

UNITED STATE DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

JOSEPH REED,

PLAINTIFF

VS.

SOUTHWEST CORRECTIONAL MEDICAL  
GROUP, PLLC, WELLPATH, LLC,  
KINDRA L. PERRY, CHERYLL GOULD,  
MARTHA WARREN, STEVEN BROWN,  
BOBBIE PAGE, ROBERT BROSLOW, M.D.  
AND WICHITA COUNTY, TEXAS

DEFENDANTS.

CIVIL CASE NO. 7:21-CV-00126

JURY DEMANDED

**PLAINTIFF'S ORIGINAL COMPLAINT**

**SUMMARY:** This case concerns Defendants' deliberate indifference to the health and safety of Joseph Reed, a pre-trial detainee, by repeatedly ignoring his need for urgent medical care in violation of his constitutional rights. Defendants knew Mr. Reed's health was deteriorating but intentionally disregarded his urgent needs leaving him to lay in a solitary cell dying. Defendants' deliberate indifference and objective unreasonableness caused Mr. Reed to suffer acute organ failure, a coma, and to endure six surgeries following exposure to a toxic parasite at the jail. His condition continues to be critical.

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TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff files this Complaint and for cause of action shows the following.

**I. THE PARTIES TO THE COMPLAINT**

A. Joseph Reed. Plaintiff Joseph Reed (“Mr. Reed”) is a natural person who resides and is domiciled in Texas.

B. Wellpath, LLC. Defendant Wellpath, LLC (hereinafter, “Wellpath”) is a Delaware limited liability company with its headquarters in Nashville, Tennessee.

1. Defendant Wellpath, LLC (hereinafter, “Wellpath”) is a Delaware limited liability company with its headquarters in Nashville, Tennessee.

2. Wellpath provides contracted medical and mental health services to prisons across the United States, including the Wichita County jail.<sup>1</sup>

3. Wellpath is owned, operated, and controlled by H.I.G. Capital, LLC, a private equity firm.<sup>2</sup> Wellpath is the product of H.I.G. acquiring and joining several companies and then rebranding them as Wellpath.<sup>3</sup>

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<sup>1</sup> <https://higcapital.com/portfolio/company/403>

<sup>2</sup> October 1, 2018, H.I.G. Capital, LLC announced acquisition and joining of forces of CMGC (albeit CFMG) with Correct Care Solutions (“CCS”), creating a partnership with management, to be headquartered in Nashville Tennessee. <https://higcapital.com/news/release/1128>. This acquisition was rebranded and renamed The Wellpath Defendants, [https://en.wikipedia.org/wiki/Correct\\_Care\\_Solutions](https://en.wikipedia.org/wiki/Correct_Care_Solutions). CMGC website advertises that it was founded in 1983 (the year CFMG was created) and gives notice that “We are now The Wellpath Defendants!” See, [www.cmgc.com](http://www.cmgc.com).

<sup>3</sup> H.I.G. has owned Correctional Medical Group Companies (CMGC) since 2013. Through various acquisitions since, H.I.G. expanded CMGC’s portfolio beyond California Forensic Medical Group (CFMG) to include Southeast Correctional Medical Group, Midwest Correctional Medical Group, Northwest Correctional Medical Group, Southwest Correctional Medical Group. In October 2018, HIG Capital continued this expansion in October 2018, H.I.G. continued this expansion by acquiring Correct Care Solutions (CCS), which was previously owned by three private equity firms: Audax Group, GTCR and Frazier Healthcare Partners. Soon thereafter, CCS changed its name to Wellpath LLC.

4. Wellpath, through its employees, agents, representatives, and/or chief policymakers, acted and/or failed to act at all relevant times, and it is liable for such actions and/or failure to act to the extent allowed by law (including but not necessarily limited to law applicable to claims pursuant to 42 U.S.C. § 1983).

5. Wellpath acted at all times under color of state law, and their policies, practices, and/or customs were moving forces that caused constitutional violations, and resulting damages and injuries to Plaintiff, Joseph Reed.

6. Wellpath may be served with process by serving its registered agent: Corporate Creations Network, Inc., 5444 Westheimer, #1000, Houston, Texas 77056:

C. Southwest Correctional Medical Group, PLLC.

1. Defendant Southwest Correctional Medical Group, PLLC (hereinafter, “SCMG”) is a Texas professional limited liability company with its headquarters in Nashville, Tennessee.

2. SCMG provides contracted medical and mental health services to prisons including the Wichita County jail and its annex.

3. SCMG is owned and operated by H.I.G. Capital, LLC, a private equity firm.

4. In 2018, SCMG partnered with Wellpath to provide jail medical services across the United States, including the Wichita County jail.

5. Wellpath, and SCMG, through its employees, agents, representatives, and/or chief policymakers, acted and/or failed to act at all relevant times, and it is liable for such actions and/or failure to act to the extent allowed by law (including but not necessarily limited to law applicable to claims pursuant to 42 U.S.C. § 1983).

6. Wellpath, and SCMG acted at all times under color of state law, and their policies, practices, and/or customs were moving forces that caused constitutional violations, and resulting damages and injuries to Plaintiff, Joseph Reed. Henceforth, SCMG and Wellpath

will be referred to as the “The Wellpath Defendants.”

7. SCMG may be served with process by serving its registered agent: Corporate Creations Network, Inc., 5444 Westheimer, #1000, Houston, Texas.

D. Kindra L. Perry, RN.

1. Defendant Kindra L. Perry (hereinafter, “Nurse Perry”) is a natural person who resides in, is domiciled in, and is a citizen of Texas.

2. Nurse Perry is being sued in her individual capacity, and she acted at all relevant times under color of state law.

3. Nurse Perry was employed by the Wellpath Defendants at relevant such times and acted or failed to act in the course and scope of her duties for the Wellpath Defendants.

4. Nurse Perry was also acting at the behest of, as the agent of, and in the course and scope of her duties for Wichita County as a result of (1) Wichita County’s inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants referenced and/or described in Plaintiff’s Original Complaint in this case.

5. Nurse Perry may be served with process at: 4117 Mustang St. Wichita Falls, Texas 76306. Nurse Perry may also be served with process wherever she may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this Complaint and a summons directed to Nurse Perry at her dwelling or usual place of abode with someone of suitable age and discretion who resides there.

E. Cheryll Gould, RN.

1. Defendant Cheryll Gould (hereinafter, “Nurse Gould”) is a natural person who resides in, is domiciled in, and is a citizen of Texas.

2. Nurse Gould is being sued in her individual capacity, and she acted at all relevant

times under color of state law.

3. Nurse Gould was employed by the Wellpath Defendants at all relevant times and acted or failed to act in the course and scope of her duties for the Wellpath Defendants.

4. Nurse Gould was also acting at the behest of, as the agent of, and in the course and scope of her duties for Wichita County as a result of (1) Wichita County's inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants referenced and/or described in Plaintiff's Original Complaint in this case.

5. Nurse Gould may be served with process at: 338 Red Rock Road, Wichita Falls, Texas 77305. Nurse Gould may also be served with process wherever she may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this Complaint and a summons directed to Nurse Gould at her dwelling or usual place of abode with someone of suitable age and discretion who resides there.

F. Martha Warren, LVN.

1. Defendant Martha Warren (hereinafter, "Nurse Warren") is a natural person who resides in, is domiciled in, and is a citizen of Texas.

2. Nurse Warren is being sued in her individual capacity, and she acted at all relevant times under color of state law.

3. Nurse Gould was employed by the Wellpath Defendants at all relevant times and acted or failed to act in the course and scope of her duties for the Wellpath Defendants.

4. Nurse Warren was also acting at the behest of, as the agent of, and in the course and scope of her duties for Wichita County as a result of (1) Wichita County's inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants referenced and/or described in Plaintiff's Original Complaint in this case.

5. Nurse Warren may be served with process at: 709 West Manes, Iowa Park, Texas 76367. Nurse Warren may also be served with process wherever she may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this Complaint and a summons directed to Nurse Warren at her dwelling or usual place of abode with someone of suitable age and discretion who resides there.

G. Steven Brown.

1. Defendant Steven Brown (hereinafter, “Mr. Brown”) is a natural person who resides in, is domiciled in, and is a citizen of Texas.

2. Mr. Brown is being sued in his individual capacity, and he acted at all relevant times under color of state law.

3. Mr. Brown was employed by the Wellpath Defendants at all relevant times and acted or failed to act in the course and scope of his duties for the Wellpath Defendants.

4. Mr. Brown was also acting at the behest of, as the agent of, and in the course and scope of his duties for Wichita County as a result of (1) Wichita County’s inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants referenced and/or described in Plaintiff’s Original Complaint in this case.

5. Mr. Brown may be served with process at: 530 7<sup>th</sup> Street, No. 402, Wichita Falls, Texas 76301. Mr. Brown may also be served with process wherever he may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this complaint and a summons directed to Mr. Brown at his dwelling or usual place of abode with someone of suitable age and discretion who resides there.

H. Bobbie Page.

1. Defendant Bobbie Page (hereinafter, “Ms. Page”) is a natural person who resides in, is domiciled in, and is a citizen of Texas.



2. Ms. Page is being sued in her individual capacity, and she acted at all relevant times under color of state law.

3. Ms. Page was employed by the Wellpath Defendants at all relevant times and acted or failed to act in the course and scope of her duties for the Wellpath Defendants.

4. Ms. Page was also acting at the behest of, as the agent of, and in the course and scope of her duties for Wichita County as a result of (1) Wichita County's inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants referenced and/or described in Plaintiff's Original Complaint in this case.

5. Ms. Page may be served with process at: 1304 Christine Road, Wichita Falls, Texas 76302. Ms. Page may also be served with process wherever she may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this complaint and a summons directed to Ms. Page at her dwelling or usual place of abode with someone of suitable age and discretion who resides there.

I. Robert Broselow, M.D.

1. Defendant Robert Broselow, M.D. (hereinafter, "Dr. Broselow") is a natural person who resides in, is domiciled in, and is a citizen of Texas.

2. Dr. Broselow is being sued in his individual capacity, and he acted at all relevant times under color of state law.

3. Dr. Broselow was employed and/or contracted by the Wellpath Defendants at all relevant times and acted or failed to act in the course and scope of his duties for the Wellpath Defendants.

4. Dr. Broselow also acting at the behest of, as the agent of, and in the course and scope of his duties for Wichita County as a result of (1) Wichita County's inability to delegate its constitutional duties to a third party; and (2) the relationship between Wichita County and the Wellpath Defendants

referenced and/or described in Plaintiff's Original Complaint in this case.

5. Dr. Broselow may be served with process at: \_\_\_\_\_. Dr.

Broselow may also be served with process wherever she may be found or, pursuant to Federal Rule of Civil Procedure 4(e), by leaving a copy of this complaint and a summons directed to Dr. Broselow at his dwelling or usual place of abode with someone of suitable age and discretion who resides there.

Defendants Kindra L. Perry, Cheryll Gould, Martha Warren, Steven Brown, Bobbie Page, and Robert Broselow, M.D. are collectively referred to in this Complaint as the "Individual Defendants."

J. Wichita County, Texas.

1. Wichita County, Texas (hereinafter, "Wichita County") is a Texas county.
2. Wichita County acted or failed to act at all relevant times through its employees, agents, representatives, jailers, and/or chief policymakers, and through its designated jail healthcare and mental healthcare provider, the Wellpath Defendants, and is liable for such actions and/or failure to act to the extent allowed by law (including but not necessarily limited to law applicable to claims pursuant to 42 U.S.C. § 1983, the Americans with Disabilities Act, and the Rehabilitation Act). Wichita County's policies, practices, and/or customs were moving forces in causing constitutional violations, and resulting damages and injuries, referenced, and asserted in this Complaint.
3. Wichita County acted or failed to act under color of state law.
4. Wichita County cannot delegate its constitutional duties, to provide medical care and mental health care to its prisoners, the Wellpath Defendants and thereby avoid liability for constitutional violations committed by the Wellpath Defendants.
5. Wichita County has non-delegable duties to comply with the United States Constitution regarding prisoners in its care. Therefore, in addition and/or in the alternative to all

other allegations made in this Complaint, the Wellpath Defendants, to which Wichita County has delegated healthcare and mental health care of Wichita County prisoners, is liable under 42 U.S.C. § 1983, for actions and inactions of the Wellpath Defendants.

