

Paul S. Grosswald
DAVIS, SAPERSTEIN & SALOMON, P.C.
375 Cedar Lane
Teaneck, NJ 07666
(201) 907-5000
*Attorneys for Plaintiffs Estate of Jesse M. Rivera,
Nydia E. Rivera, and Eugenio Rivera*
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ESTATE OF JESSE M. RIVERA, a New Jersey estate,
NYDIA E. RIVERA, a New Jersey resident, and EUGENIO
RIVERA, a New Jersey resident,

Plaintiffs,

v.

PASSAIC COUNTY, PASSAIC COUNTY JOHN AND
JANE DOES 1-30, PASSAIC COUNTY SHERIFF'S
DEPARTMENT, PASSAIC COUNTY SHERIFF'S
DEPARTMENT JOHN AND JANE DOES 1-30, JERRY
SPEZIALE, in his official capacity as Sheriff of Passaic
County, and in his individual capacity, PASSAIC COUNTY
BUREAU OF CORRECTIONS, PASSAIC COUNTY
BUREAU OF CORRECTIONS JOHN AND JANE DOES
1-30, PASSAIC COUNTY JAIL, PASSAIC COUNTY
JAIL JOHN AND JANE DOES 1-30, CHARLES
MEYERS, in his official capacity as Warden of Passaic
County Jail, and in his individual capacity, PASSAIC
COUNTY OFFICE OF COURT ADMINISTRATION
JOHN AND JANE DOES 1-30, KIRK NIXON, in his
official capacity as Passaic County Court Administrator, and
in his individual capacity, PASSAIC COUNTY
PROBATION DEPARTMENT, PROBATION
DEPARTMENT JOHN AND JANE DOES 1 - 30, CITY
OF PATERSON, CITY OF PATERSON JOHN AND
JANE DOES 1 - 30, PASSAIC COUNTY DIAGNOSTIC
CENTER, PCDC JOHN AND JANE DOES 1 - 30,
CENTRAL MEDICAL SERVICES, INC., CMS JOHN
AND JANE DOES 1-30, DR. DAVID TUTONE, in his
official capacity as a jailhouse doctor, and in his individual
capacity, DR. PAUL DASHER, in his official capacity as a
jailhouse doctor, and in his individual capacity, OTHER
JOHN and JANE DOES 1 - 30, fictitiously named
individuals, and ABC CORPORATIONS 1 - 30, fictitiously
named entities,

Defendants.

Civil Action No. 09-5218

**FIRST AMENDED
COMPLAINT**

and

AFFIDAVIT OF MERIT

JURY TRIAL DEMANDED

The Plaintiffs, the Estate of Jesse M. Rivera, Nydia E. Rivera, and Eugenio Rivera (collectively, "the Plaintiffs"), by and through their attorneys, Davis, Saperstein & Salomon, P.C., by way of Complaint against the above-named Defendants, hereby allege the following:

PRELIMINARY STATEMENT

1. This Complaint arises out of the tragic death of Jesse M. Rivera, who died while in the custody of the Passaic County Jail on October 13, 2008. On October 7, 2008, a Passaic County Superior Court judge had ordered the jail to keep Jesse on a suicide watch. On October 9, 2008, the jail removed Jesse from the suicide watch and returned him to the general prison population, in direct violation of that court order. Four days later, Jesse hanged himself with a bed sheet, and died shortly thereafter. This lawsuit is brought by three Plaintiffs:

- a. Plaintiff ESTATE OF JESSE M. RIVERA, administered by Nydia E. Rivera, who administers the estate from her home at 1193 B Main Avenue, Apartment 1, Clifton, NJ 07011;
- b. Plaintiff NYDIA E. RIVERA, who resides at 1193 B Main Avenue, Apartment 1, Clifton, NJ 07011; and
- c. Plaintiff EUGENIO RIVERA, who resides at 10 Michigan Avenue, 2nd Floor, Paterson, NJ 07503.

JURISDICTION AND VENUE

2. This Court has jurisdiction over all of the Plaintiffs' federal claims, pursuant to 28 U.S.C. § 1331.

3. This Court has jurisdiction over the Plaintiffs' federal civil rights claims, pursuant to 28 U.S.C. § 1343.

4. This Court has jurisdiction over the Plaintiffs' state claims, pursuant to 28 U.S.C.

§ 1367.

5. Venue is proper in this Court under 28 U.S.C. § 1391 because all or a substantial part of the events giving rise to the Plaintiffs' claims occurred in this judicial district, and because several if not all of the Defendants reside in this judicial district.

PARTIES

Plaintiffs

6. Plaintiff ESTATE OF JESSE M. RIVERA represents Jesse M. Rivera ("Jesse"), an 18-year old who died while in the custody of the Passaic County Jail. The Administratrix of the Estate is Jesse's mother, Nydia E. Rivera, who administers the estate in New Jersey.

7. Plaintiff NYDIA E. RIVERA ("Nydia") is a New Jersey resident, and the mother of Jesse.

8. Plaintiff EUGENIO RIVERA ("Eugenio") is a New Jersey resident, and the father of Jesse.

Defendants

9. Defendant PASSAIC COUNTY is a political and geographic subdivision of the State of New Jersey, organized under state law. Under applicable federal and state law, and on information and belief, Passaic County is responsible, through its Board of Freeholders, for overseeing the conduct of its governmental subdivisions, including the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Office of Court Administration, the Passaic County Probation Department, the City of Paterson, and the Passaic County Diagnostic Center.

10. Defendant PASSAIC COUNTY JOHN AND JANE DOES 1 - 30 are employees and agents of Passaic County, acting within the scope of their employment or agency, who were

responsible for supervising Passaic County Jail while Jesse was in the jail's custody from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

11. Defendant PASSAIC COUNTY SHERIFF'S DEPARTMENT is the chief law enforcement body of Passaic County. Through its Bureau of Corrections, the Sheriff's Department staffs the Passaic County Jail with corrections officers who oversee virtually every aspect of the inmates' confinement.

