

STATE OF NEW MEXICO
COUNTY OF SAN MIGUEL
FOURTH JUDICIAL DISTRICT

D-412-CV-2023-00094

EUGENIO S. MATHIS, as Personal Representative
of the ESTATE OF NOAH GONZALES, Deceased,

Plaintiff,

v.

BOARD OF COUNTY COMMISSIONERS OF
BERNALILLO COUNTY; CENTURION DETENTION
HEALTH SERVICES, LLC; MATTHEW
ROBERT KEERAN, PA; REMY WONNY, PA;
DARRYL J. MACIAS, MD; JOHN CONROY MCGEE, MD;
NICHOLAS PARCHIM, MD; and
JOHN/JANE DOES 1-10 in their individual and official capacities
(employees, staff, agents of the Metropolitan Detention Center and/or
Centurion Detention Health Services, LLC),

Defendants.

**AMENDED COMPLAINT FOR MEDICAL MALPRACTICE, WRONGFUL
DEATH, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND
VIOLATIONS OF THE NEW MEXICO CONSTITUTION**

COMES NOW Plaintiff, Eugenio S. Mathis, as the Personal Representative of the
Wrongful Death Estate of Noah Gonzales, Deceased, (hereinafter "Plaintiff"), by and through his
attorneys, Collins & Collins, P.C. and DeLara | Supik | Odegard P.C., submits this Complaint for
Medical Malpractice, Wrongful Death, and Related Claims.

JURISDICTION AND VENUE

1. Noah Gonzales ("Mr. Gonzales") died on October 12, 2021, in Bernalillo County,
State of New Mexico.
2. At all relevant times, Mr. Gonzales was an inmate in the care and custody of the
Metropolitan Detention Center ("MDC"), Bernalillo County, State of New Mexico.

3. Eugenio S. Mathis is the personal representative of the Estate of Noah Gonzales, appointed on November 17, 2021, in the Fourth Judicial District Court, San Miguel County, State of New Mexico, and brings this Complaint on behalf of the Estate.

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

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

6. At all times material hereto, the County was a governmental entity and local public body as those terms are defined in the New Mexico Tort Claims Act, NMSA 1978, § 41-4-3.

7. At all times material hereto, the County owned, operated, supervised, directed, and controlled the MDC, located in Bernalillo County, State of New Mexico.

8. Pursuant to NMSA 1978, §§ 4-44-19, 33-3-3 through 33-3-8, and 33-3-13, the County was mandated by statute to provide for the confinement of inmates incarcerated under its jurisdiction and had a corresponding obligation to appropriate funds and otherwise provide the necessary funding to maintain and operate a facility for the safe incarceration and healthcare of inmates under its jurisdiction. The County is required to administer, manage, and supervise the health care system provided to inmates at the MDC.

9. Upon information and belief, John/Jane Does 1-5 were employed by the County as personnel of the MDC responsible for providing correctional services at the MDC.

10. At all relevant times, Centurion Detention Health Services, LLC (“Centurion”) was contracted to provide health care services to inmates under the care and custody of the MDC.

11. Centurion is a foreign limited liability company licensed to do business in the State of New Mexico and may be served through its registered agent, CT Corporation System, 206 S. Coronado Avenue, Espanola, New Mexico 87532.

12. Defendant Centurion acted through its owners, officers, directors, employees, agents, or apparent agents, including but not limited to, administrators, management, nurses, doctors, technicians, and other medical personnel and staff, and is responsible for their acts or omissions pursuant to the doctrines of *respondeat superior*, agency and/or apparent agency.

13. At all relevant times and upon information and belief, John/Jane Does 6-10 were employees, staff and/or agents of Defendant Centurion and were responsible for supervising and providing health care services to inmates at the MDC.

14. At all relevant times, Defendants Matthew Robert Keeran, PA, Remy Wong, PA, Darryl J. Macias, MD, John Conroy McGee, MD, and Nicholas Parchim, MD were public employees, agents, and/or apparent agents of the University of New Mexico Hospital and in that capacity and within the scope of their duties, provided medical services to Mr. Gonzales. These Defendants are sued in their individual and official capacities.

