed by the inmate and the releasing officer. The inmate is to sign on one line if accepting the medications, and on another line if refusing the medication.

155. Defendant Roach was the booking deputy who processed Munroe for release on September 26, 2008, and whose duty it was to ensure that Munroe was released with his medications. On information and belief, Defendant Roach was deliberately indifferent to the serious medical needs of Munroe to have his prescribed medication at the time of his release from the jail on September 26, 2008, when Munroe was released without his medications.

156. At all times relevant to this Third Amended Complaint, the ACSO had another policy at the Ada County Jail which required that an inmate who had been receiving medication while in the Jail is to receive a two-week supply of the medication upon being released in order to maintain continuity of care.

157. The policy also requires that an inmate is to be provided contact information for community resources where they can obtain medical care to continue their treatment.

158. A record exists within the Ada County Jail indicating that when Munroe was released on September 26, 2008, Defendant Weich, a CMS and Certified Correctional Health Professional, filled out the medication release form.

159. However, the medication release form from September 26, 2008, does not indicate that Munroe was released with his medications, or if he was, or whether he accepted them or refused them.

160. Additionally, the medication release form was not signed by Munroe, Defendant Weich, or anyone else from the Ada County Jail.

161. There is also no indication that Munroe received a copy of the medication release form that would have provided contact information for community resources where he could continue his medical care in the community.

162. On information and belief, Munroe received his prescribed Celexa and Perphenazine at inconsistent intervals while incarcerated at the Ada County Jail between August 28 and September 26, 2008.

163. On information and belief, Munroe was not provided any of his medications, by Defendant Weich, Defendant Roach, or anyone else at the Ada County Jail, when he was released on September 26, 2008.

164. While Munroe was incarcerated at the Ada County Jail from August 28 to September 26, 2008, there was no treatment plan in place for him.

165. When Munroe was released on September 26, 2008, there was no discharge plan in place for him.

166. On information and belief, without his medications, and without a discharge plan or treatment plan in place for him, Munroe's mental state deteriorated into a manic psychotic state that placed him in a condition where he was not in control of his mental processes.

167. On September 28, 2008, Munroe entered a Maverick Country Store in Boise and placed a backpack on the counter. He was wearing black shorts and no shirt. He had scratches

across his face, sores on his hands, and a fresh cut to the back of his head. He screamed at the cashier to give him all the money in the cash register, while threatening to have a bomb in the backpack. When the cashier did not respond to his demands for money, Munroe started banging his fists on the counter and repeatedly screamed at the cashier, "Do you want to die!" After obtaining \$239.88 in cash, Munroe fled the scene on a bicycle. He was apprehended a short distance away by Boise City Police.

168. Initially, Munroe was cooperative with law enforcement. He stepped off his bike, removed the backpack and stepped away from both. He followed the officers' command to lay flat on the ground. He identified himself and informed the officers that there was no bomb and the money was in his backpack. However, when Boise City Police placed Munroe in a squad car to be transported, Munroe's disposition changed suddenly. He began to hit his head against the car's window and alternately attempted to kick the windows out of the car. Officers placed Munroe in hobbles and transported him to the Boise City Police Criminal Investigations Division. There he admitted to consuming alcohol.

169. Once Munroe was inside the interview room, he began spitting and swearing at officers, and attempting to remove the hobbles. He refused to identify himself to the officers, even though he had earlier identified himself at the scene. While in such a state, Munroe defecated in his shorts. Paramedics were called to evaluate Munroe because of his extreme behavior. Paramedics transported him to St. Alphonsus Regional Medical Center ("St. Al's") to be further evaluated.

170. Boise City Police Officer Eric Urian, who attempted to interview Munroe at the Criminal Investigations Division, reported that he terminated the interview and had Munroe transferred to the hospital because of Munroe's "extreme behavior."

171. Officer Urian reported that the “suspect was highly emotional and was showing great mood swings. ... [b]ased on the suspect’s actions and his state of mind I decided that an interview was not going to be appropriate. On a second contact with Munroe he screamed at me that he wanted his attorney.”

172. Boise City Police Officers Jacob Nichols and Eric Urian transported Munroe to St. Al’s.

173. Upon arrival at St. Al’s, Munroe told Dr. Brandon J. Wilding that he had been taking Celexa and Trilafon (Perphenazine).

174. The doctor indicated in Munroe’s medical record that the past medical history was “significant for depression . . . He also reports a history of psychosis. Reviewing an older chart April 1, 2001, by Dr. Pines. At that time he had discharge diagnosis of oppositional defiant disorder, intermittent explosive disorder, dysthymic disorder, borderline intellectual functioning.”

175. Dr. Wilding also noted that Munroe reported to him his depression and that “if he is discharged from jail, he will commit suicide; however, he denies any plan to attempt suicide tonight. He does admit to being intoxicated.”

176. Dr. Wilding medically cleared Munroe for the Jail in part because he could not confirm the prescriptions of Celexa and Perphenazine, and because Officers Nichols and Urian represented to Dr. Wilding that they thought the Ada County Jail Medical Unit would be able to make that determination.

177. Munroe was taken to the Ada County Jail by Boise City Police officers.

178. At the Ada County Jail, Deputy Erica Johnson began filling out Munroe’s booking sheet and the booking process.

179. It appeared to Deputy Erica Johnson that when Munroe arrived at the Jail, he was under the influence of alcohol and/or drugs.

180. Deputy Erica Johnson further observed that Munroe was yelling, screaming, was rowdy, and was not making a lot of sense when speaking.

181. Due to Munroe's demeanor, Deputy Erica Johnson could not complete the booking process, and Munroe was placed in a holding cell in the booking area for his own wellbeing, where all but his boxer shorts were taken from him.

182. Boise City Police Officers Nichols and Urian remained at the Ada County Jail and assisted Ada County Jail deputies as they tried to deal with Munroe and his behavior.

183. At approximately 10:42 p.m., Munroe urinated under the cell door. Ada County Jail officers moved him to another holding cell.

184. At approximately 11:05 p.m., Ada County Jail Deputy Brewer, ID #4778, a Registered Nurse employed within the Ada County Jail Medical Unit, indicated on an Inmate Housing Security Check Log that Munroe was masturbating inside his cell and that his "clothes were removed from him as he was trying to take string and wrap [it] around his neck. Apparently paramedics did see him on scene. Possible consumption of illegal substance. Let him sober."

185. The only clothing Munroe possessed at the time was his boxer underwear. He had torn the boxers into string or strips and then wrapped them around his neck.

186. On the Inmate Housing Security Check Log there were separate boxes for indicating whether a prisoner/inmate was combative, needing to detox, was suicidal, or other, and none of those boxes were marked by Ada County Jail staff.

187. From approximately 11:20 p.m. until approximately 7:52 a.m., Munroe was held

in the same holding cell with no clothes and only a safe blanket to keep him warm.

188. Inside the cell was a slightly raised padded safe cot on which he spent most of the evening sleeping. Because Munroe had had all of his clothing taken away, a curtain was placed over the windows to his cell. Ada County Jail staff checked on Munroe periodically throughout the night. Most all of the reports indicated that he was sleeping when checked on.

189. Deputy Brewer checked on Munroe on multiple occasions, but only made one entry on the log sheet. On information and belief, Brewer made a notation in the margin of the log sheet stating: "Very DK, Possible High on illegal ch, caution spitter."

190. There are no records at the Ada County Jail indicating that Deputy Brewer checked Munroe's medical record at the Ada County Jail that would have confirmed Munroe's history of suicidality, major depression, psychosis and prescription history.

191. Munroe remained in the holding cell until approximately 7:52 a.m. on September 29, 2008, when he was escorted out of the cell by ACSO Deputy Daniel Lawson, ID #4756, and taken to be processed into the Jail on charges of robbery and consumption by a minor.

192. At approximately 7:55 a.m., Munroe was moved to a cell identified by Ada County Jail records as 2W.

193. At approximately 8:00 a.m., Defendant Wroblewski took Munroe into the booking room and started obtaining Munroe's fingerprints as part of the booking process.

194. At 8:01 a.m., Defendant Johnson spoke with Munroe from the hallway just outside the booking room while Defendant Wroblewski continued the fingerprinting process with Munroe.

195. Defendant Johnson had been contacted earlier to "interview Munroe about his

past and present suicide tendencies.”

196. Defendant Johnson spoke to Munroe until 8:04 a.m., and then left.

197. Before leaving, Defendant Johnson asked Munroe if he had any current suicide thoughts. Munroe responded by saying “No, I don’t have any thoughts right now and I don’t want any of your help.”

198. Defendant Johnson asked other questions of Munroe regarding Munroe’s suicidal history and mental status. Munroe again stated, “I don’t want anybody’s help. I am fine.”

199. When Defendant Johnson approached the area where he spoke with Munroe, he held in his hand a pen. He did not have any paper and did not write anything throughout his interaction with Munroe.

200. After Defendant Johnson left, Defendant Wroblewski completed the fingerprinting process with Munroe at 8:05 a.m.

201. At 8:13 a.m. on September 29, 2008, Defendant Johnson made a documentation entry on the JICS computer system indicating that he had completed a suicide assessment of Munroe and then he cleared Munroe from “JICS – High Risk: Suicide Watch”:

Subjective: assess suicide risk in booking. MSW met with pt. who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This morning he denies suicidal ideation or intent. Additionally states that he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request.

202. The September 29, 2008 JICS entry by Defendant Johnson has four spaces in which to enter information. The first is entitled Subjective, which is where Defendant Johnson made his subjective impressions of Munroe. The second is entitled Objective and it is labeled “blank.” The third is entitled Assessment and it is labeled “blank.” The fourth is entitled Plan and

it is labeled “blank.”

203. Defendant Johnson did not obtain a signed refusal for treatment from Munroe as is required by Ada County written policy.

204. Defendant Johnson cleared Munroe for general population housing after reviewing his medical records at the Ada County Jail and speaking to Munroe for approximately three minutes.

205. Defendant Johnson’s assessment of Munroe was that he posed no risk of suicide.

206. At no time prior to Munroe’s death did Defendant Johnson review Munroe’s September 29, 2008 Initial Classification, Temporary Cell Assignment form that included the medical questionnaire.

207. While Defendant Johnson holds a Master’s Degree in Social Work, he has never held a license in the state of Idaho as a social worker.

208. It is a violation of Idaho Code § 54-3214 for a person to represent themselves “as a social worker by the use of the titles ‘social worker,’ ‘masters social worker’ . . . unless licensed” in the state of Idaho as a social worker.

209. Defendant Johnson was not qualified as a social worker to perform suicide assessments such as that which was required to be done on Munroe on September 29, 2008, as part of the classification and housing process at the Ada County Jail.

210. At the time Defendant Johnson spoke to Munroe on September 29, 2008, about whether Munroe posed a likely risk of suicide, Defendant Johnson was a recent hire to the Ada County Jail Medical Unit, having completed his “New Employee Orientation” training course on June 10, 2008.

211. While employed with the Ada County Jail and prior to the death of Munroe,

Defendant Johnson had not completed the suicide assessment or prevention courses required of all other Ada County Jail employees who have contact with inmates.

212. On information and belief, prior to the death of Munroe, Defendant Johnson had no training on the written policies of Ada County relating to suicide prevention.

213. Defendant Johnson did not conduct a complete suicide assessment of Munroe on September 29, 2008.

214. The suicide assessment Defendant Johnson conducted of Munroe was inadequate to the point of demonstrating recklessness and indifference to whether Munroe was likely to commit suicide.

215. Had Defendant Johnson conducted an adequate suicide assessment and considered all factors that were set out in Ada County's written policies at the time for assessing suicide risk, or those factors commonly viewed by trained and licensed social workers for assessing suicide risk, Munroe would have likely been classified as either high or moderate suicide risk; and would have thereby been provided greater protection against the risk of suicide.

216. With Munroe's suicidal history, he should have at least been assessed as being a low risk of suicide, which would have provided some minimum protections against Munroe committing suicide.

217. After completing the fingerprinting process, Defendant Wroblewski began interviewing Munroe as part of the medical screening process, and reported the following:

When I got to the questions concerning mental health, I asked Munroe "Are you seeing visions and hearing voices?" Munroe stated, "Yes, I see the shadow people." I then asked, "Are you seeing them right now?" Munroe stated, "He wasn't." I then asked Munroe if they talked to him? Munroe stated, "That they do." I asked Munroe what do they say to you? Munroe stated, "To run."

218. Defendant Wroblewski filled out the Initial Classification, Temporary Cell Assignment form and provided the following information:

- a. Poor Physical Condition at intake;
- b. ? as to whether there were visible signs of injury or illness requiring immediate treatment or care;
- c. Yes to whether he appeared to be under influence of alcohol, or exhibit signs;
- d. No to whether he appeared to be under the influence of drugs;
- e. No to whether he was carrying any medications;
- f. Yes to having been taken to the hospital but nothing as to what treatment was received;
- g. As to the question "Does behavior suggest need for immediate psychiatric treatment?" it is marked NO;
- h. As to whether he was taking medications, it states "Celexa";
- i. Are you under a doctor's care? NO;
- j. Yes to whether he was taken to hospital. List 9/28/08;
- k. Yes to understanding the questions;
- l. Yes to assault/violent behavior;
- m. Yes to angry or hostile behavior;
- n. No to loud/obnoxious behavior;
- o. No to "Self-Inflicted injury scars on wrists, legs, neck";
- p. No to Bizarre behavior;
- q. Yes to seeing visions;
- r. Yes to hearing voices;
- s. Yes to odor of alcohol;
- t. No to Uncooperative;

- u. COMMENTS: “Was hostile toward deputies and officer upon intake. Seeing shadow people, voices in head”;
- v. Yes to whether he had been in a mental institution and identifies Intermountain;
- w. Yes as to whether he ever contemplated suicide. When and where are left blank;
- x. Yes to have you ever attempted suicide. When and where are left blank;
- y. Yes to are you now contemplating suicide;
- z. Yes to “does the inmate’s behavior suggest a risk of suicide?”

219. Defendant Wroblewski finished his screening and filling out the Initial Classification, Temporary Cell Assignment form at 8:33 a.m.

220. Neither Defendant Wroblewski, Defendant Johnson, nor Munroe signed the Initial Classification, Temporary Cell Assignment form, even though there are signature lines for the inmate, the officer, and the physician/nurse.

221. Additionally, the areas designated to mark whether and when the notification to medical director was made, name and identification number of booking officer were all left blank.

222. In contradiction to the Ada County written policy in place at the time, Defendant Wroblewski did not contact the Medical Unit staff after Munroe relayed the information contained in the Initial Classification, Temporary Cell Assignment form.

223. The applicable Ada County written policy required that Defendant Wroblewski refer Munroe to Health Services once Munroe gave positive answers to having been treated for mental health issues, being on medications for mental health treatment, to contemplating suicide, and to having attempted suicide in the past.

224. Ada County written policy also required that Munroe be referred to Health

Services because Defendant Wroblewski indicated on the form that he had observed behavior in Munroe that suggested a risk of suicide.

225. In contradiction to the direction of Defendant Johnson that, if indicated by Munroe or staff, follow-up services were to occur, Defendant Wroblewski did not contact anyone for follow-up services.

226. Defendant Wroblewski disregarded the new information that Munroe had disclosed during the intake process that strongly suggested that Munroe was suffering a psychotic break and/or posed a greater risk of suicide than what had previously been assessed by Defendant Johnson. The information that Munroe disclosed to Defendant Wroblewski while working through the Initial Classification, Temporary Cell Assignment placed Munroe squarely in the high suicide risk classification.

227. At 8:37 a.m., ACSO Deputy Ryan Donelson, ID #4800, placed Munroe in a holding cell identified as 1H CCU.

228. Deputy Donelson reported that while he was escorting Munroe to be housed in general population, Munroe stopped walking and began to speak to Deputy Donelson. Munroe said to Deputy Donelson, "I need to be on PC [Protective Custody]. I can't live with other people. Everyone wants to kill me."

229. Deputy Donelson asked Munroe whom he was having problems with, so that he could help to determine where to house Munroe. Deputy Donelson asked Munroe if he was having problems with people over drugs. Munroe did not respond. Deputy Donelson asked Munroe if he was having troubles with gangs. Munroe said "I'm into a lot of stuff and everyone wants to kill me." Deputy Donelson asked Munroe if he knew the names of any of the people who want to kill him. Munroe said, "No." Munroe again told Deputy Donelson that he needed

to be on protective custody and that he could not live with other people. Deputy Donelson secured Munroe in the CCU large holding cell 1-1.

230. Deputy Donelson then spoke to classifications Deputy Drinkall, ID #4221, about his discussion with Munroe.

231. Deputy Drinkall looked up Munroe's history on JICS.

232. Deputy Drinkall also reviewed the Inmate Housing Security Check Log on which Deputy Brewer had documented Munroe's suicidal behavior of attempting to wrap clothes around his neck.

233. After reviewing Munroe's information, Deputy Drinkall noted that Munroe had a suicidal history.

234. Deputy Drinkall contacted Defendant Johnson, and Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but was very agitated.

235. Based on the information he obtained from Defendant Johnson, Deputy Drinkall determined that Munroe should be housed in the side chute of Cellblock 7. Munroe was then placed inside cell 735.

236. When Defendant Johnson told Deputy Drinkall that Munroe was not suicidal but merely agitated, Defendant Johnson still had not reviewed the September 29, 2008 Initial Classification, Temporary Cell Assignment form completed by Defendant Wroblewski as part of the medical screening of Munroe.

237. Cell 735 contained, among other things, a bunk bed and a set of sheets.

238. It was a single inmate cell located at the end of the side chute where the cell cannot be easily observed by security staff or other inmates.

239. Defendant Johnson approved Munroe for being housed in a single cell

environment, despite Munroe being at least a low suicide risk.

240. Munroe had also been provided standard general population clothing.

241. The upper bunk bed in Munroe's cell 735 was constructed in such a fashion that there were holes in the upper bunk that were an inch or two in diameter.

242. A known risk of placing a suicidal inmate in a cell with these items is that the inmate will use the items to commit suicide by feeding the sheet up through one of the top bunk's holes and tying the sheet off with a knot that cannot be pulled down through the hole, and then use the sheet as a ligature with which to hang themselves.

243. Cell 735 posed a known and obvious risk of suicide to Munroe.

244. At approximately 10:37 a.m. on September 29, 2008, Munroe's mother, Ms. Hoagland, spoke with Leslie Robertson, the Ada County Jail Medical Unit's Health Services Administrative Supervisor, by telephone.

245. Leslie Robertson made the following entry on the JICS system:

Date: 09-29-08 10:37 PC Rita Hoagland mother 495-XXXX, 871-XXXX.¹ Called concerned that son is back in custody. He was released on Friday and returned sometime early this morning. He has made 3 serious suicide attempts in past (attempted to jump off bridge, overdose, and cut self). He has been in Intermountain and other hospitals as recently as this summer. He has had made (sic) when in community and told mother that we gave him meds here. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

246. Upon receiving additional information from Ms. Hoagland regarding Munroe's suicidal intentions, Defendant Johnson did not re-evaluate his assessment that Munroe posed no risk of suicide.

¹ Telephone numbers have been redacted for privacy purposes.

247. When Ms. Hoagland spoke with Leslie Robertson, Leslie Robertson assured Ms. Hoagland that she would follow up to see if Munroe was receiving his medications.

248. At approximately 11:57 a.m. on September 29, 2008, Defendant Farmer made the following entry on the JICS system: "JICS review - on celexa (none brought in), see @ St. Al's before coming to ACJ, has SI hx, seen at Intermountain. Inmate is OOC." OOC is an acronym for Out of Control.

249. Despite conducting a JICS review of Munroe's history which stated that he became suicidal when off his medications, Defendant Farmer did nothing to ensure that Munroe received his medications on September 29, 2008.

250. At 1:30 p.m. on September 29, 2008, Munroe was taken through video arraignment on the charges of Robbery and Possession/Consumption of Alcohol by a Minor.

251. As a matter of Idaho law, Munroe would have been told by the arraignment judge the maximum punishments for each of the charges should he be convicted.

252. After being arraigned, Munroe was returned to cell 735.

253. There is no record at the Ada County Jail of Munroe receiving either his prescribed Celexa or Perphenazine while incarcerated on September 28 and 29, 2008.

254. Defendant Barrett was the on-call provider of medications at the Ada County Jail on September 28 and 29, 2008.

255. As the on-call provider, Defendant Barrett would have to have approved any orders or requests for Munroe's medications and would have determined how and when they would be provided to Munroe.

256. No medications were requested, prescribed, or provided to Munroe by anyone at the Ada County Jail on September 28 or 29, 2008.

257. Defendant Barrett, as the Senior Physician's Assistant/Nurse Practitioner, and Defendant Babbitt, as the Nursing Supervisor/Inmate Healthcare Supervisor, each had a duty to supervise and control Defendant Farmer.

258. On information and belief, there is a *de facto* policy established by custom and practice at the Ada County Jail of not timely and consistently providing inmates with needed medication.

259. Defendants Barrett, Babbitt and Farmer each had a duty to ensure that each inmate at the Ada County Jail timely received needed medications once these Defendants became aware that the inmate has been prescribed medical treatment that includes psychotropic medications such as Celexa and Perphenazine.

260. Defendants Barrett, Babbitt and Farmer each had a duty to Munroe to ensure that on September 28 and 29, 2008, he timely received his Celexa and Perphenazine.

261. At some time between 8:21 p.m. and 8:38 p.m. on September 29, 2008, Munroe successfully committed suicide by hanging himself in cell 735 from the upper bunk of his bed.

262. He had placed a sheet up through one of the holes and tied the sheet off on one end while using the other to wrap around his neck. He was later pronounced dead at St. Al's.

263. At approximately 11:00 p.m. on September 29, 2008, Ms. Hoagland answered her door to find Sheriff Gary Raney and Ada County Victim Witness Coordinator Tammy Parker there to speak to her about her son Bradley Munroe.

264. When Ms. Hoagland asked if her son was okay, Sheriff Raney asked her to sit down and then informed her that her son had taken his life while incarcerated at the Ada County Jail.

265. They informed her that he had taken his life by hanging himself from a sheet in

the cell and that he accomplished the act by tying the sheet to the upper bunk of his bed.

266. When she asked them why her son had been placed in a cell by himself, with sheets and a bunk bed, they could not answer her.

267. When she asked them why her son was not put on suicide watch, they could not answer her.

268. As a result of the news of the death of her son, Ms. Hoagland suffered severe mental shock and emotional distress.

269. Detective Buie of the ACSO conducted an investigation of Munroe's suicide. Part of that investigation consisted of interviewing Defendant Johnson.

270. During that interview, Defendant Johnson stated to Detective Buie that he had been told by someone that on the morning of September 29, 2008, Munroe was saying that he was no longer suicidal, although Defendant Johnson has not been able to identify who the person was that made that statement to him.

271. Defendant Johnson further stated to Detective Buie that when he spoke to Munroe, Munroe said that he had made some stupid statements the night prior when he was "high."

272. Munroe did not tell Defendant Johnson that he had been high on September 28, 2008, when he was arrested and brought to the Jail.

273. Munroe was not high on any illegal drugs when he was brought to the Ada County Jail.

274. Defendant Johnson also told Detective Buie during his interview that Munroe had told him that he was not going to hurt himself. Defendant Johnson stated that Munroe told him he was not taking any medication and did not want mental health follow-up or any medications.

Defendant Johnson indicated to Detective Buie that he observed Munroe while he was being fingerprinted and Munroe appeared to him to be reacting appropriately to people, and that based on his observations, Defendant Johnson assigned Munroe to regular housing.

275. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that it was very important for him to observe Munroe, his affect, and how he interacted with and answered the booking detention deputy's questions.

276. When Defendant Johnson assessed Munroe and concluded he posed no risk of suicide, Defendant Johnson consciously knew that Munroe possessed a number of risk factors for suicide including his age, the fact that he was incarcerated, prior substance abuse, and that he had been treated for mental illness.

277. When Defendant Johnson spoke with Munroe and concluded he posed no risk of suicide, Defendant Johnson had reviewed Munroe's medical records at the Jail and noted Munroe's hospitalizations for prior suicide attempts, his prior incarcerations, and Defendant Johnson's own prior contact with Munroe wherein Defendant Johnson documented that Munroe's medications controlled his suicidal thoughts and behaviors.

278. Defendant Johnson told Detective Buie that after he spoke with Munroe on September 29, 2008, Leslie Robertson spoke to him about her conversation with Ms. Hoagland.

279. Leslie Robertson had conveyed to Defendant Johnson that Ms. Hoagland had informed her of Munroe's serious suicide attempts in the past, and that he had been talking about committing suicide.

280. After speaking with Leslie Robertson, Defendant Johnson did not do a second suicide assessment of Munroe.

281. On September 30, 2008, Defendant Johnson wrote the following statement regarding Munroe's suicide and his "assessment" of Munroe on September 29, 2008:

The reason for this assessment is clearly stated—he is at risk by virtue of recent statements of suicidal ideation and/or intent in jail setting and in the community, resulting in hospitalization. He has additional risk factors—age, incarceration, treatment for mental illness, and substance abuse, which were also taken into consideration. However he had already told security staff that he was no longer suicidal and repeated to me that he did not have suicidal ideas or intentions to harm himself. He included a very common rationale for his suicidal statements the night before—that he was intoxicated/high. By observation and verbal interaction he was alert, calm, cooperative, able to follow directions, and respond appropriately to questions. There was no evidence of current sadness, distress, emotional lability (sic), inattention, distractibility, response to stimuli other than that of the security staff and social worker, or of any distortion of his thought process. In other words he appeared to be coping with his current circumstances and interacting with staff without difficulty.

I noted that I did not take a full history for assessment purposes. This was true due primarily to the request of the inmate that he not have medical or mental health services at the time. Asking numerous questions regarding personal history of the inmate when he had declined the service did not make sense. Additionally, some history had been gathered in early September when there was another assessment of this inmate, in which he also denied suicidal ideation or intent at that time. Given that he reported that he was thinking better at this time denied ideas or intent to harm himself and appeared to be fully capable cognitively of giving or of refusing consent to treatment, it seemed respectful of his choice not to pursue extensive questioning. One possible exception would have been to explore the reason/explanation of why he did not want treatment at this time. I possibly would have gotten clues regarding his hopelessness or intentions by doing so. Absent those clues there was no reason to believe that this young man, who had repeatedly denied current suicidal intent, was going to kill himself now.

Given that many individuals stop and start medications or treatment several times, and that they episodically are bothered by symptoms or can be free of symptoms for periods of time I left open the opportunity for further evaluation or treatment. This was noted by statement that if indicated by pt. or staff that follow-up services would occur as indicated.

282. On October 1, 2008, Ada County Jail Medical Unit employee Holly Kington, LPN, made an entry on the JICS system stating that Munroe's Celexa had been "left here in the pharmacy in bottom drawer."

283. Despite all the aforementioned events and warnings, and in contravention of the Ada County written policies that were in place to protect inmates such as Munroe from committing suicide in the Ada County Jail, Munroe was not identified as a suicide risk; he was not properly classified; and he was housed incorrectly for the classification he received, which resulted in his being placed in general population, inside a single inmate cell, with a bunk bed and two sheets with which to hang himself.

284. Despite perfectly reasonable written policies being in place to identify, protect, and treat inmates who are at risk for suicide, as a matter of practice and custom, the named Defendants in this case do not follow those written policies.

285. Instead, they follow *de facto* policies that lack the necessary protections and lack the proper protocol for administering adequate medical and mental healthcare to inmates of the Ada County Jail.

286. The *de facto* policies that are actually implemented at the Ada County Jail are such that it is likely that those policies will result in the violation of inmates' constitutionally protected rights to medical and mental healthcare and security.

287. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt adopted *de facto* policies that were contrary to Ada County's written policies relating to the provision of professional medical and mental healthcare, including those policies governing suicide identification and prevention, and medication management and training.

288. These Defendants abandoned Ada County's perfectly reasonable written policies

in favor of a set of *ad hoc* policies created by their own practices and customs, and the practices and customs of their agents over whom they exercised supervisory control.

289. Each of these Defendants, either by their status or their position, set the actual policies under which the Ada County Jail was actually operated by their failures to train, supervise, and control the employees of the Ada County Jail in a manner that would ensure that written policies were followed. Additionally, there was an absence of enforcement protocol that would have ensured that written policies were followed.

290. The long-standing practices and customs employed by these Defendants and their employees in the operation of the Jail were such that the Ada County Jail was no longer being operated in compliance with its own written policies and NCCHC Standards.

291. The substandard operation of the Ada County Jail was long-standing practice and custom.

292. NCCHC does not withdraw accreditation of a jail because of isolated incidents where written policies are not followed.

293. NCCHC does withdraw accreditation of a jail for failure to have policies in place that conform to NCCHC Standards.

294. NCCHC does withdraw accreditation of a jail when there is a pattern of a jail's actual practices being inconsistent with NCCHC Standards.

COUNT I
(Civil Rights Violations – 42 U.S.C. § 1983)

295. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

296. Count I is brought by Ms. Hoagland on behalf of the Estate of Bradley Munroe, and herself as an heir to the Estate, pursuant to Idaho Code § 5-311 and 42 U.S.C. § 1983,

against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for violations of Munroe's constitutional rights under the Eighth and Fourteenth Amendments of the United States Constitution for failure to provide Munroe with adequate medical and mental healthcare and adequate security under circumstances where those failures resulted in Munroe's death, and for such violations Plaintiff is entitled to special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, along with attorney fees and court costs.

297. Count I is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

298. At all times relevant to this Third Amended Complaint, Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

299. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

300. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

301. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt

were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

302. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

303. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

304. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to

avoid the likely serious harm of inmate suicides, including Munroe's.

305. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

306. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

307. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

308. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

309. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney,

Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

310. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

311. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations, paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

312. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

313. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

314. The health assessment and treatment of Munroe during his various incarcerations

at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

315. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

316. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

317. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

318. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

319. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

320. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention

policies.

321. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

322. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

323. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

324. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

325. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

326. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

327. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

328. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

329. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby “mishoused” on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

330. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe’s suicide.

331. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as “Special Needs” inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

332. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

333. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

334. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

335. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

336. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

337. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

338. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

339. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

340. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

341. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

342. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

343. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

344. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

345. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

346. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

347. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

348. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of

mania and depression.

349. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

350. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

351. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were deliberately indifferent to the serious harm to inmates likely to result from such a delay.

352. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

353. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

354. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a

professional assessment identifying Munroe's true risk of suicide.

355. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

356. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

357. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29, 2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

358. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

359. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

360. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets

and a bunk bed.

361. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

362. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

363. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

364. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

365. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

366. By denying Munroe access to professional medical and mental health assessment

and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

367. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

368. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

369. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical and mental healthcare and adequate measures for his safety.

370. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

371. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and

NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

372. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

373. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

374. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

375. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

376. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with

Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

377. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

378. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

379. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

380. Wherefore, Plaintiff Hoagland, on behalf of the Estate of Bradley Munroe, and on

her own behalf as the heir to the Estate, demands judgment pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe in a sum to be proven at trial in the form of special and general damages, including but not limited to burial costs, loss of life, pain, suffering, anguish, and emotional distress, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

COUNT II
(Civil Rights Violations – 42 U.S.C. § 1983)

381. Plaintiffs incorporate and re-allege the allegations in the foregoing paragraphs as though fully restated herein.

382. Count II of this Third Amended Complaint is brought by Ms. Hoagland individually and on her own behalf as Munroe's mother pursuant to Idaho Code § 5-311, 42 U.S.C. § 1983, and 42 U.S.C. § 1988 against Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach for interference with Ms. Hoagland's familial relations, society and companionship interest with her son, Munroe, which is a due process interest protected under the Fourteenth Amendment of the United States Constitution for which she is entitled to recover for her injuries, including but not limited to loss of the companionship and society of her son, and her own pain, suffering, anguish and emotional distress caused by the death of her son.

383. Count II is brought against Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach in their individual and official capacities.

384. At all times relevant to this Third Amended Complaint, Defendants Raney,

Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were government officials acting under the color of state law.

385. Defendant Ada County is a municipality with its policies, practices and customs set by Defendant Raney as the highest ranking official of the ACSO and who at all times relevant to this Third Amended Complaint was charged with the operation of the Ada County Jail.

386. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt also were charged with supervisory authority over the operation of the Ada County Jail Medical Unit and were responsible for setting and enforcing policies, procedures, training, supervision and discipline relating to the provision of medical and mental healthcare and security to inmates at the Ada County Jail.

387. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were charged with the responsibility to train, supervise, discipline, and control security and medical staff at the Ada County Jail to ensure that Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates of the Ada County Jail were followed by security and medical staff at the Ada County Jail, and failed to carry out that responsibility.

388. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that security and medical staff were not properly trained, supervised, disciplined, and controlled, and failed to take corrective action that would have brought the operation of the Ada County Jail by security and medical staff into compliance with Ada County written policies and NCCHC Standards governing the provision of medical and mental healthcare and security to inmates.

389. Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt's

failure to properly train, supervise, discipline, and control security and medical staff at the Ada County Jail under the circumstances alleged herein amounted to a deliberate, reckless or callous indifference to the constitutional rights of inmates of the Ada County Jail to adequate medical and mental healthcare and to adequate safety.

390. The need to act in order to bring the operation of the Ada County Jail into compliance with Ada County written policies and NCCHC Standards was so obvious and the inadequacies so likely to result in violation of Ada County Jail inmates' constitutional rights, that the failure of Defendants Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt constituted deliberate indifference to the constitutional rights of inmates of the Ada County Jail, including the rights of Munroe. The need of these Defendants to act was so obvious because a reasonable person under like circumstances would have recognized the need to act in order to avoid the likely serious harm of inmate suicides, including Munroe's.

391. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on August 28, 2008, until the time of his release from custody on September 26, 2008, Munroe was a "prisoner" for purposes of his rights under the Eighth Amendment of the United States Constitution, as incorporated and made applicable to state actors by the Due Process clause of the Fourteenth Amendment of the United States Constitution, to be free of cruel and unusual punishment.

392. During the period extending from the time when Munroe was placed into the custody of Ada County Jail employees on September 28, 2008, until the time of his death on September 29, 2008, Munroe was a "pretrial detainee" for purposes of his due process rights under the Fourteenth Amendment of the United States Constitution, to be free of pretrial punishment.

393. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate medical and mental healthcare for his serious medical and mental health illness, access to the same, and to professional medical judgment in the administration of his medical and mental healthcare.

394. As a prisoner and as a pretrial detainee, Munroe had constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution to reasonably adequate security.

395. Pursuant to the Cruel and Unusual Punishment clause of the Eighth Amendment and the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to provide a minimal civilized measure of life's necessities, including adequate medical and mental health treatment for serious medical and mental illnesses.

396. Pursuant to the Due Process clause of the Fourteenth Amendment of the United States Constitution, once Munroe was placed in the custody of the Ada County Jail, Defendants Ada County, Raney, Scown, Pape, Garret, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach each owed Munroe a duty to take measures to guarantee his safety while he was in the Ada County Jail.

397. At all times while Munroe was in the custody of the Ada County Jail, he had a long history of suffering serious medical and mental illness, including but not limited to bipolar, manic disorder, depression, obsessive compulsive disorder, and psychosis that manifested in the form of Munroe experiencing severe mood swings, auditory hallucinations, visual hallucinations,

paranoia, suicidal thoughts, suicidal behaviors, suicide attempts, risky behaviors, irrational thought processes, bizarre behavior, and otherwise abnormal mental and behavioral functioning that put him at risk of suicide.

398. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate in identifying the risks posed to Munroe by the course of medical treatment provided to him by the Ada County Jail, including but not limited to the risk of suicidality associated with administering Celexa and Perphenazine to Munroe in a haphazard manner.

399. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and failed to identify Munroe being at risk of suicide.

400. The health assessment and treatment of Munroe during his various incarcerations at the Ada County Jail were inadequate and resulted in the failure of a proper medical referral being made when a serious physical and mental health issue was discovered with Munroe involving his risk for suicide.

401. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that all necessary forms and documentation required by Defendant Ada County's written policies were completed, which in turn resulted in Munroe not being properly assessed, classified and housed on September 29, 2008.

402. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to ensure that treatment plans and discharge plans were put in place for Special Needs inmates such as Munroe.

403. The health assessment and treatment of Munroe during his incarceration at the

Ada County Jail were inadequate in part because there was a failure to ensure that inmates who were prescribed psychotropic medications actually received those medications during their incarceration and upon being released into the community.

404. The health assessment and treatment of Munroe during his incarceration at the Ada County Jail were inadequate in part because there was a failure to train Ada County Jail staff on the suicide risks associated with medications such as Celexa and Perphenazine.

405. Defendants' acts and omissions were the moving force in Munroe not receiving necessary medical and mental health treatment at the Ada County Jail to prevent and guard against Munroe's suicidality.

406. Defendants' acts and omissions were the moving force in Munroe not receiving the benefit of suicide prevention measures mandated by Ada County's written suicide prevention policies.

407. Defendants' acts and omissions were the moving force in Munroe's medical and mental health treatment not being properly transitioned to community resources when he was released from the Jail on September 26, 2008.

408. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed medications when he was released on September 26, 2008, and again when he was re-incarcerated on September 28, 2008, to the time of his death.

409. Defendants' acts and omissions were the moving force in Munroe not receiving his prescribed anti-psychotic and anti-depression medications when he was released from the Jail on September 26, 2008, which in turn exacerbated the symptoms of his mental illness, including his experiencing suicidal thoughts.

410. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett,

Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail medical staff's failure to identify the heightened risk of suicide posed to Munroe by his not having received and taken his prescribed medications.

411. The acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt were a moving force in the Ada County Jail's failure to identify Munroe's bizarre behaviors and statements as symptoms of psychosis and suicidality brought about by Munroe not being on his medications.

412. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on each occasion in which he was incarcerated at the Ada County Jail.

413. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was mishoused on September 29, 2008.

414. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach were each deliberately indifferent to the likely risk of serious harm to Munroe, and other similarly situated inmates in the Ada County Jail, by mishousing of inmates.

415. As a result of the acts and omissions of Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Johnson, Wroblewski, Weich, Farmer and Roach, Munroe was misclassified as being at no risk of suicide, and was thereby "mishoused" on September 29, 2008, when he was put in a single inmate cell with all the implements needed to commit suicide.

416. The mishousing of Munroe on September 29, 2008, was a moving force in Munroe's suicide.

417. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that Munroe and other similarly situated inmates who objectively should have been assessed as "Special Needs" inmates, were not being assessed as such, and as a result treatment plans and discharge plans for those inmates were not being developed and put into action.

418. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson knew that the likely result of Special Needs inmates not having treatment plans and discharge plans developed and put into action would be serious harm to those inmates.

419. Throughout the period of August 28 to September 26, 2008, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Johnson deliberately disregarded the serious harm to Special Needs inmates, such as Munroe, that was likely to transpire when no treatment plan or discharge plan was developed and put into action for each Special Needs inmate.

420. The serious harm to Special Needs inmates likely to result from not implementing treatment plans and discharge plans includes suicide.

421. At all times relevant to this Third Amended Complaint, Defendants Babbitt and Johnson knew that Defendant Johnson was providing social work services to inmates in the Ada County Jail as a Masters of Social Work without a license to provide social work services in the state of Idaho, and were deliberately indifferent to the likely serious harm to inmates that would result.

422. The serious harm likely to result from Defendant Johnson practicing social work without a license and without proper training on Ada County's written suicide assessment and prevention policies included suicide that could have been avoided by the exercise of professional judgment being used in the provision of social work services to Ada County Jail inmates, or suicide that could have been avoided by professional application of Ada County's written suicide assessment and prevention policies.

423. On September 26, 2008, Defendants Barrett, Babbitt, Weich and Roach knew that Munroe was being released; that he had been prescribed Celexa and Perphenazine by Dr. Bushi; that he came into the Jail with these medications; that he had been taking these medications while in the Jail; that he would suffer serious mental and physical health consequences if he did not take his medications; and that he was being released with none of his medications.

424. On September 26, 2008, Defendant Babbitt knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

425. On September 26, 2008, Defendant Roach knew that she was not following the protocol set forth in the written policies of Ada County for ensuring that inmates being released from the Jail would receive a two-week supply of any medications they were prescribed and receiving while incarcerated, and was deliberately indifferent to the likely serious harm to inmates, including psychosis and suicide, that would result from not following that protocol.

426. Defendants Barrett, Babbitt, Weich and Roach were deliberately indifferent to the likely serious harm that Munroe faced by being released from the Jail without his medications.

427. From August 28 to September 26, 2008, Defendant Barrett was aware that security and medical staff at the Ada County Jail were not documenting whether inmates, including Munroe, were receiving, accepting or refusing their medications; that the lack of documentation placed Munroe, and similarly situated inmates, at serious risk of not receiving needed medications; and that serious harm to inmates, such as Munroe, was likely to follow if needed medications were not provided in a timely and consistent manner.

428. From August 28 to September 26, 2008, Defendant Barrett was aware that Ada County Jail security and medical staff were not properly documenting whether inmates were timely and consistently receiving their medication, and that the absence of such documentation was likely to result in serious harm to inmates who received their needed medications in an untimely or inconsistent manner.

429. The serious harm likely to result from inmates not receiving their needed medications in a timely and consistent manner includes suicide.

430. From August 28 to September 26, 2008, Defendant Barrett was deliberately indifferent to the serious harm likely to result from the Ada County Jail staff failing to document whether inmates were timely and consistently receiving their medications while in the Jail and upon being released.

431. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's serious and extensive medical and mental health illnesses, including his history of repeatedly attempting and being hospitalized for attempting suicide, and what was likely to happen to Munroe when he was off his medications.

432. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that, without his prescribed medications, Munroe would

suffer severe mood swings, experience delusions and hallucinations, start thinking of committing suicide, and would likely engage in suicidal behaviors.

433. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge of Munroe's medical and mental health needs, including his need to be medicated and the need to keep him under observation for suicidality when he was not on his medications.

434. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that when Munroe was taken into the Ada County Jail on September 28, 2008, he was without his prescribed medications and was experiencing suicidal thoughts, engaged in suicidal behavior, was experiencing extreme and abrupt mood swings, engaged in bizarre behaviors, was experiencing hallucinations, and demonstrating symptoms of mania and depression.

435. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that Munroe had not taken his prescribed medications when he assessed Munroe; when he told Deputy Drinkall that Munroe was not at risk of suicide; and when he approved Munroe for housing in a single inmate cell environment, where Munroe would be isolated, with access to all the implements necessary to hang himself.

436. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that Munroe would not be receiving medications that day.

437. From August 28 to September 29, 2008, Defendants Pape, Barrett, Babbitt, Johnson and Farmer had personal knowledge that there was a several day delay between when an inmate's medications were prescribed, approved and ordered, and when the medications needed by inmates of the Ada County Jail would actually be received by the inmates, and were

deliberately indifferent to the serious harm to inmates likely to result from such a delay.

438. On September 29, 2008, prior to Munroe's death, Defendants Barrett, Johnson and Farmer had personal knowledge that any medications Munroe was going to receive in the Jail would be delayed due to the way in which the Ada County Jail was being operated with regard to the management of inmates' medications.

439. On September 29, 2008, prior to Munroe's death, Defendants Johnson and Farmer had personal knowledge that the only access Munroe would have to his medications was through their taking action to make sure he received his medications.

440. On September 29, 2008, prior to Munroe's death, Defendant Johnson had personal knowledge that any access Munroe had to safety measures designed to prevent him from hurting himself was if Defendant Johnson provided that access by performing a professional assessment identifying Munroe's true risk of suicide.

441. On September 29, 2008, Defendant Johnson had personal knowledge that Ada County security staff was relying on him to exercise professional judgment as a social worker to determine Munroe's true risk of suicide so that they could properly classify him for housing purposes.

442. Based on his experience and training prior to his employment at the Ada County Jail, Defendant Johnson knew that his suicide risk assessment of Munroe on September 29, 2008 and his determination that Munroe was at no risk of suicide was not in conformance with NCCHC Standards for healthcare services in jails, including the NCCHC Standards addressing suicide assessments and prevention.

443. Based on his experience and training prior to his employment at the Ada County Jail and his observations and experience while working at the Ada County Jail, on September 29,

2008, Defendant Johnson knew that the Ada County Jail was not being operated in conformance with NCCHC Standards for healthcare services, including NCCHC Standards addressing suicide assessments and prevention.

444. Defendant Johnson knew that when NCCHC Standards addressing suicide assessments and prevention were not followed by a jail's security and medical staff, inmates would be subject to likely serious harm in the form of suicide.

