

FIGER, FIGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION • 3030 W. BENTLEY AVENUE, SUITE 200, TROY, MICHIGAN 48075-2463 • TELEPHONE (313) 555-5555 • FAX (248) 355-5148

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STEVEN K. SOUDERS and THERESA M. VAUGHN,  
Co-Personal Representatives of the ESTATE OF  
TIMOTHY JOE SOUDERS, Deceased,

Plaintiffs,

Case No. 2:06-cv-14353  
Hon. Bernard Friedman

vs.  
WARDEN S.L. BURT; DEPUTY WARDEN  
JOHN OCWEIJA; LT. CLEVELAND BLUNT;  
OFFICER ROBERT SHROADS; JOSEPH DUFFY,  
M.S.W.; CAPT. SHERMAN B. CAMPBELL; CAPT.  
FRANCINE POWELL; OFFICER ALLAN A.  
SMALL; BETTY GLASPER, R.N.; ANGELA  
BROWN, R.N.; PAUL FATU, M.D.; CHARLES D.  
BOLTJES, R.N.; OFFICER PAT CARUSO; LT.  
PAUL ALLEN; LT. JEREMY BUSH; LT. TRACY  
MCGUIRT; LT. CHARLES MORCHISON; LT.  
GEORGE CORNELL; LT. JOSEPH RAND; GAIL  
HALL, R.N.; R.N. HUNT; PHYSICIAN ASSISTANT  
RAY MOONEY; PSYCHOLOGIST TOLSMA;  
OFFICER WILLIAM AMSDIEL; OFFICER ALLEN  
BRADSHAW; OFFICER CHRISTOPHER DAVIS;  
OFFICER MICHAEL DENSMORE; OFFICER  
MARCUS ELLSWORTH; OFFICER LARKIN,  
OFFICER L. MCDANIEL; OFFICER ERNEST  
REDMAN; OFFICER CHAD SMITH; OFFICER  
B. WALTER; OFFICER SHAWN WHITE; RUTH  
SHAFFER; CORRECTIONAL MEDICAL SERVICES, INC.,  
individually, jointly and severally, and in their  
official capacity,

**FIRST AMENDED  
COMPLAINT  
AND RELIANCE  
UPON JURY DEMAND**

Defendants.

---

FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

GEOFFREY NELS FIEGER (P30441)  
PAUL W. BROSCRAY (P36267)  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX  
Attorneys for Plaintiff  
19390 W. Ten Mile Road  
Southfield, MI 48075  
(248) 355-5555  
[p.broschay@fiegerlaw.com](mailto:p.broschay@fiegerlaw.com)

KEVIN M. THOM (P36178)  
Assistant Attorney General  
Attorneys for Defendants Burt, Ocweija,  
Shroads, Campbell, Powell, Small, Brown,  
Blunt and Glasper  
P.O. Box 30217  
Lansing, MI 48909  
(517) 335-7021  
[thomk@michigan.gov](mailto:thomk@michigan.gov)

RONALD W. CHAPMAN (P37603)  
BRIAN J. RICHTARCIK (P49390)  
DAVID B. MAMMEL (P60732)  
Chapman and Associates, P.C.  
Attorneys for Correctional Medical Services  
and Paul J. Fatu, M.D.  
40950 N. Woodward, Suite 120  
Bloomfield Hills, MI 48304  
(248) 644-6326  
[www.lawyers.com/chapman](http://www.lawyers.com/chapman)

MARK E. DONNELLY P39281  
Attorney for Defendant Duffy  
Michigan Department of Attorney General  
Public Employment, Elections and Tort Div.  
P.O. Box 30736  
Lansing, MI 48909  
(517) 373-6434  
[donnellym@michigan.gov](mailto:donnellym@michigan.gov)

WILLIAM VERTES (P36045)  
KITCH, DRUTCHAS, WAGNER,  
VALITUTTI & SHERBROOK  
Attorneys for Defendant Charles Boltjes  
One Woodward Avenue, Ste. 2400  
Detroit, MI 48226-5485  
(313) 965-7524  
[william.vertes@kitch.com](mailto:william.vertes@kitch.com)

**FIRST AMENDED COMPLAINT AND RELIANCE UPON JURY DEMAND**

NOW COME Plaintiffs, STEVEN K. SOUDERS and THERESA M. VAUGHN,  
Co-Personal Representatives of the ESTATE OF TIMOTHY JOE SOUDERS, Deceased, by and  
through their attorneys, FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX, and for their  
Complaint against the above-named Defendants, state as follows:

1. Plaintiffs Steven K. Souders and Theresa M. Vaughn are the Co-Personal  
Representatives of the Estate of Timothy Joe Souders, deceased, and at all times relevant were

citizens of the State of Michigan. The decedent, Timothy Joe Souders, at all times relevant was incarcerated at the Southern Michigan Correctional Facility at Jackson (Jackson Prison) located in the County of Jackson, State of Michigan.

