

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

FILED
1st JUDICIAL DISTRICT COURT
Santa Fe County
3/7/2019 3:23 PM
STEPHEN T. PACHECO
CLERK OF THE COURT
Desiree Brooks

DOMINICK MORA-SOLIS

Plaintiff,

v.

No. D-101-CV-2019-00627
Case assigned to Wilson, Matthew Justin

**CENTURION CORRECTIONAL
HEALTHCARE OF NEW MEXICO, LLC;
JOSE ANDRADE, M.D., MICHELLE COX, M.D.,
STATE OF NEW MEXICO, NEW
MEXICO CORRECTIONS DEPARTMENT;
DAVID JABLONSKI; ANTHONY ROMERO;
DAVID SELVAGE; ORION STRADFORD;
STEVE MADRID; MHM HEALTH
PROFESSIONALS, INC.; and JOHN DOES 1-10,
(employees, staff, agents of New Mexico
Corrections Department, Centurion Correctional
Healthcare of New Mexico, LLC, and/or MHM
Health Professionals, Inc., respectively),**

Defendants.

**COMPLAINT FOR
MEDICAL MALPRACTICE AND RELATED CLAIMS**

COMES NOW, the PLAINTIFF, DOMINICK MORA SOLIS, by and through his attorneys COLLINS & COLLINS, P.C. (Parrish Collins) and GUEBERT BRUCKNER GENTILE, P.C. (Terry R. Guebert, Robert Gentile and David S. Ketai), and for his cause of action states as follows:

PARTIES

1. PLAINTIFF, DOMINICK MORA SOLIS (hereinafter "PLAINTIFF"), is a former inmate at Northwest New Mexico Correctional Facility Grants in Cibola, New Mexico (hereinafter "NWNMCF").

2. PLAINTIFF currently resides at the Central New Mexico Correctional Facility, Los Lunas, Valencia County, New Mexico.

3. Centurion Correctional Healthcare of New Mexico, LLC (hereinafter “CENTURION”) is a domestic limited liability company registered to do business in New Mexico, whose registered agent for service of process is CT Corporation System, 206 S. Coronado Avenue, Espanola, New Mexico, 87532-2792.

4. At all material times, CENTURION 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 and/or apparent agency.

5. CENTURION is responsible for providing medical care to inmates in the New Mexico Department of Corrections prison system pursuant to a contract with that agency of the State of New Mexico that commenced on June 1, 2016 and continues to the present.

6. Upon information and belief, Jose Andrade, M.D. and Michelle Cox, M.D. were the presiding doctors and designated medical authorities for NWNMCF, and responsible for the medical care of PLAINTIFF at all times relevant to this Complaint.

7. Defendants New Mexico Corrections Department and NWNMCF (hereinafter “DEFENDANTS” and/or “STATE”) are entities of the State of New Mexico.

8. NWNMCF is operated by the State of New Mexico by, under and through the New Mexico Department of Corrections.

9. Defendant State of New Mexico has authorized New Mexico Corrections Department (hereinafter “NMCD”) to operate the NWNMCF in Grants, Cibola County, New Mexico.

10. NMCD is responsible for contracting of medical services for all NMCD facilities including NWNMCF.

11. David Jablonski was serving as the Secretary of Corrections at all times relevant to this Complaint, although he is not currently serving as the Secretary of Corrections.

12. Anthony Romero was serving as Deputy Secretary of Corrections at all times relevant to the Complaint and is currently serving as Acting Secretary of Corrections.

13. David Selvage is, and was at all times relevant to this Complaint, serving as the Health Services Administrator for NMCD.

14. Orion Stradford is, and was at all times relevant to this Complaint, serving as the NMCD Bureau Chief.

15. Steve Madrid is, and was at all times relevant to this Complaint, the individual acting on behalf of NMCD in charge of the NMCD Grievance Process, including the appellate process.

16. At all material times, NMCD 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 and/or apparent agency.

17. MHM Health Professionals, Inc. (hereinafter “MHMHP”) provides medical personnel to CENTURION including those medical personnel providing medical services at “facility.”

18. Upon information and belief, MHMHP, is a Delaware for profit corporation.

19. At all material times, MHMHP 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 and/or apparent agency.

20. Upon information and belief, MHMHP is the employer of said medical personnel provided to CENTURION for purposes of providing medical services to NMCD inmates.