6. In the alternative or in addition, Wichita County and the Wellpath Defendants acted and/or failed to act together, in a partnership and/or joint enterprise, or pursuant to similar legal principles, to provide care or fail to provide care to prisoners in Wichita County's jails.

7. Thus, Wichita County is liable for the Wellpath Defendants' actions and inaction related to such purported care, and both Wichita County and the Wellpath Defendants are each liable for any policies, practices, and/or customs of the other which were moving forces behind and which caused violations and damages referenced in this Complaint. Wichita County may be served with process at:

K. State Actors Under 42 U.S.C. § 1983.

1. Medical care providers, employees, and agents (such as The Wellpath Defendants), employed by a government entity are state actors for 42 U.S.C. § 1983 purposes acting under color of law when treating inmates and/or implementing policies and practices regarding provision of medical care.

2. Private managers, executives, managers, owners, directors, board members, supervisors, (such as The Wellpath Defendants) employed to direct the delivery of medical care to inmates are state actors acting under color of law for purposes of § 1983.

3. At all material times, each of the Wellpath Defendants' supervisors, managers or executives were responsible for the hiring, retaining, training, and supervising of the conduct, customs, policies and practices of its member employees and agents of the Wellpath Defendants.

4. SCMG on information and belief with approval of Wellpath entered into a contract, and contract renewals, with Wichita County to provide for medical and mental health

services of those incarcerated and detained in Wichita County jail.

## **II. JURISDICTION**

### **A. Subject Matter Jurisdiction.**

1. The court has original subject matter jurisdiction over this lawsuit according to 28 U.S.C. § 1331 and 1343(4), because this suit presents a federal question and seeks relief pursuant to federal statutes providing for the protection of civil rights. This suit arises under the United States Constitution and federal statutes including but not necessarily limited to 42 U.S.C. § 1983, the Americans with Disabilities Act, and the Rehabilitation Act.

### **B. Personal Jurisdiction.**

1. The court has personal jurisdiction over Wichita County because it is a Texas county located within the Northern District of Texas.

2. The court has both general jurisdiction and specific jurisdiction over the Wellpath Defendants because the Wellpath Defendants regularly conduct business in Texas and in the Northern District of Texas, Wichita Falls Division, in a manner in which it would be expected to be haled into federal court in the Wichita Falls Division of the Northern District of Texas, and moreover, because its minimum contacts with the State of Texas, the Northern District of Texas, and specifically the Wichita Falls Division, are such that fundamental fairness would result in such jurisdiction.

## **III. VENUE**

### **A. Northern District of Texas, Wichita Falls Division.**

1. Venue is proper in the Wichita Falls Division of the United States District Court for the Northern District of Texas, pursuant to 28 U.S.C. § 1391(b)(1).

2. Wichita County is a Texas County and Individual Defendants are Texas residents, domiciled in Texas, and citizens of Texas. Further, the Wellpath Defendants regularly conduct

business in Texas and specifically in the geographic area covered by the United States District Court for the Northern District of Texas.

3. The Wellpath Defendants are subject to the court's personal jurisdiction in the Northern District of Texas, and specifically the Wichita Falls Division. There are more than sufficient contacts with the Northern District of Texas, and specifically the Wichita Falls Division, to subject the Wellpath Defendants to personal general jurisdiction.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. General Statement.**

1. Plaintiff provides in the factual allegations sections the general substance of certain factual allegations. Plaintiff does not intend that those sections provide in detail, or necessarily in chronological order, any, or all allegations. Rather, Plaintiff intends that these sections provide Defendants sufficient fair notice of the general nature and substance of Plaintiff's allegations, and further demonstrate that Plaintiff's claim(s) have facial plausibility. Whenever Plaintiff pleads factual allegations "upon information and belief," Plaintiff alleges that the specified factual contentions have evidentiary support or will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

##### **B. Plaintiff Joseph Reed**

1. Joseph Reed. Joseph Reed was born in Houston in 1956 and has lived his entire life in Texas. He is the father of two sons and lives in Dallas, Texas.

2. Mr. Reed suffered a tragic illness as a result of the conduct of Defendants Wichita County jail.

3. While in the Wichita County jail annex, Mr. Reed was exposed to a toxic parasite and was not diagnosed, assessed, and treated for the parasite while in jail, which led to a critical medical condition and near death.

4. As a result of the Wellpath and Individual Defendants failure to diagnose and treat Mr. Reed for the parasite, he fell into a coma, underwent multiple surgeries, and suffers from permanent and continuing complications and injuries. Mr. Reed now must wear a colostomy bag due to his injuries.

5. Mr. Reed's medical condition remains critical with a seventh surgery scheduled.

6. The Individual Defendants' deliberate indifference and objective unreasonableness in their actions and inaction, and Wichita County's, and the Wellpath Defendants' policies, practices, and/or customs, caused, were proximate causes of, and were producing causes of Mr. Reed's suffering, permanent injuries, disfigurement, disabilities, and all other damages set forth in this Complaint.

C. The Wellpath Defendants – Providers of Correctional Medical Care

1. The business of providing, or in some situations, not providing, healthcare and mental healthcare to prisoners in county jails throughout the United States is a multi-billion-dollar industry.

2. There are huge profits to be made by private companies promising and/or contracting to provide medical services to prisoners.

3. The Wellpath Defendants, which are private companies, are the largest provider of jail healthcare in the U.S.

4. The Wellpath Defendants are the most profitable private provider of jail healthcare services in the United States. A study by Reuters analyzing jail death records found that the risk of death in privately managed jails is 18-58% higher than those managed by local government.<sup>4</sup>

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<sup>4</sup> <https://www.reuters.com/investigates/special-report/usa-jails-privatization/>. Jails with publicly managed medical services, usually run by the sheriff's office or local health department, had an

5. The Wellpath Defendants earn million-dollar jail contracts by proposing all the bells and whistles of correctional healthcare to county government officials.

6. The Wellpath Defendants promise to provide cost-effective, professional, and accountable health care programs to include medical, dental, and pharmaceutical services, on-site testing and diagnostics, records management, reporting requirements, billing activities, training, and quality oversight.

7. The Wellpath Defendants sell the government officials on their ability to oversee the delivery of the jail's healthcare program without the government officials having to manage the day-to-day operations or shoulder the risk and liabilities of getting sued for providing inadequate care.

8. The Wellpath Defendants can cut corners, short treatment, and understaff, to make big money.

9. The Wellpath Defendants are willing to take the liability risk of providing substandard medical treatment to prisoners.

10. The Wellpath Defendants understand the aggrieved parties complaining of substandard medical care are usually poor, uneducated people with a credibility problem due to their criminal history.

11. Moreover, the Wellpath Defendants understand the higher standards and tougher legal hoops victims must jump to prove a constitutional violation in such cases.

12. The control of prison healthcare by companies owned and controlled by private equity firms such as H.I.G. and the Wellpath Defendants is a concern of the U.S. Congress as evidenced by its *Stop Wall Street Looting Act* introduced in 2019 to increase financial and legal

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average of 12.8 deaths per 10,000 inmates in that time. Jails with healthcare provided by one of the five companies had an additional 2.3 to 7.4 annual deaths per 10,000 inmates. The death rates were 18% to 58% higher, depending upon the company. Dying Inside. The Hidden Crisis in American Jails. Part Two. Jason Szep, Ned Parker, Grant Smith, Peter Eisler, October 26, 2020.

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liability for private equity funds such as H.I.G.<sup>5</sup>

13. Under the agreements between Wellpath and H.I.G., H.I.G. has no liability for any of its acts or omissions and has indemnity from Wellpath.

Standard of Care. The Consultant [H.I.G.] (including any person or entity acting for or on behalf of the Consultant) shall not be liable for any mistakes of fact, errors of judgment, for losses sustained by the Company or any of its subsidiaries or for any acts or omissions of any kind (including acts or omissions of the Consultant), unless caused by intentional misconduct of the Consultant as finally judicially determined by a court of competent jurisdiction.<sup>6</sup>

14. H.I.G. takes the profits and gives its liabilities to Wellpath.

15. The Wellpath Defendants currently provide correctional medical and/or mental health care services in 35 or more states across the United States.

16. In Texas, the Wellpath Defendants ~~pro~~vide medical services to Texas jails including those in Bell County, Collin County, Ellis County, Fort Bend County, Hays County, Kerr County, Montgomery County, Nueces County, Reeves County, Wichita County, and several federal prisons.

17. The Wellpath Defendants managed and operated the medical care for Wichita County while Joseph Reed was an inmate in 2019.

18. The Wellpath Defendants have been named in thousands of lawsuits. Wellpath's predecessor entity was forced to turn over its litigation history in a Colorado federal court showing over 1400 federal lawsuits against it as of 2018.<sup>7</sup>

19. Wichita County knew about the Wellpath Defendants history of being sued for

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<sup>5</sup> Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.

<sup>6</sup> "Professional Services Agreement" between CCS-CMGC Holdings, Inc. and H.I.C. Capital, LLC., 2018, p. 5.

<sup>7</sup> <https://www.pogo.org/document/2018/10/list-of-federal-lawsuits-filed-against-correct-care-solutions-and-companies-it-has-acquired/>



constitutional violations at the time it chose them to run the medical care services.

20. The Wellpath Defendants routinely provide their litigation history to governments as part of its proposals to governments.

21. Based on information and belief, the Wellpath Defendants litigation history was provided to Wichita County.

22. Privatization of jail medical care in the United States is big business where the companies aren't afraid to take risks, even if criminal.

23. Gerald Boyle, the founder of Wellpath, was indicted in 2019 for federal conspiracy and bribery charges, including giving cash and gifts to government and political officials in exchange for favors for his company, Wellpath, including jail medical services contract extensions and renewals, as well as inside bidding information.<sup>8</sup> His trial set for October 2021.

24. Wichita County continued to employ the Wellpath Defendants to take care of its prisoners despite their leadership's illegal conduct and history of significant litigation brought by injured prisoners.

#### D. The Wellpath Defendants' Contract with Wichita County

1. Wichita County first contracted with SCMG in 2016, and possibly earlier, to provide medical and dental care services to inmates and detainees at the Wichita County jail, its annex, and the juvenile detention center.

2. Wichita County paid \$2.684 million annually, or \$223,700.98 a month to SCMG in 2019 when Mr. Reed was at the Wichita County jail.<sup>9</sup>

#### E. Joseph Reed's Arrest and Transfer to Wichita County Jail

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<sup>8</sup> *USA v. McCabe et al*, In the United States District Court Virginia, Eastern Division, Cause No. 2:19cr171.

<sup>9</sup> June 28, 2020, Contract Amendment to Judge Woodrow Gossom, "Letter of Agreement," p.6  
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1. Mr. Reed was arrested in Dallas County, Texas on November 11, 2019, on an outstanding warrant for a “forged instrument” from Wichita County, Texas. Wichita County Sheriff’s Office picked up Mr. Reed from Dallas on November 18, 2019, transported him to Wichita Falls, and booked him into the Wichita County jail.

2. Mr. Reed was never charged or convicted of any crime related to the Wichita County warrant.

3. Ultimately, the hot check charge was dismissed due to Mr. Reed’s severe and life-threatening parasite infection and illness and Wichita County’s desire to be free of responsibility for the hospital bill.

