

**THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ERICA MELVIN as Administratrix of the
Estate of RASHAD MCNULTY, deceased,

Civil Action No.

Plaintiff,

v.

COMPLAINT

14 CV 2995

JURY TRIAL DEMANDED

JUDGE KARAS

COUNTY OF WESTCHESTER;
CORRECT CARE SOLUTIONS LLC;
NEW YORK CORRECT CARE SOLUTIONS
MEDICAL SERVICES PC; EMPRESS
EMERGENCY MEDICAL SERVICES;
ROBERT ASTORINO; CORRECTION
OFFICER JOHN DOE #1; CORRECTION
OFFICER JOHN DOE #2; RAUL ULLOA M.D.;
DOLORES CURBELO M.D.; JOHN DOE M.D.;
NURSE PRACTITIONER JANE DOE #1;
NURSE PRACTITIONER JANE DOE #2;
NURSE PRACTITIONER JANE DOE #3;
NURSE PRACTITIONER JANE DOE #4;
JANE DOE R.N. #1; JANE DOE R.N. #2
JANE DOE R.N. #3; JANE DOE R.N. #4;
EMS JOHN DOE #1; EMS JOHN DOE #2;

Defendants.

-----X

By and through her attorneys Rice & Rice Attorneys At Law, Plaintiff Erica Melvin as Administratrix of the Estate of Rashad McNulty ("Decedent"), deceased, alleges upon knowledge, information, and/or belief as follows:

PRELIMINARY STATEMENT

1. This is a civil action seeking monetary relief against Defendants County of

Westchester (“Westchester”); Correct Care Solutions LLC. (“CCS”); New York Correct Care Solutions Medical Services PC (“NYCCS”); Empress Emergency Medical Services (“Empress”), certain employees of Westchester, *to wit* Robert Astorino (“Astorino”), Correction Officers John Does 1 and 2 (“CO John Does”); certain employees of CCS and NYCCS, *to wit*, Raul Ulloa M.D. (“Ulloa”), Dolores Curbelo M.D. (“Curbelo”), John Doe M.D., Nurse Practitioner Jane Does 1 through 4 (“Nurse Practitioner Jane Does”), R.N. Jane Does 1 through 4 (“R.N. Jane Does”); and certain employees of Empress, *to wit*; EMS John Does 1 and 2 (“EMS John Does”).

2. It is alleged that the Defendants, acting jointly and severally, under the color of law, committed a series of unlawful acts that resulted in the deliberate indifference to the serious medical needs of Rashad McNulty on January 29, 2013, causing him to receive inadequate medical treatment that led to his death, and in so doing, deprived Mr. McNulty of rights secured by the United States Constitution and the State of New York. Mr. McNulty was an inmate and detainee at the Westchester County Jail (“WCJ”) at the time of his death.

3. It is further alleged that Defendants Westchester, CCS, NYCCS, and Empress had in force unconstitutional policies, practices and customs that caused Decedent to suffer the aforementioned constitutional deprivations. Specifically, Defendants Westchester, CCS, NYCCS, and Empress had in place deficient policies, practices and customs related to the provision of health care services. The unconstitutional policies, practices and customs of Defendants Westchester related to the medical care provided at WCJ were found to exist by the United States Department of Justice (“DOJ”) pursuant to a Civil Rights of Institutionalized Persons Act (“CRIPA”) investigation and worsened when Defendants Westchester, CCS, NYCCS, and Empress implemented new policies, practices, and customs that significantly reduced the medical staff available to inmates; that significantly increased the response time of

emergency medical services (“EMS”) after care transportation; that failed to provide proper intake screening procedures of incoming WCJ inmates and detainees; and that failed to ensure that treatment and the administration of medication to inmates implemented is in accordance with generally accepted professional standards of care.

PARTIES

4. Erica Melvin, at all times relevant to this litigation, was a citizen of Westchester County, New York. She is duly appointed administratrix of the Estate of Rashad McNulty.

