

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

EUGENIO S. MATHIS, as personal representative
of THE ESTATE OF APRIL TRUJILLO-
GONZALEZ (a.k.a. APRIL TRUJILLO), deceased,

Plaintiff,

v.

No. D-202-CV-2023-01201

BOARD OF COUNTY COMMISSIONERS OF
BERNALILLO COUNTY; CORIZON HEALTH
OF NEW MEXICO, LLC, a.k.a. YESCARE
CORP.; CORIZON HEALTH, INC., a.k.a.
YESCARE CORP.; CORIZON, LLC, a.k.a.
YESCARE CORP.; CHS TX, INC. d/b/a
YESCARE CORP.

Defendants.

**COMPLAINT FOR VIOLATIONS OF THE NEW MEXICO CONSTITUTION AND
NEW MEXICO TORT, CONTRACT, AND COMMON LAW**

COMES NOW, Plaintiff, Eugenio S. Mathis, as personal representative of the estate of
April Trujillo, deceased, (“Plaintiff”), by and through his attorneys Collins & Collins, P.C.
(Parrish Collins and Amy E. Childress) for his cause of action states as follows:

INTRODUCTION

1. On 09/14/2021, Bernalillo County (BernCo) and Corizon Health of New Mexico, LLC (Corizon) entered into MEDICAL, DENTAL, MENTAL HEALTH AND PSYCHIATRIC SERVICES PROFESSIONAL SERVICES AGREEMENT (PSC) for the provision of medical services to the Bernalillo County Metropolitan Detention Center (MDC). According to press reports, the Bernalillo County put Corizon on notice of termination of the contract the week of 01/20/2023.¹ During the short 16 month tenure, according to press reports, at least 10 inmates

¹ <https://www.abqjournal.com/2569931/bernalillo-county-terminates-contract-with-jail-medical-provider.html>

died at MDC². The same article states that Corizon should be out of the MDC by 07/25/2023, more than 2 years early. BernCo should have never contracted with Corizon. Corizon was removed from New Mexico Department of Correction (NMCD) in 2016 for its poor medical care and other appalling violations of the civil rights of NMCD inmates. Corizon has a very well documented history of medical neglect and abuse in New Mexico and around the country. Corizon's troubled history was and is all public record. Ignoring all of this, BernCo recklessly contracted with Corizon. Corizon's failures and the many deaths under its care were predictable.

2. BernCo and MDC themselves have a very poor record regarding inmate health and safety. MDC's own history illustrates BernCo's utter disregard for the health and safety of its inmates. This is reflected by the fact that despite many avoidable deaths, ongoing lawsuits for those avoidable deaths and the extremely bad press regarding the many deaths at MDC, BernCo has chosen to do nothing to rein in its medical contractors.³ As of 03/13/2021, there were 9 deaths at MDC over January and February of 2021.⁴ This apparently raised no alarms for MDC who continued business as usual. Shockingly, according to the Albuquerque Journal, there have been 21 inmate deaths at MDC since 04/20/2020.⁵ This means that since the date of publication that there had been 9 deaths in January and February of 2021, 12 more inmates as of this writing have died in the custody of MDC.

3. There are too many press reports regarding MDC inmates deaths to cite them all here. BernCo was on notice of Corizon's inability or unwillingness to provide adequate healthcare for its inmates, yet contracted with Corizon anyway. The same indifference was reflected by

² <https://www.abqjournal.com/a-timeline-of-people-who-died-in-custody-of-nms-largest-jail>

³ <https://www.abqjournal.com/2538735/lawsuits-filed-in-deaths-of-two-mdc-inmates.html>,
<https://www.abqjournal.com/2544438/suit-alleges-mdc-guards-negligence-led-to-jail-death-ex-inmates-su.html>.

⁴ <https://www.abqjournal.com/2369430/tragic-and-horrible.html>.

⁵ <https://www.abqjournal.com/a-timeline-of-people-who-died-in-custody-of-nms-largest-jail>

BernCo in contracting with the prior contractor, Centurion Detention Services, LLC (Centurion). Again, according to outstanding reporting from the Albuquerque Journal, Centurion ended its contract early. In the case of Centurion, Centurion apparently chose to end its contract early rather than answer BernCo questions about staff vacancies and continuity of care:

On Friday, after news that the company is leaving had leaked, Morgas Baca said that in early April the county “expressed concern to Centurion over staff vacancies and continuity of care” and asked the company to respond to those specific concerns.

