

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 24-cv-1422

THE ESTATE OF RYAN WAYNE HARMON
by and through his father and personal representative Ronald Harmon;
ASHLEY HARMON;
TYLER HARMON
CALEB HARMON
M.H., a minor, by and through next friends and guardians Ronald Harmon and Colleen Harmon

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF LARIMER,
COLORADO;
JOHN FEYEN, in his official capacity as Larimer County Sheriff;
KYLE DENEEN, individually;
CORRHEALTH, PLLC
OSCAR PALOMINO, individually

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their attorneys of HOLLAND, HOLLAND EDWARDS & GROSSMAN, LLC, complain against Defendants and request a trial by jury as follows:

I. INTRODUCTION

1. Ryan Harmon was incarcerated as a pre-trial detainee at the Larimer County Jail (“LCJ”) on May 5, 2023.
2. As his jailors and medical staff knew from the outset, Mr. Harmon suffered from serious mental illness, including chronic anxiety and depression.

3. On May 21st Mr. Harmon was isolated in a quarantine cell supposedly because of suspected COVID in a cellmate, predictably causing his already significant mental illness to intensify into a mental health crisis.

4. In quarantine, Mr. Harmon repeatedly complained to Deputies, CorrHealth medical staff, his family and loved ones that he could not handle being isolated and fed through a door “like a dog”.

5. He repeatedly told Deputies and CorrHealth medical staff that he would not live like this and that they had three days to get him out of quarantine, where he did not belong because he felt like he was being punished for no reason and could not stand being isolated.

6. Rather than protecting him and providing Mr. Harmon with mental health care or contacting someone who could, LCJ Deputies and CorrHealth staff instead reacted to Mr. Harmon’s behavior management problems, and threats of self-harm caused by his decompensating mental state, by telling him he would be punished by putting him someplace “he did not want to be.”

7. Thus, instead of taking Mr. Harmon’s repeated threats to kill himself with the utter seriousness and urgency that the law demands, deputies and caregivers treated him as faking and used the threat of putting him on suicide watch – with the protocols of clothing removals, use of a smock, and more rigorous isolation – to try to scare him into stopping his loud expressions of his suicidal intent to kill himself.

8. Ryan Harmon obviously then needed to be placed on a suicide watch.

9. After receiving some unexpected and distressing potential sentencing news from his public defender, Mr. Harmon repeatedly called his family and loved ones, made a ruckus at the

Jail, and loudly threatened to harm himself to jailers, caregivers, inmates, and family. These recorded calls and Mr. Harmon's very suicidal words could be heard throughout the quarantine area of the Jail.

10. Yet, even when expressly told by a nearby inmate that Mr. Harmon had a specific suicide plan using items he was known to have in his cell, Defendants decided, with subjective and objective deliberate indifference, to *not* provide Mr. Harmon with urgent protection, mental health evaluation, or treatment. They even decided *not* to contact mental health providers who were licensed and trained to do so.

11. Mr. Harmon was thus left to his own devices in his non-suicide-proof cell, alone, in an acutely suicidal state of mind, while also known to possess the tools he was then stating he was planning on using to hang himself.

12. This was all known because a nearby inmate told Defendants of this specific plan.

13. Rather than urgently intervening, Defendants instead played a deadly Russian roulette-like game of jail fakery and gambled with the meaning of Ryan Harmon's state of mind until he hanged himself.

14. On May 25th Mr. Harmon was found hanging by a cord taken from his laundry bag, having used the very tools that deputies and nursing staff were explicitly warned about, that Ryan Harmon had said he was going to use, the night before.

15. Defendants, with deliberate indifference and utter negligence, let a suicidal man who told them he was going to kill himself do so without making the slightest effort to stop him.

II. JURISDICTION AND VENUE

16. This action arises under the Constitution and laws of the United States, including

Article III, Section 1 of the Constitution and 42 U.S.C. § 1983 and 42 U.S.C. § 1988. The Jurisdiction of this Court is further invoked pursuant to 28 U.S.C. §§ 1331, 1343, 2201.

17. This case is instituted in the United States District Court for the District of Colorado pursuant to 28 U.S.C. §1391 as the judicial district in which all relevant events and omissions occurred and in which Defendants maintain offices and/or reside.

18. Supplemental pendent jurisdiction is based on 28 U.S.C. §1367 because the violations of federal law alleged are substantial and the pendent causes of action derive from a common nucleus of operative facts.

19. Pursuant to the Colorado Governmental Immunity Act (CGIA), sovereign immunity is waived for Plaintiffs' claims against the Larimer County Defendants for the acts and omissions complained of herein. *See* §§24-10-106(1)(b), (e), C.R.S. On September 18, 2023, Plaintiffs filed a timely written notice of claim pursuant to § 24-10-109, C.R.S. Negligence in the operation of a jail causing death is claimed against Larimer County Defendants.

20. The Colorado Governmental Immunity Act does not apply to the Estate Plaintiff or to the Individual Plaintiffs to the state constitutional claim against Defendant Deputy Deneen, brought herein under C.R.S. § 13-21-131, and as such, no notice of that claim was required, although it was given. This law enforcement individual Defendant also has no qualified immunity or statutory immunity with respect to this claim under this statute.

21. Defendant CorrHealth is a private corporation not entitled to qualified or other immunity under the Colorado Governmental Immunity Act or with respect to the federal claims.

III. PARTIES

22. At all times relevant hereto, the decedent, Ryan Harmon, was a citizen of the United

States of America and a resident of the State of Colorado.

23. The Estate of Ryan Wayne Harmon was duly opened in Larimer County where Ryan Harmon died, with Ronald Harmon, his father, being judicially appointed as the Estate's personal representative.

24. At all times relevant hereto, Plaintiff Ashley Harmon, daughter of decedent, was a citizen of the United States of America and a resident of the State of Colorado.

25. At all times relevant hereto, Plaintiff Tyler Harmon, son of decedent, was a citizen of the United States of America and a resident of the State of Colorado.

26. At all times relevant hereto, Plaintiff Caleb Harmon, son of decedent, was a citizen of the United States of America and a resident of the State of Colorado.

27. At all times relevant hereto, Plaintiff M.H., minor child of the decedent Ryan Harmon, has been a citizen of the United States of America and a resident of the State of Nebraska. Plaintiff M.H. is proceeding by and through her grandparents, Ronald Harmon and Colleen Harmon, both residents of Nebraska as her next friends and guardians.

28. The Defendant Board of County Commissioners of the County of Larimer, Colorado a/k/a "Larimer County" (hereinafter "BOCC") is a governmental entity chartered under the laws of the State of Colorado. Defendant BOCC represents, oversees, and sets policy for Larimer County, Colorado. Among other things, Larimer County operates the Larimer County Jail located at 2405 Midpoint Drive, Fort Collins, CO 80525. Defendant BOCC also contracted with Defendant CorrHealth to provide health care to the detainees and inmates at the Larimer County Jail and therefore has responsibility as well under the non-delegable duty doctrine. Under C.R.S. § 30-11-105, the BOCC is the proper party in an action against Larimer County.

29. Defendant John Feyen, in his official capacity, is the Larimer County Sheriff and a final policymaker for Larimer County with respect to all matters concerning the Larimer County Sheriff's Office and all its divisions, including the Larimer County Jail.

