

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

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ANISHA L. THREATT, as the Mother and Administratrix
of the Estate of Caprist J. McBrown, and CAPRIST S.
McBROWN as father of Caprist J. McBrown,
Plaintiffs,

-against-

SUMMONS

BERKSHIRE FARM AND CENTER AND SERVICES
FOR YOUTH, BOARD OF DIRECTORS OF
BERKSHIRE FARM CENTER AND SERVICES FOR
YOUTH, BERKSHIRE FARM INSTITUTE FOR
TRAINING AND RESEARCH, INC., CAPITAL
DISTRICT JUVENILE SECURE DETENTION
FACILITY, JUSTICE CENTER FOR THE
PROTECTION OF PEOPLE WITH SPECIAL NEEDS,
JOSEPH MANCINI, and JOHN DOES 1-2,
Defendants.

Index No.:

Venue CPLR 503(a)
Plaintiff designates Albany County as the
place of trial. The basis of this designation
is the county in which a substantial part of
the events or omissions giving rise to the
claim occurred.

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To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve
a copy of your answer on the Plaintiffs' Attorney(s) within twenty (20) days after the service of
this summons, exclusive of the day of service, where service is made by delivery upon you
personally within the state, or within thirty (30) days after completion of service where service is
made in any other manner. In case of your failure to appear or answer, judgment will be taken
against you by default for the relief demanded in the complaint.

DATED: July 7, 2023

Yours, etc.



DANIEL R. SMALLS, ESQ.

Attorney for Plaintiff
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STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

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ANISHA L. THREATT, as the Mother and Administratrix
of the Estate of Caprist J. McBrown, and CAPRIST S.
McBROWN as father of Caprist J. McBrown,
Plaintiffs,

-against-

COMPLAINT

Index No.:

BERKSHIRE FARM AND CENTER AND SERVICES
FOR YOUTH, BOARD OF DIRECTORS OF BERKSHIRE
FARM CENTER AND SERVICES FOR YOUTH,
BERKSHIRE FARM INSTITUTE FOR TRAINING AND
RESEARCH, INC., CAPITAL DISTRICT JUVENILE
SECURE DETENTION FACILITY, JUSTICE CENTER
FOR THE PROTECTION OF PEOPLE WITH SPECIAL
NEEDS, JOSEPH MANCINI, and JOHN DOES 1-2,
Defendants.

-----X

Plaintiff, ANISHA L. THREATT, as the Mother and Administratrix of the Estate of Caprist
J. McBrown, and CAPRIST S. MCBROWN as father of Caprist J. McBrown, by their attorney,
SMALLS LAW, PLLC., complaining of the defendant, respectfully sets forth and alleges:

PARTIES

1. The Plaintiff, Anisha L. Threatt, mother of the intestate decedent Caprist J. McBrown, is a resident of the City of Middletown, County of Orange, State of New York.
2. The Plaintiff, Caprist S. McBrown, father of the intestate decedent Caprist J. McBrown, is a resident of the City of Middletown, County of Orange, State of New York.
3. That at all times material, defendant BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH was an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of New York as a not-for-profit corporation, with its principal

place of business located at 13640 State Route 22, Canaan, New York 12029, in the County of Columbia.

4. That at all times material, defendant BOARD OF DIRECTORS OF BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH was a not-for-profit organization or entity which includes a duly organized board of directors organized and existing under the laws of the State of New York, consisting of but not limited to, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of New York as a board of directors for defendant BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH, with its principal place of business located at 13640 State Route 22, Canaan, New York 12029, in the County of Columbia.

5. That at all times material, defendant BERKSHIRE FARM INSTITUTE FOR TRAINING AND RESEARCH, INC., was a New York State not-for-profit corporation that provides services for defendant BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH as well as children and families, with its principal place of business located at 13640 State Route 22, Canaan, New York, in the County of Columbia.

