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SUPERIOR COURT FOR THE STATE OF ARIZONA

MARICOPA COUNTY

8 STEVEN and JODY McCORMICK
9 for and on behalf of their son,
10 ANDREW McCORMICK, deceased;

Case No.

CV2019-007593

11 vs.

12 STATE OF ARIZONA; CHARLES
RYAN; BERRY LARSON, ALFRED
13 RAMOS, JOHN DOE CHAVEZ,
SHAUN HOLLAND, THOMAS
14 HEATHCOCK and JOHN AND
JANE DOES, 1-10;

COMPLAINT

AND

JURY DEMAND

15 Defendants.

16 Plaintiffs Steven and Jody McCormick, for and on behalf of their deceased son, by
17 and through undersigned counsel, allege as follows for their Complaint.

18 1. Andrew McCormick died four days after being beaten by inmates who entered
19 his cell in the Morey Unit of Arizona State Prison - Lewis. The State of Arizona's
20 negligence and complete and utter indifference to Andrew McCormick's safety directly
21 caused his death. For at least four years before McCormick's murder, the State of Arizona
22 knew that the cell door locks in the Morey Unit were broken. For years the State of Arizona

1 has operated Morey in a state of utter chaos, inmates are able to open cell doors and roam in
2 the cellblock, assaulting and murdering each other and attacking corrections officers. The
3 Morey Unit is so dangerous that inmates and staff now refer to it as “**Murder Morey.**”
4 Prison management’s response Morey Unit issues has been to cut staffing, further degrading
5 inmate safety and security. The years long indifference to inmate safety and security in the
6 Morey Unit was a death sentence for Andrew McCormick.

7
PARTIES

8 2. Plaintiffs Steven and Jody McCormick are residents of Maricopa County and
9 bring wrongful death and 42 USC § 1983 claims on behalf of their deceased son, Andrew
10 McCormick.

11 3. Defendant State of Arizona is a body politic operating, in this case, through its
12 agency, the Arizona Department of Corrections.

13 4. Defendant Charles Ryan (“Ryan”) is a resident of Maricopa County, Arizona
14 and has served as Director of ADC since 2008. As Director, Ryan is responsible for the
15 operation of all prison units and particularly responsible for discovering and correcting all
16 safety and security issues including those at the Morey Unit of ASPC Lewis prison so that
17 that the Morey Unit was operated in a manner that provided a safe and secure environment
18 for inmates, including Andrew McCormick.

19 5. Defendant Berry Larson (“Larson”) is, upon information and belief, a resident
20 of Maricopa County, Arizona, and, at all relevant times, was employed by ADC as Warden
21 of the Morey Unit of ASPC Lewis prison. As Warden, Larson was responsible for the
22 operation of the Morey Unit, including, without limitation, ensuring that the Morey Unit was

1 operated in a manner that provided a safe and secure environment for inmates, including
2 Andrew McCormick.

3 6. Defendant Deputy Warden Alfredo Ramos (“Ramos”) is, upon information and
4 belief, a resident of Maricopa County, Arizona and, at all relevant times, was employed by
5 ADC and as the Deputy Warden of the Morey Unit at ASPC-Lewis. As Deputy Warden,
6 Ramos was responsible for the operation of the Morey Unit, including, without limitation,
7 ensuring that the Morey Unit was operated in a manner that provided a safe and secure
8 environment for inmates, including Andrew McCormick.

9 7. Defendant John Doe Chavez (“Chavez”) is, upon information and belief, a
10 resident of Maricopa County, Arizona and, at all relevant times, was employed by ADC as
11 an Assistant Deputy Warden assigned to the Morey Unit at ASPC-Lewis. As Deputy
12 Warden, Chavez was responsible for the operation of the Morey Unit, including, without
13 limitation, ensuring that the Morey Unit was operated in a manner that provided a safe and
14 secure environment for inmates, including Andrew McCormick.