21. The State of New Mexico, NMCD and their John Doe employee, staff and agents, including David Jablonski, Anthony Romero, David Selvage, Orion Stradford and Steve Madrid will be referred to herein collectively as “NMCD DEFENDANTS.”

22. CENTURION and its John Doe employees, staff and agents, including Michelle Cox, M.D. will be referred to herein collectively as “CENTURION DEFENDANTS.”

23. MHMHP and it’s John Doe employees, staff and agents will be referred to herein collectively as “MHM.”

24. Upon information and belief, MHMHP is the employer of said medical personnel provided to CENTURION for purposes of providing medical services to NMCD inmates.

JURISDICTION AND VENUE

25. All acts complained of herein occurred in Grants, Cibola County, State of New Mexico.

26. CENTURION’s registered agent is in Espanola, New Mexico.

27. The contract for prison medical services between CENTURION and the State of New Mexico was, upon information and belief, executed in Santa Fe, New Mexico.

28. Jurisdiction and venue are proper over CENTURION and John Doe employees, staff and agents 1-10 pursuant to NMSA § 38-3-1 (A).

29. This Court has jurisdiction over the subject matter of PLAINTIFF’s New Mexico Tort Claims Act claims against the State of New Mexico and New Mexico Corrections Department

and John Doe employees, staff and agents under NMSA § 41-4-18 and NMSA § 38-3-1 (A).

30. Jurisdiction over MHMHP is proper in New Mexico State District Court due to lack of complete diversity of named DEFENDANTS under 28 U.S.C.A. § 1332.

31. 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.

FACTS COMMON TO ALL COUNTS

32. PLAINTIFF had been incarcerated since 08/2012.

33. PLAINTIFF had a gun shot injury due to which he became paraplegic and had a splenectomy. PLAINTIFF also developed a sacral decubitus ulcer since 2012.

34. On 07/25/2018, PLAINTIFF was admitted to the University of New Mexico Hospital (UNMH).

35. PLAINTIFF had a chronic sacral ulcer which had been worsening for 3 weeks with discharge.

36. The sacral ulcer had worsened in the preceding 3 weeks because pressure ulcer prevention protocols were not followed.

37. As a result of the grossly negligent medical care in reckless, wanton and willful disregard for the health and safety of PLAINTIFF, PLAINTIFF developed a Stage IV pressure ulcer, Sepsis, Acute Thrombocytosis, acute pyelonephritis and acute chronic osteomyelitis,

38. By the time of admission to UNMH, the pressure ulcer measured approximately 4 x 5cm.

39. The pressure ulcer was 4 cm deep with visible bone.

40. A photo was taken of the pressure ulcer, upon information and belief, at the time of admission to UNMH.

41. The photo was handed to Counsel for PLAINTIFF while visiting PLAINTIFF at the LTCU on March 1, 2019 by LTCU Dr. Williams. (Attached as **Exhibit 1**).

42. PLAINTIFF, due to his preexisting medical conditions including prior decubitus ulcers and paraplegia, was highly vulnerable to infection.

43. A competent medical provider would be acutely aware of the vulnerability and consequent high risks of infection in PLAINTIFF.

44. A competent medical provider would have initiated pressure sore prevention protocols.

45. A competent medical provider would have kept a close eye on PLAINTIFF for signs of infections.

46. A competent medical provider would have transferred PLAINTIFF to the appropriate specialist for pressure ulcer prevention and care.

47. A competent medical provider would have sought such specialist care prior to the pressure ulcer developing to Stage IV with sepsis.

48. PLAINTIFF was not closely monitored for infection.

49. Adequate and necessary pressure sore prevention protocols and measures were not implemented.

50. PLAINTIFF was not referred to a specialist prior to pressure ulcer developing to Stage IV with sepsis.

51. Stage III and IV pressure sores are considered “never events” in the medical community.

52. State III and IV pressure sores developed while under medical care are non-compensable under Medicare under the Affordable Care Act.

53. Stage III and IV pressure sores should never occur with a patient and should never been allowed to occur with PLAINTIFF.

54. The above-stated facts show significant deviations from the standard of care under the American Correctional Association medical guidelines, that National Commission on Correctional Health Care (NCCHC) and New Mexico law.