5. At all times relevant herein, Defendant Westchester was a municipal corporation duly organized under and by virtue of the laws of the State of New York, New York, located in Westchester County, New York, responsible for the policies, practices, and customs of the delivery of health care to inmates and detainees at WCJ.

6. At all times relevant herein, Defendant CCS was at all times a private business incorporated in Kansas with its principal office located in Tennessee. CCS contracted with Westchester for the provision of medical care and treatment for WCJ inmates and detainees from July 26, 2010 through the present. It is sued in its corporate capacity and as a state actor.

7. At all times relevant herein, Defendant NYCCS was at all times a corporate affiliate of CCS created solely to be responsible for the provision of medical care and treatment to WCJ inmates and detainees from July 26, 2010 through the present. It is sued in its corporate capacity and as a state actor.

8. At all times relevant herein, Defendant Empress was at all times a private business corporation with its principal office located in Westchester, New York, which contracted with Westchester CCS, and NYCCS for the delivery of EMS after care transportation.

It is sued in its corporate capacity and as a state actor.

9. At all times relevant herein, Defendant Astorino was employed by Westchester as the County Executive, acting under color of law and within the scope of his employment. He began his term as County Executive on or about January 1, 2010 and continues his position to present. He is named in his individual capacity and as a state actor.

10. At all times relevant herein, Defendants CO John Does were employed by Westchester as Correction Officers in WCJ. They are named in their individual capacities and as state actors.

11. At all times relevant herein, Defendant Ulloa was employed by CCS and NYCCS as the Medical Director in the WCJ, acting under color of law and within the scope of his employment. He is named in his individual capacity and as a state actor.

12. At all times relevant herein, Defendant Curbelo was employed by CCS and NYCCS as a physician in the WCJ, acting under color of law and within the scope of her employment. She is named in her individual capacity and as a state actor.

13. At all times relevant herein, Defendants John Doe M.D., Nurse Practitioner Jane Does, and R.N. Jane Does were employed by CCS and NYCCS in the WCJ as part of the medical staff, acting under color of law and within the scope of their employment. They are named in their individual capacities and as a state actors.

14. At all times relevant herein, Defendants EMS John Does were employed by EMPRESS as emergency medical service providers, acting under color of law and within the scope of their employment. They are named in their individual capacities and as a state actors.

JURISDICTION AND VENUE

15. This court has jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343 over claims arising from 42 U.S.C §1983; and the Eighth and Fourteenth Amendments of the U.S. Constitution. Plaintiff further invokes the supplemental jurisdiction of the Court under 28 U.S.C. §1367 to hear and decide claims arising under state law.

16. Venue is proper in the Southern District of New York under 28 U.S.C. § 1391 (b) in which a substantial part of the events giving rise to this action occurred within the district.

FACTS

17. That between January 1, 2008 and July 25, 2010, Defendant Westchester had an agreement with Westchester County Health Care Corporation, a public benefit corporation controlled by Westchester Medical Center, to provide medical care and treatment to WCJ inmates.

18. On November 19, 2009, pursuant to a CRIPA investigation previously performed at WCJ during February 25-28, 2008, DOJ issued a Findings Letter to Westchester regarding certain conditions at WCJ. The letter provided the findings of the investigation, the facts supporting them, and the minimum remedial steps that are necessary to address the deficiencies that were identified. Ultimately, DOJ found that WCJ inmates did not receive adequate medical care.

19. The letter issued by DOJ specifically states in its Findings section:

We found that WCJ has a pattern of failing to: (1) adequately protect inmates from harm and serious risk of from staff; and (2) provide inmates with adequate medical and mental health care. These deficiencies violate WCJ inmates' constitutional rights. *Id.*, p. 7.