2. The Michigan Department of Corrections is a governmental agency of the Defendant State of Michigan organized to carry out state functions and utilized pursuant to law and was the employer of several of the following Defendants.

3. The Defendant Pat Caruso, based upon information and belief, is a resident of the County of Jackson, State of Michigan and was at all time relevant employed by the State of Michigan as the Director of the Michigan Department of Corrections (MDOC).

4. Defendant Warden S.L. Burt, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as the warden at Jackson Prison.

5. Defendant Deputy Warden John Ocweija, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as the deputy warden at Jackson Prison.

6. Defendant Lt. Cleveland Blunt, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

7. Defendant Lt. Paul Allen, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

JEANSON & CROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1900 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2465 • TELEPHONE (248) 555-5555 • FAX (248) 555-5148

FIEGER, FIEGER, KENNEY, JOHNSON & GIBROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1930 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2465 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

8. Defendant Lt. Jeremy Bush, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

9. Defendant Lt. Tracy McGuirt, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

10. Defendant Lt. Charles Morchison, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

11. Defendant Robert Shroads, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

12. Defendant Lt. George Cornell, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

13. Defendant Lt. Joseph Rand, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

14. Defendant Joseph Duffy, M.S.W., based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan Department of Community Health as a social worker at Jackson Prison.

FIGER, FIGER, KENNEY, JEFFERSON & BROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1930 WEST TEN MILE ROAD • SOUTHWFIELD, MICHIGAN 48875-2463 • FAX (248) 355-5555 • TELEPHONE (248) 355-5148

15. Defendant Capt. Sherman B. Campbell, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

16. Defendant Capt. Francine Powell, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

17. Defendant Allan A. Small, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a psychologist at Jackson Prison.

18. Defendant Betty Glasper, R.N., based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a registered nurse at Jackson Prison.

19. Defendant Angela Brown, R.N., based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a registered nurse at Jackson Prison.

20. Defendant R.N. Gail Hall, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

21. Defendant R.N. Hunt, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

PIEGER, PIEGER, KENNEY, JOHNSON & CIRROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1914 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2465 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

22. Defendant Physician Assistant Ray Mooney Defendant, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

23. Defendant Psychologist Tolsma, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

24. Defendant Paul J. Fatu, M.D., based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by CMS as a physician at Jackson Prison.

25. Defendant Charles D. Boltjes, R.N., based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a registered nurse at Jackson Prison.

26. Defendant William Amsdiel, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

27. Defendant Allen Bradshaw, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

28. Defendant Christopher Davis, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

FIEGER, FIEGER, KENNEY, & GIBSON • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1900 WEST TEN MILE ROAD • SOMERFIELD, MICHIGAN 48075-2465 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

29. Defendant Michael Densmore, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

30. Defendant Marcus Ellsworth, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

31. Defendant Larkin, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

32. Defendant L. McDaniel, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

33. Defendant Earnest Redman, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

34. Defendant Chad Smith, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

35. Defendant B. Walter, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

FIEGER, FIEGER & KENNEDY, JOHNSON & GIBROUX A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1930 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2465 • FAX (248) 355-5555 • TELEPHONE (248) 355-5148

36. Defendant Shawn White, a corrections officer, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

37. Defendant Ruth Shafer, an employee of the Michigan Department of Community Health, based upon information and belief, is a resident of the County of Jackson, State of Michigan, and was at all times relevant employed by the State of Michigan as a corrections officer at Jackson Prison.

38. The above-named Defendants were employees, agents and/or representatives of Jackson Prison and/or the Department of Corrections and/or the State of Michigan and, in the course and scope of their employment, agency or representation of said department and/or entities, performed duties and responsibilities as correctional facility persons acting pursuant to and under color of state law.

39. The Defendant Correctional Medical Services, Inc., (CMS), is a foreign corporation licensed in the State of Missouri and is authorized to do business in the State of Michigan. The Defendant CMS contracted with the Michigan Department of Corrections to provide medical care to inmates by providing prison doctors and other healthcare workers to treat inmates at Jackson Prison.

40. The acts set forth in this Complaint arise under Section 1 of the Civil Rights Act of 1871, 17 stat. 13, 42 U.S.C. §1983, and the Eighth and Fourteenth Amendments to the United States Constitution.

41. The amount in controversy exceeds SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest, costs and fees.

COMMON ALLEGATIONS

ROBINSON & KENNEY, ATTORNEYS AT LAW • 1940 WEST TRINITY AVENUE, SUITE 200, SOUTHFIELD, MICHIGAN 48075-2466 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

42. Plaintiff hereby repeats and realleges the allegations contained in paragraphs 1 through 41 above as though more fully set forth herein.

43. On or about August 2, 2006, the decedent Timothy Joe Souders, age 21, was a prisoner at Jackson Prison.

44. Prior to August 2, 2006, the deceased, while confined in the prison, was prescribed medications to treat certain medical conditions, including depression, psychosis and hypertension.

45. On August 2, 2006, officials at Jackson Prison issued a heat alert indicating that weather conditions would reach temperatures that placed all prisoners at risk, especially those prisoners who were taking certain medications and who were suffering certain medical conditions, as was the deceased.

