

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SHARON STEIN, as Personal
Representative of the Estate of JOHN
RICHARD STEIN, Deceased,

Case No. 17-
Hon.

Plaintiff,

v.

STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
(MDOC) and CORIZON of
MICHIGAN a/k/a CORIZON
HEALTH, INC., Warden ANTHONY
STEWART, JANE DOE and JANE
ROE, Jointly and Severally,

Defendants.

GEOFFREY N. FIEGER (P30441)
JAMES S. CRAIG (P52691)
FIEGER LAW
Attorneys for Plaintiff
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Southfield, MI 48075
(248) 355-5555
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COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, SHARON STEIN, as Personal Representative of
the Estate of JOHN RICHARD STEIN, by and through her attorneys, FIEGER
LAW, and for her Complaint against Defendants, states as follows:

JURISDICTION AND VENUE

1. That the Court has jurisdiction of this action under the provisions of Title 28 of the United States Code, Sections 1331 and 1343, and has supplemental jurisdiction under 28 U.S.C. § 1367 for all state claims that arise out of the nucleus of operative facts common to Plaintiff's federal claims.

2. That each and every act and/or omission committed by Defendants as hereafter alleged, were done by those Defendants under the color and pretense of the statutes, ordinances, regulations, laws, customs, and usages of the State of Michigan, and by virtue of, and under the authority of, each individual Defendant's employment with the State of Michigan.

3. That the amount in controversy exceeds Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of costs, interest, and attorney fees.

4. That Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events that give rise to this claim took place within this district.

5. That this Court has authority pursuant to 42 U.S.C. § 1983 to award appropriate actual, consequential, compensatory, and punitive damages, and has authority under 42 U.S.C. § 1988 to award attorney fees and costs to successful civil rights plaintiffs.

GENERAL ALLEGATIONS

6. Plaintiff incorporates each preceding paragraph as if fully restated.

7. That SHARON STEIN is a citizen of the State of Michigan and a resident of this judicial district. She is the mother of decedent, JOHN RICHARD STEIN (hereinafter “STEIN” or “Decedent”).

8. Prior to his incarceration JOHN RICHARD STEIN was domiciled in Monroe County, State of Michigan.

9. That SHARON STEIN has been duly appointed Personal Representative of the Estate of JOHN RICHARD STEIN by the Monroe County Probate Court, File No. 2017-0483-DE. (**Exh. A** – Letters of Authority)

10. At all times relevant, STEIN was entitled to all the rights, privileges, and immunities accorded to all U.S. citizens and residents of the State of Michigan.

11. That Defendant, Michigan Department of Corrections (herein referred to as “MDOC”), is a governmental entity/ Department of the Government of the State of Michigan existing under the laws of the State of Michigan and operating in the State of Michigan. MDOC operates the correctional facility known as the G. Robert Cotton Correctional Facility in Jackson, MI which is located within the jurisdictional district of this Court.

12. That Defendant, CORIZON HEALTH, INC., (herein referred to as “CORIZON”), is a foreign business corporation organized and existing under the

laws of the State of Delaware doing business in the County of Jackson, State of Michigan.

13. That in 2016 Defendant, STATE OF MICHIGAN DEPARTMENT OF CORRECTIONS (herein referred to as “MDOC”), awarded and/or contractually engaged and/or retained Defendant CORIZON to provide healthcare services to inmates at the G. Robert Cotton Correctional Facility.

14. That Defendant ANTHONY STEWART (herein referred to as “STEWART”) is the Warden of G. Robert Cotton Correctional Facility in Jackson, Michigan, and, upon information and belief, was at all relevant times a resident of the State of Michigan. In that capacity, upon information and belief, Defendant STEWART was responsible for overseeing and controlling Plaintiff's day-to-day incarceration, ensuring that all prisoners under his jurisdiction, including Plaintiff, received timely and adequate medical treatment, ensuring that the policies of MDOC are enforced and followed. He is sued in his individual capacity.

15. At all times relevant, Defendant JANE DOE, a Michigan resident, was acting under color of law as a nurse or health care provider at the G. Robert Cotton Correctional Facility, engaging in the exercise of a governmental function and conduct within the course, scope and authority of his/her employment/agency with MDOC. He/she is being sued in his/her individual capacity.