4. While in the Wichita County jail’s annex building, Mr. Reed filed several grievances including one against the Wellpath Defendants on December 8, 2019, for failure to protect the confidentiality of the inmates’ private medical information when addressing inmates’ sick calls.

5. Medical consultations were held at the cell bars within earshot of all other inmates nearby. Mr. Reed also filed a grievance against jail guards Russo and Briscoe alleging excessive, abusive, and disparate treatment among inmates, and for requiring him to use chemicals for cleaning without personal protective equipment or safety information.

6. All the grievances were heard after Mr. Reed’s release and were deemed unfounded.

7. A little over a month after Mr. Reed was booked into the Wichita County jail, he suffered a life-threatening parasite infection and illness as a result of the lack of medical care he received at the jail.

8. Mr. Reed was exposed to a toxic parasite, cryptosporidium, that was not diagnosed, assessed, and treated by the Wellpath and Individuals Defendants.

9. The Defendants' failure to diagnose, assess, and treat Mr. Reed led to a body-wide serious infection and organ failure. Mr. Reed suffered a coma, multiple surgeries and emergency room admissions from 2019 to 2021.

10. When Mr. Reed arrived from the Wichita County jail, the doctors placed him in palliative care.

11. The Individual Defendants' deliberate indifference and objective unreasonableness in their actions and inaction, and Wichita County's, the Wellpath Defendants' policies, practices, and/or customs, caused, were proximate causes of, and were producing causes of Mr. Reed's suffering, permanent injuries, disfigurement, and damages, which are ongoing.

12. Mr. Reed was released from the custody of Wichita County on January 5, 2020, by order of Magistrate Meredith Kennedy due to the "extreme medical circumstances surrounding the Defendant."

13. Mr. Reed was never convicted of any crime related to his Wichita County detainment.

14. Wichita County intentionally discharged Mr. Reed as soon Wichita County and the Wellpath Defendants realized that Mr. Reed may not survive.

15. Mr. Reed was receiving medical treatment in Wichita County's jail for an illness and injuries caused by Wichita County and the Wellpath Defendants but released him to save money on his medical expenses, which to date remain outstanding.

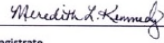
**Order to Release**

BN-02459-2019

State of Texas                      E                      Office of Bond Management  
VS                                      E                                      Of  
Joseph Reed                      E                                      Wichita County, Texas

Due to the extreme medical circumstances surrounding the above named defendant, it is ordered that he shall be released immediately from the custody of Wichita County.

Signed on this the 5<sup>th</sup> day of January, 2020.

  
Meredith L. Kennedy  
Magistrate

DATE	SUMMARY OF DEFENDANTS' DELIBERATE INDIFFERENCE
11/18/19	Jail Intake Medical Assessment.
	Inmate's weight was 185 and it is recorded that he has hypertension requiring blood pressure monitoring.
12/19/19	Inmate started feeling ill with gastrointestinal issues, pain, and diarrhea.
	Inmate refused dinner.
12/20/19	Inmate ill with gastrointestinal issues, pain, and diarrhea.
	Inmate did not eat breakfast due to his illness.
	Inmate placed urgent sick call c/o gastrointestinal issues, inability to eat, and liquid stools for over a week.
	Inmate did not eat lunch due to his illness.
	Inmate did not eat dinner due to his illness.
	11:43 PM Inmate's sick call entered; Shedara Wilson scheduled a medical appointment for 12/21/19.
12/21/19	Inmate was not taken to the medical clinic for his 12/21/19 appointment.
	Inmate did not eat breakfast due to his illness.
	Inmate placed a second urgent sick call c/o gastrointestinal issues, food going directly to intestines and passing as liquid and gas only and requested a diet of broth and crackers.
	Inmate did not eat breakfast due to his illness.
	Inmate did not eat lunch due to his illness.
	Inmate did not eat dinner due to his illness.
	Inmate's blood pressure and pulse taken by Steven Brown per hypertension chronic care plan; inmate was not evaluated or treated for pending urgent sick calls on 12/21/19.
	11:29 PM Bobbie Page entered Inmate's second sick call and scheduled a medical appointment.
12/22/19	12:00 AM Inmate's pending medical appointment was deleted by Cheryl Gould, RN.
	Inmate not taken to the clinic.
	Inmate placed a third urgent sick call at breakfast complaining in all caps "NEED NURSE. HAVEN'T EATEN A FULL MEAL IN 4 DAYS."
	7:29 AM Inmate's medical appointment was re-scheduled by Cheryl Gould, RN.
	Inmate did not breakfast due to his illness.
	Inmate did not eat lunch due to his illness.
	2:48 PM Inmate's pending urgent sick call/medical appointment was deleted by Cheryl Gould, RN.
	Inmate did not eat dinner due to his illness.
	11:49 PM Inmate's third sick call was entered and a medical appointment was scheduled by Martha Warren, LVN for 12/23/19.
	11:50 PM Inmate's pending medical appointment was deleted by Martha Warren, LVN.
	Inmate was not evaluated or treated for his pending urgent sick calls on 12/22/19.
12/23/19	Inmate did not eat breakfast due to his illness.
	Inmate asked the guard at breakfast to see a nurse for his pending sick calls.
	Inmate did not eat lunch due to his illness.
	Inmate did not eat dinner due to his illness.
	Inmate had now missed 14 meals due to his inability to eat.
	11:31PM Steven Brown entered inmate's nurse sick call and scheduled a medical appointment for 12/24/19.
12/24/19	7:57AM Carolyn Holley cancelled and rescheduled inmate's pending medical appointment.

	Inmate placed a fourth urgent sick call c/o has not been able to eat for days; no solid stools over a week.
	1:38PM MD sick call scheduled by Carolyn Holley for 12/30/19 for inmate to see jail doctor, Robert Broslow, M.D.
	Corporeal Holly C Johnston #2962 noticed inmate's deteriorating condition and took inmate to medical.
	2:18PM inmate's vitals taken by Kindra Perry, RN. Weight was 165 (down 20 lbs), blood pressure 100/72 (too low), and pulse 102 (high).
	Kindra Perry RN ordered Imodium, Gas-X and Gatorade (not approved by jail physician until 6 days later).
	Kindra Perry RN did not treat or address inmate's low blood pressure, 20 lb weight loss, or high pulse; jail supervising physician was not informed.
12/25/19	Blood draw was attempted but rescheduled due to severe dehydration.
	Inmate's vitals were not taken despite abnormal readings on 12/24/19.
	No one from medical followed up on inmate's gastrointestinal illness.
12/26/19	Inmate refused medication.
	Inmate refused breakfast.
	Inmate's weight was recorded at 162.2, a 3 lb loss in one day.
	A blood draw was attempted 3 times but cancelled due to inmate's severe dehydration. Inmate told Christopher Manasco (medical staff at blood draw attempt), that he was still sick and could not keep anything down.
	Inmate did not receive medical treatment, assessment, or evaluation.
	Inmate's vitals were not taken despite abnormal readings on 12/24/19.
12/27/19	6:37AM Jail staff informed medical that inmate refused breakfast.
	Inmate was moved to "segregated nursing" by wheelchair; inmate could not walk due to weakness from severe medical condition and dehydration.
	Inmate's vitals were not taken despite abnormal readings on 12/24/19.
	Inmate did not receive medical treatment, assessment, or evaluation.
12/28/19	6:25AM Josh Simpkins (medical) notes inmate refused breakfast.
	3:27AM Cheryl Gould, RN notes inmate refused breakfast and lunch.
	No vitals were taken despite abnormal vitals on 12/24/19.
	Rounding logs note: "lying right, movement observed to verify life"
	Inmate did not receive medical treatment, assessment, or evaluation.
12/29/19	5:45PM Andrea Eptom (medical) notes inmate refused all meals and medications.
	Rounding logs note: "lay right, movement."
	No vitals were taken despite abnormal vitals on 12/24/19.
	Inmate did not receive medical treatment, assessment, or evaluation.
12/30/19	1:32PM inmate brought to medical to see Robert Broselow, M.D.
	Dr. Broselow noted inmate was "weak, sitting over chair looking at floor, dehydrated, with foul odor."
	Blood pressure, 70/40.
	Weight 156 (29 lb loss)
	Dr. Broselow sent inmate to ER at United Regional Medical Center, Wichita Falls, Texas. (URMC)
12/31/19	Jail medical called hospital for medical status of inmate.
	Inmate is + for cryptosporidium
1/4/20	Jail medical called hospital for medical status of inmate.
	Inmate is "not doing good;" had major surgery; "very critical condition."
1/5/20	Inmates hot check charges were dismissed by Wichita County due to his "extreme medical circumstances."

#### F. Joseph Reed's Baseline Medical Condition at Jail Intake was Normal

1. Mr. Reed was 63 when he entered the Wichita County jail as a pre-trial detainee and was generally in good health.
2. Mr. Reed's weight on admission was 185 pounds, his blood pressure was 138/80, pulse was 68, respirations 18, temperature 98.0 and oxygen saturation was 99.0%.
3. Mr. Reed's vitals were all within normal limits when he entered the Wichita County jail.
4. Mr. Reed was noted at intake to have hypertension and a skin rash. A "chronic care" medical appointment was scheduled for December 9, 2019, with the onsite medical clinic, provided by

the Wellpath Defendants.

5. On December 9, 2019, Mr. Reed was seen by the Wellpath Defendants nurse, Rebecca Hamilton, APRN. His weight was 181 pounds, blood pressure 100/80, pulse 96, respirations 22, temperature 98.0, oxygen saturation 96.0. Medications at that time were Atarax 25mg as needed for anxiety, Naproxen 250mg twice daily (an NSAID for pain) and Robaxin, a muscle relaxer. Robaxin was discontinued at this visit. Lab work including CBC, CMP, Lipids, TSH, ESR (all routine lab work) was ordered at this visit by Rebecca Hamilton, APRN, to be completed in 3 weeks. She also ordered Mr. Reed's blood pressure to be checked twice per day on Tuesday, Thursday, and Saturday for 2 weeks to ensure his blood pressure was within an appropriate range given his hypertension. A follow up appointment was scheduled for 30 days.

G. Joseph Reed's Sudden Onset of Illness from Parasite Exposure

1. A few days after the appointment with Rebecca Hamilton, APRN, Mr. Reed started having severe gastrointestinal issues and abdominal pain.

2. Mr. Reed attempted to tolerate the gastrointestinal issues and abdominal pain but by December 19, 2019, his appetite had slowed significantly, he was having excessive abdominal pain and liquid diarrhea, and could hardly eat anything without it being quickly expelled as diarrhea.

H. Joseph Reed's Constitutionally Inadequate Medical Care at Wichita County Jail

1. With the gastrointestinal issues worsening, on December 20, 2019, Mr. Reed made a high priority "nurse sick call" to the jail's medical clinic run by the Wellpath Defendants.

2. A "nurse sick call" is an inmate's request to be seen and assessed by a nurse or physician for a health concern.

3. According to the Wellpath Defendants' sick call protocol, the nurse sick calls are to be timely reviewed and triaged by qualified staff every day, seven days a week.

4. Prisoners requesting a sick call are to receive a "face-to-face consultation" the

next scheduled clinic day, or if urgent, are to be seen the same day.



Klamath County Jail Medical Services

#### **Sick Call and Triage**

A responsible triage and sick call program is one of several critical operating systems for adequately and expeditiously caring for patients with onset of acute or semi-chronic symptoms, other than those requiring emergency care. The Wellpath sick call process ensures that patients have access to medically necessary healthcare services. A combination of nurses, mid-level providers, and physicians provide sick call services as defined within their scope of practice. We allocate sufficient healthcare staff for the sick call process to allow patients to be seen in a timely manner according to NCCCHC and ACA standards.

