

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

AUGUST VELASQUEZ,

D-101-CV-2023-01677

Plaintiff,

Case assigned to Mathew, Francis J.

v.

STATE OF NEW MEXICO; NEW MEXICO
CORRECTIONS DEPARTMENT; THE GEO
GROUP, INC., and WEXFORD HEALTH
SOURCES, INC.,

Defendants.

**COMPLAINT FOR
MEDICAL MALPRACTICE AND RELATED CLAIMS**

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

PARTIES

1. Plaintiff August Velasquez, (hereinafter “Plaintiff”), was at all times relevant to this Complaint, an inmate at the New Mexico Correctional Department (“NMCD”), where the actions and inactions giving rise to the claims herein took place.

2. Mr. Velasquez, at the time of the original incident as set forth below, was an inmate at Lea County Correctional Facility (“LCCF”), an NMCD prison facility.

3. LCCF is privately owned by Correctional Properties Trust and operated by the GEO Group, Inc.

4. Defendant Geo Group, Inc. (GEO), is a Foreign Profit Corporation that operates correctional facilities in New Mexico. At all times relevant and material herein, GEO operated, under a contract with the New Mexico Corrections Department (“NMCD”) the LCCF and was responsible for the care and management of the inmates housed at the facility.

5. GEO can be served through its registered agent, Corporate Creations Network, Inc., 400 N. Pennsylvania Ave, #600, Roswell, NM 88201.

6. Wexford is a foreign profit corporation registered to do business in New Mexico whose registered agent is in Hobbs, New Mexico.

7. Wexford is neither a local public body nor a state employee under NMSA §41-4-7(F).

8. Wexford at all times material to this Complaint acted by and through its employees, staff, and agents.

JURISDICTION AND VENUE

9. All of the material acts and/or omissions complained of herein occurred in Lea County New Mexico.

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

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

12. Counsel for Plaintiff has sent four (4) Notices of Tort Claims and Claims Under the New Mexico Civil Rights Act dated November 29, 2021, December 8, 2021, December 28, 2021, and January 13, 2022.

13. 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.
14. 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).

STATEMENT OF FACTS

15. Plaintiff was at all times relevant to this Complaint, a 45-year-old male, and a NMCD inmate.
16. Plaintiff has a significant past medical history of IV drugs.
17. Since September 1, 2021, Plaintiff made many reports of intense pain to Defendants as a result of a burst gallbladder and cirrhosis of the liver.
18. Defendants' employees, staff, and agents were aware of the reports of pain and responded by refusing to give Plaintiff pain management and worse, mocked, and ridiculed Plaintiff for his pain.
19. On or around November of 2021, Plaintiff began suffering from Stage 4 cirrhosis due to medical neglect on behalf of NMCD and Wexford.
20. Lab results from Lea Medical Center showed that Plaintiff had stage 4 cirrhosis.
21. Despite the lab results confirming stage 4 cirrhosis, Defendants told Plaintiff that he not suffering from Stage 4 cirrhosis.
22. Defendants knew Plaintiff had stage 4 cirrhosis but refused to treat him or otherwise provide medical care, including pain medication.

23. Defendants' employees, agents, and staff, were also not properly trained to provide care for Plaintiff, including diagnosing and treating cirrhosis, or providing appropriate pain management.

24. Plaintiff filed grievances on both the neglect leading to cirrhosis and refusal of pain management, both of which have gone unanswered.

25. Plaintiff prepared informal complaints, some of which were removed from his cell.

26. On or around December 7, 2021, Plaintiff made complaints of acute lower back pain and was referred to a neurosurgery consultation.

27. However, the corresponding neurosurgery consultation records are missing. Thus, either the records were destroyed by Defendants, or Defendants never sent Plaintiff for the neurosurgery consultation.

28. On or around December 16, 2021, Defendants' employees, staff, and/or agents retaliated against Plaintiff for seeking legal counsel.

29. On or around December 16, 2021, Defendants subjected Plaintiff to a "random" urinalysis test.

30. Upon information and belief, the Warden ordered the urine test.

31. However, this test was not random, and NMCD specifically wanted to test Plaintiff's urine, despite the fact NMCD knew he would fail due to his prescriptions for Tylenol 3 and Lyrica.