16. At all times relevant, Defendant JANE ROE, a Michigan resident, was acting under color of law as a nurse practitioner or health care provider at the G. Robert Cotton Correctional Facility, engaging in the exercise of a governmental function and conduct within the course, scope and authority of his/her employment/agency with Defendant CORIZON. He/she is being sued in his/her individual capacity.

17. At all times relevant, CORIZON was acting under color of state law and performing a central function of the state, thus making them and their employees liable under §1983. The conduct of Corizon and its employees and agents, is chargeable to the government, and Corizon was acting jointly with the government actors.

FACTUAL ALLEGATIONS

18. Plaintiff incorporates each preceding paragraph as if fully restated.

19. That on September 5, 2017, JOHN STEIN was in custody at the G. Robert Cotton Correctional Facility in Jackson, Michigan. STEIN had already served his sentence and was in the process of being discharged from prison.

20. On September 5, 2017 STEIN began complaining of chest pain and difficulty breathing. STEIN was taken to Health Services and Defendants JANE DOE and JANE ROE were acutely aware of STEIN's condition and that he needed emergency medical attention.

21. Notwithstanding STEIN's life threatening condition, STEIN was not provided a physician or sent to a hospital for further evaluation. Instead, STEIN was sent back to his cell whereupon he collapsed and died.

22. That following his death STEIN was then taken to an area hospital where he was pronounced dead.

23. That as a proximate result of the actions and inactions described more fully herein, Plaintiff's Decedent and the heirs at law to his Estate suffered injuries and damages which include, but are not limited to, the following:

- a. Death;
- b. Reasonable medical, hospital, funeral and burial expenses;
- c. Conscious pain and suffering, physical and emotional;
- d. Compensatory and punitive damages allowed under Michigan and federal law;
- e. Punitive damages in an amount to be determined by a jury;
- f. Attorney fees, costs and interest allowable under 42 U.S.C. §1988;
- g. Any and all other damages otherwise recoverable under federal law and the Michigan Wrongful Death Act, MCL 600.2922, *et seq.*

Count I – 42 U.S.C. § 1983
Deliberate Indifference – Denial of Medical Care
(All Defendants)

24. Plaintiff incorporates each preceding paragraph as if fully restated.

25. That Decedent, JOHN RICHARD STEIN was a citizen of the United States and all of the individual Defendants are persons under 42 U.S.C. § 1983.

26. At all times relevant, STEIN had a clearly established right under the Eighth and Fourteenth Amendments to the United States Constitution to be free from deliberate indifference to his known serious medical needs.

27. At all times relevant, Defendants JANE DOE and JANE ROE knew or reasonably should have known of this clearly established right at the time of STEIN's death.

28. Notwithstanding said knowledge, Defendants JANE DOE and JANE ROE disregarded the excessive risks associated with STEIN's serious and life-threatening medical condition and were deliberately indifferent to STEIN's medical needs.

29. With deliberate indifference to STEIN's constitutional right to adequate medical care, as provided by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, Defendants knowingly failed to examine, treat, and/or care for STEIN's emergency medical condition. They did so despite their knowledge of STEIN's serious medical needs, thereby placing him at risk of serious physical harm, including death. Defendants were aware that STEIN faced a substantial risk of harm and disregarded this excessive risk by failing to take measures to reduce it.

30. That when STEIN, and others acting on his behalf, alerted each individual Defendant to his need for medical assistance, Defendants acted with

deliberate indifference to that need and his constitutional rights by refusing to obtain and provide any medical treatment for him.

31. That the conduct of the Defendants, individually, corporately and as agents, deprived STEIN of his clearly established rights, privileges, and immunities guaranteed him under the United States Constitution, specifically those set forth under the 4th, 5th, 8th, and 14th Amendments to same, as evidenced by the following particulars:

- a. Failing to provide John Stein with appropriate medical care to evaluate and treat his medical condition;
- b. Refusing to refer Stein to an outside of prison medical center and doctors for prompt and adequate testing and treatment;
- c. Failing to take any further action to assist Stein, despite his obvious medical needs;
- d. Failing to properly train and supervise the individuals within the aforementioned facility having custodial and/or care giving responsibilities over Stein to ensure that his serious medical needs were timely and properly tended to, and to ensure the above breaches / deviations were not committed.

