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13 Attorneys for Plaintiffs

14 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA

15 DORIS ANDERSON, Individually and as the
16 Successor in Interest for JAH-QUAVIOUS
ANDERSON, Deceased, and JAMES JENKINS,

17 Plaintiffs,

18 v.

19 COUNTY OF FRESNO, FRESNO SHERIFF-
20 CORONER MARGARET MIMS, FRESNO
COUNTY DIRECTOR OF PUBLIC HEALTH
21 DAVID POMAVILLE, CALIFORNIA
FORENSIC MEDICAL GROUP (AKA
22 WELLPATH, LLC), HIG CAPITAL LLC, and
DOES 1 to 100,

23 Defendants.
24
25
26
27

Case No.:

COMPLAINT FOR DAMAGES:

1. Fourteenth Amendment Deliberate Indifference to Serious Medical Need (42 U.S.C. § 1983)
2. Fourth Amendment Excessive Force (42 U.S.C. § 1983)
3. Fourteenth Amendment Failure to Protect From Harm (42 U.S.C. § 1983)
4. Fourteenth Amendment Substantive Due Process Deprivation of Right to Familial Relationship (42 U.S.C. § 1983)
5. *Monell* Liability (42 U.S.C. § 1983)
6. 42 U.S.C. § 12131 et seq.) Title II of the Americans with Disabilities Act
7. Rehabilitation Act
8. Failure to Furnish/Summon Medical Care
9. Wrongful Death
10. Negligence
11. Bane Act (Cal. Civ. Code § 52.1)
12. Battery

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This civil-rights, wrongful-death and survival action arises from Defendants’
3 unconstitutional response to Jah-Quavious “Quabo” Anderson, an inmate at the Fresno County Jail, who
4 suffered from a severe chronic seizure disorder. As alleged below, Defendants’ deliberate choices
5 triggered a severe medical crisis, and their deliberate indifference to his medical condition resulted in Mr.
6 Anderson’s unnecessary death at age 29.

7 2. Following a significant motor vehicle accident while a teenager, Mr. Anderson developed a
8 serious seizure disorder that required a strict medication regimen. He was compliant. Despite the
9 medications, Environmental factors raised the risk of seizures. Mr. Anderson was particularly sensitive to
10 stress and extreme heat.

11 3. The following allegations are made to the best of Plaintiffs’ ability and on information and
12 belief at this early stage. On October 2, 2020, Plaintiffs’ counsel served a California Public Records Act
13 request on Sheriff-Coroner Mims. On October 24, 2020, Plaintiffs’ counsel received a response from
14 Sheriff-Coroner Mims’ subordinate stating: “The Fresno County Sheriff’s Office has added your request
15 to our PRA que. We have documents responsive to your request which will take longer than (10) days to
16 process. Due to our current backlog of requests, the current estimate to review and gather the material to
17 respond to your request is approximately 6-9 months, although we may be able to process it sooner.”
18 There has been no further response. Moreover, as Coroner, Defendant Mims is required to prepare and
19 make available an autopsy report. That has not yet happened.

20 4. On June 22, 2020, Mr. Anderson appeared in Fresno Superior Court on a pending criminal
21 matter. he was unexpectedly remanded to the custody of. Already stressed by his incarceration, Plaintiffs
22 believe he was housed in locations that were intolerably hot and had poor air circulation. Plaintiffs are
23 informed and believe that Mr. Anderson requested appropriate medications and housing, which he did not
24 receive. When Mr. Anderson began seizing, Defendants did not respond timely. When they did respond,
25 they used force and handcuffed him even though he was visibly ill and did not pose a threat. Paramedics
26 were not called timely. Mr. Anderson died as a result.

JURISDICTION

27
28 5. This Complaint seeks damages for violations of the civil rights, privileges, and immunities

1 guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution pursuant to 42
2 U.S.C. §§ 1983 and 1988, and for violations of California state law. This Complaint further seeks damages
3 for the violation of the civil rights, privileges, and immunities, of Doris Anderson and James Jenkins as
4 guaranteed by the Fourteenth Amendments of the United States Constitution, and under California state
5 law.

6 6. This Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. §§ 1331 and 1343.

7 7. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28
8 U.S.C. § 1367, because the claims form part of the same case or controversy.

9 VENUE

10 8. Plaintiffs' claims arose in the County of Fresno, California. Venue therefore lies in the
11 Eastern District of California pursuant to 28 U.S.C. § 1391(b)(2).

12 9. Rule 3 of the Federal Rules of Civil Procedure and Local Rule 120(d) authorizes
13 assignment to this division because a substantial part of the events or omissions giving rise to Plaintiffs'
14 claims occurred in the counties served by this division.

15 PARTIES

16 10. Plaintiff Doris Anderson is Decedent's mother, sole heir, and successor-in-interest. She
17 files the appropriate declaration pursuant to Cal. Civ. Proc. Code § 377.32 to pursue her son's survival
18 claims. Mrs. Anderson has requested Decedent's Death Certificate and received confirmation from the
19 State of California that it will be mailed to her forthwith. Plaintiffs will amend this Complaint upon
20 receipt of same. In addition to her claims as her son's successor in interest, she sues individually for
21 violations of her civil rights under the Fourth and Fourteenth Amendments and pursuant to state law.

22 11. Plaintiff James Jenkins has been married to Plaintiff Doris Anderson for 25 years and
23 raised Decedent as his own child. He is suing individually for violations of his civil rights under the
24 Fourteenth Amendments and for wrongful death pursuant to state law.

25 12. Defendant County of Fresno ("County") is a public entity, duly organized and existing
26 under the laws of the State of California. Under its authority, Defendant County operates and manages
27 Fresno County Jail, and is, and was at all relevant times mentioned herein, responsible for the actions
28 and/or inactions and the policies, procedures and practices/customs of the Fresno County Sheriff's

1 Department, and its respective employees and/or agents. Fresno County Sheriff's Department operates
2 Fresno County Jail, and is and was responsible for ensuring the provision of emergency and basic medical
3 and mental health care services to all Fresno County Jail prisoners. Defendant County has authority to sue
4 and be sued, to purchase and make contracts, to dispose of and resolve legal actions and tort claims, to
5 provide for jails and corrections, and to operate and/or be responsible for county health facilities, such as
6 its jails through contracts, joint ventures or partnerships. The Fresno County Sheriff's Department is a
7 governmental department fully funded and overseen by the County. As such, Defendant County is
8 responsible for all deputy training, discipline, hiring, firing, maintaining deputy and staff records, and to
9 taking corrective actions as it affects the Fresno County Sheriff's Department and its jails, prisoners and
10 pretrial detainees and deputy officers and staff. The Fresno County Sheriff's Department is a public entity
11 subject to suit.

12 13. Defendant Fresno County Sheriff-Coroner Margaret Mims was at all relevant times the
13 Sheriff of the County of Fresno, and therefore the decisionmaker of the Fresno County Sheriff's
14 Department. As Sheriff, Defendant Mims was responsible for the hiring, screening, training, retention,
15 supervision, discipline, counseling, and control of all Fresno County Sheriff's Department custodial
16 employees, contractors, and their agents and Does 1 through 100. Defendant Mims was charged by law
17 with the administration of the Fresno County Jail, with the assistance of a small group of executive
18 officers. Defendant Mims also is and was responsible for the promulgation of the policies and procedures
19 and allowance of the practices/customs pursuant to which the acts of the Fresno County Sheriff's
20 Department alleged herein were committed. Defendant Mims is being sued in her individual capacity as a
21 supervisory official for her own culpable action and inaction in the training, supervision, or control of her
22 subordinates, or for her acquiescence in the constitutional deprivations which this Complaint alleges, or
23 for conduct that showed a reckless or callous indifference to the rights of Decedent and Plaintiffs. Sheriff
24 Mims's affirmative conduct involves her failure to ensure enforcement of policies, rules, or directives that
25 set in motion a series of acts and failures to act by others which she knew or reasonably should have
26 known, would cause others to inflict the constitutional injuries suffered by Decedent and Plaintiffs.
27 Defendant Mims failed to adequately monitor the administration of the contract with HIG,
28 CFMG/Wellpath ("Wellpath") even though she had been repeatedly alerted to their pattern of

1 unconstitutional conduct and knew that the jail had become unsafe for those with serious medical needs
2 like Decedent. Defendant County of Fresno was and is responsible for overseeing that Wellpath staff
3 complies with their contractual medical responsibilities to prisoner's mental health care.