6. That at all times material, defendant CAPITAL DISTRICT JUVENILE SECURE DETENTION FACILITY was a New York State not-for-profit corporation that provides services for defendants NORTHERN RIVERS FAMILY OF SERVICES, INC and BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH with its principal place of business located at 838 Albany-Shaker Road, Albany, New York 12211.

7. That at all times material, defendant CAPITOL DISTRICT YOUTH CENTER, INC was a New York State not-for-profit corporation that provides administrative services for

defendant CAPITAL DISTRICT JUVENILE SECURE DETENTION FACILITY with its principal place of business located at 214 Canal Square, 2nd Floor, Schenectady, New York 12305.

8. That at all times material, defendant THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS is a New York State Agency, established in 2013 by the Protection of People with Special Needs Act, and has the responsibility to conduct Criminal Background Checks of perspective employees for Defendants BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH and BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH, with its principal office located at 161 Delaware Avenue, Delmar, New York 12054.

9. That at all times material, defendant JOSEPH MANCINI was the Executive Director for defendant THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, and directly oversaw the Criminal Background Check Unit within The Justice Center for the Protection of People With Special Needs.

10. That at all times material, defendants JOHN DOES 1-3 were employees of defendant CAPITOL DISTRICT YOUTH CENTER, INC.

FACTS

11. At all times relevant, Caprist J. McBrown (hereinafter “Caprist”) was a resident at the Capital District Juvenile Detention Facility.

12. On October 27, 2022, Caprist died from an overdose of fentanyl while in the care, custody, and control of defendants Berkshire Farms and the Capital District Juvenile Detention Center (hereinafter collectively “defendants”).

13. At approximately 12:00 pm, while in activities, Caprist requested to return to his room because he was feeling ill.

14. John Doe 1 escorted Caprist to his room just before 1:00 pm.

15. Upon information and belief, John Doe 1 checked on the wellbeing of Caprist at 1:04 pm and did not note any unresponsive behavior of Caprist in the logbook.

16. At approximately 1:49 pm John Doe 2 relieved John Doe 1 and never checked on the wellbeing of Caprist.

17. At approximately 2:05 pm John Doe 1 returned to his post and did not check on the wellbeing of Caprist.

18. At approximately 2:48 pm Caprist was found with no pulse.

19. Staff members then called outside emergency responders. However, outside emergency responders were directed to the wrong entrance by staff members which substantially delayed the response time.

20. At all times relevant to the death of Caprist, it was the defendant's policy for staff members to check on the wellbeing of the residents every 15 minutes.

21. The John Does 1 and 2 did not follow the policy and, as a result, were not able to save Caprist's life.

22. On or about March 17, 2022, Defendant Justice Center's Criminal Background Check Unit conducted a criminal background check of John Doe 1. According to said check, defendant Justice Center learned that John 1 had 14 prior felony convictions. Despite knowing about John Does prior felony convictions, defendant Justice Center "cleared" John Doe 1 for consideration for employment services at the CDJSDF.

23. Upon information and belief, Defendant Joseph Mancini and John Doe 1 were prior acquaintance and Defendant Joseph Mancini knew about John Doe 1's checkered criminal history and ordered the employment clearance of John Doe 1.

24. Upon information and belief, John Doe 1 is responsible for introducing fentanyl into the detention center and providing the lethal dosage to Caprist and was previously, and throughout his tenure at the CDJSDF, observed by residents and other staff members "nodding" or "sleeping" while on duty at the CDJSDF.

25. Furthermore, upon information and belief, at all times relevant to the death of Caprist, John Doe 1 was in direct contact with Caprist.

26. On October 28, 2022, an autopsy was conducted at the Ellis Hospital Mortuary where it was determined that the cause of Caprist's death was severe pulmonary edema with aspiration of gastric content due to the combination of fentanyl and trazodone in the blood.

27. Upon information and belief, the fentanyl and trazodone drug combination are known to cause "serotonin syndrome" which can result in death.