15 8. Defendant Shaun Holland (“Holland”) is, upon information and belief, a
16 resident of Maricopa County, Arizona, and, at all relevant times, was employed by ADC as a
17 Captain assigned as the chief of security for the Morey Unit of the ASPC Lewis prison. As
18 chief of security for the Morey Unit, Holland was responsible for the operation of the Morey
19 Unit, including, without limitation, ensuring that the Morey Unit was operated in a manner
20 that provided a safe and secure environment for inmates, including Andrew McCormick.

21 9. Defendant Thomas Heathcock (“Heathcock”) is, upon information and belief, a
22 resident of Maricopa County, Arizona, was at all relevant times employed by ADC as a

1 corrections officer. At all material times Heathcock was assigned to the control room in
2 Housing Unit 1, A/B pods of the Morey Unit of the Arizona State Prison Complex ("ASPC")
3 Lewis prison and was responsible for the operation of the A/B pods, including, without
4 limitation, ensuring that the pods were operated in a manner that provided a safe and secure
5 environment for inmates, including Andrew McCormick.

6 10. John and Jane Does. 1-10 are certain unknown actors, including employees or
7 contractors of the ADC who, through their own actions or inactions, have caused or assisted
8 others in causing the incidents and resultant harm set forth below, including certain unknown
9 correction officers (the "Doe Officers"). Despite diligent efforts by Plaintiff, the identity of
10 these individuals has not yet been ascertained but is well known by Defendants. Plaintiff
11 will amend the complaint to allege the true names and capacities of the various Doe
12 Defendants as they are learned.

13 11. All acts alleged in this Complaint occurred in Maricopa County, Arizona.

14 **JURISDICTION and VENUE**

15 12. This action arises under 42 U.S.C. § 1983 and Arizona wrongful death statutes,
16 A.R.S. § 12-611 through A.R.S. § 12-613.

17 13. This Court has jurisdiction pursuant to Article 6, § 14(1) of the Arizona
18 Constitution.

19 14. Defendants caused events to occur in Maricopa County that give rise to this
20 case.

21 15. Venue is proper in Maricopa County, Arizona.

22

1 25. The high risk inmates housed in “close custody” units such as Morey can
2 include inmates with death sentences, inmates serving life sentences and inmates who are
3 validated gang members.

4 26. Correctional officers working in the Morey Unit have procedures they must
5 follow because of the significant danger presented by “close custody” inmates.

6 27. Among the procedures is the requirement that security/health and welfare
7 checks be conducted every hour.

8 28. The security/health and welfare checks are conducted by “floor officers” who
9 must be in continuous motion walking through the pods, peering into each cell to verify that
10 each inmate is alive and breathing.

11 29. Morey Unit also has its own procedures to restrict inmate movement. When no
12 floor officer is present, the occupants of only 1 cell (two inmates) may leave their cell to take
13 showers and make phone calls. If a floor officer is present in the pod then occupants of 2
14 cells may leave theirs for showers and phone calls. All other inmates on the pod are required
15 to be locked down in their cells.

16 **SYSTEMIC FAILURE OF THE MOREY UNIT CELL DOOR LOCKS**

17 30. Since at least 2014 it has been well known to the other defendants that many of
18 cell door locks in the Morey Unit are broken, in disrepair, do not lock and are not fully
19 controlled by the control room operator.

20 31. In 2014 the Assistant Deputy Warden for the Morey Unit reported that 25% of
21 the cell door locks were broken.

22 32. The report went to defendant Ryan.

1 33. At that time defendant Ryan took no action to repair the broken door locks.

2 34. Defendants have long been aware that Morey's "close custody" inmates can
3 open cell doors at will and thus present a critical danger to other inmates and to Corrections
4 staff.

5 35. Over the years a significant number of Corrections staff at Morey has been
6 assaulted by inmates who have been able to open their cell doors and attack staff after all
7 cells had been "locked down" by the control room.

8 36. Upon information and belief a significant number of Morey inmates have been
9 assaulted by other inmates who have been able to open cell doors while ostensibly being
10 "locked down."

11 37. Nevertheless defendants allowed Morey to operate, for years with broken and
12 unrepaired cell door locks.

13 38. In the Morey Unit (as well as generally across Corrections) staff reports of
14 security device deficiencies, (such as broken cell door locks) are gathered and compiled in
15 weekly reports.