4 14. Defendant David Pomaville ("Pomaville") was at all times relevant herein the Fresno
5 County Director of Public Health, the decisionmaker within the Fresno County Department of Public
6 Health. As Director, Defendant Pomaville was responsible for the hiring, screening, training, retention,
7 supervision, discipline, counseling, and control of all Wellpath and Department of Public Health
8 employees and/or agents and Does 1 through 100. Defendant Pomaville was charged by law with the
9 administration of medical and mental health services by and through Wellpath. Defendant Pomaville also
10 was responsible for the promulgation of the policies and procedures and allowance of the
11 practices/customs pursuant to which the acts and failures to act alleged herein were committed. Defendant
12 Pomaville is being sued in his individual capacity as a supervisory official for his own culpable action and
13 inaction in the training, supervision, or control of his subordinates, for his acquiescence in the
14 constitutional deprivations which this Complaint alleges, and for conduct that showed a reckless or callous
15 indifference to the rights of Mr. Anderson. Defendant Pomaville's affirmative conduct involves his
16 promulgation of inadequate policies and failure to ensure enforcement of policies, rules, and directives
17 that set in motion a series of acts and failures to act by others which he knew or reasonably should have
18 known, would cause others to inflict the injuries suffered by Mr. Anderson. Defendant Pomaville's failed
19 to adequately monitor the administration of the contract with Wellpath even though he had been
20 repeatedly alerted to their pattern of unconstitutional conduct and knew that the jail had become unsafe for
21 those with serious medical needs like Mr. Anderson. County of Fresno was and is responsible for
22 overseeing that Wellpath staff complies with their contractual medical responsibilities to prisoner's mental
23 health care.

24 15. Defendant California Forensic Medical Group ("CFMG") is a California corporation
25 headquartered in Monterey, California. CFMG is a private correctional health care provider that services
26 approximately 65 correctional facilities in 27 California counties. The County of Fresno contracts with
27 CFMG to provide medical, mental health, and dental services for the Fresno County Jail. At all relevant
28 times mentioned herein, CFMG was responsible for the health services provided to Mr. Anderson during

1 his detention in the Fresno County Jail. Effective July 1, 2018, the County of Fresno entered into a
2 contract with Defendant CFMG (acquired by HIG in January 2013) to provide through its employees,
3 agents and representatives medical, dental and mental health care to County jails. In this respect, CFMG,
4 now known as Wellpath and HIG through its executives, officers, leadership, employees, agents and
5 representatives, provide a governmental function and stand in the same capacity as County of Fresno in
6 carrying out their duties at the Fresno County Jail. County of Fresno, jointly with CFMG/Wellpath and
7 HIG, was and is responsible to develop joint policies and procedures affecting those who are diagnosed
8 with epilepsy in custody. This entity is referred to as “Wellpath” in this complaint.

9 16. Defendant H.I.G. Capital LLC, (hereinafter “HIG”) is a private equity firm doing business
10 in California county jails. HIG acquired CFMG in 2013 and rebranded its name to Correctional Medical
11 Group Companies (CMGC) that same year. HIG is the owner, manager and partner of CFMG (aka CMGC
12 and now known as Wellpath), which is employed to provide delivery of medical services to prisoners and
13 was and is responsible for the management, hiring, retaining, training, and supervising of the conduct,
14 policies and practices, customs, standards, finances, of its employees, managers, supervisors, contractors,
15 leaders in the service of providing medical care to prisoners, including prisoners such as Mr. Anderson in
16 the Fresno County Jail. CFMG/Wellpath executives, directors, supervisors and managers, physicians,
17 nurses, LVN and mental health providers act on behalf of HIG and CFMG/Wellpath. HIG is the alter ego
18 of CFMG/Wellpath, and/or alternatively CFMG/Wellpath act on behalf of HIG who have control over
19 them.

20 17. The true names and identities of Defendants Does 1 through 100 are presently unknown to
21 Plaintiffs. Plaintiffs allege that each of Defendants Does 1 through 100 was employed by the County of
22 Fresno and/or the Fresno County Sheriff’s Department and/or California Forensic Medical
23 Group/Wellpath and/or HIG Capital, LLC at the time of the conduct alleged herein. Plaintiffs allege that
24 each of Defendants Does 1 through 100 was deliberately indifferent to Mr. Anderson’s medical needs and
25 safety, failed to provide necessary medical care to him or take other measures to prevent seizures, violated
26 his civil rights, wrongfully caused his death, and/or encouraged, directed, enabled and/or ordered other
27 defendants to engage in such conduct. Plaintiffs further allege that Defendants Does 1 through 100
28 violated Plaintiffs’ Fourth, Eighth and Fourteenth Amendment rights and rights under California state law.

1 Plaintiffs further allege that each of Defendants Does 1 through 100 was responsible for the hiring,
2 screening, training, retention, supervision, discipline, counseling, and control of medical, mental health,
3 and jail custody employees and/or agents involved in the conduct alleged herein.

4 18. Each individual and each Doe defendant acted under color of law and within the scope of
5 his or her agency and employment for Defendants, and in some manner contributed to the death of
6 Decedent, or otherwise caused the deprivation of Plaintiffs' and Decedent's constitutional rights and other
7 harm.

8 19. Plaintiffs are informed and believe and thereon alleges that each Defendant was at all
9 material times an agent, servant, employee, partner, joint venturer, co-conspirator, and/or alter ego of the
10 remaining Defendants, and in doing the acts and omissions alleged, was acting within the course and
11 scope of those relationships. Plaintiffs are further informed and believe and thereon allege that each of the
12 Defendants herein gave consent, aid, and assistance to each of the remaining Defendants, and ratified and
13 authorized the acts or omissions of each Defendant as alleged. At all material times, each Defendant was
14 jointly engaged in tortious activity and an integral participant in the conduct described herein, resulting in
15 the deprivation of Plaintiff's and Decedent's constitutional rights and other harm.

16 20. Plaintiffs bring these claims pursuant to Cal. Civil Proc. Code §§ 377.20 et seq. and §§
17 377.60 et seq., which provide for survival and wrongful death actions and are incorporated into the § 1983
18 claims through 42 U.S.C. § 1988. Plaintiff Doris Anderson, also bring her claims individually and on
19 behalf of Decedent Jah-Quavious "Quabo" Anderson, on the basis of 42 U.S.C. § 1983, the Fourth, Eighth
20 and Fourteenth Amendments to the United States Constitution, the ADA and RA, and other provisions of
21 federal and state civil-rights law. Plaintiffs bring these claims as Private Attorneys General to vindicate
22 not only his rights and those of Decedent, but others' civil rights of great importance.

23 **EXHAUSTION OF PRE-LAWSUIT PROCEDURES**

24 **FOR STATE LAW CLAIMS**

25 21. Plaintiffs filed government tort claims with Defendant County of Fresno on November 6,
26 2020. By correspondence dated January 26, 2021, the County of Fresno rejected the claims on behalf of
27 Plaintiffs. This action is timely filed within all applicable statutes of limitation.

28 22. This complaint may be pled in the alternative pursuant to Federal Rule of Civil Procedure

1 8(d).