28. At all times relevant, staff members of the CDJSDF administered trazodone to Caprist as a sleep aid.

29. At all times relevant, Caprist was not prescribed fentanyl by any doctor.

30. Upon information and belief, John Doe 1, and other employee staff members of Defendants CDJSDF have smuggled drugs and other contraband into the detention center.

31. At all times relevant and upon information and belief, defendant CDJSDF has had direct knowledge and knew about its employees smuggling contraband into the detention center and has failed to take sufficient precautionary measures to prohibit employees from introducing contraband into the detention center.

32. At all times relevant, and upon information and belief, defendants BERKSHIRE FARM AND CENTER AND SERVICES FOR YOUTH, BOARD OF DIRECTORS OF BERKSHIRE FARM CENTER AND SERVICES FOR YOUTH, BERKSHIRE FARM INSTITUTE FOR TRAINING AND RESEARCH, INC., and CAPITAL DISTRICT JUVENILE SECURE DETENTION FACILITY did not train its staff on how to recognize, treat, or manage its residents who suffer from overdoses.

CAUSE OF ACTIONS

AS AND FOR A FIRST CAUSE OF ACTION NEGLIGENCE

33. Plaintiffs repeats, reiterates and realleges the foregoing allegations as though more fully set forth herein.

34. Caprist was admitted to Defendants' detention facility as a resident to receive punitive and rehabilitative services.

35. Defendants had a duty to deliver care to the decedent Caprist J. McBrown in a reasonably safe and beneficial manner.

36. At all relevant times, Defendants' responsibilities and obligations to decedent Caprist J. McBrown are non-delegable and Defendants have direct or vicarious liability for violations, deprivations and infringement of such responsibilities and obligations by any person or entity under Defendants' control, direct or indirect, including its employees, agents, consultants and independent contractors, whether in house or outside entities, individual agencies or caused by Defendants' policies whether written or unwritten, or common practices.

37. Defendants negligently controlled the day-to-day administrative and standard functions, operations, planning, management, and quality control of the facility; failed to have

sufficiently trained or competent staff at their facility in order to provide the care and services to meet decedent Caprist J. McBrown's care needs; failed to sufficiently supervise and administer the needed care to decedent Caprist J. McBrown and failed to protect decedent Caprist J. McBrown from harm that was reasonably foreseeable.

38. Defendants breached their duty as their agents, servants and/or employees maintained unsafe and illegal practices; introduced illicit and harmful drugs into the facility and allowed decedent Caprist J. McBrown to suffer severe pulmonary edema with aspiration of gastric content and suffer death.

39. Defendants', their agents, servants and/or employees' acts and/or omissions caused decedent Caprist to suffer physical pain, emotional trauma, emotional distress, and mental anguish prior to expiring.

40. Caprist's death was a direct and proximate result of the negligent acts and omissions of Defendants.

41. As a result of the above, Plaintiffs demands judgment against Defendants in the amounts in excess of the jurisdictional limits of the lower courts together with such other further and different relief as to this court seems just proper and equitable.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENT HIRING, SUPERVISION AND RETENTION**

42. Plaintiffs repeats, reiterates and realleges the foregoing allegations as though more fully set forth herein.

43. That upon information and belief, at all times material, defendant owed a duty to the public, as well as to Plaintiffs, to hire individuals to staff the Capital district Juvenile Secure

Detention Facility who did not pose a risk of endangering the welfare or wellbeing of the facility's youth residents.

44. That upon information and belief, at all times material, defendants owed a duty to the public, as well as to Plaintiffs, to supervise the individuals employed at the Capital district Juvenile Secure Detention Facility, including JOHN DOE, to ensure said agents and employees were not engaging in activity that endangered the welfare or wellbeing of the Facility's youth residents.

45. That upon information and belief, at all times material, defendants owed a duty to the public, as well as to Plaintiffs, to terminate from their employment or to not consider any employee, agent or perspective employee found to have endangered (or found to have a propensity to endanger) the welfare or wellbeing of the Facility's youth residents.

