

STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA  
FIRST JUDICIAL DISTRICT

FILED  
1st JUDICIAL DISTRICT COURT  
Rio Arriba County  
2/12/2019 4:02 PM  
STEPHEN T. PACHECO  
CLERK OF THE COURT  
Desiree Brooks

Case No. D-117-CV-2019-00063

Case assigned to Mathew, Francis J.

DANIELLE MEDINA, as personal representative of  
THE ESTATE OF AARON BACA,

Plaintiff,

v.

BOARD OF COUNTY COMMISSIONERS  
OF RIO ARRIBA COUNTY, RIO ARRIBA  
COUNTY ADULT DETENTION FACILITY,  
LARRY H. DEYAPP, individually and in his official capacity,  
VITAL CORE HEALTH STRATEGIES, LLC,  
and JOHN DOES 1 through 10, employees, staff,  
agents of Rio Arriba County Adult Detention Facility  
and/or Vital Core Health Strategies, LLC

Defendants.

**COMPLAINT FOR WRONGFUL DEATH, BREACH OF CONTRACT,  
MEDICAL MALPRACTICE, NEGLIGENCE,  
NEGLIGENT HIRING, TRAINING AND SUPERVISION, NEGLIGENT  
OPERATION OF A CORRECTIONAL FACILITY, *RES IPSA LOQUITUR*,  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, AND  
PUNITIVE DAMAGES**

COMES NOW the Plaintiff, Danielle Medina, Personal Representative of the Estate of  
Aaron Baca, by and through her attorneys, Guebert Bruckner Gentile, P.C., and  
Collins and Collins, P.C., and for her Complaint states as follows:

**PARTIES**

1. Plaintiff Danielle Medina was appointed Personal Representative of the Estate of  
Aaron Baca, deceased, January 25, 2019. *See Exhibit A.*

2. Plaintiff brings this action as the Personal Representative of the Estate of Aaron Baca, deceased.

3. Prior to his death, Aaron Baca, deceased, resided at 1911 Vista Del Rio Apt. 24, Avenida Canada, Espanola, NM 87532, in Santa Fe County, New Mexico.

4. Prior to his death, Aaron Baca, deceased, was an inmate at Rio Arriba County Adult Detention Facility (hereinafter “RACADF”) in Tierra Amarilla, New Mexico.

5. Defendant Board of County Commissioners of Rio Arriba County (hereinafter “Rio Arriba County”) is a political subdivision of the State of New Mexico. Pursuant to NMSA 1978, §4-46-1, all suits or proceedings against a county are to be brought in the name of the board of county commissioners of that county. At all times material hereto, Rio Arriba County was a governmental entity and local public body as those terms are defined in the New Mexico Tort Claims Act, NMSA 1978, §41-4-3. At all times material hereto, Rio Arriba County owned, operated, supervised, directed and controlled the RACADF located in Tierra Amarilla, New Mexico. Pursuant to NMSA 1978, §4-44-19; NMSA 1978, §§33-3-3 through 33-3-8; and, NMSA 1978, §33-3-13, Rio Arriba County was statutorily obliged to provide for the confinement of inmates incarcerated under its jurisdiction and had a corresponding obligation to appropriate funds and otherwise provide the necessary funding to maintain and operate a facility for the safe incarceration and healthcare of inmates under its jurisdiction. Rio Arriba County is required to administer, manage and supervise the health care delivery system at the RACADF.

6. Defendant Larry H. DeYapp is, upon information and belief, a resident of the County of Rio Arriba employed by Rio Arriba County as the administrator of RACADF. At all times material hereto, Defendant DeYapp supervised the operation and daily management of the

RACADF, was responsible for the policies, practices, and customs of RACADF, and the implementation of, and adherence to, the same. Defendant DeYapp was also responsible for the screening, hiring, training, supervision, discipline, counseling and control of RACADF officers, staff, contractors, agents and employees. Defendant DeYapp is named in his individual and official capacity.

7. Upon information and belief, at all times material times, John Does 1-10 were employed by Rio Arriba County as RACADF personnel responsible for providing correctional services at RACADF.