“Before those concerns were answered, Centurion exercised its right to terminate the contract,” Morgas Baca said. “The county has now moved forward with the competitive request for proposal process.”⁶

4. Following the early exit of Centurion, the “competitive request for proposal process” then led to contracting with Corizon. There is a significant risk that the “competitive request for proposal process” for the replacement for Corizon will have similar disastrous consequences for MDC inmates, their families and loved ones. If history is prologue, MDC will go with one of a small group of medical contractors that revolve through New Mexico prisons and jails (Corizon, Centurion and Wexford) and it may be expected that the outcome will be much the same. It is expected, just as with Corizon, that many more inmates at MDC, who have yet to be convicted, and some like April that have already been ordered released by the courts, will die unnecessarily due to the lack of basic medical care.

PARTIES, JURISDICTION, AND VENUE

5. April Trujillo-Gonzalez, also known as April Trujillo, (hereinafter “April”), died on November 30, 2022, in Albuquerque, New Mexico.

6. At all relevant times and at the time of her death, April was incarcerated at the

⁶ <https://www.abqjournal.com/2383953/jail-health-care-provider-terminates-contract.html>

Bernalillo County Metropolitan Detention Center (“MDC”).

7. Plaintiff, Eugenio Mathis, was appointed Personal Representative of the Estate of April Gonzalez, deceased, on April 18, 2019, and is a resident of San Miguel County, New Mexico.

8. Plaintiff brings this action on behalf of the Estate.

9. Defendant Board of County Commissioners of Bernalillo County, New Mexico (“Bernalillo County”) is a political subdivision of the State of New Mexico.

10. The allegations of this Complaint arise out of conduct occurring at MDC, and pursuant to NMSA 1978, § 4-46-1, Plaintiff’s claims are brought against Bernalillo County.

11. At all times material hereto, Bernalillo County owned, operated, supervised, directed, and controlled MDC, located in Albuquerque, New Mexico.

12. Pursuant to NMSA 1978, §§ 4-44-19, 33-3-3 to -8, and 33-3-13, Bernalillo County was mandated to maintain and operate a facility for the safe incarceration and healthcare of prisoners in its custody.

13. Defendant Corizon Health of New Mexico, LLC (hereinafter “Corizon”) is a Domestic Limited Liability Company whose registered agent for service of process is CT Corporation System, 206 S. Coronado Avenue, Espanola, New Mexico, 87532.

14. At all times material to this Complaint, Corizon 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.

15. All acts complained of herein occurred in Bernalillo County, state of New Mexico.

16. At all relevant times, April was a resident of Bernalillo County, state of New Mexico.

17. A Tort Claims Notice and Notice of Claims under the New Mexico Civil Rights Act was sent timely on December 2, 2022.

18. This Court has jurisdiction over the subject matter of and the parties to this action under NMSA 1978, §§ 38-3-1, 41-4-18, and 41-4A-3(B).

STATEMENT OF FACTS

A. Medical Facts

19. At all times relevant to this Complaint, April was a 41-year-old woman incarcerated at MDC in Albuquerque, New Mexico, and in the custody of Bernalillo County.

20. On November 27, 2022, April was taken into the custody of the MDC where she was placed in a detox pod where she was to be monitored for opioid withdrawals.

21. Only three days later, on November 30, 2022, April died while in the detox pod.

22. From November 29, 2022 up until her death on the morning of November 30, 2022, April was in obvious need of medical attention.

23. According to witnesses, on November 29, 2022, on-duty guards observed April's condition and decided not to call medical, stating to one another that she was "faking it."

24. However, upon information and belief, at 6:01 p.m. on November 29, a medical emergency was called when April collapsed and appeared to have a seizure.

131203 - RAMOS, MARINA

11/29/22 18:01

N/A

10-43 - Medical Emergency

Called a code 10-43 (medical emergency) because Trujillo, April tensed up and fell to the ground and appeared to be having a seizure. Medical arrived and checked her out and cleared her to stay in the pod.

25. According to witnesses, upon their arrival, medical personnel told April that she was just going through withdrawals, and if she did not want to go through withdrawals, she should not have done drugs and been arrested.

26. Upon information and belief, April was cleared by medical after this incident.

27. But, upon information and belief, only thirty (30) minutes later, another medical

emergency was called when April appeared to have another seizure.

28. According to witnesses, medical personnel once again told April she was fine and that she simply needed to stay on her boat.

