

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY GRISWOLD, Personal Representative
of the Estate of JOHN E. GRISWOLD, Deceased,

Plaintiff,

v

Case No. 22-CV-10980

HON. STEPHEN J. MURPHY, III

TRINITY HEALTH-MICHIGAN d/b/a
ST. JOSEPH MERCY LIVINGSTON,
EMERGENCY PHYSICIANS MEDICAL
GROUP, P.C., WILLIAM J. KANITZ, M.D.,
COUNTY OF LIVINGSTON, MICHIGAN,
LIVINGSTON COUNTY SHERIFF,
MICHAEL MURPHY, SARGENT TERRY DAVIS,
DEPUTY TRAVIS LINDEN,
DEPUTY PATRICK TURCHI,
DEPUTY ALLISON SCHULTE,
DEPUTY JOHN DOE-MARQUETTE,
DEPUTY ERIC VANVLEET,
DEPUTY DAVID LOAR,
DEPUTY KURT HEIOB,
DEPUTY ALICIA FAMIE, and
DEPUTY VINCENT JOHN,

Defendants.

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**DEFENDANTS TRINITY HEALTH-MICHIGAN d/b/a
ST. JOSEPH MERCY LIVINGSTON, EMERGENCY PHYSICIANS
MEDICAL GROUP, P.C., AND WILLIAM J. KANITZ, M.D.'S
ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES, FURTHER ANSWERS,
AND RELIANCE UPON JURY DEMAND**

NOW COME Defendants, TRINITY HEALTH-MICHIGAN d/b/a ST. JOSEPH MERCY LIVINGSTON, EMERGENCY PHYSICIANS MEDICAL GROUP, P.C., and WILLIAM J. KANITZ, M.D., by and through their attorneys, FOLEY, BARON, METZGER & JUIP, PLLC, and for their Answer to Plaintiff's First Amended Complaint hereby state as follows:

JURISDICTION AND VENUE

1. This action is brought, in part, pursuant to 42 U.S.C. §1983 to redress a Fourteenth Amendment violation for failure to provide adequate medical attention which led to the death of John E. Griswold.

ANSWER: Answering paragraph 1 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§1331 and 1367.

ANSWER: Answering paragraph 2 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein, as the same call for a legal conclusion, and Plaintiff is left to its strict proofs.

3. Venue is proper in this district under 28 U.S.C. §1391(b) because the events giving rise to the claims asserted in this complaint occurred in this judicial district.

ANSWER: Answering paragraph 3 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein, as the same call for a legal conclusion, and Plaintiff is left to its strict proofs.

PARTIES

4. Plaintiff Timothy Griswold was at all times relevant a resident of the County of Livingston, State of Michigan.

ANSWER: Answering paragraph 4 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon

which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

5. Plaintiff John E. Griswold, deceased, was at all times relevant a resident of the County of Livingston, State of Michigan.

ANSWER: Answering paragraph 5 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

6. Defendant Trinity Health-Michigan d/b/a St. Joseph Mercy Livingston was at all times relevant hereto a health institution conducting business in the County of Livingston, State of Michigan.

ANSWER: Answering paragraph 6 of said First Amended Complaint, these Defendants admit the allegations contained therein.

7. Defendant Emergency Physicians Medical Group, P.C. was at all times relevant hereto a health institution conducting business in the County of Washtenaw, State of Michigan.

ANSWER: Answering paragraph 7 of said First Amended Complaint, these Defendants admit the allegations contained therein.

8. Defendant William J. Kanitz, M.D. was at all times relevant hereto a licensed and practicing physician, board certified in Emergency Medicine, conducting business in the County of Washtenaw, State of Michigan.

ANSWER: Answering paragraph 8 of said First Amended Complaint, these Defendants deny the allegations contained therein for the reason that Dr. Kanitz treated decedent in Livingston County, MI.

9. Defendant County of Livingston, Michigan is a County of the State of Michigan. It oversees the Livingston County Sheriff Department, which, in turn operates the Livingston County Jail.

ANSWER: Answering paragraph 9 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

10. Defendant Livingston County Sheriff, Michael Murphy is the Sheriff of Livingston County. At all times relevant to the events at issue in this case, Defendant Murphy was employed by the Livingston County Sheriff's Department in the capacity of Sheriff. As such, he was acting under the color of law. At all times relevant to the issue in this case,

Defendant Murphy promulgates rules, regulations, policies, and procedures as Sheriff of Livingston County for the provision of certain medical care by medical personnel and correctional officers to detainees at the Livingston County Jail. He is sued in his official and individual capacity.

ANSWER: Answering paragraph 10 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

11. Defendants Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia Famie, and Deputy Vincent John were employees of the Livingston County Jail during the relevant period. At all times relevant to the events at issue in this case, these defendants were acting under the color of law and within the scope of their employment with Livingston County Jail. These defendants are sued here in their official and individual capacities.

ANSWER: Answering paragraph 11 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

FACTS

12. On October 14, 2018, John Griswold ("John") was a 54-year-old father of two grown children who found himself being arrested for the first time after what his family described as aggressive behavior that was atypical of John.