8. Upon information and belief, Rio Arriba County awarded a contract for health care delivery to CorrValues, LLC, in 2016, which CorrValues subsequently assigned to Defendant Vital Core Health Strategies, LLC.

9. At all times material to, Defendant Vital Core Health Strategies, LLC (hereinafter “Vital Core”) was, upon information and belief, the entity contracted to provide health care services to inmates confined in RACADF.

10. Defendant Vital Core is a foreign limited liability company licensed to do business in New Mexico. Defendant Vital Core’s agent for service of process is CT Corporation System, 206 S. Coronado Ave., Espanola, NM 87532.

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

12. Upon information and belief, at all material times, John Does 1-10 were employed by Vital Core and/or RACADF as personnel responsible for supervising and providing health care services to inmates at RACADF.

### **JURISDICTION AND VENUE**

13. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

14. Pursuant to NMSA 1978, §38-3-1(A), and NMSA 1978 §41-4-18(B) venue is proper as Aaron Baca, deceased, resided in Santa Fe County.

15. This Court has jurisdiction over the subject matter and parties to this action pursuant to the Court's general jurisdiction, N.M. Const. art. VI §13, NMSA 1978, §38-3-1.1, and NMSA 1978 §41-4-18.

16. Plaintiff has given timely notice to the Board of Commissioners of Rio Arriba County pursuant to the provisions of the Tort Claims Act, NMSA 1978, § 41-4-16.

17. Jurisdiction over all parties and claims are proper under Article II, § 10, of the New Mexico Constitution and the law of negligence under New Mexico law.

### **STATEMENT OF FACTS**

18. Aaron Baca was arrested on November 29, 2018 for a probation violation.

19. Mr. Baca was subsequently held in RACADF without bond.

20. On December 3, 2018 RACADF officers found Mr. Baca hanging in his cell when they were serving lunch.

21. Mr. Baca was housed in a cell alone, and had used a bed sheet to hang himself.

22. Mr. Baca was transported to Presbyterian Hospital in Espanola, NM, and then taken to Christus St. Vincent in Santa Fe, NM where he remained on life support.

23. On December 8, 2018, Mr. Baca was removed from life support and pronounced dead.

24. Mr. Baca was twenty-eight (28) years old.

25. The suicide rate of young men between the ages of twenty-five (25) and forty-four (44) is the highest of all age/gender groups.

26. Mr. Baca had been diagnosed with Opioid Use Disorder. The National Institute on Drug Abuse indicates individuals with Opioid Use Disorder are thirteen (13) times more likely to die by suicide than the general population.

27. Upon information and belief, Mr. Baca had also been diagnosed with depressive disorder. The U.S. Department of Health indicates that sixty (60) percent of people who commit suicide have a mood disorder, such as depression.

28. Mr. Baca was struggling to cope with the recent deaths of his parents. The loss of loved ones is a life stressor that dramatically increases the risk of suicide.

29. The above factors alone indicate Mr. Baca was a high risk for suicide.

30. Upon information and belief, Mr. Baca sought treatment from a certified nurse practitioner and licensed therapist for his mental health, and was receiving said treatment on or about the time of his incarceration.

31. Upon information and belief, Mr. Baca had been prescribed methadone to treat his Opioid Use Disorder and was taking methadone up until his incarceration.

32. Mr. Baca was denied his prescribed methadone by RACADF officers and staff, and/or Vital Core employees.

33. As such, Mr. Baca was suffering from acute methadone withdrawal at the time of his suicide. According to the Substance Abuse and Mental Health Services Administration (“SAMHSA”), methadone withdrawal is generally longer lasting and more severe than withdrawal from heroin.

34. Methadone withdrawal can be protracted and last for months with physical symptoms such as – chills, fever, rapid heartbeat, restlessness and muscle aches – occurring within the first 10 days. Anxiety, delirium, hallucinations, paranoia, and dramatically increased risk of self-harm or suicidality often accompany physical withdrawal symptoms. As such, medically assisted detoxification and/or clinical supervision are considered the gold standard in care for methadone detoxification.