12. Defendant PASSAIC COUNTY SHERIFF'S DEPARTMENT JOHN AND JANE DOES 1 - 30 are employees and agents of the Passaic County Sheriff's Department, acting within the scope of their employment or agency, who were responsible for working in or supervising Passaic County Jail while Jesse was in the jail's custody from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

13. Defendant JERRY SPEZIALE is the Sheriff of Passaic County. He has been the Sheriff since 2002. In his capacity as Sheriff, Speziale is the chief law enforcement officer of Passaic County and is responsible for establishing and enforcing the policies and procedures of the Sheriff's Department, including those governing the Bureau of Corrections and the Passaic County Jail. Defendant Speziale is sued in his official and individual capacities.

14. Defendant PASSAIC COUNTY BUREAU OF CORRECTIONS is a subdivision of the Passaic County Sheriff's Department and is responsible for overseeing the Passaic County Jail.

15. Defendant PASSAIC COUNTY BUREAU OF CORRECTIONS JOHN AND JANE DOES 1 - 30 are employees and agents of the Passaic County Bureau of Corrections, acting within the scope of their employment or agency, who were responsible for working in or supervising Passaic County Jail while Jesse was in the jail's custody from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

16. Defendant PASSIAC COUNTY JAIL is a correctional facility located in Paterson, New Jersey. Jesse was in the Passaic County Jail's custody when he committed suicide on October 13, 2008.

17. Defendant PASSAIC COUNTY JAIL JOHN AND JANE DOES 1 - 30 are employees and agents of the Passaic County Jail, acting within the scope of their employment or agency, who were responsible for the conditions of Jesse's confinement while Jesse was in the custody of Passaic County Jail from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

18. Defendant CHARLES MEYERS ("Warden Meyers") is the Warden of the Passaic County Jail. Warden Meyers is the administrative head of the Passaic County Jail and is responsible for its daily management, maintenance, and operation, as well as for training and disciplining employees. Warden Meyers is sued in his official and individual capacities.

19. Defendant PASSAIC COUNTY OFFICE OF COURT ADMINISTRATION JOHN AND JANE DOES 1 - 30 are employees and agents of the Passaic County Office of Court

Administration, acting within the scope of their employment or agency, who were responsible for ensuring that the October 7, 2008 court order, requiring Jesse to be kept on suicide watch, was communicated in a timely manner to the appropriate authorities responsible for enforcing such an order. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

20. Defendant KIRK NIXON is the Passaic County Court Administrator. Mr. Nixon is responsible for ensuring that any and all court orders are effectively and timely communicated to any persons whose actions are governed by such orders. Mr. Nixon is sued in his official and individual capacities.

21. Defendant PASSAIC COUNTY PROBATION DEPARTMENT is the department within Passaic County which is responsible for monitoring the safety, health and welfare of people within the county who are on probation. The Probation Department was responsible for monitoring the safety, health and welfare of Jesse while he was on probation, during the months leading up to his death.

22. Defendants PROBATION DEPARTMENT JOHN AND JANE DOES 1 - 30 are the probation officers and other employees and agents of the Probation Department, acting within the scope of their employment or agency, who were responsible for supervising Jesse while he was on probation. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

23. Defendant CITY OF PATERSON is a city within Passaic County, New Jersey, where the Passaic County Jail is located. On information and belief, the City shares

responsibility for overseeing the Passaic County Jail.

24. Defendant CITY OF PATERSON JOHN AND JANE DOES 1 - 30 are the employees and agents of the City of Paterson, acting within the scope of their employment or agency, who were responsible for working in or supervising the Passaic County Jail while Jesse was in the jail's custody from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

25. Defendant PASSAIC COUNTY DIAGNOSTIC CENTER is a facility that provides medical and psychiatric services to prisoners held at the Passaic County Jail, and to probationers in Passaic County.

26. Defendant PCDC JOHN AND JANE DOES 1 - 30 are employees and agents of the Passaic County Diagnostic Center, acting within the scope of their employment or agency, who were responsible for Jesse's care while Jesse was in the custody of Passaic County Jail from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

27. Defendant CENTRAL MEDICAL SERVICES, INC., is a New Jersey corporation. On information and belief, Central Medical Services, Inc., hired, trained, and supervised some or all of the doctors responsible for treating Jesse while Jesse was in the custody of Passaic County Jail from October 6, 2008 to October 13, 2008.

28. Defendant CMS JOHN AND JANE DOES 1 - 30 are employees and agents of Central Medical Services, Inc., acting within the scope of their employment or agency, who were

responsible for Jesse's care while Jesse was in the custody of Passaic County Jail from October 6, 2008 to October 13, 2008. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

29. Defendant DR. DAVID TUTONE is a doctor of psychiatry at the Passaic County Jail and/or the Passaic County Diagnostic Center. Dr. Tutone is being sued in his official and individual capacities.

30. Defendant DR. PAUL DASHER is a doctor of psychiatry at the Passaic County Jail and/or the Passaic County Diagnostic Center. Dr. Dasher is being sued in his official and individual capacities.

31. Defendants OTHER JOHN AND JANE DOES 1 - 30 and ABC CORPORATIONS 1 - 30 are fictitiously named individuals and entities. Their true names and capacities are not now known to the Plaintiffs. The Plaintiffs request leave of Court to amend this Complaint to insert their true names and capacities when such information has been ascertained.

FACTS COMMON TO ALL COUNTS

A. Jesse's Mental Illness and Guilty Plea

32. Jesse was an honor student at Eastside High School in Paterson, New Jersey.

33. Beginning in late 2007 or early 2008, Jesse began to display signs of mental illness. He increasingly became agitated and paranoid. He stopped going to school and was refusing to find a job. He had no friends. He spent entire days inside his mother's house.

34. He began to display some violent tendencies in early 2008. In March 2008, he threatened his mother, Nydia, with a hunting knife. Nydia became very worried for her son and

for her own safety.

35. On March 27, 2008, Jesse entered a guilty plea with the New Jersey Superior Court for Passaic County with regards to the knife incident. Under the terms of the plea agreement, Jesse was entitled to receive PTI, or Pre-Trial Intervention, which might have allowed him to stay out of jail and expunge his record. Jesse was given a sentencing date of January 9, 2009.