ANSWER: Answering paragraph 12 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

13. Officers on-scene at John's home found John in his kitchen and observed "a large amount of pills" on the kitchen counter. John advised he took about 10 pills but could not identify which pills he took.

ANSWER: Answering paragraph 13 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon

which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

14. Upon arrival at the Livingston County Jail, Nurse Trina Barnett was asked to evaluate John. She found John to be tachycardic, diaphoretic, with pinpoint pupils, slow to respond to questions, and "extremely mumbly."

ANSWER: Answering paragraph 14 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

15. Nurse Barnett commented that John should not be admitted to Livingston County Jail until being medically cleared.

ANSWER: Answering paragraph 15 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

October 14, 2018: St. Joseph Mercy Livingston Hospital

16. At approximately 3:00 PM John was brought to St. Joseph Mercy Livingston, where he was treated by William. J. Kanitz, M.D.

ANSWER: Answering paragraph 16 of said First Amended Complaint, these Defendants admit the allegations contained therein.

17. Dr. Kanitz recorded that John was diaphoretic, with an elevated heartrate, and pinpoint pupils.

ANSWER: Answering paragraph 17 of said First Amended Complaint, Defendants deny the allegations as untrue for the reason that and/or to the extent that they omit pertinent findings relevant to the patient's treatment, misstate, mischaracterize and/or take the stated portions of the medical record out of context, and fail to take into consideration the patient's entire clinical picture.

18. A urine drug screen returned positive for amphetamines, likely a false-positive due to Trazadone.

ANSWER: Answering paragraph 18 of said First Amended Complaint, Defendants deny the allegations as untrue for the reason that and/or to the extent that they omit pertinent findings relevant to the patient's treatment, misstate, mischaracterize and/or take the

stated portions of the medical record out of context, and fail to take into consideration the patient's entire clinical picture.

19. During his time at St. Joseph Mercy Livingston, no one asked John what medications he was taking.

ANSWER: Answering paragraph 19 of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

20. Lab work revealed abnormal levels of Potassium and Trazadone.

ANSWER: Answering paragraph 20 of said First Amended Complaint, Defendants deny the allegations as untrue for the reason that and/or to the extent that they omit pertinent findings relevant to the patient's treatment, misstate, mischaracterize and/or take the stated portions of the medical record out of context, and fail to take into consideration the patient's entire clinical picture.

21. An electrocardiogram revealed QT prolongation, which can result in sudden cardiac arrest if ignored.

ANSWER: Answering paragraph 21 of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

22. Without further investigation, consults with toxicology or infectious disease, resolution of abnormal labs, nor continued observation, John was discharged back to the jail.

ANSWER: Answering paragraph 22 of said First Amended Complaint, Defendants deny the allegations as untrue for the reason that and/or to the extent that they omit pertinent findings relevant to the patient's treatment, misstate, mischaracterize and/or take the stated portions of the medical record out of context, and fail to take into consideration the patient's entire clinical picture.

October 14, 2018: Livingston County Jail

23. At approximately 5:55 PM John arrived back at the jail and was held in Cell 223A/3A.

ANSWER: Answering paragraph 23 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

24. Defendant Deputy Travis Linden attempted to book John into the Jail Management System, but John did not respond to booking questions.

ANSWER: Answering paragraph 24 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

25. Defendant Livingston County Sheriff, Michael Murphy, was responsible for all jail policy and procedure concerning inmates. In accordance with Livingston County Jail policy, John was held in Cell 223A/3A, located within the Intake Unit, in his civilian clothing, pending his ability to respond to booking questions. John was placed in the cell at approximately 6:06 PM.

ANSWER: Answering paragraph 25 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

26. At approximately 6:35 PM, Defendant Sargent Terry Davis enters John's cell and attempts to speak to John, but John is non-responsive.

ANSWER: Answering paragraph 26 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

27. At approximately 7:01 PM, Defendants Deputy Travis Linden and Deputy Patrick Turchi enter John's cell and remove his handcuffs. John was too weak to rise on his own, and Defendants Deputy Linden and Deputy Turchi had to pick him up to remove his cuffs. John was unsteady on his feet. Defendants Deputy Linden and Deputy Turchi did not alert anyone to John's weak medical condition, despite knowledge that John was recently at the hospital for medical clearance.

ANSWER: Answering paragraph 27 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

28. The entire time John was locked in Cell 223A/3A, John sat on a cot on the floor with his back against the wall and legs outstretched. John would remain in that position until he was found dead thirteen (13) hours later the following day, at approximately 7:40 AM.

ANSWER: Answering paragraph 28 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

29. A camera within John's cell, and another outside his cell, captured all relevant movements and events.

ANSWER: Answering paragraph 29 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

30. Over the next thirteen (13) hours, John was never adequately checked.

ANSWER: Answering paragraph 30 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

31. At 8:00 PM John vomited all over himself, his clothes, and his cot. The vomit, his vomit-saturated clothing, and vomit covering his cot are clearly visible.