32. That Defendants' actions show a deliberate indifference to STEIN's serious medical needs while incarcerated and was the proximate cause of STEIN's death and the damages set forth in this Complaint.

33. All of the deliberately indifferent acts of each individual Defendant were conducted while acting under color of state law and within the scope of their official duties and employment.

34. That the acts or omissions by Defendants, as set forth above, were unreasonable and performed knowingly, deliberately, indifferently, intentionally, maliciously, and with gross negligence, callousness, and deliberate indifference to STEIN's well-being and serious medical needs.

WHEREFORE, Plaintiff demands judgment against Defendants in the amount of no less than Fifty Million Dollars (\$50,000,000.00) as well as punitive damages and reasonable attorney's fees along with such further relief as to this Honorable Court may deem just and proper under the law.

Count II – 42 U.S.C. § 1983
Municipal and Supervisory Liability
(Defendants Corizon, MDOC, Warden Anthony Stewart)

35. Plaintiff incorporates each preceding paragraph as if fully restated.

36. That Defendants MDOC, CORIZON and ANTHONY STEWART are persons within the meaning of 42 U.S.C. § 1983.

37. At all times relevant to the allegations in this Complaint, Defendants MDOC, CORIZON and ANTHONY STEWART as Warden, were responsible for ensuring that inmates at the G. Robert Cotton Correctional Facility received constitutionally adequate care and access to medical care.

38. That Defendants deliberately indifferently failed to properly train and supervise their employees to provide necessary medical care to inmates at the G. Robert Cotton Correctional Facility in Jackson, MI.

39. That the failures in training and supervision regarding providing necessary medical assessment and care were so obvious such that Defendants can be reasonably said to have been deliberately indifferent to the need.

40. Moreover, prior to STEIN's death CORIZON had developed a policy, custom, or practice that resulted in deliberate indifference toward the serious medical need and substantial risk of serious harm involved in this case.

41. That at the time of STEIN's death, CORIZON had a policy of delaying necessary medical treatment until an inmate can be discharged from the jail, thereby saving CORIZON from its contractual obligation to pay for necessary medical care.

42. That CORIZON routinely engaged in customary and known practices so as to maximize profits. Such practices included inadequately staffing facilities; employing unqualified staff; failing to train and/or vet staff; delaying and/or denying life-saving care, even in emergency situations.

43. The behavior of these individual Defendants is consistent with the behavior of CORIZON employees nationwide. For more than a decade, CORIZON and its predecessor companies (Prison Health Services and Correctional Medical Services) have been criticized by judges, special masters, and journalists for their deliberate indifference to the medical needs of inmates, often because of concerns about money.

44. A former CORIZON Site Medical Director in 2013 and 2014, Dr. Charles Pugh, submitted a declaration that stated:

“During my tenure at Site Medical Director, I was constantly under pressure from my superiors in Corizon to minimize emergency room treatments and outside physician consults for jail inmates in order to save money.”

“Once or twice a week there were telephone conferences I was expected to attend with the Corizon Regional Medical Director regarding who was in the hospital and what was going on with patients in the hospital. There was a constant demand to monitor all hospitalizations, to avoid hospitalizations, to request prompt hospital discharges, and to minimize hospital stays.”

“In my experience working for Corizon, the company's constant efforts to reduce costs interfered with my ability, and with my staff's ability, to provide appropriate levels of care to inmates of the Chatham County Jail.” (Exh. B – Declaration of Charles Pugh, M.D.)

45. In 2012, the Eleventh Circuit affirmed a jury finding that Corizon pursues a policy of denying medical treatment to inmates, and even refusing to send prisoners on the brink of death to hospitals, in order to save money. See *Fields v. Corizon Health, Inc.*, 490 F. App'x 174 (11th Cir. 2012)(Where the Eleventh Circuit affirmed the jury's finding that Mr. Fields's injuries resulted from PHS's policy of “delaying treatment to save money,” which it “implemented... with deliberate indifference as to the policy's unknown or obvious consequences” for the company's patients. *Id.* at 184-85 (internal quotation marks and alterations omitted)).