55. CENTURION DEFENDANTS deviated from the standard of care as follows:

- a. Failure to perform adequate physical examination;
- b. Failure to properly monitor PLAINTIFF's medical conditions.
- c. Failure to refer PLAINTIFF for higher/specialty care in timely manner; and
- d. Significant and inexcusable delay in the diagnosis of the following conditions detected upon admission to UNMH:

- 1) Stage IV pressure ulcer with progressive erosion of the sacrum,
- 2) Sepsis,
- 3) Pyelonephritis with right hydroureter/hydronephrosis,
- 4) Chronic osteomyelitis of both hips, and
- 5) Splenosis involving the left diaphragmatic pleura, post splenectomy.

56. As a result of the above-stated reckless, willful and wanton violations in the standard of care, PLAINTIFF suffered serious, significant and permanent harm.

57. The State of New Mexico and NMCD have a non-delegable duty to provide for proper, necessary and competent medical care for all inmates in the care of NMCD.

58. NMCD is responsible, on behalf of the State of New Mexico, for the provision of proper, necessary and competent medical care of NMCD inmates, including those at the NWNMCF and for PLAINTIFF.

59. NMCD contracted with CENTURION for the provision of medical services to NMCD inmates.

60. CENTURION, by the terms of the General Services Contract, #16-770-1300-0097 (hereinafter “GSC”), was contracted by NMCD for the purposes of providing medical care to inmates in the NMCD prison system, including PLAINTIFF.

61. The term of the GSC began on June 1, 2016 and continues to the present.

62. By contract with the State of New Mexico, CENTURION is responsible for medical care to inmate patients at the NWNMCF, including PLAINTIFF.

63. The GSC delegation of responsibility for medical care to NMCD inmates does not lessen the duties of the State of New Mexico or NMCD to insure proper, necessary and competent medical care to NMCD inmates.

64. NMCD’s duty to provide proper, necessary and competent medical care to NMCD inmates remains intact despite the assignment of said duties to outside contractors, including CENTURION.

65. NMCD DEFENDANTS failed to enforce critical terms of the GSC essential to the protection of the health and safety of NMCD inmates.

66. NMCD DEFENDANTS failed to hold CENTURION to the standards of the ACA or NCCHC.

67. NMCD DEFENDANTS failed to hold CENTURION to the standard of care under New Mexico law.

68. NMCD DEFENDANTS failed to establish any standard of care for CENTURION’s provision of medical care for NMCD inmates.

69. NMCD DEFENDANTS failed to properly oversee, monitor, supervise and manage

CENTURION's operation of medical facilities and provision of medical services to NWNMCF inmates, including PLAINTIFF.

70. NMCD DEFENDANTS failed to take corrective action against CENTURION despite clear knowledge of the negligent and reckless provision of medical care by CENTURION.

71. Instead, in conspiracy with CENTURION, NMCD routinely denies medical grievances and, upon information and belief, has not found in favor of an inmate since at least 2012. David Jablonski and Anthony Romero were responsible and did set the tone, customs and standards for the routine denial of inmate medical care.

72. David Jablonski and Anthony Romero breached their responsibilities for overseeing the provision of the medical care under the GSC with CENTURION.

73. David Selvage, as Health Services Administrator, breached his responsibilities for management of medical services, including oversight and enforcement of the GSC.

74. Orion Stradford, as Bureau Chief, was directly responsible for the oversight and management of the GSC.

75. Orion Stradford breached his duties to properly manage the GSC, allowing CENTURION to repeatedly violate the medical standards under the ACA, NCCHC and New Mexico law.

76. Steve Madrid, as the Grievance Manager Administrator, has created, implemented and maintained a grievance process that routinely denies the Due Process rights of inmates to administrative remedies.

77. Steve Madrid did so create, implement and maintain said defective grievance process for the purpose of denying inmates their rights to adequate medical care.

78. The collective behavior of the aforementioned NMCD DEFENDANTS in

conspiracy with CENTURION and MHM has led to the routine denial of basic medical care to inmates, including PLAINTIFF.

79. The collective behavior of the aforementioned NMCD DEFENDANTS in conspiracy with CENTURION and MHM has led to the routine denial of basic infection control among inmates, including PLAINTIFF.

80. The collective behavior of the aforementioned NMCD DEFENDANTS in conspiracy with CENTURION and MHM has led to the routine denial of basic minimal healthcare.

81. The collective behavior of the aforementioned NMCD DEFENDANTS in conspiracy with CENTURION and MHM has led to the routine denial of basic infection control.

82. The collective behavior of the aforementioned NMCD DEFENDANTS in conspiracy with CENTURION and MHM has led to a failure to provide basic infection control, which has led to multiple very serious spinal infections to include multiple cases of diskitis, osteomyelitis, and sepsis.