15. A Notice of Claims was sent to Bernalillo County and MDC on October 15, 2021, meeting the notice requirements under both the New Mexico Tort Claims Act (NMSA § 41-4-16) and the New Mexico Civil Rights Act (N.M. Stat. Ann. § 41-4A-13).

16. Jurisdiction and venue are proper pursuant to NMSA §§ 38-3-1 and 41-4-18; Article II, §§ 13 and 18 of the New Mexico Constitution; the New Mexico Civil Rights Act (NMSA §§ 41-4A-1 through 41-4A-13); and New Mexico tort and common law.

STATEMENT OF FACTS

A. Medical Facts

17. On or about May 19, 2021, Noah Gonzales was arrested and booked into the MDC.

18. On or about June of 2021, Mr. Gonzales started experiencing neck pain and neck swelling.

19. On July 1, 2021, Mr. Gonzales was transported to the emergency room at the University of New Mexico Hospital (“UNMH”) with complaints of constant neck pain with radiation up to his head and neck lymph node swelling.

20. At that time, Mr. Gonzales was evaluated by Defendants Keeran, Wong, and Macias.

21. At the time of his evaluation, Defendants Keeran, Wong, and Macias had access to his medical records from UNMH, which showed a past medical history of QT prolongation as recent as March of 2020. This history was known or should have been known by these Defendants.

22. On physical examination, Mr. Gonzales had soreness in his throat and enlarged nodes in his neck. A CT scan of his neck showed bilateral anterior cervical lymphadenopathy with soft tissue gas along the anterolateral left maxillary teeth. Despite no discernable dental abscess, it was determined that Mr. Gonzales was suffering from periodontal disease. The air under the cheek and the cervical lymphadenopathy were believed to be reactive and treated with antibiotics.

23. Defendants Keeran, Wong, and Macias failed to recognize and appropriately evaluate a subcutaneous emphysema (air below the neck skin). An assumption of periodontal disease as to the cause was made without support. A complete differential diagnosis to rule out all the causes of subcutaneous emphysema was not made.

24. Defendants Keeran, Wong, and Macias' failures to conduct a comprehensive evaluation of Mr. Gonzales' signs and symptoms fell below the standard of care, particularly with Mr. Gonzales' co-morbidities to include a QT prolongation.

25. On July 2, 2021, Mr. Gonzales was discharged from UNMH and placed back into the custody of the MDC.

26. At the time of discharge, Defendant Macias recommended follow up in 1-2 weeks to recheck the lymphadenopathy. No follow up occurred as recommended at any point before Mr. Gonzales death.

27. Upon his return to the MDC, Mr. Gonzales's condition was not properly evaluated in terms of his classification by correctional staff and monitoring by medical staff.

28. Mr. Gonzales was not medically evaluated to recheck the lymphadenopathy as recommended by the UNM providers despite knowing that Mr. Gonzales required additional services to safeguard his health and wellbeing.

29. Mr. Gonzales was not medically evaluated for his medical condition at any time between July 2, 2021, and October 4, 2021, despite knowing that Mr. Gonzales required additional services in order to safeguard his health and wellbeing.

30. Mr. Gonzales was not referred for an appropriate cardiac evaluation and/or management of his medical condition at any time between July 2, 2021, and October 4, 2021, despite knowing that Mr. Gonzales required additional services in order to safeguard his health and wellbeing.

31. Defendants Centurion and the County, including unidentified John/Jane Doe Defendants, acted with wanton, willful, and deliberate indifference by ignoring Mr. Gonzales' medical needs, refusing to provide any level of monitoring by corrections staff, and refusal to

provide any level of monitoring, assessment, and treatment by medical staff to the detriment of Mr. Gonzales.

32. Instead, on October 4, 2021, Mr. Gonzales was observed falling to the ground from a chair. He was not breathing and had no pulse. CPR was initiated and an ambulance was called for emergency transport.

33. Mr. Gonzales was transported to UNMH. Upon his arrival, he was treated as a case of cardiac arrest on undetermined etiology. He was evaluated by Defendants McGee and Parchim.