ANSWER: Answering paragraph 31 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

32. At 8:40 PM Defendants Deputies Linden and Turchi enter John's cell but allow John to remain covered with vomit and fail to seek any medical attention for him.

ANSWER: Answering paragraph 32 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

33. Defendant Sargent Terry Davis was responsible to ensure that John's cell was adequately checked at regular intervals.

ANSWER: Answering paragraph 33 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

34. Defendants Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia

Famie, and Deputy Vincent John participated in cell checks or otherwise observed John without meaningful movement and saturated in vomit.

ANSWER: Answering paragraph 34 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

35. On October 14, 2018, between 8:41 PM and midnight, Defendant Deputies Linden and Schulte perform walk-by cell checks, are able to observe John soaked in vomit and without any change in position but fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 35 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

36. From October 14, 2018, at 8:41 PM to October 15, 2018 at 3:14 AM, no one enters John's cell, no one attempts to interact with him, and no one seeks medical attention.

ANSWER: Answering paragraph 36 of said First Amended Complaint, Defendants neither admit nor deny the allegations

contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

October 15, 2018: Livingston County Jail

37. On October 15, 2018, at 12:17 AM, Defendant Deputy Linden conducts a walk-by cell check. Defendant Deputy Linden acknowledged that he observed that John was covered in vomit. Defendant Deputy Linden also observed that John had not changed positions but does not seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 37 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

38. On October 15, 2018, between 12:18 AM and 3:14 AM, Defendant Deputies Linden, Turchi, Schulte, and Marquette perform walk-by cell checks, are able to observe John soaked in vomit and without any change in position but fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 38 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

39. At 3:15 AM Defendant Deputy Linden enters John's cell, but again fails to seek medical attention despite John having remained in the same position for the past nine (9) hours, despite the smell of vomit, despite John being covered in vomit, and despite awareness that serious medical concerns were present at the time John arrived at the Livingston County Jail.

ANSWER: Answering paragraph 39 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

40. On October 15, 2018, between 3:16 AM and 4:30 AM, Defendant Deputies Linden, Turchi, and Schulte perform walk-by cell checks, are able to observe John soaked in vomit and without any change in position but fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 40 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

41. On October 15, 2018, at 4:31 AM, Defendant Sargent Davis alleges that he stopped and tried to speak to John. The video surveillance reveals he stopped outside John's cell, knocked once, then continued walking. The interaction lasted six (6) seconds. Sargent Davis is able to observe John soaked in vomit and without any change in position but fails to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 41 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

42. On October 15, 2018, between 4:32 AM and 7:06 AM, Defendant Deputies Linden, Turchi, Famie, VanVleet, John, Heiob, and Schulte perform walk-by cell checks, are able to observe John soaked in vomit and without any change in position but fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 42 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

43. At 6:04 AM Defendants Deputy Vanvleet and Deputy John peer into John's cell and note that John appeared to be breathing. John and his clothing and his cot remained saturated in vomit. Deputy VanVleet and Deputy John fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 43 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

44. At 7:08 AM breakfast is placed outside John's cell. No one attempts to notify John that breakfast has been served. John does not move. Defendant Deputies VanVleet, Heiob, and John peer into John's cell. John is breathing, but his position remains unchanged from the previous evening and his clothing and cot saturated with vomit. Deputies VanVleet, Heiob, and John fail to seek medical attention or take any other action to assess John's well-being.

ANSWER: Answering paragraph 44 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

45. At 7:09 AM John's body shakes and flutters.

ANSWER: Answering paragraph 45 of said Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

46. At 7:12 AM it appears John's breathing slows and becomes shallow. John's last noticeable movement is at 7:12 AM.

ANSWER: Answering paragraph 46 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

47. At 7:15 AM Defendant Deputy VanVleet walks by and smacks his hand on the glass wall of John's cell. John does not move in response to this noise. It appears John was not breathing. Deputy

VanVleet fails to seek medical attention or take any other action to assess John's wellbeing.

ANSWER: Answering paragraph 47 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

48. At 7:29 AM John's breakfast tray is collected.

ANSWER: Answering paragraph 48 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

49. At 7:42 AM Defendant Deputies Heiob and John entered John's cell and drag his deceased body out of the cell.

ANSWER: Answering paragraph 49 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

50. CPR was initiated but was unsuccessful.

ANSWER: Answering paragraph 50 of said First Amended Complaint, Defendants neither admit nor deny the allegations

contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

51. Deputies noted dried vomit in John's cell and vomit on his person.

ANSWER: Answering paragraph 51 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

52. The autopsy report revealed John's cause of death as sudden cardiac death.

ANSWER: Answering paragraph 52 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

53. John's family has been greatly distraught by their loss.

ANSWER: Answering paragraph 53 of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for lack of knowledge or sufficient information upon

which to form a belief thereto and leave the Plaintiff to its strict proofs thereof.