20. As it relates to Medical Care Deficiencies, the DOJ letter states:

Jail officials are responsible for providing adequate medical care to inmates. Moreover, a jail may not deny or intentionally interfere with medical treatment. A delay in providing medical treatment may be so significant that it amounts to a denial of treatment. Our investigation revealed that there are certain aspects of the medical care and treatment offered at WCJ to be commended, for example, *the Jail's affiliation with the Westchester Medical Center* . . . However, there are some areas where the medical care provided at WCJ falls below the constitutionally required standards of care. *Id.*, p. 19 (emphasis added).

21. Additionally, several remedial measures were suggested to address the constitutional health care deficiencies of WCJ which include:

1. Intake Screening: (a) Ensure that adequate intake screening and health assessments are provided. (b) Develop and implement an appropriate medical intake screening instrument that identifies observable and non-observable medical needs, including infectious diseases, and ensure timely access to a physician when presenting symptoms require such care. *Id.*, p. 37.

4. Access to Health Care. (a) Ensure inmates have adequate access to health care. (b) Ensure that the medical request process for inmates is adequate and provides inmates with adequate access to medical care. This process should include logging, tracking, and timely responses by medical staff. *Id.*, p. 38.

5. Medication Administration: (a) Ensure that treatment and administration of medication to inmates is implemented in accordance with generally accepted professional standards of care. *Id.*, p. 38.

22. Shortly after the issuance of its report, DOJ published the Findings Letter for public consumption, which is incorporated by reference herein. *See*

http://www.justice.gov/crt/about/spl/documents/Westchester_findlet_11-19-09.pdf.

23. That on or about January 27, 2010, Westchester Medical Center sent a letter to Defendant Westchester that provided notice of its intention to terminate the agreement to provide comprehensive health care to WCJ inmates and detainees effective on the midnight of July 26, 2010.

24. That on May 28, 2010, Westchester County Health Care Corporation notified

Defendant Westchester that it was withdrawing its January 27, 2010 notification of the termination of the agreement to provide comprehensive health care to WCJ inmates and detainees.

25. That on May 28, 2010, despite the notice provided by Westchester County Health Care Corporation of the withdrawal of intent to terminate the agreement, Defendants Westchester and Astorino through the Westchester County Board of Acquisition and Contract authorized Westchester to enter into contract with CCS and NYCCS for the provision of comprehensive health care to WCJ inmates and detainees.

26. That on June 1, 2010, the Westchester County Board of Legislators passed ACT-2010-63 directing Astorino to solicit proposals through a Request for Proposals (“RFP”) for comprehensive health care services to the inmates and detainees at the County's Department of Correction that would at a minimum supply a staffing plan for WCJ that would be comparable to the levels as of June 1, 2010.

27. That on June 1, 2010, Defendants Westchester and Astorino were aware that CCS had been named in 140 federal lawsuits since 2004 regarding inadequate health care provided to prisoners. Notably, on May 21, 2010, in Tennessee, a federal lawsuit was filed by the estate of a prisoner against CCS for providing such inadequate medical care that the inmate died.

28. That on or about July 26, 2010 Defendant Astorino ignored ACT-2010-63 and unilaterally authorized Defendant Westchester to begin services with CCS and NYCCS for the provision of comprehensive health care to WCJ inmates and detainees; this decision was made without vetting by the Westchester County Board of Legislators or public review and was made without the use of a RFP.

29. That the agreement between Defendants Westchester, CCS and NYCCS did not supply staffing levels comparable to those of Westchester Medical Center and Westchester County Health Care Corporation and did not maintain on-site health care, 24 hours per day, seven days per week, and 365 days per year in that only two physicians were provided to WCJ inmates and detainees for 40 hour shifts each.

30. That the agreement between Defendants Westchester, CCS, NYCCS, and Empress did not maintain adequate EMS after care transportation in that the placement of the closest ambulance available to WCJ inmates and detainees was eleven miles away in Yonkers, New York. The average response time provided by to WCJ by Empress through the agreement between Westchester, CCS, NYCCS, and Empress was 15 to 30 minutes. The previous arrangement with Westchester Health Care Corporation provided for on-site ambulance services.