83. These repeated inmate infections have resulted in extensive and permanent injuries to inmates, including PLAINTIFF, and at least one death.

84. These cases of spinal diskitis, osteomyelitis, and sepsis represent a pattern of severe, callous, wanton, willful and deliberate indifference to the health, safety and lives of inmates, including PLAINTIFF.

COUNT I
MEDICAL MALPRACTICE AND NEGLIGENCE
(CENTURION DEFENDANTS)

85. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

86. In undertaking the diagnosis, care and treatment of PLAINTIFF, CENTURION, its

employees, staff and agents were under a duty to possess and apply the knowledge, skill, and care that is used by reasonably well-qualified healthcare providers in the local community.

87. CENTURION, its employees, staff and agents breached their duties and were negligent in the management of PLAINTIFF's health and well-being.

88. CENTURION's negligence, errors, acts and omissions include, but are not limited to:

- a. Failure to establish, maintain and enforce infection control guidelines and standards;
- b. Failure to evaluate, treat and manage PLAINTIFF's spinal infection;
- c. Failure to take the reasonable steps to acquire proper treatment of PLAINTIFF;
- d. Failure to refer PLAINTIFF to appropriate specialists;
- e. Failure to develop, employ, and follow appropriate policies and procedures with regard to the assessment, treatment, and management PLAINTIFF's spinal infection;
- f. Failure to provide PLAINTIFF with necessary and proper pain management; and
- g. Failure to protect and preserve the health of PLAINTIFF.

89. As a direct and proximate result of the negligent acts and omissions CENTURION, its employees, staff and agents, PLAINTIFF suffered a rapid and significant deterioration in his health, along with physical, emotional, and psychological pain and suffering not presently determinable, but to be proven at the time of trial.

90. CENTURION, its employees, staff and agent's failures to assess, treat and manage PLAINTIFF's spinal infection was reckless and wanton with utter disregard for the safety and

welfare of PLAINTIFF, for which PLAINTIFF is entitled to punitive damages.

COUNT II
NEGLIGENCE
(All Defendants)

91. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

92. NMCD DEFENDANTS negligently failed to oversee CENTURION in the provision of medical care to NMCD inmates, which contributed to PLAINTIFF's injuries.

93. NMCD DEFENDANTS failed to take corrective action against CENTURION in clear face of recurrent and consistent negligent and reckless medical care to NMCD inmates which contributed to PLAINTIFF's injuries.

94. NMCD and CENTURION are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

95. CENTURION's medical staff at NWNMCF lacked sufficient expertise to assess, treat and manage PLAINTIFF's health conditions.

96. CENTURION has a duty under the GSC, ACA and NCCHC to properly refer PLAINTIFF to be seen by a physician who could effectively treat him.

97. NMCD DEFENDANTS negligently failed to enforce critical terms of the GSC, including but not limited to, failure to compel NWNMCF and/or CENTURION to obtain accreditation by the ACA and NCCHC which contributed to PLAINTIFF's injuries.

98. NMCD DEFENDANTS negligently failed to ensure that CENTURION hire, train and supervise its medical providers, staff, employees and agents.

99. NMCD DEFENDANTS negligently failed to ensure that CENTURION hire competent medical providers, employees, staff and agents.

100. NMCD DEFENDANTS negligently, intentionally and knowingly interfered in the inmate grievance process with a pattern and practice of routine denial of medical grievances without due consideration of the facts and circumstances of the grievances, which contributed to PLAINTIFF's injuries.

101. NMCD DEFENDANTS negligently failed to hold CENTURION to standards and guidelines of the ACA or NCCHC.

102. NMCD DEFENDANTS negligently failed to hold CENTURION to the medical standard of care established under New Mexico law, which contributed to PLAINTIFF's injuries.

103. NMCD DEFENDANTS negligently failed to establish or enforce any standards at all for CENTURION's provision of proper, necessary and competent medical care to NMCD inmates.

104. As a result of the foregoing, PLAINTIFF has suffered serious and permanent physical injuries, pain and suffering, and severe psychological and emotional distress, for which PLAINTIFF is entitled to damages.

**COUNT III
NEGLIGENT OPERATION OF A MEDICAL FACILITY
(CENTURION DEFENDANTS)**

105. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

106. CENTURION is entrusted with the medical care of inmates who have no other source of medical care by contract with the State of New Mexico and NMCD.