36. At the plea hearing, Nydia sought a restraining order requiring Jesse to stay away from her. She testified that her son's condition was deteriorating. He was experiencing episodes of paranoia and violence, and she feared him. She also said that a couple of days earlier, Jesse had spoken of murder-suicide as a "solution."

37. Based on Nydia's testimony, the court granted her the restraining order, limiting Jesse to having only telephone contact with his mother.

38. Compliance with the restraining order was a condition of Jesse's bail.

39. Jesse was released on bail, pending an evaluation by Dr. Dasher, of the Passaic County Diagnostic Center.

B. Jesse's Arrest

40. After spending the next few months moving around to different locations, Jesse found he had nowhere else to live. In or around early September 2008, Jesse moved back in with Nydia. Jesse had hoped he could repair his relationship with Nydia by talking to her.

41. Although Nydia was still fearful of Jesse, she was in a difficult position. She loved her son and did not want to send him to jail for violating the restraining order and the conditions of his bail.

42. Eventually, Jesse's probation officer discovered that Jesse had moved back in with

Nydia.

43. On October 6, 2008, Assistant Prosecutor Gina Pfund appeared before Judge Ernest Caposela of the New Jersey Superior Court for Passaic County, alleging that Jesse had violated his conditions of bail by moving back in with his mother. Ms. Pfund asked the judge to revoke Jesse's bail and place him under arrest.

44. Jesse was arrested at Nydia's home later that day.

C. The Court Order

45. At the time of his arrest, Dr. Dasher had not yet met with Jesse to do the evaluation that had been ordered by the court.

46. On October 7, 2008, Jesse appeared before Judge Caposela. At that time, the judge again ordered Dr. Dasher to do an evaluation of Jesse.

47. The judge ordered Dr. Dasher to include in the evaluation an analysis of whether Jesse was a danger to himself or to others.

48. According to the judge's order, Dr. Dasher's evaluation was due on November 7, 2008.

49. In the meantime, the judge ordered that Jesse be placed on suicide watch during his detention at the Passaic County Jail.

D. Jesse's Final Days

50. From October 6, 2008 to October 9, 2008, the Passaic County Jail placed Jesse in a special observation unit where he was under 24-hour supervision by a corrections officer.

51. On Thursday, October 9, 2008, the jail's clinical psychologist, Dr. David Tutone, evaluated Jesse. Dr. Tutone determined that Jesse should be removed from the special observation unit and placed with the prison's general population.

52. On information and belief, Dr. Tutone made his determination without consulting with Dr. Dasher, Judge Caposela, Ms. Pfund, Nydia, or anyone else with knowledge of Jesse's psychological condition and symptoms.

53. After his evaluation by Dr. Tutone, Jesse was removed from the special observation unit and placed with the prison's general population.

54. Four days later, on Monday, October 13, 2008, Jesse hanged himself in his jail cell with a bed sheet.

55. On information and belief, the corrections officers at the Passaic County Jail did not immediately notice that Jesse was attempting to hang himself, and when they finally noticed, they were slow to respond.

56. On information and belief, Jesse's life might have been saved if the corrections officers at the Passaic County Jail had discovered and reacted to Jesse's hanging promptly.

57. Jesse was eventually brought to St. Joseph's Regional Medical Center. Nydia and Eugenio came to the hospital and stood by their son's bedside.

58. The doctors recommended to the parents that they remove their son from life support.

59. Nydia and Eugenio made the decision to remove their son from life support, and they watched their son die.

60. Jesse was pronounced dead at St. Joseph's Regional Medical Center on October 13, 2008.

E. Plaintiffs' Satisfaction of Prerequisites to Sue

61. In or around late October 2008, each of the Defendants which are public entities, or employees of public entities, were given written notice of the claims herein, according to the

form and manner prescribed in the New Jersey Tort Claims Act, Title 59, Chapter 8 of N.J. Statutes.

62. On February 19, 2009, Letters of Administration ad Prosequendum were granted to Nydia E. Rivera, by Hon. William J. Bate, Surrogate of Passaic County and State of New Jersey, authorizing her to bring an action, institute a proceeding, or make a claim in Jesse's name.

F. Sovereign Immunity Waived

63. The Defendants have waived any sovereign and qualified immunity defenses because their actions and omissions, as alleged herein, constitute the reckless or negligent performance of ministerial tasks.

64. To the extent that the actions and omissions of Defendants, as alleged herein, constitute discretionary tasks, the Defendants have waived any sovereign and qualified immunity defenses because their conduct constitutes violations of Jesse's clearly established rights under the United States and New Jersey Constitutions, as further alleged below. A reasonable person would have known that the actions and omissions of Defendants violated such rights.

65. To the extent that the actions and omissions of Defendants, as alleged herein, constitute discretionary tasks, the Defendants have waived any sovereign and qualified immunity defenses because their conduct constitutes plain incompetence.

**FACTS RELEVANT FOR *MONELL* LIABILITY
(WITH RESPECT TO FEDERAL CIVIL RIGHTS CLAIMS)**

A. Passaic County (failure to adopt policies or training re: court orders)

66. On information and belief, Passaic County failed to adopt and fund necessary policies and training programs that would ensure that the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Office of Court Administration, the Passaic County Probation Department, and the Passaic County

Diagnostic Center, would effectively transmit and comply with court orders that are applicable to the prisoners and probationers in their custody and care.

67. On information and belief, as a direct and proximate result of Passaic County's failure to adopt and fund necessary policies and training programs, the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Office of Court Administration, the Passaic County Probation Department, and the Passaic County Diagnostic Center, all failed to effectively transmit and comply with Judge Caposela's order requiring Jesse to be kept on suicide watch.

B. Passaic County (failure to adopt policies or training re: suicide prevention)

68. On information and belief, Passaic County failed to adopt and fund necessary policies and training programs that would ensure that the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Probation Department, and the Passaic County Diagnostic Center, would know how to recognize the signs of suicidal ideation, how to identify probationers and prisoners who were at risk of suicide, and what steps they should take to prevent probationer and prisoner suicides.

69. On information and belief, as a direct and proximate result of Passaic County's failure to adopt and fund necessary policies and training programs, the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Probation Department, and the Passaic County Diagnostic Center, all failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

C. Passaic County (failure to adopt policies or training re: rapid response)

70. On information and belief, Passaic County failed to adopt and fund necessary

policies and training programs that would ensure that the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, and the Passaic County Jail, would respond to emergencies inside the prison in a prompt, efficient and competent manner.