46. In a September 2014 series of articles, *The Palm Beach Post* found that the company provided “deficient care” to Florida prisoners and reported that the number of deaths in the state’s prisons had reached a 10-year high. The company’s performance also has been criticized in government and court reports in Idaho, New York, Kentucky and Pennsylvania between 2012 and 2014.

47. Monitoring reports, state audits, and reviews of Corizon by states across the country reflect the same custom and policy of providing substandard care for the purpose of cutting costs.

48. That Defendants STEWART, MDOC and CORIZON knew or reasonably should have known of this widespread policy and pattern of inadequate medical care, inadequate access to medical care, and inadequate correctional and medical staffing at the jail.

49. That Defendants clear and persistent customs and policies of deliberate indifference to the medical needs of prisoners resulted in the intentional deprivation of constitutionally-required medical care to STEIN and was the proximate cause of his untimely death.

50. That the conduct of all of the Defendants, individually, corporately and as agents of said individual Defendants, deprived Decedent of his clearly established rights, privileges, and immunities guaranteed him under the United

States Constitution, specifically those set forth under the 4th, 5th, 8th, and 14th Amendments to same, as evidenced by the following particulars:

- a. Failing to provide inmates appropriate medical care;
- b. Failing to properly train and supervise the individuals within the aforementioned facility having custodial and/or care giving responsibilities over Stein to ensure that his serious medical needs were timely and properly tended to, and to ensure the above breaches / deviations were not committed;
- c. Permitting and tolerating a pattern and practice of deliberate indifference to detainees and inmates in need of medical attention;
- d. Participating in the denial of adequate medical care. Having knowledge that inmates were receiving inadequate medical care and failing to remedy the situation;
- e. Failing to promulgate, implement, and enforce policies and procedures ensuring adequate access to medical care within the prison;
- f. Failing to properly train and supervise the within the aforementioned facility having medical responsibilities over inmates to ensure that inmates were receiving adequate medical care;
- g. Additional violations that may become known.

51. That the above described conduct of the Defendants, as set forth above, was the proximate cause of STEIN's death as more specifically set forth and described above.

WHEREFORE, Plaintiff demands judgment against Defendants in the amount of no less than Fifty Million Dollars (\$50,000,000.00) as well as punitive

damages and reasonable attorney's fees along with such further relief as to this Honorable Court may deem just and proper under the law.

Count III – State Law Claims
Gross Negligence and/or Wanton and Wilful Misconduct
(All Defendants)

52. Plaintiff incorporates each preceding paragraph as if fully restated.

53. That each and every Defendant had knowledge of each and every factual allegation set forth above.

54. That in taking custody of Plaintiff's Decedent, Defendants undertook and owed a non-delegable duty under the Eighth Amendment to provide adequate health care to inmates and to Decedent and to make reasonable efforts to care for him in a reasonable and prudent manner, to exercise due care and caution, and in such operation as the rules of the common law require and in accordance with the customs, policies and procedures of the G. Robert Cotton Correctional Facility in Jackson, MI.

55. That notwithstanding the aforementioned duties, the aforementioned Defendants took into custody, incarcerated, and monitored STEIN in an extremely careless, grossly negligent, reckless, and wanton and willful manner without concern whatsoever for his safety and welfare, and failed to tend to Decedent's serious medical needs in the ways more fully set forth in Counts I and II herein.

FIGER, FIGER, KENNEY & HARRINGTON • A PROFESSIONAL CORPORATION
19390 WEST TEN MILE ROAD • SOUTHFIELD MICHIGAN 48075 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

56. That the above described actions and/or inactions violated MCLA 691.1407 in that they amounted to gross negligence, specifically conduct so reckless as to demonstrate a substantial disregard for whether an injury resulted.

57. That as a direct and proximate result of the aforementioned conduct and omissions of the Defendants, Plaintiff's Decedent and the heirs-at-law to Decedent's Estate suffered the injuries and damages as set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in the amount of no less than Fifty Million Dollars (\$50,000,000.00) as well as punitive damages and reasonable attorney's fees along with such further relief as to this Honorable Court may deem just and proper under the law.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b) Plaintiff hereby demands trial by jury for all of the issues so triable.