30. Defendant BOCC and Defendant Feyen are hereinafter collectively referred to as the "Larimer County Defendants."

31. Larimer County Defendants are also liable under state law for negligence in the operation of a correctional facility pursuant to C.R.S. § 24-10-106.

32. Defendant CorrHealth, PLLC ("CorrHealth") is a foreign corporation doing business in the State of Colorado, with its principal street address located at 6303 Goliad Ave., Dallas, TX 75214. Its registered agent of service is CorrHealth's Director of Risk Management Tim Hammond, located at 917 Chippewa Court, Fort Collins, CO 80525.

33. Defendant CorrHealth is sued vicariously for the negligence of its employees and agents that it hired, brought into to work at the jail, assigned tasks, supervised, and controlled in the performance of their work, including the specific LCJ health care activities and work tasks giving rise to the injuries complained of herein, and paid to provide medical/nursing care to Ryan Harmon and others at the Larimer County Jail. This Defendant is also sued directly for its own negligent training, as well as for its policies and practices regarding known suicidal detainees and inmates at the Jail.

34. At all times relevant hereto, Defendant Kyle Deneen was a citizen of the United States, a resident of Colorado, and was acting within the scope of his employment as a Deputy Larimer County Sheriff working at the Larimer County Jail.

35. At all times relevant hereto, Defendant Oscar Palomino was a citizen of the United

States, a resident of Colorado, and was acting within the scope of his employment as an LPN working at the Larimer County Jail.¹ Defendant LPN Palomino was an employee or agent of Defendant CorrHealth.

IV. STATEMENT OF FACTS

36. At 10:36 a.m. on May 25, 2023, Ryan Harmon was found hanging in his cell at the Larimer County Jail (“LCJ”).

37. He was found by Larimer County Sheriff’s Office (“LCSO”) Deputy Max Hefner, who called for assistance, opened the cell door, and removed the ligature from around Mr. Harmon’s neck.

38. Mr. Harmon was transported to the Medical Center of the Rockies, where he survived only a few more days.

39. Suicide is a sadly all too commonplace, and well-known and serious health risk in local jails like LCJ.

40. According to a 2010 study by the Department of Justice’s National Institute of Corrections (NIC), suicide is the leading cause of death in local jails in the United States and the suicide rate of local jail detainees is several times higher than that of the general population.

41. According to this same study, 93% of local jail suicides were committed by hanging, and the majority of detainees who committed suicide were in single occupancy cells or were similarly isolated in the days leading up to their deaths.

¹ It is anticipated that discovery may well lead to the joinder of additional individual deputy defendants and additional individual health care defendants including deputies and nurses whose names and conduct are referenced herein.

42. Subsequent study and reporting by the Department of Justice’s Bureau of Justice Statistics has confirmed that the overwhelming majority of attempts at self-harm are done by hanging: from 2010-2019 hanging and self-strangulation accounted for nearly 90% of suicide deaths in local jails.

43. All reasonably trained jail staff, including deputies and health care professionals, understand that hanging is by far the most common method used by local jail detainees trying to hurt themselves or commit suicide.

44. Middle-aged white males like Ryan Harmon, especially those with a history of mental illness, in particular, depression, are also at well-known heightened risk of self-harm or suicide.

45. This risk is further heightened for detainees who have been recently incarcerated or who recently had a court appearance where they receive bad news about their prospective legal status, including potential sentencing.

46. LCSO suicide prevention and intervention policies expressly underscore the well-known red flags of acute risk of self-harm, that were obviously fully in play but ignored with deliberate indifference here, as shown more particularly below, including “primary indicators” of “suicidal threats or a specific plan,” and “secondary indicators” of “overly emotional response to incarceration, crying or tearful [behavior], sudden change in behavior...receipt of unexpected legal or personal news, feelings of despair, hopelessness, helplessness, depression, exhaustion, agitation, tension, anxiety, guilt, shame, rage, or anger....”

47. Ryan Harmon was a virtual poster inmate for acute and serious risk of self-harm or suicide, displaying all the above-listed primary and secondary indicators.

48. LCSO's policies also describe "high risk groups" to include "individuals who are significantly anxious or depressed," which Mr. Harmon most certainly was, to Defendants' knowledge.

49. A potentially suicidal detainee is in "imminent danger," per LCSO's Suicide Prevention and Intervention policy, when they are behaving irrationally like Mr. Harmon was in front of LCSO Deputies and CorrHealth medical staff, including his "erratic behavior that creates significant management concerns." This is particularly so when the erratic behavior includes express statements of an intention and plan to kill oneself with the disclosed means of doing so.

50. All reasonably trained correctional officers understand these warning signs of acute and serious risk of self-harm or suicide and must not be deliberately indifferent to such life-threatening warning signs.

51. All reasonably trained correctional officers also understand that they lack the necessary mental health licensure or training to evaluate or treat detainees exhibiting such warning signs and must immediately without deliberate indifference fulfill their gatekeeper role by notifying jail medical staff of such a detainee's immediate obvious serious medical needs for urgent medical care, protection, evaluation, and treatment.

52. All reasonably trained health care workers also understand these life-threatening warning signs of acute and serious risk of self-harm or suicide as well, and that such a detainee needs immediate medical care, protection, evaluation and treatment from higher level medical staff or mental health staff who do possess the licensure and training to adequately respond. Such workers are also obligated to perform their gatekeeping functions in these regards without deliberate indifference.

Mr. Harmon was Booked into LCJ with a Known History of Serious Mental Illness

53. Mr. Harmon was booked into LCJ on May 5, 2023, as a pre-trial detainee.

54. He was then taking prescription medication, including Buspirone – a psychiatric medication used to treat anxiety disorder.

55. This prescription was charted on Mr. Harmon’s intake screening, along with current medical issues including anxiety, substance abuse, ETOH, dental problems, emotional instability, and depression.

56. Mr. Harmon expressly told the LCJ intake screening nurse of his feelings of hopelessness, helplessness, and that he felt like he had nothing to look forward to.

57. He also told this nurse he had feelings of guilt, worthlessness, shame and was assessed by this nurse to be displaying signs of anxiety.

58. On May 6th, his second day of incarceration, Mr. Harmon submitted a formal request for counseling related to severe anxiety and depression.

59. That same day, Mr. Harmon’s crisis mental state was not treated, but instead dealt with as a punitive matter. He received a “behavioral report” from LCJ staff because he was visibly upset and lying on his bunk crying throughout the reporting deputy’s shift. While being so punished instead of urgently treated by his jailors, they did report their conscious awareness that he was then telling them that he was feeling very anxious, was going to flip out, and needed help getting in contact with counseling or medical staff.

60. Four days later, a mental health Intern named Stephanie Gomez interviewed Mr. Harmon on May 9th and documented observing and learning from him that his anxiety and depression were getting worse. Mr. Harmon asked for an increase to his anxiety medication dosage

because this medication was not doing anything for him anymore and he was having a hard time dealing with his incarceration.

61. On May 18th Mr. Harmon was finally and briefly seen by a mental health NP Lorenza Frias, who charted him as “anxious”. Mr. Harmon again requested a dose increase of his anxiety medications, reporting again to Mr. Frias his continued feelings of “anxiety, on edge, shaky, sadness.”