46. That upon information and belief, both prior to and during the time Defendant JOHN DOE 1 smuggled illicit drugs into the detention center, defendants had actual and/or constructive notice that Defendant John Doe 1 and other staff members endangered the welfare and wellbeing of the youth residents of the CDJSDF by smuggling into the facility illicit drugs.

47. That upon information and belief, both prior to and during the time Defendant JOHN DOE 1 smuggled illicit drugs into the detention center, defendants had actual and/or constructive notice of the propensity of Defendant JOHN DOE 1 to introduce illicit drugs into the facility.

48. That upon information and belief, defendants breached their duties to exercise reasonable care in their hiring, supervision and retention of Defendants JOHN DOE 1 and other employees.

49. That upon information and belief, as a direct and proximate cause of defendants negligent hiring, supervision and retention, Plaintiffs have sustained in the past and will sustain in the future, pain and suffering, serious psychological and emotional distress, mental anguish, embarrassment, humiliation and loss of future financial support.

50. That upon information and belief, the conduct of defendants was reckless, extreme, and outrageous, grossly unjust and aimed at the public as well as at Plaintiffs, entitling plaintiffs to an award of punitive damages.

51. That defendants are vicariously liable for the negligent acts and omissions of their agents.

52. As a result of the above, Plaintiffs demands judgment against Defendants in the amounts in excess of the jurisdictional limits of the lower courts together with such other further and different relief as to this court seems just proper and equitable.

**AS AND FOR A THIRD CAUSE OF ACTION
NEGLIGENCE IN DEFENDANTS' ENACTMENT AND
ENFORCEMENT OF ADEQUATE OVERDOSING PREVENTION
AND RECOVERY PROCEDURES**

53. That Plaintiffs repeats, reiterates and realleges the foregoing allegations as though more fully set forth herein.

54. Upon information and belief, there has been and currently is a U.S. Opioid epidemic.

55. That upon information and belief, prior to and at the time of Caprist's death, defendants owed the residents of the CDJSDF, including Caprist, a duty to enact and follow

policies and procedures designed to prevent the occurrence of overdosing and policies and procedures designed to assist staff in the recovery of an overdose at the CDJSDF.

56. That upon information and belief, prior to and at the time of decedents death, defendants owed the residents of CDJSDF, including Caprist, a duty to enact policies and procedures to facilitate the safe, efficient and effective medical procedures with an focus on the U.S. Opioid epidemic occurring at the CDJSDF or involving individuals regularly present at the CDJSDF.

57. That upon information and belief, prior to and at the time of decedents death, defendant owed the residents of the CDJSDF, including Caprist, a duty to reasonably respond to any and all reports of an overdose occurring at the CDJSDF or involving individuals regularly present at the CDJSDF.

58. That upon information and belief, defendant breached their duty to enact and follow policies and procedures designed to prevent the occurrence of overdosing and policies and procedures designed to assist staff in the recovery of an overdose at the CDJSDF.

59. That upon information and belief, defendants breached their duty to reasonably respond to any and all reports of an overdose occurring at the CDJSDF or involving individuals regularly present at the CDJSDF.

60. That upon information and belief, the conduct of defendants was reckless, extreme and outrageous, grossly unjust and aimed at the public as well as at Caprist, entitling Plaintiffs to an award of punitive damages.

61. The defendants are vicariously liable for the negligent acts and omissions of their agents.

62. As a result of the above, Plaintiffs demands judgment against Defendants in the amounts in excess of the jurisdictional limits of the lower courts together with such other further and different relief as to this court seems just proper and equitable.

**AS AND FOR A FOURTH CAUSE OF ACTION
SURVIVORSHIP**

63. Plaintiffs repeats, reiterates and realleges the foregoing allegations as though more fully set forth herein.

64. ANISHA L. THREATT AND CAPRIST S. MCBROWN, are the Administrators of the Estate of CAPRIST J. MCBROWN and has full authority according to the Estates, Powers and Trusts Law of the State of New York to make this claim of survivorship on behalf of the Estate to recover damages.