32. Plaintiff was advised that the disciplinary officer would speak with medical to clarify the "mistake" of the "dirty urine." Upon information and belief, that did not happen.

33. Defendant NMCD ultimately wrote up Plaintiff for his urinalysis results.

34. Upon information and belief, any writeups negatively affect an inmate's "good time." "Good time" can lead to an earlier release, and any writeups result in losing good time and thus, result in lost time toward early release.
35. On or around January 2022, Plaintiff's health began to rapidly deteriorate.
36. Plaintiff continued to suffer extreme back pain, due to the lack of treatment from Defendants.
37. Plaintiff had lost about 40 pounds because he was unable to eat.
38. The loss of 40 pounds was visible to Defendants, their employees, staff, and agents. Despite Plaintiff's deterioration, Defendants did nothing.
39. Plaintiff required assistance from other inmates to perform basic daily living skills.
40. Plaintiff was housed on the top tier in Housing 3D, which required he climb flights of stairs to get to his cell.
41. Plaintiff requested a lower-level cell because he was in pain and having difficulty walking.
42. The lower-level cell was refused, even though Plaintiff confirmed that other inmates were willing to move.
43. The only treatment Defendants offered Plaintiff were the prescriptions for Tylenol 3 and Lyrica, both of which did not offer adequate pain relief. Notably, these were the same medications for which Plaintiff was written up.
44. Defendants' employees, agents, and staff did not properly refer Plaintiff for an elevated level of care to treat his back pain, and/or for a determination of the cause of the pain.

45. Defendants NMCD, GEO, and Wexford failed to oversee its employees, agents, and staff, to ensure that Plaintiff received appropriate medical care and treatment.

46. On or around January 6, 2022, Plaintiff had an X-ray of his thoracic spine which showed no gross fracture in the diagnostic portions of the images provided but showed that he had degenerative intervertebral disc space narrowing.

47. Defendant Wexford, its employees, agents, and staff, upon information and belief, refused to provide certain medical care because of the expense to Defendant Wexford.

48. Upon information and belief, Defendant Wexford was understaffed, yet was not filling empty positions in order to reduce their costs.

49. The understaffing was not in compliance with Wexford's contract with NMCD.

50. Wexford continued to operate at LCCF without adequate staffing to provide necessary medical care to inmates.

51. GEO was aware that Wexford operated without appropriate and sufficient staffing, but GEO did nothing, allowing Wexford to operate with insufficient staffing.

52. LCCF is a medium security correctional facility owned by Correctional Properties Trust and operated by GEO.

53. At the time of Plaintiff's incarceration, GEO was understaffed and ran the prison without adequate staffing.

54. Understaffing contributed to Plaintiff's delay in receiving appropriate medical care.

55. NMCD was aware of the understaffing issues by GEO and Wexford but failed to do anything or enforce compliance with the contract, including ensuring appropriate staffing levels.

56. On or around January 7, 2022, Plaintiff had a physical therapy evaluation at Central NM Correctional Facility Physical Therapy Department for complaints of joint pain, stiffness, and decreased endurance.
57. Plaintiff had an MRI that revealed disc bulges at L4 and L5 with degenerative disc disease.
58. At this point, Plaintiff was unable to walk independently and had to use a wheelchair or cane for mobility, and needed the assistance of his friends to get himself dressed.
59. On or around January 13, 2022, Plaintiff's lab work revealed elevated C-Reactive Protein ("CRP") at 5.2 and sedimentation rate at 80, signifying increased inflammation and a serious medical condition.
60. On or around January 18, 2022, Plaintiff was referred for a Neurological evaluation for acute lower back pain. Upon information and belief, Plaintiff was not sent for the evaluation.
61. At this point Plaintiff was wheelchair-bound and unable to walk.
62. On or around January 28, 2022, Wexford Health finally sent a referral for a neurology appointment to UNM Neurology Clinic.
63. The presence of these red-flag symptoms suggestive of vertebral infection such as acute progressive severe back pain with a significant history of intravenous drug abuse, recent bacteremia, limited range of spine motion, and elevated CRP and ESR warranted an immediate action; however, Defendants denied and delayed treatment.
64. On or around February 4, 2022, almost six (6) months after Plaintiff's first complaints of back pain, Plaintiff finally receive a referral for proper evaluation.