62. Mr. Harmon also told this NP he had previously been on Trileptal (medication used to treat pain, seizure, and bipolar disorder), Remeron (medication used to treat depression), and Hydroxyzine (medication used to treat allergies and anxiety). These prescriptions do not appear to have been provided during this fatal incarceration.

63. NP Frias increased Mr. Harmon’s dosage of Buspirone to 15 mg two times per day, but otherwise never saw or talked to Mr. Harmon again.

After Mr. Harmon was Placed in Isolation, He Clearly Displayed, Repeatedly Demonstrated and Reported that He Was Then Obviously in a Severe Mental Health Crisis

64. Mr. Harmon’s cellmate at the Larimer County Jail was a man named Nicholas Ivarson.

65. On May 21, 2023, both Mr. Harmon and Mr. Ivarson were put on quarantine status because Mr. Ivarson purportedly had COVID-like symptoms.

66. Despite not being tested for COVID after his initial negative test upon booking, Mr. Harmon was also put on quarantine status.

67. Both men were quarantined in separate cells in LCJ’s “North Henry” housing unit, which was designated that same day as the Jail’s “Isolation/Quarantine” housing area.

68. Mr. Harmon and Mr. Ivarson were placed in cells that were very close to each other. Below is a picture illustrating the close proximity of Mr. Harmon's cell #3 (rightmost of the three cells pictured), and Mr. Ivarson's cell #1 (leftmost).



69. Mr. Harmon and Mr. Ivarson could easily talk to and hear each other between cells because it was very quiet and there was an opening between each cell door and the floor.

70. Nicholas Ivarson observed Mr. Harmon, had conversations with Mr. Harmon, and warned deputies and health care workers about Mr. Harmon during their time in quarantine, as set forth more particularly hereafter.

71. The LCSO Deputies assigned to regularly check Mr. Harmon and Mr. Ivarson while they were in quarantine from May 21st through May 25th included LCSO Deputies Russell Graham, Max Hefner, and Kyle Deneen.

72. While Mr. Ivarson observed that Mr. Harmon was upset and struggling to some degree before they were quarantined, he observed Mr. Harmon get much worse right after the two men were isolated.

73. Mr. Ivarson observed that something had snapped inside Mr. Harmon after he was isolated in a quarantine cell.

74. Mr. Harmon also had many calls with family and friends and many text exchanges with family members during his time in quarantine.

75. On May 22nd Mr. Harmon had a call with his friend Tina Padilla. Mr. Harmon told her that he was kicking stools and “going off last night” because he was so upset he was in quarantine.

76. Ms. Padilla told Mr. Harmon that she had called LCJ and spoke with RN and Defendant CorrHealth’s Director of Nursing Kyra Harmon, and asked that Harmon be actually tested for COVID, instead of just assumed to need quarantine, and if the test came back negative that they let Mr. Harmon go back to general population.

77. Ms. Padilla also told Mr. Harmon that DON Kyra Harmon told her that “if he doesn’t stop and he keeps doin’ that...we’ll put him somewhere else he don’t wanna be...so tell him he just needs to calm down.”

78. DON Kyra Harmon’s attitude, that Mr. Harmon was faking his erratic behavior and needed to be punished for it if he didn’t stop, was also clearly shared by the LCJ Deputies assigned to monitor the quarantined inmates.

79. Mr. Ivarson heard Ryan Harmon being told by at least one Deputy that if he did not stop making threats about ending his life, they were going to punish him by moving him to someplace upstairs where he did not want to be.

80. These deliberately indifferent, indeed outrageous words are eerily similar to those used with Tina Padilla by LCJ/CorrHealth’s Director of Nursing, as set forth above.

81. Obviously both medical and lay deputy staff at LCJ decided, with deliberate indifference, to treat Mr. Harmon's acutely suicidal behavior and threats not as a mental health crisis, but as a faked behavior management problem to be dealt with punitively.

82. They did this despite LCSO's Suicide Prevention policy that clearly warns LCJ staff that "significantly anxious or depressed" detainees who are behaving "irrationally" and "erratically" are at especially high risk of self-harm.

Mr. Harmon Received Bad Legal News and Became Overtly Suicidal, Making Repeated Suicidal Statements While Known to Have Obtained the Means to Hang Himself and Expressing a Specific Suicide Plan

83. On May 22nd Mr. Harmon spoke with his public defender.

84. On May 23rd Mr. Harmon had a court appearance.

85. Based on his recorded calls to family and loved ones on May 22nd and over the next three days, Mr. Harmon received from his public defender, and confirmed at his court appearance, what he regarded as bad news about his charges and prospective legal status.

86. Because there were only three men being held in quarantine at LCJ at this time it was generally quiet in this area the Jail.

87. Mr. Harmon's recorded and very loud phone and tablet calls could therefore be easily heard by anyone in this part of LCJ, including Deputies, Nurses, and Mr. Ivarson.

88. Mr. Ivarson heard many of these calls during these days and observed that Mr. Harmon was obviously out of control emotionally and freaking out.

89. Mr. Ivarson observed that Mr. Harmon was very loud and angry during these calls and was kicking things, making a ruckus, and yelling a lot.

90. During the last three days before Ryan Harmon hanged himself, Mr. Ivarson also heard Mr. Harmon loudly tell his family members and loved ones, that he was planning to kill himself.

91. Mr. Harmon called family members and his friend Ms. Padilla on May 22nd, 23rd, 24th, and 25th, clearly in the midst of a very serious mental health crisis and acutely suicidal.

92. During these recorded calls Mr. Harmon can be heard alternating irrationally between very raw anger at his isolation in quarantine and distress about potential sentencing he thought he could be facing. He moaned uncontrollably, sobbed, and cried out – often loudly – with very explicit and direct statements that he was planning to take his own life.

93. After experiencing at least one of these calls himself and hearing about others, Mr. Harmon’s father Ron Harmon called LCJ to report the family’s concerns that Ryan was expressing suicidal thoughts.

94. He was told by the woman that answered that she was not the right person to deal with these concerns and that she would have someone call him back, but no one ever called him back. Subsequently, Ron Harmon received a similar call from his son on the morning of May 25th.

95. Mr. Harmon’s extraordinarily erratic behavior continued into the early morning hours of May 24th.

96. Deputy Russell Graham was assigned to conduct 15-minute status checks in this part of the Jail on the “night shift,” which went from 1800 hours on May 23rd through 0600 hours on May 24th.

97. During his shift, Deputy Graham also accompanied CorrHealth staff as they conducted the previous evening medication passes and covid screenings. The previous evening’s

medication pass to Mr. Harmon was done by Defendant LPN Palomino, as shown by the screenshot from jail records below:

05-23-2023 8:48 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	BUSPIRONE HCL (BUSPAR) 15MG 1 TAB By Mouth BID ; Dx: Anxiety Crush
05-23-2023 8:48 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	Influenza Screening Form () n/a 1 n/a Applied Externally BID; Dx: Screening; Complete COVID SYMPTOM SCREENINGFORM

98. LPN Palomino also conducted a brief temperature check of Mr. Harmon, again accompanied by Deputy Graham, at or around 10:41 p.m. the previous evening:

B2303340	COVID Symptom Screening	Temperature	98.4	Palomino, Agency LPN, F. Oscar	05-23-2023 10:41 pm]
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99. In the very early morning hour of May 24th, not long after midnight, Mr. Harmon’s erratic behavior and unhinged thinking became so severe that Deputy Graham, per his only partially forthcoming subsequent post-incident report, felt he had to use his “Crisis Intervention Training.”