71. On information and belief, as a direct and proximate result of Passaic County's failure to adopt and fund necessary policies and training programs, the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, and the Passaic County Jail, failed to respond to Jesse's hanging in a prompt, efficient and competent manner.

D. Passaic County (failure to adopt policies or training re: psychiatric standard of care)

72. On information and belief, Passaic County failed to adopt and fund necessary policies and training programs that would ensure that the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Probation Department, and the Passaic County Diagnostic Center, would apply the appropriate level of care with respect to psychiatric services provided to prisoners and probationers.

73. On information and belief, as a direct and proximate result of Passaic County's failure to adopt and fund necessary policies and training programs, the Passaic County Sheriff's Department, the Passaic County Bureau of Corrections, the Passaic County Jail, the Passaic County Probation Department, and the Passaic County Diagnostic Center, failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was in jail, and while he was on probation.

E. Passaic County Sheriff's Department (failure to adopt policies or training re: court orders)

74. On information and belief, the Passaic County Sheriff's Department failed to adopt necessary policies or training programs that would ensure that its employees would

monitor court orders received from the Passaic County Office of Court Administration, transmit those orders to the appropriate people within the Passaic County Sheriff's Department and the Passaic County Jail, and take steps to ensure that those orders were complied with.

75. On information and belief, as a direct and proximate result of the Passaic County Sheriff's Department's failure to adopt necessary policies and training programs, its employees failed to monitor Judge Caposela's order requiring Jesse to be kept on suicide watch, failed to transmit the order to the appropriate medical staff at the Passaic County Jail, and failed to comply with the order.

F. Passaic County Sheriff's Department (failure to adopt policies or training re: suicide prevention)

76. On information and belief, the Passaic County Sheriff's Department failed to adopt necessary policies or training programs that would ensure that its employees would know how to recognize the signs of suicidal ideation, how to identify prisoners who were at risk of suicide, and what steps they should take to prevent prisoner suicides.

77. On information and belief, as a direct and proximate result of the Passaic County Sheriff's Department's failure to adopt necessary policies and training programs, its employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

G. Passaic County Sheriff's Department (failure to adopt policies or training re: rapid response)

78. On information and belief, the Passaic County Sheriff's Department failed to adopt necessary policies or training programs that would ensure that its employees would respond to emergencies inside the Passaic County Jail in a prompt, efficient and competent manner.

79. On information and belief, as a direct and proximate result of the Passaic County Sheriff's Department's failure to adopt necessary policies and training programs, its employees failed to respond to Jesse's hanging in a prompt, efficient and competent manner.

H. Passaic County Sheriff's Department (failure to adopt policies or training re: psychiatric standard of care)

80. On information and belief, the Passaic County Sheriff's Department failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services provided to prisoners.

81. On information and belief, as a direct and proximate result of the Passaic County Sheriff's Department's failure to adopt necessary policies and training programs, its mental health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was in jail.

I. Passaic County Bureau of Corrections (failure to adopt policies or training re: court orders)

82. On information and belief, the Passaic County Bureau of Corrections failed to adopt necessary policies or training programs that would ensure that its employees would monitor court orders received from the Passaic County Office of Court Administration, transmit those orders to the appropriate people within the Sheriff's Department and the Passaic County Jail, and take steps to ensure that those orders were complied with.

83. On information and belief, as a direct and proximate result of the Passaic County Bureau of Corrections' failure to adopt necessary policies and training programs, its employees failed to monitor Judge Caposela's order requiring Jesse to be kept on suicide watch, failed to transmit the order to the appropriate medical staff at the Passaic County Jail, and failed to

comply with the order.

J. Passaic County Bureau of Corrections (failure to adopt policies or training re: suicide prevention)

84. On information and belief, the Passaic County Bureau of Corrections failed to adopt necessary policies or training programs that would ensure that its employees would know how to recognize the signs of suicidal ideation, how to identify prisoners who were at risk of suicide, and what steps they should take to prevent prisoner suicides.

85. On information and belief, as a direct and proximate result of the Passaic County Bureau of Corrections' failure to adopt necessary policies and training programs, its employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

K. Passaic County Bureau of Corrections (failure to adopt policies or training re: rapid response)

86. On information and belief, the Passaic County Bureau of Corrections failed to adopt necessary policies or training programs that would ensure that its employees would respond to emergencies inside the Passaic County Jail in a prompt, efficient and competent manner.

87. On information and belief, as a direct and proximate result of the Passaic County Bureau of Corrections' failure to adopt necessary policies and training programs, its employees failed to respond to Jesse's hanging in a prompt, efficient and competent manner.

L. Passaic County Bureau of Corrections (failure to adopt policies or training re: psychiatric standard of care)

88. On information and belief, the Passaic County Bureau of Corrections failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services

provided to prisoners.

89. On information and belief, as a direct and proximate result of the Passaic County Bureau of Corrections' failure to adopt necessary policies and training programs, its mental health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was in jail.

M. Passaic County Jail (failure to adopt policies or training re: court orders)

90. On information and belief, the Passaic County Jail failed to adopt necessary policies and training programs that would ensure that its employees would monitor court orders received from the Passaic County Office of Court Administration, transmit those orders to the appropriate people within the Passaic County Jail, and take steps to ensure that those orders were complied with.

91. On information and belief, as a direct and proximate result of the Passaic County Jail's failure to adopt necessary policies and training programs, its employees failed to monitor Judge Caposela's order requiring Jesse to be kept on suicide watch, failed to transmit the order to the appropriate medical staff at the Passaic County Jail, and failed to comply with the order.

N. Passaic County Jail (failure to adopt policies or training re: suicide prevention)

92. On information and belief, the Passaic County Jail failed to adopt necessary policies and training programs that would ensure that its employees would know how to recognize the signs of suicidal ideation, how to identify prisoners who were at risk of suicide, and what steps they should take to prevent prisoner suicides.

93. On information and belief, as a direct and proximate result of the Passaic County Jail's failure to adopt necessary policies and training programs, its employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed

to take steps to prevent Jesse's suicide.