Intake staff advise arrestees of their right to access care and the process for requesting healthcare services. We communicate this information verbally and in writing in a language the arrestee understands. We make provisions to ensure that arrestees who do not speak English understand how to obtain healthcare.

Patients have access to sick call request forms that meet all standards and guidelines. Security staff can also make referrals if they have concerns for an individual's health status. All medical complaints are recorded, along with a recommended intervention and referral to appropriate healthcare staff.

Wellpath ensures that patients have unimpeded access to routine and emergency care at all times regardless of their location, custody level, or status. If a patient is unable to attend a sick call session due to custody status (e.g., restricted housing) or as a result of physical condition, we conduct sick call services at the patient's cell.

Healthcare services comply with state and federal privacy mandates. We understand the importance of decentralized services for minimizing inmate movement, so we conduct sick call services and nursing encounters in housing units to the fullest extent possible.

#### **Nurse Triage and Follow-up**

Qualified nurses conduct sick call triage seven days a week, including holidays. Following the collection of healthcare request forms each day, a nurse reviews and prioritizes sick call requests. Following the triage of sick call requests, patients receive a face-to-face consultation at the next scheduled nurse sick call, which also takes place seven days a week.

The sick call nurse assigns each sick call request a disposition of Urgent, Priority, or Routine, and each patient is addressed within the appropriate timeframe. Requests that are triaged as emergent receive immediate attention. Urgent requests are scheduled for the next provider sick call clinic. Should the need arise outside the scheduled sick call, patients requiring urgent or emergent medical attention are seen the same day.

5. In his December 20, 2019, urgent nurse sick call, Mr. Reed wrote: “haven’t been able to eat for three days. . .solid foods go directly to intestines and pass as gas and brown liquid.”<sup>10</sup>

6. A medical appointment was scheduled by SheDara Wilson, a medical assistant, but was later canceled without reason by Cheryl Gould, RN.

<sup>10</sup> Jail Medical Records, “Full Patient History,” p. 88

7. Mr. Reed was not seen, assessed, or examined by nursing staff on December 20, 2019.

8. And, Mr. Reed did not have a “face-to-face consultation” the next day, December 21, 2019, as required by the Wellpath Defendants’ sick call policy.

9. On December 21, 2019, Mr. Reed’s sent another high priority nurse sick call stating, “have not been able to eat for days and also have not had a solid stool (brown liquid for over a week).”<sup>11</sup>

10. Mr. Reed’s blood pressure and pulse was checked on December 21, 2019, as previously ordered by Rebecca Hamilton, APRN for chronic care follow up.

11. Mr. Reed’s weight was not taken on December 21, 2019. It is noted that Mr. Reed’s pulse was 116, which is high.

12. There is no evidence that Mr. Reed’s vitals’ readings were sent to or reviewed by any medical staff, including the nurse, Rebecca Hamilton, APRN, who ordered the checks.

13. No medical care, assessment, examination, or face-to-face consultation was done concerning Mr. Reed’s December 21, 2019, urgent nurse sick call issues of severe gastrointestinal issues and liquid diarrhea.

14. A medical appointment was scheduled by Bobbie Page (title unknown) in response to the pending nurse sick call, but that appointment was later deleted by Cheryll Gould, R.N.

15. In addition to the Wellpath Defendants’ policy requiring that all nurse sick calls be triaged each day and set for immediate or the next day face-to-face consultation, the Wellpath Defendants also had a policy on how to triage each call known as Nursing Documentation Pathways, or NDP.

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<sup>11</sup> *Id.*



16. The NDP is a decision tree process for nurses to follow and document.

17. According to the Wellpath Defendants, its nurses are trained how to use NDP for triaging patient complaints such as gastrointestinal issues, abdominal pain, and hypertension – conditions that Mr. Reed had, and which were the reason for his urgent sick calls.

18. There is no evidence that any of the Wellpath nursing staff or Individual Defendants followed the NDP protocol to triage Mr. Reed's urgent medical complaints.



Klamath County Jail Medical Services

During triage, the nurse initiates referrals for patients needing consultation with the medical provider. If the patient needs to see more than one provider (i.e., medical, dental, and/or mental health), we make additional referrals. The nurse documents the referral on the request form.

#### Nursing Documentation Pathways

Wellpath nurses conduct sick call using Nursing Documentation Pathways (NDPs), which our physicians developed to assist nurses with treatment recommendations and promote consistent caregiving. The NDPs provide a **consistent structure for patient care, justification for actions, and a set of interventions specific to the patient's presenting condition**. Their purpose is to give nurses information regarding specific health conditions or complaints so they can reach logical conclusions from their observations, then provide appropriate intervention and follow-up.

In its simplest form, a Nursing Documentation Pathway is a decision-tree process for nurses to follow, which also improves ease of training and **maximizes practitioners' time**. All Wellpath nurses are trained to use the NDPs, which cover topics such as:

- |   |   |
|---|---|
| <input type="checkbox"/> Abdominal Pain                             | <input type="checkbox"/> Hypoglycemia                           |
| <input type="checkbox"/> Allergic Reaction – Emergent               | <input type="checkbox"/> Male-specific Complaints               |
| <input type="checkbox"/> Altered Mental Status                      | <input type="checkbox"/> Musculoskeletal Complaints             |
| <input type="checkbox"/> Behavioral Health Complaint                | <input type="checkbox"/> Neurological Impairment                |
| <input type="checkbox"/> Chest Pain                                 | <input type="checkbox"/> Nosebleeds                             |
| <input type="checkbox"/> Cold/Allergy Symptoms                      | <input type="checkbox"/> Pregnancy, 20 Weeks or More            |
| <input type="checkbox"/> Conditions Not Requiring Medical Treatment | <input type="checkbox"/> Pregnancy Less Than 20 Weeks           |
| <input type="checkbox"/> Dental Complaints/Pain                     | <input type="checkbox"/> Respiratory Complaints                 |
| <input type="checkbox"/> Ear Complaints                             | <input type="checkbox"/> Self-injurious Behavior                |
| <input type="checkbox"/> Eye Complaints                             | <input type="checkbox"/> Skin Problems                          |
| <input type="checkbox"/> Female-specific Complaints                 | <input type="checkbox"/> Trauma                                 |
| <input type="checkbox"/> Fever                                      | <input type="checkbox"/> Urinary Complaints                     |
| <input type="checkbox"/> Gastrointestinal Complaints                | <input type="checkbox"/> Use of Force                           |
| <input type="checkbox"/> Headache                                   | <input type="checkbox"/> Withdrawal, Alcohol and Benzodiazepine |
| <input type="checkbox"/> Heat-related Illness                       | <input type="checkbox"/> Withdrawal, Opiate                     |
| <input type="checkbox"/> Hyperglycemia                              | <input type="checkbox"/> Wounds                                 |
| <input type="checkbox"/> Hypertension                               |   |

The NDPs manual for each facility is subject to approval by facility administration. The site Medical Director reviews the manual annually and the Wellpath Nursing Department makes the necessary updates. The site HSA and/or DON instructs the nursing staff on revisions, as applicable.

19. On December 22, 2019, Mr. Reed's sent another high priority nurse sick call written in all capital letters, "NEED NURSE. HAVEN'T EATEN A FULL MEAL IN FOUR

Plaintiff's Original Complaint

DAYS.”<sup>12</sup>

20. A medical appointment was scheduled by Martha Warren, LVN, but then deleted that same day as a “duplicate sick call.”

21. Mr. Reed did not receive any medical assessments, triage, or treatment concerning his urgent medical needs on December 22, 2019, or the day before, or the day after.

22. On December 23, 2019, Mr. Reed’s asked the guard at breakfast to see a nurse in response to his urgent medical calls.

23. Mr. Reed was not examined or treated on December 23, 2019.

24. On December 24, 2019, Mr. Reed put in another high priority nurse sick call requesting to see a nurse. This was his fourth urgent sick call.

25. A medical appointment was scheduled by Steven Brown (title unknown) and rescheduled again without reason by Cheryll Gould, R.N.

26. Later that day, Mr. Reed’s cell block guard, Holly Johnston, noticed his poor condition and that he was not eating and took him to the medical clinic.

27. Between December 20 and December 24, 2019, Mr. Reed made 4 separate urgent nurse sick calls.

28. In all four sick calls, Mr. Reed complained of abdominal pain and severe liquid diarrhea.

29. The four sick calls and complaints of abdominal pain and severe liquid were given to the Wellpath Defendants.

30. Mr. Reed’s four sick calls each were supposed to be triaged according to Wellpath’s policy.

31. Mr. Reed’s four sick calls each were not triaged.

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<sup>12</sup> *Id.*

32. Mr. Reed's four sick calls were seen by Individual Defendants Perry, Gould, and Warren and medical assistant SheDara Wilson each time.

33. Six or more Wellpath nursing staff members were informed and aware of Mr. Reed's urgent need for medical care between December 20 and 24, 2019, but deliberately and with conscious indifference, ignored Mr. Reed's sick calls, did not go to his cell to see, or assess him, did not triage his complaints, did not schedule him for a face-to-face consultation as required by policy, and did not attempt to take any history of the medical issues and complaints.

34. Medical appointments were set for each of these sick calls but then unilaterally cancelled by nurses Warren and Gould without explanation or medical reason leaving Mr. Reed to deteriorate without any treatment.

35. The jail physician, Robert Broselow, M.D. did not take action with respect to Mr. Reed's urgent sick calls.

36. Wichita County did not take any action with respect to Mr. Reed's urgent sick calls.

I. Cheryll Gould, RN – Wellpath Nurse

1. Cheryll Gould is a registered nurse employed by the Wellpath Defendants. Nurse Gould received her nursing license in 2014.

2. Upon information and belief, she is permitted to practice in Texas and was a licensed nurse at the time she interacted with Mr. Reed in December 2019, in the Wichita County jail, when he was critically ill and without constitutionally adequate medical care.

J. Cheryll Gould, RN's Failure to Triage and/or Schedule Mr. Reed's Sick Calls

1. Nurse Gould was responsible for intaking, assessing, and triaging sick calls made by Mr. Reed.

2. According to the jail records, Nurse Gould deleted and/or canceled at least three urgent sick calls where Mr. Reed made clear that he was suffering and in need of urgent medical care.

3. Nurse Gould deleted and/or canceled his medical appointments, without justification or explanation on December 20, 21, and 24, 2021 and did not follow the Wellpath Defendants' nurse sick call protocol for managing and triaging nurse sick calls.

4. Nurse Gould did not treat, assess, consult, or diagnose Mr. Reed on December 20, 21, or 24.

K. Martha Warren, LVN – Wellpath Nurse

1. Martha Warren, LVN, has been licensed as a LVN since 1976. Upon information and belief, she is permitted to practice in Texas and was a licensed nurse in December 2019, in the Wichita County jail, when Mr. Reed was critically ill.

L. Martha Warren, LVN's Failure to Triage and/or Schedule Mr. Reed's Sick Calls

1. Nurse Warren was also responsible for intaking, assessing, and triaging sick calls made by Mr. Reed. According to the jail records, Nurse Warren deleted and/or canceled an urgent sick call where Mr. Reed made clear that he was suffering and in need of medical care.

2. Nurse Warren deleted and/or canceled his medical appointment on December 22, 2019, without justification or explanation and did not follow the Wellpath Defendants' nurse sick call protocol for managing and triaging nurse sick calls.

3. Nurse Warren did not treat, assess, consult, or diagnose Mr. Reed on December 22, 2019.

M. Kindra Perry, RN – Wellpath Nurse

1. Kindra Perry is a registered nurse who received her nursing license in 2016 from the New Mexico Board of Nursing.

2. Upon information and belief, Nurse Perry is permitted to practice in Texas under the Nurse Licensure Compact, which allows reciprocity of participating states. However, she has not changed her address to Texas or registered with the Texas Board of Nursing.