31. That on October 3, 2011, at a Westchester County meeting of the Committee on Public Safety & Security, CCS and NYCCS submitted an inadequate six month report in violation of the contract entered into between Westchester, CCS and NYCCS. The one page report submitted by CCS and NYCCS did not provide a narrative to explain the various numbers and did not supply enough information to allow the Committee on Public Safety & Security to make a clear judgment on the quality of care provided by CCS and NYCCS.

32. That on October 22, 2012, at a Westchester County meeting of the Committee on Public Safety & Security, CCS and NYCCS again submitted an inadequate report in violation of the contract entered into between Westchester, CCS and NYCCS. This report, among other things failed to provide adequate expense accountings that would allow Westchester to properly evaluate the quality care being provided by CCS and NYCCS.

33. Rashad McNulty arrested and confined to WCJ on August 9, 2011. He was

incarcerated there until the time of his death on January 29, 2013. Shortly after Mr. McNulty arrived at WCJ on August 9, 2011, he underwent an inadequate medical intake screening process and health assessment in that CCS and NYCCS failed to detect a serious medical condition involving his arteries.

34. On September 5, 2012, Rashad McNulty pled guilty to a violation of Title 21, U.S.C., Section 841(b)(1)(B), and Title 18, U.S.C., Sections 924 (c) (1) (A)(i) and 2. He was awaiting sentencing before his untimely death.

35. That on January 28, 2013, at approximately 11:30 p.m., Rashad McNulty began complaining of chest pains and told Correction Officer John Doe #1 that he was feeling discomfort in his chest.

36. That on January 29, 2013, at approximately 2:15 a.m., Rashad McNulty was taken to the WCJ infirmary where he was misdiagnosed by Nurse Practitioner Jane Does and R.N. Jane Does as having indigestion and was treated for same with Zantac, Mylanta and water despite the fact that he was having a heart attack.

37. That on January 29, 2013, at approximately 2:15 a.m., Nurse Practitioner Jane Does and R.N. Jane Does provided grossly negligent medical care in that they failed to provide Mr. McNulty with nitroglycerin, oxygen, intravenous therapy, an EKG, and other proper medicine that would have saved his life.

38. That on January 29, 2013, at approximately 2:15 a.m., Nurse Practitioner Jane Does and R.N. Jane Does failed to call Ulloa, Curbelo, John Doe M.D., or anyone from Westchester Medical Center for medical advice regarding Mr. McNulty's dire health condition. Additionally, at that time Nurse Practitioner Jane Does and R.N. Jane Does failed to call Empress to provide Mr. McNulty with after care transportation to the Westchester Medical Center where

he would have been properly treated for his heart attack by physicians in a timely manner.

39. That on January 29, 2013 at approximately 4:20 a.m., after he was evaluated by Nurse Practitioner Jane Does 1 through 4 and R.N. Jane Does 1 through 4, Mr. McNulty was prematurely discharged from the infirmary and not observed for an adequate period of time; Mr. McNulty collapsed when he returned to his cell.

40. As Mr. McNulty was unconscious in his cell suffering from a cardiac arrest, he was dragged out face first by Correction Officer John Does, Nurse Practitioner Jane Does, and R.N. Jane Does before he was brought back to the infirmary.

41. Shortly after Mr. McNulty was rendered unconscious from his having a heart attack, Nurse Practitioner Jane Does and R.N. Jane Does finally called Empress to provide after care transportation for Mr. McNulty to get proper medical treatment at Westchester Medical Center. As Nurse Practitioner Jane Does and R.N. Jane Does waited for Empress to arrive, they continued to provide grossly negligent medical care and failed to provide Mr. McNulty with nitroglycerin, oxygen, intravenous therapy, an EKG, and other proper medicine that would have saved his life.