34. Despite the medical findings made on July 1, 2021, and his history of QT prolongation, Defendants McGee and Parchim did not request an immediate cardiology consult. Further, these Defendants did not ensure that Mr. Gonzales was monitored closely at regular intervals to review his cardiac status.

35. Defendants McGee and Parchim also failed to perform a Transthoracic Echocardiogram on a timely basis.

36. Subcutaneous emphysema can cause compartment syndrome, prevention of thoracic wall expansion, tracheal compression, and tissue necrosis. Without timely intervention, respiratory and cardiovascular compromise can occur.

37. Mr. Gonzales died on October 12, 2021, of dilated cardiomyopathy.

38. The death of Mr. Gonzales was caused by the medical Defendants failure to provide a comprehensive evaluation of his condition between July 1, 2021 through October 4, 2021.

39. The death of Mr. Gonzales was caused by the County Defendants failure to ensure that Mr. Gonzales received timely medical care between July 1, 2021, through October 4, 2021.

40. The failure to monitor and treat Mr. Gonzales was grossly negligent and/or constitutes deliberate indifference to a known medical need and such failures caused or contributed to Mr. Gonzales' death.

41. Defendants Centurion and the County knew or should have known of the need to train their respective employees and/or agents on their policies and procedures and the appropriate standards in monitoring inmates and treating inmates.

42. The County has a non-delegable duty to provide proper, necessary and competent medical care for all inmates at the MDC, including Mr. Gonzales.

43. The County is responsible for the management and oversight of the MDC, including its medical contractor, Defendant Centurion.

44. The County failed to properly oversee, monitor, supervise, or manage Defendant Centurion's operation of the medical facility at the MDC and the provision of medical services to inmates, including Mr. Gonzales.

45. The County failed to take corrective action against Centurion despite clear knowledge of the ongoing and prevalent negligent and reckless provision of medical services provided to inmates at the MDC, including Mr. Gonzales.

B. Widespread patterns and practices of Centurion and the County

46. Defendants Centurion and the County maintained widespread patterns, practices, and de facto standard operating procedures in the operations at the MDC to the harm of all inmates, including Mr. Gonzales, all in violation of his state constitutional rights and caused and contributed to his death, to include:

- a) Failing to report, diagnose, and properly examine and treat prisoners with serious medical and/or mental health conditions;

- b) Delaying or denying patient referrals to necessary emergency or other offsite medical services;
- c) Understaffing its medical and mental health facilities;
- d) Failing to provide adequate medical documentation or communicate changes in patient conditions to the appropriate correctional officers and/or medical or mental health staff;
- e) Potential alteration, concealment, and destruction of medical records;
- f) Failing to hire, retain, train, and supervise its employees and agents on procedures necessary to protect patients' health;
- g) Failing to reprimand, provide additional training, retrain, or take any other corrective action against Centurion medical providers engaging in cruel, callous, and unconstitutional denial of medical care to inmates;
- h) Ignoring and failing to supervise and monitor inmates who are suffering from cardiac events or medical events in need of evaluation by both correctional and medical staff.

47. The County and Centurion have a longstanding policy and practice, directed, supervised and/or ratified by supervisory personnel of the County and Centurion under which employees and agents of these Defendants, including correctional officers and medical personnel, failed or refused to: (1) report, diagnose, and properly examine, monitor, and treat prisoners with serious medical and/or mental health conditions, including failing to provide proper medications to inmates and reassessment of inmates with serious medical and/or mental health conditions; (2) respond to prisoners who requested medical and/or mental health services; (3) respond to prisoners who exhibited clear signs of a medical and/or mental health need or illness;

(4) adequately document and communicate the medical and mental health needs of prisoners to the appropriate correctional officers and/or medical or mental health staff; (5) timely refer prisoners for emergency or other offsite medical services, or (6) intervene in any way to protect the health and safety of inmates.

48. These widespread practices amounted to standard operating procedures in the operation of the MDC. These practices are clearly illustrated in court cases and have been extensively and expansively covered by the media.