46. The medical conditions described above and the medication previously described and administered at some time in the past made Timothy Joe Souders a high risk for medical complications because of the heat.

47. On August 2, 2006, Timothy Joe Souders was unjustly and illegally placed in an isolation cell for attempting to alleviate symptoms he was experiencing because of the extreme heat by taking a shower.

48. When Timothy Joe Souders was placed in isolation, he was brutally and inhumanely tied and/or restrained with four-point restraints to a table or bed for no legitimate reason by the Defendants in an isolation cell where he had no access to food or water in extremely hot conditions.

FIEGER, FIEGER, KENNEY, JOHNSON & CROUX, A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TWIN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 455-5555 • FAX (248) 355-5148

49. The Defendants Warden Burt and Deputy Warden Ocweija knew of the inhumane manner in which Timothy Joe Souders was restrained. Furthermore, they were responsible for the policies and procedures that existed at the prison which caused and/or permitted the conduct of the other named Defendants.

50. The heat index in the cell where the deceased, Timothy Joe Souders, was restrained reached at least 106 degrees at times from August 2, 2006, until August 6, 2006, with extremely high humidity.

51. Timothy Joe Souders was kept inhumanely restrained in the isolation cell for at least four days until he was discovered dead in the cell on August 6, 2006, by Michigan Department of Corrections officers.

52. While restrained inhumanely for no justifiable reason from August 2, 2006, until he died on August 6, 2006, Timothy Joe Souders never received psychiatric care from a physician.

53. While restrained inhumanely for no justifiable reason from August 2, 2006, until he died on August 6, 2006, Timothy Joe Souders was never provided with basic necessities and was required to lay naked in urine and feces for most of the time he was restrained.

54. On August 2, 2006, and on other occasions, Defendant Joseph Duffy, a social worker, observed Timothy Joe Souders in restraints and he knew using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. He observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

TELEPHONE (248) 553-5555 • FAX (248) 355-5148  
SOUTHFIELD, MICHIGAN 48075-2406  
1930 WEST FIVE MILE ROAD • ATTORNEYS AND COUNSELORS AT LAW • 1930 WEST FIVE MILE ROAD  
ROBINSON & SHROUX, A PROFESSIONAL CORPORATION • P.O. BOX 110000 • DETROIT, MI 48211-0000  
FIEGER, FIEGER, KENNEY, & SHROUX

55. On August 2, 2006, the Defendant Deputy Warden Ocweija approved placing the deceased in restraints for punishment and furthermore on August 3, 2006, ordered that the deceased be restrained for an additional 72 hours.

56. On August 2, 2006, the Defendant Lt. Paul Allen was aware the deceased was placed in restraints and was aware for several days thereafter that he was restrained to punish him. Lt. Allen did not insure that the deceased received adequate water, medical care or attention or cause to have his condition monitored.

57. On July 31, 2006 the Defendant Lt. Charles Murchison obtained authorization to place the Defendant in restraints and have him tied to a hard unforgiving surface in order to punish him knowing that the prison was on a heat alert and furthermore he was aware the deceased was restrained for several days thereafter.

58. On August 2, 2006, and on other occasions, Defendant Angela Brown, R.N., examined Timothy Joe Souders, noting that he was in restraints, and knew or should have known that using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. She observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

59. On August 3, 2006, Defendant Dr. Fatu observed Timothy Joe Souders in restraints and observed him coughing and gagging and observed him respond inappropriately to questions posed to him. Dr. Fatu knew or should have known that using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. He observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

60. On August 3, 2006, Defendant Deputy Warden Ocweija caused officers to replace

FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1939 WEST TWIN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

the soft restraints used on Timothy Joe Souders with hard, top-of-the-bed restraints. He knew that using these types of restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. He observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

61. On August 2, 2006, the Defendant Joe Duffy observed the deceased and noticed a drastic change in his behavior and although he may have recommended a transfer so he could be evaluated on an emergent basis, did not insure the transfer occurred and furthermore ignored his condition on following days.

62. On August 3, 2006 and August 4, 2006, the Defendant Dr. Patel observed the deceased and was aware of his dire condition but did not insure that the prisoner was taken out of restraints or provided medical care he needed.

63. On August 3, 2006, the Defendant Ruth Shafer, a secretary for the CSP program was in charge of transferring prisoners, in particular the deceased, to obtain medical care. Even though advised by Dr. Patel to do so she did not insure that the transfer occurred.

64. From the time that the deceased was placed in segregation on August 2, 2006, the Defendant Nurse Chuck Boltjes was aware of the deceased's declining medical condition. He was aware that while the deceased was in general population he had not taken his medication that was prescribed and he was aware the deceased was not seen by a medical doctor or psychologist in the few days prior to his death.