131203 - RAMOS, MARINA	11/29/22 18:32	N/A	10-43 - Medical Emergency	Officer Mai called a 10-43 (medical emergency) for Trujillo, April because she was slouched over the water fountain appearing to be having another seizure. Medical cleared her to stay in the pod and explained to her that she needed to stay on her boat
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29. Upon information and belief, on November 30, 2022, at 00:53 a.m., a third medical emergency was called when April fell to her knees and then to the floor after attempting to get water.

30. Upon information and belief, medical personnel and an MDC Sergeant arrived to assess April. She was once again cleared and returned to her boat.

31. Upon information and belief, no further action was taken.

123368 - CHEROMIAH, ARNOLD	11/30/22 01:14	N/A	10-43 - Medical Emergency	At approximately 0053 hours, Inmate Trujillo April mid#100275046 was at the dayroom water fountain near the bottom showers attempting to get some water. Inmate Trujillo went down on her knees then fell onto the floor. I Officer Cheromiah immediately responded to help inmate Trujillo and called a code 43. At about 0055 hours, Medical support staff and Sgt. Palm arrived to the pod. Medical staff began an assessment and cleared the code-43. Inmate Trujillo was able to be escorted to her boat in the dayroom. Inmate Trujillo will be monitored and will call medical if need. No further action taken.
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32. According to witnesses, when other prisoners offered to get water for April, correctional officers threatened the prisoners with solitary confinement.

33. According to witnesses, both guards and medical personnel expressed to some extent that April deserved what was happening, and what could she expect, because she suffered from an addiction.

34. According to witnesses, neither the guards nor the nurses provided April with water, despite her obvious need and the dangers of dehydration during detox.

35. According to witnesses, throughout the evening of November 29, 2022, and into the morning of November 30, 2022, April's condition continued to rapidly deteriorate. She began having trouble speaking, was unable to sit up, and was vomiting.

36. Upon information and belief, on November 30, 2022, at 1:27 a.m., medical staff provided medication to April.

123368 - CHEROMIAH, ARNOLD	11/30/22 01:27	N/A	Medical Visitor	Medical staff entered the pod to give medication to inmate Trujillo. Inmate
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37. But, upon information and belief, a few hours later, April began experiencing her fourth medical emergency in less than just over twelve hours.

38. According to witnesses, April's body was jolting so violently that she was laying horizontally on her boat and she was unconscious and foaming at the mouth.

39. According to witnesses, April's pod mates began calling for help from an on-duty guard, who ignored them for an estimated 15 minutes.

40. According to witnesses, as the prisoners, including two former combat medics, tried to help April, a guard told them to not "fucking touch her."

41. Upon information and belief, this guard did not ever call medical. Instead, he was relieved by another guard who, within two minutes of arrival, called a medical emergency for April.

128464 - NOTAH, CHARLOTTE	11/30/22 07:07	First	10-8 - Start of Shift	I arrived on level to relieve graveyard officer. Methadone Randy was on level. Graveyard officer Cheramiah advised inmate Trujillo on B16 had a code 43 during graveyard and had a couple of them during swing shift. Reported headcount 47-0-47.
128464 - NOTAH, CHARLOTTE	11/30/22 07:09	First	10-43 - Medical Emergency	I called a code 43 (medical Emergency) at approx.. 0709 HRS for inmate Trujillo April MID#100275046 due to inmate Trujillo appearing to be lethargic. Inmate Trujillo was laying on her boat horizontally when I went to check on her. Once I called the code 43 I put inmate Trujillo to her side since I noticed she had been vomiting. Since inmate Trujillo was lethargic and was not supporting her own weight to be on her side. I placed my right foot by her hip to keep inmate Trujillo's lower body turned while I had my hands on her back to support her upper body. Officer Lopez and RHU supervisors took over inmate Trujillo. MED 1 and MED 3 advised to code 4 at approx 0715 HRS

42. According to witnesses, nurses and guards tried to move April into a wheelchair, but she could not hold herself up and her eyes rolled back in her head and she began convulsing.

43. According to witnesses, one nurse administered Narcan/Naloxone to April, even though April was not overdosing and the two former combat medics told the nurse that administering Narcan/Naloxone would kill April.