COUNT I – SECTION 1983 CLAIM AGAINST DEFENDANTS COUNTY OF LIVINGSTON, MICHIGAN, LIVINGSTON COUNTY SHERIFF, MICHAEL MURPHY, SARGENT TERRY DAVIS, DEPUTY TRAVIS LINDEN, DEPUTY PATRICK TURCHI, DEPUTY ALLISON SCHULTE, DEPUTY JOHN DOE-MARQUETTE, DEPUTY ERIC VANVLEET, DEPUTY DAVID LOAR, DEPUTY KURT HEIOB, DEPUTY ALICIA FAMIE, DEPUTY VINCENT JOHN

54. Plaintiff repeats and re-alleges the allegations contained in all prior paragraphs of Plaintiff's Complaint as though fully incorporated herein.

ANSWER: Answering paragraph 54, Count I, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 53 of Plaintiff's First Amended Complaint.

55. As described above, Defendants County of Livingston, Michigan, Livingston County Sheriff, Michael Murphy, failed to have in place policies that promoted and protected an inmate's health, and Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia Famie, Deputy Vincent John failed to ensure that John received prompt and adequate medical care

subsequent to his ingestion of pills and discharge from St. Joseph Mercy Livingston, and subsequent to John vomiting.

ANSWER: Answering paragraph 55, Count I, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

56. The actions of Defendants, County of Livingston, Michigan, Livingston County Sheriff, Michael Murphy, Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia Famie, Deputy Vincent John exhibited deliberate indifference to John's serious medical needs, were performed under color of state law, and violated John's rights under the Fourteenth Amendment to the United States Constitution.

ANSWER: Answering paragraph 56, Count I, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

57. As a direct and proximate result of the actions of Defendants County of Livingston, Michigan, Livingston County Sheriff, Michael Murphy, Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia Famie, Deputy Vincent John in failing to ensure that John received prompt and adequate medical care, John's condition was allowed to deteriorate, eventually suffering a sudden cardiac death, passing away on October 15, 2018.

ANSWER: Answering paragraph 57, Count I, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

58. The conduct of Defendants County of Livingston, Michigan, Livingston County Sheriff, Michael Murphy, Sargent Terry Davis, Deputy Travis Linden, Deputy Patrick Turchi, Deputy Allison Schulte, Deputy John Doe-Marquette, Deputy Eric Vanvleet, Deputy David Loar, Deputy Kurt Heiob, Deputy Alicia Famie, Deputy Vincent John was willful and exhibited a flagrant disregard for John's federally secured rights, and was undertaken

with malice and/or reckless disregard for John's constitutional rights.

Accordingly, these defendants are liable to John under 42 U.S.C. §1983.

ANSWER: Answering paragraph 58, Count I, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

59. WHEREFORE, Plaintiff hereby requests an award of compensatory damages and punitive damages, against the Defendants herein, jointly and severally, in whatever amount that Plaintiff is found to be entitled to, together with costs, interest and attorney fees, and for such further relief as this Court may deem appropriate and just.

ANSWER: WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's First Amended Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

COUNT II – STATE LAW CLAIM FOR RESPONDEAT SUPERIOR

60. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth in this Count.

ANSWER: Answering paragraph 60, Count II, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 59 of Plaintiff's First Amended Complaint.

61. Count I is alleged against Defendant Sheriff Murphy.

ANSWER: Answering paragraph 61, Count II, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

62. In committing the acts alleged in the preceding paragraphs, the individual Defendants were employees, members, and agents of the St. Clair County Sheriff's Department, acting at all relevant times within the scope of their employment.

ANSWER: Answering paragraph 62, Count II, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

63. Defendant Sheriff Murphy is liable as principal for all torts committed by his agents.

ANSWER: Answering paragraph 63, Count II, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

COUNT III – STATE LAW CLAIM FOR INDEMNIFICATION

64. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth in this Count.

ANSWER: Answering paragraph 64, Count III, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 63 of Plaintiff's First Amended Complaint.

65. Count III is alleged against Defendant Livingston County.

ANSWER: Answering paragraph 65, Count III, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

66. Michigan law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

ANSWER: Answering paragraph 66, Count III, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

67. The individual Defendants were employees of the Livingston County Sheriff's Department who acted within the scope of their employment in committing the misconduct described above.

ANSWER: Answering paragraph 67, Count III, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

68. Livingston County is obligated to pay any judgment entered against Sheriff Watson in an official capacity.

ANSWER: Answering paragraph 68, Count III, of said First Amended Complaint, Defendants neither admit nor deny the

allegations contained therein for the reason that they have no application to these Defendants, but leave the Plaintiff to its strict proofs thereof.

**COUNT IV – STATE CLAIM OF MEDICAL NEGLIGENCE
OF WILLIAM J. KANITZ, M.D.**

69. Plaintiff repeats and re-alleges the allegations contained in all prior paragraphs of Plaintiffs Complaint as though fully incorporated herein.

ANSWER: Answering paragraph 69, Count IV, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 68 of Plaintiff's First Amended Complaint.