35. Experts in opioid detoxification, including methadone, recommend that persons “detoxing” from this class of drugs never do so alone or without medical supervision.

36. In addition to these factors increasing suicidality, Mr. Baca was incarcerated at RACADF.

37. Suicide risk is greater in jails such as RACADF, and is the second leading cause of death in jails. In the United States the jail suicide rate is nine (9) times that of the general population.

38. Certain well-recognized factors drastically increase the already high risk of suicide in jails, including: substance use disorder accompanied by substance withdrawal, mood disorders like depression, solitary confinement or isolation, and recent emotional stressors or loss. Mr. Baca was experiencing all of these during his incarceration at RACADF.

39. Additionally, the American Corrections Association and the National Commission on Correctional Health Care guidelines indicate that the greatest risk of suicide occurs within the

first days of an inmate's incarceration. Mr. Baca hung himself after being incarcerated for three (3) days.

40. Despite the numerous indications that Mr. Baca was a high suicide risk, he was placed in a cell alone, with inadequate monitoring, and no suicide precautions in place.

41. Given the suicide rate in jails and RACADF's experience with suicide attempts, medication issues and completed suicides, RACADF should have known or knew and should have been trained to recognize the significant suicidal risk factors displayed by Mr. Baca.

42. RACADF and Vital Core Health Strategies LLC have a recent history of inmates dying while incarcerated due to poor medical care, poor supervision or lack thereof. Around the time of the incident involving Mr. Baca, two inmates were found unresponsive in their cells, and later pronounced dead at local hospitals. There have been multiple allegations of poor medical care, resulting severe, irreversible injury and death. By example, a female inmate recently died when she suffered an ETOH withdrawal seizure.

43. Given RACADF and Vital Core Health Strategies LLC recent experience of inmates dying due to poor medical care, poor supervision or lack thereof, RACADF and Vital Core Health Strategies LLC should have known or knew and should have been trained to address the mental health crisis Mr. Baca presented at intake and during any medical/mental health examinations.

44. Given Mr. Baca's mood disorder, opioid use disorder, discontinuation of prescribed Methadone (for which RACADF was responsible), and other emotional stressors, Vital Core Health Strategies LLC should have known or knew and should have trained its agents and employees to care for such patients at chronic risk for suicide, and to make the appropriate recommendations, treatment plans, housing plans and referrals.

45. RADACF was not accredited by the American Corrections Association (ACA) or the National Commission on Correctional Health Care (NCCHC) at times relevant to this Complaint.

46. The ACA and NCCHC establish mandatory minimum standards for correctional healthcare.

47. Failure to maintain accreditation suggests failure to establish and maintain minimum standards in correctional healthcare.

48. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County, failed to compel ACA and NCCHC accreditation for RACADF.

49. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County failed to hold Vital Core Health Strategies LLC to the standards of the ACA or NCCHC, or other pertinent standards ensuring the health and safety of inmates.

50. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County failed to hold Vital Core Health Strategies LLC to the standard of care under New Mexico law.

51. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County failed to establish any standard of care for Vital Core Health Strategies LLC's provision of medical/behavioral healthcare for RACADF inmates.

52. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County failed to properly oversee, monitor, supervise and manage Vital Core Health Strategies LLC's operation of medical facilities and provision of medical services to RACADF inmates, including Mr. Baca.

53. RACADF, Larry DeYapp and the Board of Commissioners of Rio Arriba County failed to take corrective action against Vital Core Health Strategies LLC despite clear



knowledge of the negligent and reckless provision of medical/behavioral health care by Vital Core Health Strategies LLC.

54. RACADF and the Board of Commissioners of Rio Arriba County have a non-delegable duty to provide for proper, necessary and competent medical/behavioral health care for all inmates in the care of RACADF.

55. Board of Commissioners of Rio Arriba County is the entity responsible for the management and oversight of RACADF.

56. RACADF is responsible, on behalf of the Board of Commissioners of Rio Arriba County, for the provision of proper, necessary and competent medical care of RACADF inmates, including Mr. Baca.

57. RACADF contracted with Vital Core Health Strategies LLC for the provision of medical/behavioral health services to RACADF inmates.