44. Upon information and belief, a Code Blue was called for April at 7:23 a.m. on November 30, 2022.

45. Upon information and belief, guards began performing CPR and medical personnel began using an AED on April.

127074 - TAYLOR, JOSELYN	11/30/22 07:23	First	10-43 - Medical Emergency	Code Blue called for inmate Trujillo April. Inmate Trujillo was going to be escorted to medical in a wheel chair. Once inmate was placed in the wheel chair inmate Trujillo began to be unresponsive. CPR began at Approx 0724 by Lt. Jeter. Medical began the AED on inmate Trujillo. Sgt. Gonzales switched out with Lt. Jeter. Additional medical staff on level and CERT arrives at 0725. PSU Amy arrived on level as well. CPR was conducted until 0813 when Dr Nick Gonzales (MDC) and the Abq Fire Dept called the time of death at approx. 0813HRS
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46. According to witnesses, the guards routinely addressed the sick detoxing women in degrading and dehumanizing manner calling them “bitches” and “hoes.” Both guards and medical personnel would announce their rounds by stating loudly “hoe check.” Guards would also call the women dick-suckers. Both guards and medical personnel also routinely accused the

detoxing women of faking while at the same time telling them if they didn't like withdrawal to stop using drugs.

47. According to witnesses, this type of language was used toward April as she was dying throughout the evening of 11/29/2022 up to her death at 8:13 AM on 11/30/2022. April was declared dead at 8:13 a.m. on November 30, 2022.

48. At the time of her death, April had only been in MDC for 3 days.

49. At the time of her death, April had not been seen by a judge, had not had a trial, and had not been sentenced for any of her alleged offenses.

50. All Defendants knew of April's history of opioid use and her need for immediate medical attention, but acted with wanton, willful, and deliberate indifference by ignoring his medical needs, refusing to provide adequate monitoring by corrections staff, and refusing to provide adequate monitoring, assessment, and treatment by medical staff to the detriment of April.

51. The failure to monitor and treat April was grossly negligent and/or constitutes deliberate indifference to a known medical need, and such failures caused or contributed to April's death.

B. Facts Specific to Defendant Bernalillo County

52. Plaintiff incorporates by reference the facts and allegations set out above.

53. Bernalillo County has a non-delegable duty to provide for proper, necessary and competent medical care for all prisoners at MDC, including April.

54. Bernalillo County, acting by and through MDC employees, staff and agents, has a known pattern of recent and ongoing prisoner deaths related to poor or absent medical care and, in particular, poor or absent supervision and care of prisoners in MDC's custody and care who were detoxing.

55. Based on this history, Bernalillo County had specific knowledge of the dangers facing April.

56. Bernalillo County knew or should have known of the need to train its employees on its policies and procedures and the appropriate standards in monitoring prisoners and treating prisoners suffering from withdrawal, including April.

57. Bernalillo County, acting by and through its employees, staff and agents, knew of Corizon's inability or unwillingness to provide adequate medical care to MDC inmates.

58. Despite this knowledge, Bernalillo County entered into a contract with Corizon.

59. Upon information and belief, Bernalillo County terminated its contract with Corizon on or about February 2, 2023, more than two years early, due to understaffing and continuity of care issues following numerous detox deaths, including April's.

60. Bernalillo County, by and through MDC employees, staff and agents, knew of April's severe and rapidly deteriorating condition due to detox. Yet, with wanton, willful and deliberate indifference to her severe and emergent medical condition, Bernalillo County failed to act within its authority to protect April health leading to her death.

61. Worse still, Bernalillo County, by and through MDC personnel, treated April in a degrading and dehumanizing manner, all as April slowly and unnecessarily died from detox.

62. By treating April in this manner, Bernalillo County, by and through MDC personnel, while April and the other inmates all knew that she was dying, intentionally caused April extreme emotional distress as she was dying.

C. Facts Specific to Corizon

63. Plaintiff incorporates by reference the facts and allegations set out above.

64. Simply put, Corizon should have never been in MDC to begin with.

65. Its performance at NMCD was atrocious, for which its contract was terminated. Its performance around the country is equally lacking.

66. The conduct of the MDC guards is conscience shocking. The fact that medical professionals engaged in the same shocking conduct toward their patient(s) is almost beyond words.

67. Corizon, acting through its employees, staff and agents, was negligent, reckless and deliberately indifferent to April's serious medical needs.

68. Corizon, through its employees, staff and agents engaged in callous, cruel and wanton behavior intentionally degrading and dehumanizing April, their patient. This conduct was a pattern and akin to standard operating procedure as the same behavior was exhibited generally toward women in detox.

69. The behavior of medical professionals is even more shocking given that none of the women had yet been convicted, and April's charges had already been dismissed.

70. Corizon, acting through its employees, staff and agents, while April and the other inmates all knew that she was dying, intentionally caused April extreme emotional distress as she was dying.