42. When Empress arrived at WCJ more than 30 minutes after the call was made for them to respond to WCJ regarding Mr. McNulty's serious medical condition, EMS John Does also provided grossly negligent medical treatment to Mr. McNulty acting jointly and in concert with Nurse Practitioner Jane Does and R.N. Jane Does. EMS John Does, Nurse Practitioner Jane Does and R.N. Jane Does failed to call Ulloa, Curbelo, John Doe M.D., or anyone from Westchester Medical Center regarding Mr. McNulty's serious medical condition.

43. Ulloa, Curbelo, and John Doe M.D. failed to provide guidance, treatment, and were otherwise unavailable to treat the serious medical needs of Mr. McNulty as he suffered

from cardiac arrest.

44. That on January 29, 2013, Mr. McNulty was eventually transported by Empress to Westchester Medical Center at 6:10 a.m., two hours after Mr. McNulty first passed out unconscious. Furthermore, it took over an hour for Empress to transport him to Westchester Medical Center. Despite efforts made by the physician staff of Westchester Medical Center to save his life, Mr. McNulty was declared dead, at the tender age of 36, at 6:16 a.m.

45. An autopsy of Mr. McNulty was promptly performed and listed his cause of death as stenosing coronary arteriosclerosis which is the hardening of the arteries.

46. A Notice of Claim pursuant to New York General Municipal Law § 50-e was timely served upon Westchester on March 13, 2013. An amended Notice of Claim was served on March 26, 2014. More than thirty days have elapsed without the matter being resolved by Westchester. The Notice of Claim provided information regarding the actions and that Westchester took involving the inadequate medical care provided to Mr. McNulty.

47. Similar incidents of inadequate medical care by Westchester and CCS occurred in the past as evidenced by internal complaints, press clippings, and pleadings.

FEDERAL CLAIMS

FIRST CAUSE OF ACTION - § 1983 MONELL CLAIMS

48. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

49. The actions, omissions, and decisions made by Defendants Westchester, CCS, NYCCS, and Empress regarding the provision of comprehensive health care to WCJ inmates and

detainees constitute their policies, practices and customs.

50. That the policies, practices and customs of Defendants Westchester, CCS, NYCCS, and Empress who were responsible for the provision of comprehensive health care to WCJ inmates and detainees were inadequate in that there was a deliberate indifference to their medical needs and that Defendants Westchester, CCS, and Empress were totally unconcerned with their welfare.

51. That the policies, practices, and customs of Defendants Westchester, CCS, NYCCS, and Empress led to the inadequate medical care, delay of proper care, negligent training of its employees, and misdiagnosis of the serious medical needs of the Decedent and deprived him of the rights, privileges, and immunities secured by the Eighth and Fourteenth Amendments of the United States Constitution, in violation of 42 U.S.C. §1983.

**SECOND CAUSE OF ACTION - § 1983 CLAIM FOR DELIBERATE INDIFFERENCE
TO SERIOUS MEDICAL NEEDS**

52. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

53. That Rashad McNulty was an inmate and/or detainee at WCJ at the time of his death on January 29, 2013 and had a constitutional right to adequate medical treatment and care.

54. That on January 29, 2013 Rashad McNulty presented a severe and urgent medical need that posed a sufficiently serious risk of death that was not treated with adequate medical care by Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practitioner Jane Does, R.N. Jane EMS John Does and CO John Does.

55. Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practitioner Jane Does, R.N.

Jane Does, EMS John Does and CO John Does knew of and disregarded a substantial risk of serious harm to Mr. McNulty's health and safety despite obvious indications that he was suffering from a heart attack.

56. That Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practitioner Jane Does, R.N. Jane Does and EMS John Does actions or omissions, and decisions constitute violations of Decedent's Eighth and Fourteenth amendment rights pursuant to 42 U.S.C. §1983.