65. Decedent CAPRIST J. MCBROWN was held at Defendants' detention facility and was a resident from on or about September 2020 through October 2022, when he died.

66. As a result of Defendants' negligent acts and/or admissions, decedent CAPRIST J. MCBROWN sustained pain and suffering, and emotional, psychological and physical damages. Specifically, Caprist J. McBrown was caused to suffer severe pulmonary edema with aspiration of gastric content and suffer death.

67. At all times herein mentioned, decedent CAPRIST J. MCBROWN was fully conscious and aware of the pain and suffering he was subjected to before his death.

68. CAPRIST J. MCBROWN'S injuries, pain and suffering were caused wholly and solely by the negligent acts and/or omissions of Defendants.

69. As a result of the above, Plaintiff demands judgment against Defendants in the amounts in excess of the jurisdictional limits of the lower courts together with such other further and different relief as to this court seems just proper and equitable.

**AS AND FOR A FIFTH CAUSE OF ACTION
WRONGFUL DEATH**

70. Plaintiffs repeats, reiterates and realleges the foregoing allegations as though more fully set forth herein.

71. ANISHA L. THREATT and CAPRIST S. MCBROWN, parents of the decedent CAPRIST J. MCBROWN, are the administrators of the Estate of CAPRIST J. MCBROWN and have full authority according to the Estates, Powers and Trusts Law of the State of New York to make this claim of wrongful death on behalf of the ESTATE of CAPRIST J. MCBROWN to recover damages.

72. Decedent CAPRIST J. MCBROWN was held at Defendants' detention facility and was a resident from on or about September 2020 through October 2022, when he died.

73. As a result of Defendants' negligent acts and/or admissions, decedent CAPRIST J. MCBROWN sustained pain and suffering, and emotional, psychological and physical damages. Specifically, Caprist J. McBrown was caused to suffer severe pulmonary edema with aspiration of gastric content and suffer death.

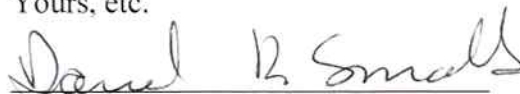
74. ANISHA L. THREATT and Caprist S. McBrown, parents of the decedent CAPRIST J. MCBROWN brings this wrongful death claim against Defendants, all of whom would have been liable to the decedent by reason of their wrongful and negligent acts had death not occurred.

75. As a result of the above, Plaintiff demands judgment against Defendants in the amounts in excess of the jurisdictional limits of the lower courts together with such other further and different relief as to this court seems just proper and equitable.

WHEREFORE, plaintiff demands judgment against the defendants for such general relief as the plaintiff may be entitled to receive either at law or in equity together with the costs and disbursements of this action, together with any other and further relief as to the Court seems just and proper.

Dated: July 7, 2023

Yours, etc.



DANIEL R. SMALLS, ESQ.

Attorney for Plaintiff

251 State Street, ste 202

Schenectady, New York 12305

Phone: (518) 709-0024

Fax: (518) 243-8305


dsmalls@smallslaw.net

VERIFICATION

STATE OF NEW YORK)
COUNTY OF SCHENECTADY) SS.:

Daniel R. Smalls, being duly sworn, deposes and says: he is the attorney for the plaintiffs in the above entitled action; he has read the foregoing complaint and the same is true of his own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true; the reason this verification is not made by said plaintiffs is that they are not within the County of Schenectady, which is the county where the deponent has his office.

Deponent further says that the grounds of his belief as to all matters therein stated on information and belief, are derived from an investigation into the facts surrounding this matter.


Daniel R. Smalls, Esq.

Sworn to before me on
This 7th day of July 2023


Notary Public

ERIC A PAGE
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PA0005559
Qualified in Schenectady County
COMMISSION Expires April 14, 2027