71. The outcome is neither surprising nor unpredictable given the large number of MDC deaths under Corizon's care.

CAUSES OF ACTION

COUNT I: WRONGFUL DEATH AGAINST ALL DEFENDANTS

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

73. As set forth above, all Defendants failed to appropriately monitor and treat April, failed to ensure that she received appropriate treatment and monitoring while she was detoxing,

and otherwise failed to act appropriately under the circumstances.

74. April died as a result of the wrongful conduct of all Defendants.

75. April's estate is entitled to recover damages from all Defendants under the New Mexico Wrongful Death Act in an amount to be determined at trial.

**COUNT II: VIOLATION OF THE INHERENT RIGHT TO LIFE UNDER
ARTICLE II, § 4 OF THE NEW MEXICO STATE CONSTITUTION
AGAINST ALL DEFENDANTS**

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

77. The New Mexico Constitution states that the enjoyment of "life and liberty" and the pursuit of safety and happiness are "natural, inherent and inalienable" rights. N.M. Const. Art. II, § 4.

78. In this case, as set forth above, both Bernalillo County and Corizon, and their respective agents, employees, and apparent agents, violated April's right to life and safety as set forth in the New Mexico Constitution.

79. April suffered serious physical injuries and needlessly lost her life as a result of the wrongful conduct of these Defendants.

80. These Defendants are liable to Plaintiff under the New Mexico Civil Rights Act.

81. There, Plaintiff is entitled to all damages allowed under the New Mexico Civil Rights Act.

**COUNT III: VIOLATION OF THE RIGHT TO DUE PROCESS UNDER
ARTICLE II, § 18 OF THE NEW MEXICO STATE CONSTITUTION
AGAINST ALL DEFENDANTS**

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

83. The New Mexico Constitution states that the government may not deprive any

person of life “without due process of law.”

84. In this case, as set forth above, both Bernalillo County and Corizon, and their agents, employees, and apparent agents, violated April’s right to due process before she was deprived of her life as set forth in the New Mexico Constitution. Through their acts and omissions, they violated April’s constitutional rights.

85. April needlessly lost her life after already having been ordered for release by the District Court.

86. These Defendants are liable to Plaintiff under the New Mexico Civil Rights Act.

87. There, Plaintiff is entitled to all damages allowed under the New Mexico Civil Rights Act

**COUNT IV: DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEED
IN VIOLATION OF ARTICLE II, § 13 OF THE NEW MEXICO
STATE CONSTITUTION AGAINST ALL DEFENDANTS**

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

89. As set forth above, Bernalillo County and Corizon, and their agents, employees, and apparent agents, were aware that April had signs and symptoms of a serious medical condition, including but not limited to, complications related to opioid withdrawal, seizures, abnormal behavior, abnormal vital signs, and signs of confusion and physical deterioration.

90. Despite such knowledge, these Defendants failed to provide April with proper medical health care, failed to provide access to medical health care, failed to intervene in order to obtain necessary medical health care for April, and otherwise failed to take an action to protect against cruel and unusual punishment regarding the deliberate indifference to her serious medical needs in violation of Article II, § 13 of the New Mexico Constitution.

91. The deliberate indifference of all Defendants caused April to experience worsening,

extensive, and unnecessary pain and to suffer unnecessary death.

92. These failures resulted not only from the individual acts of these Defendants, but also through the policies, practices, and customs of these Defendants set forth above to deny necessary medical care to inmates and in the process of so doing, expose the inmate patients to dehumanizing and degrading cruelties whose only purpose seemed to be to make her suffer. Such policies and practices were ratified and adopted by all Defendants, by and through their agents/employees, and were the moving force behind the deprivation of April's rights.

93. The acts and omissions of these Defendants violated April's rights under the New Mexico Constitution.

94. The acts and omissions of these Defendants were a cause of April's wrongful death, and Defendants are liable for Plaintiff's injuries and damages under the New Mexico Civil Rights Act.

95. Plaintiff is entitled to all damages allowed under the New Mexico Civil Rights Act.

**COUNT V: POLICY AND PRACTICE OF DENIAL OF MEDICAL CARE IN
VIOLATION OF ARTICLE II, §§ 13 AND 18 OF THE NEW MEXICO
STATE CONSTITUTION AGAINST ALL DEFENDANTS**

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

97. As set forth above, during the times pertinent to the complaint, April was deprived of her constitutional rights under the New Mexico Constitution.