65. The Defendant Joseph Duffy saw and examined the deceased on August 3 and was aware that he was in a manic state and that he was not taking medications for periods of time before being taken to segregation, but he did not insure that he was transferred from segregation

TELEPHONE (248) 553-5555 • FAX (248) 553-5148  
1930 WEST TOWN SQUARE, SUITE 200, SOUTHFIELD, MICHIGAN 48075-2465  
FIEGER, FIEGER, KENNEY, JOHNSON & SIBROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW

to obtain proper medical care or do anything to insure the inhumane restraints were removed.

66. The Defendant Joseph Duffy was aware of the grave medical condition of the deceased and did not insure that he was transferred from segregation on either August 2, 3 or 4 of 2006 to obtain proper medical care or do anything to insure the inhumane restraints were removed.

67. On August 4, 5 and 6, the Defendant Lt. Wendy Powell failed to provide or obtain medical care for the deceased or insure he was removed from the restraints even though she knew of his grave medical condition and could have done so in her supervisory position.

68. The Defendant Lt. Paul Allen failed to provide or obtain medical care for the deceased or insure he was removed from the restraints even though he knew of his grave medical condition and would have done so in his supervisory position.

69. The Defendant Lt. Charles Murchison failed to provide or obtain medical care for the deceased or insure he was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

70. On August 6, 2006, the Defendant Charles Murchison was directed to release the deceased from restraints and was intimately aware of the decedent's medical condition and he observed the deceased unable to stand and in fact watched him fall face first on the floor of his cell.

71. Throughout the time the deceased was in segregation and restrained the Defendant Charles Muchison observed the deceased urinate and defecate on himself because of his medical condition.

PIEGER, PIEGER, KENNEY, JOHANSON & CIRROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 193 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

72. On August 6, 2006, the Defendant Charles Murchison observed the deceased acting as if he was drugged and unable to speak, and was aware he was in dire need of immediate medical condition to save his life.

73. On August 5 and 6, 2006, the Defendant Lt. Jeremy Bush failed to provide or obtain medical care for the deceased or insure he was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

74. On August 5, 2006, the Defendant Lt. Tracy McGuirt failed to provide or obtain medical care for the deceased or insure the was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

75. On August 5, 2006, the Defendant Lt. Cleveland Blunt failed to provide or obtain medical care for the deceased or insure the was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

76. On August 6, 2006, the Defendant Sgt. George Cornell failed to provide or obtain medical care for the deceased or insure the was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

77. On August 6, 2006, the Defendant Sgt. Rand failed to provide or obtain medical care for the deceased or insure the was removed from the restraints even though he knew of his grave medical condition and could have done so in his supervisory position.

78. On August 6, 2006, the Defendant Sgt. Joseph Rand also was present when the Defendant Nurse Boltjes had difficulty obtaining a pulse and blood pressure of the deceased and he was aware that he was disoriented and in need of medical attention but he did not provide or obtain medical care even though he knew of his grave medical condition and could have done so

125-5148 • FAX (248) 755-5555 • TELEPHONE (248) 755-5148 • SOUTHFIELD, MICHIGAN 48075-2463 • 19388 WEST TEN MILE ROAD • ATTORNEYS AND COUNSELORS AT LAW • 19388 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 755-5148 • FAX (248) 755-5555

in his supervisory position.

79. On August 5 and 6, 2006, the Defendant Marcus Ellsworth observed the deceased in dire need of medical attention but he did not provide or obtain medical care for him.

80. On August 5 and 6, 2006, the Defendant Officer Allen Bradshaw observed the deceased in dire need of medical attention but he did not provide or obtain medical care for him.

81. On August 5 and 6, 2006, the Defendant Officer Christopher Davis observed the deceased in dire need of medical attention but he did not provide or obtain medical care for him.

82. On August 5 and 6, 2006, the Defendant Officer Bill Amsdell observed the deceased in dire need of medical attention but he did not provide or obtain medical care for him.

83. On August 5 and 6, 2006, the Defendant Officer Shawn White observed the deceased in dire need of medical attention but he did not provide or obtain medical care for him.

84. Defendant Lt. Blunt observed Timothy Joe Souders restrained on his bed and ordered that he be kept restrained, ignoring his medical condition and the inhumane conditions which existed.

85. On August 4, 2006, Defendant Joseph Duffy again observed Timothy Joe Souders restrained and knew or should have known that using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. He observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

86. On August 4, 2006, Defendant Capt. Campbell observed Timothy Joe Souders restrained and knew that using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish. He observed Timothy Joe Souders exhibiting symptoms consistent with his earlier mania.

PIEGER, PIEGER & KENNEY, IS A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 193 WEST TROY MILE ROAD • SOUTHERN FIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 555-5555 • FAX (248) 355-5148

87. On August 5, 2006, it was apparent to the Defendants that Timothy Joe Souders had open sores and wounds on his body caused from urine which he was forced to lie in because he was restrained on his bed and also suffering from the effects of the intense heat and his mental illness.

88. On August 6, 2006, Timothy Joe Souders was transferred to another cell from the cell he was in and a belly chain was added to restrain him.

