

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

ANTHONY CHAVEZ,

Plaintiff,

v.

No. D-202-CV-2022-05579

CENTURION DETENTION HEALTH SERVICES, LLC;
BOARD OF COUNTY COMMISSIONERS OF
BERNALILLO COUNTY, NEW MEXICO; BERNALILLO
COUNTY METROPOLITAN DETENTION CENTER;
MHM HEALTH PROFESSIONALS, LLC and JOHN DOES
1-10, (employees, staff, agents of Centurion Correctional
Healthcare of New Mexico, LLC, and/or MHM Health
Professionals, LLC, and Bernalillo County Metropolitan
Detention Center, respectively),

Defendants.

**FIRST AMENDED COMPLAINT FOR
MEDICAL MALPRACTICE AND RELATED CLAIMS**

COMES NOW the Plaintiff, Anthony Chavez, by and through his attorneys
Collins & Collins, P.C. (Parrish Collins) and Guebert Gentile & Piazza, P.C. (Elizabeth M. Piazza),
and for his cause of action states as follows:

PARTIES

1. Plaintiff, Anthony Chavez (hereinafter “Plaintiff”), was at all times relevant to this
Complaint, an inmate at the Bernalillo County Metropolitan Detention Center (“MDC”), where
the actions and inactions giving rise to the claims herein took place.

2. Defendant Board of Commissioners for the County of Bernalillo
(“Defendant County”) is a governmental entity located in Bernalillo County, New Mexico.
Defendant County is the proper party for suits against the county pursuant to NMSA 1978,
§4-46-1, and venue is proper for suits against the county pursuant to NMSA 1978, § 38-3-2.

3. Defendant Metropolitan Detention Center (“MDC”) is a department of the County of Bernalillo, it is located within Bernalillo County. Upon information and belief, MDC is a “governmental entity” and “local public body” as those terms are defined in the New Mexico Tort Claims Act, NMSA 1978, §41-4-3(B) and (C).

4. MDC is an agency or subdivision of Bernalillo County and is under the authority and control of Bernalillo County Commissioners (“BCC”).

5. Defendant Centurion Detention Health Services, LLC, (hereinafter referred to as “Centurion”) is a foreign limited liability company registered to do business in New Mexico. Centurion’s registered agent for service of process is CT Corporation System, 206 S. Coronado Avenue, Espanola, New Mexico, 87532-2792.

6. At all times material to this Complaint, 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.

7. Centurion provides a health care delivery system to MDC, which includes billing services, utilization management, general health care services administration, and on-site medical staff provided through an independent contractor, MHM Health Professionals, LLC (hereinafter “MHM”).

8. MHM Health Professionals, LLC (“MHM”) is a staffing company under contract with Centurion to provide medical providers to Centurion.

9. MHM is a Delaware for profit corporation licensed 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.

10. At all material times, MHM 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.

11. John Does 1-10 are as of yet unidentified employees, staff, or agents of MDC, Centurion, or MHM.

JURISDICTION AND VENUE

12. All of the material acts and/or omissions complained of herein occurred in the City of Albuquerque, Bernalillo County, New Mexico.

13. Jurisdiction and venue are proper over all Defendants and their John Doe employees, staff, and agents pursuant to NMSA §38-3-1 (A).

14. The Court has original jurisdiction over Plaintiffs' claims brought under the New Mexico Tort Claims Act pursuant to NMSA 1978, § 41-4-18(A) and §38-3-2.

15. All notices required under the Tort Claims Act have been provided timely to the Defendants and properly preserved pursuant to §41-4-1 *et. seq.*

16. That on or about July 20, 2021, a Tort Claims Notice was timely delivered to the Bernalillo County Clerk's Office, Bernalillo County Metropolitan Detention Center, and Julie M. Baca, County Manager, pursuant to the notice requirements under § 41-4-16 (1978).

17. That on or about November 9, 2021, a Tort Claims Notice and Demand for Preservation of Evidence Under Penalty of Spoliation was timely delivered to the Bernalillo County Clerk's Office, Bernalillo County Metropolitan Detention Center, and Julie M. Baca, County Manager, pursuant to the notice requirements under § 41-4-16 (1978).

18. That all acts and/or omissions complained of herein, which constitute the basis for liability on the claims brought pursuant to the New Mexico Tort Claims Act come within the scope of the waiver of immunity contained within that Act, namely, NMSA 1978, § 41-4-1 through § 41-4-12.