100. Crisis Intervention Training is a very particular collection of law enforcement tactics specifically designed for use with people in mental health crisis.

101. Deputy Graham reported, in part, to post-death investigators that during this interaction, “[Mr. Harmon] shared his frustration with me and medical staff during Med Rounds about being quarantined/isolated...The medical staff didn’t test him but put him on quarantine per the Covid SOP. He thought that was bullshit.”

102. Deputy Graham further reported that “[Mr. Harmon] was getting more upset as he shared his frustration about the situation with me. He thought he was being punished for no reason. He also mentioned he was bored. I applied my crisis intervention training and asked him if he felt like doing something like helping clean the pod.”

103. This post-hanging statement left out this Deputy Graham's actual knowledge, and that of the CorrHealth medical staff person who rounded with him, Defendant Palomino, of Ryan Harmon's threats to kill himself.

104. Deputy Graham wrote up a behavior report for Mr. Harmon thereafter and gave him a ramen noodle pack.

105. Mr. Harmon did not need ramen noodle packs. He needed immediate mental health crisis intervention to avert his then known and disclosed planned suicide.

106. Mr. Ivarson also heard these repeated and loud complaints by Mr. Harmon to Deputies and Nurses about his very raw anger at what he felt was his unjust placement in quarantine.

107. Mr. Ivarson also heard and reported that Mr. Harmon's repeated expressions of anger over being quarantined *were loudly accompanied by specific threats to kill himself if he was not let out of quarantine in three days.*

108. Mr. Ivarson observed that Mr. Harmon kept saying loudly to any LCJ Deputy or CorrHealth Nurse who interacted with him that he was not going to live like this, being fed food like a dog through a slot, that he could not stand isolation, and that if he was not out in three days, he would take his own life and do it himself.

109. Mr. Harmon thus demonstrated the overtly suicidal, irrational, unhinged, and "erratic behavior that creates significant management concerns" that LCSO's Suicide Prevention policy warns LCJ staff is that of a potentially suicidal detainee being in "imminent danger."

110. Mr. Harmon’s mental health crisis predictably further intensified despite having received ramen noodle packs from Deputy Graham, which were found and photographed in his cell with a collection of the same after he was found hanging and cut down:



111. Mr. Harmon continued to ask his caregivers and jailors for help, submitting a kite the morning of May 24th, which stated: “I was told 3 days in would be here for covid I’m negative please bring me back to gp.”

112. This kite was ignored and summarily declared to be “not a proper Medical Grievance”. Mr. Harmon was told he needed to use the proper form to get any kind of medical response, as shown below:

05/24/23 Connell, Vicky Staff Response
10:35

Not a proper Medical Grievance Please re-submit this using the proper form. This must be submitted as a medical grievance. By doing so, it will go to the proper people to look at it and respond to you.

113. Mr. Harmon never received any medical or mental health care of any kind in response to this grievance.

Defendant Deputy Deneen and Defendant LPN Palomino Received Additional Actual Knowledge and Notice that Mr. Harmon had a Specific Suicide Plan and the Tools to Fulfill It

114. In the complete absence of any mental health referral or counseling whatsoever, Mr. Harmon’s mental health crisis continued unabated throughout the day of May 24th, into the evening, and included a specific plan to carry out the threats of suicide he had been loudly proclaiming.

115. Mr. Ivarson tried desperately to warn LCJ Deputies and CorrHealth medical staff about Mr. Harmon’s very specific suicide plan.

116. He was very scared that Mr. Harmon was serious about ending his life, and told Defendant Deneen more than once, including once in front of the medication pass nurse, now known to be Defendant Palomino from his time stamp entries, that Ryan Harmon told him he had a rope or cord from his clear plastic bag and was planning to use it to hang himself.

117. The pictures below illustrate the black rope and clear plastic bag that Mr. Ivarson specifically warned about, taken by investigators after Mr. Harmon used them to hang himself and was later cut down:



118. Defendant Deputy Deneen was assigned to conduct status checks on LCJ’s quarantined detainees for the “night shift” of May 24th, which began at 6:00 p.m. that evening and continued until 6:00 a.m. the next morning.

119. Defendant LPN Palomino was the medication pass nurse the night of May 24th, as shown by the screenshots below, which illustrates Defendant Palomino’s medication pass to Mr. Ivarson at or around 9:22 p.m.:

05-24-2023 9:22 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	HYDROCORTISONE (HYDROCORTISONE) 1% 1 CRE/OINT Topically BID ; rash and itching
05-24-2023 9:22 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	Influenza Screening Form () n/a 1 n/a Applied Externally BID; Dx: Screening; Complete COVID SYMPTOM SCREENINGFORM
05-24-2023 9:22 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	MELOXICAM (MOBIC) 7.5MG 1 TAB By Mouth BID PRN ; Dx. osteo pain

120. The following screenshot illustrates Defendant Palomino’s medication pass to Mr. Harmon two minutes later, at or around 9:24 p.m.:

05-24-2023 9:24 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	Influenza Screening Form () n/a 1 n/a Applied Externally BID; Dx: Screening; Complete COVID SYMPTOM SCREENINGFORM
05-24-2023 9:24 pm	Received	[blank]	Palomino, Agency LPN, F. Oscar	BUSPIRONE HCL (BUSPAR) 15MG 1 TAB By Mouth BID ; Dx: Anxiety Crush

121. Once again accompanied by Defendant Deputy Deneen, Defendant Palomino also conducted a brief temperature check on Mr. Ivarson at or around 11:58 p.m., (see first screenshot below), and did the same on Mr. Harmon at or around 11:59 p.m. (see second screenshot below):

B2209410	COVID Symptom Screening	Temperature	98.0	Palomino, Agency LPN, F. Oscar	05-24-2023 11:58 pm
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B2303340	COVID Symptom Screening	Temperature	98.2	Palomino, Agency LPN, F. Oscar	05-24-2023 11:59 pm
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122. Defendant Deputy Deneen was thus expressly told by Mr. Ivarson about Mr. Harmon’s hanging plan, and the tools he had to facilitate it, as was Defendant Palomino.

123. According to Mr. Ivarson, Defendants Deneen and Palomino were also told this by Mr. Harmon, in addition to what they were told in these regards by him, as aforealleged. These Defendants were thus both objectively and subjectively deliberately indifferent to multiple

warnings of Mr. Harmon's impending suicide and the plan/means by which he intended to accomplish his life's end.

124. Nevertheless, with deliberate indifference to a detainee who was acting so erratically he was threatened with being moved, who repeatedly threatened to hurt himself, and who had disclosed a specific suicide plan with tools he was known to then have in his cell, Defendants Deneen and Palomino chose not to confiscate Mr. Harmon's plastic bag and the black rope with which it was normally tied closed.

125. These Defendants also chose not to put him on a suicide watch immediately which was mandatory and to stay with him until this was accomplished.

126. Defendant Deputy Deneen and Defendant LPN Palomino also failed, with deliberate indifference as gatekeepers to a man who was obviously then known to lay and medical persons alike at extremely high risk of suicide, to contact any of the Jail's mental health staff who could urgently provide Mr. Harmon the protection from self-harm, and urgent mental health counseling and treatment, that none of these Defendants were able or trained or licensed to provide.