89. On August 6, 2006, Defendant Allan Small, a psychologist, observed Timothy Joe Souders. He noted that Mr. Souders was urinating on himself and that he had sores on his body.

90. On August 6, 2006, Defendant Charles D. Boltjes, R.N., observed Timothy Joe Souders. He observed him fall to the floor and attempt to drink water from the toilet in the cell he was confined to. He later observed him unresponsive in his cell and discovered him dead. He knew the deceased was in dire need of medical attention but he did not provide or obtain medical care for him.

91. During this period of time, the Defendant Correctional Medical Services employed persons who knew that using the restraints was against MDOC policies, was unnecessary, contraindicated and was cruel and only intended to punish and that the Defendant was in dire need of medical attention but he did not provide or obtain medical care for him.

92. At some time between August 2, 2006, and the time Timothy Joe Souders died on August 6, 2006, a Michigan Department of Corrections employee recognized the urgent situation and attempted to obtain medical care for Mr. Souders at the Huron Valley Center in Ypsilanti, Michigan, but Mr. Souders was never taken to that facility, although he was urgently in need of medical care.

FIEGER, FIEGER, JOHNSON & GIROUX • ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TWIN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 353-5555 • FAX (248) 355-5148

93. While deteriorating before he died, decedent Timothy Joe Souders suffered heat edema, heat syncope, heat cramps, profuse sweating and other obvious signs and symptoms of dehydration and/or other serious medical conditions, all of which were ignored by the Defendants.

94. At all times relevant, the Defendants and other Michigan Department of Corrections employees discussed the fact that decedent Timothy Joe Souders was becoming more and more unstable physically and mentally.

95. From the period beginning with his confinement in the isolation cell and/or at all times relevant, decedent Timothy Joe Souders was not referred to and/or seen during a medical examination, despite a change in his condition and a change in his ability to properly nourish himself.

96. During the same period of time, decedent Timothy Joe Souders exhibited episodes of profuse sweating and illness, including mental illness.

97. Decedent Timothy Joe Souders experienced and clearly exhibited dizziness, weakness, malaise, fatigue, nausea, vomiting, flushed or red skin, sunken eyes and a lethargic and/or apathetic mental status.

98. While decedent exhibited the signs and symptoms of a serious medical condition and continued to deteriorate physically and mentally, Defendants failed to obtain medical treatment for decedent, failed to refer the decedent for an interpersonal, face-to-face mental health examination and failed to treat and/or help decedent, although they all had an opportunity to do so.

99. During the time decedent was forced to endure excessively hot temperatures, he was known to be on prescription medications, including, but not limited to, Lithium, Zoloft,

FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TRAIL MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 555-5555 • FAX (248) 555-5148

Levothyroxine, Gemfibrozil, Seroquel and Hydrochlorothiazide, which caused him to suffer further dehydration and reaction to the heat for which none of the Defendants did anything to help or provide for electrolyte replacement or fluid intake or salt intake or re-hydration or reduction of core temperature.

100. The decedent Timothy Joe Souders was seen to be confused, combative, lethargic, incoherent, diaphoretic, nauseous, overheated and with sunken eyes, all of which clearly meant decedent was experiencing a medical emergency which needed to be addressed and/or treated immediately.

101. During this period, the Defendants ignored and/or disregarded and/or callously refrained from addressing or treating decedent's serious medical condition.

102. At all times relevant, the Defendants completely failed to obtain the necessary help and/or treatment for the decedent.

103. At all times relevant, the decedent could have been and should have been provided with the treatment listed above and decedent's life could have been and should have been preserved.

**COUNT I**

**VIOLATION OF 42 U.S.C. §1983 AND THE  
EIGHTH AND FOURTEENTH AMENDMENTS OF THE  
UNITED STATES CONSTITUTION BY THE INDIVIDUAL DEFENDANTS  
EXCLUDING WARDEN BURT AND DIRECTOR PAT CARUSO**

104. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 103 of Plaintiffs' Complaint as though more fully set forth herein.

FIEGER, FIEGER, KENNENEY, JOHNSON & CHIROUX A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 1932 WEST TAYLOR MILL ROAD • SOUTHFIELD, MICHIGAN 48075-2467 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

105. As a citizen of the United States and a resident of Jackson Prison located in the State of Michigan, decedent Timothy Joe Souders was entitled to all rights, privileges and immunities accorded to all incarcerated citizens of the State of Michigan and of the United States.

106. At all times relevant, the individual Defendants were acting within the course and scope of their employment and/or contractual relationship with the State of Michigan and the Department of Corrections and/or Jackson Prison and were acting under color of state law with the authority granted to them as corrections officers or correctional healthcare providers and/or managers and/or shift supervisors.

107. At all times relevant, pursuant to the Eighth and Fourteenth Amendments of the United States Constitution, decedent had a right to be free from cruel and unusual punishment while incarcerated and under the custody and control of the State of Michigan at the Jackson Prison facility.

108. At all times relevant, decedent had a right to adequate and sufficient medical care and/or treatment such that his life would be preserved and he at all times would be free from needless, unjustified and preventable pain, suffering, and deterioration of his health and well-being.