49. These Defendants knew of the substantial risk of serious or fatal consequences that the above practices caused in the past as well as the ongoing harm to inmates that continues, yet they colluded and conspired to maintain those policies and practices.

50. Defendants Centurion and the County were complicit and acquiesced in the denial of proper and necessary medical care to Mr. Gonzales through their failures to follow written policies and procedures and instead implement a pattern and practice of denying medical care.

51. Defendants Centurion and the County conspired together to deny Mr. Gonzales necessary and proper medical care leading to physical pain, severe emotional and psychological pain and suffering, and wrongful death.

52. The County had knowledge, through its own institutional experience, of Centurion's pervasive and persistent constitutionally deficient medical care. In addition, the County can be imputed knowledge from all the cases and media reports documenting the same.

53. In essence, Centurion's medical care of MDC inmates effectively amounted to no care at all, a fact of which the County is well aware.

54. Upon information and belief, Centurion maintained these practices to maximize profit and without regard to its constitutional and medical obligations to MDC prisoners, including Ms. Gonzales, who were entrusted to Centurion's care.

55. These standard operating procedures were the moving forces behind the misconduct at issue in the instant case.

COUNT I: VIOLATION OF INHERENT AND INALIENABLE RIGHT TO LIFE AND SAFETY OF ARTICLE II, § 4 OF THE NEW MEXICO STATE CONSTITUTION AGAINST DEFENDANTS CENTURION AND THE COUNTY

56. Each paragraph of this Complaint is incorporated as if fully restated herein.

57. The New Mexico Constitution decrees that the government may deprive no person of life "without due process of law." N.M. Const. art. II, § 18. Moreover, the New Mexico Constitution guarantees that the enjoyment of "life and liberty" is a "natural, inherent and inalienable" right. N.M. Const. art. II, § 4.

58. The New Mexico Courts view Article II, Section 4 as a prism through which we view due process and equal protection guarantees. Article II, Section 4 is a central component of our due process analysis.

59. Article II, Section 4 of the New Mexico Constitution provides more expansive guarantees of life and safety than those under the United States Constitution.

60. The facts set forth above plainly violated Mr. Gonzales' inherent inalienable rights to life and safety.

61. The entire Complaint and all Counts set forth below should be viewed through this prism.

62. As a result of the unconstitutional acts or omissions of these Defendants, Mr. Gonzales suffered injury, including death, emotional distress, and pain and suffering, and as a

result is entitled to all available damages under the Wrongful Death Act and the New Mexico Civil Rights Act, including punitive damages.

**COUNT II: DENIAL OF MEDICAL CARE IN VIOLATION OF ARTICLE II,
§§ 13 AND 18 OF THE NEW MEXICO STATE CONSTITUTION AGAINST
DEFENDANTS CENTURION AND THE COUNTY**

63. Each paragraph of this Complaint is incorporated as if fully stated herein.

64. These Defendants were aware that Mr. Gonzales' medical condition caused him to face a substantial risk of serious harm without appropriate action.

65. Despite that knowledge, Defendants failed to provided Mr. Gonzales with proper medical care, access to medical care, and/or failed to intervene to obtain necessary medical care for Mr. Gonzales in violation of Article II, § 13 of the New Mexico Constitution.

66. Prior to the events giving rise to Plaintiff's Complaint, Defendants were on notice of the above-described practices of denial of necessary and proper medical care to inmates.

67. Defendants and their respective supervisory personnel maintained and ratified the unconstitutional practices directly resulting in the violation of Mr. Gonzales' right to constitutionally adequate medical care.

68. Defendants and their respective employees, staff, and agents colluded and conspired to deny Mr. Gonzales his right to constitutionally minimally acceptable medical care.

69. Defendants' actions and failures to act were unreasonable and undertaken intentionally, with malice, recklessly and/or with deliberate indifference to Mr. Gonzales' serious medical needs.

70. As a result of the unconstitutional acts or omissions of these Defendants, Mr. Gonzales suffered injury, including death, emotional distress, and pain and suffering, and as a

result is entitled to all available damages under the Wrongful Death Act and the New Mexico Civil Rights Act, including punitive damages.