98. The moving force behind this deprivation were policies, practices, customs, and patterns adopted and ratified by all Defendants

99. Such policies, practices, customs, and patterns included:

- a. Failing to report, diagnose, and properly examine and treat inmates with serious medical conditions;

- b. Failing to respond to inmates who exhibited clear signs of serious medical conditions;
- c. Failing to appropriately screen inmates for signs and symptoms of complications associated with opioid withdrawals;
- d. Failing to report signs and symptoms of serious medical conditions to medical providers;
- e. Failing to initiate monitoring protocols for inmates with serious medical conditions and needs;
- f. Delaying or denying patient referrals to necessary emergency or other offsite medical services;
- g. Understaffing the medical unit;
- h. Failing to provide adequate medical documentation or to communicate significant information about a patient's condition to medical providers on staff;
- i. Failing to adequately hire, retain, train, and supervise MDC employees and agents on procedures necessary to protect the health and safety of detoxing inmates;
- j. Failing to reprimand, retrain, or take corrective action against MDC personnel or Corizon medical providers engaging in unconstitutional denial of medical care to inmates, and instead ratifying such conduct; and
- k. Failing to report, diagnose, properly examine, monitor, and treat warning signs of serious medical conditions, and instead, to delay and deny patients' access to critical medical services.

100. These policies, practices, customs, and patterns caused a violation of April's constitutional rights under the New Mexico Constitution.

101. Moreover, Defendants failed to intervene to protect April's rights, which was a cause of Plaintiff's injuries and damages under the New Mexico Civil Rights Act.

102. Plaintiff is entitled to all damages allowed under the New Mexico Civil Rights Act.

**COUNT VI: VIOLATION OF SUBSTANTIVE DUE PROCESS RIGHTS
GUARANTEED UNDER ARTICLE II, §§ 18 OF THE NEW MEXICO
STATE CONSTITUTION AGAINST ALL DEFENDANTS**

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

104. Article II, Section 18 of the New Mexico State Constitution guarantees a fundamental right to be protected against the unlawful invasion of a person's personal safety and bodily integrity. Substantive due process rights include the rights to personal autonomy, bodily integrity, self-dignity, and self-determination.

105. In this case, as set forth above, Bernalillo County and Corizon, and their agents, employees, and apparent agents, violated April's substantive due process rights under the New Mexico Constitution.

106. Moreover, Defendants failed to intervene to protect April's rights, which was a cause of Plaintiff's injuries and damages.

107. Plaintiff is therefore entitled to all damages allowed under the New Mexico Civil Rights Act.

**COUNT VII: MEDICAL MALPRACTICE AND NEGLIGENCE AGAINST
DEFENDANT CORIZON**

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

109. At all relevant times, Defendant Corizon, acting through its employees, agents, apparent agents, and/or contractors, was negligent in the medical care and services provided to April.

110. In undertaking the diagnosis, care, treatment, and monitoring of April, Defendant Corizon had a duty to possess and apply the knowledge skill, and care that is used by reasonably well-operated medical facilities and well-qualified healthcare providers under similar circumstances, giving due consideration to the locality involved.

111. Defendant Corizon and its employees, staff, and agents breached their duties owed to April and were negligent in the management of her health and well-being.

112. Corizon's negligence includes, but is not limited to:

a. Failing to implement adequate staffing levels and adequately trained staff at MDC to care for prisoners with full knowledge that such inadequate staffing practices would place prisoners such as April at risk for injury and death;

b. Negligently hiring, retaining, and supervising staff at MDC with full knowledge that such staffing practices would place prisoners such as April at risk for injury and death;

c. Failing to implement proper withdrawal management protocols and/or to follow withdrawal management protocols, including withdrawal supervision, assessment, monitoring, and training such that April died without proper monitoring, prevention, and treatment.

d. Failing to provide and implement proper care plans that would have addressed April's medical needs;

e. Failing to provide a safe environment for prisoners, including April;

f. Failing to have adequate and effective policies, procedures, staff, and equipment to adequately diagnose, monitor, treat, and manage Mr. Archuleta's medical condition;

g. Failing to recognize April's emergent need for medical care and/or a higher level of care that could not be provided at MDC.

113. Defendant Corizon, through its employees, agents, and contractors, breached its duties and was, at minimum, negligent in the diagnosis, treatment, and management of April's health and safety.

114. These acts and failures to act by Defendant Corizon, by and through its employees, agents, and contractors, were willful, wanton, and in reckless disregard for April's safety and well-being.

115. All acts and/or omissions of Defendant Corizon by and through its employees, agents, and contractors, were done within the scope of its employment, agency, or contract.

116. All acts complained of herein were authorized, participated in, or ratified by Defendant Corizon, and/or its administrators, managers, officers, directors, or shareholders.