109. At all times relevant while the deceased was housed in segregation from August 1, 2006 until August 6, 2006, Defendants acted with malice, recklessness and/or deliberate indifference, kept the decedent housed or located in a cell having excessively hot temperatures, without adequate fluids and under the influence of harmful medications, and deprived him of necessary and needed medical care, which they knew he was in need of, all of which combined in whole or in part to cause pain, suffering, deterioration of health and ultimately death of the

precedent, all of which took place over the course of several days.

110. The decedent's health and well-being began to deteriorate as a result of the excessive heat, inadequate fluids and harmful medications the decedent was forced to endure. The deterioration began in the form of heat edema, syncope, profuse sweating, dizziness, weakness, malaise, fatigue, nausea, confusion and apathy, all of which should have been and were apparent and/or obvious to the causal observer.

111. At and before the time of decedent's death which occurred on August 6, 2006, the decedent was experiencing a medical emergency. The medical emergency manifested itself in the form of confusion, diminished mental capacity, diminished cognition, lethargy, apathy, drunken eyes, diaphoresis, vomiting, fatigue, malaise, weakness, dizziness and unusual behavior. The Defendants ignored this medical emergency.

112. During the time that decedent's health continued to deteriorate, the various Defendants, pursuant to the Eighth Amendment, were required to provide and/or obtain adequate medical care for the decedent, including, but not limited to, electrolyte replacement, increased fluid intake, increased salt intake, intravenous re-hydration, removal of heat, rapid reduction of core temperature, cardiac monitoring and/or hospitalization, psychological and psychiatric treatment and treatment of other medical conditions. To the contrary, however, the various Defendants, with malice, recklessness and/or deliberate indifference, failed to provide or obtain care and/or treatment that was needed.

113. The actions and/or omissions of the various Defendants constitute a deliberate indifference to the serious medical needs of the decedent and demonstrate a reckless, willful and/or wanton disregard for the health and safety of the decedent, thereby denying him the

constitutional right to be free from cruel and unusual punishment as provided by the Eighth Amendment to the United States Constitution.

114. As a direct and proximate result of the actions and/or omissions of the various Defendants, Plaintiffs' decedent suffered great physical pain, discomfort, loss of mental capacity, humiliation, degradation and suffering, and eventually death.

115. As a direct and proximate result of the actions and/or omissions of the various Defendants, Timothy Joe Souders died on August 6, 2006.

116. As a direct and proximate result of the acts and/or omissions of the various Defendants, Plaintiffs have sustained and are entitled to compensation for conscious pain and suffering of the deceased, funeral, burial and economic costs and/or damages, loss of support, loss of gifts and gratuities, loss of love, society and companionship, and all other damages recognized by the Michigan Wrongful Death Act.

117. By the aforementioned actions and/or omissions, Defendants have deprived Plaintiffs' decedent of the rights secured by the Eighth Amendment to the United States Constitution, in violation of 42 U.S.C. §1983.

WHEREFORE, Plaintiffs request the following relief:

- A. Compensatory non-economic and economic damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, all damages recoverable under the United States Constitution and/or 42 U.S.C. §1983 and/or the laws of the State of Michigan, including, but not limited to, the Michigan Wrongful Death Act;
- B. Punitive damages and exemplary damages;
- C. Reasonable attorney fees, costs and interest; and

D. Such other and further relief as appears reasonable and just under the circumstances.

**COUNT II**

**VIOLATION AND BREACH OF CONSENT JUDGMENT CONCERNING  
CONDITIONS OF CONFINEMENT AT THE STATE PRISON  
OF SOUTHERN MICHIGAN BY THE DEFENDANTS WARDEN  
BURT AND DIRECTOR CARUSO**

SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148  
19390 WILSON TEN MILE ROAD  
ATTORNEYS AND COUNSELORS AT LAW  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION

118. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 17 of Plaintiffs' Complaint as though more fully set forth herein.

119. On May 13, 1985, Judge John Feikens, a United States District Court Judge of the Eastern District of Michigan, Southern Division, entered an Order concerning a Consent Judgment involving an action brought pursuant to 42 U.S.C. §1983 which sought declaratory and equitable relief with respect to the conditions of confinement at the State Prison of Southern Michigan (Jackson Prison).

120. The plaintiffs to the above-referenced action, presently titled Hadix, et al v. Caruso, et al, 4:92-cv-00110-RAE, consist of plaintiffs who are the class of prisoners that are now or will be confined at Jackson Prison, and the defendants are state officials charged under Michigan law with the operation of Jackson Prison.

121. The Court retained jurisdiction to enforce the terms of the Judgment in Hadix.

122. The Defendant Warden S.L. Burt, as the warden of Jackson Prison, and Defendant Pat Caruso the Director of the MDOC are the successors of the state officials charged under Michigan law with the operation of Jackson Prison who entered into the Consent Judgment and,

TELEPHONE (248) 355-5555  
SOUTHFIELD, MICHIGAN 48075-2468  
19300 WEST TEN MILE ROAD • ATTORNEYS AND COUNSELORS AT LAW • 19300 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2468  
FIEGER, FIEGER, KENNEY, JOHNSON & CHIROUX, A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 19300 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2468

As such, are legally bound by the terms of the Judgment and are required to abide by the terms of the Judgment.