Respectfully submitted by:

/s/ James S. Craig
GEOFFREY N. FIGER (P30441)
JAMES S. CRAIG (P52691)
Attorneys for Plaintiff
19390 W. 10 Mile Road
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j.craig@figerlaw.com

Dated: October 3, 2017

EXHIBIT A

Approved, SCAO

JIS CODE: LET

STATE OF MICHIGAN PROBATE COURT COUNTY OF MONROE	LETTERS OF AUTHORITY FOR PERSONAL REPRESENTATIVE	FILE NO. 2017-0483-DE
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Estate of John Richard Stein, Deceased

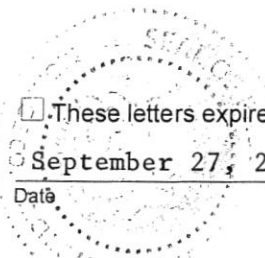
TO: Name and address
SHARON STEIN

9311 Greentree
Newport, MI 48166

Telephone no.
(734) 799-2365

You have been appointed and qualified as personal representative of the estate on September 27, 2017 you are authorized to perform all acts authorized by law unless exceptions are specified below. Date

- Your authority is limited in the following way:
- You have no authority over the estate's real estate or ownership interests in a business entity that you identified on your acceptance of appointment.
 - Other restrictions or limitations are:



These letters expire: _____ Date
September 27, 2017 Date

Brenda L. Smith
Judge (formal proceedings) Register (informal proceedings) ~~Ref #~~

SEE NOTICE OF DUTIES ON SECOND PAGE **Brenda L. Smith**

Howard T. Linden P25438
Attorney name (type or print) Bar no.
3000 Town Center, Suite 2200
Address
Southfield, MI 48075 (248) 358-4545
City, state, zip Telephone no.

I certify that I have compared this copy with the original on file and that it is a correct copy of the original, and on this date, these letters are in full force and effect.

9-27-17
Date

Brenda L. Smith
Deputy register

Do not write below this line - For court use only



00017177750
LET

2017-0483-DE
BRENDA L. SMITH, REGISTER OF PROBATE
09/27/2017 Ref # 8

EXHIBIT B

Elden M. Rosenthal, OSB No. 72217

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Of Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

DEREK JOHNSON, personal representative
of KELLY CONRAD GREEN II, deceased;
KELLY CONRAD GREEN and SANDY
PULVER

Plaintiffs,

v.

CORIZON HEALTH, INC., a Tennessee
Corporation; LANE COUNTY, an Oregon
county; DR. CARL KELDIE, an individual;
DR. JUSTIN MONTOYA, an individual;
VICKI THOMAS, an individual; KIRSTIN
WHITE, an individual;; SHARON
EPPERSON (née FAGAN), an individual, and
JACOB PLEICH, an individual,

Defendants.

Civil Action No. 6:13-cv-01855-TC

**DECLARATION OF CHARLES
PUGH, M.D., IN SUPPORT OF
PLAINTIFFS' MEMORANDUM
IN OPPOSITION TO MOTION
FOR SUMMARY JUDGMENT
BY DEFENDANTS CORIZON
ET AL.**


I, Charles Pugh, M.D., declare under penalty of perjury as follows:

1. I am a licensed physician, and served as the Corizon Site Medical Director in 2013 and 2014 at the Chatham County Jail in Savannah, Georgia.

2. As the Corizon Site Medical Director I was required by Corizon to submit all physician consults and emergency room transfer requests to the Regional Medical Director. During my tenure as Site Medical Director, I was constantly under pressure from my superiors in Corizon to minimize emergency room treatments and outside physician consults for jail inmates in order to save money.
3. Once or twice a week there were telephone conferences I was expected to attend with the Corizon Regional Medical Director regarding who was in the hospital and what was going on with patients in the hospital. There was a constant demand to monitor all hospitalizations, to avoid hospitalizations, to request prompt hospital discharges, and to minimize hospital stays.
4. In my experience working for Corizon, the company's constant efforts to reduce costs interfered with my ability, and with the staff's ability, to provide appropriate levels of care to inmates of the Chatham County Jail.

I hereby declare under penalty of perjury that the foregoing is true and correct.

EXECUTED ON this 30th day of January, 2015.



Charles Pugh, M.D.