445. Defendant Johnson knew that a suicidal inmate given a single inmate cell, away from other inmates and security staff, and a bunk bed and sheets with which to construct a ligature, would likely use those implements in the manner Munroe did to commit suicide.

446. Defendant Johnson knew that when he approved Munroe for general population, protective custody housing, security staff would place him in a single inmate cell, with sheets and a bunk bed.

447. Defendant Johnson was deliberately indifferent to the likely serious harm of clearing Munroe for housing in a single inmate cell, with a bunk bed and sheets.

448. Defendant Johnson had personal knowledge that he was committing a criminal offense, pursuant to Idaho Code §§ 54-3202, 54-3214 and 54-3217, by performing the suicide risk assessment of Munroe on September 29, 2008, when he did not hold a license to provide social work services in the state of Idaho.

449. Defendant Johnson had personal knowledge that it was a criminal offense under Idaho Code §§ 54-3202, 54-3214 and 54-3217 for him to hold himself out as a Masters Social Worker to Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, and everyone else at the Ada County Jail, when he did not hold a license to provide social work services in the state of Idaho.

450. Defendant Johnson had personal knowledge that he had not received training on Ada County Jail suicide assessment and prevention policies and procedures when he conducted his assessment of Munroe and cleared Munroe as being at no risk of suicide on September 29, 2008.

451. Defendant Johnson was deliberately indifferent to Munroe's serious medical and mental health and security needs when he failed to provide Munroe access to necessary medical and mental health treatment and failed to provide Munroe with the professional medical and mental health judgment required to properly assess whether he was a suicide risk and whether precautionary measures should have been put in place to prevent the likely serious harm to Munroe of suicide.

452. By denying Munroe access to professional medical and mental health assessment and treatment, and clearing Munroe as being at no risk of suicide, Defendant Johnson was deliberately indifferent to the constitutional rights of Munroe to adequate medical and mental healthcare and adequate security.

453. As a result of Defendant Johnson's deliberate indifference to Munroe's medical and mental health needs and his deliberate indifference to Munroe's security needs, Munroe lost his life due to suicide.

454. Defendant Johnson's acts and omissions were either the direct cause or a moving force that resulted in the violation of Munroe's constitutionally protected rights.

455. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to train, supervise and control Defendant Johnson, and other medical and security staff, and their failure to train, supervise and control was the moving force behind the violation of Munroe's constitutionally protected rights through the denial of adequate medical

and mental healthcare and adequate measures for his safety.

456. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt failed to confirm that Defendant Johnson was a qualified licensed social worker when he was hired to provide social work services to inmates of the Ada County Jail, and permitted him to continue working with inmates in the Jail, without a license to provide social work services, in violation of Idaho Code §§ 54-3202, 54-3214 and 54-3217.

457. Defendant Steinberg undertook the obligation to provide professional medical services, including by the use of professional medical judgment, to inmates of the Ada County Jail which included the obligation to provide health assessments in accordance with the requirements of Defendant Garrett and the NCCHC Standards; the obligation to ensure that documentation requirements set forth by written Ada County policy, Defendant Garrett and NCCHC Standards were met; and the obligation to refer serious medical issues discovered during an inmate's assessment to professional providers qualified to provide the necessary medical care to inmates, and failed to meet these obligations.

458. Defendant Steinberg's failure to meet the obligations undertaken by the Physician's Assistant Contract was a moving force in the violation of Munroe's constitutionally protected rights to adequate medical and mental healthcare and adequate security.

459. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt, Weich and Farmer each knew that Ada County written policies governing the provision of medical and mental health care, including its written policies governing suicide assessments and prevention, and medication management, were in place and incorporated NCCHC Standards for the purpose of protecting suicidal inmates from the likely serious harm of suicide.

460. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett,

Babbitt, Weich and Farmer knew the written policies of Ada County and NCCHC Standards for the provision of medical and mental healthcare to inmates, including those policies governing suicide assessment and prevention, and the written policies of Ada County and NCCHC Standards for inmate security were not the policies by which the Ada County Jail was actually being operated.

461. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt knew that their failure to ensure that Ada County's written policies, including NCCHC Standards, governing the provision of medical and mental healthcare and security to inmates was actually being followed would expose inmates to the serious likely harm of suicide.

462. Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, Babbitt and Farmer knew that the Ada County Jail was not being operated in conformance with Ada County's written policies or NCCHC Standards governing the provision of medical and mental healthcare and security to inmates, and were deliberately indifferent to the serious likely harm to inmates of suicide that was created by their failure to ensure compliance with those written policies and standards.

463. Instead of operating the Ada County Jail in conformance with Ada County's written policies and NCCHC Standards governing the provision of medical and mental healthcare and security, Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett, and Babbitt operated the Ada County Jail under *de facto* policies set by practice and custom that did not conform to the written policies of Ada County and the NCCHC Standards.

464. The *de facto* policies developed through practice and custom by Defendants Ada County, Raney, Scown, Pape, Garrett, Estess, Steinberg, Barrett and Babbitt governing the

provision of medical and mental healthcare of inmates at the Ada County Jail were the moving force behind the violation of Munroe's constitutional rights in the sense that each of these Defendants could have prevented the violation by ensuring substantial compliance with Ada County's own written policies governing the provision of medical and mental healthcare, including its policies governing suicide assessment and prevention.

465. Defendant Wroblewski knew that Munroe was at a serious risk for suicide after Munroe answered the questions on the intake questionnaire relating to mental health and suicide risk, and with deliberate indifference to that serious risk failed to contact anyone in the Jail's medical unit or anyone else to apprise them of the information Munroe had provided to him, indicating that Munroe was at risk for suicide.

466. Wherefore, Ms. Hoagland demands judgment pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for the violation of Munroe's constitutionally protected rights under the Eighth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of Munroe and the termination of Ms. Hoagland's familial relationship with Munroe and the loss of his society and companionship. For her damages, Ms. Hoagland seeks general damages, including but not limited to loss of companionship and society, and her own pain, suffering, anguish, and emotional distress caused by the loss of her son, punitive damages in an amount to deter similar official misconduct, and attorney fees and court costs—all in a sum to be proven at trial.

ATTORNEY FEES AND COSTS

Plaintiffs have been forced to incur attorney fees and costs related to the prosecution of this matter. Plaintiffs are entitled to recover their reasonable costs and attorney fees pursuant to Idaho Code §§ 6-918A and 12-121, 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or

other applicable law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of no less than twelve (12) persons on all issues to be tried.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against the Defendants as follows:

1. An award of special and general damages to the Plaintiffs for their losses incurred as a result of the Defendants' violation of Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution in an amount that will fully and fairly compensate the Plaintiffs for their losses, all in an amount to be determined at trial;
2. An award of punitive damages against all Defendants sued in their individual capacities in an amount to deter similar official misconduct;
3. Pre- and post-judgment interest as allowed by law;
4. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54, and/or any other applicable law, or, in the event judgment is taken by default, in the amount of \$10,000;
5. Declaratory and injunctive relief in the form of an order of the Court commanding that Defendants Ada County and Raney forthwith bring the operations of the Ada County Jail into compliance with its own written policies and NCCHC Standards, and further that Defendants Ada County and Raney demonstrate compliance by seeking and obtaining current NCCHC accreditation of the Ada County Jail; and
6. For all other and further relief as the Court deems just and equitable and to which Plaintiffs are due as a matter of law and equity.

DATED this 24th day of September, 2010.

JONES & SWARTZ PLLC

By /s/ Darwin L. Overson
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

MOTION TO DISMISS PURSUANT TO I.R.C.P.12(b)(8)

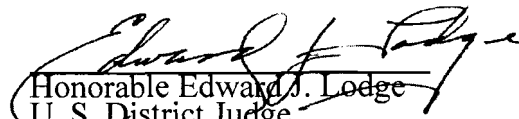
EXHIBIT B

LITIGATION ORDER
Case No. 10-cv-00486-EJL

4. Initial disclosures shall be made by the parties pursuant to Federal Rules of Civil Procedure 26.1 and Local Rule 16.1.
5. A telephonic scheduling conference shall be held on **January 11, 2011**, at **9:30 a.m.** mountain time, for the purpose of confirming the deadlines proposed by the parties in the Litigation Plan Form and to set the matter for trial.
6. Counsel for Plaintiff shall initiate the conference call by placing it to Diane McDonald, Administrative Assistant, at 208-334-9270 and shall have all appropriate parties on the line.

DATED: **October 5, 2010**




Honorable Edward J. Lodge
U. S. District Judge

CIVIL CASE LITIGATION OUTLINE

DAY	EVENT
1	Complaint Filed in Federal Court
69	Parties Meet on Litigation Plan (Local Rule 16.1)
80	<u>DISTRICT COURT FILING DEADLINE:</u> Joint Litigation Plan Form
83	Case reviewed by Court for: (1) Completion of service (2) Litigation Plan Form Initial Disclosure Deadline (FRCP 26.1, and Local Rule 16.1)
90	<u>TELEPHONE SCHEDULING CONFERENCE</u>
135	Expert Disclosure by plaintiff
165	Expert Disclosure by defendant
180	Rebuttal Expert Disclosure by plaintiff
210	Pre-Alternative Dispute Resolution (ADR) Discovery Deadline <u>DISTRICT COURT FILING DEADLINE:</u> Motion to Amend
240	ADR Conference (Mediation, Arbitration or Settlement Conference)
247	<u>DISTRICT COURT FILING DEADLINE:</u> ADR Status Report
300	Final Discovery Deadline
330	<u>DISTRICT COURT FILING DEADLINE:</u> All Pre-Trial Motions (6 months before trial)
531	<u>TRIAL:</u> Scheduled to begin on Tuesdays at 9:30 a.m. unless otherwise ordered.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Rita Hoagland, individually, and in her capacity as Personal Representative of the Estate of Bradley Munroe,

(b) County of Residence of First Listed Plaintiff Canyon (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Eric B. Swartz, ISB #6396 Darwin L. Overson, ISB #5887

DEFENDANTS

ADA COUNTY, a political subdivision of the State of Idaho; ADA COUNTY SHERIFF, GARY RANEY, an elected official

County of Residence of First Listed Defendant Ada (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Ada County Prosecutor's Office

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC 1983

Brief description of cause: Federal Civil Rights action; Jail suicide case

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23, DEMAND \$, CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE: 09/24/2010 SIGNATURE OF ATTORNEY OF RECORD: /s/ Darwin L. Overson

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP

Certified to be a true and correct copy of original filed in my office. Elizabeth A. Smith, Clerk United States Courts, District of Idaho Dated 11-8-2010

001795

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

NOV 23 2010 3:50 PM

Eric B. Swartz, ISB #6396
Darwin L. Overson, ISB #5887
Joy M. Bingham, ISB #7887
JONES & SWARTZ PLLC
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J. DAVID NAVARRO, Clerk
By **KATHY BIEHL**
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the
State of Idaho; *et al.*,

Defendants.

Case No. CV-OC-2009-01461

**PLAINTIFF'S RULE 11(a)(2)(B)
MOTION FOR RECONSIDERATION
OR, IN THE ALTERNATIVE,
CLARIFICATION**

Plaintiff respectfully moves, pursuant to Idaho Rule of Civil Procedure 11(a)(2)(b), for reconsideration or, in the alternative, clarification of this Court's November 2, 2010 Order dismissing Count I in its entirety.

Plaintiff seeks a modification of the Order to reflect that Count I is dismissed only as to the Estate and not as to Ms. Hoagland as an heir, and thereby reinstating Count I as to Ms. Hoagland in her capacity as an heir of Bradley Munroe.

W

DATED this 23rd day of November, 2010.

JONES & SWARTZ PLLC

By 

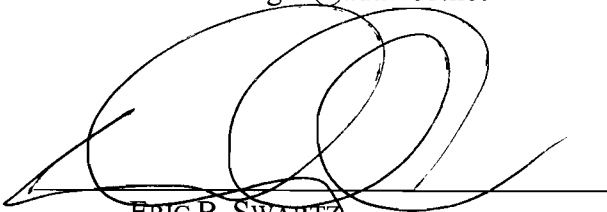
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of November, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

U.S. Mail
 Fax: 287-7719
 Overnight Delivery
 Messenger Delivery
 Email: jimd@adaweb.net
smorgan@adaweb.net


ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

NOV 23 2010

J. DAVID NAVARRO, Clerk
By KATHY BIEHL
DEPUTY

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Darwin L. Overson, ISB #5887
Joy M. Bingham, ISB #7887
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Facsimile: (208) 489-8988
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joy@jonesandswartzlaw.com

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the
State of Idaho; *et al.*,

Defendants.

Case No. CV-OC-2009-01461

**MEMORANDUM IN SUPPORT OF
PLAINTIFF'S RULE 11(a)(2)(B)
MOTION FOR RECONSIDERATION
OR, IN THE ALTERNATIVE,
CLARIFICATION**

Plaintiff seeks reconsideration of this Court's November 2, 2010 Order dismissing Count I in its entirety even though Ms. Hoagland brought Count I not only on behalf of the Estate but also on her own behalf as an heir.

The Third Amended Complaint states that Ms. Hoagland brings Count I "on behalf of the Estate of Bradley Munroe, and herself as an heir." As Plaintiff understood the Defendants' motion to dismiss, it was challenging whether any cause of action survived Bradley Munroe's

death under *Evans v. Twin Falls*,¹ and whether Ms. Hoagland could pursue a cause of action in her own right for termination of her society interest with her son. Specifically, the Defendants sought dismissal of all claims pursuant to Rule 12(b)(6) on the following stated grounds in their motion: “Plaintiffs have failed to state a cause of action upon which relief can be granted since neither the Estate nor Hoagland are proper § 1983 plaintiffs.”² Facially, the motion to dismiss was seeking dismissal for lack of standing.

It appears the Court may have granted relief to the Defendants beyond that which was demanded in their motion. An order “will not be construed as going beyond the motion in pursuance of which the order was made, for a court is presumed not to intend to grant relief which was not demanded.” *Sun Valley Ranches, Inc. v. Prairie Power Co-op., Inc.*, 124 Idaho 125, 131, 856 P.2d 1292, 1298 (Ct. App. 1993) (Orders are express, not implied); *United States v. Spallone*, 399 F.3d 415, 424 (2nd Cir. 2005) (citations omitted); *see also, State v. Weger*, 211 N.W.2d 322, 323 (Iowa 1973) (“the primary rule is that an order will not ordinarily be construed as going beyond the motion in pursuance of which it is made.”) (citations omitted). Where the Defendants’ motion was limited to a challenge to the standing of both Plaintiffs, and this Court found the Estate not to have standing and that Ms. Hoagland did have standing, Count I would necessarily stand as a claim brought by Ms. Hoagland as an heir.³

Following the reasoning of this Court’s Order, the answer to both questions was yes, but

¹ 118 Idaho 210 (1990).

² Defendants’ Motion to Dismiss Pursuant to Rule 12(b)(6), p. 2.

³ Reference to Ms. Hoagland as an heir to the Estate was merely language included in the Complaint for the purpose of demonstrating her legal status as an heir under Idaho’s Probate Code. An heir’s standing may be established, among other means, by I.C. § 5-311(2)(a), which in turn incorporates Idaho’s Probate Code § 15-1-201(22). That subsection states: “‘Heirs’ means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.” Subsection 16 defines estate as all property of the deceased.

the cause of action must be pursued by Ms. Hoagland as the identified heir:

The right to recover for wrongful death of another is statutory; therefore, in order to have standing to bring a wrongful death claim, the person seeking to recover must qualify under the statute. ... In Idaho, the statute dictates that a decedent's mother is a proper wrongful death heir. ... Furthermore, in interpreting Idaho's wrongful death statute, the Idaho Supreme Court has held that no right of action is given to the estate of the victim of a tort, but is granted only to his or her heirs. ... If there are no heirs, no right of action vests in anybody.⁴

This Court concluded that as "her son's heir, Ms. Hoagland has standing to bring a wrongful death claim."⁵

What follows from the Court's legal conclusions is that the Estate must be stricken as a Plaintiff. However, the Court's Order dismissed Count I even though Ms. Hoagland is named as a Plaintiff in Count I in her capacity as an heir. As such, pursuant to Rule 11(a)(2)(B), the Plaintiff respectfully asks this Court to reconsider its November 2, 2010 Order to reinstate Count I clarifying that the Order only dismisses claims made by the Estate and not those made by Ms. Hoagland as an heir.

It is clear from this Court's Order that Ms. Hoagland has standing under Idaho's wrongful death statute to bring suit for her loss of society interest. This Court cited to *Rhyme v. Henderson County* as providing the "analysis most in keeping with the U.S. Supreme Court's analysis in *Robertson*."⁶ There, the defendants challenged a mother's standing to bring a § 1983 claim for the in-custody suicide of her son alleged to be caused by the defendants.

Henderson County contends that Rhyme cannot have standing unless she proves that the County intended to deprive her of her familial association with her son in adopting those policies that led

⁴ Memorandum and Order Granting in Part and Denying in Part Defendants' Motion to Dismiss, pp. 8-9 (Nov. 2, 2010) (citations omitted).

⁵ *Id.* at p. 9.

⁶ *Id.* at p. 8.

to her son's death, pointing to *Trujillo v. Bd. of County Commissioners*, 768 F.2d 1186 (10th Cir. 1985). The *Trujillo* court held that the mother and sister of the decedent could not recover under § 1983 for Trujillo's wrongful death unless they proved that the defendants had been motivated by an intent to interfere with the Trujillos' right of familial association in unconstitutionally causing Richard Trujillo's death. *Id.* at 1190. The *Trujillo* court, therefore, affirmed the district court's dismissal of the § 1983 action.

We recognize the strength of the argument that, unlike survival statutes, wrongful death statutes arguably create new causes of action and therefore ought not to be incorporated by § 1988. *See Jaco*, 739 F.2d at 242-43; Martin A. Schwartz & John E. Kirklin, 1 SECTION 1983 LITIGATION: CLAIMS, DEFENSES, AND FEES, 730-31 (2nd ed. 1991). *But see Berry v. City of Muskogee*, 900 F.2d 1489, 1504-05 & n. 21 (10th Cir. 1990) (noting that wrongful death statutes "create new causes of action in the most technical sense" but that they are essentially remedial, to enforce "substantive right ... of decedent"); Steinglass, *Wrongful Death Actions*, 60 Ind.L.J. at 620-21 (suggesting that the "better view is that courts should be able to use § 1988 to incorporate state wrongful death actions in § 1983"). We also acknowledge that allowing suit by the parent in her own right is not an inevitable companion of a wrongful death statute. At the same time, Texas wrongful death law provides Rhyne with the right to recover for her son's wrongful death and she can recover for injury to herself caused by her son's death. To be more precise, our decisions allow recovery by Rhyne for her injury caused by the state's deprivation of her son's constitutionally secured liberty interests.⁷

It is therefore the constitutionally secured right of Bradley Munroe that Count I seeks to redress, and pursuant to this Court's and the *Rhyne* Court's reasoning, Ms. Hoagland has standing to bring Count I as an heir pursuant to Idaho's wrongful death statute.⁸

⁷ 973 F.2d 386, 391-92 (5th Cir. 1992); *compare Roberts v. City of Shreveport*, 221 Fed. Appx. 314, 2007 WL 486768 (5th Cir. 2007) (unpublished) (mother of deceased who had living children had no standing since Louisiana's wrongful death and survival statutes gave standing to parents only if decedent left no spouse or child behind).

⁸ *See Robertson v. Hecksel*, 420 F.3d 1254 (11th Cir. 2005) (elaborating on the distinction between a parent seeking to vindicate a child's rights versus seeking to vindicate the parent's rights); *Andrews v. Neer*, 253 F.3d 1052, 1063-64 (8th Cir. 2001) (permitting damages for harm done to decedent but not for harm to survivor).

However, the wrongful death statute does not define the cause of action itself, as remedies under § 1983 are broader than under Idaho's wrongful death statute and survivor statute.⁹ "The federal remedy supplements the state remedy,¹⁰ and the latter need not be first sought and refused before the federal one is invoked. The independent vitality of 42 U.S.C. § 1983 has been reaffirmed many times by the Supreme Court."¹¹ Federal common law governs assessments of damages in 42 U.S.C. § 1983.¹² Pursuant to the United States Supreme Court's instruction in *Moor v. County of Alameda*,¹³ the "wholesale importation" into § 1983 claims is not permitted.¹⁴

Section 1988 "recognizes that in certain areas 'federal law is unsuited or insufficient 'to furnish suitable remedies''; federal law simply does not 'cover every issue that may arise in the context of a federal civil rights action.' *Moor v. County of Alameda*, 411 U.S. 693, 703, 93 S.Ct. 1785, 1792, 36 L.Ed.2d 596 (1973) [reh. denied, 412 U.S. 963, 93 S.Ct. 2999, 37 L.Ed.2d 1012 (1973), overruled on other grounds, *Monell v. New York City Department of Social Services*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978)], quoting 42 U.S.C. § 1988." *Robertson v. Wegmann*, 436 U.S. 584, 588, 98 S.Ct. 1991, 1994, 56 L.Ed.2d 554 (1978). "The century-old Civil Rights Acts do not contain every rule of decision required to adjudicate claims asserted under them." *Burnett v. Grattan*, 468 U.S. 42, 47, 104 S.Ct. 2924, 2928, 82 L.Ed.2d 36 (1984). Federal courts under § 1988 may therefore look to state law to fill the void. *Id.*, at 48, 104 S.Ct. at 2928; *Robertson v. Wegmann*, *supra*.

"Most decisions concerning the borrowing of state law ... have arisen from [a] need to borrow provisions, such as statutes of limitations, tolling policies, and survival rules, that serve the exclusive purpose of defining that point where the right to maintain a cause of action ends." *Brown v. United States*, 742 F.2d 1498, 1505 (D.C. Cir. 1984), cert. denied sub nom. *District of Columbia*

⁹ See *Carey v. Phipus*, 435 U.S. 247, 254-57 (1978).

¹⁰ See *Smith v. Wade*, 461 U.S. 30, 85, 103 S.Ct. 1625, 75 L.Ed.2d 632 (1983).

¹¹ *Heath v. City of Hialeah*, 560 F.Supp. 840, 844 (S.D. Fla. 1983).

¹² *Id.* (citing *Carey v. Phipus*, 435 U.S. 247, 255-57 (1978)).

¹³ 411 U.S. 693, 701-04 (1973), overruled on other grounds by *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978) (holding municipality may be liable for § 1983 damages).

¹⁴ *Id.*; *Krozser v. City of New Haven*, 562 A.2d 1080, 1085-86 (Conn. 1989).

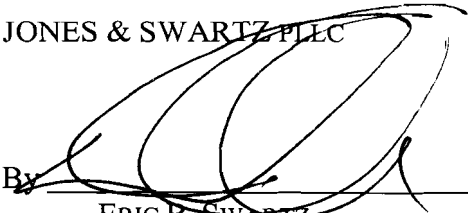
v. Brown, 471 U.S. 1073, 105 S.Ct. 2153, 85 L.Ed.2d 509 (1985). Section 1988 “instructs federal courts as to what law to apply in causes of actions arising under federal civil rights acts. But ... the section, without more, was [not] meant to authorize the wholesale importation into federal law of state causes of action—not even one purportedly designed for the protection of federal civil rights.” *Moor v. County of Alameda, supra*, 411 U.S. at 703-704, 93 S.Ct. at 1792-93. Section 1988 applies only when federal law is inapplicable or in some way deficient. *Brown v. United States, supra*, 1504. The fact that the plaintiff cannot, without consent, sue the state in an action under § 1983 for money damages is not, however, simply a matter of a deficiency in federal law. Sovereign immunity is a matter of substantive state law that has been consistently recognized as not having been abrogated by § 1983.¹⁵

Accordingly, Count I should be reinstated for Ms. Hoagland since, as this Court has already found, Ms. Hoagland has standing to bring a § 1983 claim pursuant to § 5-311 for the death of Bradley Munroe.

CONCLUSION

For the reasons set forth herein, Plaintiff respectfully requests that this Court reconsider and modify its November 2, 2010 Order to reflect that Count I is only dismissed as to the Estate but not as to Ms. Hoagland as an heir.

DATED this 23rd day of November, 2010.

JONES & SWARTZ P.L.L.C.
By 
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

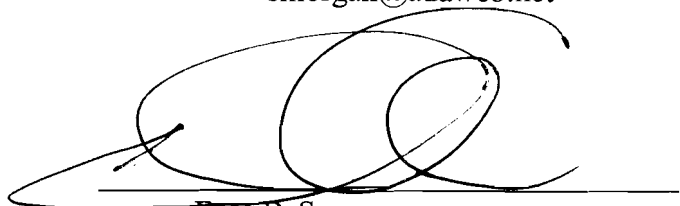
¹⁵ *Krozser*, 562 A.2d at 1085-86.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of November, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

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Sherry A. Morgan
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NO. _____ FILED _____
A.M. _____ P.M. 4:47

NOV 24 2010

J. DAVID NAVARRO, Clerk
By KATHY BIEHL
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney

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200 W. Front Street, Room 3191
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY, a political subdivision of the)
State of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual)
and official capacity; JENNY BABBITT, in her)
individual and official capacity; JAMES)
JOHNSON, in his individual and official capacity;)
JEREMY WROBLEWSKI, in his individual and)

Case No. CV OC 0901461

**DEFENDANTS' MOTIONS IN
LIMINE**

119

official capacity; DAVID WEICH, in his)
 individual and official capacity; LISA FARMER,)
 in her individual and official capacity; JAMIE)
 ROACH, in her individual and official capacity;)
 and JOHN DOES I-X, unknown persons/entities)
 who may be liable to the Plaintiffs,)
)
 Defendants.)
)
 _____)

COMES NOW, Ada County Defendants, by and through counsel, pursuant to Idaho Rule of Evidence 104, and respectfully move this Court to rule on the admissibility of the following evidence which Defendants anticipate may be offered during the trial of this matter:

1. That Plaintiff Hoagland not be allowed to elicit testimony, produce evidence or argue for a punitive damages award;
2. That Plaintiff Hoagland not be allowed to elicit testimony or produce evidence that the administration of Celexa and/or Perphenazine, missing doses of either, or the discontinuation of either contributed to Mr. Munroe taking his own life;
3. That Plaintiff Hoagland not be allowed to elicit testimony or produce evidence that any actions or inactions by Ada County Jail personnel during Mr. Munroe’s August 28, 2008 to September 26, 2008 incarceration contributed to Mr. Munroe taking his own life;
4. That Plaintiff Hoagland not be allowed to elicit testimony, produce evidence, make arguments or mention the National Commission on Correctional Healthcare accreditation of the Ada County Jail or lack thereof;
5. That Plaintiff Hoagland not be allowed to elicit testimony or produce evidence regarding the contents of Psychiatric Social Worker James Johnson’s personnel file;

6. That Plaintiff Hoagland not be allowed to elicit testimony or produce evidence regarding James Johnson's lack of an Idaho social worker license; and
7. That Plaintiff Hoagland's experts be barred for failure to meet the *Daubert*, *Kumho*, *Swallow*, and *Coombs* requirements for presentation of expert testimony.

Defendants request that the Court rule that the above-listed evidence is inadmissible and enter an order prohibiting Hoagland from introducing or in any way referring to such evidence during the trial of this cause.

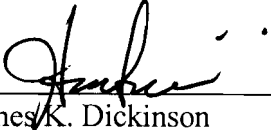
Defendants move that contents and the actual recordings of telephone calls between Mr. Munroe and Plaintiff Hoagland, as well as recordings of telephone calls between Mr. Munroe and Catherine Saucier while Mr. Munroe was an inmate in the Ada County Jail be admitted into evidence in this matter.

This Motion is made on the grounds and for the reasons set forth in the Memorandum filed herewith.

ORAL ARGUMENT IS REQUESTED.

DATED this 29 day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

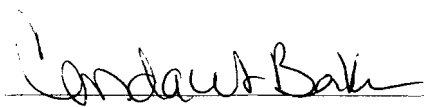
By: 
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of November 2010, I served a true and correct copy of the foregoing DEFENDANTS' MOTIONS IN LIMINE to the following persons by the following method:

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FILED 4:47 P.M.

NOV 24 2010

J. DAVID NAVARRO, Clerk
By KATHY BIEHL
DEPUTY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

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Senior Deputy Prosecuting Attorney

SHERRY A. MORGAN
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)
Plaintiffs,)

Case No. CV OC 0901461

vs.)

**MEMORANDUM IN SUPPORT
OF DEFENDANTS' MOTIONS
IN LIMINE**

ADA COUNTY, a political subdivision of the State)
of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
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his individual and official capacity; RICKY LEE)
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official capacity; JENNY BABBITT, in her)

ng

individual and official capacity; JAMES)
 JOHNSON, in his individual and official capacity;)
 JEREMY WROBLEWSKI, in his individual and)
 official capacity; DAVID WEICH, in his individual)
 and official capacity; LISA FARMER, in her)
 individual and official capacity; JAMIE ROACH, in)
 her individual and official capacity; and JOHN)
 DOES I-X, unknown persons/entities who may be)
 liable to the Plaintiffs,)
)
 Defendants.)
 _____)

COMES NOW, Ada County Defendants, by and through counsel, pursuant to Idaho Rule of Evidence 104, and respectfully move this Court to rule on the admissibility of the following evidence which Defendants anticipate may be offered during the trial of this cause:

I.

PUNITIVE DAMAGES

Defendants move that Plaintiff not be allowed to argue, nor the jury be given instructions that punitive damages may be awarded in this matter.

This Court allowed Plaintiff to include a prayer for punitive damages in her Third Amended Complaint. However, the complexion of the lawsuit has changed since the Court’s ruling. First, the Estate is no longer a Plaintiff. *See* Memorandum And Order Granting In Part And Denying In Part Defendants’ Motion to Dismiss, entered November 2, 2010. Rita Hoagland (“Hoagland”) is the remaining Plaintiff. Ms. Hoagland’s damages, if any, must be based on a Defendant’s intent to harm to *her*. Although the basis for her cause of action is new to Idaho, this hybrid cause of action (the fusion of a federal § 1983 civil rights action and Idaho’s wrongful death statute for standing purposes) still requires the application of federal § 1983

substantive law.¹ Almost every federal circuit prohibits § 1983 plaintiffs from bringing cases for the loss of an adult child unless the “state action at issue was . . . aimed at *specifically interfering* with the relationship.” *Rentz v. Spokane County*, 438 F. Supp. 2d 1252, 1263 (2006) (emphasis added), *citing Russ v. Watts*, 414 F.3d 783, 787 (7th Cir. 2005). To prevail at trial, then, Hoagland must show the Defendants specifically intended to sever her relationship with Mr. Munroe. There is no allegation in the Third Amended Complaint nor in the record from either expert or lay witnesses that any Defendant acted to intentionally sever the relationship between Hoagland and Mr. Munroe.

Further, § 1983 case law allows punitive damages only against individual actors, and only in their personal capacity. The standard set by the United States Supreme Court is purposefully high:

We hold that a jury may be permitted to assess punitive damages in an action under § 1983 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.

Smith v. Wade, 461 U.S. 30, 56; 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

The Court explained the basis for this high standard:

Punitive damages are awarded in the jury’s discretion “to punish [the defendant] for his outrageous conduct and to deter him and others like him from similar conduct in the future.” Restatement (Second) of Torts § 908(1) (1977). The focus is on the character of the tortfeasor’s conduct—whether it is of the sort that calls for deterrence and punishment *over and above* that provided by compensatory awards.

Id. at 54, 1639.

Plaintiffs simply cannot meet the standard that any of the Defendant’s actions were motivated by evil motive or intent, or reckless or callous indifference.

¹ To the extent the Court determines applicable punitive damages law is governed by the Wrongful Death statute, Idaho law precludes punitive damages. *See* Idaho Code § 6-918.

As no allegations forward that any Defendant acted with the requisite standard, Plaintiff must not be allowed to argue, and the jury must not be given instruction, that punitive damages may be awarded in this case.

II.

MR. MUNROE'S INGESTION OF CELEXA AND/OR PERPHENAZINE,
OR HIS FAILURE TO TAKE EITHER DRUG CAUSED HIS DEATH

Plaintiff's Third Amended Complaint alleges that either the ingestion of Celexa or Perphenazine, the failure to take Celexa and/or Perphenazine, or the discontinuance of the same (it is unclear which allegation is being made) led Mr. Munroe to take his life.

To date, no expert for Plaintiff has forwarded any basis for this allegation. Without expert testimony setting forth the scientific basis for its presentation, Plaintiff may not present testimony on this theory.

Plaintiff must sustain this allegation pursuant to *Daubert*,² *Swallow*,³ *Weeks*,⁴ and *Coombs*.⁵ To date, no scientific nexus has been forwarded by Plaintiffs that prescribing or administering Celexa or Perphenazine, missing a dose or discontinuing the same led Mr. Munroe to take his life.⁶

III.

ANY CAUSE OF ACTION BASED UPON THE AUGUST 28, 2008 TO SEPTEMBER 26,
2008 INCARCERATION SHOULD NOT BE ALLOWED

Mr. Munroe's Estate is no longer a Plaintiff. Plaintiff Hoagland appears to allege violations of Mr. Munroe's rights during a previous 30-day stay in the Ada County Jail from

² *Daubert v. Merrell Dow Pharm.*, 509 U.S. 579, 113 S. Ct. 2786, 125 L.Ed.2d 469 (1993).

³ *Swallow v. Emergency Med. of Idaho*, 138 Idaho 589, 67 P.3d 68 (2003).

⁴ *Weeks v. Eastern Idaho Health Services*, 134 Idaho 834, 153 P.3d 1180 (2007).

⁵ *Coombs v. Curnow*, 148 Idaho 129 (2009).

⁶ This argument is substantially weakened by the fact that a therapeutic level of Citalopram (Celexa) was present in Munroe's post-mortem blood sample.

August 28, 2008 to September 26, 2008, although Mr. Munroe's death occurred during a subsequent incarceration beginning 48 hours *after* his release from that 30-day stay.

Allowed standing by this court under a new hybrid state/federal theory, Hoagland is still required to meet the federal substantive standard required of a parent bringing an action for the death of an adult child (in the very few circuits lawsuits for adult children are even allowed to proceed). As discussed above, Hoagland must prove Defendants specifically and intentionally acted to sever her relationship with Mr. Munroe on September 28th and 29th to prevail at Summary Judgment and proceed to trial. Given that Mr. Munroe spent thirty (30) injury free days in the Ada County Jail, was released for two (2) days, then rearrested, any cause of action for those thirty (30) days (if any existed) could not be asserted by Hoagland.

IV.

NCCHC ACCREDITATION

Defendants move that Hoagland not be allowed to elicit testimony regarding the Ada County Jail's no longer being accredited by the National Commission on Correctional Health Care (NCCHC) in November 2008 (approximately two months after Mr. Munroe passed away). The NCCHC accredits jails that request the organization to inspect them. NCCHC accreditation is not an Idaho requirement, a national requirement, or a constitutional requirement. Further, there has been no allegation that the lack of voluntary accreditation by the NCCHC was related to Mr. Munroe's death. In *Motto v. Correctional Medical Services, Inc*, Slip Copy 2010 WL 3852373, S. D. W. Va. 2010, the Plaintiff alleged that deliberate indifference was established based upon the state defendants' failure to comply with ACA and NCCHC standards. In footnote 8 of that decision, the Court explained, "As stated above, this argument is without merit as the

standards provided by the ACA and NCCHC do not establish the constitutional minima.” *Motto* at 16, n.8.

Beginning in 1985, the Ada County Jail sought and attained accreditation by the NCCHC. The Jail invited the NCCHC to return and inspect the Jail since then, and enjoyed continuous NCCHC accreditation until November of 2008, when, after an August 2008 inspection, the NCCHC did not renew its accreditation.

NCCHC accreditation is voluntary and any NCCHC inspection is invited by the Jail. NCCHC inspection and accreditation are not required. As of this writing, only one jail in the state of Idaho is NCCHC accredited.⁷ Further, only approximately 5 - 6% of jails nationwide are accredited.⁸ Conversely, the Ada County Jail *is* required to be inspected and accredited by the Idaho Sheriffs’ Association (ISA). It is currently accredited by the ISA and always has been.

Since accreditation by the NCCHC is voluntary and the Jail maintains all *required* accreditation, any evidence of the lack of NCCHC accreditation (especially given that in September of 2008, when Mr. Munroe took his life, the Jail *was* NCCHC accredited) is not relevant and too prejudicial to allow.

V.

JAMES JOHNSON’S PERSONNEL FILE

Psychiatric Social Worker James Johnson’s personnel file has been released (albeit with a few items redacted) to Hoagland. The released file contains information (that won’t be listed here for obvious reasons) that is highly personal. The reason his file contains such information is logical. As a law enforcement entity, the Ada County Sheriff undertakes significant in-depth background investigation while considering applicants for potential employment. Given the

⁷ Of the 44 Idaho counties, the Bonneville County Jail is NCCHC accredited.

⁸ Of the 3,306 jails nationwide, only 500 *jails, prisons and juvenile facilities combined* are NCCHC accredited.

investigatory tools available to the Sheriff's Office, there are extremely personal matters (e.g. polygraph results) that other employers could never collect, review, or use to make a determination.

Highly personal information should not be allowed to be used at trial. Defendant Johnson should not suffer such an intrusion into his personal life simply because of whom he worked for.

VI.

JAMES JOHNSON'S LACK OF A LICENSE IN IDAHO

James Johnson holds a Master of Social Work Degree from the University of Southern California, obtained in 1984. He has worked in California for over twenty-three (23) years in a number of settings as a Licensed Social Worker, and his background reflects experience as a clinical, supervisory, hospital, jail, and community social worker. He has worked with suicidal individuals in previous settings.

Johnson came to the Ada County Jail very experienced. After working in Idaho for eighteen (18) months, he then returned to his home state of California. While in Idaho, he elected not to obtain a second social worker license. A jury should assess Mr. Johnson's skill as a social worker, licensed in California for over twenty years, and *licensable* in Idaho. The fact that Mr. Johnson did not pursue licensing in Idaho does not change his education, experience, skill, or commitment to inmates in Ada County. There is no constitutional requirement that inmates be assessed by a *licensed* social worker. Plaintiff's elicitation of evidence that Mr. Johnson was not licensed will be forwarded only to create an inaccurate representation that Mr. Johnson did not provide competent mental healthcare. This is inconsistent with the facts and highly prejudicial to the Defendants.

VII.

DAMAGES THAT ARE NOT PERSONAL TO PLAINTIFF RITA HOAGLAND

In Hoagland's most recent discovery response (Fourth Supplemental Response disclosed November 12, 2010, updating only Response No. 8), she stated she is seeking pain and suffering damages on behalf of Bradley Munroe. While such damages *may* have been available to Mr. Munroe's Estate had it been a Plaintiff, it is curious under what theory they can be recovered now, since Mr. Munroe's Estate has been dismissed.

Hoagland may only forward claims for *her* damages, not those of another individual. Substantive § 1983 law almost universally⁹ precludes a parent from bringing a lawsuit for an adult child without proving the Defendants specifically intended to intervene with the parent-child relationship. Since Plaintiff Hoagland brings this § 1983 action for her damages, she may not continue the action for damages particular to the dismissed Estate.

VIII.

PLAINTIFFS' EXPERTS CANNOT MEET THE *DAUBERT*, *KUMHO*, AND *SWALLOW* REQUIREMENTS

Daubert, *Kumho*, *Swallow*, and *Combs* (the latter Idaho cases applying the standards) require a basis before expert witnesses may testify to their various theories regarding Mr. Munroe's death. Plaintiffs have forwarded expert witnesses to testify in their case in chief.

One of the expert witnesses, Nathan Powell, M.S.W., forwards that James Johnson, M.S.W., a Defendant in this matter, did not adequately assess Mr. Munroe shortly after booking at the Ada County Jail.

⁹ Save for the Ninth Circuit.

A second expert witness, Dr. Thomas White, testified during his deposition taken on November 18, 2010, that there are significant differences between community social work and social work conducted in a jail setting.

Mr. Powell is a social worker currently employed by St. Luke's hospital. Mr. Powell testified in his deposition taken on November 23, 2010, that his professional experience has been almost exclusively in community settings. He does share that he has worked in a jail for three or four shifts, but the jail was actually a juvenile detention center in California, and his duty was to sit in a chair outside an offender's cell.

Plaintiff's own expert, Dr. White, essentially undermines Nathan Powell's ability to offer testimony with regard to social work conducted in a jail setting.

IX.

JAIL TELEPHONE CALLS MADE BETWEEN MR. MUNROE, RITA HOAGLAND, AND CATHERINE SAUCIER

Ada County moves this Court to allow the recordings of telephone calls between Mr. Munroe and Hoagland, as well as recorded telephone calls between Mr. Munroe and Catherine Saucier, and Mr. Munroe and his younger sister, Brittany Munroe.

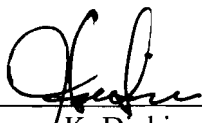
All such telephone calls were made by Mr. Munroe while he was an inmate in the Ada County Jail between August and September 2008. The calls were recorded by the Jail's telephone vendor and all parties were first apprised that the calls were being recorded.

Calls from Mr. Munroe to Hoagland and her daughter, Brittany (Bradley's sister), as well as calls from Mr. Munroe to Catherine Saucier, are admissible pursuant to I.R.E. 801(d)(1) and (d) (2), 803(2), (3), (6) and (24) and 804(b)(6) as the recorded statements may be prior statements, admissions by party-opponents, present sense, impressions, excited utterances, and then existing mental, emotional or physical conditions. Further, the tapes are records of a

regularly conducted activity and were made in circumstances with guaranties of trustworthiness, offered at times for evidence of a material fact, more probative than other evidence that could be provided, and the interests of justice will be served by their admission into evidence.

DATED this 24 day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

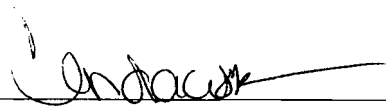
By: 
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of November 2010, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTIONS IN LIMINE to the following persons by the following method:

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Attorneys for Plaintiff

FILED 4:57
A.M. P.M.

NOV 26 2010

J. DAVID NAVARRO, Clerk
By A. GARDEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the
State of Idaho; *et al.*,

Defendants.

Case No. CV-OC-2009-01461

PLAINTIFF'S MOTIONS IN LIMINE

COMES NOW the Plaintiff, Rita Hoagland, by and through her counsel of record herein,
and pursuant to Rule 7(b)(1) of the Idaho Rules of Civil Procedure and Rules 401, 403, and 702
of the Idaho Rules of Evidence, hereby moves this Court for an Order preventing or limiting the
Defendants from offering testimony or evidence at the trial of this matter in the following
manner:

dg

1. Evidence or Testimony of Prior marriages of Plaintiff's Husband, Greg Hoagland, Should be Excluded;
2. Evidence or Testimony of Greg Hoagland's Children from Prior Marriages Should be Excluded;
3. Evidence or Testimony of Drug Convictions of Greg Hoagland Prior to Having Met and Married the Plaintiff Should be Excluded;
4. Evidence or Testimony of Whether Plaintiff Used Illicit Drugs Should be Excluded;
5. Evidence or Testimony of Plaintiff Being Charged With Assault About 11 Years Ago, Which Said Charge was Dismissed, Should be Excluded;
6. Evidence or Testimony of Pre-Natal, Post-Natal, Infant, and Toddler Medical Records of Bradley Munroe, Should be Excluded;
7. The Audio Recording of Bradley Munroe's Telephone Recordings During his Incarcerations at the Ada County Jail Should be Excluded;
8. Defendants and Their Expert Witnesses:
 - a. Should be Limited from Presenting Evidence or Testimony of Post-mortem Psychological Diagnoses;
 - b. Should be Limited from Presenting Evidence or Testimony of Post-Suicide, Suicide Assessments;
 - c. Drs. Lundt and Novak Do Not Have the Education, Experience, or Training Necessary to Testify About Correctional Institution Medicine and Should be Prevented from Offering an Opinion Thereon;
 - d. Should be Limited on the Number of Psychiatrists Being Called to Present the Same Testimony;
 - e. Should be Limited on the Number of Experts Testifying About the Adequacy of James Johnson's Assessment;
 - f. Gary Dawson's Testimony about Plaintiff's Use of Prescribed or Illicit Drugs and Effect on Plaintiff or Her Unborn Child Should be Excluded; and
9. Defendants Should Be Prevented from 11th Hour Admission of Liability.

The last day to initiate discovery in this matter is not until December 24, 2010. There are a number of depositions that are currently scheduled to take place between now (the deadline for Motions in Limine) and then. Plaintiff, therefore, reserves the right to file additional, pre-trial evidentiary objections and requests for evidentiary determinations upon learning of matters that are appropriate for such a pre-trial filing.