2 **FACTUAL ALLEGATIONS**

3 **Fresno County Jail’s History of Inadequate Correctional and Medical Care**

4 23. In 2011, California Assembly Bill 109 mandated a “realignment” that shifted inmates from
5 the California Department of Corrections and Rehabilitation to local jails. According to a 2019 ProPublica
6 Report, “[n]o other jail in California has seen a sharper increase in inmate deaths than the Fresno County
7 Jail.” Indeed, in October of 2020, California State Auditor Elaine Howle found that the Fresno County Jail
8 has consistently exceeded capacity since realignment and has seen a 133% increase in annual deaths
9 during the same period.

10 24. Also in 2011, the Prison Law Office filed a class action lawsuit against Defendant Mims
11 and then-Public health Director Edward Moreno alleging a “policy and practice of failing to prescribe
12 medically necessary medications, including for ... seizure disorders” at Fresno County Jail. The lawsuit
13 further alleged “a policy and practice of failing to adequately identify and treat the health care problems of
14 newly arriving prisoners during the screening and intake process” and “insufficient health care staffing to
15 provide adequate health care to prisoners.” In 2015, a consent decree was reached in that case. The
16 remedial plan created pursuant to the consent decree required that “[r]estraints shall not be used for
17 medical purposes” and that “[t]he Sheriff’s Office and medical staff shall communicate to determine
18 appropriate housing for inmates with disabilities. Medical staff shall make available all information
19 needed to make adequate housing decisions.” Defendants were aware of and disregarded these policies,
20 resulting in Mr. Anderson’s unnecessary suffering and death.

21 25. The remedial plan further required that the County increase its correctional staff by 127
22 employees. On information and belief, the County has failed to meet this requirement.

23 26. The surge in inmate deaths at Fresno County Jail, and specifically the death of Mr.
24 Anderson, are a direct result of constitutionally inadequate policies and practices implemented by
25 Defendants County of Fresno, Sheriff-Coroner Mims, Public Health Director David Pomaville and
26 Wellpath that fail to comply with the remedial plan and limit information sharing between medical and
27 custodial staff. Indeed, State Auditor Howle found that “Alameda and Fresno County jails lack sufficient
28 information regarding whether inmates have mental illnesses, which hinders their ability to make critical

1 housing and care decisions to keep inmates safe.”

2 **Decedent’s Death in the Fresno County Jail**

3 27. As a teenager, Mr. Anderson was involved in a motor vehicle accident and sustained a
4 serious head injury. He was comatose for four days, and thereafter suffered from epilepsy, a serious
5 seizure disorder that he controlled with medication. Because of the frequency and intensity of the seizures,
6 Mr. Anderson was highly compliant. He also avoided circumstances such as stress and heat that triggered
7 his seizures.

8 28. From 2011 to 2020, Mr. Anderson was incarcerated from time to time in the Fresno County
9 Jail and in state prison. Each time, Mr. Anderson informed custody and medical staff he has a serious
10 seizure disorder and was prone to seizures, and needed both a cool and non-stressful environment and
11 medications. Despite precautions, Mr. Anderson had seizures in the Jail and in prison, but their severity
12 was mitigated by the medications and other precautions. On information and belief, custodial and medical
13 staff at Fresno County Jail were or should have been aware of Mr. Anderson’s history of seizures through
14 their prior documentation and personal knowledge, and from Mr. Anderson’s providing his medical
15 history on admission to the jail.

16 29. On the morning of June 22, 2020, Mr. Anderson appeared for an arraignment in Fresno
17 County Superior Court. He was unexpectedly remanded to the custody of the Fresno County Sheriff’s
18 Department and bail was set, which his family did not have the resources to post immediately.

19 30. Plaintiffs are informed and believe that upon intake, the Jail staff failed to provide Mr.
20 Anderson with a medical assessment and treatment for his epilepsy despite Mr. Anderson’s known serious
21 medical condition. The Jail medical staff further failed to provide Mr. Anderson his seizure medication,
22 despite the fact that Mr. Anderson made multiple requests for same. Additionally, medical and custodial
23 staff failed to accommodate Mr. Anderson’s serious medical condition by housing him in a medical ward
24 with adequate ventilation and air conditioning, despite knowledge and documentation of his special needs.

25 31. On the day he was remanded, the weather in Fresno was sunny and 104 degrees. The
26 following day, it was sunny and 103 degrees. On information and belief, Mr. Anderson was housed in an
27 area of the Jail that faced the sun, causing heat and high temperatures in his cell. On top of the weather,
28 there was inadequate air conditioning, and poor or nonexistent air circulation in Mr. Anderson’s cell.

1 These conditions culminated in a hot and intolerable housing environment in Mr. Anderson's cell.

2 32. Mr. Anderson complained to custodial and medical staff about the heat, reminding them of
3 his medical condition and the serious risk that it would trigger seizures, and made repeated requests to
4 move housing locations. Custodial and medical staff received his complaints and requests to transfer to a
5 different cell. Although the custodial and medical staff knew that heat triggered Mr. Anderson's epilepsy
6 and made him especially prone to seizures, they ignored Mr. Anderson's complaints and requests to be
7 moved.

8 33. Plaintiffs are informed and believe that as a result of custodial and medical staff's
9 deliberate indifference to Mr. Anderson's serious medical needs, Mr. Anderson was forced to remain in
10 the sweltering heat for more than 27 hours, where he suffered needlessly from heat induced temperature
11 dysregulation and pre-seizure symptoms. Despite repeatedly informing medical and custodial staff of his
12 symptoms and his need for seizure medications, Mr. Anderson was left to languish for over 27 hours and
13 denied access to medical care, including his medications.

14 34. Plaintiffs are informed and believe that shortly after midnight on June 24, 2020, Mr.
15 Anderson's cellmate woke up to Mr. Anderson having a seizure. The cellmate immediately got on the
16 emergency intercom to ask for help, and enlisted other inmates to yell "Man down!" There was no
17 response from custodial or medical staff.

18 35. Plaintiffs are informed and believe that ten minutes later, after the cellmate and other
19 inmates made several more calls for help, that custodial staff members finally came to Mr. Anderson's
20 cell. Mr. Anderson was crying out incoherently and moaning in pain, leaving the officers no doubt that he
21 was experiencing a severe medical crisis. Instead of providing emergency medical assistance, the
22 correctional officers handcuffed Mr. Anderson in a rough attempt to restrain him and threw him to the
23 concrete floor, causing Mr. Anderson to sustain a head injury. Eventually medical staff responded, but
24 paramedics were not called in a timely manner, and Mr. Anderson was denied the timely medical
25 treatment he needed to survive.

26 **HIG's Ownership, Management Partnership, and Control of WELLPATH, CMGC-CCS,**
27 **and CFMG**

28 36. Defendant California Forensic Medical Group ("CFMG" aka Correctional Medical Group

1 Companies, Inc. or “CMGC,”¹ and now also known as Wellpath, since October 1, 2018).² They are
2 referred to collectively and individually as “Wellpath.”

3 37. Wellpath is a California corporation licensed to and doing business in the State of
4 California, as a contracted provider of medical and mental health services to the County of Fresno, Sheriff
5 Mimms, and their jail systems.

6 38. Wellpath was initially founded in 1983 as CFMG, a private for-profit correctional health
7 care provider that over the years provided services to approximately 65 correctional facilities in 27
8 California counties (including Fresno), or about 90 percent of outsourced county jail private medical care
9 in California.³ It has a business address in Monterey County and in San Diego County, and since October
10 1, 2018, in Nashville, Tennessee as Wellpath.⁴

11 39. At all material times, Wellpath was and is owned and controlled by HIG Capital. Wellpath
12 acts on behalf of HIG and was and is responsible for the hiring, retaining, training, and supervising of the
13 conduct, policies and practices of its employees and agents of Wellpath, including DOES 1-20.