107. CENTURION employees, staff and agents were unqualified to care for spinal infection, and yet refused to refer PLAINTIFF to specialists.

108. CENTURION DEFENDANTS were negligent in failing to properly assess, treat

and manage PLAINTIFF's spinal infection.

109. CENTURION DEFENDANTS were negligent in failing to properly refer PLAINTIFF to be seen by a physician who could effectively treat PLAINTIFF.

110. By failing to either: (1) properly treat PLAINTIFF's medical conditions, or (2) properly refer PLAINTIFF to be seen by a physician who could effectively treat PLAINTIFF, CENTURION DEFENDANTS breached their duty to medically treat PLAINTIFF in a reasonably prudent manner.

111. CENTURION DEFENDANTS failed to properly address PLAINTIFF's medical condition.

112. Such conduct amounts to negligence in running a prison medical facility.

113. Such conduct amounts to negligence in the treatment of PLAINTIFF.

114. CENTURION had a duty to properly screen, supervise, educate, and train its employees regarding infection control within the facility.

115. CENTURION had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of spinal infection patients.

116. On information and belief, CENTURION failed to properly train and supervise its employees, contractors, or agents in such a manner to properly and adequately assess, treat and manage PLAINTIFF's multiple medical conditions, including the emergent abscesses.

117. CENTURION is bound by the GSC to obtain and maintain American Correctional Association (ACA) and National Commission on Correctional Health Care (NCCHC) accreditation under the terms of the GSC.

118. CENTURION has never sought, obtained or maintained either ACA or NCCHC accreditation for the medical facilities and services at NWNMCF as required by the GSC.

119. CENTURION does not comply with ACA, NCCHC or New Mexico legal standards of care.

120. As a result of the foregoing, PLAINTIFF has suffered damages and injuries including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress, for which he is entitled to damages.

121. The actions of CENTURION DEFENDANTS were negligent, willful, wanton, and in gross and reckless disregard for PLAINTIFF's well-being entitling PLAINTIFF to punitive damages thereon.

COUNT IV
NEGLIGENT OPERATION OF A MEDICAL FACILITY
(NMCD DEFENDANTS)

122. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

123. NMCD has authority over all NMCD correctional facilities, including NWNMCF.

124. NMCD has authority and control over the operation of all medical facilities within NMCD correctional facilities, including those within NWNMCF.

125. NMCD is the contracting party to the GSC entered into between NMCD and CENTURION on June 1, 2016.

126. NMCD has sole authority, control and responsibility over the execution, implementation and enforcement of the GSC.

127. NMCD has allowed numerous serious breaches and violations of the GSC, ACA and NCCHC that led to the medical neglect of PLAINTIFF.

128. NMCD and CENTURION are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

129. CENTURION's medical staff at NWNMCF lacked sufficient expertise to assess, treat and manage PLAINTIFF's health conditions.

130. CENTURION has a duty under the GSC, ACA and NCCHC to properly refer PLAINTIFF to be seen by a physician who could effectively treat him.

131. NMCD DEFENDANTS refused or otherwise failed to enforce these provisions of the GSC, ACA and NCCHC.

132. NMCD DEFENDANTS knew that CENTURION was not abiding by the terms of the GSC, ACA and NCCHC.

133. NMCD DEFENDANTS knew that CENTURION was not properly and adequately treating PLAINTIFF's medical condition.

134. NMCD DEFENDANTS knew that CENTURION was not referring PLAINTIFF to outside medical healthcare providers who could effectively and prudently treat him.

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

136. Such conduct amounts to negligence in the treatment of PLAINTIFF.

137. The actions of NMCD were negligent, willful, wanton, and in gross and reckless disregard for PLAINTIFF's well-being.

138. NMCD DEFENDANTS have knowingly allowed, aided and abetted in CENTURION's failure to obtain and maintain ACA and NCCHC accreditation.

139. CENTURION has violated numerous provisions of ACA and NCCHC.

140. NMCD DEFENDANTS have taken no action to correct these violations or otherwise hold CENTURION to ACA, NCCHC or New Mexico medical standards of care.

141. NMCD DEFENDANTS have been complicit in the failure to adhere to the basic constitutional correctional health care set forth by the NCCHC through NMCD's failure to enforce

the GSC.

142. NMCD DEFENDANTS have knowingly allowed and been complicit in the violation of the ACA and NCCHC minimum mandatory standards.