58. RACADF's duty to provide proper, necessary and competent medical/behavioral health care remains intact despite the assignment of said duties to outside contractors, including Vital Core Health Strategies LLC.

#### **COUNT I – NEGLIGENCE against ALL DEFENDANTS**

59. Plaintiff realleges Paragraphs 1 through 57 pursuant to NMRA Rule 1-010(C).

60. For the period complained of herein, RACADF and Vital Core Health Strategies LLC acting through their employees, agents, apparent agents, or contractors, who were acting within the scope of their employment, agency, apparent agency, or contract, were negligent in the care and services they provided to Mr. Baca while he was an inmate at RACADF.

61. Defendants' negligence included, but was not limited to:
- A. Failing to provide adequate staff, adequately paid staff, and adequately trained staff at RACADF to care for inmates such as Mr. Baca, with the full knowledge that such inadequate staffing practices would place inmates such as Mr. Baca at risk for injuries;
  - B. Negligently hiring, retaining and supervising staff at RACADF, with the full knowledge that such negligent staffing practices would place inmates such as Mr. Baca at risk for injuries;
  - C. Failing to provide proper suicide prevention planning, suicide prevention monitoring, suicide prevention policies and procedures, suicide prevention equipment, and suicide prevention training, so that Mr. Baca was allowed to commit suicide without proper monitoring, prevention and treatment;
  - D. Failing to provide and implement proper care plans that would adequately meet Mr. Baca's needs, including his risk for suicide;
  - E. Allowing Mr. Baca to remain unattended and unmonitored despite Mr. Baca's known risk for suicide;
  - F. Failing to provide a safe environment;
  - G. Failing to ensure that Mr. Baca received adequate supervision and assistance devices to prevent suicide;
  - H. Failing to have adequate and effective policies, procedures, staff and equipment to adequately supervise Mr. Baca;

- I. Failing to provide services to attain or maintain the highest practicable physical, mental and psycho-social well-being of Mr. Baca in accordance with a written plan of care;
- J. Failing to adequately monitor Mr. Baca;

62. These acts and failures to act by Defendants and their employees, agents, apparent agents and contractors, were willful, wanton and in reckless disregard for the safety and well-being of Mr. Baca. This is particularly so in regard to allowing Mr. Baca to commit suicide without properly correcting the care plan or attending to the suicide risk and allowing Mr. Baca to remain unattended in solitary confinement despite his behavioral health history, medical history, and high risk of suicide.

63. All acts or omissions done by Defendants and their employees, contractors, agents or apparent agents, were done within the scope of those persons' employment, contract, agency or apparent agency.

64. All acts complained of herein were authorized, participated in, or ratified by Defendants, or their administrators, managers, officers or directors or shareholders.

65. As a proximate result of the acts or omissions of Defendants, and their willful, wanton and reckless misconduct, Mr. Baca: (1) was allowed to commit suicide at RACADF on December 8, 2018; (2) Mr. Baca's wrongful death was the result of the misconduct of Defendants.

**COUNT II - MEDICAL MALPRACTICE against VITAL CORE HEALTH SERVICES LLC, and JOHN DOES 1-10**

66. Plaintiff realleges Paragraphs 1 through 64 pursuant to NMRA Rule 1-010(C).

67. In undertaking the diagnosis, care and treatment of Mr. Baca, Defendants have a duty to possess and apply the knowledge, skill, and care that is used by reasonably well-qualified healthcare providers in the local community.

68. Defendants breached their duties and were grossly negligent and reckless in the management of Mr. Baca's health and safety.

69. Defendants' negligence and recklessness include, but are not limited to:

- A. Failure to evaluate, treat and manage Mr. Baca's psychiatric condition;
- B. Failure to develop, employ, and follow appropriate policies and procedures with regard to the assessment, treatment, and management of Mr. Baca's psychiatric condition;
- C. Failure to create an appropriate treatment plan;
- D. Failure to implement an appropriate treatment plan;
- E. Failure to take the reasonable steps to acquire proper treatment of Mr. Baca;
- F. Failure to refer Mr. Baca to appropriate specialists;
- G. Failure to timely transfer Mr. Baca to an appropriate psychiatric facility or behavioral health facility;
- H. Failure to protect and preserve the health of Mr. Baca; and
- I. Failure to implement any suicide prevention whatsoever, despite Mr. Baca's chronic suicide risk.