19. The Court has jurisdiction over Plaintiff's non-Tort Claims Act claims, and venue is properly before this Court pursuant to NMSA 1978, §38-3-1(A).

20. Jurisdiction and venue are proper over Defendants in New Mexico State District Court due to lack of complete diversity of named Defendants under 28 USCA § 1332 and pursuant to NMSA § 38-3-1(A).

21. This Court has jurisdiction over this matter and venue is proper.

FACTS COMMON TO ALL COUNTS OF THIS COMPLAINT

22. Plaintiff is a 31-year-old male, who was incarcerated at MDC.

23. Plaintiff was vulnerable to infection, which was known to Defendants.

24. In December 2019, Plaintiff was in a car accident, in which he suffered multiple lacerations, head injury, facial fractures, T12-L1 burst fracture, and a C7 fracture.

25. Doctors performed T10-L2 percutaneous posterior segmental instrumentation, and T12 and L1 laminectomies for decompression.

26. On December 16, 2019, Plaintiff had a post-operative follow-up visit, wherein it was noted that Plaintiff's incisions were healing well.

27. Beginning December 17, 2019, Plaintiff was incarcerated at the Bernalillo County Metropolitan Detention Center in Albuquerque, New Mexico.

28. Upon information and belief, MDC did not provide the cervical collar to Plaintiff as instructed.

29. On December 21, 2019, Plaintiff requested health care services for severe pain in his back.

30. The wounds were noted to have mild redness, and Plaintiff was given Tylenol and recommended for wound follow-up. Providers noted that Plaintiff had impaired skin integrity and was at a risk for infection.

31. On December 27, 2019, Plaintiff was seen for lower back wounds, wherein it was noted that the incision on the right side was leaking serous fluids.

32. On or about December 30, 2019, during an evaluation for lower back wound care, Plaintiff had a temperature, and an increased warmth and redness were present at the back surgery incision site.

33. The following day, yellow drainage from the wounds was present and there were multiple open regions with white fluids on the wound bed. Despite this, he was encouraged to drink more fluids and to make sure the dressings were done with dry supplies to dry the area out.

34. The wounds continued to deteriorate, and infection continued in Plaintiff's back. Defendants did not provide Plaintiff with antibiotics or refer him for further evaluation.

35. Plaintiff was released from MDC on or about January 8, 2020.

36. Defendants failed to appropriately refer Plaintiff for appropriate evaluation and management of the surgical site infection following his spinal surgery.

37. On or about January 9, 2020, Plaintiff presented to the University of New Mexico Hospital emergency room for evaluation of the wounds. Plaintiff was complaining of fever, chills, and continued back pain.

38. Plaintiff's differential diagnosis included hardware infection, epidural abscess, cellulitis, subcutaneous abscess, and bacteremia.

39. The University of New Mexico medical records note that after Plaintiff was discharged from his surgery, he was arrested and taken to jail, where he did not receive appropriate care, including antibiotics for his recovery.

40. On or about January 10, 2020, Plaintiff underwent a lumbar wound incision and drainage for surgical site infection and placement of incisional wound VAC for lumbar wound infection under general endotracheal anesthesia.

41. A wound culture revealed Methicillin Resistant Staphylococcus aureus.

42. Plaintiff was discharged from UNMH on or about January 17, 2020.

43. Plaintiff presented to UNMH for a follow-up visit on January 27, 2020, where Plaintiff's wound was washed. There was no leakage or drainage, Plaintiff was able to walk without assistance, and his incisions were healing well. He was planned for a follow-up with outpatient, Infectious Disease Clinic, for continued antibiotic treatment as well as a follow-up in three months for an MRI.

44. Plaintiff was again incarcerated at MDC on January 28, 2020. The records indicated "possible referral to UNM ASAP."

45. On February 5, 2020, Plaintiff requested medical services.

46. On February 16, 2020, Plaintiff was evaluated by Christy Lewis RN, for complaints of pain from the post-surgical wound. His request for an extra mattress was denied and with respect to Plaintiff's complaints of pain, he was advised to seek alternative pain-relieving techniques such as visualization and controlled breathing.

47. On February 28, 2020, Sonja Sadawi, RN requested an MRI of Plaintiff's lumbar spine, which request was denied by Murray Young, MD, noting that it was too soon to make sure the infection had resolved. Dr. Young recommended checking Erythrocyte Sedimentation Rate

(“ESR”). Either the medical records are missing or this was never completed.