3. Upon information and belief, Nurse Perry was a licensed nurse at the time she interacted with Mr. Reed in December 2019, in the Wichita County jail. Nurse Reed was also the Health Services Administrator for the Wichita County jail during the period of Mr. Reed's detainment and period of December 19 to December 30, 2019, when he was critically ill.

N. Joseph Reed's Evaluation by Kindra Perry, RN on December 24, 2019

1. On December 24, 2019, Mr. Reed was taken to the medical clinic by a guard, Holly Johnston, who observed his worsening condition and lack of medical care.

2. Mr. Reed did not have a scheduled appointment at the clinic on December 24, 2019, despite making urgent sick calls made over the past four days.

3. Nurse Perry recorded Mr. Reed's vitals including weight at 165 pounds, a 20-pound loss since his jail admission 35 days earlier.

4. Mr. Reed's blood pressure was 100/72, which is low for someone diagnosed with hypertension. Mr. Reed's pulse was 102, which is high.

5. Low blood pressure coupled with a high pulse are signs of a serious medical condition such as sepsis or a blood infection.

6. Mr. Reed's vitals taken on December 24, 2019, collectively, indicate that his health condition was objectively "sufficiently serious" such that immediate medical attention was required, or transportation to a higher level of care.

7. By December 24, 2019, Mr. Reed had lost 30 pounds in 35 days, which indicates a severe medical condition.

8. Any delay or denial treatment, knowing these medical facts including the aberrant vitals and significant weight loss in a short amount of time, presently before the Wellpath Defendants would cause Mr. Reed to suffer permanent injuries or death.

9. But Nurse Perry did not treat Mr. Reed's medical concerns seriously on December 24, 2019, or any time thereafter.

10. Nurse Reed did notify any other medical staff, and she did not consult with or notify the jail physician to discuss Mr. Reed or to determine what treatment was required.

11. Nurse Perry did not order a stool sample, which was reasonable given Mr. Reed's history of a week of watery diarrhea and 20-pound weight loss.

12. Nurse Perry had access to stool sampling supplies at the jail but did not use them for Mr. Reed. As detailed in the Wellpath Defendants' policies and protocol, there were on-site laboratory supplies and testing kits for stool samples all available to staff.



Klamath County Jail Medical Services

treatment plans, with the goal of enhancing their physical and mental health and **reducing the likelihood of recidivism**.

#### V.a.2. Laboratory and Other Testing Services

Wellpath authorizes, schedules, and coordinates necessary diagnostic services, including phlebotomy, X-ray, EKG, and ultrasound services. Healthcare staff make referrals for diagnostic services and prioritize tasks for appointment scheduling through our Care Management system. Wellpath provides the necessary follow-up care for health problems identified by any health screenings or diagnostic tests.

Consistent with the Wellpath care philosophy, diagnostic services are provided on site to the extent possible. We provide the necessary staff and supplies for on-site care and treatment of our patients, including medical, radiology, laboratory, dental, and other supplies. Our Periodic Automatic Replenishment (PAR) level inventory system ensures we have the supplies needed for the continuation of proper care.

#### Laboratory Services



Wellpath provides on-site laboratory services through our national contract with Laboratory Corporation of America (LabCorp). With more than 35 years of experience serving physicians and their patients, LabCorp operates a sophisticated laboratory network, performing more than one million tests on more than 370,000 specimens daily.



Our laboratory program includes supplies and a dedicated printer, timely pickup and delivery, and accurate reporting within 24 hours on most labs. We ensure that all qualified healthcare personnel are trained to collect and prepare laboratory specimens. The majority of phlebotomy and lab services can be processed on site, including:

- ☐ Dipstick urinalysis
- ☐ Finger-stick blood glucose
- ☐ Pregnancy testing
- ☐ Stool blood testing

A medical provider reviews and signs off on all laboratory results, which are reported via a dedicated printer. If test results indicate a critical value, the provider receives a telephonic alert. Laboratory results are reviewed within 24-48 hours (72 hours for weekends and holidays); the provider is notified immediately to review all STAT lab reports and any abnormal test results. Where preliminary results are available, they are also presented for medical review.

We train on-site staff on our laboratory policies and provide a diagnostic procedure manual that includes reporting on STAT and critical values. All diagnostic laboratory reports and resulting plans for follow-up care are documented in the patient's medical record.

On-site services are performed in accordance with the Clinical Laboratories Inspection Act (CLIA) and in compliance with the Clinical Laboratory Improvement Amendments of 1988. The laboratory program for the KCJ will comply with all standards set forth by the American College of Pathology and all state requirements for medical pathology, specimen handling, testing, and reporting.

13. Nurse Perry did not order any further testing to rule out an infection or other serious illness.

14. Nurse Perry put Mr. Reed on a liquid diet, gave him Imodium for his diarrhea, some Gas-X, and sent him back to his cell. Nurse Perry did not get approval for what she proscribed to Mr. Reed.

15. Dr. Breslow did not oversee Nurse Perry's actions, or any time thereafter while Mr. Reed was at the jail.

16. Nurse Perry did not treat Mr. Reed for his new conditions of low blood pressure and high pulse rate.

17. Nurse Perry did not treat Mr. Reed for any of the abnormal vitals.

18. Mr. Reed was classified for chronic care follow up at jail intake due to hypertension, but the vitals taken at Nurse Perry's appointment on December 24, 2019, showed low blood pressure. Nurse Perry knew of Mr. Reed's condition of hypertension.

19. Nurse Perry, a registered nurse, and the Health Services Administrator for the jail, was dismissive of the alarming changes in Mr. Reed's health since his jail admission.

20. Nurse Perry dismissed the new conditions, abnormal vitals, significant weight loss and diarrhea, and ignored the condition of hypertension requiring chronic care follow up.

21. Nurse Perry was given clear and unambiguous objective indications that Mr. Reed was critically ill, but she chose to ignore them.

22. Nurse Perry had specific medical data pointing to a serious infection but chose not to notify any other medical staff and/or the jail physician so Mr. Reed could be further evaluated or transported to a higher level of care.

23. Nurse Perry chose not to treat Mr. Reed's significant weight loss and diarrhea by not giving him a stool sample that was within her workspace.

24. Nurse Perry knew that Mr. Reed had hypertension, which is characterized by high blood pressure, but chose not to treat his unusually low blood pressure and high pulse on December 24, 2019, or any day after.

25. Nurse Perry did not order any repeat vitals after December 24, 2019.

26. In fact, Mr. Reed's vitals were not checked again for six days, when he was finally transported to a hospital.

27. On December 25, 2019, neither the Wellpath Defendants nor the Individual Defendants followed up on Mr. Reed's medical condition.

28. Mr. Reed was supposed to have blood drawn on December 25, 2019, but it was rescheduled by medical staff because he was too dehydrated from his illness and diarrhea.



29. On December 26, 2019, Mr. Reed's weight was down to 162 pounds, a loss of 3 pounds in 1 day.

30. Mr. Reed's loss of 3 pounds in one day was not discussed with the jail physician, jail staff, or anyone else.

31. Also on December 26, 2019, three attempts were made to draw Mr. Reed's blood for his routine lab tests for his "chronic care" follow up. All three attempts were unsuccessful due to Mr. Reed's severe dehydration, and all efforts to take his blood were abandoned.

32. No medical action was taken regarding Mr. Reed's severe dehydration and inability to produce blood for a blood draw. Mr. Reed did not receive any IV fluids on December 25, 26, 27, 28, 29 or 30 while at the jail.

33. The objective medical facts were all pointing to a sufficiently serious medical condition that required immediate treatment that if not attended to, would cause permanent damage or death.

34. By the time Mr. Reed's labs were drawn in the hospital emergency room on December 30, 2019, his white blood cell count was 20,000, which is indicative of a dangerous medical condition, infection, or possible system-wide sepsis. The normal range for white blood cells for a male is between 5,000 and 10,000.

35. On December 27, 2019, Mr. Reed was not seen or examined by the medical staff. The jail records note that he refused to eat.

36. On December 28, 2019, Mr. Reed was not seen or examined by the medical staff. It was noted again that that he refused all meals.

37. On December 29, 2019, Mr. Reed was moved by wheelchair, to a solitary cell in the "nursing segregated population." At this point in his critical illness, Mr. Reed was so weak that he could not walk or stand by himself. A once able and ambulatory man now had to be

transported in a wheelchair. This is not flagged by anyone or felt to be an issue. The Defendants were deliberately indifferent to Mr. Reed's severe condition and inability to walk on his own due to weakness.

38. By December 29, 2019, The Wellpath Defendants and the Individual Defendants had more than sufficient information and data by observation to indicate to them that Mr. Reed needed urgent medical treatment, evaluation and testing or, in the alternative, immediately transferred off-site to a hospital.

39. It is difficult to imagine more red flags that would signal a serious medical issue than was before them.

40. The Wellpath Defendants and the Individual Defendants had five days' worth of objective medical data that would put a jail and its employees on notice that a person should not be incarcerated but instead immediately taken to and admitted to an appropriate higher level of urgent medical care. Regardless, The Wellpath Defendants and the Individual Defendants' chose to leave Mr. Reed in isolation with no medical intervention, no IV fluids, and no treatment.

41. The decision not to treat Mr. Reed or transfer him to a higher level of care was known to The Wellpath Defendants and the Individual Defendants to likely cause Mr. Reed's to further deteriorate and suffer permanent injuries and death if not urgently addressed. However, The Wellpath Defendants and the Individual Defendants continued to disregard Mr. Reed's deteriorating medical condition leaving him to lay alone in his own feces in his segregated cell where he was only visually checked on by nursing staff, from a distance and through the bars, once per day during the middle of the night.

42. Four days had passed since Mr. Reed was examined by Nurse Perry and he was now too weak to call for any help.

43. Staff rounds of the segregated nursing population was done by the Individual

Defendants. These rounds were not done during the daylight hours but only in the early morning hours of 12:15 am, 3:41 am, or 5:37 am.

44. In most rounding entries, Mr. Reed was noted to be laying down. Medical staff did not talk to Mr. Reed or take any kind of medical information to follow up on whether he was improving or worsening.

45. The Wellpath Defendants' rounding entries of December 28 – December 30, 2019, note only Mr. Reed's positioning and whether he was still alive.

46. Defendant Steven Brown wrote on December 28, 2019, at 12:14 a.m., "lying right, movement observed to verify life." On December 29, 2019, at 5:37 a.m., Defendant Bobbie Page wrote, "lay right, movement." Mr. Brown's and Ms. Page's notes do not indicate that they spoke to Mr. Reed or did anything other than glance at him from a distance through the bars to see if he was still breathing. Both entries note "movement," which indicates there was a policy to look and verify life but do nothing further. And that was the case for the entire time Mr. Reed was in the "segregated nursing population."

## Education Forms

(No Records)

## Custom Flows

Booking Number	Form Name	Form Item	Item Response	Interviewer	Interview Date
BN-02459-2019	Nursing Segregated Population Rounding Log	Date and Time:	12/28/2019 0013	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Gait:	Lying	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Room:	Clean	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Hygiene:	Groomed	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Referral:	Not Applicable	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Seen by:	Nursing	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Comments:	Lying right, movement observed to verify life	Brown, Steven	12-28-2019 12:15 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Date and Time:	12/29/2019 0535	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Gait:	Lying	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Room:	Clean	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Hygiene:	Groomed	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Referral:	Not Applicable	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Seen by:	Nursing	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Comments:	lay right, movement	Page, Bobbie	12-29-2019 5:37 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Date and Time:	12/30/2019 0225	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Gait:	Sitting	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Gait:	Lying	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Room:	Clean	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Hygiene:	Unkempt	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Referral:	Not Applicable	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Seen by:	Nursing	Warren, Martha	12-30-2019 3:41 am
BN-02459-2019	Nursing Segregated Population Rounding Log	Comments:	LAY NRT--MVMT--N/C	Warren, Martha	12-30-2019 3:41 am

47. At this point on December 28, 2019, Mr. Reed was in a solitary medical cell within a stone's throw of the medical staff including Nurse Perry, who were all informed and aware of his abnormal vital signs, the significant weight loss of 30 pounds, and inability to eat or walk, or produce blood for a blood draw.