127. On one such occasion when Mr. Ivarson warned Deputy Deneen the night of May 24th, about his concern that Mr. Harmon was a very obvious and severe danger to himself, Deputy Deneen admitted to Mr. Ivarson that he knew this was happening and *they* were already watching Mr. Harmon.

128. Defendant Deneen thus confirmed that not only was he purportedly watching Mr. Harmon, but that the other Deputies assigned to monitor LCJ's newly designated quarantine area also knew that Mr. Harmon was threatening to kill himself.

129. Mr. Ivarson also reported, to post-death investigators, Defendant Deputy Deneen's admission that he and other Deputies knew of Mr. Harmon's threats, as illustrated in the screenshot below where Mr. Ivarson reports the admission by Defendant Deneen that multiple officers were aware of Ryan Harmon's then active suicidal threats, using the words "we" rather than "he" to state who was aware of these threats and watching Mr. Harmon with regard to them:

Did he mention anything about hurting himself that prior evening. Ivarson said, "yeah, it was right after he got off the phone, he told me he was not going to live like this." Later, I told the deputy, "You know you need to watch him, he's not right and the deputy responded, we have been."

130. These Deputies were not actually watching Mr. Harmon. Rather, they were doing status checks on a rigid 15-minute quarantine schedule, which was not at all designed to mitigate suicide risk given its predictability, and otherwise pretending like Mr. Harmon's obvious and serious suicidal behavior was fakery that should be dealt with by threatening punishment.

131. Despite Defendant Deneen's actual knowledge of Mr. Harmon's loudly expressed and very acute suicidality, and despite the warning about a specific suicide plan to hang himself with a rope this Deputy knew he then had, Defendant Deneen made a conscious and deliberately indifferent decision to abandon his obligation as a Deputy and as a gatekeeper by failing to remove from Mr. Harmon's cell the soon-to-be-deadly rope it contained, and by failing to secure his protection or even report Mr. Harmon's irrational and erratic behavior, his overt threats of suicide, and his then-known suicide plan to the mental health care staff he obviously needed to see immediately.

132. Defendant LPN Palomino made a similar conscious and deliberately indifferent decision to abandon his obligation as a gatekeeper to Mr. Harmon's known and critically urgent

need for immediate protection, and mental health evaluation and treatment, by failing to report his unhinged behavior, his suicidal statements, and his specific suicide plan to mental health providers.

133. Around 5:20 a.m. the morning of May 25th, Defendant Deputy Deneen entered “North Henry” to pass out meals and tablets and reported that Mr. Harmon refused his food and was yelling obscenities in his cell.

134. Again, Deputy Deneen decided not to perform his gatekeeper role by failing with deliberate indifference to notify any of LCJ/CorrHealth’s medical staff that Mr. Harmon’s obviously suicidal state of mind was continuing and getting worse and that he needed immediate mental health care and urgent protection from himself.

135. Again, Deputy Deneen failed his duty as an LCSO Deputy to remove the bag and rope that he had been told were *the* integral part of Mr. Harmon’s suicide plan in a cell he knew was not suicide-resistant in design or configuration.

136. And again Mr. Harmon’s obviously acute and serious mental health condition was treated, by Deputy Deneen this time, as a behavior problem to be punished.

137. Instead of contacting medical staff to help this detainee in the middle of an obvious mental health crisis, Defendant Deputy Deneen callously and with deliberate indifference wrote up Mr. Harmon for discipline in a “behavioral report” citing his use of a curse word.

138. Mr. Harmon also sent another urgent kite that morning begging to be put back in general population and writing without punctuation and garbling key words: “I am losing my and here I do not have covid please I’m begging u to take me back to gp.”

Subject of your grievance.

Details:

What is your medical grievance?:

I am losing my and here I do not have covid please I'm begging u to take me back to gp

What is your proposed solution?:

Place me back in gp please

Date/Time	User	Action	Source	Details
06/10/23 21:17	Jarman, Amanda	Staff Response		*Released* Inmate has been released. Request is closed
06/10/23 21:17	Jarman, Amanda	Changed Status		From 'Open' to 'Closed'
06/10/23 21:16	Jarman, Amanda	Viewed		
05/28/23 13:18	Burkholder, Clint	Viewed		
05/28/23 13:18	Burkholder, Clint	Set Tag		Changed tag to Medical
05/28/23 13:17	Burkholder, Clint	Viewed		
05/25/23 09:33	RYAN HARMON	Submitted New Tablet		Subject of your grievance.

139. As also illustrated by time stamps on the screenshot above, this kite was not even viewed by anyone at LCJ until May 28th, days after Mr. Harmon's hanging.

140. Mr. Harmon's self-help efforts to get urgent help, through kites or grievances and even frank reports of suicidality with a plan, thus fell on entirely deaf ears on both May 24th and the 25th.

141. Defendant CorrHealth's staff was not only negligent but derelict in handling and not responding to these grievances.

142. Mr. Ivarson again tried to warn the Deputy assigned to North Henry the morning of May 25th about Mr. Harmon's obvious and severe danger to himself.

143. Deputy Max Hefner also did not respond.

144. Mr. Ivarson also reported his failed final attempt to get Deputies' attention that morning to post-death investigators who referenced this in an IA report:

quarantine. IVARSON stated, about the day of the incident, he knew something was going on, I could not get the guards attention, however, recalls telling a deputy the night before the incident that they (deputies) need to watch him (HARMON) as IVARSON believed HARMON would harm himself from the comments HARMON had made.

145. At 10:36 a.m. on May 25th, Mr. Harmon was found unresponsive, hanging by the very cord (taken from his clear plastic laundry bag) that Mr. Ivarson had warned Deputy Deneen

and LPN Palomino about the night before. There are many grim pictures of Ryan Harmon and the severe neck ligatures taken at the jail, at the hospital, and at autopsy after his hanging.

146. Below are pictures of the rope that Mr. Harmon used to hang himself, and the anchor point on the wall of his cell that he used to tie off this rope ligature in his non-suicide-proof cell:



147. After this hanging was discovered Mr. Ivarson asked Deputy Hefner if in fact Mr. Harmon had done what he said he was going to do and what Ivarson had warned them about the night before. LCSO's post-death investigation also documented this question being asked of Deputy Hefner by Mr. Ivarson.

148. A medical emergency was called out over the Jail's radio. CPR was conducted and Mr. Harmon was transported still alive, if only barely, by EMS to Medical Center of the Rockies around 11:00 a.m.

149. Mr. Harmon died on June 1, 2023, of complications of asphyxia by hanging, at the age of 43.

150. The Estate of Ryan Harmon has suffered significant damages, entitling it to recover its compensatory and special damages, including for death, loss of enjoyment of life, loss of relationships, pre-mortem pain and suffering, loss of earnings based upon the probable duration of his life had not this devastating injury occurred, and other damages, all in amounts to be proven at trial.²

151. Ryan Harmon's estate is not only entitled to compensatory damages for his pre-mortem pain and suffering but also for the loss of his enjoyment and pleasure of living for his expected decades-long lifespan at the time of his death on both the federal and state civil right claims stated herein.