123. The Defendants Warden S.L. Burt and Pat Caruso had a duty to ensure that the terms of the Consent Judgment were met while the deceased, Timothy Joe Souders, was confined at Jackson Prison.

124. The Consent Judgment required the above Defendants and the Defendant State of Michigan through its Department of Corrections to ensure that medical services consistent with contemporary professional healthcare standards be provided.

125. The Consent Judgment prohibited staff from inhibiting, interfering with or delaying any aspect of the healthcare system.

126. The Consent Judgment further required that prisoners be provided with psychological or psychiatric care in a timely fashion.

127. The Defendants Warden S.L. Burt and Pat Caruso through its Department of Corrections, failed to comply with the Consent Judgment by not ensuring that prisoners, including Timothy Joe Souders, were provided healthcare.

128. As a direct and proximate result of the acts and/or omissions of the various Defendants, Plaintiffs have sustained and are entitled to compensation for conscious pain and suffering of the deceased, funeral, burial and economic costs and/or damages, loss of support, loss of gifts and gratuities, loss of love, society and companionship, and all other damages recognized by the Michigan Wrongful Death Act.

ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION

WHEREFORE, Plaintiffs request the following relief:

- A. Compensatory non-economic and economic damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, all damages recoverable under the United States Constitution and/or 42 U.S.C. §1983 and/or the laws of the State of Michigan, including, but not limited to, the Michigan Wrongful Death Act;
- B. Punitive damages and exemplary damages;
- C. Reasonable attorney fees, costs and interest; and
- D. Such other and further relief as appears reasonable and just under the circumstances.

**COUNT III**

**THIRD PARTY BENEFICIARY CONTRACT**

129. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 28 of Plaintiffs' Complaint as though more fully set forth herein.

130. At all times relevant, the deceased, Timothy Souders, as a prisoner at the State Prison of Southern Michigan, was a person for whose benefit the Consent Judgment, presently titled Hadix, et al. v Caruso, et al., 4:92-cv-00110-RAE (Hadix), was entered into and thus the deceased was a third-party beneficiary of the Consent Judgment.

131. At all times relevant, the Hadix Consent Judgment was intended solely for the benefit of prisoners at the Southern Michigan Prison of Jackson and hence, the deceased.

132. Pursuant to MCLA 600§ 600.1405 Timothy Souders was intended to benefit directly from the Hadix Consent Judgment.

PIEGER, FIGER, KENNEY, JOHNSON & GIROUX • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5148 • FAX (248) 355-5148

133. The Defendants Warden S.L. Burt and Pat Caruso through the Department of Corrections that employed them has violated and breached the Hadix Consent Judgment and therefore, its contract with the deceased.

134. As a direct and proximate result of the acts and/or omissions of the various Defendants, Plaintiffs have sustained and are entitled to compensation for conscious pain and suffering of the deceased, funeral, burial and economic costs and/or damages, loss of support, loss of gifts and gratuities, loss of love, society and companionship, and all other damages recognized by the Michigan Wrongful Death Act.

WHEREFORE, Plaintiffs request the following relief:

- A. Compensatory non-economic and economic damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, all damages recoverable under the United States Constitution and/or 42 U.S.C. §1983 and/or the laws of the State of Michigan, including, but not limited to, the Michigan Wrongful Death Act;
- B. Punitive damages and exemplary damages;
- C. Reasonable attorney fees, costs and interest; and
- D. Such other and further relief as appears reasonable and just under the circumstances.

**COUNT IV**

**BATTERY, FALSE IMPRISONMENT, INTENTIONAL  
INFLICTION OF EMOTIONAL DISTRESS AND GROSS NEGLIGENCE  
BY INDIVIDUAL DEFENDANTS AND CORRECTIONAL MEDICAL SERVICES**

135. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 34 of Plaintiffs' Complaint as though more fully set forth herein.

TELEPHONE (248) 355-5148  
FAX (248) 355-5148  
SOUTHFIELD, MICHIGAN 48075-2463  
19389 WEST TEN MILE ROAD • ATTORNEYS AND COUNSELORS AT LAW • A PROFESSIONAL CORPORATION • KENNEDY, JOHNSON & GIROUX • FIEGER, FIEGER, KENNEDY, JOHNSON & GIROUX

136. At all times relevant, as a result of the Michigan Constitution and/or Michigan statutes and/or Michigan common law and/or the special relationship that existed between the Decedent and the individual Defendants, they had a duty to provide for the safety of the deceased.

137. Defendants breached their duty and more, acted with recklessness, willful and wantonness as to whether harm would result by keeping Decedent in a cell which was excessively hot in temperature without adequate fluids or means of re-hydration and under the influence of harmful medications while restrained in an unreasonable manner.