THIRD CAUSE OF ACTION – SUPERVISORY LIABILITY

57. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

58. Dr. Ulloa, Dr. Curbelo, and John Doe M.D. were responsible for supervising and training the medical staff who provided treatment to WCJ inmates and detainees and failed to properly supervise and train the medical staff regarding the negligent medical treatment provided to the Decedent on January 29, 2013.

59. As a result of the inadequate supervision provided by Dr. Ulloa, Dr. Curbelo, and John Doe M.D., Decedent was deprived of the rights, privileges and immunities secured by the Eighth and Fourteenth amendment rights pursuant to 42 U.S.C. §1983.

STATE CLAIMS

FOURTH CAUSE OF ACTION - MEDICAL MALPRACTICE

60. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

61. That on January 29, 2013, the medical treatment provided to the Decedent was given and rendered in an improper, negligent, and careless manner in that Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practioner Jane Does, R.N. Jane Does and EMS John Does failed to employ the skill, care, and diligence commonly and ordinarily possessed by, and required of medical providers in the same locality; and in that that Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practioner Jane Does, R.N. Jane Does and EMS John Does failed to employ reasonable and proper steps, procedures, and practices for the health, welfare, and safety of the Decedent.

62. That as a result of Defendants Ulloa, Curbelo, John Doe M.D., Nurse Practioner Jane Does, R.N. Jane Does and EMS John Does medical malpractice, Decedent suffered injuries including but not limited to tremendous conscious pain and suffering; loss of enjoyment of life; emotional upset, shock, and fright; and death.

63. That by reason of the aforesaid cause of action, Decedent was damaged in an amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action.

FIFTH CAUSE OF ACTION – RESPONDEAT SUPERIOR

64. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

65. That Defendants Astorino, Cheverko, CO John Does, Ulloa, Curbelo, John Doe M.D., Nurse Practioner Jane Does, R.N. Jane Does and EMS John Does were respectively hired by Defendants Westchester, CCS, NYCCS, and Empress, and acted in furtherance and within the scope of said employment at all times between August 9, 2011 and January 29, 2013.

66. That Defendants Westchester, CCS, NYCCS, and Empress had the ability to control, command, manage, supervise, and direct their employees at all times between August 9, 2011 and January 29, 2013.

67. That Defendants Westchester, CCS, NYCCS, and Empress are vicariously liable for the tortious acts committed by its employees within the scope of the employment relationship and are vicariously liable for the injuries sustained by the Decedent.

68. That by reason of the aforesaid cause of action, Decedent was damaged in an amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action.

**SIXTH CAUSE OF ACTION – NEGLIGENT HIRING, SUPERVISION AND
RETENTION**

69. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

70. That Defendants Westchester and Astorino, negligently hired, supervised, and retained CCS and NYCCS.

71. That Defendants Westchester and Astorino owed a duty to Decedent to ensure that he received adequate and proper medical care and breached that duty when they negligently hired, supervised, and retained Defendants CCS, NYCCS, and Empress.

72. That Defendants CCS and NYCCS presented a foreseeable risk of harm to Decedent in that they previously provided inadequate medical care to other inmates that caused multiple deaths; that they had 140 federal lawsuits filed against them between 2004 and July 26, 2010; and that they overall were wholly unfamiliar with the proper methods of providing

comprehensive health care to WCJ inmates and detainees.

73. That Defendants Westchester and Astorino disregarded this foreseeable risk when they hired and retained the services of CCS and NYCCS.

74. That as a result of the aforementioned negligence, Decedent suffered injuries including but not limited to tremendous conscious pain and suffering; loss of enjoyment of life; emotional upset, shock, and fright; and death.

75. That by reason of the aforesaid cause of action, Decedent was damaged in an amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action.