48. All reasonable jailers, and all healthcare personnel working in Texas jails, such as Nurse Perry and the Individual Defendants, and laypersons know that an otherwise healthy man who suddenly loses 20 pounds, cannot walk, and presents with dangerously low blood pressure, severe dehydration with no history of low blood pressure, is critically ill.

49. The Wellpath Defendants and the Individual Defendants deliberately ignored all of the medical data and factors signaling Mr. Reed's serious condition and did not treat him or transfer him to a higher level of care.

50. On December 29, 2019, Mr. Reed was not assessed or examined by the Wellpath Defendants or the Individual Defendants. Mr. Reed's vitals were not checked on December 29, 2019. It is noted again that he refused all meals, and now medication.

51. On December 30, 2019, Mr. Reed was taken to the jail physician, Defendant Dr. Robert Broselow, for the first time since his medical conditions started over 11 days earlier. Mr. Reed's blood pressure was dangerously low at 70/40, and his weight was down to 156 pounds, now a 30-pound loss. Dr. Broselow wrote, "Patient looks weak and has a foul odor." Dr. Broselow immediately called 911 for an ambulance to take Mr. Reed to the emergency room at United Regional Medical Center, in Wichita Falls.

52. Dr. Broselow took no medical action in response to Mr. Reed's urgent medical calls at any time between December 20, 2019, and December 29, 2019.

53. The last entry in the jail medical chart notes that Mr. Reed was very critically ill, just had surgery, and was intubated following testing positive for cryptosporidium.

O. Joseph Reed's Coma and Critical Condition as a Result of Inadequate Medical Treatment at Wichita County Jail

1. Mr. Reed was admitted to United Regional Medical Center in Wichita Falls, Texas on December 30, 2019, in critical condition.

2. Mr. Reed presented to the emergency room with worsening diarrhea, weakness, a 30-pound weight loss in 30 days, dehydration, and abdominal pain. Mr. Reed's vital signs upon admission were blood pressure 95/50, pulse 97, temperature 96.8 and oxygen saturation 93%.

3. Routine lab work was ordered, which showed increased white blood cells (WBC's) at 20, hematocrit low at 38.8, sodium low at 126, chloride low at 88, CO2 low at 17, estimated glomerular filtration rate low at 10, anion gap high at 25, BUN high at 189 and creatinine high at 5.97. These laboratory values along with additional testing on the WBC's revealed severe sepsis, metabolic crisis, and dehydration. These findings warranted necessary critical care "to treat or prevent imminent or life-threatening deterioration."<sup>13</sup>

4. At the hospital, the medical staff wasted no time in finding, by stool sample, that Mr. Reed was infected with cryptosporidium.

#### P. Cryptosporidium – A Toxic Parasite

1. Cryptosporidium is a water born pathogen that is toxic to humans. Cryptosporidium is a parasite that if not treated (as in the case of Mr. Reed), can lead to severe medical conditions including death.

2. The clinical manifestations of humans infected with cryptosporidium include profuse, non-bloody, watery diarrhea, abdominal cramps, vomiting, lethargy, and weight loss.<sup>14</sup>

3. The most common source of exposure is contaminated drinking water.<sup>15</sup>

4. The protocol for a patient that presents with severe watery diarrhea, weight loss, and malaise is to take a stool sample as was done in the emergency room.

5. Mr. Reed's body was so infested with infection that he was very difficult to treat. The lining of his colon was so thin and frail that simple procedures such as a colonoscopy resulted in further complications. Sutures were difficult to maintain because of the pressure of the infection fluid that was

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<sup>13</sup> Medical Records of United Regional Medical Center, at p. 10.

<sup>14</sup> Cryptosporidium Drinking Water Health Advisory, EPA-822-R-01-009 Environmental Protection Office of Water, March 2001

<sup>15</sup> *Id.*

pushing the sutures open. Several openings had to be made to clean out the infection that was pervasive.

6. The gastroenterologist was performing a colonoscopy on January 4, 2020, when the doctor noticed what appeared to be a perforation due to significant colitis or significant inflammation of the inner lining of the colon. When Mr. Reed woke up from the procedure, he was in significant abdominal pain and had abdominal distention. He was taken to the operating room for emergent laparotomy with sigmoid left colon resection and wound vac placement. He became hypotensive secondary to septic shock after this procedure and required medications to maintain his blood pressure. He remained intubated on the ventilator and in the intensive care unit.

7. On January 6, 2020, Mr. Reed's prognosis was listed as poor, and a referral was sent to the in-house palliative team. Mr. Reed's family was contacted and advised that he might not survive.

8. Over the next 11 days, from January 7, 2020, to January 18, 2020, Mr. Reed was taken back to the operating room 5 times requiring exploratory laparotomy with washout, colostomy placement and wound vac placement due to wound dehiscence or wound separation. Mr. Reed remained on the ventilator in critical condition during this time. He was extubated on January 11, 2020 but had to be reintubated three days later. He was extubated finally on January 18, 2020.

9. On January 26, 2020, Mr. Reed's WBCs were shooting up from 38.3 in the morning, increasing to 62.6 by the evening. A CT scan of the abdomen showed multiple abscesses, Mr. Reed was taken back to the operating room for placement of a CT-guided drain on January 28, 2020. His condition slowly started to improve from this day forward after drain placement and addition of additional IV antibiotic.

10. Mr. Reed was discharged from the hospital with a bus ticket back to Dallas on February 12, 2020. In total, Mr. Reed endured six excruciating surgeries while at United Regional Hospital in Wichita Falls.

11. Since then, Mr. Reed has had multiple emergency room visits and exams at Parkland Hospital and Baylor Scott and White in Dallas, Texas surrounding his colostomy problems, which includes the current prolapsing condition. Mr. Reed is being scheduled for a seventh surgery to

repair his prolapsing stoma. His condition continues to be critical, and his prognosis is guarded.

Q. Defendants' Knowledge and Education

1. All Defendants knew the seriousness of Mr. Reed's condition as evidenced by the objective medical facts before them.

2. All Defendants knew that vitals readings were very important in assessing whether Mr. Reed could remain in the jail, without adequate treatment, or needed to be taken to an emergency department at a local hospital.

3. All Defendants knew the importance of investigating a weight loss of 30 pounds in a little over a month's time coupled with incessant liquid diarrhea for over a week, low blood pressure in a diagnosed hypertensive man, coupled with a high pulse. This basic medical data that all reasonable jailers, medical staff, and laypersons can understand.

4. All Defendants knew that Mr. Reed was at severe risk of organ failure, or other injury, and/or death if those Defendants chose not to adequately treat and/or assess Mr. Reed or, in the alternative, pretended as though they had treated and/or assessed Mr. Reed or intended to assess Mr. Reed by setting medical appointments but then canceling them without reason.

5. The Defendants possessed information in this paragraph due to their education, training, experience, and background. Moreover, the information they possessed was within the knowledge of a layperson looking at Mr. Reed's condition, an ambulatory man, and his inability to walk or stand without a wheelchair and determining that he needed urgent care. In fact, a jail guard took Mr. Reed to the clinic when he was not being treated by the Defendants.

R. Monell Liability of Wichita County and The Wellpath Defendants

1. Plaintiff sets forth in this section of the Complaint additional facts and allegations supporting claims against Wichita County and the Wellpath Defendants pursuant to *Monell v.*



*Department of Soc. Svcs.*, 436 U.S. 658 (1978). It is Plaintiff's intent that all facts asserted in this Complaint relating to policies, practices, and/or customs of Wichita County and the Wellpath Defendants support *Monell* liability claims, and not just facts and allegations set forth in this section. Such policies, practices, and/or customs alleged in this Complaint, individually and/or working together, were moving forces behind and caused the ~~on~~ violations, permanent injuries, disfigurement, disability, and damages referenced in this Complaint. These policies, practices, and/or customs are pled individually, alternatively, and collectively.

2. Plaintiff may set forth in this Complaint certain policies which one or more Defendants violated. If a nurse, employee, or officer violates his or her employer's policy, such violation can be some evidence of a constitutional violation such practice and/or custom became the policy of Wichita County as it related to its jail. Further, the Wellpath Defendants' policy, practice, and/or custom is imputed to Wichita County due to non-delegable duties owed by Wichita County to jail inmates. The Wellpath Defendants likewise made decisions about such policy and practice which it implemented through its final policymakers. The Fifth Circuit Court of Appeals has made it clear that Plaintiffs need not allege at the Complaint stage the identity of the relevant chief policymaker(s).

3. Wichita County and the Wellpath Defendants knew, when Mr. Reed was arrested and booked into the jail, that their personnel, policies, practices, and/or customs were such that it would not meet its constitutional obligations to provide appropriate medical care and to protect Mr. Reed from severe injury, illness, and/or death. Wichita County made decisions about policy and practice which it implemented ~~thru~~ through the Wichita County commissioner's court, sheriff, jail administrator, county judge, and/or through such widespread practice and/or custom that such practice and/or custom became the policy of Wichita County as it related to its jail.

4. There were several policies, practices, and/or customs of Wichita County, which were moving forces behind, caused, were producing causes of, and/or proximately caused Mr. Reed's suffering, and other damages referenced in this Complaint. Wichita County made deliberate decisions, acting in a deliberately indifferent and/or objectively unreasonable manner, when implementing and/or allowing such policies, practices, and/or customs to exist. Further, when Wichita County implemented and/or consciously allowed such policies, practices, and/or customs to exist, it knew with certainty that the result would be serious injury, suffering, physical illness, and/or death. Upon information and belief, Wichita County had a custom and/or practice to delegate its non-delegable duty to provide healthcare to inmates to the Wellpath Defendants, who they knew provided inadequate care to prisoners across the United States. Wichita County's policy was to delegate this duty taking the risk that a known inadequate medical provider such as Wellpath would harm and/or kill an inmate. Based on information and belief, received daily, weekly and/or monthly reports of Wellpath's conduct at the jail and chose not to intervene.

5. Upon information and belief, Wichita County had a custom and/or practice at the County jail and annex for jailers and guards not to perform required periodic observations of inmates, not appropriately documenting any observations made, and/or alerting others such as medical staff. The jail guards were within feet of Mr. Reed whom they could see was suffering and deteriorating. This is evident by Mr. Reed's substantial decline in weight, and physical strength under the watch of Wichita County jailers for over a week. Wichita County jailers and guards were aware of Mr. Reed's health decline and need for immediately medical attention and refusal of food and medication, which signaled an urgent medical need.

6. Upon information and belief, the fact that the Wellpath Defendants chose not to reprimand or terminate the Individual Defendants and Wichita County chose not to exercise its

contractual right to insist that these nurses and doctor no longer work at and/or provide care at any Wichita County jail is evidence custom and/or practice. This is not an assertion that the Wellpath Defendants and Wichita County ratified the Individual Defendants' actions, and that such ratification alone gives rise to a cause of action. Rather, it is an assertion that *de facto* ratification of Individual Defendants' actions, evidenced by not reprimanding or terminating them, showed approval for apparent unwritten policies, practices, and/or customs which the Individual Defendants followed when dealing with Mr. Reed. None of the Individual Defendants faced any reprimand after learning of Mr. Reed's critical condition, suffering, and multiple surgeries, nor did Wichita County or the Wellpath Defendants take any evident action to correct the Wellpath Defendants', Individual Defendants', or the jail's deficiencies. This, too, indicates that Wichita County or the Wellpath Defendants conformed to a *de facto* policy.<sup>16</sup>

7. These apparent unwritten policies, practices, and/or customs were, upon information and belief, moving forces behind and proximately caused Mr. Reed's injuries, illness, and damages and constitutional violations and other damages asserted in this Complaint. If Wichita County and the Wellpath Defendants were concerned that the Individual Defendants and the other nursing staff had not followed existing policies, practices, and/or customs, they certainly would have required them to complete a detailed statement regarding all their interactions with Mr. Reed and each decision they made after each interaction from the time period of his first sick call on December 20 through his transfer to a higher level of care.