48. On March 5, 2020, Plaintiff requested medical care for severe pain in his left back side. He had extreme swelling. Plaintiff made another request March 13, 2020, and March 20, 2020.

49. On March 20, 2020, Plaintiff was seen by Anthony Spencer, RN, with complaints that it felt like the screws in his back had shifted. He was scheduled to follow up with the provider as an urgent referral due to a change in condition, but there are no records to support that this was completed.

50. MDC medical records from April 14, 2020, through May 7, 2020, are missing. Either the records were destroyed, or Plaintiff did not receive any care during this time period.

51. In March 2020, Plaintiff presented to the University of New Mexico Hospital with a rash in his lower extremity. He had severe tenderness over his lower thoracic and upper lumbar spine as well as left sided paraspinal muscle tenderness. A CT scan revealed concerns of hardware loosening and osteomyelitis discitis at the T12/transitional vertebral body disc space.

52. Plaintiff was incarcerated at MDC on or about July 25, 2020. On August 5, 2020, Plaintiff had pain in his middle back and hips and tenderness. The following day, Plaintiff hit his back on a doorknob and developed a golf-sized bump that was bruised. He was seen again on August 7, 2020, with continued pain.

53. The pain and abscess that had developed continued until August 15, 2020, when Plaintiff presented to the University of New Mexico Hospital for X-rays of the spinal hardware.

54. Defendants failed to appropriately refer Plaintiff for evaluation, which resulted in a delayed diagnosis of osteomyelitis.

55. Plaintiff was hospitalized from August 16, 2020, to September 18, 2020.

56. Plaintiff returned to MDC after his release from the University of New Mexico Hospital. Despite being prescribed antibiotics at UNMH, it is not clear whether Plaintiff was appropriately continued because the records are missing, or no such records exist.

57. Records from UNMH for a hospitalization in May 2021 reveal that Plaintiff had 2 incomplete courses of antibiotic therapy.

58. Despite increasing low back pain and presence of tenderness and deformity during Plaintiff's incarceration from September 18, 2020, to May 4, 2021, Defendants did not appropriately refer Plaintiff for evaluation.

59. Plaintiff was hospitalized from May 4, 2021, to June 17, 2021.

60. Defendants failed to appropriately suspect for the surgical site infection in the presence of pain, erythema, warmth, wound dehiscence with drainage and refer Plaintiff for appropriate evaluation and management of the surgical site following the spine surgery resulting in wound infection at multiple sites and abscess with regional cellulitis and myositis.

61. Defendants failed to appropriately refer Plaintiff for evaluation in the presence of back pain, limited range of motion and deformity during his incarceration from July 25, 2020, to August 15, 2020, resulting in delayed diagnosis of osteomyelitis/discitis with deformity.

62. Defendants failed to appropriately refer Plaintiff for evaluation in the presence of increasing low back pain, tenderness & deformity during his incarceration from September 18, 2020, to May 4, 2021, resulting in delayed diagnosis of progression of T11-L1 osteomyelitis with possible intradisc abscess as well as epidural phlegmon.

63. The negligent acts or omissions of Defendants were a cause of Plaintiff's injuries and damages.

COUNT I
MEDICAL MALPRACTICE AND NEGLIGENCE
(ALL DEFENDANTS)

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

65. In undertaking the diagnosis, care and treatment of Plaintiff, Defendants, their 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.

66. Defendants, their employees, staff and agents breached their duties and were negligent in the management of Plaintiff's health and well-being.

67. Defendants' 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 of 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.

68. As a direct and proximate result of the negligent acts and omissions Defendants, 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.

69. Defendants, their employees, staff and agents' 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)**

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

71. Defendants negligently failed to oversee Centurion in the provision of medical care to MDC inmates, which contributed to Plaintiff's injuries.

72. Defendants failed to take corrective action against Centurion in clear face of recurrent and consistent negligent and reckless medical care to MDC inmates, which contributed to Plaintiff's injuries.

73. Defendants and Centurion are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

74. Centurion's medical staff at MDC lacked sufficient expertise to assess, treat and manage Plaintiff's health conditions.

75. 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.

76. Defendants negligently failed to enforce critical terms of the GSC, including but not limited to, failure to compel MDC and/or Centurion to obtain accreditation by the ACA and NCCHC, which contributed to Plaintiff's injuries.