14 40. HIG accomplishes this inter alia, by placing its in-house professional and expertise as
15 board members of Wellpath to ensure their control over Wellpath. There is unity of interest and ownership
16 such that the separate personalities of HIG and Wellpath no longer exist as Wellpath and their employees
17 and agents act with the consent, management, approval, ratification and direction of HIG

18 41. HIG places at least two Managing Directors and one Principal of its private equity team as
19

20 ¹ HIG acquired CFMG/Wellpath, rebranding its name under the umbrella of Correctional Medical Group
21 Companies (CMGC) in 2013, *see* [https://www.linkedin.com/company/correctional-medical-group-](https://www.linkedin.com/company/correctional-medical-group-companies-inc-)
22 <https://www.linkedin.com/company/ca-forensic-medical-group>.

23 ² On October 1, 2018, H.I.G. Capital, LLC announced acquisition and joining of forces of CMGC (albeit
24 CFMG) with Correct Care Solutions (“CCS”), creating a partnership with management, to be
25 headquartered in Nashville Tennessee. *See* <https://higcapital.com/news/release/1128>. This acquisition was
26 rebranded and renamed Wellpath. *See* https://en.wikipedia.org/wiki/Correct_Care_Solutions. CMGC
27 website advertises that it was founded in 1983 (the year CFMG was created) and gives notice that “We are
28 now Wellpath!” *See* www.cmgc.com; [https://www.linkedin.com/company/correctional-medical-group-](https://www.linkedin.com/company/correctional-medical-group-companies-inc-)
[https://www.bizjournals.com/nashville/news/2018/11/07/one-of-nashvilles-largest-private-](https://www.bizjournals.com/nashville/news/2018/11/07/one-of-nashvilles-largest-private-companies-merges.html)
[companies-merges.html](https://www.bizjournals.com/nashville/news/2018/11/07/one-of-nashvilles-largest-private-companies-merges.html).

³ Brad Branam, “California for-profit company faces allegations of inadequate inmate care”, January 17,
2015, SACRAMENTO BEE, at p. 4, *available at* [www.sacbee.com/news/investigations/the-public-](http://www.sacbee.com/news/investigations/the-public-eye/article7249637.html)
[eye/article7249637.html](http://www.sacbee.com/news/investigations/the-public-eye/article7249637.html).

⁴ CFMG/Wellpath sets itself up as incorporated in Nashville Tennessee. *See*
<http://www.buzzfile.com/business/California-Forensic-Medical-Group,-Incorporated-831-649-8994>.

1 Board members, Chief Financial Officers, or other executive officers of Wellpath aka CMGC to ensure
2 continuity of control and management over Wellpath. These high-ranking HIG members include, but are
3 not limited to, Justin Reyna, an HIG Managing Director who serves as a Board Member of Wellpath aka
4 CMGC; Michael Kuritzky, an HIG Principal who serves as a Chief Financial Officer and Secretary of
5 Wellpath aka CMGC; and Rob Wolfson, an HIG Managing Director who is intimately involved in the
6 day-to-day management of Wellpath aka CMGC. HIG employees are routinely appointed to Wellpath's
7 Board of Directors to ensure financial control over its affairs. Additionally, they have knowledge of HIG's
8 contractual relationship with Wellpath, which has subsumed CFMG, and how HIG employees are
9 appointed to Wellpath's board of directors and the duties of its board members."

10 42. Before acquiring CFMG through joining CFMG, CMGC, and CCS and renaming them
11 Wellpath, HIG knew or should have known of the pervasive unconstitutional conduct of these companies.
12 HIG knew this and acquired this information through performing due diligence analysis prior to acquiring
13 CFMG, CMGC and CCS. It made the decision that providing health care in jails was a financially
14 lucrative business to acquire, control and manage, and have adjusted its private equity fund investments
15 and operational structure to capitalize on sick and mentally-ill inmates in jail systems across California.
16 HIG's use of Wellpath is but a mere shell, an instrumentality or conduit for the business of financially
17 profiting from providing medical care to the sick, injured and mentally ill in jails through these shell
18 companies.

19 43. HIG renamed CCS-CMGC "Wellpath" in October 2018, for the purpose of carrying HIG's
20 ownership and financial interests in providing jail mental and medical health care and so HIG controls the
21 assets and financial gains while Wellpath assume the liabilities. Wellpath is HIG's 23rd control investment
22 in healthcare since 2008 and is its 14th current platform in the sector. Wellpath is estimated to generate
23 \$1.5 billion annually.⁵

24 44. On October 1, 2018, HIG publicly announced that "[o]ver the years, as the country's health
25 care system has changed; we have seen more and more individuals with acute mental health diagnosis and
26

27 ⁵ HIG Capital, "Correct Care Solutions and Correctional Medical Group Companies Join Forces to Deliver
28 Best-in-Class Healthcare." HIG CAPITAL NEWS, October 1, 2018, *available at*
<https://higcapital.com/news/release/1128>.

1 substance use disorders being treated by our doctors, nurses and clinicians in correctional settings.”⁶

2 45. A Managing Director of HIG announced, “We are proud of what we have accomplished
3 since partnering with CMGC in 2012, and excited to bring these two companies together.”⁷

4 46. HIG uses the corporate entity as a shield against personal liability and harm caused to
5 inmates in need of medical treatment in jails.

6 47. Recognition of HIG. as a separate corporate entity would promote injustice and defeat the
7 rights and equities of persons such as Mr. Anderson and Plaintiffs; it would enable and facilitate continued
8 Wellpath unconstitutional conduct, practices, customs and policies, actions and inactions that harm this
9 particularly vulnerable jail population and discourage abatement of these unconstitutional actions and
10 inactions.

11 **CLAIMS FOR RELIEF**

12 **First Claim for Relief**

13 **42 U.S.C. § 1983 (Deliberate Indifference to Serious Medical Need in Violation of Fourteenth**
14 **Amendment to the United States Constitution)**

15 **(Against Defendants Fresno County, Mims, Pomaville, and Does 1-100)**

16 **(Plaintiff Anderson, as Successor-in-Interest to Decedent, Against Individual Defendants and Does**
17 **1-100)**

18 48. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set
19 forth herein.

20 49. Defendants have inadequate policies, procedures, and practices for identifying inmates in
21 need of medical treatment and providing appropriate medical treatment. Defendants also fail to
22 appropriately train and supervise staff regarding the provision of treatment to inmates with medical issues.

23 50. Defendants have consistently demonstrated deliberate indifference to their constitutional
24 obligation to provide constitutionally adequate medical care to inmates in their jails. Defendants’ failure to
25 correct their policies, procedures, and practices, despite longstanding and repeated notices of significant
26 and dangerous deficiencies, establishes deliberate indifference in the provision of medical treatment.

27 _____
28 ⁶ *Id.*

⁷ *Id.*

1 51. Defendants knew or should have known that Mr. Anderson had a serious medical condition
2 and required appropriate medical treatment and housing accommodations that accounted for his
3 vulnerability to seizures upon his remand to the Fresno Sheriff Department's custody.

4 52. Defendants knew or should have known that on or around June 23 and 24, 2020, Mr.
5 Anderson was having one or more seizures in his cell and required prompt and emergent care.

6 53. Defendants failed to properly house Mr. Anderson. Defendants also failed to provide
7 necessary medical evaluation and/or treatment, including his medication, to Mr. Anderson while he was in
8 their care and custody at the Jail, despite his known history of serious seizure disorder, obvious symptoms
9 of medical crisis, and overt medical emergency.

10 54. Not only did Defendants fail to provide the necessary medical attention that Mr. Anderson
11 needed in the moment of his acute medical emergency, Defendants handcuffed Mr. Anderson even though
12 he was visibly ill and not posing a threat. Defendants furthermore used unwarranted and excessive force
13 on Mr. Anderson in the midst of his medical crisis, not compounding his needless suffering and risk of
14 death.

15 55. Defendants' acts and/or omissions as alleged herein, including but not limited to their
16 failure to provide Mr. Anderson with the appropriate medical assessment, treatment and housing, and
17 failure to adequately identify or address his seizure, along with the acts and/or omissions of the
18 Defendants in failing to train, supervise and/or promulgate appropriate policies and procedures in order to
19 provide treatment and identify risk of seizures, constituted deliberate indifference to Mr. Anderson's
20 serious medical needs, health, and safety.