8. From December 20, 2019, to December 30, 2019, the Individual Defendants, and

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<sup>16</sup> See *Sanchez v. Young*, 956 F.3d 785 at 793, 2020 U.S. App. LEXIS 12942 \*\* 2020 WL 1934430 (finding that "fail[ure] to take remedial action . . . arguably shows acquiescence to the misconduct such that a jury could conclude that it represents official policy.") (citing *Grandstaff v. City of Borger*, 767 F.2d 161, 171 (5th Cir. 1985) (holding that, because the city policymaker [\*45] failed to change policies or to discipline or reprimand officials, the jury was entitled to conclude that the complained-of practices were "accepted as the way things are done and have been done in" that city)).

multiple employees of the Wellpath Defendants followed a similar pattern and practice. They all consistently took in and reviewed Mr. Reed's urgent nurse sick calls, set appointments, and then canceled the appointments without reason or explanation. This conduct is in contradiction to Wellpath's policies on responding immediately to sick calls. This evidences a *de facto* policy with multiple staff members on different days and shifts following the same unwritten policies and protocols.

9. While Mr. Reed was in the "segregated nursing population," the Wellpath Defendants did rounds during the pre-daylight hours each day, looked at Mr. Reed from a distance through the bars, then moved on. They documented only whether there was movement to establish life.

10. Also, during that time, Wichita County jailers were at and near Mr. Reed's cell and did not document their observations or report them. Wichita County jailers and guards were aware of Mr. Reed's status in the "segregated nursing population" and did nothing to check that he was okay despite having objectively obvious visual signs that he was physically deteriorating and information that he was refusing medication and food. They were also aware that the Wellpath Defendants and its medical staff were not doing anything to help him.

11. All of these actions and inactions were done day after day by both Wichita County and the Wellpath Defendants which evidences a *de facto* policy. When multiple employees act in the same unconstitutional manner, that is indicative of a *de facto* policy.

S. Wichita County's and The Wellpath Defendants' Policies, Practices, and/or Customs Regarding Lack of Qualified Nursing Staff

1. Upon information and belief, and as elsewhere asserted in this Complaint, the Wellpath Defendants had a policy of staffing the jail with few qualified nurses and appropriate staff members. Those policies included not having on staff a competent nurse or physician who could assure that decisions made by nursing staff, including the Individual Defendants, were

appropriate for seriously ill people such as Mr. Reed.

2. Moreover, as evidenced by the records, the Wellpath Defendants had a policy of allowing “medical assistants” and other untitled staff, who were not qualified by training, experience, or licensure to triage Mr. Reed’s sick calls, make medical decisions about the next steps, and to observe and assess Mr. Reed’s medical condition in the middle of the night while asleep in the “segregated nursing population.”

3. The Wellpath Defendants did not have a medical doctor on site or standby as evidenced by the Individual Defendants lack of communication between December 20, 2019, and December 30, 2019, when Mr. Reed’s health was rapidly deteriorating.

4. Untrained Wellpath staff were tasked with making rounds through the “segregated nursing population” before daylight hours to check on inmates. These checks were done while inmates were asleep and only for seconds at a distance through the bars. Mr. Reed was not questioned, touched, or examined during these rounds.

5. Defendant Dr. Broselow, did not supervise or monitor the nurses or the protocols they were following, and not following.

6. Defendant Dr. Broselow did not supervise or direct the treatment of Mr. Reed at any time between December 20 to December 29, 2019.

7. Defendant Dr. Broselow did not order further testing or antibiotics for Mr. Reed.

8. The Wellpath Defendants’ policy of not staffing the jails with qualified medical nurse and physicians resulted in Mr. Reed not receiving medical treatment as evidenced by the repeated and unilaterally canceling of his medical appointments. Mr. Reed was not seen in a face-to-face consultation despite four daily urgent sick calls.

9. These policies and decisions by the Wellpath Defendants, which were, upon information and belief, made by the relevant chief policymakers, constituted deliberate indifference to the likely effects of such a policy – that people would suffer or die as a result of deterioration, and were moving forces behind and proximately caused Mr. Reed’s injuries, and illness.

## V. CAUSES OF ACTION

### A. 14<sup>th</sup> Amendment Due Process Claims Under 42 U.S.C. § 1983

1. The Fourteenth Amendment protects pretrial detainees' right to medical care. Specifically, the Fourteenth Amendment guarantees pretrial detainees a right not to have their serious medical needs met with deliberate indifference on the part of the confining officials. A government official violates a Fourteenth Amendment right when the official acts with deliberate indifference to a detainee's serious medical needs. A serious medical condition or need is one for which treatment has been recommended or for which the need is so apparent that even laymen would recognize that care is required. *Sims v. City of Jasper*, 2021 U.S. Dist. LEXIS 107677, \*1, \_\_\_ F. Supp. 3d \_\_\_, 2021 WL 2349350.

2. Wichita County, the Wellpath Defendants, and the Individual Defendants are liable to Mr. Reed pursuant to 42 U.S.C. § 1983, for violating his constitutional rights to reasonable medical health care, to be protected, and/or not to be punished. These rights are guaranteed by at least the 8<sup>th</sup> and/or 14<sup>th</sup> Amendments to the United States Constitution. Pre-trial detainees are entitled to protection and not to be punished at all since they have not been convicted of any alleged crime resulting in their incarceration. Thus, Mr. Reed has the remedy and is entitled to bring a 42 U.S.C. § 1983 action for violation of the United States Constitution and obtain remedies and damages provided by Texas and federal law.

### B. Wellpath Defendants and the Individual Defendants Acted Under Color of State Law

1. The Wellpath Defendants and the Individual Defendants violated Mr. Reed's constitution rights under 42 U.S.C. § 1983 and are subject to liability. Although private entities and individuals, The Wellpath and Individual Defendants are liable pursuant to § 1983 for actions under color of state law when treating, and failing to treat, Mr. Reed. *West v. Atkins*, 487 U.S. 42, 54 (1988). In *West*, the Supreme Court held "a physician employed by [a state] to provide medical services to state prison inmates[] acted under color of state law for purposes of

§ 1983.”

2. The Wellpath Defendants and the Individual Defendants contracted in 2016 to perform the public functions of Wichita County, i.e., to provide medical services in jails, and are thus the functional equivalent of Wichita County. The constitutional requirements of the 8<sup>th</sup> and 14<sup>th</sup> amendments attach to Wellpath Defendants and the Individual Defendants.

3. The Wellpath and Individual Defendants wholly or substantially ignored Mr. Reed's obvious serious medical needs and were deliberately indifferent to and acted in an objectively unreasonable manner regarding those serious needs. They failed to protect Mr. Reed, and their actions and/or inaction referenced in this Complaint resulted in unconstitutional violations and punishment of Mr. Reed.

4. The Wellpath Defendants and the Individual Defendants were aware of the excessive risk to Mr. Reed's health and safety and were aware of facts from which an inference could be drawn of ~~sins~~ harm, suffering, illness, permanent loss and/or death if action was not taken. The Wellpath Defendants and the Individual Defendants had medical data, a physical history, and vitals monitoring results that objectively signaled a sufficiently serious medical issue that required immediate care and demonstrated their knowledge of these medical facts by first placing Mr. Reed in a cell next to the clinic and then again by placing Mr. Reed in a “segregated nursing population.” The Wellpath and Individual Defendants then ignored Mr. Reed and were deliberately indifferent to his obvious rapid decline as he laid, barely moving, in his own feces. The Wellpath and Individual Defendants violated clearly-established constitutional rights, and their conduct was objectively unreasonable in light of clearly-established law at the time of the relevant incidents. The Wellpath and Individual Defendants acted under color of state law as the sole medical provider at Wichita County's jails, thus, they are liable pursuant to 42 U.S.C. § 1983.

C. Liability of Wichita County Under the Non-Delegable Duty Doctrine

1. Wichita County cannot escape liability under 42 U.S.C. § 1983 because it contracted out its governmental duty to provide medical services to inmates. In *West*, the

Supreme Court discusses the non-delegable duty doctrine of liability: “Contracting out prison medical care does not relieve the State of its constitutional duty to provide adequate medical treatment to those in its custody, and it does not deprive the State's prisoners of the means to vindicate their Eighth Amendment rights. The State bore an affirmative obligation to provide adequate medical care to West; the State delegated that function to respondent Atkins; and respondent voluntarily assumed that obligation by contract. *West v. Atkins*, 108 S. Ct. 2250, 101 L. Ed. 2d 40, 1988 U.S. LEXIS 2744, 56 U.S.L.W. 4664. Applying *West* here, the Wellpath Defendants and Individual Defendants delivery of medical services to Mr. Reed was state action fairly attributable to Wichita County and the Wellpath Defendants and Individual Defendants therefore acted under color of state law for purposes of § 1983.

2. Further, as plead elsewhere in this Complaint, Wichita County is liable for the policies, practices, and/or customs of the Wellpath Defendants, individually and/or working together, were moving forces behind and caused the ~~civil~~ violations, permanent injuries, disfigurement, disability, and damages suffered by Mr. Reed. Wichita County cannot contract away its liability and remains liable for any constitutional deprivations caused by the policies or customs of the Wellpath Defendants. Wichita County’s duty to provide medical services is non-delegable. This is not respondeat superior.

D. Bystander Liability of the Wellpath Defendants and Individual Defendants

1. The Wellpath and Individual Defendants are also liable pursuant to the theory of bystander liability. Bystander liability applies when the bystander (1) knows that a fellow officer/nurse is violating a person’s constitutional rights; (2) has a reasonable opportunity to prevent the harm; and (3) chooses not to act. As demonstrated through facts asserted in this Complaint, the Wellpath and Individual Defendants’ actions and inaction meet all three elements.

2. The Wellpath Defendants’ staff were aware of Mr. Reed’s abnormal vitals,



declining weight, weakness, incessant diarrhea, inability to eat, take medication, or do anything other than lay in his cell.

3. The jail records show the names of at least 6 Wellpath staff members that observed Mr. Reed while in the “segregated nursing population,” or interacted with him in some way during this critical period. These medical facts were noted by Wichita County guards and the Wellpath Defendants medical staff in the rounding logs and in the jail records. Wichita County jailers and administrators also had this medical information in the form of daily reports the Wellpath Defendants were required to provide to the County. Thus, they are therefore also liable to Mr. Reed pursuant to this theory. Wichita County guards were aware of Mr. Reed’s health decline and need for immediately medical attention. The Wellpath Defendants staff was aware of Mr. Reed’s inability to eat, take medication, or do anything other than lay in his cell. These facts were noted by Wichita County guards and/or the Wellpath Defendants medical staff in the rounding logs and in the jail records, which were also sent to Wichita County jail administrators.