70. William J. Kanitz M.D., was negligent, inter alia, in the following particulars, in that a licensed and practicing physician, Board Certified in Emergency Medicine, as well as any and all other physicians, physicians-in-training, physician assistants, and other mid-level healthcare providers, when evaluating and treating a patient such as John E. Griswold, owed a duty to timely and properly:

- (a) Perform and appreciate a thorough history and physical examination, including a list of what medications the patient is currently taking;
- (b) Recognize and appreciate the presence of QT prolongation on the patient's electrocardiogram;

- (c) Recognize and appreciate that long QT interval can lead to sudden cardiac arrest;
- (d) Refrain from discharging the patient without completing a medical evaluation, including all appropriate evaluations and management of his prolonged QT interval;
- (e) Monitor the patient until he can be safely discharged;
- (f) Recognize that this patient has experienced a drug overdose and respond with appropriate evaluations and management;
- (g) Appreciate the presence of abnormal labs, including the presence of low potassium, and properly manage the same;
- (h) Prevent the patient from suffering a worsening of their condition using any and all reasonable means;
- (i) Ensure John E. Griswold is treated in a timely and proper manner;
- (j) Communicate and coordinate with the patient's other healthcare providers to ensure he receives the best possible care, and any and all abnormal symptoms are appropriately worked-up;
- (k) Evaluate the patient for the need for psychiatric evaluation;
- (l) To guard against any additional acts of negligence identified through the discovery process.

ANSWER: Answering paragraph 70, including subparagraphs (a) through (l), Count IV, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

71. Defendant William J. Kanitz M.D. did none of these things, and such acts or omissions constitute professional negligence for which the Defendant William J. Kanitz M.D. is directly liable to Plaintiff.

ANSWER: Answering paragraph 71, Count IV, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

72. At all times relevant hereto, Defendant William J. Kanitz M.D. was an employee, agent, servant, or ostensible agent of Trinity Health-Michigan d/b/a St. Joseph Mercy Livingston and Emergency Physicians Medical Group, P.C., therefore, Defendants Trinity Health-Michigan d/b/a St. Joseph Mercy Livingston and Emergency Physicians Medical Group, P.C., is vicariously liable for the negligence of Defendant William J. Kanitz M.D. pursuant to the Doctrine of Respondeat Superior and ostensible agency.

ANSWER: Answering paragraph 72, Count IV, of said First Amended Complaint, Defendants neither admit nor deny the allegations contained therein, as the same call for a legal conclusion, and Plaintiff is left to its strict proofs.

73. As a direct and proximate result of John E. Griswold's healthcare providers' failure to comply with the standard of care as outlined above, including, but not limited to, failure to provide further diagnostic testing and observation prior to discharge, John was returned to the jail where his condition was allowed to deteriorate, eventually suffering a sudden cardiac death, passing away on October 15, 2018.

ANSWER: Answering paragraph 73, Count IV, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

74. As a consequence of the Defendants' negligence, Plaintiff further claims all elements of damages permitted under the Michigan Wrongful Death Act, Michigan Statutory Law, and Common Law, whether known now or whether becoming known during the pendency of this case.

ANSWER: Answering paragraph 74, Count IV, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Plaintiff hereby requests an award of damages against the Defendants herein, jointly and severally, in whatever amount above Seventy-Five Thousand [\$75,000.00] dollars that Plaintiff is found to be entitled to, together with costs, interest and attorney fees, as well as all other damages allowed under Michigan Law.

ANSWER: WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

COUNT V – STATE CLAIM OF VICARIOUS LIABILITY OF TRINITY HEALTH-MICHIGAN D/B/A ST. JOSEPH MERCY LIVINGSTON

75. Plaintiff repeats and re-alleges the allegations contained in all prior paragraphs of Plaintiff's Complaint as though fully incorporated herein.

ANSWER: Answering paragraph 75, Count V, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 74 of Plaintiff's First Amended Complaint.

76. Defendant Trinity Health-Michigan d/b/a St. Joseph Mercy Livingston was negligent, inter alia, in the following particulars, in that as a duly accredited and licensed health care institution, by and through their agents, actual and/or ostensible, servants, and/or employees, including, but not limited to, William J. Kanitz, M.D., any and all other physicians, physicians-in-training, physician assistants, other mid-level healthcare providers, and nursing staff, which hold themselves out to the public as being competent of rendering medical services, when confronted with a patient such as John E. Griswold, owed a duty to timely and properly:

- (a) Select, employ, train, and monitor its agents, actual and/or ostensible, servants, employees and/or its staff of physicians, nurses and residents, to ensure they were competent to perform adequate medical care for a patient;
- (b) Ensure that appropriate policies and procedures are adopted and followed including, but not limited to, protocol for appropriate patient history recording, including medications the patient is currently taking, and assessing the need for psychiatric evaluation;
- (c) Prevent the patient from suffering a worsening of their condition using all reasonable means;
- (d) Any additional acts of negligence identified through the discovery process.

ANSWER: Answering paragraph 76, including subparagraphs (a) through (d), Count V, of said Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

77. As a direct and proximate result of John E. Griswold's healthcare providers' failure to comply with the standard of care as outlined above, including, but not limited to, failure to provide further diagnostic testing and observation prior to discharge, John was returned to the jail where his condition was allowed to deteriorate, eventually suffering a sudden cardiac death, passing away on October 15, 2018.