143. NMCD DEFENDANTS have failed to properly maintain oversight and enforcement of the GSC.

144. NMCD DEFENDANTS have failed to enforce the following provisions of the GSC:

a. The establishment of an electronic medical records system which is in fact required by both the contract and is in fact required under federal law; and

b. All provisions related to ACA and NCCHC accreditation and compliance.

145. The failures of NMCD DEFENDANTS led to serious and permanent harm to PLAINTIFF.

146. As a result of the foregoing, PLAINTIFF suffered serious and permanent physical injuries, pain and suffering, and severe psychological and emotional distress for which PLAINTIFF is entitled to damages.

COUNT V
NEGLIGENT HIRING, TRAINING AND SUPERVISION
(CENTURION DEFENDANTS and MHM DEFENDANTS)

147. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

148. CENTURION and MHM had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of spinal infection patients.

149. On information and belief, CENTURION and MHM failed to properly train and supervise its employees, contractors, or agents in such a manner to properly and adequately assess,

treat and manage PLAINTIFF's spinal infection.

150. CENTURION and MHM had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of spinal infection patients.

151. CENTURION is bound by the GSC to obtain and maintain American Correctional Association (ACA) and National Commission on Correctional Health Care (NCCHC) accreditation under the terms of the GSC.

152. CENTURION has not established any standards for medical care.

153. CENTURION has not trained or supervised its employees, staff and agents in any standards of medical care.

154. CENTURION and MHM's negligent hiring, training and supervision were the proximate cause of PLAINTIFF's injuries and damages for which PLAINTIFF is entitled to injuries and damages including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

155. CENTURION and MHM's negligent hiring, training and supervision was willful, deliberate and in wanton disregard for the health and safety of PLAINTIFF.

156. PLAINTIFF is entitled to recovery for his injuries and damages including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

157. PLAINTIFF is entitled to punitive damages against CENTURION and MHM.

COUNT VI
NEGLIGENT HIRING, TRAINING AND SUPERVISION
(NMCD DEFENDANTS)

158. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

159. The ACA and NCCHC set mandatory minimum standards for training of both

medical personnel and non-medical personnel in the provision of medical services in a prison.

160. NMCD DEFENDANTS have knowingly allowed, aided and abetted in CENTURION's failure to meet the standards of care under ACA and NCCHC accreditation and to comply with the minimum mandatory standards of the ACA and NCCHC on hiring, training and supervision.

161. NMCD DEFENDANTS have been complicit in the failure to abide by ACA and NCCHC minimum mandatory standards for hiring, training and supervision.

162. NMCD DEFENDANTS have knowingly allowed and been complicit in the violation of the ACA and NCCHC minimum mandatory standards on hiring, training and supervision.

163. NMCD DEFENDANTS have failed to properly maintain oversight and enforcement of the GSC resulting in violations of the ACA and NCCHC minimum mandatory standards on hiring, training and supervision.

164. As a result of the foregoing, PLAINTIFF suffered serious and permanent physical injuries, pain and suffering, and severe psychological and emotional distress, for which PLAINTIFF is entitled to damages

**COUNT VII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(CENTURION DEFENDANTS)**

165. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

166. CENTURION DEFENDANTS intentionally denied PLAINTIFF proper and necessary medical care for his spinal infection.

167. CENTURION DEFENDANTS failed to take action to provide proper medical care despite numerous sick calls and/or grievances thereon.

168. The conduct of CENTURION DEFENDANTS was extreme, outrageous and intentional.

169. PLAINTIFF suffered severe emotional distress as a result of the conduct of Defendants.

170. As a result of the foregoing, PLAINTIFF has suffered serious and permanent physical injuries, pain and suffering, and severe psychological and emotional distress, for which PLAINTIFF is entitled to damages, including punitive damages.

**COUNT VIII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(NMCD DEFENDANTS)**

171. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

172. NMCD DEFENDANTS failed to take corrective action against CENTURION despite clear knowledge of the reckless, wanton and willful refusal of CENTURION to provide necessary medical care to PLAINTIFF.

173. NMCD DEFENDANTS failed to properly and seriously consider medical grievances filed by PLAINTIFF.

174. NMCD DEFENDANTS denied said grievances despite clear evidence of the reckless, wanton and willful refusal of CENTURION to provide necessary medical care to PLAINTIFF.