152. The Estate of Ryan Harmon is thus entitled to compensation for Ryan Harmon's pre-mortem suffering, which included the consciousness of entirely losing his sanity without any help as his mental health catastrophically deteriorated in isolation.

153. During those three days Mr. Harmon was severely depressed and anxious, isolated, and hardly able to sleep. He felt trapped and caged like an animal and was repeatedly threatened with punishment for acting out his obviously severe mental health crisis. When he begged for help, he was told to fill out a different form and denied mental health care of any kind.

154. The Estate is also entitled to damages for Mr. Harmon's enjoyment, pleasure of life and the value of his life. The Estate is entitled to compensation for his loss of his many loving relationships for the period of his expected life span according to standard mortality tables.

² The Tenth Circuit has long held that compensatory damages includes medical and burial expenses, pain and suffering *before* death, loss of earnings based upon the probable duration of the victim's life had not the injury occurred, the victim's loss of consortium, and other damages recognized in common law tort actions.

155. More particularly, his Estate's loss of consortium damages includes the loss of his relationships with his mother, his father, his children, and friends, as he had an intrinsically significant relational interest with each of them.

156. Ryan Harmon loved his family very much, took great joy in his relationships and experienced a lot of pleasure living his life. He had an enormous heart and an incredible sense of humor.

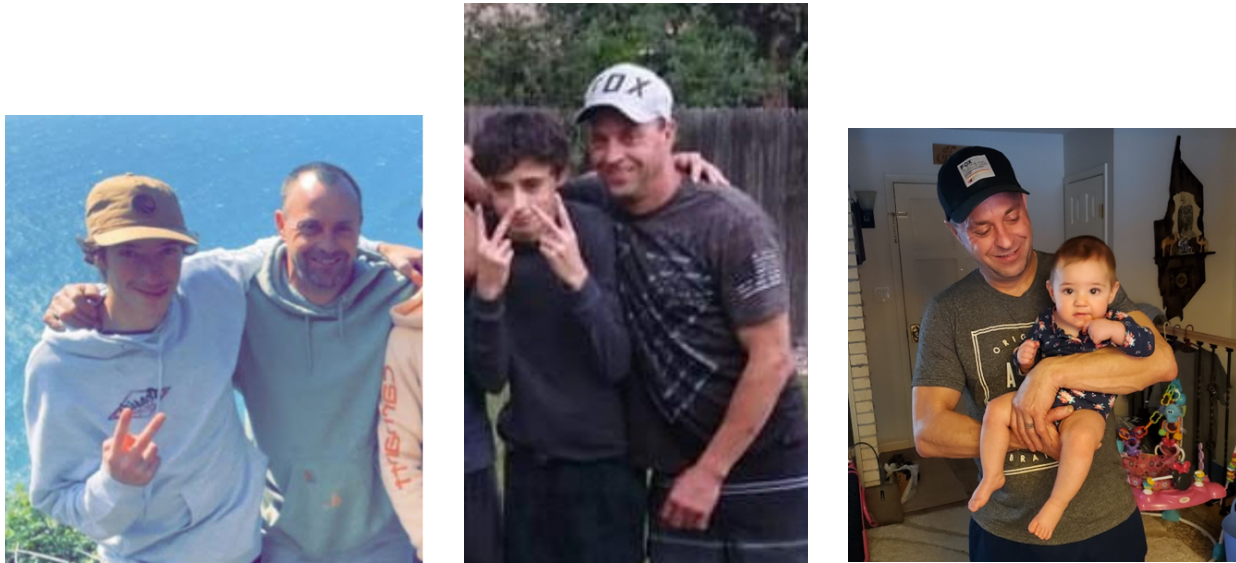
157. He learned the trade of bricklaying from his father and uncles and was reportedly one of the most talented, cleanest bricklayers around. He was good at everything he set his mind to and loved to pass his skills on to his children. Mr. Harmon loved the outdoors and was particularly at home in the mountains. His most enjoyable moments were found combining his love of family and love of the mountains on family camping trips.

158. Mr. Harmon had particularly close relationships with his children, including Ashley, Tyler, Caleb, and M.H., as well as stepson Damien, who also had an extremely important and loving relationship with him.

159. Mr. Harmon is pictured below at Red Rocks with his daughter Ashley:



160. He is pictured below with son Tyler at the Oregon coast (left) and his son Caleb during a garden planter box-building project (center) and with daughter M.H. (right):



161. Mr. Harmon is pictured below with daughter Ashley and stepson Damien:



162. Mr. Harmon's Estate has also suffered economic damages for his lost future earnings, lost earning capacity and income in amounts still being ascertained for the expected productive working lifetime under mortality tables.

163. The Estate is also entitled to the amounts of the hospital and medical care related charges incurred by Ryan Harmon after his hanging. These exceed \$238,000.00.

164. Plaintiff Estate is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

165. Plaintiff Estate has also incurred special damages in the form of funeral expenses.

166. Plaintiff Estate is also entitled to punitive damages against Defendant Kyle Deneen and Defendant Oscar Palomino, in that their actions individually and collectively were taken maliciously, willfully and with a reckless and wanton disregard of the federal and state constitutional rights of Plaintiff.

167. Plaintiff Estate is further entitled, under the Colorado Constitution, Article 2, Sections 20 and 25, and C.R.S. § 13-21-131, to general compensatory and punitive damages for the damages it has incurred because of the Defendant Deputy Deneen's aforealleged actions and inactions, including, but not limited to pain and suffering, loss of life, loss of past and future earnings, loss of relationships, society and companionship, and all other purely non-economic damages as allowed under all applicable statutes.

168. Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H., as surviving children of Mr. Harmon, have also personally suffered permanent damages, losses, and injuries in an amount to be determined by the jury at trial. These damages include, *inter alia*, significant emotional distress and anguish as a result of the loss of their father, grief, loss of companionship, and all other purely non-economic damages as allowed under the Colorado Wrongful Death Act to redress the aforealleged negligence in the operation of a jail by the Larimer County Defendants. They, or some of them, are entitled as well to economic damages for loss of financial support from Mr. Harmon who was a worker.

169. Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H, are further individually entitled to recover all such compensatory damages awardable under Colorado’s Wrongful Death statute against the CorrHealth-related Defendants. These Plaintiffs give notice that they may also seek to add a punitive damages remedy on this state law claim against CorrHealth after requisite discovery, as required under Colorado law.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

**Violation of 42 U.S.C. § 1983 – Fourteenth Amendment
Unconstitutional Denial of Medical Care and Denial of Due Process
(Plaintiff Estate against Defendants Kyle Deneen
and Oscar Palomino)**

170. The Plaintiff Estate hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

171. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

172. Ryan Harmon was a citizen of the United States and Defendants to this claim are persons for the purposes of 42 U.S.C. § 1983.

173. Each Defendant to this claim, at all times relevant hereto, was acting under color of state law.

174. Mr. Harmon was protected from subjective and objective deliberate indifference by Defendants to this claim to his known serious medical needs by the Fourteenth Amendment.