This motion is made and supported by the pleadings of record herein and is further supported by the Memorandum and Affidavit of Plaintiff's Counsel, both filed contemporaneously herewith.

DATED this 26th day of November, 2010.

JONES & SWARTZ PLLC

By 

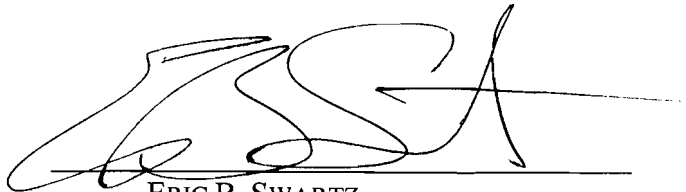
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

[] U.S. Mail
[X] Fax: 287-7719
[X] Messenger Delivery
[] Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

NO. _____ FILED _____
A.M. _____ P.M. 4:27

NOV 26 2010

J. DAVID NAVARRO, Clerk
By A. GARDEN
DEPUTY

Eric B. Swartz, ISB #6396
Darwin L. Overson, ISB #5887
Joy M. Bingham, ISB #7887
JONES & SWARTZ PLLC
1673 W. Shoreline Drive, Suite 200 [83702]
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joy@jonesandswartzlaw.com

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her
capacity as Personal Representative of the
ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the
State of Idaho; *et al.*,

Defendants.

Case No. CV-OC-2009-01461

**MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTIONS IN LIMINE**

Plaintiff moves this Court to limit and exclude the Defendants from presenting testimony or evidence at the trial of this matter in the following ways:

1. Prior marriages of Plaintiff's Husband, Greg Hoagland

It is anticipated that the Defendants will attempt to present testimony or evidence of prior marriages of Greg Hoagland, who is Plaintiff Rita Hoagland's husband and step-father to deceased, Bradley Munroe. Such testimony or evidence has no relevance to this case. Further, it

would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

2. Greg Hoagland's Children from Prior Marriages

It is anticipated that the Defendants will attempt to present testimony or evidence about children that Greg Hoagland fathered during marriages prior to his marriage to Plaintiff, Rita Hoagland. Such testimony or evidence has no relevance to this case. Further, it would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

3. Drug Convictions of Greg Hoagland Prior to Having Met and Married the Plaintiff

It is anticipated that the Defendants will attempt to present testimony or evidence about drug convictions of Greg Hoagland that occurred over eleven years ago and before he met the Plaintiff, Rita Hoagland. Such testimony or evidence has no relevance to this case. Further, it would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

4. Whether Plaintiff Used Illicit Drugs

It is anticipated that the Defendants will attempt to present testimony or evidence about whether Plaintiff, Rita Hoagland, used illicit drugs (prescribed or otherwise). Such testimony or evidence has no relevance to this case and there is no evidence of any such drug use or that it occurred around Bradley Munroe. Further, it would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules

401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

5. Plaintiff Being Charged With Assault About 11 Years Ago, Which Said Charge Was Dismissed

It is anticipated that the Defendants will attempt to present testimony or evidence about Plaintiff, Rita Hoagland, being charged with assault about eleven years ago. The charge was dismissed and any such testimony or evidence about anything related to the charge has no relevance to this case. Further, it would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

6. Pre-Natal, Post-Natal, Infant, and Toddler Medical Records of Bradley Munroe

It is anticipated that the Defendants will attempt to present testimony or evidence about medical care that bears absolutely no relevance to this action: pre-natal; post-natal; and infant and toddler medical care of Bradley Munroe. In addition to not being relevant to the issues in this case – Bradley Munroe’s suicide at the age of 18 while in Defendants’ custody and whether the Defendants violated the constitutional rights of Bradley Munroe and his mother by not protecting Bradley Munroe – any such testimony or evidence would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

7. The Audio Recording of Bradley Munroe’s Telephone Calls During His Incarcerations at the Ada County Jail at Any Time

It is anticipated that the Defendants will attempt to present testimony or evidence of

recorded telephone calls that deceased, Bradley Munroe, had while incarcerated at the Ada County Jail on October 27, 28 and 29, 2007; July 4, 5, 6 and 7, 2008; August 28, 2008–September 26, 2008; and September 28 and 29, 2008. These recorded phone calls were not considered by the Defendants when they assessed Bradley Munroe for a potential suicide risk on September 28 and 29, 2009. The recordings bear no relevance to the issues in this case – did the Defendants violate the constitutional rights of Bradley Munroe and his mother by not protecting Bradley Munroe, and if so, what are Plaintiff Rita Hoagland’s damages and remedies? The lack of relevance of these phones calls is particularly glaring with respect to the phone calls that took place before the September 28 and 29, 2008 incarceration.

The recorded phone calls, and testimony about the same, should also be excluded because they would be far more prejudicial than probative; it would confuse the issues and the jury; and it would constitute a waste of time. Bradley Munroe uses very explicit language during the recorded calls and discusses topics that are not relevant to this action and which may be offensive to the jury – all of which would be very prejudicial to the Plaintiff. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be excluded from presenting any such testimony or evidence.

8. Defendants’ Expert Witnesses

The Defendants have disclosed a number of experts to opine on a number of categories. Defendants’ experts are not qualified to offer some of their opinions; some expert testimony is irrelevant and more prejudicial than probative and would constitute a waste of time; some expert testimony is unnecessarily cumulative; and for the reasons that follow, Defendants’ experts should be limited in the following ways:

Bradley Munroe after he committed suicide, Bradley was not at risk for suicide. What these three witnesses might opine about Bradley's suicide risk after he has committed suicide has no bearing on the issues in this case. Whether these witnesses believe Bradley Munroe was suicidal, or not, is irrelevant. It is undisputed that Bradley Munroe committed suicide. It is also undisputed that before he committed suicide, the Defendants documented that he was suicidal.

The issues in this case are centered around what the Defendants had in front of them at the time they decided against protecting Bradley Munroe from himself. The Defendants will only confuse the jury if they are allowed to present speculative post-suicide, suicide assessments about whether Bradley was suicidal. Such post-mortem diagnoses will not aid the jury in understanding what the Defendants knew about Bradley Munroe when they decided that he was not at risk for suicide.

Pursuant to Rules 401, 403 and 702 of the Idaho Rules of Evidence, the Defendants' expert witnesses should be precluded from presenting all such testimony.

c. Drs. Lundt and Novak Do Not Have the Education, Experience, or Training Necessary to Testify About Correctional Institution Medicine

Defendants have disclosed Psychiatrists, Drs. Lundt and Novak, that Defendants will be calling to testify about their opinions about the medical care that Defendants gave to Bradley Monroe just before he committed suicide.³ Neither Dr. Lundt nor Dr. Novak have any knowledge, skill, training, experience, or education that qualifies them to testify as an expert on correctional institution medicine or whether the Defendants acted appropriately in that setting. Though the resumes of Drs. Lundt and Novak are impressive, they do not reveal any knowledge, skill, experience, training, or education on standards of medical practice with correctional institution medicine or the performance of psychological suicide assessments and protocols in

³ See Ex. A. to Aff. of Counsel, pp. 5-12.

such a setting.⁴ It does not appear that Drs. Lundt or Novak are qualified to offer opinions on this subject matter. *See* I.R.E. 702 (an expert must have necessary knowledge, skill, training, experience, or education).

d. Defendants Do Not Need Two Psychiatrists to Present the Same Testimony – It Is Unnecessarily Cumulative

Defendants have disclosed Psychiatrists, Drs. Lundt and Novak, that Defendants will be calling to testifying about the same things – post-mortem psychological diagnoses; post-suicide; suicide assessment; and their opinions about the medical care that Defendants gave to Bradley Monroe just before he committed suicide.⁵ As discussed above, post-mortem psychological diagnoses and post-suicide, suicide assessments are irrelevant, prejudicial, and a waste of time. And, Drs. Lundt and Novak are not qualified to offer opinions on correctional institution medical issues. But, even if these experts were qualified to testify about this, and even if the other topics were relevant, the Defendants do not need two expert psychiatrists to testify about the same thing. Such testimony is unnecessarily cumulative and threatens to prejudice the Plaintiff, confuse the jury, and waste time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, and assuming the Court denies the Plaintiff's request to preclude this testimony entirely, the Defendants should be limited to presenting only one expert psychiatrist to speak on these matters.

e. Defendants Do Not Need Five Experts to Testify About the Adequacy of James Johnson's Assessment

In addition to disclosing Drs. Lundt and Novak as testifying about the purported adequacy of James Johnson's psychological assessment of Bradley Munroe, the Defendants have

⁴ *See* Ex. A. to Aff. of Counsel, pp. 47-85 (Dr. Lundt's resume); 90-93 (Dr. Novak's resume).

⁵ *See* Ex. A. to Aff. of Counsel, pp. 5-12.

also disclosed Brian Meacham, Daniel Kennedy, and Thomas Rozza as testifying on this topic.⁶ The Defendants do not need five experts to testify about the same thing. Such testimony is unnecessarily cumulative and threatens to prejudice the Plaintiff, confuse the jury, and waste time. Pursuant to Rules 401 and 403 of the Idaho Rules of Evidence, the Defendants should be limited on the number of expert witnesses they may call to speak on the alleged adequacy of James Johnson's provision of services to Bradley Munroe. This is particularly true where, as here, the Defendants also intend to call Defendants parties as non-retained experts to speak on the same matter.⁷

f. Gary Dawson's Testimony About Plaintiff's Use of Prescribed or Illicit Drugs and Effect on Plaintiff or Her Unborn Child

The Defendants have disclosed Dr. Gary Dawson, a pharmacologist and pharmacist, as testifying about "the absorption, distribution, metabolism, excretion, and effects of [Rita Hoagland's use of prescriptions, medications, and marijuana] on Ms. Hoagland physically, and to the extent any and all could/would affect her life or the life of her unborn child."⁸ This proffered testimony is not relevant; it is more prejudicial than probative; it will confuse the issues and the jury; and it will waste time. Such testimony would also be wholly speculative. Dr. Dawson provides no support for any conclusions related to this disclosure. He shows no knowledge of the purported drug use and, if it occurred, when, the amounts, or other factors that would affect his opinion, including but not limited the aforementioned factors in relating to gestational age. Pursuant to Rules 401, 403 and 702 of the Idaho Rules of Evidence, Dr. Dawson should be precluded from presenting all such testimony.

⁶ See Ex. A. to Aff. of Counsel, pp. 2-19.

⁷ See Ex. A, to Aff. of Counsel, pp 20-10.

⁸ Ex. A to Aff. of Counsel, pp. 15.

9. The Defendants Should Be Prevented from 11th Hour Admission of Liability

Throughout this litigation, and as of the date of this motion, the Defendants have denied all liability for the death of Bradley Munroe. The Defendants' denials have forced the Plaintiff to engage in extensive discovery and incur significant discovery and expert witness costs in order to prove that the Defendants' denials of liability are without support.

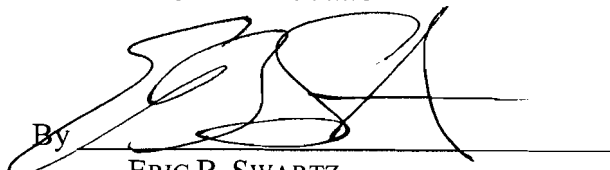
The Defendants should be prevented from changing their position on liability. To allow them to do so would be to condone behavior that was designed to increase the costs of this litigation and harass the Plaintiff. Defendants should not be able to benefit from this behavior during pre-trial, or at trial, and to that end they should be prevented from admitting liability at trial in an attempt to garner favor with the jury. Defendants have chosen their position in this litigation, and they should be required to live with it through trial.

10. Reservation of Rights to File Additional Motions in Limine

The last day to initiate discovery in this matter is not until December 24, 2010. There are a number of depositions that are currently scheduled to take place between now (the deadline for Motions in Limine) and then. The Plaintiff, therefore, reserves the right to file additional, pre-trial evidentiary objections and requests for evidentiary determinations upon learning of matters that are appropriate for such a pre-trial filing.

DATED this 26th day of November, 2010.

JONES & SWARTZ PLLC

By 

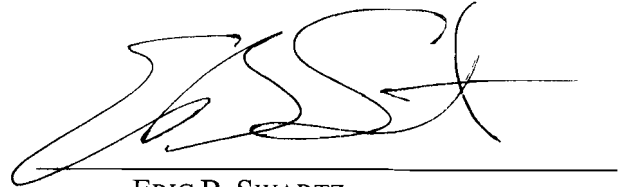
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November, 2010, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

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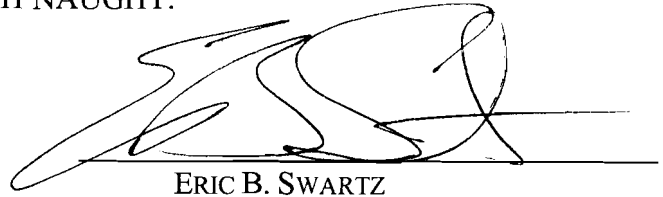


ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

2. I am counsel of record for Plaintiffs Rita Hoagland and the Estate of Bradley Munroe in the above action.

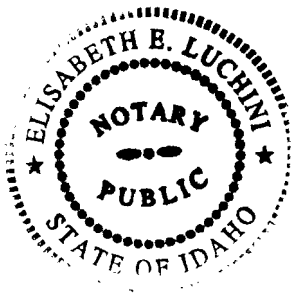
3. Attached hereto as Exhibit A is a true and correct copy of Defendants' Expert Witness Disclosure. Bates numbering has been added for reference purposes.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



ERIC B. SWARTZ

SUBSCRIBED AND SWORN TO before me this 26th day of November, 2010.




Notary Public for Idaho
My Commission Expires 7.8.12

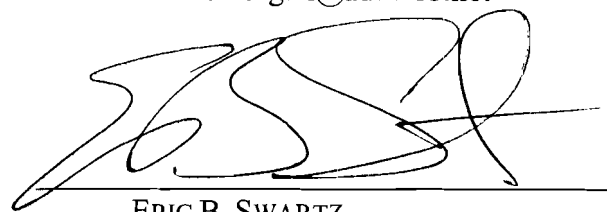
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SA



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney
RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

COPY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her)
capacity as Personal Representative of the)
ESTATE OF BRADLEY MUNROE,)

Plaintiffs,)

vs.)

ADA COUNTY, a political subdivision of the State)
of Idaho; ADA COUNTY SHERIFF, GARY)
RANEY, an elected official of Defendant Ada)
County and the operator of the Ada County)
Sheriff's Office and Ada County Jail, in his)
individual and official capacity; LINDA SCOWN,)
in her individual and official capacity; KATE)
PAPE, in her individual and official capacity;)
STEVEN GARRETT, M.D., in his individual and)
official capacity; MICHAEL E. ESTESS, M.D., in)
his individual and official capacity; RICKY LEE)
STEINBERG, in his individual and official)
capacity; KAREN BARRETT, in her individual and)
official capacity; JENNY BABBITT, in her)
individual and official capacity; JAMES)

Case No. CV OC 0901461

**DEFENDANTS' I.R.C.P. 26(b)(4)
EXPERT WITNESS
DISCLOSURE**

JOHNSON, in his individual and official capacity;)
 JEREMY WROBLEWSKI, in his individual and)
 official capacity; DAVID WEICH, in his individual)
 and official capacity; LISA FARMER, in her)
 individual and official capacity; JAMIE ROACH, in)
 her individual and official capacity; and JOHN)
 DOES I-X, unknown persons/entities who may be)
 liable to the Plaintiffs,)
)
 Defendants.)
 _____)

COME NOW Ada County Defendants,¹ by and through counsel, and disclose the following I.R.C.P. 26(b)(4) information about its expert witnesses:

1. Brian Mecham, L.C.S.W., D.E.
 605 N. Capital
 Idaho Falls, ID 83402

Mr. Mecham holds an Associate Degree in Criminal Justice from Rick's College, a Bachelor of Social Work Degree from Utah State University, and a Master of Social Work Degree from New Mexico State University. He is currently employed by Badger Medical as the Medical Mental Health Director at 3B Juvenile Detention Center in the Detention Clinical Program in Idaho Falls. Mr. Mecham is also the Clinical Director of Mental Health at jails in ten Idaho counties. Mr. Mecham is a Licensed Clinical Social Worker.

Mr. Mecham has provided a report, which includes his curriculum vitae and is attached hereto as Exhibit A. Mr. Mecham has not published articles in the last four years, and his testimony has been limited to being a Designated Examiner in closed mental health commitment hearings.

¹ To date, not all of the Defendants have been served, and it is not clear at this time that the Ada County Prosecuting Attorney's Office ("ACPAO") represents all of the named Defendants, although the ACPAO generally acts as legal counsel for Ada County, its various subdivisions, elected officials, and employees acting within the scope of their employment.

Mr. Mecham has reviewed the non-privileged Ada County investigation reports in this matter, Bradley Munroe's jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from earlier stays, records from Utah jails and hospitals, California medical and mental health records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records, Canyon County records, recordings of Mr. Munroe's Ada County Jail telephone calls, Idaho Department of Health and Welfare records, and Mr. Munroe's school records. Mr. Mecham has also reviewed Plaintiffs' discovery responses, including medical records, background information, and state and county criminal and medical information produced about Mr. Munroe. Further, Mr. Mecham visited and toured the Ada County Jail before issuing his opinion. Mr. Mecham will continue to be provided discovery and deposition transcripts in this matter for his review and he retains the right to supplement his opinion when more information becomes available.

It is anticipated Mr. Mecham will testify about the practice of social work in jails regarding inmate mental and medical health concerns. Mr. Mecham is also anticipated to testify regarding the practice of social work in a jail setting, comparing and contrasting it to other practices. Mr. Mecham will explain that jails are unique settings for social workers and other mental health providers.

Mr. Mecham is anticipated to testify that Mr. Munroe was a very troubled young adult. Mr. Mecham will testify about Mr. Munroe's history in jails and long-term settings, both juvenile and adult.

Mr. Mecham will testify and describe Mr. Munroe's diagnoses, describe his actions, and will testify that Mr. Munroe was anti-social, and aware of his various actions, and to what extent

treatments, including medications, can help treat (or not treat) these conditions. Mr. Mecham is familiar with Health and Welfare Department, its various mental health responsibilities and how the Department interacts with families and, in particular, how it interacted with Mr. Munroe's family. He will also testify about the interactions between Mr. Munroe and his family.

Mr. Mecham will testify that in a jail setting, social workers oftentimes conduct brief mental health assessments of inmates. He will explain that because of the nature of jails and the security requirements, inmates are not always interviewed in separate exam rooms. Further, Mr. Mecham will explain it is not unusual to see a large number of inmates with mental health issues, suicide attempts, hospitalizations, and suicidal threats and ideations. Mr. Mecham will describe the similarities of backgrounds of many inmates he has studied, observed, and assessed.

Mr. Mecham is expected to testify that sometimes jail inmates do not wish to take advantage of jail medical or mental health services, do not want to speak with a medical or mental healthcare provider, and there is often little the provider can do except respect the wishes of the inmate and observe his actions or interactions. Mr. Mecham will testify that in a dynamic environment such as a jail with individuals constantly coming and leaving, oftentimes providers conduct interviews and chart the interaction afterward.

Mr. Mecham will testify about the practices and procedures at the Ada County Jail, especially those that were in place when Mr. Munroe entered the Ada County Jail in September 2008. Mr. Mecham will testify that such practices and procedures were appropriate, reasonable, and carried out in a practical, timely, caring, and competent manner.

Mr. Mecham will explain it is not uncommon for inmates to arrive at a jail under the influence of alcohol or other substances. In jails, inmates present in a number of ways and Mr. Mecham will testify that deputies and medical personnel do their best to help the inmates. Mr.

Mecham will also testify that standard medical practice dictates that medical providers do not administer prescription medications (unless indicated for withdrawal symptoms) until staff is better able to determine the inmate's current mental and physical condition.

Mr. Mecham will testify that it is not uncommon for jail inmates to make threats (including self-harm and suicide) while under the influence of alcohol/and or drugs and when they later sober, the inmate indicates the comments were made because of the intoxication.

Based on his education, training and experience in a county jail setting, Mr. Mecham will testify that Mr. Munroe's demeanor and actions were, for the most part, not uncommon in a jail setting. Mr. Mecham has reviewed social worker James Johnson's interactions with Mr. Munroe and will testify that neither the Jail, nor Mr. Johnson were deliberately indifferent to Mr. Munroe or his medical and mental health needs.

Mr. Mecham is charging Ada County \$100.00/hr and \$150/hr for deposition and trial testimony.

2. Leslie Lundt, M.D.
P.O. Box 50653
Santa Barbara, CA 93150-0653

Leslie Lundt is a licensed psychiatrist. Dr. Lundt holds a Bachelor's Degree from Johns Hopkins University and received her Medical Degree from Rush Medical College. Dr. Lundt is board certified in psychiatry, addiction medicine, and addiction psychiatry. As a psychiatrist, Dr. Lundt has treated a number of patients, both adult and adolescent.

Dr. Lundt has provided a report, which together with her curriculum vitae is attached hereto as Exhibit B. As more information becomes available, Dr. Lundt reserves the right to amend or supplement her opinion.

Dr. Lundt's opinions are to a reasonable degree of medical certainty and are based upon her training, experience, and education as well as medical literature research she has done in this case. Dr. Lundt has reviewed the non-privileged Ada County investigation reports in this matter, Mr. Munroe's Ada County Jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from Mr. Munroe's earlier stays, records from Utah jails and hospitals, California medical and mental health records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records, Canyon County records, recordings of Mr. Munroe's Ada County Jail telephone calls, Idaho Department of Health and Welfare records (including, but not limited to, reports regarding Mr. Munroe's home environment and his relationship with his family, including his mother, his father, Mr. Gauntt, Mr. Hoagland, his sister, and girlfriends), Mr. Munroe's school records, autopsy reports and documentation, and Ada County EMS records. Dr. Lundt has also reviewed Plaintiffs' discovery responses including medical records, background information, and state and county criminal and medical information produced about Mr. Munroe. She has also reviewed medical records pertaining to Rita Hoagland including, but not limited to, Idaho Elks Internal Medicine records, St. Luke's Regional Medical Center records, West Valley Medical Center records, Terry Reilly Health Services records, and Intermountain Hospital records. Dr. Lundt will be provided discovery and deposition transcripts for her review, and reserves the right to amend or supplement her opinion as new information is provided to her.

Dr. Lundt will forward opinions about Mr. Munroe, which will provide insight into Mr. Munroe's actions throughout his life, as well as explanations about his motivations, diagnoses, and prognoses. Further, Dr. Lundt will provide opinions as to Mr. Munroe's response to different living

situations, as Mr. Munroe grew up in a chaotic environment where there was abandonment, neglect, violence to Mr. Munroe and other family members, physical and sexual abuse, as well as legal and illegal substance use and abuse. Further, Dr. Lundt will testify that there was very little stability in Mr. Munroe's home life because of his mother's influence as well as that of her husbands and boyfriends, and his mother's resistance to family therapy.

Dr. Lundt will also provide opinions about Mr. Munroe's interactions with the Ada County Jail, including the medical treatment and assistance offered and provided to him. Dr. Lundt will offer opinions about Mr. Munroe's treatment inside and outside of other jails, his behavior in various settings (including threats and attempts to self-harm), the treatment he received in Idaho, California, and Utah jails and mental health treatment centers, and the medications, prescriptions, and substances that either Mr. Munroe or others reported he used, including, but not limited to, Bupropion, Buspar, Cannabis, Lithium, Trileptal, Minocycline, Carbamazepine, Depakote, Zyprexa, Risperdal, Thorazine, Ativan, Zoloft, Clonidine, Citalopram, and Perphenazine.

Dr. Lundt will testify that Mr. Munroe presented a very complicated diagnostic picture due to the unstable environment in which he grew up and reported substance abuse since the age of nine.

Dr. Lundt will testify regarding *Axis I*: alcohol, marijuana, and nicotine dependence and that Mr. Munroe had a history of polysubstance abuse including methamphetamine, cocaine, heroin, GHB, and ketamine. She is also expected to testify that it is very difficult to diagnose bipolar disorder with any clinical certainty given Mr. Munroe's substance abuse, sociopathy, poor coping skills, and chaotic living environment. Dr. Lundt will also testify that Mr. Munroe suffered from oppositional defiant disorder as a child and conduct disorder as an adolescent.

Dr. Lunt will testify that Mr. Munroe had borderline intellectual functioning and had mixed receptive-expressive language disorder.

Regarding *Axis II*, Dr. Lundt will testify that Mr. Munroe had antisocial personality disorder and rule out borderline personality disorder.

Regarding *Axis III*, Dr. Lundt will testify that Mr. Munroe had a history of back pain.

Axis IV: Dr. Lundt will testify that Mr. Munroe had problems with his primary support group and problems related to the social environment. He had educational problems, occupational problems, housing problems, economic problems, problems with access to health care services, and problems related to interaction with the legal system and crime.

Dr. Lundt will testify that Mr. Munroe scored a 20 for *Axis V*.

Dr. Lundt will explain how she made her diagnoses, the characteristics of the same, her bases for the diagnoses, and the risk factors that accompany these conditions. Dr. Lundt will testify that there are documented instances of Mr. Munroe's anger at his mother, that at times he did not want to live in her house, that he assaulted staff members at various institutions where he was held, and that he was homeless at a very young age.

Dr. Lundt will testify about Mr. Munroe's future and his ability to provide financial and emotional support to Rita Hoagland, in relationship to his psychological challenges, his alcohol dependence, and polysubstance abuse.

Dr. Lundt will testify that neither Celexa (Citalopram) nor Perphenazine were likely to increase Mr. Munroe's likelihood of committing suicide given the characteristics of the medications, the duration they were taken, the effects of each, and the post-mortem findings of Celexa in Mr. Munroe's blood.

Dr. Lundt will testify about the standard of care in Boise, Idaho for mental health professionals. Dr. Lundt is aware from her psychiatric practice of the standard by which mental healthcare is provided by private practitioners, mental health hospitals, hospital emergency rooms, and the Ada County Jail. Dr. Lundt will testify that the system of assessment and screening utilized by the Ada County Jail is within the community standard.

Dr. Lundt will testify that based on her review of the actions of the Defendants and her understanding of each Defendant's actions and interactions with Mr. Munroe, none of them, including social worker James Johnson, were deliberately indifferent toward Mr. Munroe and/or the provision of healthcare to him.

Dr. Lundt is charging Ada County \$300.00/hr.

3. Charles Novak, M.D.
Sage Healthcare
413 N Allumbaugh St # 101
Boise, ID 83704-9219

Dr. Charles Novak is a medical doctor who has been retained by Ada County to testify in this matter. Dr. Novak received his Bachelor's Degree from St. Olaf College, his Medical Degree from the University of Minnesota, and is a practicing Boise, Idaho psychiatrist. Dr. Novak is currently the Medical Director at Intermountain Hospital, President of Sage Health Care, and President-Elect of Saint Alphonsus Regional Medical Center.

Dr. Novak's opinions are to a reasonable degree of medical certainty and are based upon his training, experience, and education as well as medical literature research he has done in this case. Dr. Novak has reviewed the non-privileged Ada County investigation reports in this matter, Mr. Munroe's Ada County Jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from Mr. Munroe's earlier stays, records from Utah jails and hospitals, California medical and mental health

records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records, Canyon County records, recordings of Mr. Munroe's Ada County Jail telephone calls, Idaho Department of Health and Welfare records (including, but not limited to, reports regarding Mr. Munroe's home environment and his relationship with his family, including his mother, his father, Mr. Gauntt, Mr. Hoagland, his sister, and girlfriends), Mr. Munroe's school records, autopsy reports and documentation, and Ada County EMS records. Dr. Novak has also reviewed Plaintiffs' discovery responses including medical records, background information, and state and county criminal and medical information produced about Mr. Munroe. He has also reviewed medical records pertaining to Rita Hoagland including, but not limited to, Idaho Elks Internal Medicine records, St. Luke's Regional Medical Center records, West Valley Medical Center records, Terry Reilly Health Services records, and Intermountain Hospital records. Dr. Novak will be provided discovery and deposition transcripts for his review, and reserves the right to amend or supplement his opinion as new information is provided to him.

Dr. Novak will forward opinions about Mr. Munroe, which will provide insight into Mr. Munroe's actions throughout his life, as well as explanations about his motivations, diagnoses, and prognoses. Further, Dr. Novak will provide opinions as to Mr. Munroe's response to different living situations as Mr. Munroe grew up in a chaotic environment where there was abandonment, neglect, violence to Mr. Munroe and other family members, physical and sexual abuse, as well as legal and illegal substance use and abuse. Further, Dr. Novak will testify that there was very little stability in Mr. Munroe's home life because of his mother's influence as well that of her husbands and boyfriends, and his mother's resistance to family therapy.

Dr. Novak will also provide opinions about Mr. Munroe's interactions with the Ada County Jail, including the medical treatment and assistance offered and provided to him. Dr. Novak will offer opinions about Mr. Munroe's treatment inside and outside of other jails, his behavior in various settings (including threats and attempts to self-harm), the treatment he received in Idaho, California, and Utah jails and mental health treatment centers, and the medications, prescriptions, and substances that either Mr. Munroe or others reported he used, including, but not limited to, Buspirone, Buspar, Cannibis, Lithium, Trileptol, Minocycline, Carbemezipine, Depakote, Zyprexa, Risperdol, Thorazine, Ativan, Zoloft, Clonidine, Citalopram, and Perphenazine.

Dr. Novak will testify that Mr. Munroe suffered from oppositional defiant disorder as a juvenile, and as a young adult he was more correctly diagnosed as anti-social personality disorder, borderline personality disorder, alcohol dependence, and polysubstance addiction. Dr. Novak will explain how he made these diagnoses, the characteristics of the same, his bases for the diagnoses, and the risk factors that accompany these conditions. Dr. Novak will also testify that Mr. Munroe was malingering, and he will explain how he made this diagnosis, the characteristics of the same, his bases for the diagnosis, and the risk factors that accompany this condition. Dr. Novak will testify that there are documented instances of Mr. Munroe's anger at his mother, that at times he did not want to live in her house, that he assaulted staff members at various institutions where he was held, and that he was homeless at a very young age. Dr. Novak will testify that Mr. Munroe's impulsivity and hyper-sexual activity in the holding cell on September 28, 2008, were consistent with his character traits and not indicia of mental illness that could be treated, thus decreasing his suicide risk.

Dr. Novak will testify about Mr. Munroe's future and his ability to provide financial and emotional support to Rita Hoagland, in relationship to his psychological challenges, his alcohol dependence, and polysubstance abuse.

Dr. Novak will testify that neither Celexa (Citalopram) nor Perphenazine were likely to increase Mr. Munroe's likelihood of committing suicide given the characteristics of the medications, the duration they were taken, the effects of each, and the post-mortem findings of Celexa in Mr. Munroe's blood.

Dr. Novak will testify about the standard of care in Boise, Idaho for mental health professionals. Dr. Novak is aware from his psychiatric practice of the standard by which mental healthcare is provided by private practitioners, mental health hospitals, hospital emergency rooms, and the Ada County Jail. Dr. Novak will testify that the system of assessment and screening utilized by the Ada County Jail is within the community standard.

Dr. Novak will testify that based on his review of the actions of the Defendants and his understanding of each Defendant's actions and interactions with Mr. Munroe, none of them, including social worker James Johnson, were deliberately indifferent toward Mr. Munroe and/or the provision of healthcare to him.

Dr. Novak's report, curriculum vitae, and prior testimony are attached hereto as Exhibit C.

Dr. Novak is charging Ada County \$300.00/hour for record reviews, patient interviews, report preparation, document preparation, and travel; \$450.00/hour for depositions and court appearances (4-8 hour blocks).

4. Gary Dawson, RPH, Ph.D, FASCP
523 No. Locust Street
Boise, ID 83712

Dr. Gary Dawson is a pharmacist and pharmacologist who has been retained by Ada County to testify in this matter. Dr. Dawson received his Bachelor's and Master's Degrees from Idaho State University and his Ph.D. in Pharmacology from the University of Alberta. Dr. Dawson is a reserve Ada County Deputy Sheriff and has familiarity with the Ada County Jail. Dr. Dawson's report and curriculum vitae are attached hereto as Exhibit D.

Cases where Dr. Dawson has testified are attached as well, except for certain criminal cases that are redacted. Those cases involve testimony which is not public and is protected from disclosure by law. Access to transcripts may be available by court order.

Dr. Dawson's opinions are to a reasonable degree of pharmacological certainty and are based on his training, education, and experience, as well as medical literature and studies he has researched to familiarize himself with the various medications, prescriptions and substances that either Mr. Munroe or others reported he used, including, but not limited to, Buspirone, Buspar, Cannabis, Lithium, Trileptol, Minocycline, Carbamazepine, Depakote, Zyprexa, Risperdol, Thorazine, Ativan, Zoloft, Clonidine, Citalopram (Celexa), Perphenazine, Benadryl, marijuana, alcohol, methamphetamine, heroin, crack, GHB, Ketamine, "Special K," and cocaine. He has also reviewed documents and information produced in this matter including non-privileged Ada County investigation reports in this matter, Mr. Munroe's Ada County Jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from earlier stays, records from Utah jails and hospitals, California medical and mental health records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records,

Canyon County records, Idaho Department of Health and Welfare records, autopsy reports and documentation, Ada County EMS records, and Mr. Munroe's school records. Dr. Dawson has also reviewed Plaintiffs' discovery responses including medical records, background information, and state and county criminal and medical information produced about Bradley Munroe. Dr. Dawson will continue to be provided with discovery and deposition transcripts for his review, and reserves the right to supplement or amend his opinion as new information is provided to him.

Dr. Dawson will testify that he is familiar with the prescription and non-prescription medications and substances (both legal and illegal) Mr. Munroe had ingested, taken, or used throughout his life, as described in the records obtained by both Plaintiffs and Defendants, including but not limited to Buspirone, Buspar, Cannabis, Lithium, Trileptol, Minocycline, Carbamazepine, Depakote, Zyprexa, Risperdol, Thorazine, Ativan, Zoloft, Clonidine, Citalopram (Celexa), Perphenazine, Benadryl, marijuana, alcohol, methamphetamine, heroin, crack, GHB, Ketamine, "Special K," and cocaine; and the absorption, distribution, metabolism, excretion and effects of each, including any potential and/or actual short and long-term effects of starting, using or discontinuing any of the above. Dr. Dawson will testify as to how the use of any of the above medications or substances may have affected Mr. Munroe physically, mentally and emotionally, including side-effects, as well as how their use may have altered his life. Dr. Dawson will also testify as to all of the medications prescribed to Mr. Munroe but not administered, filled or taken and the potential beneficial effects that Mr. Munroe might have experienced had he taken them.

Dr. Dawson will also testify about the half-life of Citalopram (and metabolites) and Perphenazine and the effects of each, the ongoing beneficial effects of each (even when none is

recently taken), as well as the useful level of Citalopram found in Mr. Munroe's blood post mortem. Further, Dr. Dawson will testify as to the very low incidence of suicide attributable solely to the taking and/or stopping of either and/or both of the above prescriptions. Dr. Dawson will also forward opinions regarding drug interactions – including legal and illegal substances.

Dr. Dawson has reviewed the interactions between the various Defendants and Mr. Munroe in the Ada County Jail during all of Mr. Munroe's incarcerations. Dr. Dawson will testify that he would not have recommended prescribing or administering Celexa and/or Perphenazine to Mr. Munroe on September 28 or 29, 2008, and the reasons therefore.

Dr. Dawson has reviewed the instances reported of Rita Hoagland's use of prescriptions, medications, and marijuana. Dr. Dawson is expected to provide testimony and opinions about the absorption, distribution, metabolism, excretion, and effects of any of the above on Ms. Hoagland physically, and to the extent any and all could/would affect her life or the life of her unborn child.

Dr. Dawson is charging the County \$90.00/hour and \$190/hr for deposition and trial testimony.

5. Daniel B. Kennedy, Ph.D, C.P.P., C.S.P.
Forensic Criminology Associates, Inc.
1664 Rolling Woods Drive
Troy, MI 48098-4385

Dr. Kennedy holds both a B.A. and M.A. in Sociology, as well as his Ph.D. in Educational Sociology from Wayne State University. Dr. Kennedy is currently the principal consultant for Forensic Criminology Associates as well as an Emeritus Professor of Sociology and Criminal Justice at the University of Detroit Mercy. Dr. Kennedy is a Licensed Master's Social Worker. Dr. Kennedy has been a special reserve deputy sheriff, has trained sheriff's deputies, and consulted with sheriff's departments. Dr. Kennedy relies upon his experience as a probation officer, counselor, and social worker.

Dr. Kennedy has provided a report, which together with his curriculum vitae is attached hereto as Exhibit E.

Dr. Kennedy's opinions are based on his training, experience, and education as well as research he has done in this case. He has also reviewed documents and information produced in this matter and set out in his report including, but not limited to, non-privileged Ada County investigation reports in this matter, Mr. Munroe's jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from earlier stays, records from Utah jails and hospitals, California medical and mental health records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records, Canyon County records, recordings of Mr. Munroe's Ada County Jail telephone calls, Idaho Department of Health and Welfare records, and Mr. Munroe's school records. Dr. Kennedy has also reviewed Plaintiffs' discovery responses, including medical records, background information, and state and county criminal and medical information produced about Mr. Munroe. He will continue to be provided discovery and deposition transcripts in this matter for his review, and reserves the right to amend or supplement his opinion when he receives further information.

Dr. Kennedy will testify consistent with his attached report that he has reviewed a number of documents provided by Plaintiffs and Defendants in this matter and has toured the Ada County Jail.

Dr. Kennedy will testify that the Ada County Jail had a responsibility to provide mental health services to inmates, and in this case they did.

Dr. Kennedy will testify that the health care policies at the Ada County Jail are constitutional, and that the Jail was and is accredited by the Idaho Sheriff's Association.

Dr. Kennedy will testify that no Defendant was deliberately indifferent to Mr. Munroe's medical needs.

Dr. Kennedy will testify that the County's deputies are well trained by the P.O.S.T. Academy and ongoing training provided by Ada County.

Dr. Kennedy will testify that suicide is nearly impossible to predict and that statistically it is very rare.

Dr. Kennedy will testify that jail deputies must be attentive to certain answers in screening and booking forms, and in the case at bar the Jail deputies appropriately notified the Health Services Unit. The Health Services Unit sent a mental health professional to see Mr. Munroe. That masters level social worker (James Johnson) reviewed earlier records, spoke to and observed Mr. Munroe.

Dr. Kennedy will testify that the social worker's decisions fell within the range of reasonable professional discretion.

Dr. Kennedy is charging Ada County \$350.00/hour.

6. Thomas Rosazza
Rosazza Associates, Inc.
P.O. Box 26053
Colorado Springs, CO 80936-6053

Mr. Rosazza holds a Bachelor's Degree from Providence College and received his Master of Education from the University of Hartford. Mr. Rosazza is an expert in jail suicide.

Mr. Rosazza has provided a report, which together with his curriculum vitae is attached hereto as Exhibit F.

Mr. Rosazza's opinions are based on his training, experience, and education as well as research he has done in this case. Mr. Rosazza's experience includes management of correctional programs, investigations in and inspections of jails, prisons, police lock-ups, and court holding

facilities; development and monitoring of standards for state and national agencies and professional organizations; jail consulting projects across the United States; active involvement in professional organizations to include chairing committees, participation in conferences, and review of articles for publication in professional journals; membership on the American Correctional Association revision committee for *Standards for Adult Local Detention Facilities*; the development of training monographs; authoring the *Jail Inspector's Manual* for the National Institute of Corrections; co-authoring the *Report Writing* and *Correctional Management* correspondence courses for the American Correctional Association; and familiarity with and contribution to professional literature. He has also reviewed documents and information produced in this matter including, but not limited to, non-privileged Ada County investigation reports in this matter, Mr. Munroe's jail records, booking records, Health Services Unit records, Saint Alphonsus Regional Medical Center records, Boise City Police records, Ada County Jail records from earlier stays, records from Utah jails and hospitals, California medical and mental health records, Terry Reilly medical records, Idaho Elks records, Idaho Department of Juvenile Corrections records, Intermountain Hospital records, Canyon County records, Idaho Department of Health and Welfare records, and Mr. Munroe's school records. Mr. Rosazza has also reviewed Plaintiffs' discovery responses, including medical records, background information, and state and county criminal and medical information produced about Mr. Munroe. Mr. Rosazza will continue to be provided discovery and deposition transcripts in this matter for his review, and reserves the right to amend or supplement his report after receiving further information.

Mr. Rosazza's opinions, as set-out in the attached report, are that the Ada County Jail officials' commitment to pursue and comply with state and national standards of care is evidence of their conscious attentiveness to provide a safe environment for and to protect Mr. Munroe, and in

this case the Ada County Jail staff complied with Ada County Jail policies and procedures addressing intake suicide screening, referral to mental health authorities, observation of potentially suicidal inmates, and emergency intervention. Such is evidence of Ada County Jail staff's conscious attentiveness to their duty to provide a safe environment for and to protect Mr. Munroe.

Mr. Rosazza will also testify that it was reasonable for deputies to rely on social worker James Johnson's assessment of Mr. Munroe; the Ada County Jail staff was knowledgeable of their responsibilities for suicide screening referral, observation and emergency response and demonstrated it in this case; and the emergency response to Mr. Munroe's suicide was consistent with accepted correctional standards and practices.

Mr. Rosazza will also testify that Mr. Munroe's behavior when in Cellblock 7 was unremarkable and not indicative of suicide.

Mr. Rosazza is charging Ada County \$250.00/hr, \$350/hour for depositions (\$1,000 minimum), \$150/hour for travel time (\$800.00 minimum), and actual travel expenses.

7. Glen Groben, M.D.
Ada County Coroner's Office
5550 Morris Hill Road
Boise, ID 83705

Dr. Groben has not been hired as an Idaho Rule of Civil Procedure 26(b)(4) expert witness; rather, he is the Board Certified Forensic Pathologist who performed the autopsy on Mr. Munroe. Dr. Groben's opinions are contained in the previously shared Autopsy Report he authored. The document contains the toxicology screen performed, the results of that testing, the gross anatomic description of the autopsy, as well as Dr. Groben's opinion as to Mr. Munroe's cause of death. His report and curriculum vitae are attached hereto as Exhibit G.

Dr. Groben's opinions and testimony will be based upon his training, education, and experience; medical literature research he has conducted in this case, information shared with

him by the Ada County Sheriff's Office, information from Mr. Munroe's family, his examination of Mr. Munroe's body, information gathered from the specimens collected, the laboratory results from testing of collected femoral blood and microscopic observations of tissue, including the findings of a therapeutic amount of Celexa in Mr. Munroe's post-mortem blood sample.

Dr. Groben has not authored any publications in the last ten years.

Dr. Groben has testified in a number of criminal trials in Ada and surrounding counties.

He has testified in civil proceedings, and has been deposed in connection with those matters.

Testimony	2004	2005	2006	2007	2008	2009	2010
Deposition	1	1	2	0	2	1	1
Civil Case	0	0	1	2	1	0	1
Criminal Case	8	21	7	24	8	11	7
Inquest	2	0	1	0	0	0	0
Evidentiary	0	0	1	0	0	0	1

Dr. Groben is not charging the County for his work in this matter, pursuant to his employment. Dr. Groben does charge for depositions and may charge for courtroom testimony.

8. Non-I.R.C.P. 26(b)(4) experts:

a. Although not retained by Ada County as I.R.C.P. 26(b)(4) experts, Defendant Dr. Michael Estess is an expert in correctional psychiatry and will testify regarding correctional psychiatry in general (in both prison and jail settings) as well as all matters surrounding Mr. Munroe's medical and psychiatric issues, family issues, incarcerations (Ada County and elsewhere), as well as the actions of the Ada County deputies, Ada County Jail Health Services employees, Ada County policies, and the Ada County Jail Health Services Unit's involvement in this matter. Dr. Estess is familiar with Social Worker Jim Johnson, Kate Pape, and other Health Services Unit employees and will

offer opinions as to their actions and the Ada County Jail Health Services Unit's involvement. Dr. Estess will testify that no Defendant was deliberately indifferent to Mr. Munroe's medical or mental health needs.

b. Although not hired as I.R.C.P. 26(b)(4) experts, James Johnson, Kate Pape, Karen Barrett, David Weich, and Lisa Farmer are all experts in their areas of correctional medication, physicians' assistants, social work, medical attending, and nursing. All of them will testify as to their work, any interactions they had with Mr. Munroe, aspects of correctional healthcare, and that none of them acted deliberately indifferent toward Mr. Munroe.