117. As a direct and proximate result of the negligent acts and omissions by Corizon, its employees, staff and agents, April suffered significant deterioration in her health, along with physical, emotional, and psychological pain and suffering not presently determinable, but to be proven at the time of trial.

118. As a direct and proximate result of the negligent acts and omissions by Corizon, its employees, staff and agents, April suffered an unnecessary, avoidable, and wrongful death.

119. Defendant Corizon's failure to assess, treat, and manage April's medical condition by and through its employees, staff, and/or agents was reckless and wanton with utter disregard

for the safety and welfare of April, for which Plaintiff is entitled to punitive damages.

**COUNT VIII: NEGLIGENT OPERATION OF A MEDICAL FACILITY
 UNDER NMSA 1978, § 41-4-9 AGAINST ALL DEFENDANTS**

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

121. In providing medical services at MDC through a medical facility, all Defendants were under a duty to use ordinary care to avoid or prevent what a reasonably prudent person would foresee as an unreasonable risk of injury to another.

122. Corizon, by and through Bernalillo County, was entrusted with the medical care of MDC inmates who have no other source of medical care while in custody.

123. Bernalillo County and Corizon had authority and control over MDC and the medical unit within MDC.

124. Defendant Corizon had authority and control over the operation of the medical unit within MDC, and such operations were required to be in compliance with written policies and procedures.

125. Defendant Corizon had a duty to properly screen, supervise, educate, and train its employees regarding April and prisoners who were similarly detoxing from opioids and/or experiencing withdrawal.

126. Defendant Corizon had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of detoxing inmates.

127. On information and belief, Defendant Corizon failed to properly train and supervise its employees, contractors, or agents in such a manner to properly and adequately assess, treat and manage April's medical conditions, including her ongoing detox from opioids.

128. All Defendants failed to enforce any standards of care related to the operation of

the medical unit at MDC. Instead, Defendants implemented and ratified dangerous practices leading to extreme medical neglect of inmates under the care of Defendants, including April.

129. The actions of all Defendants in the operation of the medical facility at MDC caused harm to all prisoners, but specifically to April.

130. As a result of the acts or omissions of Defendants, April suffered injury, including death, emotional distress, and pain and suffering.

131. Specific to Bernalillo County, immunity for any “public employee” is waived under NMSA 1978, § 41-4-9 as April’s injuries arose from the operation of MDC’s medical facility and these “public employees” were acting within the scope of their duties.

132. As a result of the foregoing, April suffered damages and injuries including, but not limited to, physical injuries, pain and suffering, and severe psychological and emotional distress, and death for which Plaintiff is entitled to damages.

133. The actions of all Defendants were negligent, willful, wanton, and in gross and reckless disregard for April’s well-being, entitling Plaintiff to punitive damages thereon.

**COUNT IX: NEGLIGENT OPERATION OF A PUBLIC BUILDING UNDER
NMSA 1978, § 41-4-6 AGAINST BERNALILLO COUNTY**

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

135. At all relevant times, Defendant Bernalillo County, acting through its employees, agents, apparent agents, or contractors, who were acting within the scope of their employment, agency, apparent agency, or contract, was negligent in the operation of MDC.

136. In operating MDC, Defendant Bernalillo County was under a duty to use ordinary care to avoid or prevent what a reasonably prudent person would foresee as an unreasonable risk of injury to another.

137. Defendant Bernalillo County has ultimate authority and control over MDC, along with a consequent duty to operate the facility so as not to endanger the health and safety of those utilizing the facility, including prisoners.

138. Defendant Bernalillo County failed to enforce any standards of care related to the monitoring and medical care of prisoners. Instead, Bernalillo County implemented and ratified dangerous practices leading to extreme medical neglect of prisoners in the custody and care of Bernalillo County, including April.

139. Defendant Bernalillo County's customs and practices created a general condition of unreasonable risk to prisoners at MDC due to negligent safety practices in identifying and addressing the medical needs of prisoners.

140. Defendant Bernalillo County's practice of breaching its own written policies and procedures and practice of breaching its duties in the operation of MDC caused a foreseeable risk of injury to all prisoners, created a specific foreseeable risk to April, and was the cause of April's death.

141. Defendant Bernalillo County failed to exercise reasonable care to prevent and correct these dangerous conditions at MDC, and in doing so ignored threats to prisoner's health and safety.

142. At all relevant times, Defendant Bernalillo County, acting through its employees, staff, and agents, was acting within the scope of its duties in the operation and/or maintenance of MDC, as it was acting in relation to safety policies necessary to protect those who used this public building.