E. Liability Under *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015)

1. In the alternative, Defendants’ deliberate indifference, conscious disregard, state of mind, subjective belief, subjective awareness, and/or mental culpability are irrelevant to determination of constitutional violations set forth in this section of this Complaint. The United States Supreme Court, in *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015), determined the state of mind necessary, if any, for officers/jailers sued in a case alleging excessive force against a pretrial detainee in violation of the 14<sup>th</sup> Amendment’s Due Process Clause is subjective awareness. *Id* at 2470-71. Some constitutional rights set forth in this section of the Complaint, and constitutional rights affording pretrial detainees protection against excessive force, flow from the 14<sup>th</sup> Amendment’s Due Process Clause. *Id*. Since such constitutional protections flow

from the same clause, analysis of what is necessary to prove such constitutional violations is identical.

F. The Individual Defendants Do Not Have Immunity

1. The Individual Defendants are not entitled to qualified immunity.<sup>17</sup>

2. "The doctrine of qualified immunity protects state actors from civil damages when their actions could reasonably have been believed to be legal." *Whitley v. Hanna*, 726 F.3d 631, 638 (5th Cir. 2013) (quoting *Morgan v. Swanson*, 659 F.3d 359, 370 (5th Cir. 2011)) (emphasis added). There is nothing legal about what happened to Mr. Reed.

3. It is undisputed that, at the time the Defendants failed to treat Mr. Reed, the law was clearly established that pretrial detainees have a Fourteenth Amendment right to medical care. *See, e.g., Hare*, 74 F.3d at 645; *Thompson*, 245 F.3d at 457; *Dyer*, 964 F.3d at 380; *see*

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<sup>17</sup> The defense of qualified immunity is, and should be held to be, a legally impermissible defense. In the alternative, it should be held to be a legally impermissible defense except as applied to state actors protected by immunity in 1871 when 42 U.S.C. § 1983 was enacted. Congress makes laws. Courts do not. However, the qualified immunity defense was invented by judges. When judges make law, they violate the separation of powers doctrine, and the Privileges and Immunities Clause of the United States Constitution. Plaintiff respectfully makes a good faith argument for the modification of existing law, such that the court-created doctrine of qualified immunity be abrogated or limited. The individual Defendants cannot show that they are entitled to qualified immunity. This should be the Defendants' burden if they choose to assert the alleged defense. Qualified immunity, as applied to persons not immunized under common or statutory law in 1871, is untethered to any cognizable legal mandate and is flatly in derogation of the plain meaning and language of Section 1983. *See Ziglar v. Abassi*, 137 S. Ct. 1843, 1870-72 (2017) (Thomas, J., concurring). Qualified immunity should have never been instituted as a defense, without any statutory, constitutional, or long-held common law foundation, and it is unworkable, unreasonable, and places too high a burden on plaintiffs who suffer violation of their constitutional rights. Joanna C. Schwartz, *The Case Against Qualified Immunity*, 93 Notre Dame L. Rev. 1797 (2018) (observing that qualified immunity has no basis in the common law, does not achieve intended policy goals, can render the Constitution "hollow," and cannot be justified as protection for governmental budgets); and William Baude, *Is Qualified Immunity Unlawful?* 106 Calif. L. Rev. 45, 82 (2018) (noting that, as of the time of the article, the United States Supreme Court decided

*also Jacobs v. W. Feliciana Sheriff's Dep't*, 228 F.3d 388, 393-94 (5th Cir. 2000). The Complaint also establishes that the Wellpath Defendants and Individual Defendants refused to treat him, ignored his complaints, intentionally treated him incorrectly, and engaged in any similar conduct that would clearly evince a wanton disregard for any serious medical needs.' *Kelson v. Clark*, 2021 U.S. App. LEXIS 18129, \*15-16, 1 F.4th 411, 420-421.

4. The Wellpath Defendants chose to understaff the Wichita County jail and did not have competent medical staff at the jail, or a medical physician on site or standby.

5. Regarding any Individual Defendants' possible assertion of qualified immunity, upon information and belief:

- The Wellpath Defendants was systematically organized to perform the major administrative task of providing medical care in Texas jails.
- The Wellpath Defendants was at the time relevant to this case in the business of administering correctional healthcare services.
- The Wellpath Defendants has made millions of dollars each year from its contracts with Texas jails, including Wichita County.
- Individual Defendants were employees of the Wellpath Defendants at all relevant times, the Wellpath Defendants at the time being a systematically organized entity to assume a major ~~high~~ administrative task with limited direct supervision by Wichita County, undertaking that task for profit and while in competition with other ~~for~~ profit firms providing similar services.
- Market forces existed at all relevant times that were likely to provide the Wellpath Defendants with strong incentives to avoid overly timid, insufficiently vigorous, unduly ~~fast~~ or non-arduous employee job performance.
- Ordinary marketplace pressures were present at all relevant times regarding the Wellpath Defendants' provision of services to Wichita County.
- Based on information and belief, the Wellpath Defendants had a multi-year contract with Wichita County with renewal periods, such that its performance was disciplined by pressure from potentially competing firms who could try to take its place in providing services to Wichita

County.

- Based on information and belief, the Wellpath Defendants was required to purchase insurance to compensate victims of civil rights torts, such insurance coverage being substantial.
- The Wellpath Defendants was operated with relatively little ongoing Wichita County supervision.
- The Wellpath Defendants employed medical professionals who faced potential liability both for choosing a course of treatment that is too aggressive and for choosing a course not aggressive enough, rather than jailers, who rarely face liability for not using enough force.
- The Wellpath Defendants' primary function at the jail was providing healthcare services.
- The Nursing Defendants were overseen and employed by The Wellpath Defendants.
- The Wellpath Defendants, as opposed to Wichita County, took the lead in developing relevant policy regarding healthcare provision in the Wichita County jail.
- The Wellpath Defendants developed and maintained the Wichita County jail's healthcare policies and procedures manual.
- Wichita County could not fire or discipline the Wellpath Defendants' employees.
- The Wellpath Defendants and the Individual Defendants had discretion to take certain actions which Wichita County employees lacked the authority to do.
- The Wellpath Defendants and the Individual Defendants did not have a broad range of duties other than providing health care.
- The Wellpath Defendants staff and the Individual Defendants were "at will" employees and could be discharged at any time without cause.
- The Wellpath Defendants determined the Wellpath Defendants staff and the Nursing Defendants' wages, conditions of employment, and availability of benefits.
- The Wellpath Defendants marketed its ability to attract qualified people to public service as an aspect of its sales pitch to Wichita County and other governmental clients.

- The Wellpath Defendants staff and staff and the Individual Defendants knew, based on information and belief, that they could be subject to liability without the benefit of qualified immunity; even so the Wellpath Defendants was able to attract qualified employees.

The above factors, pursuant to controlling authority, demonstrate that the Individual Defendants are not entitled to qualified immunity

G. Cause of Action Against Wichita County and the Wellpath Defendants Under 42 U.S.C. § 1983 for Violation of Constitutional Rights

1. In the alternative, without waiving any of the other causes of action pled herein, without waiving any procedural, contractual, statutory, or common-law right, and incorporating all other allegations herein (including all allegations in the “Factual Allegations” section above) to the extent they are not inconsistent with the cause of action pled here, Defendants Wichita County and the Wellpath Defendants are liable to Plaintiff, pursuant to 42 U.S.C. § 1983, for violating Mr. Reed's rights to reasonable medical care, to be protected, and/or not to be punished. These rights are guaranteed by at least the 8<sup>th</sup> and/or 14<sup>th</sup> Amendments to the United States Constitution. Pretrial detainees are entitled to be protected and not to be punished at all, since they have not been convicted of any alleged crime resulting in their incarceration.

2. The Fifth Circuit Court of Appeals has made it clear that Plaintiff need not allege the appropriate chief policymaker at the Complaint stage. Nevertheless, out of an abundance of caution, the sheriff of Wichita County was the County's relevant chief policymaker over matters at issue in this case. Moreover, in addition, and in the alternative, the County's jail administrator was the relevant chief policymaker over matters at issue in this case. Finally, in addition, and in the alternative, the County's commissioners' court was the relevant chief policymaker. Plaintiffs ~~leave~~ it to the court to determine the relevant chief policymaker for the Wellpath Defendants, and/or how that relevant ~~chief~~ policymaker must interact, if at all, with the

relevant chief policymaker of Wichita County in order to establish liability. Wichita County had non-delegable duties to provide care, protect, and not punish its inmates. Wichita County could not insulate itself from liability by contracting with the Wellpath Defendants and allowing the Wellpath Defendants to do what Wichita County was constitutionally obligated to do. Wichita County and its county commissioners were on notice of Wellpath's history of provided inadequate care in thousands of other instances across the country yet made it their policy to contract with the Wellpath Defendants.

3. Wichita County and the Wellpath Defendants were deliberately indifferent regarding policies, practices, and/or customs developed and/or used with regard to issues addressed by allegations set forth above. They also acted in an objectively unreasonable manner. Policies, practices, and/or customs referenced above were moving forces behind and caused violation of the Mr. Reed's rights and showed deliberate indifference to the known or obvious consequences that constitutional violations would occur. The County's and the Wellpath Defendants' relevant policies, practices, and/or customs, whether written or not, were also objectively unreasonable as applied to the Mr. Reed. Therefore, Mr. Reed's suffered the following damages, for which he seeks recovery, from the County and the Wellpath Defendants, jointly and separately:

- a. Pain and suffering; experienced in the past and will be experienced in the future.
- b. Disability, experienced in the past, and will be experienced in the future.
- c. Disfigurement, experienced in the past, and will be experienced in the future.
- d. Mental anguish, experienced in the past, and will be experienced in the future;  
and
- e. Loss of capacity for enjoyment of life, experienced in the past, and will be

experienced in the future.

- f. Reasonable and necessary attorneys' fees available pursuant to 42 U.S.C. §§ 1983 and 1988.

#### H. Mr. Reed Seeks Exemplary Damages Against the Individual Defendants

1. Exemplary/punitive damages are appropriate in this case against the Individual Defendants to deter and punish clear and unabashed ~~vii~~vi of the Mr. Reed's constitutional rights. The Individual Defendants' actions, omissions, and inaction showed a reckless or callous disregard of, or indifference to, the Mr. Reed's rights, health, and safety; therefore Mr. Reed is entitled to exemplary damages against the Individual Defendants. Moreover, Mr. Reed seeks reasonable and necessary attorneys' fees available pursuant to 42 U.S.C. §§ 1983 and 1988.

### VI. **CONCLUDING ALLEGATIONS AND PRAYER**

#### A. Use of Documents at Trial or Pretrial Proceedings

1. Plaintiff intends to use at one or more pretrial proceedings and/or at trial all documents produced by Defendants in this case in response to written discovery requests, with initial disclosures (and any supplements or amendments to same), and in response to Public Information Act request(s).

#### B. Jury Demand

1. Plaintiff demands a jury trial on all issues which may be tried by a jury.

#### C. Prayer for Relief

1. For these reasons, Plaintiff asks that Defendants be cited to appear and answer, and that Plaintiff Joseph Reed have judgment for damages within the jurisdictional limits of the court and against all Defendants, jointly and severally, as legally available, and applicable, for all damages referenced above and below in this Complaint including:

- a. Pain and suffering; experienced in the past and will be experienced in the future.
- b. Disability, experienced in the past, and will be experienced in the future.
- c. Disfigurement, experienced in the past, and will be experienced in the future.
- d. Mental anguish, experienced in the past, and will be experienced in the future.
- e. Loss of earnings suffering in the past and will be experienced in the future.
- f. Loss of capacity for enjoyment of life, experienced in the past, and will be experienced in the future.
- g. Exemplary/punitive damages for from Individual Defendants.
- h. Reasonable and necessary attorneys' fees pursuant to 42 U.S.C. §§ 1983 and 1988.
- i. Court costs and all other recoverable costs.
- j. Prejudgment and post judgment interest at the highest allowable rates; and
- k. All other relief, legal and equitable, general, and special, to which Plaintiff is entitled.

Respectfully submitted,

//s/ Stephanie B. Sherman  
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