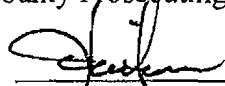
c. Although not hired as I.R.C.P. 26(b)(4) experts, Linda Scown, Aaron Shepherd, and Gary Raney are all career law enforcement employees and each is an expert in law enforcement and corrections, as well as management and law enforcement aspects of operating a jail, including to some extent, expectations of a jail health services unit. They will testify as to their areas of expertise and that no Defendant was deliberately indifferent to any aspect of Mr. Munroe's stays in the Ada County Jail.

d. Other professionals who saw Mr. Munroe in their professional roles will testify to Mr. Munroe's actions while living at home compared to living in various structural settings. Those professionals will testify, consistent with their reports about Mr. Munroe's home life, including his difficult and strained relationship with his mother.

DATED this 10th day of November 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By:



James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of November 2010, I served a true and correct copy of the foregoing DEFENDANTS' I.R.C.P. 26(b)(4) EXPERT WITNESS DISCLOSURE to the following persons by the following method:

Darwin L. Overson

Eric B. Swartz

Jones & Swartz, PLLC

1673 W. Shoreline Drive, Suite 200

P.O. Box 7808

Boise, ID 83707-7808

Hand Delivery

U.S. Mail

Certified Mail

Facsimile (208) 489-8988

Robert Meyers

EXHIBIT A

BRIAN MECHAM, L.C.S.W., D.E.

Brian Mecham, LCSW, DE
605 N. Capital
Idaho Falls, ID. 83402
208-529-1315 Ext. 5123
brianbmecham@gmail.com

The purpose of this document is to render an opinion of the performance of the Ada County Jail employees and their management of the suicide of Mr. Brad Munroe. I will specifically address the role of the Social Worker.

In order to provide an opinion, I have reviewed the following:

1. Intermountain Hospital Records 2001-2008
2. 2003-2006 Juvenile Probation Records
3. Idaho Department of Juvenile Corrections Medical Records/Incident Reports
4. Mini-Cassia Juvenile Detention Center Incident Reports
5. Idaho Youth Ranch Incident Reports/Records
6. Liberty Boys Ranch Incident Reports/Records
7. IDJC St. Anthony Incident Reports/Records
8. Patriot Center Progress Letters
9. Canyon County Detention Center Records
10. Terry Reilly Medical Records
11. St. Alphonsus Medical Records
12. Mercy San Juan Medical Center Records
13. Weber County Correctional Facility Records
14. University of Utah Health Care Records
15. Ada County Jail Medical Records
16. Ada County Jail Incident and Supplemental Reports
17. Boise Police Department Reports and Records
18. 4 CD's of Phone Calls
19. Nathan Powell Expert Report
20. Metzner Expert Report
21. White Expert Report
22. Site Visit of Ada County Jail, Nov. 2010
23. Inside the Criminal Mind, Stanton Samenow, 1984 Printing

Education:

- Associate Degree in Criminal Justice- Ricks College, Rexburg, Idaho
- Bachelor of Social Work Degree- Utah State University, Logan, UT.
- Master of Social Work Degree- New Mexico State University, Las Cruces, NM.
- Licensed Clinical Social Worker

Qualifications Pertinent to this Case:

1997-1998: Federal Correctional Institution La Tuna, Texas/New Mexico

- Case Management Intern
- Interview Inmates and Review Pre-Sentence Investigation
- Prepare detailed progress reports for Federal Bureau of Prisons
- Counseling of Inmates

2001-2004: Idaho Department of Health and Welfare, Idaho Falls

- Crisis Team Clinician
- Responded to Suicide calls in community as part of Mobile Crisis Unit
- Designated Examiner and Dispositioner for the State of Idaho
- Crisis Counseling and Intervention for clients with severe and persistent mental illness.

2004-Present: Badger Medical Mental Health Director, Idaho Falls

- Clinical Director of Mental Health over 10 County Jails
- Provide Suicide Evaluations and safety plans for inmates
- Provide mental health and substance abuse treatment for inmates
- Clinical Supervision of 3 other Clinicians in various facilities
- Administration of Policies and Procedures for NCCHC qualification in the Bonneville County Jail.
- Suicide Prevention and Emotional Wellness training for Staff
- CISM Debriefing for Inmates and Staff when needed
- Provide Designated Exams for 7 of the County Jails

2006-Present: 3B Juvenile Detention Center; Detention Clinician Program, Idaho Falls

- Develop procedures for mental health services in the center
- Assisted in starting the program in all detention centers in the State including Fort Hall.
- Suicide evaluations and staff training
- Family Therapy
- Case Management with Probation and Juvenile Judges

Compensation for this case: \$100 per hour for all matters pertaining to this case.
\$150 per hour for deposition and testimony

Case Summary:

After reviewing the above records it is evident Mr. Bradley Munroe was a very troubled young man. He made many poor choices in the short life he lived.

Brad spent much of his adolescent years either incarcerated in Juvenile Detention Centers, in the custody of Idaho Department of Juvenile Corrections, or in psychiatric treatment hospitals.

In reviewing the records one thing is very clear; Brad Munroe never got better. After all of the treatment, the hundreds of thousands of dollars put into psychiatric, and correctional treatment he rarely showed improvement. We can read incident report after incident report where Brad would continually abuse staff, peers and deputies trying to provide treatment and care for him. Everywhere Brad went he created chaos, and rarely ever accepted accountability for his behavior.

When Mr. Munroe was booked into the Ada County Jail on September 28, 2008 he was very intoxicated. At the time of his incarceration he was placed on observation, and suicide watch which was very appropriate. He exhibited severe behavior problems when he was brought into the jail by urinating, and masturbating in the cell (which he bragged about and laughed about the next day to his girlfriend on the phone).

The next morning, after being on a watch overnight, Social Worker James Johnson went to visit with Mr. Munroe. This visit was apparently about 4 minutes long. During that time Mr. Johnson was able to see Brad's mood, affect, health, and overall mental status. He was also able to obtain information that Brad was not suicidal. I have conducted hundreds of these kinds of interviews in County Jails and know a lot can be learned in a short amount of time.

It is also noted Brad was not very compliant with the interview. I have experienced this type of reception as well and will rarely force patients to talk to me. Only in times which there are indirect signs of suicide will I keep them on a watch. Many intoxicated inmates make superficial attempts at suicide when first booked into jail. Mr. Munroe was on suicide watch while he was high risk.

Besides visiting with Mr. Munroe, Mr. Johnson had the benefit of the Jail Deputies who had been observing the Patient overnight for several hours. Their information was likely influential in making the decision to clear Mr. Munroe from suicide watch.

Having visited the Ada County Jail recently, it is very apparent that their booking and housing procedures are careful and thorough. They are very cautious in where they house inmates.

Mr. Munroe told the deputies he needed to be in a Protective Custody (PC) dorm. Based on his behavior the prior day Mr. Munroe needed to be in Protective Custody for the safety of others. Despite trying to manipulate the officers to place him in General Population, he ended up in Protective Custody housing.

During his stay on the September 29, 2010 he made 3 consecutive phone calls to his girlfriend, "Kat". In the first 2 phone calls he made several comments which were forward thinking and would indicate he was planning on being incarcerated, not dying. He states he wants to quit drinking when he gets out, wants to get mental health court, and "just do my time". In the last phone call he seemed to be trying to get the opinion of Kat if they should break up or not. Kat was in agreement that they should break up their

relationship. It was after this Mr. Munroe mentioned suicide. I believe he made these comments to attempt to save the relationship, and see if Kat still cared about him.

Stanton Samenow indicates a scenario such as this in his book "Inside the Criminal Mind". I quote: "An alternative to change is suicide. Some criminals had suicidal thoughts on the streets when things weren't working out. In confinement, an inmate's state of mind is such that he is despondent over the meaninglessness of his life and he is also raging at a world that he thinks never gave him a fair shake. Sighed one inmate who was considering suicide, "I wouldn't have to put up with shit anymore." Samenow goes on to say "Certainly, suicidal gestures dramatizing the inmate's plight are more common. A heavy but not lethal dose of drugs, a wrist slashing with a crude, handmade knife, or an inept job of hanging himself compels others to take notice and do something to help him."

Brad did have prior suicide attempts such as those listed above. He had mental health issues which we know were being treated in his prior incarcerations in the jail and in the community. We also know he had years, and years of unsuccessful mental health and substance abuse treatment prior to September 29, 2008.

The documentation indicates Brad had several different Axis I diagnoses which range from Schizoaffective Disorder to Bipolar to ADHD. I am not saying he did not have these, I am saying the Axis II diagnosis was primary. I believe the reason Brad really never showed any progress in treatment is because his primary diagnosis was first Conduct Disorder, which later evolved into Antisocial Personality Disorder. This is why medication and therapy really never seemed to work for Brad. His behavior was always the fault of someone else. The rules did not apply to him.

In a County Jail it is not just one person who makes a decision to take someone off suicide watch. This is done as a team. I have had numerous occasions where I will take a Patient off of suicide watch and the deputies will not feel comfortable about it. They will keep him/her on the watch. In this case, it is very clear the right questions were asked by the correct staff. The medical and correctional staff were confident in their decision to place Mr. Munroe in PC. They were aware of the mental health concerns, assessed them, and proceeded appropriately with the information they had.

Mrs. Hoagland, Brad's mother, called medical staff a short time after Mr. Johnson spoke with Brad. The information she gave was not new information. I would like to say that I would have gone back to see Brad, or I would have put him on Suicide precautions, but I am not sure. Brad was seen, evaluated for suicidal ideation, and stated he was not suicidal and did not want treatment at that time. His request was honored.

If there is an area that could be improved upon, it is in the documentation. Mr. Johnson could have used all areas of the S.O.A.P note, and could have been more thorough in his documentation. The fact is that there was documentation. It was written down and that is what matters.

The brief interview conducted by Mr. Johnson is not something you would do in an outpatient clinic, or a psychiatric hospital or even a prison. County Jail Social work is a different setting. Most visits are done in the open, in the cell of the booking area, at a table in a common area or at the booking table. We use what we have, and most jails aren't equipped for confidentiality, they are equipped for safety and security. Being in the open is the safest place to be. Many times the visits are brief and focused due to the high number of patients requiring services. That is why a team approach is used when managing suicidal inmates.

Conclusion:

This is NOT a case of Deliberate Indifference. The jail staff knew of the mental health issues, placed the patient on suicide watch, and monitored the patient. A mental health professional spoke to the patient, cleared him and detention staff placed him in appropriate housing at the time.

Mr. Munroe's death is an unfortunate loss, however, the only place to point the blame is on the behavior that plagued Brad and his family for most of his life...that of extremely impulsive, manipulative, and selfish behavior.

This report is not intended to be a final statement of my opinions. I reserve the right to expand, modify or otherwise amend my opinions at any time as the discovery process in this matter proceeds.

I do not spend more than 1% of my professional career in activities relating to testimony in civil cases.

This document is not signed because it was electronically sent.

Brian Mecham, LCSW, DE
Mental Health Clinician

11/9/10
Date

EXHIBIT B

LESLIE LUNDT, M.D.

Psychiatric Report

Hoagland v Ada County Sheriff, et al.

Bradley Monroe DOB [REDACTED]

Documents Reviewed regarding Bradley Monroe

Canyon County Third Judicial District Court records 2000-2004

Melba School District IEP 2001

Northwest Children's Home Education Center Child Psychiatry Consultation notes
2/28/2001, 3/4/2001

Health and Welfare records 2001 - 2002

SARMC inpatient psychiatry records 4/2/01 to 4/13/01

Intermountain Hospital medical records 4/15/01 to 4/27/01

Intermountain Hospital medical records 7/29 to 8/14/2001

Intermountain Hospital medical records 4/5 to 4/17/2002

West Valley Medical Center medical records 3/6 to 3/12/2002

Idaho Elks Rehabilitation Hospital medical records 2003

Misc IDJC records 2004-2006

Melba Medical Terry Reilly Health Services medical records 10/31/2007

Sacramento County Mental Health Treatment Center medical records 3/5 to
3/10/2008

Mercy San Juan Hospital ER records 3/21/2008

Sacramento County Mental Health Treatment Center medical records 3/21 to
3/24/2008

University of Utah Hospital and Clinics Crisis Note 5/10/2008

Weber County Correctional Facility Intervention Notes 5/11/2008

Intermountain Hospital medical records Brad Monroe 8/04 to 8/05/2008

List of phone calls placed from Ada County Jail by Bradley Monroe and respective
recordings from 7/6/08 through 9/29/08

Ada County Jail Inmate Information booking dates 10/27/07, 7/4/08, 8/28/08,
9/28/08

SARMC Emergency Services admit dates 09/28/08 and 09/29/08

CorEMR Sick Calls v3.2.11

Ada County Paramedics records 9/29/08

Statements from ACJ personnel: Jim Johnson, Jeremy Wroblewski, Ryan Donelson

ACJ incident report 9/29/08 Dyer

ACJ incident report 9/29/08 McKinley

Ada County Sheriff's Department Supplemental Report 9/29/08 with CSI supplements

Ada County Coroner's Office Autopsy Report 11/20/08

Documents Reviewed regarding Rita Hoagland (mother of Bradley Monroe)

medical records: West Valley Medical Center 1995-1997

medical records: Terry Reilly Health Services 1997- 2007

medical records: Dr. Mark Weinrobe 2007-2010

Reason for evaluation

Bradley Monroe was found dead of an apparent suicide in the Ada County Jail on September 29, 2008. An evaluation of available records and phone recordings was requested by the Ada County Prosecutor's Office.

Past Significant Medical History:

Records reflect a history of back pain and acne.

Thinks he was anally gang raped as reported on 10/31/2007 medical visit.

Maternal Psychiatric History (Rita Hoagland):

Terry Reilly Health Services 07/29/99

Reports she cries easily, is not working, wants to sleep all the time but is not suicidal. Denies alcohol or drugs. + smoker. Wellbutrin started and maintained on SR 150mg BID. Requested increase dose of medicine which was denied.

Terry Reilly Health Services 07/17/00

Amitriptyline added for arthritis pain. Noted that she has had an abortion, a miscarriage and a stillbirth in the past.

Terry Reilly Health Services 02/12/2003

Long history of depression with sleep disturbance and anxiety. She feels sad much of the time and has had suicidal thoughts. She has taken Wellbutrin and amitriptyline erratically. Zoloft 50mg started.

Terry Reilly Health Services 09/24/2003

Given 30 days of Paxil 20mg.

Terry Reilly Health Services 03/04/2004

Visual disturbance, anxiety and depression. Again advised to be consistent with antidepressants (has Wellbutrin and amitriptyline).

Terry Reilly Health Services 03/30/2005

Still smoking cigarettes, denies alcohol or drug use. On Wellbutrin.

Mark Weinrobe, MD 12/17/2008

History of depression, but feels grief is appropriate and hasn't slipped into a severe depression. Good days and bad days. Lorazepam prn.

Mark Weinrobe, MD 2/18/2010

Mood up and down. Under a lot of stress due to lawsuit. On citalopram 20mg. Dealing with it as well as can be expected.

Past Psychiatric History (Bradley Monroe):

Bradley (aka Brad) began having behavioral, emotional and academic problems early in life. This led to being placed in a special education program at the Northwest Children's Home Educational Center in Nampa, ID and evaluation by Stephen Hill, PhD. Despite intensive services he began what become a long history of psychiatric hospitalizations in 2001.

SARMC Inpatient stay 4/2 to 4/13/2001

Mr. Monroe was admitted as a 12 year old because of increasingly oppositional behavior, irritability and lability. He was making threatening comments to his mother and younger siblings. He was physically aggressive towards family and teachers. He had been talking about wanting to kill himself and others.

Discharge diagnosis: Oppositional Defiant Disorder, Intermittent Explosive Disorder, Dysthymic Disorder R/O Other mood disorder, Parent/child relational problems, Borderline intellectual functioning.

GAF improved from 30 to 50 during hospitalization.

Medications received: Haldol, Benadryl, Ativan, Zoloft, clonidine.

DC meds: Zoloft and clonidine.

Attending physician: Richard Pines, DO

Intermountain Hospital Inpatient stay 4/15 to 4/27/2001

Mr. Monroe was admitted as a 12 year old because of out of control behavior, agitation and aggressiveness. He alleged that his stepfather was trying to kill him.

Psychological testing from Dr. Eisenbeiss: severe ODD with strong possibility of conduct disorder, high probability of PDD, psychotic functioning, probable atypical psychotic disorder, strong possibility of ADHD. WISC in 1996 FSIQ 76, 1998 FSIQ 89, in hospital FSIQ 64 but was considered invalid as Brad's effort was questioned.

Discharge diagnosis: Oppositional Defiant Disorder and probable bipolar affective disorder.

GAF improved from 20 to 39 during hospitalization.

Medications included: Thorazine, Ativan, Zoloft, Depakote, Zyprexa, clonidine.

DC meds: Depakote and Zyprexa.

Attending physician: Kristina Harrington, MD

Intermountain Hospital Inpatient stay 7/29 to 8/14/2001

Mr. Monroe was once again admitted as a 12 year old because of out of control behavior, throwing rocks at his mother and car, hitting the dog and his sister, breaking windows and threatening to kill mother's boyfriend.

Discharge diagnosis: provisional bipolar affective disorder, Oppositional Defiant Disorder and R/O schizoaffective disorder, bipolar type, R/O PDD NOS.

GAF improved from 25 to 39 during hospitalization.

Medications included: Thorazine, Ativan, Depakote, Zyprexa, Topamax, Trileptal, Risperdal.

DC meds: Topamax, Trileptal, Risperdal. State Hospital placement was recommended but mother strongly opposed this placement.

Attending physician: Kristina Harrington, MD

West Valley Medical Center Inpatient stay 3/6 to 3/12/2002 (records appear incomplete)

Mr. Monroe was admitted for the fourth time, now as a 13 year old, because he was agitated, threatening harm to his father (threw a TV tray at him) and noncompliant with house rules. ER reports that mother is rather dysfunctional, putting her hands around his neck and shook him, perhaps "choked him". Mother reportedly stopped his meds because she wanted to "go natural".

Discharge diagnosis: bipolar disorder, mixed type, ODD, Narcissistic spectrum personality.

GAF on admission 35.

DC meds: Zyprexa, Trileptal.

Attending physician: Lawrence Banta, MD

Intermountain Hospital Inpatient stay 4/5 to 4/17/2002

Mr. Monroe was admitted for the fifth time when as a 13 year old because he took a sharp butcher knife and threatened his father. He trashed his room, ran away from home.

Discharge diagnosis: bipolar disorder, mixed type, ODD, Narcissistic spectrum personality.

GAF improved from 27 to 28 during hospitalization.

Medications received: Thorazine, Benadryl, Lithobid, Eskalith, Zyprexa, Trileptal.

DC meds: Zyprexa, Trileptal, Eskalith.

Attending physician: John Burns, MD

Brad spent the years of 2002 -2006 in and out of Idaho youth correctional facilities including:

Nampa Boys Home June 2002 to February 2003

Psychosocial Rehabilitation WVMC April 2003

Idaho Elks Rehabilitation Hospital 09/10/2003 Sandra Wood, MS, CCC-SLP

Speech and language therapy evaluation - diagnosis expressive and receptive language disorder. Recommendations are for weekly speech and language therapy.

Idaho Elks Rehabilitation Hospital 11/18/2003 Dennis Woody PhD

Neuropsychological evaluation concluded low average to deficient scores in intellect, memory and perceptual-motor ability. A stable and consistent environment is recommended.

JDC commitment 2003-2006 SWIJDC 01/06/2004 Arnold Hammari, LCSW

Evaluated after incident where Brad assaulted his stepfather with an axe because he was angry that stepfather had been choking him because he wouldn't take a shower.

Diagnosis: Conduct Disorder, r/o PTSD, history of provisional diagnoses including Bipolar, ADHD, and Psychotic Disorder NOS. History of expressive and receptive language disorder. "It is likely that his chaotic environment caused many of his behavioral problems." "Parents must be held accountable for providing a stable environment. Parents should undergo UA to verify compliance."

Sacramento County Mental Health Treatment Center 3/5 to 3/10/2008

At 19 years old, Mr. Monroe was admitted on a 5150 (CA involuntary commitment) as danger to self when he intentionally cut his arm. He was using methamphetamine, crack and marijuana at the time. He accused his mother's ex-boyfriend of shooting him with drugs and raping him.

Discharge diagnosis: psychotic disorder NOS, polysubstance dependence

GAF improved from 25 to 51 during hospitalization.

Medication received: Abilify.

DC meds: Abilify.

Mercy San Juan Hospital ER 3/21/2008

Mr. Monroe took 30 tablets of Abilify in a suicide attempt. Toxicology screen was positive for marijuana. Transferred to Sacramento County Mental Health Treatment Center for psychiatric inpatient admission.

Sacramento County Mental Health Treatment Center 3/21 to 3/24/2008

Mr. Monroe hospitalized following Abilify overdose. No evidence of psychosis or mood symptoms.

Discharge diagnosis: polysubstance dependence and personality disorder NOS.

GAF improved from 30 to 50 during hospitalization.

Medication received: Prozac.

DC meds: None

University of Utah Hospital and Clinics Crisis 5/10/2008

Mr. Monroe called 911 and stated that if he didn't get out of UT and back to Idaho he was going to kill himself. He reported drinking heavily and waking up in SLC. He alleged that he was kidnapped by "people" which resulted in his emergency call. He acknowledged cocaine and marijuana use. He denied taking any prescribed psychiatric medications at the time. Attending physician: Deborah Battaglia, MD

Weber County Correctional Facility Intervention 5/11/2008

Mr. Monroe cut himself to facilitate a change in location to a 2-man cell within jail. Denied taking current psychiatric medication.

"Anxiety and depression issues" were noted in the record. Denied suicidality, cut himself in a manipulation to change cells.

Intermountain Hospital Inpatient stay 8/04 to 8/05/2008

Mr. Monroe was admitted as a 19 year old because he went off his medication and was abusing alcohol heavily and marijuana.

Discharge diagnosis: schizoaffective disorder, most recent episode depressed. Possible bipolar disorder history. Possible PTSD. Marijuana dependence, alcohol abuse. Cocaine and methamphetamine abuse in remission.

GAF 52.

Medications received: Zyprexa, Trilafon, Celexa.

DC meds: Trilafon and Celexa.

Attending physician: Stephen Bushi, MD

Ada County Jail Mental health Note 9/1/08 from Jim Johnson, MSW

Mr. Monroe "reports that he had long history of treatment for mental disorders – currently treated with Trilafon and Celexa. He believes that his symptoms are well-controlled on his medications. Denies suicidal ideation or intent. Has no complaints at this time."

Ada County Sheriff's Office Supplemental Report Interview with Rita Hoagland
9/30/08

Rita was concerned that her son was put in a cell by himself and in a cell with bunk beds because of his past history. He said that he was severely molested as a child, and he was a very troubled young man.

Most recent medications:

ACJ medical records reflect citalopram 20mg daily and perphenazine 8mg nightly given August 29-Sept 26, 2008.

Substance Use History:

Alcohol use began ~ age 9

Medical records report Mr. Monroe used methamphetamine, marijuana, heroin, crack cocaine, GHB, Ketamine, mushrooms and smoked cigarettes.

Social history:

- Intermountain Hospital Records 04/17/01

Mother reported difficulties at birth. Walked at 15 months. Speech problems with speech therapy. Mother questioned sexual abuse. Academic problems - grades going from Cs in fourth grade to Ds in sixth grade. Abuse and violence in the family. Family history of depression and bipolar disorder. Alcohol, drug and sexual abuse in family.

- Intermountain Hospital Records 07/29/01

Biological parents divorced when Brad was a baby. Father lives in Oregon. Brad lives with his mother (Rita), his half sister and his mother's boyfriend whom he refers to as his stepdad. Family psychiatric history is reported as negative in PE.

Mother had toxemia and a blood clot while pregnant with Brad. He was delivered via emergency C-section.

Paternal aunt with schizophrenia and manic depression according to mother. Mother depressed, sister sexually abused by her father, father alcoholic in past, paternal grandparents alcoholic.

- Health and Welfare records 09/26/01

Photos of black eye and bump on head perpetrated by mother's boyfriend (Greg Hoagland).

- West Valley Medical Center Inpatient 3/6/2002

Mother reports Brad's grandfather died by suicide. Paternal aunt with depression.

- Intermountain Hospital Records 04/17/02

Mother has history of drug use. Maternal grandfather depression. Father previous drug use. Brad alleges that father has hit him in the past.

- SWIJDC 01/06/2004

Brad reports his mother has smoked marijuana since she was a teenager and his stepfather used to feed him whiskey and beer since age of 9.

- IDJC Supplemental Report from Kris Evans

Rita Hoagland was ordered to attend and complete the Parent Project program which was not done. Ms. Hoagland has attempted to restrain Brad with duct tape and hit him with a spoon whenever she "could get at him". Both Mr. and Mrs. Hoagland have attempted to chase Brad down with their vehicle and have pinned him in a corner with their vehicle. Brad reported that every argument he has with Mr. Hoagland involves the use of foreign objects as well as physical contact.

- Intermountain Hospital Records 08/05/08

Brad reports he was physically abused (receiving black eyes) by his stepfather from age 11 to 14. Also reports physical abuse from mother's previous boyfriend who was an alcoholic and in prison for molesting Brad's sister. Much violence in the home, Brad witnessed the boyfriend beating up his mother.

Has lived with mother except for approximately a 5 month period when he lived with father who was abusing cocaine.

Dropped out of school in last semester of senior year. Was living with fiancée for two months before she went to the state hospital. Was homeless thereafter.

Events of 9/28/08 and 9/29/08:

SARMC medical clearance by Brandon Wilding, MD

Mr. Monroe was taken to SARMC on 9/28/08 by the BPD prior to being booked at Ada County Jail. Records reflect that he was apprehending while fleeing a robbery on a bicycle. He resisted arrest by kicking and spitting and obtained bruises to knees, elbows and back in the struggle.

Diagnosis: acute alcohol intoxication, polysubstance abuse, abrasions, chronic back pain.

Treatment: ibuprofen and transfer to Ada County Jail at 2219 on 9/28/08.

Ada County Jail Inmate Information

Booked at 9/28/08 22:59 with charges of robbery and alcohol illegal possession and consumption

Special conditions: suicide history, protective custody

Records reflect that Mr. Monroe appeared to be under the influence of alcohol. He reported taking Celexa. Positive officer observations/comments: Mr. Monroe understands questions, assaultive/violent behavior, angry or hostile behavior, stated he was seeing shadow people and hearing voices in his head, + odor of alcohol. Suicide risk questionnaire notes positive responses to past psychiatric history, suicidal ideation and attempt, current suicide contemplation and inmate's behavior suggests a risk of suicide.

Well-being log notes that he was uncooperative, a spitter, masturbating in cell, very rude and vulgar from 9/28/08 2242 to 9/29/08 0752.

9/29/08 Additional officer notes state that Mr. Monroe requested PC because a lot of people want to kill him. A seg check was set up for two days due to his past suicidal history. Jim Johnson talked with Mr. Monroe in booking that morning and concluded that he was not suicidal but was very agitated.

Mr. Monroe told officer #4756 that everyone is trying to kill him and that he cannot live with any other people, again requesting PC. He did not know the names of his enemies. He began talking to other inmates and informed the officer that he would be ok in CB7 PC.

Sick Call Notes 9/29/08 0809 Jim Johnson, MSW @ 0813

"MSW met with pt who has recent hospitalization for suicidal intent, and last night while intoxicated stated that he was having thoughts of harming himself. This

morning he denies suicidal ideation or intent. Additionally states the he does not want medical or mental health attention. Not willing to participate in full history and assessment, however contracts verbally for safety. Follow-up as indicated by staff or inmate request."

9.29.2008 first call placed from Ada County Jail by Bradley Monroe to Kat #8975239 at 08:08

What are you doing back in jail?

I f*cked up y'all. I blew a f*ng 0.287 way above legal limit and I did a robbery. Going away for some time now. Don't wait for me. Just forget about me yo cuz I'm going to prison.

K: for how long.

Don't know. I'm gonna stop drinking when I get out.

K: Who'd you rob? Are you going to Cali when you get out?

Unintelligible ... hold on

Alright.

What's up?

K: not much. Just chilling

You alright? Yeah

I didn't mean to. I'm trying to kill myself up in here. I just don't know. It's fucked up. I'm still pretty buzzed. I started out with 2 hurricanes and then boosted an 18 rack drank 6 off the top and then went and got another 20, drank 10 beers and 2 24 ounces. You know I can drink.

K: that's a lot.

I think I am going sober after I get out of here.

K: so how did you get caught?

I was on a bike. It had a flat tire. The cops took my to the hospital, put an IV on me. Stripped myself naked, tore my boxers apart wrapped the shit around my neck. Showed up in cell naked and shit started jacking off, dude was peeping up on me. Yells at guy. I was toast.

K: that's crazy

I'm going to try to go to mental health court.

K: unintelligible I have a court date Oct 3

Dude, man. F*ck. I was in the Maverick. Put the mfo money in the bag now. Etc. Got more money from the other one. Bottom line is I am going to prison and doing some time.

I wasn't even really going to Cali. I was going to stay here.

If I would have went to Cali I would have OD'd

K: do they have you on any medicine?

I don't need any pills. The only thing I want is Thorazine. I will tell them I hear voices.

I'm shaking like when you were on Lithium. My knuckles are scraped. Got in a fight with a homeboy. Had a flagpole can't tell you where I got it because call is recorded.

When I am chilling by myself I do stuff like this. I just f*k up.

I'm going to go to a single cell. I'm not going to court today. I'm stubborn I am pissed. I'll piss all over the cell. Then they took me out of that one. Felt bad for MA worker cuz he had to clean up. Should have made guards do it.

You should forget about me cuz I am going to prison. I don't need to f*k your life up. I don't want to drag your life down.

K: you are sure about that?

You are like the only thing that kept me together Dude.

I'm shaking, I can't sit still, overwhelmed and paranoid.

K: I will respect your wishes, I won't wait for you but I won't be actively looking for someone you know.

What are you saying?

K: Right now it is all about me and my daughter.

I don't want you to be like he's got two more years.

K: have you told your mom yet?

I haven't even called her.

I told her not to call you. You need to stay out of my GD business.

I got arrested right by the f*n clock tower.

I'm gonna call you right back.

9.29.2008 second call #8975334 placed from Ada County Jail by Bradley Monroe to Kat 08:23

I'm sorry I didn't mean to f*k all this off

K: I know everything happens for a reason, I just wish you didn't have to take your life down that road

I had a lotta money, I probably had a lotta money I cleared both registers out. \$300. When I drink I do stupid shit.

Remember when I talked to you when I was drinking, I black out a lot. Pretty flanked last night, I don't remember going on an ambulance. Did I tell you that?

Gotta call you back.

9.29.2008 third call #8975393 placed from Ada County Jail by Bradley Monroe to Kat 08:34

What do you think about all this?

Do you think it would be best if we just move on? K:I think so.

That's what I was thinking.

K: Is that what you wanted to talk about when you were out?

I just wanted to kick it with you.

K:I like being with you. You are cool too.

It's going to be hard to find another Italian girlfriend. <laugh>

She is sick right now, got it from my little one. She was kissing me with her mouth all the open.

"sometimes I think I should just f*ing kill myself yo for real, I think I'd be better off"

K: you don't see there's any hope you can turn your life around?

I don't. I don't think there is any way to help me. I think I am just chemically imbalanced. Bipolar all kinds of shit.

Gotta go. I'm gonna miss you.

K: I'll miss you too.

Medical Chart Note 9/29/08 1037 Laurie Robertson

Rita Hoaland (sic) called concerned that son is back in custody. She received a call from him threatening suicide. Informed Jim Johnson of phone call who reports he has already seen patient in booking. Called back mother to let her know we are aware of son's condition.

Medical Chart Note 9/29/08 1157 Lisa Farmer, RN

JICS review – on Celexa (none brought in), seen at St Al's before coming to ACJ, has history of suicidal ideation, seen at Intermountain. Inmate is OOC.

ACJ incident report 9/29/08 McKinley

Well being check at 2020, nothing out of the ordinary

Well being check at 2038, Mr. Monroe found with sheet around his neck

Sick Call Notes 9/29/08 2035

Emergency call to dorm after Mr. Monroe found unresponsive with sheet around his neck tied to bed. Paramedics transported him to SARMC.

Ada County Paramedics records 9/29/08

Paramedics arrived scene at 2043 and attempted resuscitation.

SARMC Emergency Services 9/29/08

Mr. Monroe pronounced dead at 2112 due to cardiopulmonary arrest.

Ada County Sheriff's Office Supplemental Report Interview with inmate Garrett McCoy 9/29/08

Mr. Monroe told Mr. McCoy that he got really drunk and robbed a Maverik. He also told him that he didn't think he had a lot to worry about because it was his first felony. Mr. McCoy noticed that Mr. Monroe was sharpening his comb and trying to cut his wrist but when confronted stopped cutting. McCoy did not tell anyone about this interaction until after Mr. Monroe's death.

Ada County Sheriff's Office Supplemental Report Interview with inmate Everett Cole 9/29/08

At 1400 Mr. Cole noted that Mr. Monroe was talking crazy and saying that he wasn't going to get out of jail alive. Mr. Cole did not tell anyone about this interaction until after Mr. Monroe's death.

Ada County Sheriff's Office Supplemental Report Interview with Catherine Saucier 10/01/08

Catherine (Kat) reported that Mr. Monroe had talking about killing himself in the past but there was nothing different about their last conversation. She thought he was just trying to get attention. Catherine called Mr. Monroe's mother after the phone calls.

Summary:

Bradley Monroe had an extremely chaotic childhood with multiple parental figures who inflicted physical and sexual abuse. In addition, there is a strong family history of psychiatric disorders and substance abuse in both maternal and paternal relatives. Mr. Monroe was the product of a difficult labor and delivery. He had speech and language problems, borderline intellectual functioning and poor impulse control, which resulted in numerous run-ins with authority figures such as teachers, parents and other adults. This led to multiple psychiatric hospitalizations and psychopharmacological treatment with antipsychotic medications, antidepressants and mood stabilizers by the time he was an adolescent. Treating professionals recommended a stable and consistent environment which was not possible living with his biological family.

His continued criminality, compounded by severe substance abuse resulted in years of incarceration as a juvenile and multiple jail sentences as an adult. He dropped out before graduating high school and never held a stable job.

Diagnosis:

Mr. Monroe presented a very complicated diagnostic picture due to the unstable environment in which he grew up and substance abuse since the age of 9.

Axis I: alcohol, marijuana and nicotine dependence

History of polysubstance abuse including methamphetamine, cocaine, heroin, GHB, ketamine

Bipolar disorder. Very difficult to diagnose this with any clinical certainty given his substance abuse, sociopathy, poor coping skills and chaotic living environment.

Oppositional defiant disorder as a child, conduct disorder as an adolescent.

Borderline intellectual functioning

Mixed receptive-expressive language disorder

Axis II: antisocial personality disorder

R/O borderline personality disorder

Axis III: history of back pain

Axis IV: Problems with primary support group, problems related to the social environment, educational problems, occupational problems, housing problems, economic problems, problems with access to health care services, problems related to interaction with the legal system/crime

Axis V: 20

Prognosis:

Bradley Monroe's prognosis was extremely guarded. His chaotic and abusive childhood combined with a loaded genetic mental health history led to a complex array of psychiatric, substance abuse and environmental problems in the context of very poor coping skills, little family support, less than a high school education, limited intelligence and no financial resources for treatment. The average life expectancy of people with serious mental illness has been found to be as much as 25 years less than the general population. It was extraordinarily unlikely that he would have overcome all of these difficulties to become a productive member of society who would be capable of providing emotional and financial support to his loved ones.

Response of jail personnel:

In my psychiatric opinion, the Ada County Jail personnel responded appropriately to Mr. Monroe's presentation. He entered the jail in an extremely intoxicated state and was uncooperative and combative. When he sobered up, he denied suicidal ideation when asked directly by Mr. Johnson (who had known his baseline from his previous incarceration) and stated that he was not interested in receiving mental health services at the jail. Despite this, he was placed in an environment where he could be checked every 30 minutes.

In my psychiatric opinion, Mr. Monroe's suicide was an unplanned, impulsive gesture that could not have been predicted by jail personnel. In his last recorded phone conversations on September 29, 2008, there was no evidence of psychotic symptoms or of significantly changed demeanor from his previous calls. He talked of making plans for the future, which is not expected in someone who is actively suicidal.

Given the FDA warnings on antidepressants possibly contributing to suicidal behavior, the question needs to be asked what role his SSRI antidepressant medication, citalopram, possibly had in his demise. It is believed that people under the age of 25 are most at risk for SSRI induced suicidality. Mr. Monroe certainly falls

in this age range. The highest risk of this problem is within the first month of treatment on any given antidepressant; Mr. Monroe was prescribed citalopram approximately two months prior to his death. He had therapeutic levels of medication (55.1 ng/ml) in his system at autopsy. Mr. Monroe had an extensive history of impulse control problems and poor decision-making that ultimately led to his death.

Leslie Lundt, MD

Diplomate, American Board of Psychiatry and Neurology

(sent electronically without signature to expedite delivery)

Curriculum Vitae

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Education:

1980 B.A. Natural Sciences, Johns Hopkins University
1984 M.D. Rush Medical College
1984-1987 Resident Pacific Presbyterian Medical Center, San Francisco
1987-1988 Psychiatry Chief Resident

Work Experience:

2003-Present Director, Foothills Foundation
1992-Present Private Practice, Psychiatrist, Boise, ID
1992-1994 Director of Women's Programs/Medical Director of Addiction Recovery Center, Saint Alphonsus Regional Medical Center
1988-1992 Medical Director, Verde Valley Community Guidance Clinics, National Public Health Service Corps Site
1988-1992 Private Practice, Psychiatrist, Sedona, AZ
1991-1992 Medical Director, Northern Arizona Regional Behavioral Health Authority
1988-1990 Psychiatrist, The Guidance Center
1988-1990 Medical Director, Sedona Villa
1988-1990 Associate Medical Director, Aspen Hill Hospital
1986-1988 Psychiatrist, Mount Zion Crisis Clinic
1986-1988 Psychiatrist, Martinez Mental Health Crisis Services, Contra Costa County Health Services Department, Richmond Crisis Unit
1986-1988 Psychiatrist, Veterans Administration, Menlo Park Division
1985-1988 Psychiatrist, San Francisco General Hospital/Psychiatric Emergency Services
1977-1980 Research Assistant, Baltimore Cancer Research Center
1977 Research Assistant, Carnegie Institution Spradling Lab

Credentials: Medical License Idaho -- M 5946
DEA -- BP 0164082

Certification: American Board of Psychiatry and Neurology - 1990
• Added Qualification in Addiction Psychiatry - 1993
ASAM Certification in Addiction Medicine

Academic Appointments: Idaho State University
Affiliate Faculty

Curriculum Vitae

Leslie Pedersen Lundt, M.D.

Professional Affiliations:

American Psychiatric Association
American Academy of Psychiatry and the Law

Lectures/Workshops Presented:

Sleep-Wake Disturbances: What You Need to Know to Recognize, Diagnose, and Manage them in Your Practice – Los Angeles, CA – November 17, 2007
A Brief Clinical Overview of Provigil – Washington, DC – November 29, 2007
A Brief Clinical Overview of Provigil – Maclean, VA– November 28, 2007
A Brief Clinical Overview of Provigil – Boise, ID– November 27, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Punta Gorda, FL – November 7, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Tampa, FL – November 6, 2007
A Brief Clinical Overview of Provigil – Las Vegas, NV– November 1, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Monteagle, TN – October 12, 2007
Women's Healthcare Forum Insomnia – A Case Based Approach – Palo Alto, CA – October 5, 2007
A Brief Clinical Overview of Provigil – Los Angeles, CA– October 2, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Fresno, CA – September 27, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Visalia, CA – September 26, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Bakersfield, CA – September 25, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Valencia, CA – September 24, 2007
Think Like a Psychiatrist : a Review– Idaho Federal Public Defenders – Boise, ID – September 20, 2007
Sleep-Wake Disturbances: What You Need to Know to Recognize, Diagnose, and Manage them in Your Practice – Las Vegas, NV – September 14, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Santa Barbara, CA – September 12, 2007
A Brief Clinical Overview of Provigil – Los Angeles, CA– September 11, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Thousand Oaks, CA – September 10, 2007
Beyond Remission: Long-term Maintenance Treatment of Major Depressive Disorder – Boise, ID – August 22, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – San Diego, CA – August 15, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – La Jolla, CA – August 14, 2007
A Brief Clinical Overview of Provigil – Scottsdale, AZ– July 25, 2007
A Brief Clinical Overview of Provigil – Tempe, AZ– July 24, 2007

Curriculum Vitae

Leslie Pedersen Lundt, M.D.