ANSWER: Answering paragraph 77, Count V, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

78. As a consequence of the Defendants' negligence, Plaintiff further claims all elements of damages permitted under the Michigan Wrongful Death Act, Michigan Statutory Law, and Common Law, whether known now or whether becoming known during the pendency of this case.

ANSWER: Answering paragraph 78, Count V, of said Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Plaintiff hereby requests an award of damages against the Defendants herein, jointly and severally, in whatever amount above Seventy-Five Thousand [\$75,000.00] dollars that Plaintiff is found to be entitled to, together with costs, interest and attorney fees, as well as all other damages allowed under Michigan Law.

ANSWER: WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's First Amended Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

COUNT VI – STATE CLAIM OF VICARIOUS LIABILITY OF EMERGENCY PHYSICIANS MEDICAL GROUP, P.C.

79. Plaintiff repeats and re-alleges the allegations contained in all prior paragraphs of Plaintiff's Complaint as though fully incorporated herein.

ANSWER: Answering paragraph 79, Count VI, of said First Amended Complaint, Defendants repeat and incorporate by reference herein their answers to paragraphs 1 through 78 of Plaintiff's First Amended Complaint.

80. Defendant Emergency Physicians Medical Group, P.C., was negligent, inter alia, in the following particulars, in that as a duly accredited and licensed health care institution, by and through their agents, actual and/or ostensible, servants, and/or employees, including, but not limited to,

William J. Kanitz, M.D., any and all other physicians, physicians-in-training, physician assistants, other mid-level healthcare providers, and nursing staff, which hold themselves out to the public as being competent of rendering medical services, when confronted with a patient such as John E. Griswold, owed a duty to timely and properly:

- (a) Select, employ, train, and monitor its agents, actual and/or ostensible, servants, employees and/or its staff of physicians, nurses and residents, to ensure they were competent to perform adequate medical care for a patient;
- (b) Ensure that appropriate policies and procedures are adopted and followed including, but not limited to, protocol for appropriate patient history recording, including medications the patient is currently taking, and assessing the need for psychiatric evaluation;
- (c) Prevent the patient from suffering a worsening of their condition using all reasonable means;
- (d) Any additional acts of negligence identified through the discovery process.

ANSWER: Answering paragraph 80, including subparagraphs

(a) through (d), Count V, of said First Amended Complaint,

Defendants deny the allegations contained therein for the reason that they are untrue.

81. As a direct and proximate result of John E. Griswold's healthcare providers' failure to comply with the standard of care as outlined above, including, but not limited to, failure to provide further diagnostic testing and observation prior to discharge, John was returned to the jail where his condition was allowed to deteriorate, eventually suffering a sudden cardiac death, passing away on October 15, 2018.

ANSWER: Answering paragraph 81, Count V, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

82. As a consequence of the Defendants' negligence, Plaintiff further claims all elements of damages permitted under the Michigan Wrongful Death Act, Michigan Statutory Law, and Common Law, whether known now or whether becoming known during the pendency of this case.

ANSWER: Answering paragraph 82, Count V, of said First Amended Complaint, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Plaintiff hereby requests an award of damages against the Defendants herein, jointly and severally, in whatever amount above Seventy-Five Thousand [\$75,000.00] dollars that Plaintiff is found to

be entitled to, together with costs, interest and attorney fees, as well as all other damages allowed under Michigan Law.

ANSWER: WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

Respectfully submitted,

FOLEY, BARON, METZGER & JUIP, PLLC

BY: /s/ Enrico G. Tucciarone
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Dated: June 17, 2022

AFFIRMATIVE DEFENSES

NOW COME Defendants, TRINITY HEALTH-MICHIGAN d/b/a ST. JOSEPH MERCY LIVINGSTON, EMERGENCY PHYSICIANS MEDICAL GROUP, P.C., and WILLIAM J. KANITZ, M.D., by and through their attorneys, FOLEY, BARON, METZGER & JUIP, PLLC, and by way of Affirmative Defenses, state that they may or will rely upon and insist in their defense, and demand reply hereto:

1. That the claim of Plaintiff for breach of express or implied warranty is barred for the reason that Plaintiff failed to rely in any way upon the warranties alleged with respect to care and treatment rendered.

2. That the Plaintiff was advised of and knew the import of the course of treatment to correct the condition of which the Plaintiff was then suffering, and that said course of treatment was explained to Plaintiff, and that Plaintiff fully consented thereto and was aware of all pertinent risks.

3. That Defendants deny any alleged contract existing between them and Plaintiff other than implied by law, and deny the breach of any contract existing between the parties, and state that any allegations referable to contract are insufficient with respect to the subject of consideration, and particularly, said allegations are barred as a matter of law.

4. That any and all claims of breach and/or express contract, or warranty of care, or of specific result are hereby barred and rendered unenforceable pursuant to the provisions of Public Act No. 343 of 1974, MCLA 566.132, Section 2G, being the Michigan Statute of Frauds.