138. In addition to the aforementioned actions and/or omission, the various Defendants acted in an extreme and outrageous manner with reckless disregard as to whether injury would result by restraining the deceased which amounted to intentional infliction of emotional distress, battery and false imprisonment.

139. The acts and/or omissions and/or conduct of Defendants as alleged in the above-stated cause of action also constitutes negligence, gross negligence, battery and intentional infliction of emotional distress under the laws of the State of Michigan and this Court has pendent (supplemental) jurisdiction to hear and adjudicate said claims.

140. The Defendant CMS as the employer of the Defendant Dr. Paul Fatu, is liable for his negligence, gross negligence, battery, intentional infliction of emotional distress and false imprisonment on the basis of respondeat superior.

141. The Defendants are not entitled to governmental immunity.

142. As a direct and proximate result of the acts and/or omissions of the various Defendants, Plaintiffs have sustained and are entitled to compensation for conscious pain and suffering of the deceased, funeral, burial and economic costs and/or damages, loss of support, loss

PIEGER, PIEGER & KENNEY, ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

of gifts and gratuities, loss of love, society and companionship, and all other damages recognized by the Michigan Wrongful Death Act.

WHEREFORE, Plaintiffs request the following relief:

- A. Compensatory non-economic and economic damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, all damages recoverable under the United States Constitution and/or 42 U.S.C. §1983 and/or the laws of the State of Michigan, including, but not limited to, the Michigan Wrongful Death Act;
- B. Punitive damages and exemplary damages;
- C. Reasonable attorney fees, costs and interest; and
- D. Such other and further relief as appears reasonable and just under the circumstances.

**COUNT V**

**VIOLATION OF MCLA 333.1722**

143. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 42 of Plaintiffs' Complaint as though more fully set forth herein.

144. MCLA 330.1722 prohibits abuse or neglect of a person receiving mental health services.

145. At all relevant times the deceased was the recipient of mental health services and Section 1722 prohibited the individual defendants from abusing him.

146. The conduct of the individual and Correctional Medical Services defendants described above constitutes abuse and therefore pursuant to Section 1722(3) the Plaintiff has a cause of action against the individual defendants for violation of that statute.

148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

147. As a direct and proximate result of the acts and/or omissions of the various Defendants, Plaintiffs have sustained and are entitled to compensation for conscious pain and suffering of the deceased, funeral, burial and economic costs and/or damages, loss of support, loss of gifts and gratuities, loss of love, society and companionship, and all other damages recognized by the Michigan Wrongful Death Act.

WHEREFORE, Plaintiffs request the following relief:

- A. Compensatory non-economic and economic damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, all damages recoverable under the United States Constitution and/or 42 U.S.C. §1983 and/or the laws of the State of Michigan, including, but not limited to, the Michigan Wrongful Death Act;
- B. Punitive damages and exemplary damages;
- C. Reasonable attorney fees, costs and interest; and
- D. Such other and further relief as appears reasonable and just under the circumstances.

Respectfully submitted,

\s\ Paul W. Broschay  
Geoffrey N. Fieger (P30441)  
Paul W. Broschay (P36267)  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX, P.C.  
19390 W. Ten Mile Road  
Southfield, MI 48075  
(248) 355-5555  
[p.broschay@fiegerlaw.com](mailto:p.broschay@fiegerlaw.com)

Dated: June 8, 2007

ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

**RELIANCE UPON JURY DEMAND**

NOW COME Plaintiffs, STEVEN K. SOUDERS and THERESA M. VAUGHN, Co-Personal Representatives of the ESTATE OF TIMOTHY JOE SOUDERS, Deceased, by and through their attorneys, FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX, P.C., and hereby rely upon the jury demand previously filed in the above-captioned matter.

Respectfully submitted,

\s\ Paul W. Broschay  
Geoffrey N. Fieger (P30441)  
Paul W. Broschay (P36267)  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX, P.C.  
19390 W. Ten Mile Road  
Southfield, MI 48075  
(248) 355-5555  
[p.broschay@fiegerlaw.com](mailto:p.broschay@fiegerlaw.com)

Dated: June 8, 2007

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on June 8, 2007 he electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals: Ronald W. Chapman, Esq. ([www.lawyers.com/chapman](http://www.lawyers.com/chapman)); William Vertes, Esq. ([william.vertes@kitch.com](mailto:william.vertes@kitch.com)); Kevin M. Thom, Esq. ([thomk@michigan.gov](mailto:thomk@michigan.gov)); and Mark E. Donnelly, Esq. ([donnellym@michigan.gov](mailto:donnellym@michigan.gov)).

Respectfully submitted,

\s\ Paul W. Broschay  
Geoffrey N. Fieger (P30441)  
Paul W. Broschay (P36267)  
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX, P.C.  
19390 W. Ten Mile Road  
Southfield, MI 48075  
(248) 355-5555  
[p.broschay@fiegerlaw.com](mailto:p.broschay@fiegerlaw.com)