Lectures/Workshops Presented (continued):

A Brief Clinical Overview of Provigil – Newport Beach, CA– July 17, 2007
Clinical Perspectives in the Treatment of Insomnia – Buhl, ID – June 28, 2007
A Brief Clinical Overview of Provigil – Ogden, UT– June 28, 2007
Clinical Perspectives in the Treatment of Insomnia – Rexberg, ID – June 22, 2007
A Brief Clinical Overview of Provigil – Santa Barbara, CA– June 19, 2007
A Brief Clinical Overview of Provigil – Ashland, OR– June 18, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – June 14, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – June 13, 2007
Understanding Shift Work Sleep Disorder – Provigil National Speakers Training –
San Francisco, CA – June 3, 2007
A Brief Clinical Overview of Provigil – Las Vegas, NV– May 24, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
San Diego, CA – May 23, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
San Diego, CA – May 22, 2007
Treatments for Hypersomnia – Still Sleepy after all these Cures – American
Psychiatric Association Annual Meeting – San Diego - May 20, 2007
Think Like a Psychiatrist – Idaho Conference on Alcohol and Addictive Disorders –
May 15, 2007
Sleep Disturbances in Addicted Populations – Idaho Conference on Alcohol and
Addictive Disorders – May 15, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Nashville, TN – May 10, 2007
Provigil Regional Speaker Development Workshop – Chandler, AZ –
May 5, 2007
A Brief Clinical Overview of Provigil – Rancho Cucamonga, CA– May 3, 2007
A Brief Clinical Overview of Provigil – W. Hollywood, CA– May 2, 2007
A Brief Clinical Overview of Provigil – San Diego, CA– May 1, 2007
A Brief Clinical Overview of Provigil – La Jolla, CA– April 30, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Roseville, CA – April 18, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Pasadena, CA – April 16, 2007
A Brief Clinical Overview of Provigil – Mountain Home, ID – April 12, 2007
A Brief Clinical Overview of Provigil – Wichita, KS– April 5, 2007
A Brief Clinical Overview of Provigil – Salina, KS – April 4, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Omaha, NE – April 3, 2007
A Brief Clinical Overview of Provigil – Omaha, NE – April 2, 2007
Clinical Perspectives in the Treatment of Insomnia: A Case Study Approach -
National Teleconferences – April through December 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets –

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Santa Barbara, CA – March 7, 2007

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Lectures/Workshops Presented (continued):

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Westlake Village – March 6, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Westlake Village – March 6, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Lancaster, CA – March 5, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Oakbrook, IL – February 15, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Las Vegas, NV – February 13, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Las Vegas, NV – February 12, 2007
Sleep disturbances in Substance Abusers – SCN Summit – February 10, 2007
A Brief Clinical Overview of Provigil – Portland, OR – January 29, 2007
Provigil Regional Speaker Development Workshop – San Diego, CA – January 20, 2007
A Brief Clinical Overview of Provigil – Spokane, WA – January 18, 2007
A Brief Clinical Overview of Provigil – Lewiston, ID – January 17, 2007
A Brief Clinical Overview of Provigil – Seattle, WA – January 16, 2007
A Brief Clinical Overview of Provigil – Bellevue, WA – January 15, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Tampa, FL – January 4, 2007
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Fort Myers, FL – January 3, 2007
Introducing Provigil – Takeda Excel team launch – Costa Mesa, CA – December 11, 2006
A Brief Clinical Overview of Provigil – La Jolla, CA – December 7, 2006
Enhancing Your Presentations - SCN Live Webcast – December 6, 2006
A Brief Clinical Overview of Provigil – San Diego, CA – December 5, 2006
Think Like a Psychiatrist: Anatomy of Addictions – Bellevue, WA – December 1, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – San Luis Obispo, CA – November 29, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Dallas, TX – November 15, 2006
A Brief Clinical Overview of Provigil – Dallas, TX – November 14, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Fort Worth, TX – November 13, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Houston, TX – November 9, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – New York City, NY – November 8, 2006
Rozerem Update – Takeda Eastern Region POA – Teaneck, NJ – November 7, 2006
Provigil Update – Takeda Eastern Region POA – Teaneck, NJ – November 7, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –

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Bronx, NY – November 6, 2006

Lectures/Workshops Presented (continued):

Co-Chairperson, Ramelteon Advanced Speaker Training – New York City, NY–
November 4, 2006

Co-Chairperson, Ramelteon Advanced Speaker Training – New York City, NY–
November 4, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Binghamton, NY – November 1, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Glenns Falls, NY – November 2, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Binghamton, NY – November 1, 2006

A Brief Clinical Overview of Provigil – Riverside, CA – October 26, 2006

A Brief Clinical Overview of Provigil – Seal Beach, CA – October 25, 2006

Provigil Update – Takeda Western Region POA – Huntington Beach, CA - October
25, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Redlands, CA – October 24, 2006

Global Key Opinion Leader Advisory Board Meeting – Osaka and Kyoto, Japan –
October 18 and 19, 2006

Chairperson, Takeda Curriculum Committee Meeting – San Diego, CA –
September 16, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Nashville, TN – September 14, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Nashville, TN – September 13, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – September 7, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – September 6, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Calabasas, CA – August 29, 2006

“Sleep Medication for the State of Hawaii” presented to the Hawaii State Medicaid
Committee – Honolulu, HI - August 15, 2006

Provigil Regional Speaker Development Workshop – Salt Lake City, UT –
August 12, 2006

An Audience with Dr. Leslie Lundt “Sleep Disorders in Psychiatry: Realising the
Clinical Need” presented at the British Association of Psychopharmacology Annual
Meeting - Oxford, England – July 24, 2006

An Audience with Dr. Leslie Lundt “Sleep Disorders in Psychiatry: Realising the
Clinical Need” – Bristol, England – July 6, 2006

Provigil Usage in the United States – Cephalon UK Sales Meeting – Warwick,
England – July 5, 2006

An Audience with Dr. Leslie Lundt “Sleep Disorders in Psychiatry: Realising the
Clinical Need” – Dublin, Ireland – June 30, 2006

An Audience with Dr. Leslie Lundt “Sleep Disorders in Psychiatry: Realising the

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Clinical Need" – Stirling, Scotland – June 29, 2006

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Lectures/Workshops Presented (continued):

An Audience with Dr. Leslie Lundt "Sleep Disorders in Psychiatry: Realising the Clinical Need" – Merseyside, England – June 28, 2006

An Audience with Dr. Leslie Lundt "Sleep Disorders in Psychiatry: Realising the Clinical Need" – Solihull, England – June 27, 2006

An Audience with Dr. Leslie Lundt "Sleep Disorders in Psychiatry: Realising the Clinical Need" – London, England – June 26, 2006

Current Research in Seasonal Affective Disorder - Modafinil Psychiatry Advisory Board – Philadelphia, PA – June 22, 2006

Sleepless in Grapevine – American Association of Nurse Practitioners Annual Meeting – Grapevine, TX – June 21, 2006

Audio Clinical Exchange: Group Practice Consult on Insomnia – National Teleconferences – June through December 2006

Co-Chairperson, Ramelteon Advanced Speaker Training – Salt Lake City, UT – June 18, 2006

Rozerem in "Reel Life" – Takeda National Sales Meeting – Anaheim, CA – June 13, 2006

A Brief Clinical Overview of Provigil – Ocean Trails, CA – June 12, 2006

Provigil Regional Speaker Development Workshop – Kansas City, MO – June 3, 2006

Lunesta in the Management of Insomnia: Versatility in a Dynamic Condition – Salem, OR – June 1, 2006

An Interactive Review – Discussing Efficacy and Safety of Novel Sleep Agents – National Teleconferences - June 2006 through June 2007

Alcoholism: New Pharmacological Treatments – Portland, OR – May 31, 2006

A Brief Clinical Overview of Provigil – Durham, NC – May 25, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Chapel Hill, NC – May 24, 2006

Ramelteon Advanced Speaker Training – Toronto, Canada – May 19, 2006

Women and Sleep – New York City – May 17, 2006

A Brief Clinical Overview of Provigil – Boulder, CO – May 12, 2006

A Brief Clinical Overview of Provigil – Boulder, CO – May 11, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Denver, CO – May 10, 2006

Provigil Regional Speaker Development Workshop – Seattle, WA – May 6, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Long Beach, CA – May 4, 2006

A Brief Clinical Overview of Provigil – La Jolla, CA – May 3, 2006

A Brief Clinical Overview of Provigil – San Diego, CA – May 2, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Sparta, NJ – April 27, 2006

From the New Understandings of Sleep Science to Novel Therapeutic Targets – Trenton, NJ – April 26, 2006

Provigil Regional Speaker Development Workshop – Los Angeles, CA – April 23, 2006

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A Brief Clinical Overview of Provigil – El Segundo, CA – April 20, 2006

Lectures/Workshops Presented (continued):

A Brief Clinical Overview of Provigil – Laguna Beach, CA – April 19, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Claremont, CA – April 13, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Palm Springs, CA – April 12, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Charleston, WV – April 6, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Clarksburg, WV – April 5, 2006
Psychopharmacology of Alcoholism – Boise, ID – April 4, 2006
Eszopiclone in the Treatment of Insomnia: Versatility in a Dynamic Condition –
National Teleconferences - April through December 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – March 30, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Honolulu, HI – March 29, 2006
A Brief Clinical Overview of Provigil – Las Vegas, NV – March 23, 2006
A Brief Clinical Overview of Provigil – Studio City, CA – March 22, 2006
A Brief Clinical Overview of Provigil – Santa Monica, CA – March 21, 2006
A Brief Clinical Overview of Provigil – San Luis Obispo, CA – March 16, 2006
A Brief Clinical Overview of Provigil – Pismo Beach, CA – March 15, 2006
A Brief Clinical Overview of Provigil – Santa Barbara, CA – March 14, 2006
Sepracor National Speaker Training: Model Slide Kit Presentation – Phoenix, AZ -
March 3, 2006
A Brief Clinical Overview of Provigil – La Jolla, CA – March 1, 2006
A Brief Clinical Overview of Provigil – Ocala, FL – February 23, 2006
A Brief Clinical Overview of Provigil – Gainesville, FL – February 22, 2006
A Brief Clinical Overview of Provigil – Chattanooga, TN – February 16, 2006
A Brief Clinical Overview of Provigil – Chattanooga, TN – February 15, 2006
Sleep Consultant Network Summit, Special Populations: Abuse Liability and
From the New Understandings of Sleep Science to Novel Therapeutic Targets -
Bonita Springs, FL – February 11, 2006
A Brief Clinical Overview of Provigil – Torrance, CA – February 10, 2006
A Brief Clinical Overview of Provigil – Los Angeles, CA – February 9, 2006
A Brief Clinical Overview of Provigil – Los Angeles, CA – February 8, 2006
Insomnia and the Role of Eszopiclone in its Treatment – Seattle, WA –
February 3, 2006
Think Like a Psychiatrist: Understanding Psychiatric Medicines – Washington
Mental Health Counselors Association – Tukwila, WA – February 3, 2006
Idaho Counselors Association Keynote Address: Think Like a Psychiatrist – Boise,
ID - January 28, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Ashland, OR – January 26, 2006

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From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Eugene, OR – January 25, 2006

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Lectures/Workshops Presented (continued):

Think Like a Psychiatrist: Understanding Psychiatric Medications – OK City, OK – January 24, 2006
Think Like a Psychiatrist: Psychopharmacology of Addiction – OK City, OK – January 24, 2006
Think Like a Psychiatrist: Understanding Psychiatric Medications – Tulsa, OK – January 23, 2006
Think Like a Psychiatrist: Psychopharmacology of Addiction – Tulsa, OK – January 23, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – San Anselmo, CA – January 18, 2006
Sleep Consultant Network Summit, Special Populations: Abuse Liability and From the New Understandings of Sleep Science to Novel Therapeutic Targets – Santa Monica, CA – January 14, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Woodinville, WA – January 12, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Everett, WA – January 12, 2006
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Olympia, WA – January 11, 2006
Think Like a Psychiatrist – Getting a Good Night's Sleep – January 6, 2006
The Psychopharmacology of Alcoholism – Kalispell, MT – December 15, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Stockton, CA – December 14, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Tucson, AZ – November 10, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Bellingham, WA – December 8, 2005
Understanding Anxiety and Insomnia – San Diego, CA – December 7, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Madera, CA – December 6, 2005
Sleep 101 – Missoula, MT – December 2, 2005
The Psychopharmacology of Alcoholism – Gooding, ID – November 21, 2005
The Psychopharmacology of Alcoholism – Boise, ID – November 17, 2005
Women and Sleep throughout the Lifecycle – Portland, OR – November 16, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Tucson, AZ – November 10, 2005
Insomnia and the Role of Eszopiclone in its Treatment – Salt Lake City, UT – November 9, 2005
The Psychopharmacology of Alcoholism – Idaho Falls, ID – November 4, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Boise, ID – November 1, 2005
Exploring the Science of Sleep – Melville, NY – October 30, 2005
The Psychopharmacology of Alcoholism – Pocatello, ID – October 27, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets – Portland, OR – October 26, 2005

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Lectures/Workshops Presented (continued):

Think Like a Psychiatrist – Psychopharmacology of Addiction –
Idaho Falls, ID – October 21, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Idaho Falls, ID – October 20, 2005
From the New Understandings of Sleep Science to Novel Therapeutic Targets –
Las Vegas, NV – October 19, 2005
A Brief Clinical Overview of Provigil – La Jolla, CA – October 18, 2005
Exploring the Science of Sleep – Dallas, TX – October 15, 2005
Think Like a Psychiatrist: 40 Cases – Boise, ID – October 14, 2005
What's New in Insomnia Treatment? – Boise, ID – October 13, 2005
The Psychopharmacology of Alcoholism – ID Falls, ID – October 12, 2005
Recent Advances in Insomnia Therapy: A New Treatment Paradigm –
National Teleconferences – October 2005 through April 2006
A Brief Clinical Overview of Provigil – Nashville, TN – October 6, 2005
Rozerem Speaker Ready Room National Teleconferences – 2005 and 2006
Think Like a Psychiatrist: Understanding Psychiatric Medicines –
NY Counselors Association – Buffalo, NY – September 30, 2005
A Brief Clinical Overview of Provigil – Peoria, IL – September 29, 2005
A Brief Clinical Overview of Provigil – Chicago, IL – September 28, 2005
The Psychopharmacology of Alcoholism – Boise, ID – September 27, 2005
Exploring the Science of Sleep – Atlanta, GA – September 24, 2005
A Brief Clinical Overview of Provigil – Santa Ana, CA – September 22, 2005
A Brief Clinical Overview of Provigil – Upland, CA – September 21, 2005
The Psychopharmacology of Alcoholism – ID Falls, ID – September 20, 2005
Exploring the Science of Sleep – Seattle, WA – September 17, 2005
A Brief Clinical Overview of Provigil – Charlottesville, VA – September 15, 2005
Exploring the Science of Sleep – Washington, DC – September 10, 2005
A Brief Clinical Overview of Provigil – Greenville, SC – September 8, 2005
The Psychopharmacology of Alcoholism – Caldwell, ID – September 2, 2005
A Brief Clinical Overview of Provigil – Sacramento, CA – August 25, 2005
Rozerem Speaker Certification Teleconferences – August 2005 through May 2006
Provigil Speaker Development Workshop – Seattle, WA – August 6, 2005
A Brief Clinical Overview of Provigil – Raleigh, NC – July 28, 2005
A Brief Clinical Overview of Provigil – Chapel Hill, NC – July 27, 2005
Provigil Speaker Development Workshop – Tulsa, OK – July 23, 2005
Think Like a Psychiatrist: Psychopharmacology of Addiction – IHS– Tulsa, OK –
July 21, 2005
Think Like a Psychiatrist: Understanding Psychiatric Medicines – Indian Health
Service – Tulsa, OK – July 21, 2005
A Brief Clinical Overview of Provigil – Tulsa, OK – July 20, 2005
A Brief Clinical Overview of Provigil – Ontario, OR – July 18, 2005
Provigil Speaker Development Workshop – Indianapolis, IN – July 16, 2005
Think Like a Psychiatrist – Psychopharmacology of Addiction –
Boise, ID – July 15, 2005

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Insomnia – West Valley Medical Center Grand Rounds – July 12, 2005

Lectures/Workshops Presented (continued):

Insomnia and the Role of Eszopiclone in its Treatment – Eureka, CA – July 6, 2005
Insomnia and the Role of Eszopiclone in its Treatment – San Luis Obispo – July 5, 2005
Insomnia and the Role of Eszopiclone in its Treatment – Tucson, NM – June 29, 2005
Treating Excessive Daytime Sedation – Santa Fe, NM – June 27, 2005
A Brief Clinical Overview of Provigil – SLC, UT – June 23, 2005
“An Audience with Dr. Leslie Lundt” – Royal College of Psychiatrists – Edinburgh, Scotland – June 21, 2005
Insomnia and the Role of Eszopiclone in its Treatment – National Teleconferences – March 2005 through March 2006
A Brief Clinical Overview of Provigil – L.A., CA – June 8, 2005
Provigil Regional Speaker Development Workshop – L.A., CA – June 4, 2005
A Brief Clinical Overview of Provigil – Seal Beach, CA – June 3, 2005
A Brief Clinical Overview of Provigil – Denver, CO – June 1, 2005
Insomnia and the Role of Eszopiclone in its Treatment – Salt Lake City, UT – May 19, 2005
Think Like a Psychiatrist – San Diego, CA – May 13, 2005
A Brief Clinical Overview of Provigil – San Diego, CA - May 12, 2005
A Brief Clinical Overview of Provigil – La Jolla, CA - May 11, 2005
A Brief Clinical Overview of Provigil – Baltimore, MD - May 6, 2005
A Brief Clinical Overview of Provigil – Washington, DC - May 5, 2005
A Brief Clinical Overview of Provigil – Southgate, CA – April 28 2005
A Brief Clinical Overview of Provigil – Long Beach, CA – April 27, 2005
Insomnia and the Role of Eszopiclone in its Treatment – Eagle, ID – April 26, 2005
A Brief Clinical Overview of Provigil – Portland, OR – April 21, 2005
A Brief Clinical Overview of Provigil – Chicago, IL – April 15, 2005
Provigil: Yesterday, Today and Tomorrow – Chicago, IL – April 14, 2005
Women and depression – Boise, ID – April 12, 2005
Provigil Regional Speaker Development Workshop – K.C., Mo – April 9, 2005
Provigil: Yesterday, Today and Tomorrow – Sacramento, CA – April 7, 2005
Provigil: Yesterday, Today and Tomorrow – Santa Barbara, CA – March 31, 2005
Approaches to the Psychopharmacology of Wakefulness – San Luis Obispo, CA – March 30, 2005
Provigil: Yesterday, Today and Tomorrow – Ewa Beach, HI – March 22, 2005
Provigil: Yesterday, Today and Tomorrow – Newport Beach, CA – March 17, 2005
Approaches to the Psychopharmacology of Wakefulness – Seal Beach, CA – March 16, 2005
Using Modafinil in Psychiatry – National Speaker’s Training – San Francisco, CA – March 13, 2005
Think Like a Psychiatrist – Boise, ID – March 11, 2005

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Insomnia and the Role of Eszopiclone – Idaho Falls, ID – March 8, 2005

Provigil: Yesterday, Today and Tomorrow – Gary, IN – March 3, 2005

Lectures/Workshops Presented (continued):

Using Modafinil in Psychiatry – National Speaker's Training - Bonita Springs, FL – February 27, 2005

Think Like a Psychiatrist – Las Vegas, NV – February 25, 2005

Focus on Sleep Disorders – Las Vegas, NV – February 24, 2005

Think Like a Psychiatrist – San Diego, CA – February 17, 2005

Excessive Sleepiness – San Diego, CA – February 16, 2005

Think Like a Psychiatrist – Cincinnati, OH – February 10, 2005

Sleep and Wakefulness: An Update – Cincinnati, OH – February 10, 2005

Sleep and Wakefulness: An Update – Spokane, WA – February 2, 2005

Excessive Sleepiness – New York City, NY – January 26, 2005

Think Like a Psychiatrist – Tulsa, OK – January 20, 2005

Excessive Sleepiness – Tulsa, OK – January 20, 2005

Sleep and Wakefulness: An Update – Tulsa, OK – January 19, 2005

Sleep and Wakefulness: An Update – Los Angeles, CA – January 11, 2005

Think Like a Psychiatrist – Los Angeles, CA – January 11, 2005

Sleep and Wakefulness: An Update – Las Vegas, NV – January 6, 2005

Deconstructing Syndromes into Symptoms – Des Moines, IA – December 16, 2004

How to Give An Effective Presentation – Modafinil Speaker Development Workshop – Salt Lake City, UT – December 14, 2004

Think Like a Psychiatrist – Boise, ID – December 10, 2004

Excessive Sleepiness – Boulder, CO – December 8, 2004

GABA agents – Honolulu, HI – November 18, 2004

Novel Approaches to the Psychopharmacology of Wakefulness – Bethesda, MD – November 15, 2004

Sleep and Wakefulness: An Update – Seal Beach, CA – November 11, 2004

Sleep and Wakefulness: An Update – Fullerton, CA – November 10, 2004

Deconstructing Syndromes into Symptoms – Houston, TX – November 9, 2004

Excessive Sleepiness in Psychiatry – Claremont, CA – October 28, 2004

Deconstructing Syndromes into Symptoms – Burbank, CA – October 27, 2004

Deconstructing Syndromes into Symptoms – St Louis, MO – October 21, 2004

Brain Circuits Determine Destiny in Depression: Stimulants and Wake-Promoting Agents Provide Novel Approaches to the Psychopharmacology of Wakefulness, Fatigue and Executive Dysfunction in MDD presented at the Canadian Psychiatric Association Annual Meeting – Montreal, Canada – October 17, 2004

Fatigue and Excessive Sleepiness Associated with Medical Illness presented at Good Samaritan Grand Rounds - San Jose, CA – October 6, 2004

Excessive Sleepiness in Psychiatric Populations - Las Vegas, NV – October 2, 2004

Depression Augmentation: A Symptom Based Approach presented at the Fifth Annual Psychopharmacology Review Course – Teaneck, NJ – October 1, 2004

Sleep and Mood Disorders – Boise Sleep Conference – September 24, 2004

Sleep and Wakefulness: An Update – Richland, WA – September 23, 2004

Understanding GABA – Hines VA Chicago, IL – September 17, 2004

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Antipsychotic Update – Boise, ID – September 14, 2004

Deconstructing Syndromes into Symptoms – St Louis, MO – September 9, 2004

Deconstructing Syndromes into Symptoms – Ogden, UT – August 25, 2004

Sleep and Wakefulness: An Update – Costa Mesa, CA – August 13, 2004

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Lectures/Workshops Presented (continued):

What's New in Psychiatry? – Torrance, CA – August 12, 2004
Deconstructing Syndromes into Symptoms – Santa Ana, CA – August 11, 2004
Modafinil: A Clinical Perspective – Phoenix, AZ – August 5, 2004
Modafinil: A Clinical Perspective – Tucson, AZ – August 4, 2004
Modafinil: A Clinical Perspective – Sacramento, CA – July 29, 2004
Sleep for the Shift Worker – Hewlett Packard Boise, ID – July 28, 2004
Psychiatric Update – Boulder, CO – July 23, 2004
Deconstructing Syndromes into Symptoms – Kansas City, MO – July 21, 2004
Deconstructing Syndromes into Symptoms – Memphis, TN July 20, 2004
Update on Tiagabine and Modafinil – Newburgh, IN – July 19, 2004
Modafinil: A Clinical Perspective – McLean, VA – July 18, 2004
Modafinil: A Clinical Perspective – Orefield, PA – July 16, 2004
Deconstructing Syndromes into Symptoms – Pittsburgh, PA – July 14, 2004
Deconstructing Syndromes into Symptoms – Akron, OH – July 13, 2004
Deconstructing Syndromes into Symptoms – Cleveland, OH – July 12, 2004
Deconstructing Syndromes into Symptoms – Minneapolis, MN – July 6, 2004
Modafinil: A Clinical Perspective – Sioux Falls, SD – July 6, 2004
Update on Tiagabine and Modafinil – Salt Lake City, UT – June 30, 2004
Modafinil: A Clinical Perspective – Nashville, TN – June 24, 2004
Modafinil: A Clinical Perspective – San Diego, CA – June 17, 2004
Modafinil in Sleep Disorders – Newport Beach, CA – June 15, 2004
Update on Tiagabine and Modafinil – Bethlehem, PA – June 8, 2004
Modafinil: A Clinical Perspective – Leola, PA – June 7, 2004
The Epworth Sleepiness Scale as a Screening Tool for Sleepiness in Psychiatry:
Poster Presentation at APSS– Philadelphia, PA – June 7, 2004
How to Give An Effective Presentation – Modafinil Speaker Development
Workshop – Santa Monica, CA – June 5, 2004
Provigil: Use in Primary Care – National Teleconferences – June through Dec 2004
Modafinil: A Clinical Perspective – Santa Monica, CA – June 1, 2004
Doc, I'm Tired – Boise, ID – May 27, 2004
Diagnosis and Treatment of EDS – Las Vegas, NV – May 26, 2004
Modafinil: A Clinical Perspective – Henderson, NV – May 25, 2004
How to Give An Effective Presentation – Modafinil Speaker Development
Workshop – Henderson, NV – May 24, 2004
How to Give An Effective Presentation – Modafinil Speaker Development
Workshop – San Francisco, CA – May 22, 2004
Treatment of Fatigue in HIV patients – San Francisco, CA – May 21, 2004
Update on Tiagabine – Santa Cruz, CA – May 20, 2004
How to Give An Effective Presentation – Modafinil Speaker Development
Workshop – Seattle, WA – May 14, 2004
GABA and Anxiety – ID Family Practice Review – Coeur D'Alene, ID –
May 14, 2004
Doc, I'm Tired – ID Family Practice Review – Coeur D'Alene, ID – May 14, 2004
Pharmacology of Sex – IPA – Sun Valley, ID – May 7, 2004
Modafinil: A Clinical Perspective – American Psychiatric Association Annual

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Meeting: Canadian Symposium – May 3, 2004

Lectures/Workshops Presented (continued):

The Epworth Sleepiness Scale as a Screening Tool for Sleepiness in Depression:
Poster Presentation at American Psychiatric Association Annual Meeting– NYC –
May 5, 2004

The Epworth Sleepiness Scale as a Screening Tool for Sleepiness in Depression:
Poster Presentation at Society of Biological Psychiatry Annual Meeting – NYC –
May 1, 2004

Clinical Breakthroughs in Optimizing Wakefulness – Washington, DC –
April 22, 2004

Depression: Treatment Algorithms – Provigil National Consultant Meeting –
Washington, DC – April 18, 2004

Anxiety Disorders and Insomnia – Cephalon Analyst Day – NYC – April 13, 2004
Obstructive Sleep Apnea, Narcolepsy and Circadian Rhythm Disorders –
Nashville, TN – April 7, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Psychiatric Illness –
Psychiatric Congress Update – Chicago, IL – April 3, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Psychiatric Illness –
Psychiatric Congress Update – New York, NY – March 20, 2004

Deconstructing Syndromes into Symptoms – Carmel, CA – March 18, 2004

Psychopharmacology Update – Saratoga, CA – March 17, 2004

Obstructive Sleep Apnea, Narcolepsy and Circadian Rhythm Disorders – Cincinnati
– March 11, 2004

Depression Augmentation – NYU Psychopharmacology Review – March 6, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Medical Illness – Chicago, IL
– February 27, 2004

Current Issues in Managing Sleep Disorders – Chicago, IL – February 26, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Medical Illness – Milwaukee,
WI – February 24, 2004

Current Issues in Managing Sleep Disorders – Solano Beach, CA – Feb. 19, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Medical Illness – Falls
Church, VA – February 18, 2004

Clinical Breakthroughs in Optimizing Wakefulness in Medical Illness – Madigan
Military Hospital – February 12, 2004

Differentiation of Fatigue and Sleepiness – Olympia, WA – February 11, 2004

Adjunct Therapy for the Management of Fatigue and Sleepiness in Patients with
Major Depressive Disorder – Montreal, Canada: Shire BioChem National Advisory
Board – February 9, 2004

Update on Provigil and Gabitril – Monterey, CA – February 5, 2004

Update on Psychopharmacology: A Case Study – Saratoga, CA – February 4, 2004

Current Issues in Managing Sleep Disorders – Tuscaloosa, AL – February 3, 2004

Current Issues in Managing Sleep Disorders – Birmingham, AL – February 2, 2004

Current Issues in Managing Sleep Disorders – Memphis, TN – January 29, 2004

Current Issues in Managing Sleep Disorders – Couer d'Alene, WA – Jan. 22, 2004

Update on Provigil and Gabitril – Spokane, WA – January 21, 2004

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Update on Provigil and Gabitril – Nashville, TN – January 15, 2004

Current Issues in Managing Sleep Disorders – Nashville, TN – January 14, 2004

Antipsychotics: The Third Generation – Las Vegas, NV – January 13, 2004

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Lectures/Workshops Presented (continued):

The Latest and Greatest: Antidepressant Update – Boise, ID – January 9, 2004
Psychopharmacology Update – Bellevue, WA – January 8, 2004
Update on Provigil and Gabitril – Eugene, OR – January 7, 2004
Current Issues in Managing Sleep Disorders – Tacoma, WA – December 17, 2003
Management of Insomnia and Fatigue – Glendale, CA – December 11, 2003
Psychopharmacology Update – Lincolnshire, IL – December 6, 2003
Psychopharmacology of Energy and Fatigue – Chicago, IL – December 4, 2003
Current Issues in Managing Sleep Disorders – St. Louis, MO – December 1, 2003
Psychopharmacology of Energy and Fatigue – Salt Lake City, UT – Nov. 20, 2003
Using Anticonvulsants in Children – Allentown, PA – November 18, 2003
Management of Sleepiness and Fatigue in Depressed Patients – 3rd Pan-Hellenic Sleep Congress - Athens, Greece – November 15, 2003
Antipsychotics: The Third Generation – University of Utah – November 11, 2003
Psychopharmacology Update – November 6, 2003
Current Issues in Managing Sleep Disorders – La Jolla, CA – November 5, 2003
Psychopharmacology Academy – Live Webcast – November 3, 2003
Psychopharmacology of Energy and Fatigue – Calabasas, CA – October 29, 2003
Psychopharmacology Academy:
Psychopharmacology of Drugs of Abuse and Psychopharmacological Management of Women across the Lifespan – Irving, TX - October 25 and 26, 2003
Current Issues in Managing Sleep Disorders – Hershey, PA – October 24, 2003
Current Concepts in Wakefulness – State College, PA – October 23, 2003
Current Concepts in Wakefulness – Nashville, TN – October 17, 2003
Psychopharmacology of Energy and Fatigue – Los Angeles, CA – October 15, 2003
Symptoms and Circuits: Executive Dysfunction – Live Webcast – October 9, 2003
Current Concepts in Wakefulness – Salt Lake City, CA – October 8, 2003
Psychopharmacology of Energy and Fatigue – Boise, ID – October 2, 2003
Current Issues in Managing Sleep Disorders – Twin Falls, ID – October 2, 2003
Psychopharmacology Academy – Live Webcast – October 1, 2003
Treating Fatigue in Primary Care – San Jose, CA – Sept. 25, 2003
Psychopharmacology of Energy and Fatigue – Willow Springs, IL – Sept. 19, 2003
Symptoms and Circuits: Executive Dysfunction – Live Webcast – Sept. 17, 2003
The Use of SSRIs in Women – Boise, ID – Sept. 16, 2003
Psychopharmacology of Sleep and Arousal: Novel Neurotransmitters and Wake Promoting Drugs – Psychiatric Congress Los Angeles, CA – Sept. 13, 2003
All about GABA – San Jose, CA – Sept. 11, 2003
Current Issues in Managing Sleep Disorders – Santa Cruz, CA – Sept. 11, 2003
You Just Can't Pay Attention! Update on ADHD – Boise, ID – Sept. 8, 2003
Current Issues in Managing Sleep Disorders – Roanoke, VA – Sept. 4, 2003
Psychopharmacology of Energy and Fatigue – Santa Rosa, CA – August 28, 2003
Psychopharmacology of Energy and Fatigue – Salt Lake City, UT – August 27, 2003
Regional Consultants Meeting Modafinil – Sonoma, CA – August 23, 2003
Gabitril National Teleconferences – August 2003 through May 2004
Psychopharmacology of Energy and Fatigue – Redwood City – July 31, 2003
Update on Tiagabine – San Jose, CA – July 24, 2003

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Psychopharmacology of Energy and Fatigue – Salt Lake City – July 10, 2003

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Lectures/Workshops Presented (continued):

Psychopharmacology of Energy and Fatigue – Anchorage, AK – July 8, 2003
Psychopharmacology of Energy and Fatigue – Pleasant Hill, CA – July 3, 2003
Update on Modafinil and Tiagabine – Visalia, CA – June 27, 2003
Psychopharmacology of Energy and Fatigue – Capitola, CA – June 26, 2003
Psychopharmacology of Energy and Fatigue – Boise, ID – June 24, 2003
Current Issues in Managing Sleep Disorders – Kennewick, WA – June 19, 2003
Pharmacology of GABA Reuptake Inhibition – Yakima, WA – June 18, 2003
Psychopharmacology of Energy and Fatigue – Portland, OR – June 17, 2003
Regional Consultants Meeting Modafinil – Portland, OR – June 14, 2003
Treatment of Depression in OB/GYN – Boise, ID – June 12, 2003
Psychopharmacology Update – Westbrook, IL – June 6, 2003
Poster Presentation at APSS Annual Meeting – Chicago, IL – June 5, 2003
Provigil Update: Part 2 National Teleconferences – June 2003 through April 2004
Update on Modafinil and Tiagabine – Chicago, IL - June 4, 2003
Psychopharmacology of Energy and Fatigue – San Francisco, CA – May 19, 2003
Psychopharmacology of Energy and Fatigue – San Jose, CA – May 16, 2003
Poster Presentation at Society of Biological Psychiatry Annual Meeting –
San Francisco, CA - May 15, 2003
Regional Consultants Meeting Modafinil – Seattle, WA – May 10, 2003
Update on Modafinil and Tiagabine – Salem, OR – May 8, 2003
Update on Modafinil and Tiagabine – Lake Oswego, OR – May 7, 2003
Regional Consultants Meeting Modafinil – Chicago, IL – May 3, 2003
Psychopharmacology Update – Amarillo, TX – May 2, 2003
Psychopharmacology of Energy and Fatigue – Honolulu, HI – April 30, 2003
Psychopharmacology Update – Honolulu, HI – April 28, 2003
Psychopharmacology of Energy and Fatigue – Ann Arbor, MI – April 23, 2003
Antidepressant Update – Fruitland, ID – April 22, 2003
Advances in Psychopharmacology – Mason City, IA – April 21, 2003
Update on Modafinil and Tiagabine – Great Falls, MT – April 17, 2003
Treating Depression: An Update – Caldwell, ID – April 16, 2003
Clinical Research Roundtable – Boise, ID – April 14, 2003
Regional Consultants Meeting Modafinil – Sundance, MT – April 12, 2003
Update on Modafinil and Tiagabine – Bozeman, MT – April 10, 2003
Advances in Psychopharmacology – San Jose, CA – March 13, 2003
Psychopharmacology of Energy and Fatigue – Monterey, CA – March 12, 2003
Psychopharmacology of Energy and Fatigue National Teleconferences –
March – June 2003
Depression in Primary Care - Mountain Home, ID - February 25, 2003
Treatment of Fatigue in Depression - Tulsa, OK - February 20, 2003
Update on Modafinil - Tulsa, OK - February 19, 2003
Update on Modafinil - Fort Dodge, IA - February 10, 2003
Update on Fatigue - Amarillo, TX - January 30, 2003
Use of Antidepressants in Pain Management - Boise, ID - January 27, 2003
Treatment of Depression - Ontario, OR - December 12, 2002
Provigil Update - Denver, CO - November 2, 2002

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Review of Gabitril - Dallas, TX - October 12, 2002

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Lectures/Workshops Presented (continued):

Psychiatry for Pain Medicine Specialists - Big Sky, MT - September 29, 2002
Update on Fatigue - St, Louis, MO - September 24, 2002
Recent Advances in Treatment Resistant Depression - Tulsa, OK -
September 20, 2002
Update on Anxiety and Depression - Tulsa, OK - September 19, 2002
Advances in Psychopharmacology - Portland, OR - September 12, 2002
Treatment of Anxiety Disorders - Portland, OR - September 12, 2002
Advances in Psychopharmacology - Minneapolis, MN - August 14, 2002
Update on Anxiety and Depression - Spokane, WA - July 26, 2002
Pharmacology Update - Spokane, WA - July 25, 2002
Treatment Resistant Depression - Spokane, WA - July 25, 2002
Update on Tiagabine - Denver, CO - July 17, 2002
Recent Advances in Psychopharmacology - Boulder, CO - July 17, 2002
Treatment Resistant Anxiety and Depression - Oklahoma City, OK - July 12, 2002
Update on Treatment Resistant Depression - Tulsa, OK - July 11, 2002
Latest Advances in the Treatment of Anxiety - Tulsa, OK - July 11, 2002
What's New in the Treatment of Anxiety and Depression? - Omaha, NE -
June 29, 2002
Update on Modafinil - Boise, ID - June 20, 2002
What Physicians need to know about Modafinil and Tiagabine - Denver, CO -
June 17, 2002
ADHD Update - Boise, ID - June 10, 2002
Update on Anxiety and Fatigue - Kansas City, MO - May 13, 2002
Anti-Psychotic Medications - Boise, ID - May 10, 2002
New Treatments for Depression and Anxiety - Wichita, KS - May 7, 2002
Update on Depression in Cancer Patients - Nampa, ID - April 29, 2002
New Treatments for Anxiety - St. Louis, MO - April 12, 2002
Gabitril National Teleconferences - April 2002 through August 2002
New Advances in Psychiatry - Fort Collins, CO - March 21, 2002
Treatment of Depression - Idaho Falls, ID - March 14, 2002
Bipolar Disorder Workshop - Boise, ID - March 8, 2002
Provigil Update National Teleconferences - March 2002 through June 2003
Keynote Address, Women's Health Fair Day - Spokane, WA - February 1, 2002
Treatment of Postpartum Depression - St. Luke's Boise, ID - January 31, 2002
Update on the Treatment of Depression - Spokane, WA - January 31, 2002
Depression in Women - Butte, Montana - January 18, 2002
Update on the Treatment of Depression - Butte, Montana - January 18, 2002
Depression in Women - Bozeman, Montana, January 17, 2002
Sexual Dysfunction: Myths and Reality - Butte, Montana - January 17, 2002
Update on Antidepressants - St. Alphonsus Family Practice Residents - Jan 2, 2002
Update on Treating Depression - Boise Family Practice Residency - January 2, 2002
Management of Depression and Anxiety - Twin Falls, ID - December 12, 2001
Depression/Diabetes, ID Conference on Health Care - Pocatello, ID - Oct. 24, 2001
GABA Re-uptake Inhibition: A Novel Approach - St. Louis, MO - October 17, 2001
Postpartum Depression: The Latest in Treatment - Boise, ID - Oct. 16, 2001

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Lectures/Workshops Presented (continued):

Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Boise, ID - October 10, 2001
Gabitril: A Selective GABA Re-uptake Inhibitor - Kansas City, KS - Oct. 10, 2001
Bipolar Mania: An Overview of Diagnosis & Treatment - Nampa, ID - Oct. 1, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Boise, ID - Sept. 29, 2001
Schizophrenia: Diagnosis and Treatment - Baltimore, MD - Sept. 27, 2001
Current Issues in the Management of Sleep Disorders - SLC, UT - Sept. 26, 2001
Bipolar Mania - Diagnosis & Treatment - Nampa, ID - Sept. 24, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Boise, ID - Sept. 18, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Boise, ID - Sept. 13, 2001
Women and Depression - Spokane, WA - Sept. 11, 2001
Women and Depression - Spokane, WA - Sept. 10, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Eagle, ID - August 28, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Boise, ID - August 23, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Nampa, ID - August 22, 2001
Managing Depression in Continuation Treatment Phase: Changing Paradigms/New Approaches - Eagle, ID - August 21, 2001
Augmentation Strategies - St. Louis, MO - August 2, 2001
Provigil: A Clinical Profile - Boise, ID - July 25, 2001
Provigil: A Wake Promoting Treatment Option - Boise, ID - July 12, 2001
New Treatments for Depression and Anxiety - Mountain Home, ID - July 11, 2001
Treating Depression in Rural Settings - Middleton, ID - June 19, 2001
Cutting Edge Treatments in Psychiatry - Spokane, WA - June 7, 2001
Continuation Treatment - Boise, ID - June 6, 2001
Managing Chronic Depression - Boise, ID - June 5, 2001
Diabetes and Depression - Boise, ID - May 11, 2001
Depression in the Rehab Patient - Boise, ID - May 2, 2001
Into Wellness - Emmett, ID - April 26, 2001
Beyond Better - Boise, ID - April 17, 2001
Women and Depression - Nampa, ID - April 10, 2001
Women and Depression - Lewiston, ID - March 15, 2001
Follow-Up Beyond Better - Boise, ID - March 5, 2001
Promoting Wakefulness Using Modafinil - Columbia, MO - March 30, 2001
Beyond Better, Into Wellness - Boise, ID - February 2, 2001
Women and Depression - Butte, MT and Livingston, MT - September 14, 2000
Current Management Strategies for Mood and Anxiety Disorders - Boise, ID - August 31, 2000
Stress and Insomnia - Horseshoe Bend, ID - July 15, 2000
Women and Depression - Boise, ID - July 6, 2000

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Treatment Updates - Nampa, ID - June 9, 2000

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Lectures/Workshops Presented (continued):

Women and Depression - Mountain Home AFB - June 1, 2000
Depression in Women - Billings, MT - May 5, 2000
Depression in Women - Miles City, MT - May 4, 2000
Update on Treating Depression - Boise, ID - March 18, 2000
What's New in Psychiatry? - Boise, ID - March 1, 2000
Current Trends in Depression and Anxiety - Meridian, ID - Jan 20, 2000
Management of Depression - Boise, ID - December 3, 1999
Management of Sexual Dysfunction - Boise, ID - October 28, 1999
Update on Antidepressants - Caldwell, ID - October 14, 1999
Update on Depression - Coeur d'Alene, ID - August 21, 1999
Update on ADD - Ontario, OR - May 6, 1999
Adolescent Depression - April 24, 1999
Psychopharmacology of Eating Disorders - February 25, 1999
Treatment of Chronic Depression - January 28, 1999
Treatment of Chronic Depression - January 26, 1999
A New Antidepressant - November 5, 1998
Women's Wellness - October 10, 1998
A New Antidepressant - October 7, 1998
Women and Depression - September 27, 1998
International OCD Roundtable - Madeira, Portugal - September 13, 1998
Women and Depression - September 8, 1998
Prime Works District Symposium - November 13, 1997
Idaho Area Physicians: The Treatment of Depression - July 11, 1997
Sex, Drugs and Sleep. - July 2, 1997
Women on the Move - June 19, 1997
Treatment of Depression - June 3, 1997
Treatment of Depression - April 25, 1997
Focus on Depression II Workshop - February 19, 1997
Depression and Anxiety: A Focus on the Psychiatric Practice - January 24, 1997
Women and Depression - June 19, 1996
Serzone and Sexual Dysfunction - June 19, 1996
Women and Depression - June 17, 1996
Update on Psychotropic Medicine - May 23, 1996
Psychology of Women - June 13, 1996
Women Treating Women in Depression - May 23, 1996
Depression - May 23, 1996
Serzone Update - May 23, 1996
Women Treating Women: Depression-Round Table - May 22, 1996
Women Treating Women: Depression - May 22, 1996
Clinical Outcome of Depression in Primary Care Setting - May 19, 1996
Women and Depression - May 18, 1996
Sexual Dysfunction - May 17, 1996
Sex and Medications - May 9, 1996
Women's Depression and Anxiety - May 5, 1996
Women Treating Women in Depression - May 2, 1996
Bi-Polar-Subtypes, Treatments and Patient Management - April 25, 1995

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Depression – April 19, 1996

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Lectures/Workshops Presented (continued):

Post Partum Depression – April 19, 1996
Depression: Her Health – April 18, 1996
Intro: Rhythms and Antidepressants – April 16, 1996
Intro: Rhythms and Antidepressants – April 15, 1996
Antidepressant Update – April 4, 1996
Women Treating Women in Depression – March 29, 1996
Update on Depression – March 29, 1996
Women in Depression – March 28, 1996
Depression – March 19, 1996
Women in Depression – February 29, 1996 (3 sites)
Update on Depression, Prime MD & Rhythms Program – December 7, 1995
Female Prescribers – December 5, 1995
Women and Depression – November 30, 1995
OCD – November 20, 1995
OCD – November 16, 1995
Management of OCD – November 14, 1995
Unnecessary Drugs – November 8, 1995
Childhood Depression – October 6, 1995
Update on Antidepressant Therapy – June 20, 1995
Serzone Introduction – June 13, 1995
Anxiety Screening – May 1, 1995
Conflict Resolution and Issues – April 28, 1995
Introduction to New Antidepressants – April 28, 1995
OCD – March 17, 1995
Management of Depression – April 19, 1995
Psychiatric Issues in Epilepsy – November 16, 1994
Geriatric Depression – November 15, 1994
Alzheimer's disease – October 26, 1994
Idaho Diabetes Management – October 19, 1994
Weight Management: Issues and Options – October 12, 1994
Psychotropics in Long Term Care Facilities – October 11, 1994
Using Psychiatric Medication in Children – October 7, 1994
Codependency in Nurses – September 29, 1994
Suicide – Diagnosing Potentially Risky Patients – July 13, 1994
Addictions – June 15, 1994
Antidepressants – June 4, 1994
Alzheimer's disease – June 4, 1994
DSM-IV Training – June 1, 1994
Alzheimer's disease – May 19, 1994
Eating Disorders – April 30, 1994
Alzheimer's disease – April 17, 1994
Anxiety – What Is It? How to Cope? – April 20, 1994
Psychotropic Medications in Recovery – April 8, 1994
Alzheimer's disease – March 31, 1994
Alzheimer's disease – March 11, 1994
Antidepressant Update – May 18, 1994

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Anti-Anxiety Update – May 18, 1994

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Lectures/Workshops Presented (continued):

Eating Disorders – April 23, 1994
Review of Psychotropics – April 15, 1994
PMS and Eating Disorders – April 1, 1994
Women's Issues in Psychiatry – February 24, 1994
Alzheimer's disease – February 16, 1994
Medication Selection – February 16, 1994
Relationship Checkup – February 11, 1994
Alzheimer's disease – January 28, 1994
Alzheimer's disease – January 4, 1994
Winter Depression – December 8, 1994
Stress and Insomnia – December 7, 1993
Psychiatric Medications Made Simple – December 2, 1993
Anxiety in the Elderly – December 1, 1993
PMS – November 16, 1993
PMS – November 13, 1993
Eating Disorder – November 13, 1993
What's New in Depression – November 9, 1993
Medications in Children – October 8, 1993
Dealing with Depression – October 7, 1993
What You Need to Know About Depression – October 16, 1993
Pediatric Psychopharmacology for School Counselors – October 7, 1993
Women & Depression – October 4, 1993
Anxiety in the Elderly – September 21, 1993
Anti-Anxiety Agents in Primary Care – September 10, 1993
Antidepressants in Primary Care – September 10, 1993
Antidepressants Made Simple – September 8, 1993
Smoking Cessation – July 22, 1993
Psychiatric Aspects of PMS – July 6, 1993
Treatment of Depression – June 28, 1993
Management of Depression – June 24, 1993
Dual Diagnosis – June 18, 1993
Using Psychotropic Medications in Recovery – June 18, 1993
Treatment of Depression – June 8, 1993
Advances in Antidepressants – June 7, 1993
Update on Depression – May 17, 1993
Medical Aspects of Codependency – April 20, 1993
Management of Anxiety Disorders – April 1, 1993
Use of Antidepressants in Primary Care – March 23, 1993
Surviving Child Sexual Abuse – February 18, 1993
Drug and Alcohol Withdrawal – January 29, 1993
When Medications Help – January 20, 1993
Adult Attention Deficit Disorders – January 19, 1993
Relapse Prevention: Physical, Emotional & Mental Barriers to Sobriety –
Jan 11, 1993
Recognizing Drug and Alcohol Problems in Primary Care – October 7, 1992

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Lectures/Workshops Presented (continued):

Assessment and Management of Impaired Health Professionals –
September 19, 1992
Women and PTSD – May 11, 1992
Addiction and Codependency – April 22, 1992
Women and Depression – March 2, 1992
Psychiatric Implications of AIDS – August 9, 1991
Emotional and Rehabilitative Aspects of the CCU Patient – May 1991
Issues in Dual Diagnosis – April 27, 1990
Adolescents: Special Populations and Treatment Strategies – April 12, 1990
Inhalant Drug Abuse – March 23, 1990
Enhancing Self-Esteem and Sexuality – October 20, 1989
Current Trends in Cocaine, Marijuana and Nicotine Dependency – October 12, 1989
Adolescent Development: What's Normal? What Isn't? – May 25, 1989
Focus on Addictions. Legalities, Legacies and Complications – March 16, 1989
Codependency in Nurses – February 14, 1989
Drug Abuse – October 17, 1988
Dual Diagnosis: Assessment and Management – August 30, 1988
Treating Anxiety in the Alcoholic Patient – September 1, 1987

Clinical Research Experience:

Depression Response to Xxx in Adults with Major Depressive Disorder: A
Randomized, Double-Blind, Placebo-Controlled, Parallel-Group, 8-Week, Safety
and Efficacy Study of Xxx Compared to Placebo in Subjects with Insomnia
Related to Major Depressive Disorder

An Open-Label Study of Tolerability, Clinical Response, and Satisfaction in Adult
Bipolar I Subjects Optimizing Initiation of Therapy Using Administration of
Dermatological Precautions and Xxx Titration Packs

A Randomized, Double-Blind, Placebo-Controlled Study of Xxx in the Treatment of
Adolescents with a Primary Diagnosis of Panic Disorder

An Open-Label Study to Assess the Long-Term Safety and Tolerability of Xxx in the
Treatment of Adolescents with Panic Disorder or Anxiety with Panic Attacks

A Multi-Center, Double-Blind, Randomized, Placebo-Controlled Comparison of the
Effects of Sexual Functioning of Xxxx and Xxxx in Outpatients with Moderate
to Severe Major Depression over an Eight-Week Treatment Period

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Clinical Research Experience (continued):

A 6-week, Randomized, Double-Blind, Placebo-Controlled, Fixed-Dosage, Parallel-Group Study to Evaluate the Efficacy and Safety of the Xxxx Coated Tablet in Children and Adolescents with Attention-Deficit/Hyperactivity Disorder, With a 2-week Withdrawal Period

A Multi-Center, Double-Blind, Randomized, Placebo-Controlled, Six-Week, Flexible, Oral-Dose Clinical Study of Xxxx in the Treatment of Attention Deficit Hyperactivity Disorder (ADHD)

A 7-Month, Multi-center, Parallel, Double-Blind, Placebo-Controlled Comparison of Xxx mg/day of Xxx and Placebo for the Prevention of Seasonal Depression Episodes in Subjects with a History of Seasonal Affective Disorder Followed by and 8-week Observational Follow-up Phase

An Open-Label Study of Tolerability, Clinical Response, and Satisfaction in Adult Bipolar I Subjects Optimizing Initiation of Therapy using Administration of Dermatological Precautions and Xxxx Titration Pack

A Multicenter, Randomized, Double - Blind, Placebo-Controlled, Parallel – Group Study to Evaluate the Efficacy and Safety of Eight Weeks of Xxxx as Adjunctive Treatment for Excessive Sleepiness in Adults with Major Depressive Disorder, Sleepiness, and Fatigue

A Phase III, Randomized, Double Blind Parallel Group, Placebo-Controlled Safety and Efficacy Study of Xxxx in Children and Adolescents Aged 6-17 with Oppositional Defiant Disorder (ODD)

The Effect of Xxxx on Bone Mineral Density in Pediatric Subjects with Anorexia Nervosa: A Double-Blind, Placebo-Controlled Study

A Double-Blind, Multi-Center, Placebo-Controlled, Flexible-Dose Study of Xxxx 3 mg b.i.d. in the Treatment of Outpatients with Generalized Anxiety Disorder

An 8-week, Open-Label Study of Xxxx on the Effects on Quality of Life in Patients with Major Depressive Disorder

An International, Multi-Center, Large Simple Trial to Compare the Cardiovascular Safety of Xxxx and Xxxx in Patients with Schizophrenia

Open-label Xxxx Continuation Therapy

Xxxx, Placebo, and Xxxx Comparison in Patients with Major Depressive Disorder

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Clinical Research Experience (continued):

A Controlled Trial of Xxxx Versus Xxxx in the Treatment of Schizophrenic and Schizoaffective Subjects with Prominent Negative Symptoms

A Double-Blind, Multicenter, Placebo and Active-Controlled Acute and Extension Study of Xxxx in the Treatment of Patients with Major Depressive Disorder

An 8-Week, Open-Label Study of Xxxx for Fatigue in Patients with Seasonal Affective Disorder

A 6.5 Month, Randomized, Double-Blind, Placebo-Controlled Comparison of 150-300 mg/day of Xxxx and Placebo for the Prevention of Seasonal Affective Disorder in Subjects with a History of Seasonal Affective Disorder

Xxxx, Placebo, and Xxxx Comparison in Patients with Major Depressive Disorder

Open-Label Xxxx Continuation Therapy

Journal Reviewer:

Current Psychiatry (co-editor for Cases That Test Your Skills)

Prescriber's Letter

Pharmacist's Letter

International Journal of Neuropsychiatry

Addison-Wesley Professional Books (technical editor for PowerPoint)

Bibliography:

Pan, Su-shu, Pedersen, Leslie, & Bachur, N.R. Comparative Flavoprotein Catalysis of Anthracycline Antibiotics: reductive cleavage and oxygen consumption. *Mol Pharmacol* 19:184-186 (1981).