175. There is no qualified immunity for private actors working in a jail.

176. As a result of the allegations contained in this Complaint, Defendants Kyle Deneen and Oscar Palomino are liable under 42 U.S.C. § 1983 for the violation of Mr. Harmon's rights under the Fourteenth Amendment by acting with deliberate indifference to his serious medical needs and disregarding the substantial risks associated with his known and obvious suicidality, to lay and health care trained persons alike, and despite being expressly aware of Mr. Harmon's extraordinarily erratic behavior, his repeated and loud threats of suicide, his disclosed suicide plan and the tools he planned on using, and the presence of dangerous fixtures in his cell that would help and facilitate his accomplishing his planned and known method of suicide.

177. Under the Fourteenth Amendment, Defendants Deneen and Palomino also violated Mr. Harmon's rights by engaging in conduct that was not rationally related to a legitimate nonpunitive governmental purpose, and making intentional decisions that put him at substantial risk of suffering harm, and by not taking reasonable available measures to abate that risk, even though a reasonable actor in the circumstance would have appreciated the high degree of risk involved, as set forth in *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2473 (2015).

178. The acts or omissions of these Defendants were the legal and proximate cause of Mr. Harmon's injuries, losses, and death.

179. As a direct and proximate result of these Defendants' unlawful conduct, Plaintiff Estate has suffered injuries and losses, including the death of Mr. Harmon, entitling it to recover his compensatory and special damages, including for loss of constitutional rights, loss of life, loss of enjoyment and pleasure of life, pain and suffering, loss of relationships, and permanent lost earnings and earnings capacity for the expected productive working lifetime of Mr. Harmon, the

amount of hospital and medical charges incurred after his hanging and funeral expenses, all in amounts still being fully ascertained and to be proven at trial.

180. Plaintiff is also entitled to punitive damages against these Defendants, in that their actions were taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of the deceased Ryan Harmon.

181. Plaintiff is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

SECOND CLAIM FOR RELIEF
(Colo. Rev. Stat. § 13-21-131
Cruel and Unusual Punishment and Deprivation of Due Process
Violation of Colorado Constitution, Article 2, Sections 20 & 25)
(Plaintiffs Estate, Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H.,
against Defendant Kyle Deneen)

182. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

183. Plaintiff Estate and Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H. bring this claim against Defendant Kyle Deneen in his individual capacity.

184. At all times relevant hereto, Defendant Deneen was acting under the color of state law in his capacity as a Larimer County Sheriff's Office Deputy.

185. Defendant Deneen is a "peace officer" as defined by Colo. Rev. Stat. § 24-31-901(3).

186. Mr. Harmon had a constitutional right under Article 2, Section 20, of the Colorado Constitution to be free from cruel and unusual punishment, including the right to receive adequate medical care while incarcerated.

187. As a relatively new statute, the Colorado Supreme Court has not determined the precise standard for claims under Article 2, Section 20, of the Colorado Constitution to be free from cruel and unusual punishment. Specifically, it has not determined whether as a detainee, this right includes the right to receive objectively reasonable medical care, or non-deliberately indifferent medical care, and this is therefore a matter of first impression. *See Colo. Rev. Stat. § 13-17-201(2)*.

188. The Colorado Supreme Court has also not determined whether the constitutional right under Article 2, Section 25, of the Colorado Constitution to due process includes the right to receive objectively reasonable or non-deliberately indifferent medical care as a pretrial detainee. *See Colo. Rev. Stat. § 13-17-201(2)*.

189. Mr. Harmon had a constitutional right under Article 2, Section 20 and 25 of the Colorado Constitution, to receive objectively reasonable and non-deliberately indifferent medical care and mental health care, and to an immediate referral to a mental health caregiver by Deputies unlicensed and untrained in how to respond to a detainee at obvious and serious risk of self-harm.

190. Defendant Deneen was aware of the substantial risk of self-harm presented by Mr. Harmon, who was isolated in a single occupancy and non-suicide-resistant cell, was extremely angry, irrational, and anxious, was acting so erratically as to cause significant management concerns, was having an overly emotional reaction to being quarantined, was loudly sobbing on the phone about how he was going to end his life, made repeated threats, including to this Deputy, about how he would end his life if he was not let out of quarantine, and was known to have a specific suicide plan and the means to carry out this plan in his cell.

191. As a direct and proximate result of these Defendants' unlawful acts and omissions, Plaintiffs have suffered damages, losses, and injuries in an amount to be determined by the jury at trial. These damages variously include, *inter alia*, pain and suffering, pre-mortem pain and suffering, loss of life, loss of past and future earnings, loss of past and future enjoyment and pleasure of life, lost past and future relationships, consortium, loss of society and companionship, and all other purely non-economic damages as allowed by law.

192. Plaintiffs are therefore entitled to general and compensatory damages for such pain and suffering and emotional distress and to special damages for past and future earnings and destroyed earnings capacity and the currently known over \$238,000.00 in hospital and medical charges after his hanging, funeral expenses and the like, in amounts to be ascertained in trial, against these Defendants.

193. Plaintiffs to this claim are also entitled to punitive damages against this Defendant, in that his actions were taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of the deceased Ryan Harmon.

194. They are also entitled to attorney fees and costs.

THIRD CLAIM FOR RELIEF

(Negligence resulting in Wrongful Death and Estate Survival Damages)

(Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, M.H., and the Estate of Ryan Harmon against Defendants Oscar Palomino and CorrHealth)

195. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

196. Defendant CorrHealth is a private corporation that contracts with Larimer County to provide medical care and mental health services through staff it employs permanently and more

temporarily, as needed, to inmates at LCJ.

197. Defendant CorrHealth, and Defendant Palomino, are private ‘persons’, not governmental actors, and are therefore not entitled to any immunity under the CGIA.

198. CorrHealth is vicariously liable for the negligent acts and omissions by its employees and agents under its control with respect to the performance of the specific injury causing activities and care assignments at issue herein including but not limited to Defendant Palomino, and other Larimer County Jail medical workers, whether or not they are currently defendants to this claim including, in this not yet named as defendants group, Jaelyn Fair, RN and Kyra Harmon, DON.

199. At all times relevant to this action, Mr. Harmon was under the medical responsibility, care, and treatment of Defendants Palomino and CorrHealth.

200. Defendant Palomino, and other individual medical workers at LCJ, had a duty to provide medical and mental health care to detainees and inmates at LCJ, including Mr. Harmon. This includes a duty to provide reasonable care to prevent inmates known to be at risk for suicide from committing suicide, a duty to properly classify such detainees and house them accordingly in cells that will not facilitate suicide attempts, and a duty to properly supervise and monitor these detainees at risk of self-harm, and a duty to immediately contact mental health care providers who are licensed and trained to evaluate and treat acutely suicidal detainees like Mr. Harmon.

201. All CorrHealth employees who interacted with Mr. Harmon during his incarceration at LCJ, including, but not limited to Defendant LPN Palomino, had nurse-patient, counselor-patient, or doctor-patient relationships with Mr. Harmon, and were acting within the scope of their employment.

202. Defendant Palomino, and Defendant CorrHealth and its employees, owed Mr. Harmon a duty to exercise the degree of care, skill, caution, diligence, and foresight exercised by and expected of medical- and mental health professionals in similar situations.