SEVENTH CAUSE OF ACTION – BREACH OF CONTRACT

76. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

77. The contract entered into between Westchester, CCS, and NYCCS to provide comprehensive health care to WCJ inmates and detainees was made for the benefit of the Decedent.

78. That CCS and NYCCS breached said contract when they did not provide the required semiannual, and annual reports which did not allow Westchester to provide adequate oversight of the quality care provided to WCJ inmates by CCS and NYCCS.

79. That as a result of the aforementioned negligence, Decedent suffered injuries including but not limited to tremendous conscious pain and suffering; loss of enjoyment of life; emotional upset, shock, and fright; and death.

80. That by reason of the aforesaid cause of action, Decedent was damaged in an

amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action.

EIGHTH CAUSE OF ACTION – WRONGFUL DEATH

81. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

82. That as a result of the negligence of the Defendants, Decedent suffered and sustained serious injuries including but not limited to tremendous conscious pain and suffering; loss of enjoyment of life; emotional upset, shock, and fright; and death.

83. That the Decedent died intestate on January 29, 2013 at approximately 6:16 a.m., leaving as his surviving next of kin several children who had a reasonable expectation of support from the Decedent and were entitled to his comfort and the enjoyment of his society,

84. That by reason of the aforesaid cause of action, Decedent was damaged in an amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action.

NINTH CAUSE OF ACTION – PUNITVE DAMAGES

85. Plaintiff incorporates the allegations contained in the previous paragraphs and further alleges as follows:

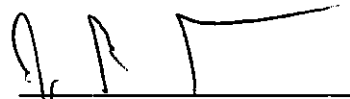
86. The actions taken by the individual Defendants against the Decedent were carried out in a deliberate, cold, callous, and intentional manner in order to injure and damage Mr. McNulty, his heirs, and survivors; therefore Mr. McNulty deserves an award of punitive

damages.

WHEREFORE, Plaintiff requests the following relief:

- A. Award compensatory, and punitive damages as the jury may determine;
- B. Award reasonable attorney's fees, costs, and disbursements; and
- C. Such other and further and general relief which the Court deems proper or appropriate.


Dated: New Rochelle, NY
April 28, 2014



Jared R. Rice (JR3885)
Rice & Rice Attorneys At Law
Attorneys for Plaintiff
270 North Avenue, Suite 202
New Rochelle, NY 10801
914-633-9200

VERIFICATION

I am the Plaintiff in the foregoing Complaint; that said Complaint is true of my own knowledge except as to the matters therein stated to be alleged upon information and belief and as to those matters, I believe them to be true.


ERICA MELVIN as
Administratrix of the Estate
Of RASHAD MCNULTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
ERICA MELVIN as Administratrix of the Estate of RASHAD MCNULTY, deceased,
Civil Action No.

Plaintiff,

v.

COUNTY OF WESTCHESTER;
CORRECT CARE SOLUTIONS LLC;
NEW YORK CORRECT CARE SOLUTIONS
MEDICAL SERVICES PC; EMPRESS
EMERGENCY MEDICAL SERVICES;
ROBERT ASTORINO; CORRECTION
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JANE DOE R.N. #3; JANE DOE R.N. #4;
EMS JOHN DOE #1; EMS JOHN DOE #2;

AFFIDAVIT OF MERIT

Defendants.

-----X

JARED R. RICE, ESQ, an attorney admitted to practice in the Courts of the State of New York, hereby affirms that the following statement is true under the penalty of perjury:

1. I have reviewed the facts of this case and have consulted with at least one duly licensed physician, whom I believe is knowledgeable in the relevant issues and I have concluded that there is a reasonable basis for this action.

2. That this certification is being made pursuant to Section 3012-a(a)(1) of the CPLR.

Dated: New Rochelle, New York
April 28, 2014

A handwritten signature in black ink, appearing to read 'J. Rice', is written over a horizontal line.

Jared R. Rice, Esq.
Rice & Rice, Esqs.
Attorneys for Plaintiff
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