Aldrich, Angela P., Cook, Marcus D., & Pedersen, Leslie R. Retrospective Review of Selective Serotonin Reuptake Inhibitor-Induced Libido Disturbance in Women. *Pharmacovigilance* 353-359 (1996).

Curriculum Vitae

Leslie Pedersen Lundt, M.D.

Lundt, Leslie. Modafinil improves wakefulness and reduces fatigue in patients with seasonal affective disorder/winter depression: an open-label study [abstr]. *Sleep* 26:A382-383 (2003).

Curriculum Vitae

Leslie Pedersen Lundt, M.D.

Bibliography (continued):

- Lundt, Leslie P. A Case of Life-Threatening Trichotillomania. *Current Psychiatry* 3(5):89 (2004).
- Lundt, Leslie P. When Sleep Apnea Mimics Psychopathology. *Current Psychiatry* 3(2):76 (2004).
- Lundt, Leslie P. Modafinil Treatment in Patients with Seasonal Affective Disorder/Winter Depression: An Open - Label Pilot Study. *Journal of Affective Disorders* 81(2):173-6 (2004).
- Lundt, Leslie P. The Epworth Sleepiness Scale as a Screening Tool for Sleepiness in Psychiatry. *Biol Psychiatry* 55:183S (2004).
- Lundt, Leslie P. Using the Epworth Sleepiness Scale in Psychiatry [abstr]. *Sleep* 27 (2004).
- Lundt, Leslie P. Use of the Epworth Sleepiness Scale to Evaluate the Symptom of Excessive Sleepiness in Major Depressive Disorder. *General Hospital Psychiatry* 27(2):146-148 (2005).
- Brownsmith, C and Lundt, Leslie. Why me? One youth's quest for sanity. *Current Psychiatry* 4(5):85-99 (2005).
- Lundt, Leslie and Fischbach, M. *Think Like a Psychiatrist: Understanding Psychiatric Medicines*. Foothills Foundation Press. (2005).
- Lundt, Leslie and Nadolski, N. *Think Like a Psychiatrist: 40 Cases*. Foothills Foundation Press. (2005)
- Lundt, Leslie 45 y/o Man Evaluated for Insomnia and Alcohol Abuse. Pri-med Online <http://pri-med.com/pmo/ActivityMgr.aspx?ActivityID=441>
- Lundt, Leslie. *Sleep and Sleep Disorders in Women: Unique Challenges and Solutions* Medscape online <http://www.medscape.com/viewarticle/544423>
- Lundt, Leslie. Understanding Sleep and Insomnia. *Johns Hopkins Advanced Studies in Medicine* 6(10D):S1024-S1032 (2006).
- Lundt, Leslie. *YOU Can Think Like a Psychiatrist (second edition)*. Foothills Foundation Press. (2007)
- Lundt, Leslie and Clements, T. *Think Like a Psychiatrist: Anatomy of Addiction* Foothills Foundation Press. In press.

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Leslie Pedersen Lundt, M.D.

Lundt, Leslie. *Considerations for the Treatment of Narcolepsy*. US Neurological Disease. Issue 1 (2007)

Curriculum Vitae

Leslie Pedersen Lundt, M.D.

Bibliography (continued):

Morgillo-Freeman, Sharon, Lundt, Leslie and Swanton, T. *Myths and Realities of Pharmacotherapy in the Military*. In Press.

Media Appearances:

Radio

Host of weekly "Clinician's Roundtable" and "ReachMD Book Club" on XM ReachMD 157 national satellite radio
Regular guest "Health Dimensions" on KPTK Seattle
American Health Radio December 2007

Television

Dr. Lundt is a regular guest on KTRV evening news.
She has been featured on KTVB, KBCI, and KIVI.
Life or Meth, a television documentary featured Dr. Lundt as the neuropsychiatry expert.
Court TV Johnson v Idaho March 7, 2005

Print Samples

"Wake-Up Call" by Erica Lumiere in *Family Circle*, October 17, 2007

"Experts call teen depression a challenge Psychiatrists admit counseling, drugs don't always work" by Jennifer Nejman in *York Daily Record*, Sunday, February 13, 2005.

"Respect More than Money" by Lori Herring in *Unique Opportunities: the Physician's Resource*, May/June 2005.

"A Holiday without End" by Liza Burby in *Better Homes and Gardens*, July 2005.

"Walking Troubled Waters in Red Lake" by Jodi Rave in *The Missoulian*, July 10, 2005.

"Top Embarrassing Questions" By Megan McMorris in *All You*, August 2005.

"Sleep Like a Baby" by Mary Jane Horton and Marnell Jameson in *Fit Pregnancy*, August/Sept 2005.

"Family of Red Lake killer still trying to understand" in *Lacrosse Tribune*,

Curriculum Vitae
Leslie Pedersen Lundt, M.D.
July 10, 2005.

Recent legal cases
Leslie Lundt, MD

2003
Darger vs State

2004
Schmid

2005
Johnson v Idaho
Root

2006
Cady
Eichman, et al v Ada County, et al

EXHIBIT C

CHARLES NOVAK, M.D.

Psychiatric Expert Opinion Report
Dr. Charles Novak, M.D.
Hoagland vs. Ada County

I am Dr. Charles Novak. I am a Board Certified Psychiatrist and I have been in private practice in Boise, Idaho since 1985. At the request of Jim Dickinson from the Ada County Prosecutors Office I have been requested to review records and prepare a report of my findings in regards to the above case of Hoagland vs. Ada County.

At this point I have reviewed Ada County investigation reports in regards to this case, I have reviewed Mr. Bradley Munroe's Ada County jail records, his booking records, his health services unit records, his St. Alphonsus Regional Medical Center records, his Boise city police records, his Ada County Jail records, his records from Utah jails and hospitals, his California medical and mental health records, his Terry Reilly medical records, his Idaho Elk's records, his Idaho Department of juvenile correction records, his Intermountain Hospital records, and his Canyon County records. I have also reviewed recordings of Mr. Munroes Ada County jail telephone calls, Idaho Department of Health and Welfare records, recordings of reports regarding Mr. Munroes home environment and his relationship with his family (including his mother, his father, Mr. Gauntt, Mr. Hoagland, his sister and girlfriends), his school records, his autopsy reports, and Ada County EMS records. I have also reviewed the plaintiff's discovery responses including medical records, background information, and state and county criminal and medical information produced about Bradley Munroe. I have also reviewed medical records pertaining to Rita Hoagland including Idaho Elks records, Internal Medicine records, St Luke's Regional Medical Center records, West Valley Medical Center records, Terry Reilly Health Service records, and Intermountain Hospital records.

After review of all the above information I will summarize my findings and opinions to this point as follows.

Bradley Munroe was a 19 year old single caucasian male who committed suicide in the Ada County jail in September of 2008. Mr. Munroe was born into a difficult set of circumstances and had problems from early on in his life. He demonstrated developmental mile-stone delays as an infant, had substantial behavioral difficulties as a child and by the time of his teenage years had even more behavioral difficulties. His history shows a number of problems including cruelty to animals, fire setting, temper outbursts, oppositional defiant behavior and extreme conflict towards authority figures. His history is replete with multiple instances of abuse, neglect, abandonment, physical abuse and possible sexual abuse. In his early teenage years he was transfered in and out of multiple placements that included detention centers, the Youth Ranch, different youth correctional dispositions and psychiatric facilities. He essentially lived outside of a parental primary home type setting over the last one third of his life. He displayed substantial problems in relationships with all of the important authority and role models

in his life particularly thru his teenage years and had minimal consistent positive interactions with his mother or father, step fathers or other significant adult figures in his life over that period of time.

Mr. Munroe began to demonstrate substance abuse and dependence problems early in his teenage years and had substantial difficulty around the time of his death with dependence on alcohol, marijuana and multiple other illicit drugs. In the few months preceding his death Mr. Munroe was arrested and jailed. At the time of his suicide he had been arrested on felony robbery charges and had relapsed on alcohol.

After consideration of all the evidence made available to me thus far in regards to Mr. Munroe, it is my opinion that his primary problem list includes: 1. Antisocial Personality disorder with a pattern of disregarding and violation of the rights of others and the law. 2. Borderline personality disorder with evidence of instability in his personal relationships, an unstable self image, and marked impulsivity. 3. A below an average IQ. 4. Polysubstance dependence and alcohol dependence and abuse. 5. A lack of significant positive relationships with adult figures. 6. Impulsivity. 7. Mistrust of any authority figures. 8. The lack of a functional support system. 9. Minimal job skills and little desire to acquire employment skills. 10. A history of self defeating and self destructive behavior.

As one can see from this list of problems attributable to Mr. Munroe and prominently evident at his young age, his prognosis in regards to surviving without seriously harming himself or others or of having a functional productive quality of life was quite low. Most of the above listed problems are not treatable. Some may be treatable with long term behavioral and psychological intervention that are not available in our society without substantial economic resources and are simply not available at all in prison or correction type settings. The likelihood of Mr. Munroe turning around his life with this set of problems combined with his lack of desire to change and combined with his poor insight into his difficulties also worsened his overall prognosis. There is also evidence in my review of his records of Mr. Munroe discussing a plan to malingering in order to get social security benefits for a mental illness that he indeed may not have been suffering from and this combined with his pattern of constantly being dishonest also worsened his prognosis.

It is my opinion based upon the evidence available to me at this point that the treatment provided by Ada County jail was well within the community standards of care. Mr. Munroe had access to mental health professionals through the jail system; he had access to medications through the jail system, he had access to social assistance and intervention in the jail system. He did commit suicide in his jail cell but his suicide with his particular situation and character structure was non preventable in my opinion. Nearly all of his risk factors for suicide were of the types that were not treatable and thus not preventable. It is my opinion that there is no evidence of deliberate indifference on the part of any of the jail staff in regards to care, treatment, and monitoring provided to Mr. Munroe.

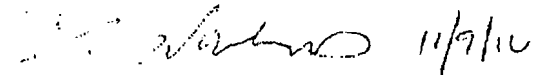
I believe it is important to appreciate the evidence that Mr. Munroe was not truthful in his reports of his difficulties, and was misleading at times in regards to his discussions with people who could try to help him in the jail setting.

It appears significant that Mr. Monroe had evidence of therapeutic blood levels of his anti-depressants (Celexa) in his blood at the time of his death which would rule out anti-depressant withdrawal as a contributor to his suicide.

In summary Mr. Bradley Munroe was born with genetic propensities that set him up for problems, he had an extremely problematic upbringing with little nurturance and significant neglect and abuse that set him up for the risk of suicide, he had developed a set of personality traits that set him up for an increased risk of suicide, and he behaved in ways that did not help him access people or treatments that would lessen his suicide risk. Many people tried to help Mr. Munroe but ultimately he did not want or accept that help.

I hold the above opinions to a reasonable degree of medical certainty. A copy of my curriculum vitae can be obtained through Jim Dickinson and the Ada County Prosecuting Attorneys office. These opinions are based on my training, experience, education, and my understanding of medical literature as it applies to this case. I would request the right to amend or supplement my opinions based on further information that might be provided to me at a later point.

Thanks for considering this report.


Charles Novak, M.D.

Ex. A to Aff. of Pltf's Counsel re Motions in Limine 000090
CURRICULUM VITAE

CHARLES C. NOVAK, MD
413 N. Allumbaugh Street, #101
Boise, ID 83704

DATE OF BIRTH: [REDACTED]
PLACE OF BIRTH: Mora, Minnesota
CITIZENSHIP: USA
LICENSE #: M-4922 Licensed in Idaho since 8/85 – present
BOARD CERTIFIED: Board Certified Psychiatry and Neurology July 1986 - Present

EDUCATION
BA, June 1976
Major: Chemistry
St. Olaf College
Northfield, Minnesota

M.D., June 1981
University of Minnesota
Minneapolis, Minnesota

Internship, June 1981 – July 1982
National Board Diplomat, March 1982
Presbyterian – St. Lukes Hospital
Denver, Colorado

Residency, July 1982 – July 1985
Board Eligible, July 1985
University of Hawaii, Psychiatry Residency Program
Honolulu, Hawaii

**PROFESSIONAL
EXPERIENCE:**

2008
Chief of Psychiatry Staff
St. Al's Hospital
Boise, ID

2008
Psychiatric Services-Physician Leader
St. Al's Hospital
Boise, ID

2008
Chief Psychiatric Clinical Care Director
Intermountain Hospital
Boise, ID

2007
Medical Director
Intermountain Hospital
Boise, ID

Jan 2004- 2006
President of St. Als Psychiatry Department
St. Al's
Boise, ID

Charles C. Novak, MD
Curriculum Vitae
Page 2 of 3

July 1985 – Present
Program Director Acute Intensive Care Unit and Adult Acute Hospital Services
Intermountain Hospital
Boise, ID

1994 – present
Owner/ Medical Director
Sage Health Care, PLLC
Boise, ID

1999 - 2004
Medical Director, Partial Hospitalization Program
Intermountain Hospital
Boise, ID

1994 – 1999
Medical Director
Interpersonal Dynamics Inc., State of Idaho EAP program
Boise, ID

**PROFESSIONAL
EXPERIENCE:**

1994 – Present
Psychiatric Consultant, Assertive Community Treatment Team
Regional Community Mental Health Center
Boise, ID

1985 – Present
Private Practice and General Psychiatry
Boise, ID

1992 – 1993, 1998 - 2004
Program Director, Outpatient Substance Abuse Treatment Program
Intermountain Hospital
Boise, ID

1993 – 1994
President
Idaho Psychiatric Association
Boise, ID

1993 – 1994
Chief of Medical Staff
Intermountain Hospital
Boise, ID

July 1984 – 1985
Chief Resident
University of Hawaii Psychiatric Residency
Honolulu, Hawaii

Jan 1985 – July 1985
Psychiatric Consultant
A.D.D. Clinic, Kapiolani Children's Hospital
Honolulu, Hawaii

001927

July 1982 – November 1983
Consultant-Liaison Psychiatry
Queens Hospital
Honolulu, Hawaii

1982 – 1985
E.R. and On-Call coverage of forensic, Adolescent and Adult Units
Kaneohe State Hospital / Queens Hospital
Honolulu, Hawaii

1995 – Present
Board Member
Idaho Alliance for the Mentally Ill

1994 – 2002
Southwest USA Chairperson for State Community Health Center Block Grant Applications
(CMHS Consultant)

**HONORS
AND AWARDS:**

2003 – Distinguished Fellow; American Psychiatric Association
1998 – Exemplary Psychiatrist Award, NAMI
1996 – Elected Fellow of American psychiatric Association
1992 – Exemplary Psychiatrist Award, National Alliance for the Mentally Ill
Phi Beta Kappa
Summa Cum Laude
NCAA Postgraduate Scholarship
1992 – 1995, Aug 1998 – Sept 2001 – Physicians Recognition Award, American Medical Assoc.

**PROFESSIONAL
ORGANIZATIONS
AND SOCIETIES:**

American Medical Association
American Psychiatric Association
Idaho Medical Association
Idaho Psychiatric Association

RESEARCH:

1985 – Psychoneuroimmunology of Post-Traumatic Stress Disorder – Research Protocol

REFERENCES:

Carl Bergstrom, MD
26366 Carmel Ranch Lane, Suite H
Carmel, CA 93923

David A. Kent, MD
413 N. Allumbaugh Street #101
Boise, ID 83704
(208) 323-1125

Roberto Negron, MD
413 N. Allumbaugh Street, #101
Boise, ID 83704
(208) 323-1125

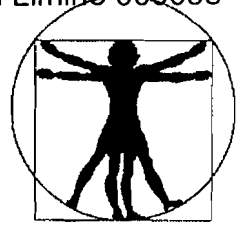
NAME OF FIRM OR JUDGE	Case Name	Services Provided	Year(s) involved
Ambrose, Fitzgerald	<i>Burbank vs. Applebaum</i>	Deposition	1993-1995
Hall, Farley	<i>Barnett vs. Schuler</i>	Deposition	1994-1997
Ringert & Clark	<i>Boerhinger vs. Hollingsworth</i>	Consultation	1995
Ringert & Clark	<i>Neal vs. Green</i>	Deposition & Trial	1995
Hall, Farley	<i>Barnett vs. Baranco</i>	Consultation	1995
U.S. Attorney's Office	<i>Zmuda vs. West</i>	Consultation	1995
Clements, Brown & McNichol	<i>Eddy vs. Gibbs</i>	Consultation	1996-1997
Clements, Brown & McNichol	<i>Smith vs. Clearwater</i>	Consultation	1997-2000
U.S. Department of Justice	<i>U.S. vs. Hollingsworth</i>	Deposition	1997
Clements, Brown & McNichol	<i>Re: Darcy Eddy</i>	Consultation	1997-1998
Hall, Farley	<i>Reed vs. Faas</i>	Consultation	1998
Hall, Farley	<i>Food Services vs. Steinberg</i>	Consultation	1998-1999
Hall, Farley	<i>Stamphill vs. Loader</i>	Consultation	1999
Stratton, Laggis	<i>Moldenhauer vs. FSB</i>	Deposition & Trial	1999
Hall, Farley	<i>Ballau vs. Valley Entertainment</i>	Consultation	1999
Stratton, Laggis	<i>Re: Kelly Pepper</i>	Consultation	1999
Stratton, Laggis	<i>Re: Charles Dees</i>	Consultation	1999-2000
Clements, Brown & McNichol	<i>CCU vs. Smith</i>	Consultation	2000
Cosho, Humphrey, Green	<i>Buskey vs. Whitter</i>	Deposition	2000-2001
Jerry Goicoechea	<i>RE: Merrie Anderson</i>	Consultation	2001
Brassey, Wetherell	<i>Smith vs. Kimsey</i>	Deposition & Trial	2001-2003
Hall, Farley	<i>Baning vs. Houghton</i>	Consultation	2002
Judge Winmill, State of Idaho	<i>Ibarra vs. Payne</i>	Consultation	2003
Hall, Farley	<i>Arnold vs. Henzler</i>	Consultation	2004
Hall, Farley	<i>Duckwall vs. Ainsworth</i>	Consultation	2004
Brassey, Wetherell	<i>Ridgewell vs. Scottsdale</i>	Deposition	2004-2005
Hall, Farley	<i>Amalgamated vs. Legault</i>	Consultation	2004-2005
Hall, Farley	<i>OSI vs. Thompson</i>	Consultation	2005
Moore, Baskin & Parker	<i>Arthur Myers</i>	Deposition & Trial	2005
Quane Smith	<i>Brown (Cserepes) vs. Colvin</i>	Consultation	2006
Hall, Farley	<i>Cramer vs. Swanson</i>	Deposition & Trial	2007
Brassey, Wetherell	<i>Vaugh vs. Lynn</i>	Consultation	2008
Hawley Troxell Ennis & Hawley, LLP	<i>Everett Koelsch v Pedersen Lundt</i>		2008-2010
Quane, Smith, LLP	<i>Forbush v Banta</i>		2009
Moffatt Thomas Barrett Rock & Fields, CHTD	<i>Parr v Saurey</i>		2009-2010
Naylor & Hayes PC	<i>Noak v PHS</i>		2010

EXHIBIT D

GARY DAWSON, RPh, Ph.D., FASCP

Gary Dawson and Associates
523 North Locust Street, Suite 100
Boise, ID 83712

Ex. A to Aff. of Pltf's Counsel re Motions in Limine 000095



November 10, 2010

Jim Dickenson
Ada County Prosecuting Attorney
Civil Division
200 West Front St.
Boise, ID 83702

RE: Munroe

Dear Mr. Dickenson:

I acknowledge that I have been retained by Ada County in the above referenced matter. For these services I charge \$90 per hour for consultation and \$190 per hour for deposition and trial.

I have reviewed the information you provided. These documents thus far have included Ada County Jail records, Boise Police reports, various medical and mental health records including St. Alphonsus Regional Medical Center, and the autopsy documentation. I have also reviewed the information provided by the Plaintiff in discovery response.

Based upon the information provided, it is clearly evident that Mr. Munroe had suffered through a chaotic and frankly dysfunctional existence, culminating in his suicide. During his life a variety of methodological and pharmacological interventions were attempted but were not appreciably beneficial. After a review of his past medical history, I focused my attention on the toxicology findings and context around his behavior at the time of arrest, his consumption of alcohol, and his subsequent behavior.

It is my opinion that, at the time of his death, Mr. Munroe had a blood level of the antidepressant citalopram that would normally be considered to be within the therapeutic range. This level would suggest that he was or had been taking citalopram in the days before his death. No other drugs were found in his blood. There is no indication, and I do not believe, that the citalopram was a proximate cause of this suicide.

During his arrest he was described as intoxicated, uncooperative and belligerent. Further, in the midst of a subsequent interview his belligerence escalated and he began banging his head against a wall and spitting at those in the room. Paramedics were called and they administered 5 mg of Valium IV for behavior described as "violent, combative, non-cooperative and hyperactive" with little apparent effect. This demeanor continued during the initial intake at the jail and became so disruptive that he was placed into a holding cell for several hours.

In Matters of Pharmacology and Toxicology Since 1976

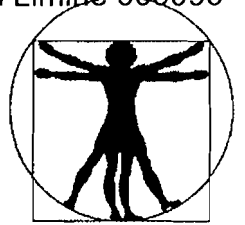
208.866.1779

001931

Ex. A to Aff. of Pltf's Counsel re Motions in Limine 000095

Gary Dawson and Associates
523 North Locust Street, Suite 100
Boise, ID 83712

Ex. A to Aff. of Pltff's Counsel re Motions in Limine 000096



It is my opinion that Mr. Munroe's belligerent and combative behavior during his arrest and subsequent detention and incarceration was a direct result of a combination of alcohol and its exacerbation of his underlying psychiatric disorders. Further, Mr. Munroe had a documented history of drug abuse and it was unknown at the time whether or not he had ingested mind or mood altering drugs other than the alcohol. It is my opinion that absent confirmation of the presence or absence of other licit or illicit drugs it would be unwise to initiate pharmacological treatment until he could be evaluated in an unintoxicated state.

My opinions are based upon my training and experience together with the documents provided and are subject to revision or modification, in whole or in part, subsequent to the disclosure of additional pertinent information.

Respectfully submitted,

//sent electronically

Gary Dawson, RPh, PhD, FASCP

CURRICULUM VITAE

Gary Dawson, PhD

EDUCATION:

<u>Institution</u>	<u>Degree</u>	<u>Major</u>
Idaho St. Univ.	BS	Pharmacy
Idaho St. Univ.	MS	Pharmacy
Univ. of Alberta	PhD	Pharmacology

PROFESSIONAL ACTIVITY:

- Consulting or Testimony on matters of Pharmacology and Toxicology fothe State of Idaho Attorney General
- Consulting or Testimony on matters of Pharmacology and Toxicologyfor numerous county Prosecuting Attorneys (All Idaho District Courts)
- Consulting or Testimony on matters of Pharmacology and Toxicologyfor the Ada County Coroner (Investigation and Inquest)
- Instructor for Idaho Peace Offcer Standards and Training (POST)
- Instructor for Ada County Sheriff's Office, DUD Enforcement Training
- Certified Breath Testing Specialist, Intoxylizer 5000and 5000EN, State of Idaho
- Certified Breath Testing Specialist, AlcoSensor IIIlifeloc, State of Idaho
- Research on the Effects of Drugs and Alcohol on Performance and Behavior

PROFESSIONAL EXPERIENCE:

- 7/05 - **Sr. Clinical Science Liaison, Medical Affairs, Takeda Pharmaceuticals America, Inc.**
Field-based clinical and scientific support for a global drug discovery company. Responsibilities in part include identification and support of Neuroscience and Metabolic programs at key academic and healthcare institutions and the development of research and educational programs.
- 10/04 - 7/05 **Medical Science Liaison, Medical Affairs Praecis Pharmaceuticals, Inc.**
Field-based clinical support for a US pharmaceutical company. Identified and developed Key Opinion Leaders in oncology and urology. Identified, qualified and recruited sites for clinical trials and Investigator Sponsored Studies Territory included Northern CA, WA, OR, ID, UT, MT, WY, ND, SD, MN, CO, and AK.
- 5/04 - 10/04 **Director of Pharmacy (Interim), Catholic Health Initiatives**
General and operational supervision of a multi-site specialty pharmacy with 35 professional and clerical staff.

- 10/00 - 4/04 **Medical Liaison, Medical Affairs**
Novo Nordisk Pharmaceuticals, Inc.
Field-based clinical support for NovoSeven® (rFVIIa). Identified and developed Key Opinion Leaders in oncology, hematology, liver disease, cardiothoracic and general surgery, critical care and neurology throughout territory. Identified sites and recruited investigators for Phase II-III clinical trials. Frequent formal presentations to Oncology, Neurology, Critical Care, Surgeons, Pharmacy, Nursing, and Managed Care. Territory included WA, OR, ID, MT, WY, UT, AK.
- 5/00 - 10/00 Director of Pharmacy (Interim)MD Network, LLC
General operational supervision for multi-state pharmacy. Completed realignment of operations including new policies, training, staff and data processing to support long-term goals and sales growth.
- 1998 – 2000 Director of Pharmacy, Sun Healthcare
General operational supervision for multi-state closed-door pharmacy providing alternate site, IV, psychiatric, clinical and home care services.
- 1996 – 1998 Clinical Pharmacist, NCS Healthcare
Responsible for drug utilization review, disease state management, and staff development. Core responsibilities included oncology, pain control, Psychiatric, HIV and liver disease.
- 1988 - 1996 Owner/Director, Dawson Healthcare
Successful JCAHO accredited home health care and alternate site IV (including chemotherapy) and enteral provider.
- 1984 - 1988 Pharmacy Manager, Medi-Save Pharmacy
- 1982 - 1984 Associate Professor of Clinical Pharmacy, Idaho State University, College of Pharmacy
- 1980 - 1983 Clinical Pharmacologist, VA Medical Center, Boise, Id.
- 1977 - 1982 Assistant Professor of Clinical Pharmacy, Idaho State University, College of Pharmacy
- 1976 - 1980 Chief, Clinical Pharmacy Services, Idaho State School and Hospital

HONORARY AND PROFESSIONAL SOCIETIES:

Society of Forensic Toxicologists
American Society of Clinical Pharmacology and Therapeutics
Fellow, American Society of Consultant Pharmacists
American Society of Hypertension
American Diabetes Association

AWARDS AND RECOGNITIONS:

Fellow, American Foundation for Pharmaceutical Education
Graduate, The Borkenstein Course: Effect of Drugs on Performance

EDITORIAL BOARDS:

American Society of Consultant Pharmacists
ASHP Research and Education Foundation
 Demonstration Projects Awards Committee
American Journal of Hospital Pharmacy, Ad Hoc
ASHP Midyear Contributed Paper Review

OTHER:

Licensed to practice pharmacy in Idaho, Oregon, Nevada, Colorado and
 Arizona
Thirty years of clinical experience in inpatient and outpatient psychiatry, drug and
 alcohol abuse treatment and rehabilitation, and neuroscience
More than 20 peer reviewed publications and book chapters in basic and clinical
 science

PUBLICATIONS:

1. Coutts, R.T., **Dawson, G.W.**, Dawe, R.D. and Kovach, S.H.: *In vitro* metabolic N-Oxidation of N-Methylamphetamine in the rat (abst.). *Pharmacologist* 17:183, 1975.
2. **Dawson, G.W.** and Coutts, R.T.: Factors effecting the *in vitro* metabolic N-Oxidation of N-(propyl)-amphetamine in the rat (abst.). *Pharmacologist* 17:183, 1975.
3. Coutts, R.T., Dawe, R.D., **Dawson, G.W.** and Kovach, S.H.: *In vitro* metabolism of 1-phenyl-2-propanone oxime in rat liver homogenates. *Drug Metab. Disp.* 4:35-39, 1976.
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8. **Dawson, G.W.**: *In vivo* and *in vitro* metabolism of amphetamines. PhD Thesis, University of Alberta, Edmonton, Canada, 1976.
9. Coutts, R.T. and **Dawson, G.W.**: Urinary excretion of phenolic metabolites of N-(n-propyl)-amphetamine in man. *Res. Comm. Chem. Pathol. Pharmacol.* 17:349-352, 1977.
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12. Strandberg, L.R., **Dawson, G.W.**, Mathieson, D., Rawlings, J. and Clark, B.G.: Effect of comprehensive pharmaceutical services on drug use in long term care facilities. Am. J. Hosp. Pharm. 37:92-94, 1980.
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14. Jue, S.J., **Dawson, G.W.** and Brogden, R.: Amoxapine: A Review of its pharmacology and clinical efficacy in depressed states. Drugs 24:1-23, 1982.
15. **Dawson, G.W.**, Carter, F. and Vestal, R.E.: Factors effecting *in vitro* drug metabolism in rat liver homogenate (abst.). Fed. Proc. 41:1478, 1982.
16. **Dawson, G.W.**, Jue, S.J. and Brogden, R.N.: Alprazolam: A review of its pharmacology and efficacy in the treatment of anxiety. Drugs 27:132-147, 1984.
17. **Dawson, G.W.**: Polypharmacy in Long-Term Care. In "Drug Treatment in the Elderly", Vestal, R.E. (ed.). p 51-58. ADIS Health Science Press, Australia. 1984.
18. **Dawson, G.W.**: Smoking, Age and Drug Metabolism. In "Smoking and Aging", Bosse, R. and Rose, C.L. (eds.). p 131-156. Lexington Books, Lexington, MA. 1984.
19. **Dawson, G.W.** and Vestal, R.E.: Cimetidine inhibits the *in vitro* N-demethylation of methadone. Res. Comm. Chem. Pathol. Pharmacol. 46:301-304, 1984.
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21. Cusack, B.J., **Dawson, G.W.**, Mercer, G.D. and Vestal, R.E.: Cigarette smoking and theophylline metabolism: Effect of cimetidine. Clin. Pharmacol. Ther. 37:330, 1985.

22. Vestal, R.E. and **Dawson, G.W.**: Pharmacology and Aging. In "Handbook of the Biology of Aging", Second Edition. Finch, C.E. and Schneider, E.L. (eds.). p 744-819. Van Nostrand Reinhold, New York. 1985.
23. Clark, B. G., Jue, S.G., **Dawson, G.W.** and Ward, A: Loprazolam: A preliminary review of its pharmacodynamic and pharmacokinetic properties and therapeutic efficacy in insomnia. *Drugs*. 31:500-516, 1986.
24. Vestal, R. E., Cusack, B. J., Mercer, G. D., **Dawson, G. W.** and Park, B. K.: Aging and Drug Interactions: I. Effect of cimetidine and smoking on the oxidation of theophylline and cortisol in healthy men. *J. Pharmacol. Exp. Ther.* 241:488-500, 1987.
25. Dawson, G.W.: Sleep Deprivation, Driving and Performance. For The Road, Idaho Prosecuting Attorneys Association. 1:1-2, 2007.

Gary W. Dawson, PhD
Training and Continuing Education
(For illustrative Purposes Only - Not a Complete Listing)

2010

Blood Pressure Measurement: Which Metric Matters? Louis Kuritzky, MD, New York, NY. May 2010.

White Coat and Masked Hypertension. Angela Brown, MD, New York, NY. May 2010.

24-Hour Ambulatory and Home Blood Pressure Measurement: How to Use in Clinical Practice. New York, NY. May 2010.

Hypertension in the Elderly. Wilford Germino, MD. New York, NY. May 2010.

Isolated Systolic Hypertension, Steven Yarows, MD. New York, NY. May 2010.

The Clinical Implications of the HYVET Study, Michael Bloch, MD. New York, NY. May 2010.

Resistant Hypertension: Optimizing Drug therapy, Jan Basile, MD. New York, NY. May 2010.

Differential Diagnosis of Resistant Hypertension, Samuel Mann, MD. New York, NY. May 2010.

Evidence vs. Guidelines: Results of the ACCORD Study, Louis Kuritzky, MD. New York, NY. May 2010.

What ACCORD Means to the Primary Care Clinician, Myra Kleinpeter, MD, MPH. New York, NY. May 2010.

K2 and the Synthetic Cannabinoids: Pharmacology, Effects, and Chemical Analysis. Barry Logan, PhD, Chicago, IL. September 2010.

Molecule-Specific Effects of Angiotensin II-Receptor Blockers Independent of the Renin-Angiotensin System. Theodore Kurtz, MD. Chicago, IL, September 2010.

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Idaho BTS Recertification: Intoxylizer 5000, AlcoSensor III, LifeLoc FC20. Idaho State Forensic Services, Coeur d'Alene, ID. August 2009.

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Analysis of Alcohol in Blood and Breath. Barry Logan, PhD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

What are We Asking of Observers? Charles A. McKay, MD, FACMT, and Robert Forney Jr, PhD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

Legal Perspectives of DUI. Leonard Shapiro, JD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

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Cannabinoids – Neurobiology, Pharmacology and Pharmacokinetics Following Acute and Chronic Exposure. Marilyn Huestis, PhD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

The Integration of Forensics into the Practice of Medical Toxicology. Jeffrey Brent, MD, Michael Kosnett, MD, Charles McKay, MD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

Gas Chromatography Mass Spectrometry Cannabinoid Analysis. Erin Karschner, PhD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

Cannabinoids in Oral Fluid. David Schwope, MD. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

Predictive Methods for Estimating Time of Last Cannabinoid Use – Blood and Urine. Michael Smith, PhD, DABFT. American College of Medical Toxicology Forensic Course: Ethanol and Marijuana. Baltimore, MD. November 2009.

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Evaluation and Preparation of the DUI-Drugs Case. Robert Rausch, Boise, Idaho. Idaho POST Academy, February 2008.

Qualifying the DRE as an Expert. Jill Longhurst, Boise, Idaho. Idaho POST Academy, February 2008.

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Use of CNS Depressants in the Management of COPD. Teresa Osbourn, Las Vegas, NV. National Medical and Scientific Affairs Meeting, TPNA. February 2008.

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Pharmacology and Use of Sedative Hypnotics. Dan Garcia, Las Vegas, NV. National Medical and Scientific Affairs Meeting, TPNA. February 2008.

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Genetics of Normal and Pathological EEG in Humans. Mehdi Tafti, Tahoe City, CA. Keystone Symposia: Genetics and Biochemistry of Sleep. March 2008.

Genetics of Restless Leg Syndrome. Juliane Winkelmann, Tahoe City, CA. Keystone Symposia: Genetics and Biochemistry of Sleep. March 2008.

Treatment of Chronic Insomnia in Adults. Max Hirshkowitz, Dallas, TX. Sleep Consultant Network, Speaker Summit Meeting. March 2008.

A Study of the Safety of Ramelteon in Subjects With Moderate-to-Severe Chronic Obstructive Pulmonary Disease. Thomas Roth, Dallas, TX. Sleep Consultant Network, Speaker Summit Meeting. March 2008.

Pharmacotherapeutic Options for Chronic Insomnia. C. I. Jarvis, Massachusetts College of Pharmacy, Worcester, MA. March, 2008.

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Applying Innovations in Knowledge Management from Other Industries to Pharmaceuticals. Andrew Kusiak, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

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Applying Knowledge Management Ownership Across a Medical Affairs Department. Paul Brock, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

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Knowledge Management Services and the Implementation of a Virtual Library in the Pharmaceutical Industry. Amyas Huston, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

Developing an Online Medical Information KM User Community to Improve Collaboration and Innovation. Tim Batchelder, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

Global Scientific Asset Dissemination and Knowledge Management. Jim Wilkinson, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

Rapid Access to Clinical Data and Published Studies. Robert Dubois, Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

FDA Regulation of Pharmaceutical Industry Pre-Launch Activities. Tom Muldoon, Legal and Regulatory Compliance, Takeda Pharmaceuticals North America. Chicago, IL., April 2008.

Effects of Ramelteon on Insomnia Symptoms Induced by Rapid, Eastward Travel: A Detailed Review of the TL-045 Clinical Trial. Tom Macek, Clinical Science Director, TGRD. Chicago, IL., April 2008.

Clinical Development of LU AA21004: A New Compound for the Treatment of Major Depressive Disorder. Jill Fischer, Program Manager, Neuroscience, TPNA. Chicago, IL., April 2008.

National Institute of Mental Health: An Update on Programs and Research. Thomas Insel, Director, NIMH. Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

The Neuroscience of Primary Process Emotionality: Implications for Psychiatry and Affective Well Being. Jaak Panksepp, PhD. Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Olfactory Dysfunction in Schizophrenia – A model System to Investigate Developmental Neuropathology. Bruce Turetsky, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Sensation, Attention and Schizophrenia. Daniel Javit, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

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Methylation State of TrkB in Frontal Cortex of Suicide Completers: Technical considerations of Epigenetic Research. Carl Ernst, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Corticotrophin Releasing Hormone Receptor (CRHR1) Polymorphisms Interact with Early Life Stress to Influence the Cortisol Response to the Dex/CRH Test. Audrey Tyrka, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Neural Correlates of Catecholaminergic dysfunction as a Trait Abnormality in Major Depression. Gregor Hasler, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Molecular Imaging of nAChR in MDD: the Effect of Recovery. Zubin Bhagwagar, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

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MicroRNA and Stress: Cellular and Molecular Perspectives. Anthony Leung, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

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Selected Hippocampal MicroRNAs are Differentially Regulated by Chronic Stress and Mood Stabilizers. Guang Chen, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

General Overview of Epigenetic Regulation in Addiction. Eric Nestler, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Epigenetic Regulation in Learning and Memory. David Sweatt, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

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Epigenetic Regulation of Stress Responses and Vulnerability for Affective Disorders. Michael Meaney, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Genome-Wide Association Study of Two PET Scan Phenotypes. Xinmin Liu, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

BAG-1: A Molecular Transducer of Affective Resilience in the Brain. Joshua Hunsberger, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

A Phylogenetically-Conserved Molecular Signature of Depression in the Amygdala. Etienne Sibille, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Predictors of Psychosis in Mild Cognitive Impairment and Early Alzheimer Disease in the Cardiovascular Health Cognition Study. James Emanuel, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

A Genome-Wide Association Study in Major Depression Reveals Association of SNPs on Chromosome 12q21.31. Martin Kohli, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Relationship Between Neuroinflammation and Neurodegeneration During HIV/SIV Encephalitis. Clayton Wiley, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Neurogia and Neuroimmune Responses as Pathogenic Mechanisms in Autism Spectrum Disorders (ASD). Carlos Pardo-Villamizar, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Cytokines and Psychopathology: Lessons from Interferon-Alpha. Andrew Miller, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Positron Emission Tomography Imaging of the Peripheral Benzodiazepine Receptor, A Potential Biomarker for Neuroinflammation. Masahiro Fujita, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Experience and Brain Development. Holly Cline, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Tuning Up circuits: Brain Waves and Immune Genes. Carla Shatz, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Critical Period Brain Development and Disorders. Takao Hensch, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

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Mental Disorders as Developmental Disorders. Thomas Insel, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Patients with Panic disorder Show Widespread Loss of NK1 Receptor Binding in Brain Measured with Positron Emission Tomography. Robert Innis, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

PET Neuroimaging Studies of Substance P NK1 Receptors in Major Depression. Jarmo Hietala, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Therapeutic Trials of NK1 Antagonists in Neuropsychiatric Disorders. Mary Morrison, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Efficacy and Neurochemical Effects of Adjunctive Cytidine Supplementation in Treating Bipolar Depression: 12 week Results from a Randomized, Double-Blind, Placebo-Controlled Trial. Perry Renshaw, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Dynamic Regulation of Mitochondrial Functions by Glucocorticoids and Stress. Jing Du, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

Mitochondria in Synapse Development and Plasticity. Zheng Li, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

BCL-2: A Key Regulator of Affective Resilience in the Pathophysiology and Treatment of Severe Mood Disorders. Hussein Manji, Society of Biological Psychiatry, 63rd Annual Meeting: Molecules to Mind – Discovery to Recovery. Washington, DC., May 2008.