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

71. Each paragraph of this Complaint is incorporated as if fully restated herein.

72. The actions and inactions of Defendants and their respective employees, staff, and agents constitute long-standing unconstitutional policies and practices of both Centurion and the County. The policies and practices amount to standard operating procedures for both Centurion and the County.

73. Under NMSA 1978, § 41-4A-3(C), Defendants were responsible for the creation, implementation, oversight, and supervision of all policies and procedures followed by their respective employees and/or agents.

74. Centurion's practices set forth above were adopted by and are imputed to the County. The County colluded with, encouraged, ratified and/or actively conspired in Centurion's unconstitutional practices.

75. Defendants Centurion and the County are liable for their own practices as well as the very well-documented practices of Centurion. These Defendants were on notice and had knowledge of the unconstitutional practices of the other and colluded and conspired with each other in the application of those practices to deny MCD inmates, including Mr. Gonzales the right to constitutionally protected medical care.

76. These Defendants were acting under the color of law resulting in cruel and unusual punishment against Mr. Gonzales.

77. Mr. Gonzales' injuries were caused by these Defendants' ongoing practice of routine denial of medical care to MCD inmates.

78. As a result of the unconstitutional acts or omissions of these Defendants, Mr. Gonzales suffered injury, including death, emotional distress, and pain and suffering, and as a result is entitled to all available damages under the Wrongful Death Act and the New Mexico Civil Rights Act, including punitive damages.

**COUNT IV: VIOLATION OF DUE PROCESS IN VIOLATION OF ARTICLE II,
§ 18 OF THE NEW MEXICO STATE CONSTITUTION AGAINST DEFENDANTS'
CENTURION AND THE COUNTY**

79. Each paragraph of this Complaint is incorporated as if fully restated herein.

80. Mr. Gonzales has a fundamental right to bodily integrity, personal safety, privacy, and freedom from unlawful invasion and violation of his person, and not to be subjected to an unsafe environment in which he was vulnerable to physical and emotional injury.

81. Defendants' actions and inactions were intentional, conscience-shocking, wanton, arbitrary and capricious, and in gross and reckless disregard of, and deliberately indifferent to, Mr. Gonzales' constitutional rights.

82. Defendants' conduct was especially egregious because it involved circumstances where they had time to deliberate rather than make quick decisions. They chose to subject Mr. Gonzales to these terrifying, degrading, and life-threatening circumstances—repeatedly, over time, and after deliberation.

83. Such treatment approximates torture, and its severity implicates Mr. Gonzales' substantive due process rights, particularly in the context of the state constitution, which provides broader protections than the federal constitution. These government actors were abusing their

power to the highest degree and wielding it as an instrument of oppression in violation of Mr. Gonzales' substantive due process rights.

84. As a result of the unconstitutional acts or omissions of these Defendants, Mr. Gonzales suffered injury, including death, emotional distress, and pain and suffering, and as a result is entitled to all available damages under the Wrongful Death Act and the New Mexico Civil Rights Act, including punitive damages.

COUNT V: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS IN VIOLATION OF NEW MEXICO COMMON LAW AGAINST INDIVIDUAL DEFENDANTS AND IN VIOLATION OF ARTICLE II, § 13 OF THE NEW MEXICO STATE CONSTITUTION AGAINST DEFENDANTS CENTURION AND THE COUNTY

85. Each paragraph of this Complaint is incorporated as if fully restated herein.

86. The deliberate denial of proper and necessary medical care to protect the health and safety of Mr. Gonzales was extreme, outrageous, socially reprehensible, and beyond the bounds of common decency.

87. Mr. Gonzales was totally reliant upon Defendants for the provision of necessary and proper medical care. Mr. Gonzales had no other source of medical care. Mr. Gonzales had no option in selecting his medical providers. As such, Defendants had a special relationship with Mr. Gonzales which gave them extraordinary, unilateral authority over the provision of necessary and proper medical care.

88. Defendants' conduct was extreme and outrageous undertaken with the intent to cause Mr. Gonzales severe emotional distress in violation of New Mexico common law and under Article II, § 13 of the New Mexico Constitution.