21 56. As a direct and proximate result of Defendants' conduct, Mr. Anderson experienced
22 physical pain, severe emotional distress, and mental anguish during his incarceration at the Jail, as well as
23 the loss of his life and other damages alleged herein.

24 57. The aforementioned acts of the individual Defendants and Does were conducted with
25 conscious disregard for the safety of Mr. Anderson and others, and were therefore malicious, wanton, and
26 oppressive. As a result, those Defendants' actions justify an award of exemplary and punitive damages to
27 punish the wrongful conduct alleged herein and to deter such conduct in the future. Defendants County
28 and its departments are immune, however.

1 **Second Claim for Relief**

2 **42 U.S.C. § 1983 (Excessive Force in Violation of Fourth Amendment to the United States**
3 **Constitution)**

4 **(Against Defendants Fresno County, Mims, and Does 1-100)**

5 58. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint,
6 as though fully set forth herein.

7 59. The conduct complained of herein was undertaken pursuant to the policies, practices, and
8 customs of the Fresno County Sheriff-Coroner Department, an agency of Fresno County, and was
9 sanctioned and ratified by Defendant Mims and each of the Doe Defendants.

10 60. Defendants, acting under color of state law and through their policies, practices and
11 customs, deprived Mr. Anderson of rights, privileges, and immunities secured by the Constitution and the
12 laws of the United States under the Fourth and Fourteenth Amendments by subjecting Mr. Anderson, or
13 through their deliberate indifference in allowing others to subject him, to unreasonable, unnecessary, and
14 excessive force by handcuffing and other uses of force even though Mr. Anderson was visibly ill and not
15 posing a threat. Defendants furthermore used unwarranted and excessive force on Mr. Anderson in the
16 midst of his medical crisis, compounding his needless suffering and increasing the risk of death.

17 61. As a direct and proximate result of Defendants' conduct, Mr. Anderson was injured as set
18 forth above, experienced physical pain, severe emotional distress, and mental anguish, as well as loss of
19 his life and other damages alleged herein.

20 62. Mr. Anderson's injury entitles his successor in interest to compensatory damages, and also
21 punitive damages against Defendants Mims and the Doe Defendants in their individual capacities.

22 **Third Claim for Relief**

23 **42 U.S.C. § 1983 (Failure to Protect from Harm In Violation of the Fourteenth Amendment to the**
24 **United States Constitution)**

25 **(Against all Defendants)**

26 63. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint,
27 as though fully set forth herein.

28 64. Each Defendant could have taken action to prevent unnecessary harm to Mr. Anderson but

1 refused or failed to do so.

2 65. Defendants failed to have minimally necessary policies and procedures concerning the
3 adequate treatment of Mr. Anderson, whom they knew or should have known was in need of medical
4 attention for his seizure disorder and the extreme heat inside his cell.

5 66. Defendants demonstrated deliberate indifference to their constitutional obligation to
6 provide minimally adequate medical care to inmates at Fresno County Jail. Defendants' failure to correct
7 their policies, procedures, and practices, despite longstanding and repeated notice of significant and
8 dangerous deficiencies, evidences deliberate indifference in the provision of medical treatment.

9 67. Defendants were specifically on notice that Mr. Anderson had a serious medical condition
10 and required appropriate medical treatment and housing accommodations that accounted for his
11 vulnerability to seizures upon his remand to the Fresno Sheriff Department's custody.

12 68. Defendants failed to immediately provide necessary medical treatment to Mr. Anderson
13 while he was in their custody and care despite his obvious signs of medical distress, instead ignoring
14 numerous calls for help from Mr. Anderson, his cellmate, and other inmates.

15 69. The acts and/or omissions of Defendants as alleged herein, including but not limited to
16 their failure to provide Mr. Anderson with appropriate medical care, failure to promulgate appropriate
17 policies and procedures in order to provide treatment to inmates with seizure disorders, failure to
18 promulgate and follow a minimally adequate lifesaving treatment plan, and failure to appropriately train
19 and/or supervise their staff, constituted deliberate indifference to Mr. Anderson's serious medical needs,
20 health and safety.

21 70. Not only did Defendants fail to provide the necessary medical attention that Mr. Anderson
22 needed in the moment of his acute medical emergency, Defendants also handcuffed Mr. Anderson even
23 though he was visibly ill and not posing a threat. Defendants furthermore used unwarranted and excessive
24 force on Mr. Anderson in the midst of his medical crisis, compounding his needless suffering and
25 increasing the risk of death.

26 71. As a direct and proximate result of Defendants' conduct, Mr. Anderson experienced
27 physical pain, severe emotional distress, and mental anguish, as well as loss of his life and other damages
28 alleged herein.

1 72. The aforementioned acts and/or omissions of Defendants were willful, wanton, malicious,
2 and oppressive, thereby justifying an award of exemplary and punitive damages to punish the wrongful
3 conduct alleged herein and to deter such conduct in the future.

4 **Fourth Claim for Relief**

5 **42 U.S.C. § 1983 (Deprivation of Substantive Due Process Rights in Violation of Fourteenth**
6 **Amendment to United States Constitution – Loss of Parent/Child Relationship)**
7 **(Against all Defendants)**

8 73. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint,
9 as though fully set forth herein.

10 74. The aforementioned acts and/or omissions of Defendants in being deliberately indifferent
11 to Mr. Anderson’s serious medical needs, health and safety, violating Mr. Anderson’s constitutional
12 rights, and their failure to train, supervise, and/or take other appropriate measures to prevent the acts
13 and/or omissions that caused the untimely and wrongful death of Mr. Anderson deprived Plaintiffs of their
14 liberty interest in a parent-child relationship in violation of their substantive due process rights as defined
15 by the Fourteenth Amendment to the United States Constitution.

16 75. As a direct and proximate result of the aforementioned acts and/or omissions of
17 Defendants, Plaintiffs suffered injuries and damages as alleged herein.

18 76. The aforementioned acts and/or omissions of Defendants were willful, wanton, malicious,
19 and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages against the id
20 to punish the wrongful conduct alleged herein and to deter such conduct in the future.

21 **Fifth Claim for Relief**

22 **42 U.S.C. § 1983 (*Monell* Liability)**
23 **(Against County of Fresno, CFMG/Wellpath, and HIG)**

24 77. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint,
25 as though fully set forth herein.

26 78. The aforementioned acts and/or omissions of Defendants in being deliberately indifferent
27 to Mr. Anderson’s serious medical needs, health and safety and violating Mr. Anderson’s civil rights were
28 the direct and proximate result of customs, practices and policies of Defendants County of Fresno,

1 Wellpath, H.I.G. Capital LLC, and California Forensic Medical Group (aka Correctional Medical Group
2 Companies, Inc. and aka Wellpath), by and through their agencies, employees and/or agents, as alleged
3 herein.

4 79. During Mr. Anderson's incarceration, Defendants had inadequate policies, procedures, and
5 practices for identifying inmates in need of medical treatment, providing constitutionally adequate medical
6 treatment, addressing risk of seizures, and staffing.

7 These inadequate policies, procedures, and practices include, but are not limited to:

- 8 a. Defendants failed to staff the Jail with sufficient numbers of qualified, competent,
9 and appropriately-supervised medical staff to provide adequate medical care to
10 inmates.
- 11 b. Defendants failed to staff the Jail with sufficient numbers of qualified, competent,
12 and appropriately-supervised custodial staff to provide adequate supervision and
13 care to inmates.
- 14 c. Defendants failed to properly train and supervise staff regarding policies,
15 procedures, and practices necessary for the provision of medical treatment,
16 including treatment of seizure disorders.
- 17 d. Defendants failed to ensure staff provided medical treatment meeting standards of
18 care.
- 19 e. Defendants failed to adequately screen and identify inmates with seizure disorders
20 and timely refer them for appropriate housing, medication, assessment and
21 treatment.
- 22 f. Defendants failed to utilize proper screening forms and failed to refer inmates for
23 medical evaluations, provision of necessary medication, and housing assessment in
24 a consistent or timely manner.
- 25 g. Defendants failed to provide adequate medical assessment or treatment, including
26 but not limited to delaying and/or denying the continuation of community-
27 prescribed medications, failing to timely prescribe necessary medications, and
28 failing to appropriately monitor the inmates identified as having a seizure disorder.