70. Defendants' failure to assess, treat and manage Mr. Baca's severe psychiatric condition was reckless, wanton and in utter disregard for the safety and welfare of Mr. Baca.

71. The negligent and reckless acts and omissions of Defendants were the direct and proximate cause of Mr. Baca's wrongful death.

72. Plaintiff is entitled to compensatory damages for the negligent acts and omissions of Defendants.

**COUNT III – NEGLIGENT OPERATION OF A MEDICAL FACILITY against  
VITAL CORE HEALTH STRATEGIES, LLC and RACADF**

73. Plaintiff realleges Paragraphs 1 through 71 pursuant to NMRA Rule 1-010(C).

74. RACADF and Vital Core Health Strategies, LLC are entrusted with the medical/behavioral health care of RACADF inmates who have no other source of medical/behavioral health care.

75. Vital Core Health Strategies, LLC's medical staff at RACADF lacked sufficient expertise to assess, treat and manage Mr. Baca's mental health conditions and opioid withdrawal.

76. Vital Core Health Strategies, LLC was negligent in failing to properly refer Mr. Baca to be seen by a Psychiatrist or behavioral health provider who could effectively treat him.

77. By failing to either: (1) properly treat Mr. Baca's behavioral health conditions, or (2) properly refer Mr. Baca to be seen by a physician who could effectively treat him, Vital Core Health Strategies, LLC breached its duty to treat Mr. Baca in a reasonably prudent manner.

78. Such conduct amounts to negligence in running a medical facility.

79. Such conduct amounts to negligence in the treatment of Mr. Baca.

80. The actions of Vital Core Health Strategies, LLC were negligent, willful, wanton, and in gross and reckless disregard for Mr. Baca's well-being.

81. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have knowingly allowed, aided and abetted in Vital Core Health Strategies, LLC's failure to maintain ACA and NCCHC minimum mandatory standards at RACADF.

82. Defendant Vital Core Health Strategies, LLC has violated numerous provisions of ACA and NCCHC.

83. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have knowingly allowed and been complicit in the violation of the ACA and NCCHC minimum mandatory standards.

84. The failures of Defendants Vital Core Health Strategies, LLC, RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp led to the death of Mr. Baca.

85. As a result of the foregoing, Mr. Baca suffered wrongful death, pain and suffering, and severe psychological and emotional distress for which Plaintiff is entitled to damages, including punitive damages.

**COUNT IV – BREACH OF CONTRACT against VITAL CORE HEALTH STRATEGIES, LLC and RACADF**

86. Plaintiff realleges Paragraphs 1 through 84 pursuant to NMRA Rule 1-010(C).

87. RACADF has allowed Vital Core Health Strategies, LLC to breach its service contract on numerous occasions, by failing to provide proper behavioral health care to inmates.

88. As an inmate of RACADF, Mr. Baca was a third-party beneficiary of this service contract.

89. As a direct and proximate result of the acts and omissions set forth herein, Vital Core Health Strategies, LLC breached its service contract.

90. In breaching its service contract, Vital Core Health Strategies, LLC's actions were willful, malicious, wanton, or in reckless disregard for the safety and well-being of Mr. Baca.

91. As a direct and proximate result of this contractual breach by Defendants, Mr. Baca suffered those damages set forth in this Complaint.

92. Additionally, Plaintiff is entitled to damages for breach of contract as a third-party beneficiary of the aforementioned service contract.

## **COUNT V – NEGLIGENCE PER SE against ALL DEFENDANTS**

93. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have knowingly allowed, aided and abetted in Vital Core Health Strategies, LLC's failure to comply minimum mandatory ACA and NCCHC standards.

94. Defendants Vital Core Health Strategies, LLC has violated numerous provisions of ACA and NCCHC in providing services at RACADF.

95. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have been complicit in the failure to comply with minimum mandatory ACA and NCCHC standards through its failure to enforce the terms of its service contract.

96. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have failed to properly maintain oversight and enforcement of the service contract with Vital Core Health Strategies, LLC.

97. The failures of Defendants Vital Core Health Strategies, LLC, RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp led to the death of Mr. Baca.

98. The ACA violations by Defendants include but are not limited to:

- A. ACA standard 4-4350 which provides for a mandatory written treatment plan that is required for offenders requiring close medical supervision.
- B. ACA standard 4-4350 which requires that that mandatory written treatment plan include directions to health care and other personnel regarding their roles in the care and supervision of the patient, and is to be approved by the appropriate licensed physician.
- C. ACA Standard 4-4348 requiring that offenders who need health care beyond the resources available in the facility as determined by the responsible

physician, are transferred under appropriate security provisions to a facility where such care is on call or available 24 hours per day.

D. ACA Standard 4-4348 which specifically states that treatment of an offender's condition should not be limited to resources and services available within a facility.

E. ACA Mandatory Standard 4-4359 which further requires that with chronic conditions that the treatment plan address the monitoring of medications, laboratory testing, the use of chronic care clinics, health record forms, and specialist consultation and review.

99. As a result of the foregoing, Defendants' negligence per se, Mr. Baca has suffered wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

**COUNT VI – NEGLIGENT HIRING, TRAINING AND SUPERVISION against ALL DEFENDANTS**

100. Plaintiff realleges Paragraphs 1 through 98 pursuant to NMRA Rule 1-010(C).

101. Vital Core Health Strategies, LLC had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of inmates with psychiatric illness, mood disorders, and chronic risk for suicide.

102. On information and belief, Vital Core Health Strategies, LLC failed to properly train and supervise its employees, contractors, or agents in such a manner to properly and adequately assess, treat and manage Mr. Baca's mental health conditions, opioid withdrawal, and chronic risk for suicide.



103. Vital Core Health Strategies, LLC is liable for damages caused by their employees and other agents while working within the scope of their employment under the doctrines of *respondeat superior* and agency, in an amount not presently determinable but to be proven at trial.

104. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of inmates with psychiatric illness, mood disorders, and chronic risk for suicide.

105. On information and belief, RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp failed to properly train and supervise its employees, contractors, or agents in such a manner to properly and adequately assess, treat and manage Mr. Baca's mental health conditions, opioid withdrawal, and chronic risk for suicide.

106. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp are liable for damages caused by their employees and other agents while working within the scope of their employment under the doctrines of *respondeat superior* and agency, in an amount not presently determinable but to be proven at trial.

107. The failures of Defendants Vital Core Health Strategies, RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp led to the death of Mr. Baca.

108. As a result of the foregoing, Mr. Baca's wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

**COUNT V – NEGLIGENCE against RACADF, BOARD OF COMMISSIONERS OF RIO ARRIBA COUNTRY, AND LARRY DEYAPP**

109. Plaintiff realleges Paragraphs 1 through 107 pursuant to NMRA Rule 1-010(C).

110. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp negligently failed to oversee Vital Core Health Strategies, LLC in the provision of healthcare, including behavioral health, to NMCD inmates, which contributed to the death of Mr. Baca.

111. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp failed to take corrective action against Vital Core Health Strategies, LLC in clear face of recurrent and consistent negligent and reckless behavioral healthcare to RACADF inmates which contributed to the death of Mr. Baca.

112. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp negligently, intentionally and knowingly placed inmates with severe mental illness and at chronic suicide risk in solitary confinement without due consideration of the immediate danger of suicide which contributed to the death of Mr. Baca.

113. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp negligently failed to hold Vital Core Health Strategies, LLC to standards and guidelines of the ACA or NCCHC.

114. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp negligently failed to hold Vital Core Health Strategies, LLC to the medical standard of care established under New Mexico law which contributed to the death of Mr. Baca.

115. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp failed to establish or enforce any standards at all for Vital Core Health Strategies, LLC's provision of proper, necessary and competent medical care to RACADF inmates.