89. Mr. Gonzales did suffer severe emotional distress.

90. The conduct of the individual Defendants and Defendants Centurion and the County and their respective employees, staff, and agents was the cause of Mr. Gonzales' severe emotional distress, entitling Plaintiff to an award of compensatory and punitive damages.

**COUNT VI: NEGLIGENT OPERATION OF A PUBLIC BUILDING AGAINST
DEFENDANTS CENTURION UNDER NEW MEXICO COMMON LAW AND THE
COUNTY UNDER THE NEW MEXICO TORT CLAIMS ACT**

91. Each paragraph of this Complaint is incorporated as if fully restated herein.

92. At all relevant times, the Defendants, acting through their employees, agents, apparent agents, or contractors, who were acting within the scope of their employment, agency, apparent agency, or contract were negligent in the operation of the MDC.

93. In operating the MDC, the County and Centurion, its medical contractor, were all 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.

94. The County has the authority and control over the 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 the inmates, such as Mr. Gonzales.

95. Defendants failed to enforce any standards of care related to the monitoring of inmates and related to the medical care of inmates. Instead, Defendants implemented and ratified dangerous practices leading to extreme medical neglect of inmates under the care of Defendants, including Mr. Gonzales.

96. The Defendants' customs and practices created a general condition of unreasonable risk to inmates at the MDC due to negligent safety practices concerning identifying and addressing the medical needs of inmates.

97. The Defendants practice of breaching their own written policies and procedures and practice of breaching their duties in the operation of the MDC caused a foreseeable risk of injury to all inmates, created a specific foreseeable risk to Mr. Gonzales, and was the cause of Mr. Gonzales' death.

98. Defendants failed to exercise reasonable care to prevent and correct these dangerous conditions at the MDC, and in doing so, ignored the threats to prisoners' health and safety.

99. At all relevant times, Defendants were acting within the scope of their duties in the operation and/or maintenance of the MDC, as they were acting in relation to safety policies necessary to protect those who used this public building.

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

101. Specific to the County, immunity for any "public employee" is waived under NMSA 1978, § 41-4-6 as Plaintiff's injuries arose from an unsafe, dangerous, and defective condition on property owned and operated by the government.

**COUNT VII: NEGLIGENT OPERATION OF A MEDICAL FACILITY AGAINST
DEFENDANTS CENTURION UNDER NEW MEXICO COMMON LAW AND THE
COUNTY UNDER THE NEW MEXICO TORT CLAIMS ACT**

102. Each paragraph of this Complaint is incorporated as if fully restated herein.

103. In operating the MDC medical facility, these 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.

104. The County has authority and control over the MDC and the medical unit within the MDC.

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

106. Defendants did not enforce any standards of care related to the operation of the medical unit at the MDC. Instead, Defendants implemented and ratified dangerous practices leading to extreme medical neglect of inmates under the care of Defendants, including Mr. Gonzales.

107. The actions of all Defendants in the operation of the medical facility at the MDC caused harm to all inmates, including Mr. Gonzales.

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

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

**COUNT VIII: MEDICAL MALPRACTICE AGAINST DEFENDANTS
CENTURION AND ALL INDIVIDUAL MEDICAL PROVIDER DEFENDANTS**

110. Each paragraph of this Complaint is incorporated as if fully restated herein.

111. At all relevant times, the above Defendants were each healthcare providers providing health services to Mr. Gonzales.

112. In undertaking the diagnosis, care, and treatment of Mr. Gonzales, these Defendants had a duty to possess and apply the knowledge, skill, and care that was ordinarily used by reasonably well-operated medical facilities and well-qualified healthcare providers under similar circumstances, giving due consideration to the locality involved.

113. Centurion and its employees, staff, and agents, and the individually named medical providers at UNMH breached their duties and were negligent in the management of Mr. Gonzales' health and well-being.