- 1 h. Defendants failed to properly house inmates who have a history of seizures in
- 2 locations that account for their sensitivities to temperature and other conditions.
- 3 i. Defendants failed to implement a system where staff are on-call at all times to
- 4 receive emergency communications from inmates and to immediately respond to
- 5 inmate medical emergencies.
- 6 j. Defendants failed to provide timely and appropriate access to inpatient care or
- 7 emergency hospitalization for inmates in acute medical distress relating to a seizure
- 8 disorder.
- 9 k. Defendants failed to provide timely and appropriate assessment and crisis
- 10 intervention for inmates exhibiting signs or symptoms indicating a serious seizure
- 11 disorder.

12 Defendants' failure to correct their policies, procedures, and practices regarding seizure disorders and how
13 to respond to inmates experiencing seizures, despite notice of significant and dangerous problems,
14 evidences deliberate indifference in the provision of mental health treatment.

15 80. HIG, CFMG/WELLPATH placed their financial interests and profits before their duty and
16 responsibility to provide sufficient and competent medical/mental health care staff to patient/prisoners.

17 81. Defendants tacitly encouraged, ratified and/or approved of the acts and/or omissions
18 alleged herein, including by way of their inadequate investigation and conclusion thereto by failing to
19 adequately interview witnesses, improperly weighting evidence and statements, and failing to consider
20 evidence.

21 82. Defendants knew that such conduct was unjustified and would result in violations of
22 constitutional rights.

23 83. The customs, policies and/or practices of Defendants Fresno County, Wellpath, H.I.G.
24 Capital LLC, and California Forensic Medical Group (Aka Correctional Medical Group Companies, Inc.
25 and aka Wellpath) were a direct and proximate cause of Plaintiffs' injuries and the death of the Mr.
26 Anderson in that Defendants failed to adequately train and supervise its employees and/or agents to
27 prevent the occurrence of the constitutional violations suffered by Plaintiffs and Mr. Anderson, and by
28 other prisoners at the Fresno County Jail. Defendants also failed to promulgate appropriate policies or

1 procedures or take other measures to prevent the constitutional violations suffered by Plaintiffs and
2 Mr. Anderson, and by other inmates at Fresno County Jail.

3 84. As a direct and proximate result of the aforementioned customs, policies and/or practices of
4 Defendants, Mr. Anderson and Plaintiffs suffered injuries and damages as alleged herein.

5 **Sixth Claim for Relief**

6 **42 U.S.C. § 12131 et seq. (Title II of the Americans with Disabilities Act)**

7 **(Against Defendant County of Fresno and Does 1-100)**

8 85. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set
9 forth herein.

10 86. Congress enacted the Americans with Disabilities Act (“ADA”) upon a finding, among
11 other things, that “society has tended to isolate and segregate individuals with disabilities” and that such
12 forms of discrimination continue to be a “serious and pervasive social problem.” 42 U.S.C. § 12101(a)(2).

13 87. In response to these findings, Congress explicitly stated that the purpose of the ADA is to
14 provide “a clear and comprehensive national mandate for the elimination of discrimination against
15 individuals with disabilities” and “clear, strong, consistent, enforceable standards addressing
16 discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1)-(2).

17 88. Title II of the ADA provides in pertinent part: “[N]o qualified individual with a disability
18 shall, by reason of such disability, be excluded from participation in or be denied the benefits of the
19 services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”
20 42 U.S.C. § 12132.

21 89. Under the ADA, Defendant County is mandated to “develop an effective, integrated,
22 comprehensive system for the delivery of all services to persons with mental disabilities and
23 developmental disabilities . . .” and to ensure “that the personal and civil rights” of persons who are
24 receiving services under its aegis are protected.

25 90. Because of his severe seizure disorder, Mr. Anderson was a “qualified individual” with an
26 illness, disability and medical impairments that limited and/or substantially limited his ability to care for
27 himself and control his physical health condition as defined under the ADA, 42 U.S.C. § 12131(2), and
28

1 Section 504 of the Rehabilitation Act (“RA”) of 1973, 29 U.S.C. § 794; 28 C.F.R. 42.540(k).⁸

2 91. Defendant County is a public entity under Title II of the ADA. 42 U.S.C. § 12131(1)(A).
3 Title II of the ADA applies generally to jail “services, programs, or activities.” 42 U.S.C. § 12132.
4 Defendants County’s jails and medical services therefore are covered under Title II of the ADA.
5 Furthermore, respondeat superior liability applies to Title II claims. Defendants County is therefore liable
6 under Title II of the ADA for the unlawful acts of its employees. Under the ADA, Defendant County is
7 mandated to develop an effective, integrated, comprehensive system for the delivery of all services to
8 persons with disabilities, and to ensure that the personal and civil rights of persons who are receiving
9 services under their aegis are protected.

10 92. At all material times and as described herein, Mr. Anderson:

- 11 a. was an individual with a disability;
- 12 b. was otherwise qualified to participate in or receive the benefit of
13 Defendants’ services, programs, or activities, including County jail and
14 medical services, programs, and activities;
- 15 c. was either excluded from participation in or denied the benefits of the
16 County services, programs or activities or was otherwise discriminated
17 against by County; and
- 18 d. such exclusion, denial of benefits or discrimination was by reason of his
19 disability.

20 As described herein, Defendants failed to reasonably accommodate Mr. Anderson’s disability in the
21 course of jailing him and denying him medical care, causing him to suffer greater injury in the process
22 than other detainees or arrestees, including death. Defendants’ failures to accommodate Mr. Anderson’s
23 disability include but are not limited to:

- 24 a. causing the violation of Mr. Anderson’s rights through all customs, policies,
25

26 ⁸ The ADA applies to people with seizure disorders since epilepsy is a physiological disorder affecting the
27 neurological system. Under the ADA and Section 504, a person with a disability is someone who has a
28 physical or mental impairment that seriously limits one or more major life activities, or who is regarded as
having such impairments. These life activities include breathing, eating, working, going to school. Seizure
disorders are disabilities under the ADA. https://www.ada.gov/regs2016/final_rule_adaaa.html

1 and practices identified above;

2 b. failing to use lawful and appropriate policies, practices, and procedures for
3 inmates with seizure disorders;

4 c. failure to provide appropriate housing that accommodated Mr. Anderson's
5 disability;

6 d. failing to provide Mr. Anderson with competent and appropriate medical
7 care;

8 e. failing to institute proper medical precautions for Mr. Anderson;

9 f. failing to adhere and deliver prescriptions as ordered by authorized medical
10 personnel, including failure to provide Mr. Anderson with an approved,
11 prescribed and requested seizure medications for him to self-medicate as
12 prescribed by medical personnel and as requested by Mr. Anderson on
13 several occasions;

14 g. failing to implement a competent and reliable medical alert system for
15 inmates who require immediate, urgent and necessary medical aid; and

16 h. failing to develop an effective, integrated, comprehensive system for the
17 delivery of all services to persons with disabilities, and to ensure that the
18 personal and civil rights of persons who are receiving services under its
19 aegis are protected;

20 i. handcuffing and battering Mr. Anderson, thus causing his death, in response
21 to and because of a medical emergency that was a direct result of his
22 covered disability; and

23 j. other failures to provide accommodations as the evidence in this case may
24 show.