5. That the claims set forth in this Complaint are barred by the applicable statute of limitations and/or statute of repose, for the reason that Plaintiff failed to file an appropriate Affidavit pursuant to MCL 600.2912d, failed to serve a Notice of Intent that complies with MCL 600.2912b, and/or filed a Complaint that may be determined to be invalid and does not toll the statute of limitations.

6. That any alleged damages sustained by the Plaintiff were proximately caused, totally or in part, by the Plaintiff's negligence and/or willful acts, and that any recovery by Plaintiff must, therefore, be dismissed in whole or in part.

7. That Plaintiff's allegations for damages for non-economic loss, including but not limited to damages for non-economic loss, including but not limited to damages for loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement or other non-economic loss, may not exceed \$280,000 or, if applicable \$500,000, as modified by statute (MCLA 600.1483).

8. That Plaintiff's claim for recovery of expenses paid or payable in whole or in part by collateral source are barred by MCLA 600.6303.

9. That Plaintiff is bound by all applicable sections of MCLA 600.6013, including but not limited to the fact that interest shall not be allowed in future damages from the date of filing of the Complaint to the date of entry of any judgment.

10. That all applicable sections of MCLA 600.6305 apply, including but not limited to calculation and reduction of future damages or judgments.

11. That all applicable sections of MCLA 600.6306 apply, including but not limited to determination and reduction of any damages or judgments.

12. That the lower limitation on non-economic damages specified in MCLA 600.1483 is applicable to this matter, and Plaintiff cannot meet any exception to the higher limitation, for the reason that the medical records, depositions, or other evidence will not support an exception.

13. That Plaintiff lacks capacity to sue and/or to bring a cause of action which may have been or may be set forth in the Complaint.

14. That the Complaint has not been effectively filed before April 1, 1994, effective date of Public Act No. 78 of 1993 (1993 PA 78), because

Plaintiff lacks standing and/or capacity to sue and/or to bring a cause of action which may have been set forth in the Complaint.

15. That Plaintiff failed to comply with the notice provisions of MCL 600.2912b; MSA 27A.2912b and that Plaintiff's action is thus barred; Defendants give notice that they will move for summary disposition.

16. That Plaintiff failed to file an Affidavit of Merit which meets the requirements contained in MCL 600.2912d, MSA 27A.2912(4), and that Plaintiff's action is thus barred; Defendant gives notice that they will move for summary disposition. Defendants hereby give notice to Plaintiff that under no circumstances do they waive any defect in Plaintiff's Affidavit of Merit.

17. That Plaintiff is bound by the provisions of the 1995 Michigan Tort Reform Legislation, including but not limited to, the following: MCL 600.1629, MCL 600.1641, MCL 600.2955, MCL 600.2956, MCL 600.2957, MCL 600.6312, MCL 600.2959 and MCL 6304.

18. That Plaintiff failed to make every reasonable effort to mitigate, prevent and/or reduce the alleged damages and injuries.

19. That all portions of Plaintiff's Complaint fail to state a claim upon which relief may be granted.

20. That Plaintiff's Complaint and the relief sought therein is barred in whole or in part by the legal and equitable doctrines of waiver, estoppel, unclean hands and latches.

21. That Plaintiff's expert witnesses fail to meet the statutory requirements of MCL 600.2169 and Plaintiff is hereby put on notice that Defendants will move for summary disposition, partial summary disposition and/or to strike experts. Plaintiffs are also put on notice that Defendants do not waive the failure on behalf of Plaintiff to comply with MCLA 600.2169.

22. That Plaintiff's Complaint asserts allegations against generically named healthcare providers and, thus, as to these individuals, Plaintiff has failed to file a Notice of Intent which meets the requirements of MCL 600.2912b and an Affidavit of Merit which meets the requirements of MCL 600.2912d and that Plaintiff's action as to these generically identified healthcare providers is thus barred, and Defendants give notice that they will move for summary disposition.

23. Defendants specifically deny all allegations or implications of negligence or malpractice, and affirmatively state that all applicable standards of practice were observed during Defendants' treatment of Plaintiff.

24. Plaintiff's initial pleadings, Complaint and Affidavit of Merit are insufficient and defective in both form and substance; they plead generalities and conclusions rather than facts, and fail to advise Defendants of the claims against them with the specificity required by the case of *Simonelli v Cassidy*, 336 Mich 635 (1953), and its progeny, and may also have failed to conform to the mandates of MCL 600.2912d and MCL 600.2169; motions for more definite statement and/or for summary disposition are hereby made and preserved, hearing to be noticed in the future if necessary.

25. These Defendants expressly assert, rely upon, and do not waive the protections and provisions available to them pursuant to the Revised Judicature Act and all statutes of the State of Michigan, specifically including but not limited to MCL 600.1483, 600.2102, 600.2169, 600.2912a-h, 600.5838a, 600.5851, 600.5856, 600.6013 and 600.6304.