114. The negligence, errors, and other acts and omissions of these Defendants include, but are not limited to:

- a) Failing to provide adequate staff and adequately trained staff at the MDC to care for inmates such as Mr. Gonzales, with the full knowledge that such inadequate staffing practices would place inmates such as Mr. Gonzales at risk of injury;
- b) Negligently hiring, retaining, training, and supervising staff at the MDC, with the full knowledge that such negligent staffing practices would place inmates such as Mr. Gonzales at risk of injury;
- c) Failing to recognize and/or conduct a comprehensive and timely medical evaluation of Mr. Gonzales;
- d) Failing to adequately diagnose, monitor, treat and manage Mr. Gonzales' medical condition; and
- e) Failing to recognize Mr. Gonzales' need for a higher level of care that could not be provided at the MDC.

115. Defendants' actions and failures to act fell below the standard of care to the detriment of Mr. Gonzales.

116. Defendants' actions and failures to act were at minimum, negligent, and were willful, wanton and in reckless disregard for the safety and well-being of Mr. Gonzales.

117. All acts or omissions done by Defendant Centurion and its employees, agents, and contractors, were done within the scope of their employment, agency, or contract.

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

119. As a result of the acts or omissions of these Defendants and its willful, wanton, and reckless conduct, Mr. Gonzales suffering injury, including death, emotional distress, and pain and suffering.

**COUNT IX: NEGLIGENT HIRING, TRAINING AND SUPERVISION AGAINST
DEFENDANTS CENTURION UNDER NEW MEXICO COMMON LAW AND THE
COUNTY UNDER THE NEW MEXICO TORT CLAIMS ACT**

120. Each paragraph of this Complaint is incorporated as if fully restated herein.

121. These Defendants were each responsible and had a duty to properly screen, supervise, educate, and train their employees, agents, and/or contractors operating the MDC.

122. Defendants were each responsible and had a duty to properly screen, supervise, educate, and train their employees, agents, and/or contractors regarding the proper treatment of inmates suffering from a known medical condition.

123. Defendants failed to train and supervise its employees, contractors, or agents in such a manner as to accurately assess, treat, and manage the medical needs of inmates, such as Mr. Gonzales, and/or to render aid to inmates with ongoing and emergent medical conditions.

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

125. These Defendants failed to take corrective action against employees, agents or contractors who it knew were not providing appropriate care in the management of the medical needs of inmates, such as Mr. Gonzales.

126. Defendants 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 inmates generally and specifically, the medical condition of Mr. Gonzales.

127. These failures, along with Defendants refusal to implement safety protocols to protect inmates such as Mr. Gonzales created dangerous conditions arising from the operation of the MDC.

128. The Defendants, in the exercise of reasonable care, should have been aware of the risks of failing to address the medical needs of inmates such as Mr. Gonzales and should have protected against the resulting harm by controlling the conduct of the County and Centurion personnel over which they had supervisory authority, including the individual Doe medical personnel and corrections officers.

129. These supervisory Defendants failed to use ordinary care in their training, staffing, and supervising practices and had knowledge that their practices created an unreasonable risk of injury to Mr. Gonzales and similarly situated MDC inmates.

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

131. Defendants violated their duty of care and failed to provide services necessary to safely operate a public prison facility and medical facility.

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

133. Specific to the County, immunity is waived for any "public employee" under NMSA 1978, § 41-4-6 because Defendants' negligent training, staffing, and supervision were

directly tied to the operation of the MDC building. The MDC was ordinarily dangerous even in the absence of Defendants' inadequate supervision and training, and these dangerous conditions required supervision and were known or should have been known to Defendants.

JURY DEMAND

134. Plaintiff respectfully demands a six-person jury on all issues so triable.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests judgment as follows:

A. The statutory damages legally allowable under the New Mexico Civil Rights Act against both Centurion and the County separately as distinct public bodies each individually liable for up to "the maximum recovery limit" outlined in NMSA § 41-4A-6;

B. Compensatory damages against all Defendants, in an amount to be determined by this Court under the New Mexico Tort Claims Act and New Mexico common law;

C. Punitive damages in an undetermined amount against Centurion and the Individual UNMH Defendants;

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

E. Reasonable attorneys' fees under the New Mexico Civil Rights Act; and

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

Respectfully Submitted,

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-and-

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