O. Passaic County Jail (failure to adopt policies or training re: rapid response)

94. On information and belief, the Passaic County Jail failed to adopt necessary policies and training programs that would ensure that its employees would respond to emergencies inside the jail in a prompt, efficient and competent manner.

95. On information and belief, as a direct and proximate result of the Passaic County Jail's failure to adopt necessary policies and training programs, its employees failed to respond to Jesse's hanging in a prompt, efficient and competent manner.

P. Passaic County Jail (failure to adopt policies or training re: psychiatric standard of care)

96. On information and belief, the Passaic County Jail failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services provided to prisoners.

97. On information and belief, as a direct and proximate result of the Passaic County Jail's failure to adopt necessary policies and training programs, its mental health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was in jail.

Q. Passaic County Probation Department (failure to adopt policies or training re: court orders)

98. On information and belief, the Passaic County Probation Department failed to adopt necessary policies and training programs that would ensure that its employees would monitor court orders issued by the Passaic County Office of Court Administration, transmit those orders to the appropriate people within the Passaic County Probation Department, the Passaic County Sheriff's Department, or the Passaic County Jail, and take steps to ensure that those

orders were complied with.

99. On information and belief, as a direct and proximate result of the Passaic County Probation Department's failure to adopt necessary policies and training programs, its employees failed to monitor Judge Caposela's order requiring Jesse to be kept on suicide watch, failed to transmit the order to the appropriate people, and failed to ensure that the order was complied with.

R. Probation Department (failure to adopt policies or training re: suicide prevention)

100. On information and belief, the Passaic County Probation Department failed to adopt necessary policies and training programs that would ensure that its employees would know how to recognize the signs of suicidal ideation, how to identify probationers who were at risk of suicide, and what steps they should take to prevent probationer suicides.

101. On information and belief, as a direct and proximate result of the Passaic County Probation Department's failure to adopt necessary policies and training programs, its employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

S. Probation Department (failure to adopt policies or training re: psychiatric standard of care)

102. On information and belief, the Passaic County Probation Department failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services provided to probationers.

103. On information and belief, as a direct and proximate result of the Passaic County Probation Department's failure to adopt necessary policies and training programs, its mental

health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was on probation.

T. City of Paterson (failure to adopt policies or training re: court orders)

104. On information and belief, the City of Paterson failed to adopt necessary policies or training programs that would ensure that the prison employees would monitor court orders received from the Passaic County Office of Court Administration, transmit those orders to the appropriate people within the Passaic County Jail, and take steps to ensure that those orders were complied with.

105. On information and belief, as a direct and proximate result of the City of Paterson's failure to adopt necessary policies and training programs, the prison employees failed to monitor Judge Caposela's order requiring Jesse to be kept on suicide watch, failed to transmit the order to the appropriate medical staff at the Passaic County Jail, and failed to comply with the order.

U. City of Paterson (failure to adopt policies or training re: suicide prevention)

106. On information and belief, the City of Paterson failed to adopt necessary policies or training programs that would ensure that the prison employees would know how to recognize the signs of suicidal ideation, how to identify prisoners who were at risk of suicide, and what steps they should take to prevent prisoner suicides.

107. On information and belief, as a direct and proximate result of the City of Paterson's failure to adopt necessary policies and training programs, the prison employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

V. City of Paterson (failure to adopt policies or training re: rapid response)

108. On information and belief, the City of Paterson failed to adopt necessary policies or training programs that would ensure that its employees would respond to emergencies inside the prison in a prompt, efficient and competent manner.

109. On information and belief, as a direct and proximate result of the City of Paterson's failure to adopt necessary policies and training programs, the prison employees failed to respond to Jesse's hanging in a prompt, efficient and competent manner.

W. City of Paterson (failure to adopt policies or training re: psychiatric standard of care)

110. On information and belief, the City of Paterson failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services provided to prisoners.

111. On information and belief, as a direct and proximate result of the City of Paterson's failure to adopt necessary policies and training programs, its mental health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was in jail.

X. Passaic County Diagnostic Center (failure to adopt policies or training re: court orders)

112. On information and belief, the Passaic County Diagnostic Center failed to adopt necessary policies and training programs that would ensure that its employees would be aware of any court orders that were applicable to the patients they were treating, that would ensure that they would transmit those orders to the appropriate people within the Passaic County Diagnostic Center, and that would ensure that those orders were complied with.

113. On information and belief, as a direct and proximate result of the Passaic County Diagnostic Center's failure to adopt necessary policies and training programs, its employees were

unaware of Judge Caposela's order requiring Jesse to be kept on suicide watch, and therefore they did not comply with the court order.

Y. Passaic County Diagnostic Center (failure to adopt policies or training re: suicide prevention)

105. On information and belief, the Passaic County Diagnostic Center failed to adopt necessary policies and training programs that would ensure that its employees would know how to recognize the signs of suicidal ideation, how to identify prisoners who were at risk of suicide, and what steps they should take to prevent prisoner suicides.

106. On information and belief, as a direct and proximate result of the Passaic County Diagnostic Center's failure to adopt necessary policies and training programs, its employees failed to recognize Jesse's signs of suicidal ideation, failed to determine that Jesse was at risk of suicide, and failed to take steps to prevent Jesse's suicide.

Z. Passaic County Diagnostic Center (failure to adopt policies or training re: psychiatric standard of care)

107. On information and belief, the Passaic County Diagnostic Center failed to adopt necessary policies and training programs that would ensure that its mental health professionals would apply the appropriate level of care with respect to psychiatric services provided to probationers and prisoners.

108. On information and belief, as a direct and proximate result of the Passaic County Diagnostic Center's failure to adopt necessary policies and training programs, its mental health professionals failed to provide the appropriate level of care with respect to the psychiatric services provided to Jesse while he was on probation and while he was in jail.

COUNT 1

(Violations of United States Constitution, 8th Amendment – Cruel and Unusual Punishment)

Against:

All Defendants, in all capacities

109. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

110. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, Jesse was a convicted prisoner for purposes of the Eighth Amendment to the United States Constitution, in that he had previously pleaded guilty, on March 28, 2008, with respect to the knife incident involving his mother.

111. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, he was particularly vulnerable to suicide.

112. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, there was a strong likelihood that Jesse would commit suicide.

113. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, Defendants actually knew that there was a strong likelihood that Jesse would commit suicide, in part because a court had ordered Jesse to be kept under suicide watch.

114. Jesse's particular vulnerability to suicide represented a serious medical need.

115. Defendants failed to take reasonable measures to prevent Jesse's suicide, and therefore acted with deliberate indifference towards Jesse's vulnerability to suicide, by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

116. The Defendants' deliberate indifference constitutes a violation of Jesse's right to be free from cruel and unusual punishment, pursuant to the Eighth Amendment to the United States Constitution.

117. The deprivation of Jesse's Eighth Amendment rights, as alleged herein, occurred under color of state law. The Defendants exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

118. The deprivation of Jesse's Eighth Amendment rights directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

119. The Defendant's violations of Jesse's Eighth Amendment rights were done in a manner that was recklessly or callously indifferent to Jesse's federally protected rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 2

(Violations of United States Constitution, 14th Amendment – Substantive Due Process)

Against:

All Defendants, in all capacities

120. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

121. Jesse's right to life is a fundamental right.

122. Defendants infringed on Jesse's fundamental right to life by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;

- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

123. The infringement of Jesse's fundamental right to life, as alleged herein, was done by Defendants without a compelling reason, and without due process of law, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

124. The deprivation of Jesse's due process rights, as alleged herein, occurred under color of state law. The Defendants exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

125. The deprivation of Jesse's due process rights directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

126. The Defendant's violations of the Fourteenth Amendment were done in a manner that was recklessly or callously indifferent to Jesse's federally protected rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 3

(Violations of United States Constitution, 14th Amendment – Procedural Due Process)

Against:

All Defendants, in all capacities

127. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

128. On October 7, 2008, Judge Caposela issued a court order, requiring that Jesse be kept on suicide watch for thirty days.

129. The purpose of that court order was to protect Jesse from harming himself.

130. Defendants violated that court order by:

- a. removing Jesse from suicide watch;
- b. returning Jesse to the general prison population;
- c. failing to adequately supervise Jesse;
- d. failing to provide Jesse with adequate psychiatric care,;
- e. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself; and
- f. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- g. undertaking such other actions and omissions as are not yet known to Plaintiffs.

131. The Defendants did not provide the Plaintiffs with notice or a hearing prior to

violating the court order.

132. The acts described herein constitute a violation of Jesse's procedural due process rights, secured by the Fourteenth Amendment to the United States Constitution.

133. The deprivation of Jesse's due process rights, as alleged herein, occurred under color of state law. The Defendants exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

134. The deprivation of Jesse's procedural due process rights directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

135. The Defendant's violations of Jesse's procedural due process rights were done in a manner that was recklessly or callously indifferent to Jesse's federally protected rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 4

(Violations of United States Constitution, 14th Amendment – Equal Protection)

Against:

All Defendants, in all capacities

136. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

137. At all relevant times, Jesse had a disability, in that he was suffering from acute depression and suicidal ideation.

138. Because of Jesse's disability, the Defendants treated him differently than they treated other similarly situated prisoners, by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

139. Defendants treated Jesse differently than other similarly situated inmates, without a rational basis for doing so, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

140. The deprivation of Jesse's equal protection rights, as alleged herein, occurred under color of state law. The Defendants exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

141. The deprivation of Jesse's equal protection rights, as alleged herein, directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

142. The Defendant's violations of the Fourteenth Amendment were done in a manner that was reckless or callously indifferent to Jesse's federally protected equal protection rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 5

(Violations of 42 U.S.C. § 1983)

Against:

All Defendants, in all capacities

143. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

144. The actions and omissions of Defendants, as alleged herein, have deprived Jesse of his due process rights and equal protection rights, secured by the Fourteenth Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983.

145. The Defendants' violations of § 1983 occurred under color of state law. The Defendants, and each of them, exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

146. The Defendants' violations of § 1983 directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

147. The Defendants' violations of § 1983 were committed in a manner that was reckless or callously indifferent to Jesse's federally protected constitutional rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 6

(Violations of 42 U.S.C. § 1985)

Against:

All Defendants, in all capacities

148. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

149. Defendants violated 42 U.S.C. § 1985 by conspiring for the purpose of depriving Jesse of the equal protection of the laws.

150. In furtherance of their conspiracy, Defendants undertook certain actions and omissions, including:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly

supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and

h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

151. The Defendants' violations of § 1985, directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

152. The Defendants' violations of § 1985 were done in a manner that was reckless or callously indifferent to Jesse's federally protected constitutional rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 7

(Violations of 42 U.S.C. § 1986)

Against:

All Defendants, in all capacities

153. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

154. The Defendants had knowledge that the wrongs conspired to be done in violation of § 1985 were about to be committed.

155. The Defendants had the power to prevent or aid in the prevention of the wrongs conspired to be done in violation of § 1985.

156. The Defendants violated 42 U.S.C. § 1986 by neglecting to prevent, refusing to prevent, or aiding in the prevention, of the wrongs conspired to be done in violation of § 1985.

157. The Defendants' violations of § 1986, directly and proximately caused Jesse to

suffer severe emotional distress, acute depression, and death.

158. The Defendants' violations of § 1986 were done in a manner that was reckless or callously indifferent to Jesse's federally protected constitutional rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 8

(Violations of Americans With Disabilities Act, 42 U.S.C. § 12132)

Against:

All Defendants, in all capacities

159. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

160. Jesse was a "qualified individual with a disability," for purposes of 42 U.S.C. § 12131, in that he was suffering from acute depression and suicidal ideation.

161. Passaic County Jail is a "public entity," for purposes of 42 U.S.C. § 12131, in that it is an instrumentality of Passaic County, which is a political subdivision of the State of New Jersey.

162. While at Passaic County Jail, Jesse was denied the benefit of proper care for his acute depression and suicidal ideation, in that the Defendants undertook certain actions and omissions, including:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular

vulnerability to suicide;

- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

163. Jesse was denied the benefit of proper care by reason of his disability, in violation of 42 U.S.C. § 12132, in that, on information and belief, if he had been suffering from a physical illness rather than a mental illness, he would have received the proper care.