203. Through their actions and omissions, Defendant Palomino and other CorrHealth employees breached their standards of care and were negligent and/or reckless in failing to properly assess, monitor, treat, and care for Mr. Harmon, including, but not limited to the following:

- a. failing to properly classify Mr. Harmon as high suicide risk, and failing to monitor and react to serious changes in his mental status after he was quarantined;
- b. failing to remove all the items in Mr. Harmon's cell which could be used, and were specifically warned about their imminent use for self-harm;
- c. failing to remove Mr. Harmon from a cell not at all designed for acutely suicidal inmates because it had many fixtures that are known to facilitate suicide by hanging;
- d. failing to ensure that Mr. Harmon had a cellmate so he would not be further isolated;
- e. failing to adequately supervise and monitor Mr. Harmon in his cell;
- f. failing to notify higher level medical staff or mental health staff that Mr. Harmon was at very high risk of self-harm and in immediate need of mental health evaluation, treatment, and protection from himself.

204. These duties of care are informed by state law. Under C.R.S. § 16-3-401, “prisoners arrests or in custody shall be treated humanely and provided with adequate food, shelter, and, if required, medical treatment.” The provision of adequate medical treatment and humane care is a statutory obligation.

205. Defendant CorrHealth also had a duty to exercise reasonable care in the training and supervision of its employees and breached its duty of care, including by failing to reasonably

train their employees, have and implement policies to timely recognize the well-known red flags of a suicidal detainee, and to immediately and urgently place such a suicidal detainee in an incarceration setting where he could not act out his suicidal impulses.

206. As a direct and proximate result of these Defendants' unlawful acts and omissions, Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H. have suffered damages, losses, and injuries in an amount to be determined by the jury at trial. These damages include *inter alia* funeral expenses, lost earnings, and financial benefits they would have reasonably been expected to receive from their father had he lived, pain and suffering, upset, grief, loss of their father's companionship, anger, depression, and all other damages as allowed under state law.

207. The Estate of Ryan Harmon is additionally entitled under the Colorado survival statute to recover the amount of all the charges incurred by Ryan Harmon for his hospitalization, care and treatment after the hanging.

208. Although not required, Plaintiffs hereby give notice that they may seek to amend the Complaint to add punitive damages against these Defendants after substantial discovery because the injuries complained of are attended by circumstances of fraud, malice or willful and wanton conduct as provided by Colorado law.

FOURTH CLAIM FOR RELIEF

(Negligence In the Operation of a Jail Causing Wrongful Death/Estate Survival Damages)
(Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, M.H., and the Estate of Ryan Harmon against Larimer County Defendants)

209. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

210. Pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-106,

governmental immunity is waived for any action for injuries, which lie in tort or could lie in tort, resulting, as here, from the negligent operation of any correctional facility or jail.

211. At all times relevant hereto, Mr. Harmon was incarcerated at LCJ based on allegations that had not yet been adjudicated, and thus was being held as a pre-trial detainee.

212. Larimer County Defendants are vicariously liable for the negligent acts and omissions by their agents and/or employees, including but not limited to, Deputy Russell Graham, Deputy Max Hefner, and Deputy Kyle Deneen, who at all times relevant hereto were acting in the scope of their employment.

213. At all times relevant to this action, Mr. Harmon was in the custody and care of LCJ staff.

214. The operation of a correctional facility for purposes of the CGIA includes adequate provision of medical and mental health care necessary for basic health, and adequate provision of protection from self-harm.

215. Larimer County Defendants had a duty to provide reasonable care to prevent inmates and detainees known to be at risk for suicide from committing suicide, a duty to properly classify such inmates and detainees and house them accordingly, and a duty to properly supervise and monitor these inmates and detainees at risk of self-harm, and a duty to monitor and react to changes in their mental health status, a duty to remove all items in a suicidal detainee's cell that are commonly used for self-harm, and a duty to reasonably train their employees in recognizing well-known warning signs of suicide risk and reacting adequately to fulfill their gatekeeper role by contacting medical staff capable of providing evaluation and treatment.

216. As alleged herein, Larimer County Defendants breached these duties by their negligent and/or grossly negligent or reckless acts and omissions, including, but not limited to the following:

- a. failing to properly and timely classify and monitor Mr. Harmon as a high suicide risk;
- b. failing to adequately monitor and react to changes in Mr. Harmon's mental health condition after he was isolated in a quarantine cell, received very bad news about his prospective legal status, and became actively suicidal with a specific suicide plan;
- c. failing to remove all the items in Mr. Harmon's cell which could be used for self-harm, despite being specifically warned about Mr. Harmon's plan to use the cord or rope from his laundry bag to hang himself;
- d. failing to house Mr. Harmon in a cell that did not have anchor points and other fixtures that are very well known to facilitate suicide by hanging in an incarceration setting;
- e. failing to ensure that Mr. Harmon had a cellmate so he would not be further isolated;
- f. failing to contact medical or mental health staff capable of evaluating and providing treatment and protection to a detainee at such obviously high risk of self-harm.
- g. failing to adequately supervise, protect from suicide and monitor Mr. Harmon in his cell, and;
- h. failing to exercise reasonable care in the training and supervision of its employees, including training regarding recognizing the well-known red flags that warn jailors and jail medical staff that a detainee is acutely suicidal.

217. As a direct and proximate result of these Defendants' unlawful acts and omissions, Plaintiffs Ashley Harmon, Tyler Harmon, Caleb Harmon, and M.H., have suffered damages, losses, and injuries in an amount to be determined by the jury at trial. These damages include *inter alia* funeral expenses, lost earnings, and financial benefits they would have reasonably been expected to receive from their father had he lived, pain and suffering, upset, grief, loss of their father's companionship, anger, depression, and all other damages as allowed under state law.

218. Under the Colorado Survival Statute, the Estate of Ryan Harmon is additionally entitled to recover the amount of all the hospital, medical and other care and treatment charges incurred by Mr. Harmon and the Estate after his hanging.

VI. PRAYER FOR RELIEF

Plaintiffs pray that this Court enter judgment for the Plaintiffs and against each of the Defendants and enter the following relief:

(A) All available compensatory damages, including, but not limited to, all available damages for pain and suffering, physical, mental, and emotional distress, hedonic damages to the Estate and all other economic and non-economic damages available to the Estate and to the individual plaintiffs under the applicable federal and state laws applicable to the stated claims;

(B) Punitive damages on all claims as allowed by law on the Federal and State Civil Rights Claims against the individual defendants and potentially after suitable discovery and proper motion as provided by Colorado law on the claim against Defendant CorrHealth;

(C) Attorneys' fees and costs pursuant to 42 U.S.C. §1988 and as allowable by state civil rights law;

(D) Pre- and post-judgment interest as appropriate; and

(E) Any further relief at law or equity that this Court deems just and proper.

PLAINTIFFS RESPECTFULLY REQUEST TRIAL BY JURY.

Respectfully submitted this 21st day of May, 2024

/s/ John R. Holland

John R. Holland

Dan Weiss

HOLLAND, HOLLAND EDWARDS & GROSSMAN, LLC

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CERTIFICATE OF REVIEW

This is to certify that undersigned counsel has conferred, pursuant to Colorado statutes, with a person who has expertise in the areas of alleged professional individual caregiver and CorrHealth negligence and that this professional has reviewed the known facts, including such records, documents, and other materials as found to be relevant to the Complaint's allegations of negligent acts and omissions, and has concluded that the filing of such claims do not lack substantial justification and in fact are substantially meritorious and involve clear violations of the standards of care involved.

/s/ John Holland
John Holland