What Genes in Drosophila Can Tell Us About Sleep in Humans. Ravi Allada, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Lessons From Model Systems. David Raizen, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Sleep in the Zebrafish Model. Phillippe Mourrain, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Molecular Characterization of Human Sleep Variants. Ying-Hui Fu, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Molecular Correlates of Sleep Homeostasis. Paul Franken, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Genetics of Sleep: Restless Leg Syndrome. David Rye, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Trait-like Differential Vulnerability to the Neurobehavioral Effects of Sleep Loss in Humans. David Dinges, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Circadian Disruption and Cancer, William Hrushesky, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Role of Circadian Dysregulation in Sleep and Metabolic Dysfunction, Fred Turek. The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Gating of Cell Division to the Reductive Phase of the Metabolic Cycle, Steven McNight, The Role of Genetics and Gene Expression in Sleep Regulation and Dysregulation. New York Academy of Sciences, New York, NY. June 2008.

Diabetes: A Genetic Legacy, Charles Burant. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Islet Cell Overview – Structure and Function, Keely Solomon. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Glucose Homeostasis – Insulin, Charles Kelly. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

TZD's and Human Adipocyte Function, Richard Kirkland. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Type 2 Diabetes and Cardiovascular Disease, John Buse. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Insulin Resistance and Metabolic Syndrome, Mark Caddle. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Diabetes Treatment Algorithms and Therapeutic Guidelines, Tiffany Granderson. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. August, 2008.

Therapeutic Approaches for the Management of Type 2 Diabetes, Mark Stolar. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Cardiovascular Safety of Pioglitazone: Results of the PROACTIVE Clinical Trial, Robert Spanheimer. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Safety of Thiazolidindiones in the Management of Diabetes, Terry Babb. Scientific and Medical Research Topics. Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Prevention of Diabetes: Clinical Trials Overview, Keely Solomon. Regional Clinical and Scientific Strategies, Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Landmark Studies in the Treatment of Diabetes, Bobby Greely. Regional Clinical and Scientific Strategies, Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Differentiation of DPP4 Inhibitors: Alogliptin and Sitagliptin. Regional Clinical and Scientific Strategies, Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Demystifying Type 2 Diabetes Management, Patrick Boyle and Mark Stolar. Continuing Education Program, Takeda Pharmaceuticals North America, Deerfield, Ill. September, 2008.

Interaction of Gut Hormones, Bile Acids, Incretins and the Brain, Yehuda Handelsman. Continuing Education Program, Gut Hormones and the Brain, Los Angeles, CA. September 2008.

Nutrients as Messengers: Bile Acids and Their Receptors, Zachary Bloomgarden. Continuing Education Program, Gut Hormones and the Brain, Los Angeles, CA. September 2008.

Liver, Pathophysiology of Bile Acid and Cardiovascular Disease, Arun Sanyal. Continuing Education Program, Gut Hormones and the Brain, Los Angeles, CA. September 2008.

Gut Hormones and the CNS Regulation of Energy Balance, Daniel Porte Jr. Continuing Education Program, Gut Hormones and the Brain, Los Angeles, CA. September 2008.

Clinical Implication of Gut Hormones and Bile Acids in CVD and DM, Philip Levy. Continuing Education Program, Gut Hormones and the Brain, Los Angeles, CA. September 2008.

The Role of Plasma Cell Antigen 1 (PC-1)/Ectonucleotide Pyrophosphatase Phosphodiesterase 1 (ENPP1) in the Pathogenesis of Insulin Resistance and Related Abnormalities, Ira Goldfine. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Chronic FFA Elevation Impairs Pancreatic Beta Cell Function – Focus on Human Studies, Gary Lewis. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Beta Cell Adaptation (and maladaptation) to Obesity and its Reversal by Gastric Bypass Surgery, Peter Butler. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Body Mass Index Versus Waist Circumference, Gerald Reaven. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Effect of Insulin Resistance on Blood Coagulation and Matrix Metaloproteinases, Guenther Boden. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance and Beyond – Clinical Implications, Yehuda Handelsman. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance, Brain Aging, and Dementia, Suzanne Craft. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Targeting Metabolic Insulin Resistance: Developing Drugs to Prevent Diabetes, Antonio Vidal-Puig. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Targeting Vascular Insulin Resistance: Developing Drugs to Prevent Cardiovascular Disease, Mark Kearney. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Drug Discovery: Translating Science to Target, Colin Fishwick. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Lessons From the Glitazones, Peter Grant. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Dysfunctional Adipogenesis, Samuel Cushman. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Obesity and Insulin Resistance: From Bedside to Bench, Tracey McLaughlin. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Update on the Role of HDL in Insulin Resistance and Cardiovascular Disease, Bryan Brewer Jr. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Nutritional and Genomic Regulation of Atherogenic Dyslipidemia, Ronald Krauss. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Impaired Fasting Glucose vs Impaired Glucose Tolerance in Obese Adolescents: Commonalities and Dissimilarities, Sonia Caprio. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance and the Development of Cardiovascular Risk, Alan Sinaiko. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

NAFLD: Recent Developments in Diagnosis and Treatment, Arun Sanyal. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance and PCOS, Ricardo Azziz. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Cellular Mechanisms of Insulin Resistance: Implications for Obesity, Lipodystrophy, Type 2 Diabetes and the Metabolic Syndrome, Gerald Shulman. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Stage 1 of the TINSAL-2D Trial, Steven Shoelson. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Diabetes, Lipids and Insulin Resistance, Paul Jellinger. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Novel Determinants of Heart Failure in Diabetes, Burton Sobel. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Cardiomyopathy of Insulin Resistance, Ronald Whitteles. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance, Diabetes, and Heart Failure: A Clinical Perspective, Martin LeWinter. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Update on the Metabolic Syndrome, Scott Grundy. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Pathophysiological Basis and Potential Therapy for the Insulin Resistance Syndrome, Richard Bergman. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Insulin Resistance in Man: Molecular Origins, Ralph DeFronzo. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

HTN and Insulin Resistance, Zachary Bloomgarden. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

GLP1 and its Potential Effect on Insulin Sensitivity and Relationship to Endothelial Dysfunction and the Heart, David Heber. Sixth World Congress on the Insulin Resistance Syndrome, Los Angeles, CA. September 2008.

Nuclear Receptors That Effect Glucose Homeostasis, David Moore. MoLAR Fall Conference, Los Angeles, CA. October 2008.

2007

Sleep Neurophysiology. Helen Baghdoyan, La Jolla, CA. Sleep Research Society, February 2007.

Sleep Genetics. Chiara Cirelli, La Jolla, CA. Sleep Research Society, February 2007.

Sleep Homeostasis. Irene Tobler. La Jolla, CA. Sleep Research Society, February 2007.

Circadian Rhythms. Robert Moore, La Jolla, CA. Sleep Research Society, February 2007.

Sleep Pharmacology. Emmanuel Mignot, La Jolla, CA. Sleep Research Society, February 2007.

Sleep Deprivation and Performance. David Dinges, La Jolla, CA. Sleep Research Society, February 2007.

Brain Morphometrics. John Mazziotta, La Jolla, CA. Sleep Research Society, February 2007.

PET: Cerebral Glucose Metabolism and Blood Flow. Julie Price, La Jolla, CA. Sleep Research Society, February 2007.

PET: Receptor Imaging. Raj Narendran, La Jolla, CA. Sleep Research Society, February 2007.

FMRI: Assessment of Relative Regional and Quantitative Blood Flow. John Detre, La Jolla, CA. Sleep Research Society, February 2007.

Image Processing and Statistical Analysis. Keith Worsley, La Jolla, CA. Sleep Research Society, February 2007.

Magnetic Resonance Spectroscopy (MRS). Scott Lukas, La Jolla, CA. Sleep Research Society, February 2007.

Magnetoencephalography (MEG). Matti Hamalainen, La Jolla, CA. Sleep Research Society, February 2007.

Optical Imaging. Arthur Toga, La Jolla, CA. Sleep Research Society, February 2007.

Drug development targets in the treatment of Schizophrenia. Joseph Coyle, Chicago, Ill. Scientific Advisory Board, March 2007.

Drug development in the treatment of Mood Disorders. Pierre Blier, Chicago, Ill. Scientific Advisory Board, March 2007.

Drug development in the treatment of Neurodegenerative disorders. David Geldmacher, Chicago, Ill. Scientific Advisory Board, March 2007.

Imaging in CNS Disease. Craig Heller, Chicago, Ill. Scientific Advisory Board, March 2007.

Specific targets in CNS disease. Hari Manev, Chicago, Ill. Scientific Advisory Board, March 2007.

Clinical Investigator Training: The Switch Study 01-06-TL-375-071. Chicago, Ill. March 2007.

Advancing Pain Management. Oregon Pain Management Commission, Portland, OR. April 2007.

Assessing Chronic Balance and Mobility Disorders. Louis Nashner, Chicago, Ill. Medical Training, TPNA, April 2007.

Principles and Practice: Balance Disorders. Joseph Furman, Chicago, Ill. Medical Training, TPNA, April 2007.

Screening Controlled Substance Prescriptions for Validity. David Brushwood, Boise, ID. May 2007.

Advanced Management of Chronic Pain. Richard Coleman, Boise, ID. May 2007.

Ramelteon differentially Regulates the Sensitivity of hMT1 and hMT2 Melatonin Receptors Expressed in Mammalian Cells. M.L. Dubocovich, Minneapolis, MN. APSS, June 2007.

Neuroscience of Sleep. Carol Everson, Minneapolis, MN. APSS, June 2007.

Effects of Ramelteon on Middle-of-the-Night Balance, Mobility, and Memory Performance in Older Adults. Sherry Wiegand, Minneapolis, MN. APSS, June 2007.

Neurobiological Insights Into the Pathophysiology and Management of Insomnia. SciMed CME, Minneapolis, MN. June 2007.

Effects of Eszopiclone Co-Therapy with Escitalopram on Measures of Anxiety and Mood Outcomes in Patients with Insomnia and Comorbid Generalized Anxiety Disorder. M. Pollack, Minneapolis, MN. APSS, June 2007.

Sleep and Cognition. Carlyle Smith, Minneapolis, MN. APSS, June 2007.

Cognitive Behavioral therapy in Patients with Chronic Insomnia and Obstructive Sleep Apnea. K. Davis, Minneapolis, MN. APSS, June 2007.

Standing Still While Falling Into Sleepiness: How Sleep Deprivation Affects Postural Control in Young Adults. R. Robillard, Minneapolis, MN. APSS, June 2007.

Sleep in Anxiety and Substance Abuse Disorders. Thomas Mellman, Minneapolis, MN. APSS, June 2007.

Pharmacotherapy of Insomnia. Gary Zammit, Minneapolis, MN. APSS, June 2007.

Next-Day Driving Ability, Cognition and Psychomotor Function Following Nighttime Administration of Eszopiclone in Primary Insomniacs. J. Boyle, Minneapolis, MN. APSS, June, 2007.

Update on the Neurophysiology of Drugs Used to Treat Insomnia. James Walsh, Minneapolis, MN. APSS, June 2007.

Breath Testing Specialist Certification, Intoxylizer 5000/5000EN. David Laycock, Meridian, ID. Idaho State Police, June 2007.

Breath Testing Specialist Certification, AlcoSensor III. David Laycock, Meridian, ID. Idaho State Police, June 2007.

Emerging Research in Sleep. Larry Shepard, Chicago, IL. Takeda Pharmaceuticals America, July 2007.

Opioid Pharmacology and Considerations in Pain Management. Anne Zichterman, Memphis, TN. University of Tennessee. August 2007.

Fraudulent Activities in Pharmacy Practice. Eric Frontera, Fort Lauderdale, FL. Nova Southeastern University. August 2007.

Basic PK/PD Models (Effect Compartment, Indirect Response): Theory and Examples. Jogarao Gobburu, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Introduction to Antibody PK/PD: Determinants of MAB Absorption, Distribution and Elimination. Joseph Balthasar, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

PK/PD of Antibodies: Examples. Joseph Balthasar, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application to Development: From PK to PD and From Animals to Man. Ivan Nestorov, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application to Development: Dose Selection. Jogarao Gobburu, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application to Development: Rational Dosage Regimen Selection by Modeling and Simulation. Ivan Nestorov, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application to Regulatory Decisions: Trial Design, Approval and Labeling. Jogarao Gobburu, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

How the Critical Path is Beginning to Transform Drug Development and Regulatory Decisions. Janet Woodcock, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

The Biomarkers Consortium: Taking Steps on the Critical Path. C. Anthony Altar, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Predictive Safety Testing Consortium (PSTC) and the Molecular Assays and Targeted Therapeutics (MATT) Consortium: Facilitating New Relationships to Solve Clinical Drug Development Problems. Raymond Woosley, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

The Cardiac Safety Consortium and the ECG Warehouse: Progress Report and Anticipated Benefits. Christopher Cabell, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

The Microarray Quality Consortium: What is the Problem and how will the Solution Benefit Drug Development and Patients. Felix Frueh, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

The Serious Adverse Drug Reaction Consortium: Progress Report and Anticipated Benefits. Arthur Holden, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Transformation of the Pharmaceutical Industry: The role of the Critical Path. Andrew Dahlem, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Drug Target Validation/Molecular and Genetic Pathway Approaches. Lise Lund Kjems, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Transformational PK-PD: From Animals to Man. Kathleen Giacomini, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Experience with Novel INDs and Biomarkers in Early Clinical Development. Rebecca Boyd, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application of Adaptive Designs, Including Seamless Phase 2b/3 Trials. Donald Berry, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application of Model-based Methods to Improve Drug Development Strategy in Phase 2 & 3. Thomas Tensfeldt, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Application of Modeling and Simulation for the Preclinical-Clinical Interface with Oncology Drug Development. Dinesh DeAlwis, San Francisco, CA. American College of Clinical Pharmacology, September 2007.

Next Steps: Sharing of Data to Build Disease Progression Models. J. Robert Powell. San Francisco, CA. American College of Clinical Pharmacology, September 2007.

New Advances in the Biological and Physical Sciences that can be employed by Sleep Researchers. Ron Szymusiak, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Spectral Analysis of the EEG. Steve Henriksen, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Neuroimaging Procedures for Sleep. Ron Harper, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Is sleep Determined by the Glia-Neuron Interface. Robby Greene, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Mouse Models and Sleep: Past, Present and Future. Tom Kilduff, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

A Biography of REM Sleep: The Early Days. Adrian Morrison, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Ethics and Diversity. Mark Mahowald, Sleep Training Workshop, Lake Arrowhead, CA. September 2007.

Inappropriate Prescribing in Geriatric Patients: Dementia and Falls Prevention. Jacintha Cauffield, Vancouver, WA. Southwest Washington Medical Center. September 2007.

Regulatory Considerations Regarding Off-Label Promotion and Scientific Exchange. Janet Rose, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Impact of Congressional Legislation on Advertising, Promotion and Regulation. Marc Scheineson, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Update on the International Marketing Code and ACCME Guidelines for CME Events. Lewis Miller, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

How Criminal and Civil Enforcement is Shaping the Outlook for Off-Label Dissemination. Wayne Pines, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Understanding the Criteria Government Uses in Building an Off-Label Case. Kathleen McDermott, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

How Off-Label Enforcement Cases are Coordinated Among Federal and State Agencies. Lynn Shapiro Snyder, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Strengthen the role of MSLs in the Dissemination of Information. Robin Winter-Sperry, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Ensure Proper Compliance through Practical Training and Monitoring Programs. Kimberly Dunne, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Strategies for the Appropriate Dissemination of Scientific Materials – Washington Legal Foundation and Beyond. Howard Dorfman, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Examination of the InterMune Settlement – The Role Press Releases Play in a Case and How to Ensure Compliance. Christina Markus, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Developing Internal Off-Label Communication Policies to Ensure FDA Compliance. Daniel Kracov, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Minimizing Off-Label Pitfalls while Capitalizing on the Advantages of Online Promotion. David Hoffman, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Understanding How to Maximize the Opportunities of Speakers' Bureaus without Crossing the Line. Keith Korenchuk, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Providing Physicians with Important Answers in Difficult Scenarios. Philomena McArthur, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Off-Label Usage in Managed Care – Preventing Potential Challenges that can arise in Formulary Determinations. Timothy Ayers, CBI 9th Annual Guidelines for Disseminating Off-Label Information, Washington, DC. October 2007.

Police Training Officer: Principles and Practices of the RENO Method. Idaho P.O.S.T. and Ada County Sheriff's Office, Boise, ID., October 2007.

Astrocytes: A New Target for Hypnotic Development. Marcos Frank and Philip Haydon, University of Pennsylvania, Philadelphia, PA. November, 2007.

Functional Analysis of Sleep and Circadian Rhythms. Craig Heller, Stanford University, Department of Biological Sciences, Stanford, CA. November 2007.

Clock Genes and Circadian Rhythms in Psychiatric and Medical Disorders. Fred Turek, Northwestern University, Feinberg School of Medicine, Chicago, IL. December 2007.

2006

Genetics of Sleep. Chiara Cirelli, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Physiology of Sleep. Ronald Szymusiak, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Immune function and Sleep. Mark Opp, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Circadian Rhythms. Phyllis Zee, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Epidemiologic Approach to Understanding Sleep Disorders. Terry Young, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

New Hypnotic and Stimulant Treatments Coming Up. Emmanuel Mignot, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Animal Models: Drosophila. Paul Shaw, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Animal Models: Rodents. James Krueger, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Adolescence: How the Development of Sleep Regulatory Processes Interacts with Behavior. Mary Carskadon, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Aging and Sleep. Michael Vitiello, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Gender Differences in Sleep. Roseanne Armitage, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Use of ERP's in Sleep Research. Ian Colrain, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Daytime Performance. Thomas Balkin, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Actigraphy. Sonia Ancoli-Israel, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Field Studies of Sleep and Performance. Gregory Belenky, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Neuroimaging and Sleep. Eric Nofzinger, SRS Primer of Sleep Research Course, La Jolla, CA., February 2006.

Proof of Concept in Early Drug Development Workshop. American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Regulation of Fasting and Postprandial Glucose Concentrations in Diabetic and Nondiabetic Humans: Implications for Therapy. Robert Rizza, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Update on Human Embryonic Stem Research. John Gearhart, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Pharmacokinetics to Pharmacogenomics. William Evans, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Regulation of Drug Transporters in Health and Disease. Micheline Piquette-Miller, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Personalized Medicine. Janet Woodcock, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Nicotine Addiction and Treatment. Neal Benowitz, American Society for Clinical Pharmacology and Therapeutics, Baltimore, MD., March 2006.

Insulin Therapy Management for Optimal Outcomes in Type 2 Diabetes. Keith Campbell, Lisa Kroon, and Laura McWhorter. Workshop at the American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Pharmacotherapy in Ambulatory Care. Teresa Klepser, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Pharmacotherapy of HIV/Infectious Diseases. Curtis Smith, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Biostatistical Applications in Clinical Research. Robert DeYoung, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Clinical Trial Design. Robert DeYoung, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Pharmacotherapy in Geriatrics. Ceresa Ward, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Pharmacokinetics – A Refresher. Curtis Smith, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Pediatric Pharmacotherapy – A Refresher. Kirsten Ohler, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Nephrology Pharmacotherapy Update. Harold Manley, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Critical Care Pharmacotherapy Update. Eric Wittbrodt and Gretchen Brophy, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Outpatient Cardiology. Anne Spencer, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Oncology Supportive Care. Linda Bressler and Theresa Mays, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Pharmacotherapy of Gastrointestinal Disorders. Brian Hemstreet, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Update on Men's and Women's Health. Teresa Klepser, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Pharmacotherapy in Neurology. Melody Ryan, American College of Clinical Pharmacy Preparatory Course, Monterey, CA., April 2006.

Approaches to Drug Impaired Driving Casework. Barry Logan, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Cannabinoids – Basic Pharmacology and Human Performance Effects. Marilyn Huestis, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Cannabis and Driving – Simulated Driving Studies and Field Impairment Testing. Katherine Papafotiou, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Cannabis and Driving – On Road Driving Studies. Jan Ramaekers, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Odds Ratio Approach to Assessment of Accident Involvement in Drug Impaired Drivers. Olaf Drummer, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Opiates – Basic Pharmacology and Human Performance Effects. Laurel Farrell, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Cocaine – Basic Pharmacology and Human Performance Effects. Dan Isenschmid, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Amphetamines – Basic Pharmacology and Human Performance Effects. Barry Logan, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Amphetamines – Simulated Driving and Field Impairment Testing. Katherine Papafotiou, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Onroad driving studies with MDMA and Antidepressants. Jan Ramaekers, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Depressants – Basic Pharmacology and Human Performance Effects. Fiona Couper, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Benzodiazepines – Basic Pharmacology and Human Performance Effects. Chip Walls, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Forensically Defensible Drug and Alcohol Testing – Laboratory Aspects. Bruce Goldberger, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Per Se Approaches to DUID Legislation. Alain Verstraete, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Oral Fluid Testing – The Rosita II Project. Alain Verstraete, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Roadside Sobriety Checkpoints and Oral Fluid Testing in Victoria. Olaf Drummer, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

The Drug Recognition Expert (DRE) Program in the USA. Joseph Turner, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Presenting Drug Impairment Evidence in Court. Stephen Talpins, Bloomington, IN. Indiana University Borkenstein Center, April 2006.

Effect of Multiple Oral Doses of Escitalopram on the Systemic Availability of Ramelteon, An MT1/MT2 Receptor Agonist. Aziz Karim, Toronto, Canada. American Psychiatric Association, May 2006.

Therapeutic Effects of Long-Term Therapy with Ramelteon in Adults with Chronic Insomnia. Michael De Micco, Toronto, Canada. American Psychiatric Association, May 2006.

Safety Assessment of Long-Term Ramelteon Use in Subjects with Chronic Insomnia. Gary Richardson, Toronto, Canada. American Psychiatric Association, May 2006.

A Double-Blind Placebo-Controlled Phase III Study of the Long-Term Effects of Ramelteon on Endocrine Function in Adults with Chronic Insomnia. Gary Richardson, Salt Lake City, UT. APSS, June 2006.

Self-Reported Efficacy of 8 mg Ramelteon in Elderly Chronic Insomnia Patients with Severe Sleep-Initiation Difficulty. Lou Mini, Salt Lake City, UT. APSS, June 2006.

What is it that Sleeps. Post Graduate Review Course. Salt Lake City, UT. APSS June 2006.

Circadian Rhythm Sleep Disorders. Post Graduate Review Course. Salt Lake City, UT. APSS June 2006.

Advances in Sleep Research: The Year In Review. Post Graduate Review Course. Salt Lake City, UT. APSS June 2006.

Tolerance of Moderate Sleep Restriction In Older Self-Reported Long Sleepers. S. Youngstedt, Salt Lake City, UT. APSS June 2006.

Changes in the Sleep, Circadian Rhythms and Daytime Alertness of Healthy Seniors as Induced by a 2 hour change in Bedtime. T. Monk, Salt Lake City, UT. APSS June 2006.

Time Estimation During a 90-minute Day Study in Older and Younger Adults. E. Mai, Salt Lake City, UT. APSS June 2006.

Aging: Asymptotic Sleep Duration During Extended Sleep Opportunities. E. Klerman, Salt Lake City, UT. APSS June 2006.

Sleep Hygiene Practices in Two Community Dwelling Samples of Older Adults. C. McCrae. Salt Lake City, UT. APSS June 2006.

Ambient Light, Nocturnal Sleep, Psychological Adjustment, and Napping in Community Dwelling Older Adults. A. Stripling. Salt Lake City, UT. APSS June 2006.

Sleep and Aging in an Environment Without Electricity. K. Knutson. Salt Lake City, UT. APSS June 2006.

Association of Race and Socioeconomic Status with Sleep Quality and Duration: Results from the SWAN Sleep Study. K. Matthews. Salt Lake City, UT. APSS June 2006.

Magnitude of Sleep Changes During Placebo Administration in Insomnia Treatment Trials. L. Belanger. Salt Lake City, UT. APSS June 2006.

Efficacy and Safety of Six-Months of Nightly Eszopiclone in Patients with Primary Insomnia. A. Krystal. Salt Lake City, UT. APSS June 2006.

Efficacy and Safety of Doxepin 1 mg, 3 mg, and 6 mg in Elderly Adults with Primary Insomnia. T. Roth. Salt Lake City, UT. APSS June 2006.

2005

Epidemiology and Screening. Robert Djavan, International Prostate Cancer Update, Vail, CO., February 2005.

Complementary Medicine, Chemoprevention, and Staging. Anne Simoneau, International Prostate Cancer Update, Vail, CO., February 2005.

Early Diagnosis. James Eastham, International Prostate Cancer Update, Vail, CO., February 2005.

Refractory Disease: New Horizons. Nicholas Vogelzang, International Prostate Cancer Update, Vail, CO., February 2005.

Serum and Tissue Markers. Paul Lange, International Prostate Cancer Update, Vail, CO., February 2005.

Therapeutic Strategies for Localized Prostate Cancer. Mack Roach, International Prostate Cancer Update, Vail, CO., February 2005.

Advanced Disease. Robert DiPaola, International Prostate Cancer Update, Vail, CO., February 2005.

Epidemiology and Drug Development: A Primer. Drug Information Association, Horsham, PA., March 2005.

Prescription Drug Diversion Investigation. Marc Gonzalez, Idaho P.O.S.T. training course, Meridian, ID., July 2005.

2004

Pharmacotherapy for the Alzheimer's Disease Patient: Optimizing Both Treatment Effect and Patient Safety. American Society of Consultant Pharmacists. December 2004.

Gary W. Dawson, PhD
Lectures and Presentations
(For Illustrative Purposes Only – Not a Complete Listing)

2010

Pharmacology and Metabolism of Ethanol in Humans. Boise, Idaho. Intoxylizer and AlcoSensor Operator certification training, Ada County Sheriff's Office, January, 2010.

2008

Pharmacology and Metabolism of Ethanol in Humans. Boise, Idaho. Intoxylizer and AlcoSensor Operator certification training, Ada County Sheriff's Office, January, 2008.

Detecting and Prosecuting the Drugged Driver: The Role of Toxicology. IPAA and Idaho POST Joint Meeting, Boise, Idaho, February, 2008.

Recent Business Developments in the Neurosciences. National Medical and Scientific Affairs Meeting, TPNA. Las Vegas, NV., February 2008.

Effect of Ramelteon on Middle-of-the-night Balance, Mobility, and Memory Performance in Older Adults. Sleep Consultant Network, Speaker Summit Meeting, Dallas, TX. March 2008.

Effects of CNS Active Drugs on Driving and Performance. St. Alphonsus Regional Medical Center, Medical and Physical Rehabilitation Services, Boise, Idaho. March 2008.

Creation of Product or Disease Specific Presentations for Medical Affairs. Philadelphia, PA. CBI Forum on Knowledge Management for Medical Affairs, March 2008.

Drug Interactions: A Primer. TPNA Field Training, Chicago, IL. April 2008.

2007

Clinical pharmacology, safety and efficacy of Ramelteon for the treatment of sleep disorders. Boise, ID. Idaho Medicaid Pharmacy and Therapeutics Committee, February 2007.

Update on Drugs in Development for the Treatment of Insomnia: A Critical Review. San Francisco, CA. TPNA Regional Medical Meeting. March 2007.

Effect of Ramelteon and Zolpidem on Balance in Older Patients with Chronic Insomnia. San Antonio, TX. Managed Care Scientific Exchange. May 2007.

Ramelteon, Unlike Zopiclone, Has No Effect on Body Sway at Peak Plasma Levels in Insomnia Patients. San Antonio, TX. Managed Care Scientific Exchange. May 2007.

Cost of Illness for Insomnia: Medical, Pharmacy, and Work Absence Costs in Employees With or Without Insomnia. Minneapolis, MN. June 2007.

Ramelteon, Unlike Zopiclone, Has No Effect on Body Sway at Peak Plasma Levels in Insomnia Patients. Minneapolis, MN. June 2007.

A Review of the Effects of Zopiclone, Zolpidem and Ramelteon on Balance and Cognitive Performance: A Critical Analysis of the Methodology and Results. TPNA National Meeting, Clinical and Outcomes Managers, Chicago, IL., July 2007.

Ramelteon: A Clinical Overview. Home Quality Management, Medical Directors. Las Vegas, NV. Annual Training. September 2007.

Gary Dawson, PhD
Expert Witness/Consultation Activity
For Illustration only – Not a Complete Listing

Plaintiff	Defendant	Type	Activity	Year	Venue
State of Idaho	OB Turner	Criminal	Trial	2002	3 rd District Court Idaho
State of Idaho	Ruybal	Criminal	Trial	2003	4 th District Court Idaho
State of Idaho	Larry Severson	Criminal	Trial	2004	4 th District Court Idaho
Ada County	Robert Underwood	Coroner	Inquest	2004	Ada County Idaho
State of Idaho	Gary Turpen	Criminal	Trial	2004	4 th District Court Idaho
State of Idaho	Ivan Flores	Criminal	Trial	2004	4 th District Court Idaho
State of Idaho	Ronald Glazier	Criminal	Trial	2004	4 th District Court Idaho
Ada County	Matthew Jones	Coroner	Inquest	2005	Ada County Idaho
State of Idaho	Justin Grant	Criminal	Trial	2005	4 th District Court Idaho
State of Idaho	Rebecca Ebert	Criminal	Trial	2005	4 th District Court Idaho
State of Idaho	Jeanne Barnes	Criminal	Trial	2005	4 th District Court Idaho
State of Idaho	Chris Flegel	Criminal	Trial	2005	4 th District Court Idaho
State of Idaho	James Roper	Criminal	Trial	2006	4 th District Court Idaho
State of Idaho	Philip Turney	Criminal	Trial	2006	4 th District Court Idaho
State of Idaho	Russell Obrien	Criminal	Trial	2006	4 th District Court Idaho
State of Idaho	Matthew Askew	Criminal	Trial	2006	4 th District Court Idaho
State of Idaho	Sandy Bunce	Criminal	Hearing	2007	Ada County Drug Court
State of Idaho	Brandon Rosandick	Criminal	Trial	2007	4 th District Court Idaho
Williams	Whitetail Resort	Civil	Deposition	2007	Ada County Idaho
State of Idaho	Troy Gartner	Criminal	Trial	2007	2 nd District Court Idaho
State of Idaho	Martin McDannel	Criminal	Trial	2007	4 th District Court Idaho
State of Idaho	Donna Thorngren	Criminal	Trial	2007	4 th District Court Idaho
State of Idaho	Gabriela Solum	Criminal	Trial	2007	4 th District Court Idaho
Russell	State Insurance Fund	Civil	Toxicology	2007	Ada County Idaho
State of Idaho	Mark Peacock	Criminal	Hearing	2008	4 th District Court Idaho
State of Idaho	Kevin Flynn	Criminal	Hearing	2008	4 th District Court Idaho
State of Idaho	Michael Rice	Criminal	Hearing	2008	4 th District Court Idaho
State of Idaho	Blake Boyd	Criminal	Toxicology	2008	7 th District Court Idaho
Eichmann	Ada County	Civil	Trial	2008	4 th District Court Idaho
State of Idaho	Michael Robison	Criminal	Trial	2008	4 th District Court Idaho
State of Idaho	Ryan Sigman	Criminal	Hearing	2009	4 th District Court Idaho
State of Idaho	Daynna Skiver	Criminal	Trial	2009	4 th District Court Idaho
State of Idaho	Curtis Ward	Criminal	Trial	2009	4 th District Court Idaho
State of Idaho	Judy Daugherity	Criminal	Trial	2009	4 th District Court Idaho
State of Idaho	Thomas Betancort	Criminal	Trial	2009	3 rd District Court Idaho

EXHIBIT E

DANIEL B. KENNEDY, Ph.D, C.P.P., C.S.P.



RECEIVED ^{DKV} of Plt's Counsel re Motions in Limine 000133
NOV 01 2010
CIVIL DIVISION
PROSECUTING ATTORNEY'S
OFFICE

1664 ROLLING WOODS DRIVE
TROY, MICHIGAN 48098-4385
PHONE: 248 641 0988
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October 28, 2010

Jim Dickinson, Esq.
Ada County Prosecuting Attorney's Office
200 W. Front Street
Rm. 3191
Boise, ID 83702

RE: *Rita Hoagland v. Ada County Sheriff et al.*

Dear Mr. Dickinson:

As you know, Bradley Munroe hanged himself while incarcerated at the Ada County Jail on the evening of September 29, 2008. Mr. Munroe was checked at 8:20 p.m. by Deputy McKinley, who observed nothing out of the ordinary. During the next well-being check at 8:38 p.m., Deputy McKinley discovered that Munroe had tied off a sheet and used it to asphyxiate himself. CPR was begun expeditiously but to no avail.

Mr. Munroe had entered the jail the night of September 28, 2008, on a robbery charge, but his booking was delayed until he became sober. He was kept under close observation the first night of his stay due to his aggressive and uncooperative behavior. On the morning of September 29, 2010, Deputy Sheriff Jeremy Wroblewski contacted the jail's Health Services Unit to request an evaluation of Mr. Munroe. In response, Psychiatric Social Worker Jim Johnson came to interview Munroe and removed him from suicide watch. Because Munroe expressed a fear he would be attacked in general population, he was placed in an administrative segregation cell, where he eventually suicided.

You have asked me to review this file to determine if either the county sheriff's office or any sheriff's deputies acted to deprive Bradley Munroe of his 8th Amendment rights. As a professor of criminology, criminal justice, and penology, I am familiar with the responsibilities of corrections personnel to arrange for the provision of medical and behavioral health care of inmates.¹

¹There is ample professional literature in penology which addresses the implications of *Estelle v. Gamble* (1976), *Ruiz v. Estelle* (1980), and *Farmer v. Brennan* (1994) for correctional management. See Rolando del Carmen et al., Briefs of Leading Cases in Corrections, 4th ed. (Cincinnati: Anderson Publishing, 2005); Bill Collins, Jail and Prison Legal Issues: An Administrator's Guide (Hagerstown, MD: American Jail Association, 2004); Darrell Ross, Civil

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My fee for any and all professional services in this matter is \$350 per hour. I have appended to this report a copy of my current vitae and a list of all cases in which I have provided trial or deposition testimony over the past four years.

My interest in custody suicide dates back to my service as a probation officer going into and out of jails on a daily basis and as a counselor for the Federal Bureau of Prisons. Later, while teaching criminology and penology at the University of Detroit for many years, I published several refereed journal articles and have given academic papers on the topic of custody suicide. I have also taken several advanced training programs in suicidology and served as Co-Chair of the Task Force on Jail Suicide for the American Association of Suicidology. I have testified in various state and federal courts on custody suicide issues, and I continue to keep current with scientific and professional literature on the subject. For several years I have been a member of the American Jail Association and have published in its professional organ, American Jails. I am also licensed at the highest level for the independent practice of social work by the State of Michigan (LMSW #6801001443).

Over the years, I have been sworn as a special deputy and administrative reserve deputy in both the Oakland County Sheriff's Office and the Wayne County Sheriff's Office, both in Michigan. I have provided in-service training to both sheriffs' departments and have more recently consulted with Wayne County Sheriff Warren Evans on corrections policy issues. I consider myself expert in criminal justice policy issues whether established by police departments or sheriffs' offices.

Before arriving at my preliminary opinions in this matter, I reviewed the Complaint, Answers to Interrogatories, Idaho Jail Standards inspection reports, investigative reports of the suicide, Boise Police Department reports, jail medical standing operating procedures, medication and other jail records of Bradley Munroe, paramedic and St. Alphonsus records, and various witness statements and affidavits. I also reviewed current correctional literature addressing custody suicide. On the afternoon of September 10, 2010, I inspected the jail itself, including the cell in which Mr. Munroe took his own life. Finally, I read the reports issued by Nathan Powell, LCSW, and Drs. Metzner and White.

Because this litigation involves 42 U.S.C. 1983 arguments as well as state claims of gross negligence, I first considered the question of jail policy. Based on my reading of the file and the three expert reports, I find no indication that Sheriff Gary Raney ever issued any statements or, through any specific actions, otherwise implied that his office and its deputies should engage in any behavior which would deprive jail inmates of their constitutional rights. Furthermore, neither Sheriff Raney nor the Ada County Sheriff's Office has promulgated any written policy for jail operations which could be reasonably construed to lead to the violation of any 8th

Liability Issues in Corrections (Durham, NC: Carolina Academic Press, 2005); and Ken Kerle, Exploring Jail Operations (Hagerstown, MD: American Jail Association, 2003).

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Amendment requirement. Nor has any evidence been presented in the expert reports that in the absence of offending written policies there have been customs or practices of denying Ada County inmates their rights. There has been no presentation of statistical evidence based on prior litigation or inmates medical histories nor has there been any testimony from the sheriff's deputies or medical personnel as to the existence of any such pattern of cruel and unusual punishment being directed at Ada inmates whether as pretrial detainees or as prisoners under sentence. Quite to the contrary, the Ada County Sheriff's Office operates under established and acceptable policies which have been ratified by both state and national professional associations.²

At the most basic level, Sheriff Raney had a responsibility to make the services of a mental health professional available to Bradley Munroe. This mental health professional was expected to be competent, and his or her instructions were to be carried out by sheriff's deputies. In fact, based on the sheriff's operating policy, James Johnson, MSW, responded directly to the booking area when summoned there by Deputy Jeremy Wroblewski. Mr. Johnson holds a graduate degree in social work and is an experienced clinician whose skills have been acknowledged by other jail mental health professionals.³ Mr. Johnson's decision not to place Bradley Munroe on suicide watch was honored by jail personnel, who placed him into administrative segregation due to Munroe's initial claim to have "enemies in the system." Such a lodging decision was completely reasonable due to Mr. Johnson's clearance of Munroe and a need to further consider the possibility that Munroe could be targeted if placed into general population.

There are two additional reasons why I believe the health care policies in place at the Ada County Jail would pass constitutional muster. First, the Idaho Sheriff's Association, with support of the National Institute of Corrections of the U.S. Department of Justice, developed and eventually updated a set of standards for the operation of Idaho jails. Chapter 11 of these standards applies to health care services. At the time of Mr. Munroe's death, the Ada County Jail had been

²Professional jail administrators, sheriffs, county elected officials and professors of criminal justice such as myself have benefitted from a variety of penological sources designed to educate us as to the criteria by which the constitutionality of custody practices will be judged. See Victor Kappeler, Critical Issues in Police Civil Liability, 4th ed. (Long Grove, IL: Waveland Press, 2006) and Darrell Ross, Civil Liability in Criminal Justice, 4th ed. (Cincinnati: LexisNexis/Anderson Publishing, 2006).

³Mr. Johnson had been fully licensed in California but not yet Idaho. Of more importance to me is the fact he was fully licensable. Also, please note that current director of the Health Services Unit at the jail, Kate Pape, MSW, praised Mr. Johnson's clinical skills and told me other clinicians at the jail also had high regard for his abilities.

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determined by independent, outside inspection to be compliant with the standards published by the Idaho Sheriffs' Association.⁴

In addition, Ada County had been one of only two jails in the entire state of Idaho to operate a facility voluntarily accredited by the National Commission on Correctional Health Care. Due to personnel changes at the jail, the sheriff's office was unable to provide sufficient documentation for a subsequent reaccreditation visit, so accreditation was withdrawn in November of 2008. This shortcoming is currently being corrected. Still, however, at the time of Mr. Munroe's death, the policies adopted by Ada County far exceeded any constitutional minima from the standpoint of professional corrections administration.⁵

You are also aware that a sheriff's deputy violates no inmate's 8th Amendment rights unless said deputy knows of and consciously disregards an inmate's serious medical need. With reference to suicidality, a "strong likelihood" of suicide by the inmate must be present. The deputy must also actually draw the inference the inmate would kill himself.⁶ In my opinion, no deputy at the Ada County Jail ignored a serious medical need (objective test) or concluded Munroe would kill himself (subjective test). Deputy Wroblewski did not ignore Munroe's prior behavior and promptly called for a mental health specialist (Johnson). Deputy Donelson followed jail policy by lodging Munroe in administrative segregation until the question of "enemies in the system" could be resolved. Placing Munroe in a side chute cell was permissible since he had not been placed on a suicide watch by Johnson. Deputies behave reasonably when they follow the directives of a mental health specialist, and nothing in Munroe's instant behavior suggested to Donelson he should have done otherwise. There was no deliberate indifference, and there was no gross negligence.

Plaintiff also makes a "failure to train" argument. It is my understanding that county detention officers are required to undergo at least 180 hours of specific jail training through the academy

⁴Compliance with the Idaho Sheriffs' Association standards would equate to substantial conformity with the recommended elements of a constitutional health care system. See W. Rold, "Legal Considerations in the Delivery of Health Care Services in Prisons and Jails," pps. 520-528 in M. Puisis (Ed.), Clinical Practice in Correctional Medicine, 2nd ed. (Philadelphia: Mosby, 2006).

⁵Per *Gray v. City of Detroit* (2005) and *Molton v. City of Cleveland* (1988), both 6th Circuit cases, where a city creates reasonable policies, even though imperfectly administered, there is no deliberate indifference.

⁶In the absence of any deposition testimony, I do not know that a plaintiff expert can establish reliably that any Ada County deputies actually concluded that Munroe was likely going to kill himself.

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operated by Idaho Peace Officer Standards and Training. Detention officers are deputy sheriffs in Ada County, and in-service as well as initial field training are also offered these corrections professionals. Among the Basic Detention Academy modules is a section on medical issues, including mental illness and suicide prevention. In-service training on jail suicide had also been offered to corrections personnel. Although I have yet to review in detail specific personnel files, it appears doubtful to me that the existence of a deliberate policy of failing to train which was also a moving force in Munroe's suicide can be established by plaintiffs in this matter.⁷

No analysis of 42 U.S.C. 1983 litigation or claims of gross negligence involving suicide would be complete without discussing the difficulties inherent in predicting suicide and in reacting to potential suicidality in a jail setting.

Suicide is extremely difficult, if not impossible, to predict.⁸ Statistically speaking, suicide is a rare event. Rare events present a "low base rate" problem of false positives. This means that psychologists and social workers are far more likely to predict suicides which will never occur and thus subject inmates to dehumanizing suicide watches while at the same time diverting resources away from the inmate who is a true positive as far as suicidality. Let me explain further.

Over the twelve months preceding June 29, 2007, about 300 jail suicides occurred across the U.S. However, during this same time period, an estimated 13 million jail admissions took place.⁹ Statistically then, one in 43,000 new inmates took his or her own life, even though a significant majority of all inmates probably possess any number of risk factors for suicide (e.g. substance abuse problems, estrangement from family, depression, or other disorders). There is no test so accurate nor clinician so brilliant as to be able to identify the one arrestee out of 43,000, many with an assortment of personal problems, who will go on to commit suicide. As is true in the broader free community, some will commit suicide from whom we would least expect such a drastic action while others from whom we might expect such behavior will never do so.

⁷The implications of *City of Canton v. Harris*, 489 U.S. 378 (1989) for criminal justice administrators are found in Rolando del Carmen and Jeffrey Walker, Briefs of Leading Cases in Law Enforcement, 6th ed. (Cincinnati: LexisNexis/Anderson Publishing Co., 2006), pp. 270-272.

⁸According to noted suicidologists Drs. Rudd and Joiner, "We cannot reliably predict suicide or suicidal behavior in any individual case." See M. Rudd and T. Joiner, "The Assessment, Management and Treatment of Suicidality," Clinical Psychology, 5 (1998): 135-150.

⁹Margaret Noonan, "Mortality in Local Jails, 2000-2007," Bureau of Justice Statistics Special Report, July (2010): 1-19.