116. As a result of the foregoing, Mr. Baca has suffered wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages.

**COUNT VI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS against ALL DEFENDANTS**

117. Plaintiff realleges Paragraphs 1 through 115 pursuant to NMRA Rule 1-010(C).

118. Defendants intentionally placed Mr. Baca in solitary confinement.

119. Defendants intentionally denied Mr. Baca proper and necessary behavioral health care, including but not limited to supervised detoxification from methadone and accompanying chronic opioid withdrawal.

120. Defendants intentionally denied Mr. Baca access to the appropriate specialists for his behavioral conditions.

121. Defendants knew that placing Mr. Baca in solitary confinement would exacerbate his mental illness and risk for suicide.

122. The conduct of Defendants was extreme, outrageous and intentional.

123. Mr. Baca suffered severe emotional distress as a result of the conduct of Defendants.

124. As a result of the foregoing, Mr. Baca has suffered wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

**COUNT VII – *RESPONDEAT SUPERIOR* AND AGENCY against ALL DEFENDANTS**

125. Plaintiff realleges Paragraphs 1 through 123 pursuant to NMRA Rule 1-010(C).

126. Vital Core Health Strategies, LLC is responsible to Mr. Baca under the doctrine of *respondeat superior* for the conduct of its employees and agents.

127. Vital Core Health Strategies, LLC is responsible to Mr. Baca under the doctrine of agency for the conduct of its employees and agents.

128. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have a non-delegable duty to provide proper and necessary behavioral healthcare to inmates in the custody of NMCD and RACADF.

129. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have violated the duty by its failure to properly screen, hire, manage, supervise, train or exert contractual control over Defendants Vital Core Health Strategies, LLC/

130. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp have knowingly allowed and been complicit in the violation of the ACA and NCCHC minimum mandatory standards for healthcare in a correctional setting.

131. Under the doctrine of agency, Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp are responsible for all acts and omissions of Vital Core Health Strategies, LLC, its employees, staff, and other agents for its non-delegable duty to provide proper, necessary and competent medical/behavioral health care to RACADF inmates.

132. The failures of Defendants Vital Core Health Strategies, LLC, RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp led to the death of Mr. Baca.

**COUNT IX – *RES IPSA LOQUITUR* against ALL DEFENDANTS**

133. Plaintiff realleges Paragraphs 1 through 131 pursuant to NMRA Rule 1-010(C).

134. The injuries and damages, suffered by Mr. Baca were proximately caused by Defendants.

135. It was Defendants' responsibility to manage and control their medical staff and the care and treatment of Mr. Baca.

136. The events causing the injuries and damages to Mr. Baca were of a kind which would not ordinarily occur in the absence of negligence on the part of Defendants.

137. The doctrine of *Res Ipsa Loquitur* is applicable as a theory of negligence, causation and damages in this case.

138. As a result of the foregoing, Mr. Baca has suffered wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

**COUNT X – NEGLIGENT OPERATION AND MAINTENANCE OF RACADF against RACADF, BOARD OF COMMISSIONERS OF RIO ARRIBA COUNTY, AND LARRY DEYAPP**

139. Plaintiff realleges Paragraphs 1 through 137 pursuant to NMRA Rule 1-010(C).

140. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp were negligent in their operation and maintenance of RACADF.

141. The immunity granted pursuant to Section 41-4-4(A) NMSA 1978 does not apply to negligent operation and maintenance of buildings such as RACADF.

142. Defendants RACADF, Board of Commissioners of Rio Arriba County, and Larry DeYapp were operating RACADF in a manner that prevented proper observation of Mr. Baca.

143. There were no surveillance cameras with an unobstructed view into Mr. Baca's cell.

144. The window into Mr. Baca's cell did not afford an unobstructed view into Mr. Baca's cell.

145. Mr. Baca's cell was situated where RACADF guards could not properly observe Mr. Baca.

146. As a direct and proximate result of these negligent acts and omissions, Mr. Baca was able to hang himself until he died, and was so concealed guards did not discover his dead body until serving the inmates lunch.