164. The Defendants' violations of § 12132 directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

165. The Defendants' violations of § 12132 were done in a manner that was recklessly or callously indifferent to Jesse's federally protected rights, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 9

(Violations of New Jersey Constitution, Art. I, § 12 – Cruel and Unusual Punishment)

Against:

All Defendants, in all capacities

166. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

167. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, Jesse was a convicted prisoner for purposes of the New Jersey Constitution, Article I, § 12, in that he had previously pleaded guilty, on March 28, 2008, with respect to the knife incident involving his mother.

168. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, he was particularly vulnerable to suicide.

169. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, there was a strong likelihood that Jesse would commit suicide.

170. During the time that Jesse was in the custody of Passaic County Jail, from October 6, 2008 to October 13, 2008, Defendants actually knew that there was a strong likelihood that Jesse would commit suicide, in part because a court had ordered Jesse to be kept under suicide watch.

171. Jesse's particular vulnerability to suicide represented a serious medical need.

172. Defendants failed to take reasonable measures to prevent Jesse's suicide, and therefore acted with deliberate indifference towards Jesse's vulnerability to suicide, by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

173. The Defendants' deliberate indifference constitutes a violation of Jesse's right to be free from cruel and unusual punishment, pursuant to the New Jersey Constitution, Article I, §12.

174. The deprivation of Jesse's right to be free from cruel and unusual punishment, as alleged herein, occurred under color of state law. The Defendants exercised power that they possessed by virtue of state law, and their actions were made possible only because they were clothed with the authority of state law.

175. The deprivation of Jesse's right to be free from cruel and unusual punishment directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

176. The Defendant's violations of Jesse's right to be free from cruel and unusual punishment were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 10

(Violations of New Jersey Constitution, Art. I, § 1 – Due Process Violations)

Against:

All Defendants, in all capacities

109. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

110. The Defendants undertook actions and omissions that were arbitrary, capricious, and unreasonable, by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;

- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

111. The Defendants' arbitrary, capricious, and unreasonable actions and omissions, as alleged herein, constitute a deprivation of Jesse's due process rights secured by Article I, ¶ 1 of the New Jersey Constitution.

112. The Defendants' violations of Jesse's due process rights directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

113. The Defendants' violations of Jesse's due process rights were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 11

(Violations of New Jersey Constitution, Art. I, § 1 – Equal Protection Violations)

Against:

All Defendants, in all capacities

114. The Plaintiffs repeat and incorporate by reference each and every allegation

contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

115. At all relevant times, Jesse had a disability, in that he was suffering from acute depression and suicidal ideation.

116. Because of Jesse's disability, the Defendants treated him differently than they treated other similarly situated prisoners, by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

117. Defendants treated Jesse differently than other similarly situated inmates, without

a rational basis for doing so, in violation of Jesse's equal protection rights, secured by Article I, ¶ 1 of the New Jersey Constitution.

118. The Defendants' violations of Jesse's equal protection rights directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

119. The Defendants' violations of Jesse's equal protection rights were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 12

(Violations of New Jersey Civil Rights Act, N.J.S.A. 10:6-2)

Against:

All Defendants, in all capacities

120. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

121. The actions and omissions of Defendants, as alleged herein, constitute violations of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, by depriving Jesse of rights secured by the 8th and 14th Amendments to the United States Constitution, and by Article I, ¶ 1 of the New Jersey Constitution.

122. The Defendants' violations of the New Jersey Civil Rights Act directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

123. The Defendants' violations of the New Jersey Civil Rights Act were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was

foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 13

(Common Law Negligence)

Against:

All Defendants, in all capacities

124. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.
125. Defendants owed a duty to Jesse to monitor, transmit, and comply with, orders of the court that were intended to protect Jesse from harming himself.
126. Defendants owed a duty to Jesse to protect him from harm, whether inflicted by himself or others, while he was in the custody of the Passaic County Jail.
127. Defendants owed a duty to Jesse to respond to his efforts to commit suicide in a prompt, efficient and competent manner.
128. Defendants owed a duty to Jesse to operate, maintain, or supervise the Passaic County Jail in a safe and reasonable manner.
129. Defendants breached those duties by:
 - a. violating a court order that was intended to protect Jesse from harming himself;
 - b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
 - c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;

- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

130. The Defendants' breaches of duty directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

131. The Defendants' breaches of duty were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 14

(Negligent Hiring, Training and Retention of Employees)

Against:

All Defendants, in all capacities

132. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

133. Defendants owed a duty to Jesse to hire, train and retain competent employees to handle the conditions of his confinement at Passaic County Jail.

134. Defendants breached that duty by failing to hire, train and retain their employees in a reasonable manner so as to prevent such employees from:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

135. The Defendants' breaches of duty directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

136. The Defendants' breaches of duty were the product of actual malice, or were

accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 15

(Negligence *Per Se*)

Against:

All Defendants, in all capacities

137. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

138. On October 7, 2008, Judge Caposela issued a court order, requiring that Jesse be kept on suicide watch for thirty days.

139. The purpose of that court order was to protect Jesse from harming himself.

140. Defendants violated the court order, by:

- a. removing Jesse from suicide watch;
- b. returning Jesse to the general prison population;
- c. failing to adequately supervise Jesse;
- d. failing to provide Jesse with adequate psychiatric care;
- e. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- f. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and

g. undertaking such other actions and omissions as are not yet known to Plaintiffs.

141. The Defendants' violation of the court order caused the precise harm that the court order was designed to prevent, in that it caused Jesse to suffer severe emotional distress, acute depression, and death.

142. Thus, the Defendants have committed negligence *per se*.

143. The Defendants' acts of *per se* negligence were the product of actual malice, or were accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 16

(Medical Malpractice)

Against only:

DR. DAVID TUTONE, in all capacities

DR. DASHER, in all capacities

PCDC JOHN AND JANE DOES 1 – 30

CMS JOHN AND JANE DOES 1 - 30

OTHER JOHN AND JANE DOES 1 – 30

144. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

145. At all relevant times, Jesse was under the care of Defendants.

146. Defendants failed to exercise due skill and care by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular

vulnerability to suicide;

- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
- h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

147. Defendants' failure to exercise due skill and care directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

148. Defendants' malpractice was the product of actual malice, or was accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 17

(Intentional Infliction of Emotional Distress on Jesse Only)

Against:

All Defendants, in all capacities

149. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set

forth herein verbatim and at length.