25 93. As a direct and proximate result of Defendants' conduct, Mr. Anderson experienced
26 physical pain, severe emotional distress, and mental anguish during his incarceration at the Jail, as well as
27 the loss of his life and other damages alleged herein.

28 94. The aforementioned acts of Defendants were conducted with conscious disregard for the

1 safety of Plaintiffs and others, and were therefore malicious, wanton, and oppressive. As a result,
2 Defendants' actions justify an award of exemplary and punitive damages to punish the wrongful conduct
3 alleged herein and to deter such conduct in the future.

4 **Seventh Claim for Relief**

5 **29 U.S.C. § 794 (Rehabilitation Act)**

6 **(Against Defendant County of Fresno and Does 1-100)**

7 95. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully
8 set forth herein.

9 96. Section 504 of the Rehabilitation Act of 1973 provides in pertinent part: “[N]o otherwise
10 qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from
11 the participation in, be denied the benefits, or be subjected to discrimination under any program or activity
12 receiving federal financial assistance” 29 U.S.C. § 794.

13 97. Mr. Anderson, at all times relevant herein, was a qualified individual with a disability
14 within the meaning of the Rehabilitation Act because he suffered from a severe seizure disorder. *See* 29
15 U.S.C. § 705(20)(B).

16 98. Defendant County “engaged in the business of . . . health care,” custody for persons whose
17 “operations” fall within the definition of “program or activity” covered by the Rehabilitation Act, 29
18 U.S.C. § 794(b).

19 99. At all times relevant to this action, Defendant County received federal funding within the
20 meaning of the Rehabilitation Act.

21 100. At all material times and as described herein, Mr. Anderson:

- 22 a. was an individual with a disability;
- 23 b. was otherwise qualified to participate in or receive the benefit of
24 Defendants' services, programs, or activities, including County jail and
25 medical services, programs, and activities;
- 26 c. was either excluded from participation in or denied the benefits of the
27 County services, programs or activities or was otherwise discriminated
28 against by County; and

1 d. such exclusion, denial of benefits or discrimination was by reason of his
2 disability.

3 101. As described herein, Mr. Anderson was denied the benefits of services, programs,
4 privileges, advantages, and opportunities to which Fresno County Jail inmates and the general public are
5 entitled as a result of Mr. Anderson's disability, causing him to suffer greater injury in the process than
6 other detainees or arrestees, including death. Defendants' failures to accommodate Mr. Anderson's
7 disability include but are not limited to:

- 8 a. causing the violation of Mr. Anderson's rights through all customs, policies,
9 and practices identified above;
- 10 b. failing to use lawful and appropriate policies, practices, and procedures for
11 inmates with seizure disorders;
- 12 c. failure to provide appropriate housing that accommodated Mr. Anderson's
13 disability;
- 14 d. failing to provide Mr. Anderson with competent and appropriate medical
15 care;
- 16 e. failing to institute proper medical precautions for Mr. Anderson;
- 17 f. failing to adhere and deliver prescriptions as ordered by authorized medical
18 personnel, including failure to provide Mr. Anderson with an approved,
19 prescribed and requested seizure medications for him to self-medicate as
20 prescribed by medical personnel and as requested by Mr. Anderson on
21 several occasions;
- 22 g. failing to implement a competent and reliable medical alert system for
23 inmates who require immediate, urgent and necessary medical aid; and
- 24 h. failing to develop an effective, integrated, comprehensive system for the
25 delivery of all services to persons with disabilities, and to ensure that the
26 personal and civil rights of persons who are receiving services under its
27 aegis are protected;
- 28 i. handcuffing and battering Mr. Anderson, thus causing his death, in response

1 to and because of a medical emergency that was a direct result of his
2 covered disability; and

3 j. other failures to provide accommodations as the evidence in this case may
4 show.

5 102. Defendants knew that it was substantially likely that Mr. Anderson would be harmed but
6 failed to act on that likelihood, and thus acted with deliberate indifference, thereby intentionally
7 discriminating against Mr. Anderson in violation of Section 504 of the Rehabilitation Act.

8 103. As a direct and proximate result of Defendant's actions, Mr. Anderson suffered injuries and
9 damages causing great pain and leading to his death, as alleged herein.

10 **Eighth Claim for Relief**

11 **California State Law (Failure to Furnish/Summon Medical Care)**

12 **Wrongful Death and Survival Action**

13 **(Against Defendants County of Fresno, Wellpath, and Does 1-100)**

14 104. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set
15 forth herein.

16 105. Defendants owed Mr. Anderson a duty of care to provide him immediate medical and
17 mental health care.

18 106. The conduct of Defendants alleged herein, including but not limited to the facts that
19 Defendants knew or had reason to know that Mr. Anderson was in need of immediate medical care on or
20 around June 23 and 24, 2020, and that Defendants failed to take reasonable action to summon or provide
21 that care, resulting in Mr. Anderson's suffering and death as alleged herein, violated California state law,
22 including Cal. Govt. Code §§ 844.6 and 845.6.

23 107. The failure of Defendants to summon medical care was an omission within the course and
24 scope of their employment. As a direct and proximate result of Defendants' breach, Mr. Anderson
25 suffered injuries and damages causing great pain and leading to his death, as alleged herein.

26 108. The failure of Defendants to summon medical care caused the wrongful death of Plaintiffs'
27 son, and entitles them to wrongful-death damages as alleged below.

28 109. The aforementioned acts of individual Defendants were conducted with conscious

1 disregard for the safety of Mr. Anderson and others, and were therefore malicious, wanton, and
2 oppressive. As a result, Defendants' actions justify an award of exemplary and punitive damages to punish
3 the wrongful conduct alleged herein and to deter such conduct in the future.

4 **Ninth Claim for Relief**

5 **California Code Civ. Proc. § 377.60 (Wrongful Death)**

6 **(Against All Defendants and Does 1-100)**

7 110. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set
8 forth herein.

9 111. Mr. Anderson's death was a direct and proximate result of the aforementioned wrongful
10 and/or negligent acts and/or omissions of Defendants. Defendants' acts and/or omissions thus were also a
11 direct and proximate cause of Plaintiffs' injuries and damages, as alleged herein.

12 112. As a direct and proximate result of Defendants' wrongful and/or negligent acts and/or
13 omissions, Plaintiffs incurred expenses for funeral and burial expenses in an amount to be proved.

14 113. As a direct and proximate result of Defendants' wrongful and/or negligent acts and/or
15 omissions, Plaintiffs suffered the loss of the services, society, care, and protection of the decedent.
16 Plaintiffs are further entitled to recover prejudgment interest.

17 114. As the successor-in-interest of decedent, Plaintiff Doris Anderson is entitled to recover
18 punitive damages against individual Defendants who, with conscious disregard of Mr. Anderson's rights,
19 failed to provide him with health care services meeting the professional standard of practice, and/or failed
20 to adhere to legal and professional standards of correctional supervision and administration.

21 115. The aforementioned acts of individual Defendants were conducted with conscious
22 disregard for the safety of Mr. Anderson and others, and were therefore malicious, wanton, and
23 oppressive. As a result, Defendants' actions justify an award of exemplary and punitive damages to punish
24 the wrongful conduct alleged herein and to deter such conduct in the future.

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Tenth Claim for Relief

California State Law (Negligence)

Survival and Wrongful-Death Action

(Against Defendants and Does 1-100)

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5 116. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully set
6 forth herein.

7 117. Defendants failed to comply with professional standards in the treatment, care, and
8 supervision of Mr. Anderson during his incarceration at the Jail. Defendants' failures include, but are not
9 limited to: failing to provide timely and necessary medical treatment; failing to ensure provision of
10 appropriate and necessary medications for Mr. Anderson's seizure disorder; failing to provide medically
11 indicated housing in response to the heat and its effects on Mr. Anderson due to his known seizure
12 disorder; failing to appropriately assess and evaluate seizure risk; failure to summon necessary and
13 appropriate medical care for Decedent; to refrain from unreasonably creating danger or increasing
14 Decedent's risk of harm; placing Mr. Anderson in housing conditions which exacerbated his symptoms;
15 and failing to conduct welfare and safety checks at required intervals.