143. Specific to Bernalillo County, immunity for any "public employee" is waived under NMSA 1978, § 41-4-9 as April's injuries arose from the unsafe, dangerous, and defective

conditions of a property owned and operated by the government op and these “public employees” were acting within the scope of their duties.

144. As a result of the acts and omissions of Defendant Bernalillo County, April suffered injury, including death, emotional distress, and pain and suffering, for which Plaintiff is entitled to damages.

**COUNT X: NEGLIGENT HIRING, TRAINING AND SUPERVISION
AGAINST CORIZON UNDER NEW MEXICO TORT LAW**

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

146. Defendant Corizon had a duty to properly screen, supervise, educate, and train its employees, agents, and/or contractors regarding the proper treatment of prisoners suffering from opioid withdrawal.

147. Defendant Corizon failed to train and supervise its employees, contractors, or agents in such a manner as to accurately assess, treat, and manage prisoners experiencing withdrawal symptoms, such as April, and/or to render aid to prisoners with ongoing and emergent medical conditions.

148. Upon information and belief, Defendant Corizon failed to follow through with or otherwise enforce policies and related contract provisions regarding prisoners with medical issues, which they were responsible for overseeing.

149. Defendant Corizon failed to take corrective action against employees, agents, or contractors who it knew were not providing appropriate care in the management of prisoners experiencing withdrawal symptoms, such as April.

150. Defendant Corizon failed to properly screen, supervise, educate, and train its employees, contractors, and agents in the symptoms, diagnosis, treatment, referral, or intervention

of medical conditions of prisoners generally, and specifically April's medical condition.

151. Defendant Corizon, in the exercise of reasonable care, should have been aware of the risk of opioid withdrawal to prisoners such as April and should have protected against the resulting harm by controlling the conduct of its employees, agents, and contractors, over which it had supervisory authority.

152. Defendant Corizon, acting by and through these supervisory actors, failed to use ordinary care in its training, staffing, and supervising practices and had knowledge that its practices created an unreasonable risk of injury to April and other similarly situated MDC prisoners.

153. These dangerous conditions were severe and foreseeable such that Defendant Corizon had a duty of care to oversee, discover, and prevent its personnel's dangerous responses to the ongoing management of prisoner medical care and medical emergencies.

154. Defendant Corizon's negligent hiring, training and supervision were the proximate cause of April's injuries including, but not limited to, death, pain and suffering, and severe psychological and emotional distress, entitling Plaintiff to compensatory and punitive damages.

**COUNT XI: INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS
AGAINST CORIZON UNDER NEW MEXICO TORT LAW**

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

156. Defendant Corizon, acting through its employees, agents, and contractors, intentionally denied April proper and necessary medical care.

157. Defendant Corizon, acting through its employees, agents, and contractors, ignored April's medical needs, leaving her to die suffering from the effects of opioid withdrawal.

158. April suffered severe emotional distress as a result of the conduct of Defendant Corizon.

159. All acts or omissions committed by Defendant Corizon, by and through and its employees, agents, and contractors, were done within the scope of its employment, agency, or contract.

160. These acts and failures to act by Defendant Corizon were willful, wanton, and in reckless disregard for April's safety and well-being.

161. All acts complained of herein were authorized, participated in, or ratified by Defendant Corizon, and/or its administrators, managers, officers, directors, or shareholders.

162. As a result of the foregoing, April suffered serious injuries, including death, pain and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

**COUNT XII: INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS
AGAINST CORIZON AND BERNALILLO COUNTY UNDER THE
NEW MEXICO CIVIL RIGHTS ACT**

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

164. In violation of the New Mexico Constitution, ARTICLE II, §§ 4, 8, 13 and 18, both BernCo and Corizon, acting by and through their respective employees, agents, and contractors engaged in inexplicable dehumanizing, degrading and intentionally cruel, callous and wanton abuse of April as she was dying.

165. The only purpose for this behavior was the intentional infliction of emotional distress on April and the other inmates who tried to help her.

166. All acts complained of herein were authorized, participated in, or ratified by Defendants BernCo, Corizon, and/or their administrators, managers, supervisors, officers, directors, or shareholders.

167. As a result of the foregoing, April suffered serious injuries, including death, pain

and suffering, and severe psychological and emotional distress, for which Plaintiff is entitled to damages, including punitive damages.

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.

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

C. Punitive damages in an undetermined amount against Defendant Corizon.

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.

Respectfully Submitted:

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/s/ Parrish Collins

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