65. Plaintiff now suffers from chronic discitis/osteomyelitis secondary to Serratia marcescens extending from T11-L1 with the complete destruction of the T12 vertebral body causing spinal cord compression.

66. Further, Plaintiff now has had cauda equina syndrome requiring T10-T12 instrumental infusion, T11-L1 laminectomy, Left T12 costotransversectomy, and T12 corpectomy with the placement of a corpectomy cage.

COUNT I
MEDICAL MALPRACTICE AND NEGLIGENCE
(ALL DEFENDANTS)

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

68. 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 reasonable well-qualified healthcare providers in the local community.

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

70. 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 back and spinal infection;
- c. Failure to take the reasonable steps to acquire proper treatment of Plaintiff;
- d. Failure to refer Plaintiff to the appropriate specialists;

- e. Failure to develop, employ, and follow appropriate policies and procedures with regard to the assessment, treatment, and management of Plaintiff's back and spinal infection;
- f. Failure to provide Plaintiff with necessary and proper pain management; and
- g. Failure to protect and preserve the health of Plaintiff.

71. 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.

72. Defendants, their employees, staff, and agents' failures to assess, treat, and manage Plaintiff's back and 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)

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

74. Defendants NMCD and GEO negligently failed to oversee Wexford in the provision of medical care to LCCF inmates, which contributed to Plaintiff's injuries.

75. Defendants NMCD and GEO failed to take corrective action against Wexford in clear face of recurrent and consistent negligent and reckless medical care to LCCF inmates, which contributed to Plaintiff's injuries.

76. Defendants, including Wexford, are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

77. Wexford's medical staff at LCCF lacked sufficient expertise to assess, treat, and manage Plaintiff's health conditions.

78. Wexford has a duty to properly refer Plaintiff to be seen by a physician who could effectively treat him.

79. Defendants negligently failed to ensure that Wexford hires, trains, and supervises its medical providers, staff, employees, and agents.

80. Defendants negligently failed to ensure that Wexford hired competent medical providers, employees, staff, and agents.

81. 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.

82. Defendants negligently ignored and made fun of Plaintiff for trying to seek medical treatment for his back and spine, which further contributed to Plaintiff's injuries.

83. Defendants negligently failed to hold Wexford to the standards and guidelines of the ACA or NCCHC.

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

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

86. 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
(WEXFORD)

87. Plaintiff incorporates by reference as if fully set forth herein, each and every allegation contained in the paragraphs above.
88. Wexford, by and through NMCD and GEO, is entrusted via contract with the medical care of inmates who have no other source of medical care.
89. Wexford employees, staff, and agents were unqualified to care for Plaintiff's injuries and yet refused to refer Plaintiff to the proper specialists.
90. Wexford was negligent in failing to properly assess, treat, and manage Plaintiff's spine and spinal infection.
91. Wexford was negligent in failing to properly refer Plaintiff to be seen by a physician who could have effectively treated Plaintiff.
92. By failing to either: (1) properly treat Plaintiff's medical conditions, or (2) properly refer Plaintiff to be seen by a medical practitioner who could effectively treat Plaintiff, Wexford breached its duty to medically treat Plaintiff in a reasonably prudent manner.
93. Wexford failed to properly address Plaintiff's medical condition.
94. Such conduct amounts to negligence in running a prison medical facility.
95. Such conduct amounts to negligence in the treatment of Plaintiff.
96. Wexford had a duty to properly screen, supervise, educate, and train its employees regarding infection control within the facility.
97. Wexford had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of spinal infection patients.

98. On information and belief, Wexford 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 emergent spinal issues.

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

100. Wexford does not comply with ACA, NCCDC or New Mexico legal standards of care.

101. 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.

102. The actions of Wexford 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 and GEO)

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

104. The New Mexico Corrections Department acting by and through LCCF/GEO are liable for negligent operation of a medical facility under NMSA 1978, §41-4-9.