175. NMCD DEFENDANTS routinely denied PLAINTIFF's grievances without due consideration of the grievances.

176. NMCD DEFENDANTS have, by their routine denial of PLAINTIFF's medical grievances without due consideration, established a *de facto* policy of automatic denial of PLAINTIFF's grievances.

177. The conduct of NMCD DEFENDANTS was extreme, outrageous and intentional.

178. PLAINTIFF suffered severe emotional distress as a result of the conduct of NMCD DEFENDANTS.

179. As a result of the foregoing, PLAINTIFF has suffered serious and permanent physical injuries, pain and suffering, and severe psychological and emotional distress, for which PLAINTIFF is entitled to damages.

COUNT IX
NEGLIGENCE *PER SE*
(All Defendants)

180. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

181. NMSA § 33-2-1 states that “The corrections division [corrections department] shall adopt such rules concerning all prisoners committed to the penitentiary as shall best accomplish their confinement and rehabilitation.”

182. By the terms of the GSC, ACA and NCCHC standards were to be adopted by NMCD and CENTURION in addition to internal NMCD regulations.

183. NMCD DEFENDANTS and CENTURION DEFENDANTS knowingly and willfully chose not to abide by the ACA or NCCHC standards of care for the medical services and facilities at NMCD correctional facilities.

184. CENTURION DEFENDANTS’ multiple and persistent violations of mandatory medical care standards in the care of PLAINTIFF were willful, deliberate and in wanton disregard for the health and safety of PLAINTIFF for which punitive damages are appropriate.

COUNT X
DUE PROCESS VIOLATIONS UNDER N.M. CONST. ART. II, § 18
(NMCD Defendants)

185. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

186. CENTURION DEFENDANTS deliberately interfered with PLAINTIFF's administrative remedies.

187. PLAINTIFF has due process rights under N.M. CONST. ART. II, § 18.

188. Said rights include the right to administrative remedies embodied in NMCD Policy 150500, which states in relevant part:

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate grievances and provide for an appeal process; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards.

189. In fact, inmates are forced to engage in the administrative grievance process under federal law prior to filing lawsuits against prisons and their administrators, employees, staff, contractors and other agents.

190. NMCD DEFENDANTS deliberately interfered with PLAINTIFF's administrative remedies.

191. NMCD DEFENDANTS have exhibited a pattern of interference with the administrative grievance process.

192. NMCD DEFENDANTS have exhibited a pattern of routine denials of grievances when they are filed, acknowledged and ruled upon.

193. The interference with the grievance process violates PLAINTIFF's due process rights under N.M. CONST. ART. II, § 18

194. PLAINTIFF suffered, and continues to suffer, severe physical and emotional distress as a result of the conduct of NMCD DEFENDANTS.

195. PLAINTIFF is entitled to recovery for his injuries and damages including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

196. PLAINTIFF is entitled to punitive damages against CENTURION DEFENDANTS.

COUNT XI
CRUEL AND UNUSUAL PUNISHMENT UNDER N.M. CONST. ART. II, § 13
(NMCD DEFENDANTS and CENTURION DEFENDANTS)

197. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

198. The behavior of NMCD DEFENDANTS and CENTURION DEFENDANTS set forth in the statement of facts and the counts above constitute cruel and unusual punishment under N.M. CONST. ART. II, § 13.

199. PLAINTIFF suffered, and continues to suffer, severe physical and emotional distress as a result of the conduct of NMCD DEFENDANTS and CENTURION DEFENDANTS.

200. PLAINTIFF is entitled to recovery for his injuries and damages including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

201. PLAINTIFF is entitled to punitive damages against CENTURION DEFENDANTS.

COUNT XII
CIVIL CONSPIRACY
(NMCD DEFENDANTS and CENTURION DEFENDANTS)

202. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

203. The facts illustrated above show a conspiracy on the part of NMCD DEFENDANTS and CENTURION DEFENDANTS to deny PLAINTIFF necessary, proper and constitutionally minimal medical care under N.M. CONST. ART. II, § 13.

204. The facts illustrated above show a conspiracy on the part of NMCD DEFENDANTS and CENTURION DEFENDANTS to induce cruel and unusual punishment upon PLAINTIFF in violation of N.M. CONST. ART. II, § 13.

205. The facts illustrated above show a conspiracy on the part of NMCD DEFENDANTS and CENTURION DEFENDANTS to deny PLAINTIFF his due process rights under N.M. CONST. ART. II, § 18.