77. Defendants negligently failed to ensure that Centurion hire, train and supervise its medical providers, staff, employees and agents.

78. Defendants negligently failed to ensure that Centurion hire competent medical providers, employees, staff and agents.

79. 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.

80. Defendants negligently failed to hold Centurion to standards and guidelines of the ACA or NCCHC.

81. Defendants negligently failed to hold Centurion to the medical standard of care established under New Mexico law, which contributed to Plaintiff's injuries.

82. Defendants negligently failed to establish or enforce any standards at all for Centurion's provision of proper, necessary, and competent medical care to MDC inmates.

83. 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)**

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

85. Centurion, by and through BCC and MDC, is entrusted with the medical care of inmates who have no other source of medical care by contract with MDC.

86. Centurion employees, staff, and agents were unqualified to care for spinal infection, and yet refused to refer Plaintiff to specialists.

87. Centurion was negligent in failing to properly assess, treat and manage Plaintiff's spinal infection.

88. Centurion was negligent in failing to properly refer Plaintiff to be seen by a physician who could effectively treat Plaintiff.

89. 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 breached their duty to medically treat Plaintiff in a reasonably prudent manner.

90. Centurion failed to properly address Plaintiff's medical condition.

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

92. Such conduct amounts to negligence in the treatment of Plaintiff.

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

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

95. 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 abscess.

96. 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.

97. Centurion has never sought, obtained or maintained either ACA or NCCHC accreditation for the medical facilities and services at MDC as required by the GSC.

98. Centurion does not comply with ACA, NCCHC or New Mexico legal standards of care.

99. 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.

100. The actions of Centurion 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
(MDC DEFENDANTS)**

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

102. The BCC acting by and through MDC are liable for negligent operation of a medical facility under NMSA 1978, §41-4-9.

103. MDC has authority and control over the operation of all medical facilities within MDC.

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

105. MDC has sole authority, control, and responsibility over the execution, implementation, and enforcement of the GSC.

106. MDC has allowed numerous serious breaches and violations of the GSC, ACA, and NCCHC that led to the medical neglect of Plaintiff.

107. MDC and Centurion are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

108. Centurion's medical staff at MDC lacked sufficient expertise to assess, treat and manage Plaintiff's health conditions.

109. 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.

110. MDC refused, or otherwise failed, to enforce these provisions of the GSC, ACA, and NCCHC.

111. MDC knew that Centurion was not abiding by the terms of the GSC, ACA, and NCCHC.

112. MDC knew that Centurion was not properly and adequately treating Plaintiff's medical condition.

113. MDC knew that Centurion was not referring Plaintiff to outside medical healthcare providers who could effectively and prudently treat him.

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

115. Such conduct amounts to negligence in the treatment of Plaintiff.

116. The actions of MDC were negligent, willful, wanton, and in gross and reckless disregard for Plaintiff's well-being.

117. MDC has knowingly allowed, aided and abetted in Centurion's failure to obtain and maintain ACA and NCCHC accreditation.

118. Centurion has violated numerous provisions of ACA and NCCHC.

119. MDC has taken no action to correct these violations or otherwise hold Centurion to ACA, NCCHC or New Mexico medical standards of care.

120. MDC has been complicit in the failure to adhere to the basic constitutional correctional health care set forth by the NCCHC through MDC's failure to enforce the GSC.

121. MDC knowingly allowed and been complicit in the violation of the ACA, and NCCHC minimum mandatory standards.

122. MDC failed to properly maintain oversight and enforcement of the GSC.
123. MDC 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.
124. The failures of MDC led to serious and permanent harm to Plaintiff.
125. 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 MDC DEFENDANTS)

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

127. Centurion and MDC had a duty to properly screen, supervise, educate, and train their employees regarding the proper treatment of spinal infection patients.

128. On information and belief, Centurion and MDC 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.

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

130. 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.

131. Centurion has not established any standards for medical care.

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

133. Centurion and MDC'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.

134. Centurion and MDC's negligent hiring, training and supervision was willful, deliberate and in wanton disregard for the health and safety of Plaintiff.

135. 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.

136. Plaintiff is entitled to punitive damages against Centurion and MDC.

**COUNT VI
NEGLIGENT HIRING, TRAINING AND SUPERVISION
(MDC DEFENDANTS)**

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

138. 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.