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Perhaps another example will help illustrate my point. In a widely cited study of 207 patients formally hospitalized because of suicidal ideation, only fourteen were discovered to have killed themselves over a follow-up period of five to ten years.¹⁰ Other studies have shown that the vast majority even of those who have tried suicide but did not succeed will not go on to kill themselves.¹¹ The value of past attempts in predicting future suicides is further diminished by the fact that most people who commit suicide do not have a history of prior attempts. Even more confounding are findings from a Texas study which showed that half of the prisoners who committed suicide had no known history of psychiatric illness.¹²

Suicide cannot be predicted not only because it is statistically rare but also because suicide ideation tends to fluctuate widely. When suicide ideation does occur, it can vary greatly in terms of the frequency, intensity, duration, and specificity of such thoughts. Even truly suicidal people are usually ambivalent about the notion, given our natural instincts for survival. Trying to evaluate suicide potential in a "free world" population is difficult in itself. Trying to evaluate suicide potential in a forensic population such as a jail is all the more difficult due to the potential for manipulation and malingering demonstrated by many inmates.¹³ After all, such antisocial attitudes are often that which led to their incarceration in the first place. This is not to say, however, that an inmate cannot be manipulative and suicidal. I mention the notion of malingering only to demonstrate how the evaluation of suicidality is made all the more difficult by certain of the personalities which may be found in a jail setting. Corrections personnel should not automatically dismiss concerns about the well being of an inmate simply because of the possibility of malingering, but any such malingering greatly complicates the task of evaluating for suicide potential.

Because of the difficulties mentioned above, corrections personnel as well as medical personnel staffing hospital emergency services are becoming more attuned to suicidal "signs" rather than

¹⁰Aaron T. Beck et al., "Hopelessness and Eventual Suicide: A 10-Year Prospective Study of Patients Hospitalized With Suicidal Ideation," American Journal of Psychiatry 142 (1985): 559-563.

¹¹Thomas Joiner, Myths About Suicide (Cambridge: Harvard University Press, 2010), pps. 150-151.

¹²J. Baillargeon et al., "Psychiatric Disorders and Suicide in the Nation's Largest State Prison System," Journal of American Academy of Psychiatry and the Law 37 (2009): 188-193.

¹³A. Babatunde et al., "Detection and Management of Malingering in a Clinical Setting," Primary Psychiatry, January (2006): 61-69; and B. McDermott and G. Sokolov, "Malingering in a Correctional Setting," Behavioral Sciences and the Law 27 (2009): 753-765.

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just the presence of risk factors.¹⁴ While risk factors are correlated somewhat with suicidality over the long run, several years for example, such factors are generally chronic and distal rather than acute and proximate.¹⁵ Suicide signs are quite specific and involve immediate, direct, and credible threats or statements of intention, or can be readily inferred from actions such as actually preparing to engage or engaging in self-destructive behavior. Corrections and medical personnel should respond decisively to the strong likelihood of suicide. However, we do not yet possess the deep knowledge required to respond effectively to possibilities alone. In fact, overreacting to the possibility of an inmate suicide by placing him or her on suicide watch can have an iatrogenic effect. Essentially, this means there is a potential to worsen the emotional state of an inmate due to the austere and dehumanizing nature of a suicide watch in most jails.¹⁶ In conclusion, it is not possible to predict suicide and thus it is most difficult to choose the optimum manner in which to respond to potential suicidality without actually causing additional emotional damage.¹⁷

In my opinion, social worker James Johnson was functioning in a triage situation which was, effectively, an extension of Mr. Munroe's receiving/booking process. Hence, the kind of extensive and in-depth assessment of suicidality suggested by plaintiff experts would have been more appropriate for an Intake Mental Health Screening and Referral, which is normally conducted after a subject has been in custody for two weeks or so (or a Brief Mental Health

¹⁴M. Rudd, et al., "Warning Signs for Suicide," Suicide and Life Threatening Behavior 36 (2006): 255-262.

¹⁵Thus, even prior suicide ideation or prior attempts are not associated with short term or acute risk of suicide (although they may increase long-term risk). See F. Goodwin, "Preventing Inpatient Suicide," Journal of Clinical Psychiatry 64 (2007): 12-13. Goodwin comments on several related findings reported by Busch, Fawcett and Jacobs.

¹⁶Mental health specialists are not inclined to put someone on suicide watch "just in case." Suicide watch is dehumanizing, boring, stigmatizing and can actually cause an inmate more harm than good. Keep in mind as well the legal tradition in the U.S. which calls for the "least restrictive" confinement conditions. See B. Bongar, The Suicidal Patient: Clinical and Legal Standards of Care (Washington, D.C.: American Psychological Association, 1991), pps. 47, 143; D. Lester, "Suicide in Custody," Journal of Clinical Forensic Medicine 1 (1994): 67-70 and R. Maris et al, Comprehensive Textbook of Suicidology (New York: Guilford Press, 2000), pps. 512-514.

¹⁷Concentrated personal monitoring of possibly suicidal patients may lead to a "self-fulfilling prophecy." K. Aldrich, "Effectiveness of Close Watch Precautions in Suicidal Patients," Journal of Clinical Psychiatry 64 (2003): 1520.

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Assessment within three days).¹⁸ Given these factors and circumstances, as well as Munroe's outright denial of current suicidal ideation, the calming of his behavior from the night before, and his right to refuse treatment, Mr. Johnson's decisions fell within the range of reasonable professional discretion.

Please allow me to supplement this report as discovery is ongoing and receipt of additional information may alter my opinions.

Respectfully submitted,



Daniel B. Kennedy, Ph.D., LMSW

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¹⁸See Task Force Report, Psychiatric Services in Jails and Prisons, 2nd ed. (Washington, D.C.: American Psychiatric Association, 2000), pps. 32-35.

CASES IN WHICH DANIEL B. KENNEDY, PH.D. HAS
TESTIFIED AS AN EXPERT AT TRIAL
OR BY DEPOSITION WITHIN THE LAST FOUR YEARS

Each case is listed below followed by the name and address of the attorney with whom Dr. Kennedy consulted:

MILANJ JEWELERS OF KING OF PRUSSIA, INC V. IPC INTERNATIONAL CORPORATION, ET AL.
Philadelphia County, Pennsylvania: 3829
9/16/10 Trial-Defense

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31 South Eagle Road
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ROSEMARY SCOTT V. PATRICK GILES MURPHY, SIMON PROPERTY GROUP, ET AL.
Sonoma County, California: SCV239152
8/26/10 Deposition-Defense

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Morris Polich & Purdy
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CATHY MINIX, ON BEHALF OF ESTATE OF GREGORY ZICK
USDC, South Bend, IN: 3:05CV00144
8/2/10 Deposition-Plaintiff

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CRYSTAL LONGSHORE, EX REL. V. EDGEWOOD MANAGEMENT CORP.
USDC, District of Columbia: 1:09-00449 (RBW)
6/24/10 Deposition-Defense

Jeff Seaman, Esq.
Whiteford Taylor & Preston
1025 Connecticut Avenue, NW
Washington, DC 20036-5405

COLIN SPAR V. TDBJ, LC ET AL.
Beaufort, SC: 08-CP-07-02208
5/19/10 Deposition-Plaintiff

Daniel E. Henderson, Esq.
Peters Murdaugh Parker Eltzroth
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Ridgeland, SC 29936-2500

WILLIAM BROCK, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF FRANCES BROCK, DECEASED, VS.
E. DUGGER ENTERPRISES, INC. D/B/A CITRA DISCOUNT LIQUORS, A/K/A TOP OF THE HILL BAR, ET AL.
Marion County, FL: 06-2568 CA, Division G
3/31/10 Deposition-Plaintiff

Matthew N. Posgay, Esq.
Coker-Schickel-Sorenson-Posgay
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Jacksonville,, FL 32201

ANGELA ALMAGUER, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAMIAN ALMAGUER, A
DECEASED MINOR CHILD, V. MIG/PINES DEVELOPMENT LTD.
Broward County, FL: 08-50972 CA 21
12/7/09 Deposition, 2/9/10 Trial-Plaintiff

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The Haggard Law Firm
330 Alhambra Circle
Coral Gables, FL 33134

DAVA SINGER, ALAN SINGER AND IN THEIR OWN CAPACITY AND IN REPRESENTATION OF MINOR L.S. V.
HOTEL GRAN MELIA PUERTO RICO
Puerto Rico: C.A. 09-1130-(JP)
9/30/09 Trial-Defense

Eduardo Castillo Blanco, Esq.
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KATHERINE JEFFREYS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF DECEDENT, KEITH E.
LABROZZI, II, AND AS NEXT FRIEND OF MINORS V. GREAT AMERICAN FOODS CORPORATION
Angelina County, TX: CV
9/23/09 Deposition-Defense

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KATHALEEN O'NEILL, ADMIN. OF THE ESTATE OF DAVID JENINGS, DECEASED V. NUTLEY POLICE
DEPARTMENT, ET AL.
Essex County, NJ: ESX-L-9420-06
9/18/09 Deposition-Plaintiff

John J. McDermott, III
Maggs & McDermott
800 Old Bridge Road
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LINDA COLE-CRAWFORD INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATES OF VIOLA
MORGAN AND BETTY BROWN V. AVRA, INC.
Hillsdale County, MI: 08-088-NO
8/27/09 Deposition-Plaintiff

Andrew W. Muth, Esq.
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GARY E. OAKLEY, SR., V. VILLAGE OF MOKENA, ET AL.
Will County, IL: 06 L 413
8/5/09 Deposition-Defense

Marie Pappas, Esq.
McKeon Fitzgerald Zollner et al.
2455 Glenwood Avenue
Joliet, IL 60435-5493

KATHLEEN PAINE, AS GUARDIAN OF THE ESTATE OF CHRISTINA ROSE EILMAN, A DISABLED PERSON V.
CITY OF CHICAGO AND THE CHICAGO POLICE DEPARTMENT
Eastern Division of Illinois: 06 C 03173
7/29/09 Deposition-Defense

Matthew A. Hurd, Esq.
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Department of Law
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KELLEN PHILLIPS V. SILVERTON CASINO
Clark County, NV: A552040
7/21/09 Deposition-Plaintiff

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JASON PAUL MARTIN, ET AL. V. SIMON MANAGEMENT ASSOCIATES (TEXAS), LLC, ET AL.
Dallas County, TX: DC-07-11958-L
7/11/09 Deposition-Defense

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CHALI SINGER V. WOODRIDGE APARTMENTS, JVM REALTY CORPORATION, ET AL.
Marion County, IN: 49D07-0606-CT-024128
5/20/09 Deposition-Plaintiff

Randall L. Juergensen, Esq.
Keller & Keller
2850 N. Meridian Street
Indianapolis, IN 46208

ALLEN TYRONE SMITH, ET AL., V. MAHONEY'S SILVER NUGGET
Clark County, NV: A536217
5/11/09 Deposition-Plaintiff

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520 S. Fourth Street
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JOSE QUILES RODRIGUEZ V. (STEAMMATIC) EMBASSY SUITE, ET AL.
Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Centro Judicial de Carolina en Rio
Grande Sala Superior: FDP 2005-0166 *004
5/8/09 Deposition-Defense

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BERNER, CRAIG V. CARNIVAL CORP.
USDC (Miami): 08-22569 CIV-ALTONAGA/BROWN
4/9/09 Deposition, 5/21/09 Trial-Plaintiff

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1401 Brickell Avenue
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OSCAR GONZALEZ V. THE SEVILLE MOTEL, ESTATE OF ROY CASTELLANOS, ET AL.
Hudson County, NJ: HUD-L-5935-06
1/22/09-Plaintiff

Richard M. Winograd
Ginarte O'Dwyer Gonzalez Winograd
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GASPARD V. LAS VEGAS HOUSING PARTNERS D/B/A DESERT PINES TOWNHOUSES
Clark County, NV: A526687
12/23/08 Deposition-Plaintiff

Christopher J. Raleigh, Esq.
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Las Vegas, NV 89101

MADELEINE CURY V. 2029 CONNECTICUT AVENUE CONDOMINIUM UNIT OWNERS ASSOCIATION, ET AL.
District of Columbia: 2008 CA 003704 B
12/4/08 Deposition-Plaintiff

Jon D. Pels, Esq.
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KAY NORTH, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GEORGE NEIL SMITH,
II V. LG INVESTMENT GROUP
Palm Beach County, FL: 02005CA011697XXXXMB
11/6/08 Deposition, 1/4/10 Trial-Plaintiff

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Stuart, FL 34995

HAROLD HILL V. CITY OF CHICAGO, ET AL.
USDS, Chicago, IL: 06 C 6772
10/30/08 Deposition-Defense

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ESTATE OF NICHOLAS D. RICE, DECEASED V. CORRECTIONAL MEDICAL SERVICES, ET AL.
USDC, South Bend Division, IN: 3:06-CV-00697-AS-CAN
10/23/08 Deposition-Defense

Nathaniel M. Jordan, Esq.
Yoder Ainlay Ulmer & Buckingham
130 North Main Street
Goshen, IN 46527-0575

DELORES S. MCCLENDON V. STAR DETECTIVE & SECURITY AGENCY V. CHICAGO TRANSIT AUTHORITY
Cook County, IL: 04 L 010858
9/18/08 Deposition-Plaintiff

Marc A. Taxman, Esq.
Anesi Ozmon Rodin Novak Kohen
161 North Clark Street
Chicago, IL 60601

ROCHELLE SCHOTT V. MGM MIRAGE, ET AL.
Clark County, NV: A528998
8/15/08 Deposition-Plaintiff

Scott Righthand, Esq.
465 California Street, Suite 300
San Francisco, CA 94104

LAURIE VOUDRIE V. PAUL KNUTSON, ET AL.
Winnebago County, IL: 05 L 115
7/28/08 Deposition, 8/5/09 Trial-Defense

Sara M. Hohe, Esq.
Winnebago County State's Attorney
Civil Division
400 W. State Street, Suite 804
Rockford, IL 61101

JUDITH LUDWIG AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN BRANDES V BENTON HARBOR
HOUSING COMMISSION AND ROVER SECURITY GUARD AGENCY, INC.
U.S. District Court, Western District, Southern Division, MI: 1:07-CV-523
7/11/08 Deposition-Plaintiff

Denzil Glenn Smith, Jr., Esq.
Keller & Keller
814 Port Street
St. Joseph, MI 49085

GRACE WILLIAMS AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF DERRICK NUNLEY V. FIESTA PALMS,
D/B/A PALMS CASINO RESORT
Clark County, NV: A513018
4/30/08 Deposition-Plaintiff

Jonathan T. Remmel, Esq.
Mainor Eglet Cottle
400 South 4th Street
Las Vegas, NV 89101

JESSICA MUELLER V. TARYN B. SCHERER, JOHN F. SCHERER, CROSS STREET TANNING, INC.
Washtenaw County, MI: 06-268-NO
4/19/08 Deposition-Plaintiff

Don Ferris, Esq.
Ferris & Salter
4158 Washtenaw Avenue
Ann Arbor, MI 48108

NADAUNT HOGUE V. JOHN DEDRICK, BRETT HINDZ, CHRISTOPHER K. WEIHMEIR AND MACH V
ENTERTAINMENT, INC.
Sangamon County, IL: 2001-L-189
4/4/08 Deposition-Defense

Denise Baker-Seal
Brown & James
525 West Main Street
Belleville, IL 62220

SHIRLEY DIETER V. CROSS STREET VILLAGE
Washtenaw County, MI: 06-1005-NO
11/21/07 Deposition-Plaintiff

Don Ferris, Esq.
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4158 Washtenaw Avenue
Ann Arbor, MI 48108

ROY KELCH, ET AL. v. JOSEPH A. LITTLE, II, ET AL.
Hocking County, OH: 06 CIV 147
10/18/07 Deposition-Plaintiff

Daniel N. Abraham, Esq.
Colley, Shroyer & Abraham
536 South High Street
Columbus, OH 43215

NOEL CUEVAS RIVERA AND MARIA ANNETTE CORDOVA GARCIA v. SIMON PROPERTY GROUP
USDC, San Juan, Puerto Rico: 05-1550
9/8/07 Deposition-Defense

Ivan M. Fernandez, Esq.
Law Offices
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San Juan, Puerto Rico 00919-2386

J.J. v. HYATT VACATION OWNERSHIP INC., D/B/A HYATT VACATION CLUB
Monroe County, FL: 05-CA-939-K
8/29/07 Deposition-Plaintiff

Thomas Scolaro, Esq.
Leesfield Leighton & Partners
2350 South Dixie Highway
Miami, FL 33133

E.E. v. TANNEX DEVELOPMENT CORP, D/B/A HILTON RESORT AND MARINA
Monroe County, FL: 2006-CA-204K
5/8/07 Deposition-Plaintiff

Thomas Scolaro, Esq.
Leesfield Leighton & Partners
2350 South Dixie Highway
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MATTHEW KRYCINSKI V DEPUTY JOHN DAVIDSON ET AL.
USDC (WD Mich): 1:06-CV-67
3/16/07 Deposition-Plaintiff

Catherine Groll, Esq.
Knaggs, Harter, Brake & Schneider, P.C.
7521 Westshire Drive
Lansing, MI 48917

JESSIE RICHTER V. SCOTT LEE
Franklin County, OH: 06CVC-04-4545
3/15/07 Deposition-Plaintiff

Amy M. Fulmer, Esq.
Fulmer & Company
5910 Venture Drive
Dublin, OH 43017

BRENDA MOMBOURQUETTE, ET AL. V. WISCONSIN COUNTIES MUTUAL INSURANCE CORPORATION, ET AL.
Lacrosse County: WI 05-C-0748-C
Deposition in 2006-Defense

Charles H. Bohl, Esq.
Whyte Hirschboeck Dudek
555 East Wells Street
Milwaukee, WI 53202-3819

JANET HIRST AND DAVID HIRST V. INVERNESS HOTEL CORP., D/B/A CHENAY BAY BEACH RESORT ET AL.
St. Croix, USVI: 2004/0095 F/C
11/9/06 Deposition -Defense

Vincent Colianni II, Esq.
Colianni & Colianni
1138 King Street
Christiansted, St. Croix, USVI 00820

TERRY MICHAEL MILLER V. CAMPFIRE RESTAURANT, AND SHANE PATRICK NOVENCIDO
Washenaw County, MI: 05-920-NO
11/6/06 Deposition-Plaintiff

John C. Stevenson, Esq.
Garrett & Stevenon
535 Griswold Street
Detroit, MI 48226

LOUISE OGBORN V. McDONALD'S CORPORATION, ET AL.
Bullitt County, KY: 04-C1-00769
10/24/06 Deposition, 9/14/07 Trial-Plaintiff

Lea A. Player, Esq.
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9/27/10

VITA

DANIEL BRUCE KENNEDY, Ph.D., C.P.P., C.S.P.

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Troy, Michigan 48098-4385
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EDUCATION

June 1971 Ph.D. Educational Sociology. Wayne State University, Detroit, Michigan.
December 1969 M.A. Sociology. Wayne State University.
June 1967 B.A. Sociology. Wayne State University.

SPECIALIZED TRAINING

Michigan Board of Social Work in-service training for 2010 relicensing, including suicidal behavior, mood and panic disorder, Asperger's syndrome, chronic misbehavior, and substance abuse.

Terrorism, Crime and Business: Legal and Security Liability Issues, Center for Terrorism Law, St. Mary's University, Houston, April, 2009.

Protective Measures Training for Executive and Employee Level Personnel in the Public/Private Sector, Department of Homeland Security, Detroit, June 2008.

Evolution of Islamic Politics, Philosophy and Culture in the Middle East and Africa, Association for the Study of the Middle East and Africa, Washington, D.C., April 2008.

Emergency Mental Health: Assessment and Treatment, Cross Country Education, Sterling Heights, MI, September 2007.

Forensic Nursing, PESI Health Care, Livonia, MI, August 2007.

Forensic Science and Grave Excavation, Oakland Police Academy, Auburn Hills, MI, June 2007.

Federal Bureau of Investigation Citizen's Academy, Combined Regional Emergency Services Training Center, Auburn Hills, MI, May 2007.

Urbanization and Security, International Police Executive Symposium, Dubai Police Headquarters, United Arab Emirates, April 2007.

Defeating Terrorism, Foundation for the Defense of Democracies and Tel Aviv University, locations throughout Israel, June 2006.

Daniel B. Kennedy

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Medicolegal Investigation of Death, Wayne State University School of Medicine and Michigan State Police, Dearborn, April 2006.

Department of Homeland Security Frontline Responder Train-the-Trainer Course, Institute for Security Studies, University of Nevada, Las Vegas, November 2005.

Prevention and Response to Suicide Bombing Incidents, Michigan State Police Hazardous Materials Training Center, Lansing, February 2005.

Soft Targets Awareness Training: Malls and Shopping Centers, Department of Homeland Security and State of Michigan, Detroit, October 2004.

Suicidology 101, American Association of Suicidology, Santa Fe, April 2003.

Threat Assessment Seminar, U.S. Secret Service and U.S. Department of Education, Chicago, June 2002.

Working with Special Needs Offenders, American Correctional Association, May 2002.

Managing Problem Employees, American Society for Industrial Security and Century College, Internet Online course, June 2000.

International Perspectives on Crime, Justice and Public Order, John Jay College of Criminal Justice and University of Bologna, Bologna, Italy, June 2000.

Street Survival 2000, Calibre Press, Lansing, May 2000.

Correctional Health Care, National Commission on Correctional Health Care, Ft. Lauderdale, November 1999.

Personality Disorders in Social Work Practice, Heritage Professional Education, Troy, May 1999.

Risk Management: Protecting People, Property, and Profits, Institute of Real Estate Management, National Association of Realtors, Chicago, LRM 402, October 1998.

Psychiatric Emergencies: How to Accurately Assess and Manage the Patient in Crisis, Professional Education Systems, Health Care Division, Novi, September 1998.

Visitor Safety: Seventh Annual Tourism and Security Seminar, Las Vegas Convention Authority, Metropolitan Police Department and Security Chiefs Association, Las Vegas, May 1998.

Gaming Protection, American Society for Industrial Security and World Gaming Congress, Las Vegas, October 1997.

Facility Security, American Management Association, Detroit, September 1997.

Daniel B. Kennedy

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Suicide: Prevention, Assessment, Treatment, Professional Development Institute, Ann Arbor, April 1997.

Sexual Violence: Perpetrators and Victims, Specialized Training Services, Dearborn, May 1995.

Shopping Center Security Management, International Council of Shopping Centers, East Lansing, June 1993.

Lodging Security Workshop, American Society for Industrial Security, Reno, May 1993.

Legal Remedies for Crime Victims Against Perpetrators, National Victim Center/U.S. Department of Justice, San Diego, December 1991.

Nonviolent Crisis Intervention Workshop, National Crisis Prevention Institute, Detroit, December 1991.

Safety and Security in Parking Operations, Institutional and Municipal Parking Congress, Pittsburgh, July 1991.

The Integrity Interview, John E. Reid & Associates, Detroit, January 1991.

Workshop on Police Liability, Americans for Effective Law Enforcement, San Francisco, November 1989.

Mediation and the Sociological Practitioner, Sociological Practice Association, Ann Arbor, June 1989.

Physical Security Workshop, American Society for Industrial Security, Orlando, February 1989.

Physical Security Workshop, Richard Kobetz Associates, Chicago, April 1987.

Certified Protection Professional Review Program, American Society for Industrial Security, Orlando, April 1984.

Loss Prevention Planning in Corporate Environment, National Crime Prevention Institute, University of Louisville, August 1983.

CERTIFICATIONS/LICENSES

Certified Protection Professional (CPP). Board Certified in Security Management, American Society for Industrial Security. Certified by examination, November 1984. Recertified 2009.

Certified Sociological Practitioner (CSP). Association for Applied and Clinical Sociology. Certified by demonstration, June 1990.

Licensed Master's Social Worker (LMSW). State of Michigan, License No. 001443.

Certified Police Academy Instructor. Michigan Law Enforcement Officers Training Council.

Daniel B. Kennedy

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CURRENT POSITIONS

June 1997
to present Principal Consultant
Forensic Criminology Associates, Inc.
1664 Rolling Woods Drive
Troy, MI 48098
(248) 641-0988

As principal consultant, I provide security consultant services to both the public and private sectors. Consulting expert and testifying expert services are also offered to attorneys involved in premises security litigation. Specifically, crime foreseeability, standards of care, and causation issues are addressed. Use of force, police pursuits, jail suicide, health care services, failure to protect, and other conditions of confinement issues are also reviewed. I have had active involvement in over 1,000 cases throughout the United States, Mexico, and the Caribbean and have been certified by court as expert in over 100 cases reaching trial both at state and federal level. I had been offering these services individually since about 1985.

August 2008
to present Emeritus Professor of Sociology and Criminal Justice
University of Detroit Mercy
4001 West McNichols
Detroit, MI 48219
(313) 993-1077

The title of Professor Emeritus was bestowed on me in 2008 by the President and Deans of the University of Detroit Mercy for Distinguished Scholarship and Outstanding Teaching. In further recognition of my services to the University, I was appointed Grand Marshall of the 2008 University commencement ceremony.

January 1977
to May 2008 Professor, Department of Criminal Justice and Security Administration
University of Detroit Mercy
4001 West McNichols
Detroit, MI 48219
(313) 993-1077

My initial appointment was as Assistant Professor in charge of the undergraduate program in Criminal Justice. This entailed teaching on both the undergraduate and graduate levels, student advisement and a complete revision of the undergraduate curriculum.

I was promoted to Chairman in May of 1978 and held that position until June of 1993. Duties included faculty recruitment, administration of two off-campus programs as well as for the main campus, course scheduling and new program development. I designed and administered the Master of Science in Security Administration program and the Bachelor of Science in Human Resources Development along with my criminal justice duties. I was promoted to Associate Professor on August 16, 1980, and granted tenure in September 1982. Promoted to Professor in September 1986.

I have served as a Senator on the University Student-Faculty Senate, Chairman of the Rank and Tenure Committee of the School of Education and Human Services, as a member of the Dean's Council, as the elected faculty member of the School of Education and Human Services to the University Planning Committee, and as a member of the President's Honorary Doctoral Recipient Committee.

Daniel B. Kennedy

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Sample of courses taught:

Terrorism and Homeland Security	Seminar in Criminology
Profiling and Threat Assessment	Theory of Law Enforcement
Forensic Criminology	Comparative Security
Workplace Violence	Seminar in Security Problems
Principles of Security Administration	Introduction to Corrections
Evaluation of Security Programming	Victimology
Introduction to Criminal Justice	Criminology and Penology
Introduction to Police Administration	Multicultural Understanding
Socialization and Social Control	Research Methodology
Criminal Justice and Community Relations	Senior Seminar: Theory and Research in Criminal Justice

PREVIOUS POSITIONS

August 1975 to August 1976	Assistant Professor of Social Sciences and Director Criminal Justice Program - College of the Virgin Islands St. Thomas, US Virgin Islands 00801
December 1973 to June 1975	Head, Research and Development Criminal Justice Institute - Wayne State University Detroit, MI 48202
June 1972 to December 1973	Administrator, Government Relations Department Campbell-Ewald Company Detroit, MI 48202
July 1971 to June 1972	Director Macomb County Criminal Justice Training Center Mt. Clemens, MI 48043
September 1968 to July 1971	Probation Officer, Adult Division Recorder's Court Detroit, MI 48226

RELATED EXPERIENCE

While attending college, I was also employed as an analyst for the Research and Development Bureau, Detroit Police Department, as inmate counselor for the US Bureau of Prisons, Detroit Prerelease Guidance Center (halfway house), and as an Urban Renewal Fieldworker for the City of Detroit.

PROFESSIONAL ACTIVITIES

Advisory Board, Forensic Psychology Series, Praeger Publishers.

Visiting lecturer, FBI Academy, Quantico, Virginia.

Daniel B. Kennedy

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Special Deputy Sheriff, Wayne County Sheriff's Office (Detroit).

Administrative Reserve Deputy, Oakland County Sheriff's Department.

Member, National Workplace Violence Guideline Committee, American Society for Industrial Security.

Consultant, Center for Information Assurance, University of Detroit Mercy (designated a Center of Academic Excellence by the National Security Agency).

Secured Member, Michigan InfraGard chapter.

Member, Subcommittee on Homeland Security, Detroit Chapter, American Society for Industrial Security.

Peer reviewer, "Out-of-Custody Offender Suicide" research grant, Social Sciences and Humanities Research Council of Canada, 2002.

Consultant to Wayne County Prosecutor's Office on school security issues and police conduct review methodologies, 2001-2002.

Periodic consultant to such news organizations as CNN, Reuters, AP, 20/20, Detroit News, Detroit Free Press, and Macomb Daily on crime and security-related issues.

Reader for Prentice-Hall and Butterworth manuscripts in areas of crime, criminology, and security administration.

Reviewer of academic manuscripts for Journal of Criminal Justice, Justice Quarterly, Journal of Security Administration, and American Journal of Police.

Criminal Justice and Security Administration curriculum development at various colleges and universities.

Consultant to State of Massachusetts in area of correctional program development.

Consultant to Virgin Islands Law Enforcement Planning Commission; member, Task Forces on Crime Prevention and Corrections.

Participation in evaluation of such activities as public detoxification programs (Detroit) and pre-delinquent diversion programs (Macomb County Juvenile Court, Michigan).

Research and testimony in arbitration hearings representing Detroit Police Officers Association, Detroit Police Lieutenants and Sergeants Association, Flint Police Officers Association, Toledo Patrolmen's Benevolent Association.

Training in premises liability, victimology, custodial suicide prevention, and security measures provided to Detroit Police Department, Taylor Police Department, Oakland County Sheriff's Department, and Wayne County Sheriff's Department.

Daniel B. Kennedy

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Premises liability and loss prevention seminars for shopping center security directors (e.g., The Taubman Co., Forest City Enterprises).

Editor for security content, Institute for Real Estate Management, IREM Smart Partners Program: Better Properties Through Stronger Communities (Chicago: National Association of Realtors, 1994).

Consultant, Greektown Casino LLP, Detroit, police and security issues.

Consultant, Wayne County Sheriff's Department, policies and procedures. Evaluation of "Last Call" program.

Approved Candidate, Fulbright Senior Specialists Roster.

Design and implementation of 15 credit Correctional Officer Training Certificate for Michigan Department of Corrections.

Member, Subcommittee F-12.20 on Premises Security, American Society for Testing and Materials (ASTM), 1993-1995.

Field assessor, Commission on Accreditation for Law Enforcement Agencies, Fairfax, Virginia.

Recipient, University of Detroit "Faculty Award for Excellence," 1989.

Executive Committee Member, Mayor's Anticrime Project, City of Detroit, 1984.

Member, Downtown Detroit Security Executive Council. Chairman of Education Committee 1985-1988.

Member, Advisory Committee, 21st Century Camp, New Detroit, 1992.

Member, Board of Directors, International Foundation for Protection Officers, 1988 to 1995.

Special Commendation, Michigan House of Representatives, for efforts on behalf of Proposal B, Crime Victims Rights, Amendment to Michigan Constitution, December 24, 1988.

Associate Editor, Journal of Security Administration. Named "Associate Editor of the Year" 1988.

Editorial Boards, Journal of Physical Security and Global Security Studies.

Corecipient of American Society for Industrial Security Foundation grant to develop screening device for line-level security officers, 1988.

Member, Standing Committee on Academic Programs, American Society for Industrial Security. Committee Chairman, 1985-1988. Named "Chairman of the Year" 1985.

Daniel B. Kennedy

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MEMBERSHIPS

Academy of Behavioral Profiling (former Chair of Ethics Committee)
American Society for Industrial Security
International Society of Crime Prevention Practitioners
International Council of Shopping Centers
American Hotel and Motel Association (past)
Association for Applied and Clinical Sociology
Academy of Criminal Justice Sciences
American Society of Criminology
International Association of Chiefs of Police
American Correctional Association
American Jail Association
Institute for Criminal Justice Ethics
American Association of Suicidology (former Co-Chair, Jail Suicide Task Force)
National Crime Victim Bar Association
International CPTED Association

PUBLICATIONS

Daniel B. Kennedy and Robert Homant, "Criminal Profiling" in Martine Herzog-Evans (Ed.) Transnational Criminology Manual (Oisterwijk, Netherlands: Wolf Legal Publishers, in press).

Robert J. Homant and Daniel B. Kennedy "Does No Good Deed Go Unpunished? The Victimology of Altruism," in Barbara Oakley, Ariel Knafo, Guruprasad Madhavan and David Wilson (Eds.) Pathological Altruism (New York: Oxford University Press, in press).

Daniel B. Kennedy, Robert J. Homant, Erick Barnes, and Megan Howell, "Homeland Security and Sleeper Cell Terrorists: A Comparison of Insider and Outsider Perceptions," in K. Shienbaum (Ed.) America at Risk: Readings in National Security and Homeland Security (in press).

Daniel B. Kennedy, "Foreword" in Wayne Petherick, Brent Turvey, and Claire Ferguson, Forensic Criminology (New York: Elsevier, 2010).

Daniel B. Kennedy, "Terrorists Behind Bars," American Jails 23 (August 2009): 31-39.

Robert J. Homant and Daniel B. Kennedy, "Understanding Serial Sexual Murder: A Biopsychosocial Approach," in Wayne Petherick (Ed.) Serial Crime: Theoretical and Practical Issues in Behavioral Profiling 2nd ed. (Burlington, MA: Academic Press, 2009).

Daniel B. Kennedy and Robert J. Homant, "A Social Psychological Perspective on Terrorist Behavior," pps. 149-172 in Adam Lowther and Beverly Lindsay (Eds.) Terrorism's Unanswered Questions (Westport, CT: Praeger Security International, 2009).

Daniel Shoemaker and Daniel B. Kennedy, "Criminal Profiling and Cybercriminal Investigations," pps. 456-476 in Michael Pittaro and Frank Schmallegger (Eds.) Crimes of the Internet (Upper Saddle River, NJ: Prentice-Hall, 2009).

Daniel B. Kennedy

9

Daniel B. Kennedy and Robert J. Homant, "An Insider View of the Sleeper Cell Terrorist: A Face Validity Study," Journal of Applied Security Research 3 (2008): 325-350.

Daniel B. Kennedy and Jason R. Sakis, "From Crime to Tort: Criminal Acts, Civil Liability, and the Behavioral Sciences," pps. 119-142 in David Canter and Rita Zukauskienė (Eds.) Psychology and Law: Bridging the Gap (Aldershot, UK: Ashgate Publishing Ltd., 2008).

Michael J. Witkowski and Daniel B. Kennedy, "Breaking New Ground: An Historical Look at the Master of Science in Security Administration Degree at the University of Detroit Mercy," Journal of Applied Security Research 3 (2007): 123-140.

Robert J. Homant, Daniel B. Kennedy, and Warren Evans, "Evaluating 'Last Call': A Program Directed at Outstanding Drunk Driving Warrants," Police Quarterly 10 (2007): 394-410.

Daniel B. Kennedy, "Suicide Bombers," p. 541 in John Fay (Ed.) Encyclopedia of Security Management, 2nd ed. (Boston: Butterworth-Heinemann, 2007).

Daniel B. Kennedy, "A Précis of Suicide Terrorism,," Journal of Homeland Security and Emergency Management 3 (2006):1-9. Available at <http://www.bepress.com/jhsem/vol3/iss4/2>

Daniel B. Kennedy, "Forensic Security and the Law," pps. 118-145 in Martin Gill (Ed.) Handbook of Security (New York: Palgrave Macmillan, 2006).

Robert Homant and Daniel B. Kennedy, "Serial Murder: A Biopsychosocial Understanding," pps. 189-223 in Wayne Petherick (Ed.) Serial Crime: Theoretical and Practical Issues in Behavioral Profiling (Burlington, MA: Academic Press, 2006).

Daniel B. Kennedy, "The Prevention and Management of Workplace Violence," pps. 379-400, in Adele El-Ayoubi (Ed.) Basic Crime Prevention Curriculum (Ann Arbor, MI: International Society of Crime Prevention Practitioners, 2005).

Daniel B. Kennedy, "Workplace Violence," pps. 1775-1777 in J. Mitchell Miller and Richard A. Wright (Eds.), Encyclopedia of Criminology, Vol. III (New York: Routledge, 2005).

Daniel B. Kennedy, Robert J. Homant, and Michael R. Homant, "Perception of Injustice as a Determinant of Support for Workplace Aggression," Journal of Business and Psychology 18 (2004): 323-336.

Daniel B. Kennedy and Richard T. McKeon (Eds.), Jail/Custody Suicide: A Compendium of Suicide Prevention Standards and Resources (Washington, D.C.: American Association of Suicidology, 2004.) Published on American Association of Suicidology website at www.suicidology.org/associations/1045/files/Jail.pdf.

Robert J. Homant and Daniel B. Kennedy, "The Crisis-Prone Organization as a Factor in Workplace Aggression," Security Journal 16 (2003): 63-76.

Robert J. Homant and Daniel B. Kennedy, "The Role of Hostile Attribution in Support for Workplace Aggression," Psychological Reports 92 (2003): 185-194.

Daniel B. Kennedy

10

Thomas M. Kelley, Daniel B. Kennedy, and Robert J. Homant, "Evaluation of An Individualized Treatment Program for Adolescent Shoplifters," Adolescence 38 (2003): 725-733.

Jason R. Sakis and Daniel B. Kennedy, "Avoiding the Exclusive-Remedy Doctrine: When Workers' Compensation is Not the Only Recourse for Employees Injured by Crime," Victim Advocate 4 (Winter 2003): 7-10.

Jason R. Sakis and Daniel B. Kennedy, "Violence at Work," Trial 38 (December 2002): 32-36.

Robert J. Homant and Daniel B. Kennedy, "A Typology of Suicide by Police Incidents," in Donald C. Sheehan and Janet I. Warren (Eds.) Suicide and Law Enforcement (Washington, D.C.: U.S. Department of Justice, 2001), pp. 577-586.

Daniel B. Kennedy and Michael Witkowski, "False Allegations of Rape Revisited: A Replication of the Kanin Study," Journal of Security Administration 23 (2000): 41-46.

Robert J. Homant and Daniel B. Kennedy, "Effectiveness of Less Than Lethal Force in Suicide by Cop Incidents," Police Quarterly 3 (2000): 153-171.

Robert J. Homant and Daniel B. Kennedy, "Suicide by Police: A Proposed Typology of Law Enforcement Officer Assisted Suicide," Policing 23 (2000): 339-355.

Robert J. Homant, Daniel B. Kennedy, and R. Thomas Hupp, "Real and Perceived Danger in Police Officer Assisted Suicide," Journal of Criminal Justice 28 (2000): 43-52.

Daniel B. Kennedy and Jason R. Sakis, "Tourist Industry Liability for Crimes Against International Travelers," The Trial Lawyer 22 (1999): 301-310.

Reprinted in Victim Advocate 1 (Spring 2000): 6-9.

Daniel B. Kennedy, Robert J. Homant, and R. Thomas Hupp, "Suicide by Cop," FBI Law Enforcement Bulletin 67 (August 1998): 21-27.

Daniel B. Kennedy and R. Thomas Hupp, "Apartment Security and Litigation: Key Issues," Security Journal 11 (1998): 21-28.

Robert J. Homant and Daniel B. Kennedy, "Psychological Aspects of Crime Scene Profiling: Validity Research," Criminal Justice and Behavior 25 (1998): 319-343.

Reprinted in Curt Bartol and Anne Bartol (Eds.), Current Perspectives in Forensic Psychology and Criminal Justice (Thousand Oaks, CA: Sage Publications, 2006), pps. 45-53.

Reprinted in Robert Keppel (Ed.) Offender Profiling, 2nd ed. (Stamford, CT: Thomson Learning, 2006), pps. 321-336.

Daniel B. Kennedy and Robert J. Homant, "Problems with the Use of Criminal Profiling in Premises Security Litigation," Trial Diplomacy Journal 20 (1997): 223-229.

001997

Daniel B. Kennedy

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Reprinted in Crime Victims' Litigation Quarterly 4 (November, 1997): 1, 4-7.

Daniel B. Kennedy and Robert J. Homant, "Role of the Criminologist in Negligent Security Cases," in Wiley Law Publications Editorial Staff (Ed.) 1996 Wiley Expert Witness Update (New York: John Wiley and Sons, 1996), pp. 151-166.

Daniel B. Kennedy, "A Synopsis of Private Security in the United States," Security Journal 6 (1995): 101-105.

Daniel B. Kennedy, "Social Control, Crime Prevention, and the Police," Security Journal 6 (1995): 163-170.

Daniel B. Kennedy, "The Expert Advisor: The Violent Crime Gender Gap," Crime Victims Litigation Quarterly 2 (1995): 7-9.

Robert J. Homant and Daniel B. Kennedy, "Landholder Responsibility for Third Party Crimes in Michigan: An Analysis of Underlying Legal Values," University of Toledo Law Review 27 (1995): 115-147.

Cited by Michigan Supreme Court in MacDonald v. PKT, Inc., 464 Michigan 322 (2001).

Cited by Michigan Supreme Court in Mason v. Royal Dequindre Inc., 455 Michigan 391 (1997).

Daniel B. Kennedy, "Litigation on Behalf of Tourists Victimized While Traveling Abroad," Trial Diplomacy Journal 17 (1994): 207-212.

Daniel B. Kennedy, "Rethinking the Problem of Custodial Suicide," American Jails 7 (January-February 1994): 41-45.

Robert J. Homant and Daniel B. Kennedy, "Citizen Preferences and Perceptions Concerning Police Pursuit Policies," Journal of Criminal Justice 22 (1994): 425-435.

Robert J. Homant and Daniel B. Kennedy, "Foreseeability of Crime as a Factor in Premises Liability for Negligent Security: Some Definitional and Practical Problems," Trial Diplomacy Journal 17 (1994): 81-87.

Reprinted as Chapter 2, Part 1, in Jurg Mattman, Steven C. Kaufer and Jean Chaney (Eds.) Premises Security and Liability (Laguna Beach, CA: Workplace Violence Research Institute, 1997), pps. 2-1 to 2-12.

Robert J. Homant and Daniel B. Kennedy, "Risk Taking As a Factor in Police Pursuit," Journal of Social Psychology 134 (1994): 213-221.

Robert J. Homant and Daniel B. Kennedy, "The Effect of High Speed Pursuit Policies on Officers' Tendency to Pursue," American Journal of Police 13 (1994): 91-111.

Daniel B. Kennedy

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Daniel B. Kennedy, "Architectural Concerns Regarding Security and Premises Liability," Journal of Architectural Planning and Research 10 (1993): 105-129.

Reprinted as Chapter 6, Part 1, in Jurg Mattman, Steven C. Kaufer and Jean Chaney (Eds.) Premises Security and Liability (Laguna Beach, CA: Workplace Violence Research Institute, 1997), pps. 6-1 to 6-29.

Daniel B. Kennedy, "Precautions for the Physical Security of the Wandering Patient," Security Journal 4 (1993): 1-7.

Daniel B. Kennedy, "Premises Liability for Negligent Security," in John Fay (Ed.) Encyclopedia of Security Management (Boston: Butterworth-Heinemann, 1993), pp. 567-570.

Daniel B. Kennedy, review of "Suicide Behind Bars: Prediction and Prevention" by D. Lester and B. Danto in Criminal Justice and Behavior 20 (1993): 306-310.

Robert J. Homant and Daniel B. Kennedy, "Sensation Seeking as a Factor in Police Pursuit," Criminal Justice and Behavior 20 (1993): 293-305.

Daniel B. Kennedy, "Probability, Vulnerability, and Criticality as Architectural Security Considerations," Security Journal 3 (1992): 199-209.

Reprinted as Chapter 12, Part 1, in Jurg Mattman, Steven C. Kaufer and Jean Chaney (Eds.) Premises Security and Liability (Laguna Beach, CA: Workplace Violence Research Institute, 1997), pps. 12-1 to 12-19.

Daniel B. Kennedy, "The Violent Crime Gender Gap," Security Management 36 (October 1992): 56-58.

Reprinted in American Society for Industrial Security Standing Committee on Lodging Security (Eds.), Tactics That Work: An Overview of Security Management (Alexandria, VA: American Society for Industrial Security, 1997) pps. 91-93.

Daniel B. Kennedy, Robert J. Homant, and John F. Kennedy, "A Comparative Analysis of Police Vehicle Pursuit Policies," Justice Quarterly 9 (1992): 227-246.

Daniel B. Kennedy, "Inadequate Security and Premises Liability," Trial 27 (June 1991): 56-61.

Daniel B. Kennedy, "Cocaine-Related Violence," Protection Officer News 6 (April 1990): 3.

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