206. As a result of said conspiracy, PLAINTIFF suffered, and continues to suffer, severe physical and emotional distress as a result of the conduct of NMCD DEFENDANTS and CENTURION DEFENDANTS.

207. PLAINTIFF is entitled to recovery for his injuries and damages, including but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

208. PLAINTIFF is entitled to punitive damages against CENTURION DEFENDANTS.

**COUNT XIII
BREACH OF CONTRACT
(CENTURION and NMCD)**

209. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

210. NMCD has allowed CENTURION to breach the GSC on numerous occasions, by failing to provide proper behavioral health care to inmates.

211. As an inmate of NWNMCF, PLAINTIFF was a third-party beneficiary of the GSC.

212. As a direct and proximate result of the acts and omissions set forth herein, Centurion breached the GSC.

213. In breaching the GSC, CENTURION's actions were willful, malicious, wanton, or in reckless disregard for the safety and well-being of PLAINTIFF.

214. NMCD and CENTURION attempted to contract away third-party beneficiary status of NMCD inmates in furtherance of the afore-mentioned civil conspiracy to deny inmates, including PLAINTIFF, to constitutionally minimal health care.

215. As a direct and proximate result of this contractual breach by NMCD and CENTURION, PLAINTIFF suffered those damages set forth in this Complaint.

216. Additionally, PLAINTIFF is entitled to damages for breach of contract as a third-party beneficiary of the GSC.

COUNT XIV
RESPONDEAT SUPERIOR AND AGENCY
(CENTURION DEFENDANTS and MHM DEFENDANTS)

217. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

218. CENTURION is responsible to PLAINTIFF under the doctrine of *respondeat superior* for the conduct of its employees, staff and agents.

219. CENTURION is responsible to PLAINTIFF under the doctrine of agency for the conduct of its employees, staff and agents.

COUNT XV
RESPONDEAT SUPERIOR AND AGENCY
(NMCD)

220. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

221. NMCD is responsible to PLAINTIFF under the doctrine of *respondeat superior* for the conduct of its employees, staff and agents.

222. NMCD is responsible to PLAINTIFF under the doctrine of agency for the conduct of its employees, staff and agents.

COUNT XVI
RES IPSA LOQUITUR
(All Defendants)

223. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

224. The injuries and damages suffered by PLAINTIFF were proximately caused by wanton, willful and reckless actions and inactions CENTURION DEFENDANTS and NMCD DEFENDANTS.

225. It was CENTURION's responsibility to manage and control their medical staff and the care and treatment of PLAINTIFF.

226. It was NMCD DEFENDANTS' duty to ensure that CENTURION DEFENDANTS provided constitutionally adequate medical care to PLAINTIFF.

227. The events causing the injuries and damages to PLAINTIFF were of a kind which would not ordinarily occur in the absence of negligence on the part of CENTURION DEFENDANTS and NMCD DEFENDANTS.

228. The doctrine of *res ipsa loquitur* is applicable as a theory of negligence, causation and damages in this case and appropriately pled herein.

229. PLAINTIFF is entitled to recovery for his injuries and damages, including but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress.

230. PLAINTIFF is entitled to punitive damages against CENTURION and MHM DEFENDANTS.

**COUNT XVII
PUNITIVE DAMAGES
(CENTURION DEFENDANTS and MHM DEFENDANTS)**

231. PLAINTIFF incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.

232. The acts and omissions complained of in the causes of action stated above, upon information and belief, are believed to be of such an egregious nature, in reckless, wanton, willful and total disregard to the rights of PLAINTIFF, 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, may well be appropriate.

WHEREFORE, PLAINTIFF requests judgment as follows:

A. Compensatory damages against all Defendants, jointly and severally, in an amount to be determined by this Court as adequate for pain, suffering, and injuries to PLAINTIFF, DOMINICK MORA SOLIS;

B. Compensatory damages against all Defendants, jointly and severally, in an amount to be determined by this Court as adequate for NMCD DEFENDANTS and CENTURION DEFENDANTS' intentional infliction of emotional distress;

C. Punitive damages in an undetermined amount against CENTURION DEFENDANTS and MHM DEFENDANTS;

D. Costs incurred by PLAINTIFF, including pre-judgment and post-judgment interest; and

E. Such other and further relief as the Court deems just and proper.

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-and-

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EXHIBIT 1



Positive results for:
HIV

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HIV