16 118. Defendants also failed to appropriately supervise, review, and ensure the competence of
17 provision of care and treatment to Mr. Anderson by medical and custody staff, and failed to enact
18 appropriate standards and procedures that would have prevented such harm to him.

19 119. Together, Defendants acted negligently and improperly, breached their respective duties,
20 and as a direct and proximate result, Plaintiff suffered injuries and damages as alleged herein.

21 120. The negligent conduct of Defendants was committed within the course and scope of their
22 employment.

23 121. The aforementioned acts of individual Defendants were conducted with conscious
24 disregard for the safety of Mr. Anderson and others, and were therefore malicious, wanton, and
25 oppressive. As a result, Defendants' actions justify an award of exemplary and punitive damages to punish
26 the wrongful conduct alleged herein and to deter such conduct in the future.

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Eleventh Claim for Relief

California Civ. Code § 52.1 (Bane Act)

(Against All Defendants)

122. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint, as though fully set forth herein.

123. By their acts, omissions, customs, and policies, Defendants and Does 1-100 acting in concert/conspiracy, as described above, and with threat, intimidation, and/or coercion, violated Plaintiffs' and Decedent's rights under California Civil Code § 52.1 and the following clearly established rights under the United States Constitution and California Constitution and law:

- a. Decedent's right to be free from excessive force as secured by the Fourth Amendment to the United States Constitution and the California Constitution, Article 1, Sections 7 and 13;
- b. Decedent's right to be free from cruel and unusual punishment, as secured by the Fourteenth Amendment to the United States Constitution with respect to pretrial detainees and the right to be free from cruel or unusual punishment under the California Constitution, Article 1, Section 6;
- c. Decedent's right to be free from deliberate indifference to his serious medical needs while in custody as a pretrial detainee, as secured by the Fourth and Fourteenth Amendments to the United States Constitution and the California Constitution, Article 1, Sections 7 and 13;
- d. Decedent's rights and liberty interests, as an incapacitated criminal defendant, to freedom from incarceration and to timely, restorative treatment, as secured by the Fourteenth Amendment to the United States Constitution and the California Constitution, Article 1, Section 7;
- e. Plaintiffs' right to be free from wrongful government interference with familial relationships and Plaintiffs' right to companionship, society, and support of each other, as secured by the First and Fourteenth Amendments;
- f. The right to enjoy and defend life and liberty; acquire, possess, and protect

1 property; and pursue and obtain safety, happiness, and privacy, as secured by the
2 California Constitution, Article 1, Section 1;

3 g. Decedent's right to protection from bodily restraint, harm, or personal insult, as
4 secured by California Civil Code § 43; and

5 h. Decedent's right to immediate medical care as required by California Government
6 Code § 845.6.

7 124. Defendants' violations of Plaintiffs' and Decedent's due process rights with deliberate
8 indifference, in and of themselves constitute violations of the Bane Act. Alternatively, separate from, and
9 above and beyond, Defendants' attempted interference, interference with, and violation of Plaintiffs' and
10 Decedent's rights, Defendants violated Plaintiffs' and Decedent's rights by the following conduct, among
11 other conduct, constituting threat, intimidation, or coercion:

- 12 a. Intentionally and with deliberate indifference, depriving and/or preventing Mr.
13 Anderson from receiving necessary, life-saving medical and/or psychiatric care and
14 treatment;
- 15 b. Intentionally and with deliberate indifference, causing Mr. Anderson to languish in
16 jail without necessary medical/psychiatric/pharmacological care, or even the
17 required treatment plan, when he was obviously unable to care for his own needs;
- 18 c. Intentionally and with deliberate indifference, causing Mr. Anderson to suffer a life-
19 threatening medical crisis without properly identifying the symptoms or putting in
20 place treatment protocols; and
- 21 d. Intentionally and with deliberate indifference, doing and/or permitting
22 subparagraphs (a) – (c) when it was also obvious that in doing so, Decedent's life
23 was likely to end needlessly, and Plaintiffs' rights also would be violated.

24 125. The threat, intimidation, and coercion described herein were not necessary or inherent to
25 any legitimate and lawful law enforcement activity. Mr. Anderson's prolonged incarceration in a highly
26 dangerous jail setting where he was not provided adequate medical care or psychiatric treatment, and
27 where he depended solely on Defendants for his housing, safety, and timely treatment, constitutes a
28 situation of threat, intimidation, and coercion.

1 126. Further, all of Defendants' violations of duties and rights, and coercive conduct described
2 herein, were volitional acts; none was accidental or merely negligent. Further, each Defendant violated
3 Plaintiffs' and Decedent's rights with the specific intent and purpose to deprive them of their enjoyment of
4 those rights and of the interests protected by those rights.

5 127. To the extent this claim is based on a violation of Decedent's rights, it is asserted as a
6 survival claim. To the extent that the violations of rights were done to Plaintiffs, it is asserted as a personal
7 claim. To the extent the violations were done to both Decedent and Plaintiffs, it is asserted as both.

8 128. Defendants County of Fresno, CFMG/Wellpath, and HIG are vicariously liable pursuant to
9 Cal. Gov. Code § 815.2 and § 815.4. As a direct and proximate result of Defendants' violation of
10 California Civil Code § 52.1 and of Plaintiffs' and Decedent's rights under the United States and
11 California Constitutions and law, Plaintiffs sustained injuries and damages, and against each Defendant
12 named in this Count is entitled to relief as set forth above, and punitive damages against all individual
13 Defendants, including all damages and penalties allowed by California Civil Code §§ 52 and 52.1 and
14 California law, three times actual damages, and attorneys' fees.

15 **Twelfth Claim for Relief**

16 **California State Law (Battery)**

17 **(Against Defendants Fresno County, Mims, and Does 1-100)**

18 129. Plaintiffs re-allege and incorporate by reference the allegations contained in this complaint,
19 as though fully set forth herein.

20 130. Defendants engaged in a battery of Mr. Anderson by handcuffing and violently throwing
21 Mr. Anderson to the floor, thereby touching him without his consent and with intent to harm, where Mr.
22 Anderson was in fact harmed by Defendants' conduct and a reasonable person in Mr. Anderson's situation
23 would have been offended.

24 131. As a direct and proximate cause of the aforementioned acts of Defendants, Mr. Anderson
25 was injured as set forth above.

26 132. As a direct and proximate result of Defendants' conduct, Plaintiffs sustained wrongful
27 death damages as alleged herein.

28 133. The aforementioned acts and/or omissions of Defendants were willful, wanton, malicious,

1 and oppressive, thereby justifying an award to Mr. Anderson's successor-in-interest of exemplary and
2 punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for the following relief:

- 5 1. For compensatory, general and special damages against each Defendant, jointly and
6 severally, in an amount to be proven at trial;
- 7 2. For damages related to loss of familial relations as to Plaintiffs Doris Anderson and James
8 Jenkins;
- 9 3. Funeral and burial expenses, and incidental expenses not yet fully ascertained;
- 10 4. General damages for survival and wrongful-death, including Mr. Anderson's pre-death
11 pain and suffering, and loss of enjoyment of life damages, and for Plaintiffs' physical and emotional pain,
12 emotional distress, hardship, suffering, shock, worry, anxiety, sleeplessness, illness and trauma and
13 suffering, the loss of the services, society, care and protection of the decedent, as well as the loss of
14 financial support and contributions, loss of the present value of future services and contributions, and loss
15 of economic security;
- 16 5. Prejudgment interest;
- 17 6. For punitive and exemplary damages against each individually named Defendant in an
18 amount appropriate to punish Defendant(s) and deter others from engaging in similar misconduct;
- 19 7. For costs of suit and reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and
20 as otherwise authorized by statute or law; and
- 21 8. For such further relief, as the Court may deem proper.

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