147. As a result of the foregoing, Mr. Baca has suffered wrongful death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages.

**COUNT X – WRONGFUL DEATH against ALL DEFENDANTS**

148. Plaintiff realleges Paragraphs 1 through 146 pursuant to NMRA Rule 1-010(C).

149. Defendants, acting through their employees, administrator, agents, servants, representatives, officers, directors, designees, physicians, counselors, nurses, nurse's aides, and/or contractors, who were acting within the scope of their employment, agency, apparent agency or contract, were negligent in the care and services they provided to Mr. Baca.

150. Defendants failed to use ordinary care in providing the appropriate treatment and care that a reasonable and prudent correctional facility would have provided under the same or similar circumstances.

151. Defendants breached their duty by failing to ensure that Mr. Baca received proper precautions to prevent suicide, and adequate and proper supervision in an appropriate manner.

152. As a direct and proximate result of Defendants' actions and/or inactions, Mr. Baca suffered physical and psychological pain, suffering and ultimately death.

**DAMAGES**

153. As a direct and proximate result of the actions of Defendants enumerated above, Mr. Baca sustained serious personal injuries, which caused or contributed to his tragic and untimely death.

154. As a direct and proximate result of the actions of Defendants enumerated above, Plaintiff is entitled to an award of monetary damages for the pain and suffering experienced prior to the death of Mr. Baca, the aggravating circumstances attending his death, the reasonable expenses of necessary medical care and treatment and funeral and burial, the monetary worth of the life of Mr. Baca, and hedonic damages, or damages for the loss of value of Mr. Baca's life itself, all to Plaintiff's damage in an amount to be determined by the Court at trial.

155. In the alternative, as a direct and proximate result of the actions of Defendants enumerated above, Mr. Baca experienced pain and suffering, loss of enjoyment of activities, hedonic damages, or loss of the value of life itself, all to Plaintiff's damage in an amount to be determined by the Court at trial.

156. The acts and omissions complained of in the causes of action stated above are egregious in reckless, wanton and total disregard to the rights of Mr. Baca, that in addition to the actual damages ascertained and demonstrated by a preponderance of the evidence, that punitive damages or exemplary damages to punish and deter these types of acts and omissions from occurring in the future are appropriate.

WHEREFORE, the Plaintiff Danielle Medina requests compensatory and punitive damages, costs, pre- and post-judgment interest and such other relief as permitted by law against Defendants.

GUEBERT BRUCKNER GENTILE, P.C.

By /s/ David S. Ketai

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STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

IN THE MATTER OF THE WRONGFUL DEATH  
OF AARON DAVID FRANK BACA, Deceased.


No. D-101-CV-2019-00169

**ORDER APPOINTING PERSONAL REPRESENTATIVE TO PURSUE WRONGFUL  
DEATH CLAIM IN ACCORDANCE WITH § 41-2-3 NMSA 1978**

**THIS MATTER** comes before the Court on the Petition of Danielle Medina, for appointment as personal representative of the wrongful death estate of Aaron David Frank Baca. The Court has reviewed the petition, and being fully advised in the premises, finds that good cause exists for granting the petition for appointment of personal representative of the wrongful death estate of Aaron David Frank Baca.

**THEREFORE, THIS COURT ORDERS** that:

- A. The Petition is granted.
- B. The Petitioner, Danielle Medina, is hereby appointed Wrongful Death Personal Representative of the Estate of Aaron David Frank Baca, deceased, for the sole purpose of investigating and pursuing a wrongful death claim, pursuant to the New Mexico Wrongful Death Act, NMSA 1978 §41-2-1, et seq.
- C. The Petitioner will perform her fiduciary function as wrongful death personal representative in accordance with and pursuant to the New Mexico Wrongful Death Act, NMSA 1978 §41-2-1, et seq.
- D. The Petitioner will distribute any funds or proceeds of said wrongful death claim in accordance with and pursuant to the law.

  
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**MATTHEW JUSTIN WILSON**  
District Court Judge

**EXHIBIT A**

Submitted by:

COLLINS & COLLINS, PC

/s/ *Alysan Boothe Collins*

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