26. To the extent Plaintiff may have violated MCL 600.2912b(5) in failing to identify care providers and give these Defendants access to medical records or authorizations for their release within the time provided by statute, the protections of MCL 600.2912e(2) apply and are expressly asserted.

27. The injuries complained of arose from other causes, not excluding the actions and condition of Plaintiff and not from the actions of these Defendants.

28. All claims purporting to sound in contract, quasi-contract or warranty are barred by MCL 566.132a-g.

29. These Defendants will move for dismissal pursuant to all relevant statutes of limitation, service, and tolling, if it proves that Plaintiff exceeded or have exceeded these deadlines.

30. Plaintiff's damages, in whole or in part, may have been caused by intervening or superseding events not related to the care at issue.

31. Plaintiff's damages, in whole or in part, are unrelated to the treatment at issue, and were not proximately caused by Defendants' alleged actions or omissions. Plaintiff may have had pre-existing or underlying conditions pre-disposing Plaintiff to injury, or there was no exacerbation of an underlying condition due to Defendants' alleged actions or omissions.

32. Plaintiff was fully advised of the potential risks and complications of the procedure that can occur in the absence of negligence, and as such, assumed the risk of such risks and complications.

34. Plaintiff's damages have been paid and satisfied, in whole or in part, by these Defendants, Co-Defendants, and/or other sources.

35. These Defendants are entitled to a set-off of damages, in whole or in part, for the amount received by Plaintiff as a part of any settlement with any co-defendant.

36. That Defendants reserve the right to add to their Answer and Affirmative Defenses and to rely upon all Affirmative Defenses which may be hereafter disclosed by way of discovery.

WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's First Amended Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

Respectfully submitted,

FOLEY, BARON, METZGER & JUIP, PLLC

BY: /s/ Enrico G. Tucciarone
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Dated: June 17, 2022

FURTHER ANSWERS

1. Further answering said Complaint, and each and every section, Defendants aver that in their relationship with the Plaintiff, they were guided by and strictly observed all of their legal duties and obligations imposed by operation of law and otherwise, and that all their actions and those of any of agents, servants and employees were careful, prudent, proper, lawful and in strict accordance with the standard of practice as the same that existed at that time and place, in relation to any professional services rendered to the Plaintiff.

2. Further answering said Complaint, Defendants aver that the Plaintiff's Complaint on its face is improper in form and not in accordance with the rules set forth in the Michigan Court Rules of 1985; that it is inadequate, insufficient, and defective in that it pleads only conclusions; it fails to contain the required allegations necessary to state a cause of action against these Defendants, and it does not state the cause of action, either as a matter of fact, or as a matter of law, and accordingly should be

stricken. Defendants give notice that a Motion for Summary Disposition will be brought on for hearing before a judge of this Court to whom this case shall be regularly assigned to hear such Motions at a time to be provided hereafter.

3. Further answering said Complaint, Defendants demand an itemized Bill of Particulars setting forth specifically and in detail each and every item of loss, damages, and expense claimed and relied upon by Plaintiff together with the nature and amount of such item or items and the person or persons to whom such amounts have been paid or indebtedness exist; Defendants hereby give notice that upon failure of the Plaintiff to timely furnish same within due course, Defendants will ask to have this case dismissed because of such failure.

4. Further answering said Complaint, Plaintiff's expert witnesses fail to meet the statutory requirements of MCL 600.2169 and Plaintiff is hereby put on notice that Defendants will move for summary disposition, partial summary disposition and/or to strike experts. Plaintiff is put on notice that Defendants do not waive any defect in the qualification of Plaintiff's expert witnesses.

WHEREFORE, Defendants demand judgment of no cause for action or dismissal of Plaintiff's Complaint, with costs and attorney fees to these Defendants most unjustly sustained.

Respectfully submitted,

FOLEY, BARON, METZGER & JUIP, PLLC

BY: /s/ Enrico G. Tucciarone
ENRICO G. TUCCIARONE (P52767)
SAULIUS D. POLTERAITIS (P68840)
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Dated: June 17, 2022

RELIANCE UPON JURY DEMAND

NOW COME the Defendants, TRINITY HEALTH-MICHIGAN d/b/a ST. JOSEPH MERCY LIVINGSTON, EMERGENCY PHYSICIANS MEDICAL GROUP, P.C., and WILLIAM J. KANITZ, M.D., and hereby rely upon the jury demand filed in this matter.

Respectfully submitted,

FOLEY, BARON, METZGER & JUIP, PLLC

BY: /s/ Enrico G. Tucciarone
ENRICO G. TUCCIARONE (P52767)
SAULIUS D. POLTERAITIS (P68840)
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Dated: June 17, 2022

PROOF OF SERVICE

I state that I am employed with the firm of FOLEY, BARON, METZGER & JUIP, PLLC, and I hereby certify that on June 17, 2022, I electronically filed the foregoing document(s) with the Clerk of the Court using the ECF System, which will provide electronic notice and copies of such filing to all parties using the Court's e-file and serve system. Any party who is not connected to the ECF System has been served with such filing via U.S. Mail.

/s/ Laura J. Pilarski

Laura J. Pilarski