150. The Defendants intentionally or recklessly engaged in conduct which is extreme and outrageous beyond all bounds of decency, by:
- a. violating a court order that was intended to protect Jesse from harming himself;
 - b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
 - c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
 - d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
 - e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
 - f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
 - g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to deliberate indifference to an obvious need for such policies, training or supervision; and
 - h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

151. Defendants' extreme and outrageous conduct directly and proximately caused Jesse to suffer severe emotional distress, acute depression, and death.

152. The Defendants' intentional infliction of emotional distress was the product of actual malice, or was accompanied by a wanton and willful disregard of Jesse, who was

foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 18

(Intentional Infliction of Emotional Distress on Nydia and Eugenio Only)

Against:

All Defendants, in all capacities

153. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

154. The Defendants intentionally or recklessly engaged in conduct which is extreme and outrageous beyond all bounds of decency, by causing Nydia and Eugenio to have to make the decision to remove their son from life support.

155. The Defendants intentionally or recklessly engaged in conduct which is extreme and outrageous beyond all bounds of decency, by causing Nydia and Eugenio to have to watch their son die.

156. Defendants' extreme and outrageous conduct directly and proximately caused Nydia and Eugenio to suffer severe emotional distress.

157. The Defendants' intentional infliction of emotional distress was the product of actual malice, or was accompanied by a wanton and willful disregard of Nydia and Eugenio, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 19

(Negligent Infliction of Emotional Distress)

Against:

All Defendants, in all capacities

158. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

159. Defendants owed a duty of reasonable care to Jesse.

160. Defendants breached that duty by:

- a. violating a court order that was intended to protect Jesse from harming himself;
- b. removing Jesse from suicide watch, at a time when he had a particular vulnerability to suicide;
- c. returning Jesse to the general prison population, at a time when he had a particular vulnerability to suicide;
- d. failing to adequately supervise Jesse, at a time when he had a particular vulnerability to suicide;
- e. failing to provide Jesse with adequate psychiatric care, at a time when he had a particular vulnerability to suicide;
- f. failing to respond in a prompt, efficient, and competent manner when Jesse began his effort to hang himself;
- g. failing to adopt necessary policies and training programs, or failing to properly supervise Passaic County Jail corrections staff, in a manner that amounts to

deliberate indifference to an obvious need for such policies, training or supervision; and

h. undertaking such other actions and omissions as are not yet known to Plaintiffs.

161. The Defendants' breaches of duty directly and proximately caused Jesse to be placed in reasonable fear of immediate personal injury. That, in turn, caused Jesse to suffer severe emotional distress, acute depression, and death.

162. The Defendants' negligent infliction of emotional distress was the product of actual malice, or was accompanied by a wanton and willful disregard of Jesse, who was foreseeably harmed, and the Plaintiffs are thus entitled to recover punitive damages, as permitted by law.

COUNT 20

(Wrongful Death)

Against:

All Defendants, in all capacities

163. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

164. The Defendants committed tortious acts against Jesse, as alleged above.

165. As a direct and proximate result of the Defendants' tortious acts, Jesse died.

COUNT 21

(Survivorship)

Against:

All Defendants, in all capacities

166. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

167. Nydia and Eugenio, as parents of the deceased Jesse, suffered pecuniary losses as a result of Jesse's death, and as beneficiaries of Jesse's estate.

COUNT 22

(*Respondeat Superior* – Applies Only to Counts 8 - 21)

Against:

All Defendants, in all capacities

168. The Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as if the same were set forth herein verbatim and at length.

169. Those Defendants that were not directly involved in the actions and omissions that led to Jesse's death were the masters in a master-servant relationship, or the principals in a principal-agent relationship, with those Defendants that were directly involved.

170. Those Defendants that were directly involved in the actions and omissions that led to Jesse's death committed their actions and omissions within the scope of their employment or agency.

171. Therefore, by the doctrine of *respondeat superior*, those Defendants who were not directly involved in the acts and omissions that led to Jesse's death are jointly and severally liable for all of Plaintiffs' damages, the same as if they had been directly involved in the acts and omissions that led to Jesse's death.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment be entered for:

- A. compensatory damages for damages to Jesse, against all Defendants, jointly and severally, in an amount to be determined at trial, pursuant to applicable law;
- B. pecuniary damages for damages to Nydia and Eugenio, against all Defendants, jointly and severally, in an amount to be determined at trial, pursuant to applicable law;
- C. punitive damages against all Defendants, jointly and severally, in an amount to be determined at trial, pursuant to applicable law;
- D. reasonable attorney's fees, including expert fees, litigation expenses and cost of suit, against all Defendants, jointly and severally, pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and N.J.S.A. 10:6-2(f);
- E. reasonable funeral and burial expenses, pursuant to N.J.S.A. 2A:15-3;
- F. reasonable pre-and post-judgment interest on all monetary awards, pursuant to applicable law; and
- G. such other and further relief which this Court may determine to be just and equitable under the circumstances.

JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

Dated: December 10, 2009

By: s/ Paul S. Grosswald
PAUL S. GROSSWALD, ESQ.

LOCAL CIVIL RULE 11.2 CERTIFICATION

I, Paul S. Grosswald, attorney for Plaintiffs, Estate of Jesse M. Rivera, Nydia E. Rivera, and Eugenio Rivera, in accordance with Loc. Civ. R. 11.2, hereby certifies, pursuant to 28 U.S.C. § 1746, that to the best of my knowledge, the matter in controversy in the above-captioned civil action is not the subject of any other action pending in any court, nor is it the subject of any pending arbitration or administrative proceeding. I certify under penalty of perjury that the foregoing is true and correct.

Dated: December 10, 2009

By: s/ Paul S. Grosswald
PAUL S. GROSSWALD, ESQ.