139. MDC 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.

140. MDC has been complicit in the failure to abide by ACA and NCCHC minimum mandatory standards for hiring, training and supervision.

141. MDC knowingly allowed and been complicit in the violation of the ACA and

NCCHC minimum mandatory standards on hiring, training and supervision.

142. MDC 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.

143. 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)**

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

145. Centurion intentionally denied Plaintiff proper and necessary medical care for his spinal infection.

146. Centurion failed to take action to provide proper medical care despite numerous sick calls and/or grievances thereon.

147. The conduct of Centurion was extreme, outrageous and intentional.

148. Plaintiff suffered severe emotional distress as a result of the conduct of Defendants.

149. 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
(MDC DEFENDANTS)

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

151. MDC 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.

152. MDC failed to properly and seriously consider medical grievances filed by Plaintiff.

153. MDC denied said grievances despite clear evidence of the reckless, wanton and willful refusal of Centurion to provide necessary medical care to Plaintiff.

154. MDC routinely denied Plaintiff's grievances without due consideration of the grievances.

155. MDC has, by its routine denial of Plaintiff's medical grievances without due consideration, established a *de facto* policy of automatic denial of Plaintiff's grievances.

156. The conduct of MDC was extreme, outrageous and intentional.

157. Plaintiff suffered severe emotional distress as a result of the conduct of MDC.

158. 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)

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

160. 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.”

161. By the terms of the GSC, ACA and NCCHC standards were to be adopted by MDC and Centurion in addition to internal MDC regulations.

162. MDC and Centurion knowingly and willfully chose not to abide by the ACA or NCCHC standards of care for the medical services and facilities at MDC.

163. Centurion’s 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
CIVIL CONSPIRACY
(MDC and CENTURION DEFENDANTS)**

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

165. The facts illustrated above show a conspiracy on the part of MDC and Centurion to commit the acts and inactions set forth in the Statement of Facts in support of COUNTS I-IX above.

166. As a result of said conspiracy, Plaintiff suffered, and continues to suffer, severe physical and emotional distress as a result of the conduct of MDC and Centurion.

237. 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.

238. Plaintiff is entitled to punitive damages against Centurion.

COUNT XI
RESPONDEAT SUPERIOR AND AGENCY
(CENTURION DEFENDANTS and MDC DEFENDANTS)

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

240. Centurion is responsible to Plaintiff under the doctrine of *respondeat superior* for the conduct of its employees, staff and agents.

241. Centurion is responsible to Plaintiff under the doctrine of agency for the conduct of its employees, staff and agents.

COUNT XII
RESPONDEAT SUPERIOR AND AGENCY
(MDC)

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

243. MDC is responsible to Plaintiff under the doctrine of *respondeat superior* for the conduct of its employees, staff and agents.

244. MDC is responsible to Plaintiff under the doctrine of agency for the conduct of its employees, staff and agents.

COUNT XIII
RES IPSA LOQUITUR
(All Defendants)

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

246. The injuries and damages suffered by Plaintiff were proximately caused by wanton, willful and reckless actions and inactions by Centurion and MDC.

247. It was Centurion's responsibility to manage and control their medical staff and the care and treatment of Plaintiff.

248. It was MDC's duty to ensure that Centurion provided constitutionally adequate medical care to Plaintiff.

249. 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 and MDC.

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

251. 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.

252. Plaintiff is entitled to punitive damages against Centurion and MDC.

**COUNT XIV
PUNITIVE DAMAGES
(CENTURION DEFENDANTS)**

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

254. 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, Anthony Chavez;

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

C. Punitive damages in an undetermined amount against Centurion;

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.

COLLINS & COLLINS, P.C.

By /s/ Parrish Collins

Parrish Collins

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-and-

GUEBERT GENTILE AND PIAZZA, P.C.

By /s/ Elizabeth M. Piazza

Elizabeth M. Piazza

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Attorneys for Plaintiff

This is to certify that on this 30th day of November 2022, the foregoing First Amended Complaint for Medical Malpractice and Related Claims was filed electronically through the State of New Mexico's Odyssey File & Serve system, requesting that the following counsel be served through Odyssey:

NM Local Government Law, LLC
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Albuquerque, NM 87110
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Attorney for County Defendants

PARK & ASSOCIATES, LLC
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Counsel for Centurion Detention Health Services, LLC

/s/ Elizabeth M. Piazza

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