105. GEO has authority and control over the operation of all medical facilities within LCCF.

106. GEO has sole authority, control, and responsibility over the execution, implementation, and enforcement of the standards of medical care within their facilities.

107. NMCD and GEO were negligent in failing to step in and ensure that Plaintiff was provided with necessary medical care.

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

109. GEO and Wexford are entrusted with the medical care of New Mexico inmates who have no other source of medical care.

110. Wexford's medical staff at GEO lacked sufficient expertise to assess, treat, and manage Plaintiff's health conditions.

111. Wexford has a duty under the GSC, ACA and NCCHC to properly refer Plaintiff to be seen by a medical official who could effectively treat him.

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

113. GEO knew or should have known that Wexford was not properly and adequately treating Plaintiff's medical condition.

114. GEO knew or should have known that Wexford was not referring Plaintiff to outside medical healthcare providers who could effectively and prudently treat him.

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

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

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

118. Wexford has violated numerous provisions of the ACA and NCCHC.

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

120. GEO has been complicit in the failure to adhere to the basic constitutional correctional healthcare set forth by the NCCHC through LCCF's failure to enforce the GSC.

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

122. GEO failed to properly maintain oversight and enforcement of the GSC.

123. GEO 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 failure of GEO 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
(ALL DEFENDANTS)

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

127. Wexford and GEO 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, Wexford and GEO 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 injury.

129. Wexford and GEO had a duty to properly screen, supervise, educate, and train their employees regarding the proper treatment of spinal infection patients.

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

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

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

133. Wexford and GEO'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. Wexford and GEO'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 Wexford and GEO.

COUNT VI
NEGLIGENT HIRING, TRAINING, AND SUPERVISION
(GEO 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 NCCCHC set mandatory minimum standards for training of both medical personnel and non-medical personnel in the provision of medical services in a prison.

139. GEO knowingly allowed, aided, and abetted in Wexford's failure to meet the standards of care under the ACA and NCCHC accreditation and to comply with the minimum mandatory standards of the ACA and NCCHC on hiring, training, and supervision.

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

141. GEO knowingly allowed and been complicit in the violation of the ACA and NCCHC minimum mandatory standards on hiring, training, and supervision.

142. GEO 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
(WEXFORD DEFENDANTS)

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

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

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

147. The conduct of Wexford 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
(GEO DEFENDANTS)

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

151. GEO failed to take corrective action against Wexford despite clear knowledge of the reckless, wanton and willful refusal of Wexford to provide necessary medical care to Plaintiff.

152. GEO failed to properly and seriously consider the medical grievances filed by Plaintiff, going as far as removing the grievance Plaintiff was working on from his cell.

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

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

155. GEO has, through 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 GEO was extreme, outrageous, and intentional.

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

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 NCHC standards were to be adopted by LCCF and Wexford in addition to internal GEO regulations.

162. LCCF and Wexford knowingly and willfully chose not to abide by the ACA or NCHC standards of care for the medical services and facilities at GEO.

163. Wexford’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
(ALL 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 GEO and Wexford to commit the acts and inaction 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 GEO and Wexford.

167. 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.

168. Plaintiff is entitled to punitive damages against Defendants.

COUNT XI
RESPONDEAT SUPERIOR AND AGENCY
(ALL DEFENDANTS)

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

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

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

COUNT XII
RESPONDEAT SUPERIOR AND AGENCY
(GEO)

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

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

174. GEO 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)

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

176. The injuries and damages suffered by Plaintiff were proximately caused by wanton, willful, and reckless actions, and inactions by GEO and Wexford.

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

178. It was NMCD's and GEO's duty to ensure that Wexford provided constitutionally adequate medical care to Plaintiff.

179. 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 GEO and Wexford.

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

181. 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.

182. Plaintiff is entitled to punitive damages against GEO and Wexford.

COUNT XIV
PUNITIVE DAMAGES
(WEXFORD DEFENDANTS)

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

184. 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, August Velasquez;
- B. Compensatory damages against all Defendants, jointly and severally, in an amount to be determined by this Court as adequate for GEO and Wexford's intentional infliction of emotional distress;
- C. Punitive damages in an undetermined amount against Wexford;
- 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,

GUEBERT GENTILE & PIAZZA, P.C.

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