16 39. Those weekly reports, for the Morey Unit, are prepared, compiled and
17 reviewed by defendants Ramos, Chavez and Holland.

18 40. Defendants Ramos, Chavez and Holland were well aware of the broken cell
19 door locks and knew that the ability of inmates to open cell doors at will presented a
20 substantial and excessive risk of serious harm to inmates in the Morey Unit.

21 41. The weekly reports detailing broken door locks and other security problems at
22 Morey were, upon information and belief, forwarded to and reviewed by ASPC Lewis

1 Warden Larson. Larson was also well aware of the broken cell door locks and knew that the
2 ability of inmates to open cell doors at will presented a substantial and excessive risk of
3 serious harm to inmates in the Morey Unit.

4 42. Upon information and belief defendant Ryan also received and reviewed
5 weekly reports detailing broken cell door locks and other security problems at Morey Unit.
6 Ryan was well aware of the broken cell door locks and knew that the ability of inmates to
7 open cell doors at will presented a substantial and excessive risk of serious harm to inmates
8 in the Morey Unit.

9 43. Defendants Ryan, Larson, Ramos, Chavez and Holland disregarded the
10 excessive and substantial risk of serious harm to inmates presented by the broken cell door
11 locks by failing to repair the locks and continuing to operate the Morey Unit with the broken
12 cell door locks.

13 44. Defendants Ryan, Larson, Ramos, Chavez and Holland further disregarded the
14 excessive and substantial risk of serious harm to inmates presented by the unrepaired broken
15 cell door locks by failing to fully staff the Morey Unit.

16 45. The chronic short staffing of Morey Unit created a culture where officers cut-
17 corners and failed to adhere to policies and regulations. Defendants were aware of the
18 culture and were indifferent to it. Defendants took no action to ensure proper staffing levels
19 and took no action to deter or change the culture.

20 46. In short, defendants failed to repair the cell door locks in the Morey Unit, a
21 prison housing some of the most dangerous inmates in Arizona, and then compounded the
22 problem by deliberately reducing/cutting and otherwise failing to fully staff the Morey Unit.

1 47. Defendants continued to operate Morey in this fashion, in complete
2 indifference to inmate safety, even as the number of inmate on inmate assaults and murders
3 increased to the point where the Morey Unit was in utter chaos and actually controlled by the
4 inmates.

5 **ANDREW McCORMICK'S DEATH**

6 48. In May 2018, ADC transferred Andrew McCormick to the Morey Unit and
7 assigned him to building 2, pod B, cell 16.

8 49. On June 6, 2018 Ryan, Larson, Ramos, Chavez and Holland continued to
9 operate Morey Unit with insufficient staff and with broken cell door locks.

10 50. On the evening of June 6, 2018 defendant Thomas Heathcock was assigned to
11 the control room monitoring McCormick's pod.

12 51. Defendant Heathcock has admitted that he was aware that many of the cell
13 doors in McCormick's pod were broken and that inmates could leave their cells at will.

14 52. Heathcock also was aware of the Morey Post orders that only allowed one cell
15 door to be open at a time if no floor officer was assigned to the pod.

16 53. Morey was short-staffed on evening of June 6 and so did not have a floor
17 officer dedicated to pod B.

18 54. Defendant Heathcock placed a telephone call to another officer who was
19 working in a control room in another building. He would remain on the telephone for the
20 next two hours.

21 55. At 20:00pm all inmates in B pod were locked down for evening.
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1 56. At 20:36pm the floor officer began a formal count and security checks of the
2 inmates in the 8 pods of Buildings 2 and 4. That task was completed and finished that task at
3 20:54pm.

4 57. After the 20:54 pm security check, when all of the inmates should have been
5 locked down, inmates in B pod opened their own cell doors and began moving around the
6 pod.

7 58. Heathcock had been on his phone call for about hour and would stay on the
8 call for another hour.

9 59. Inmates opened 12 of the 25 cell doors in B pod.

10 60. Over the course of the next hour approximately 20 inmates roamed B pod,
11 passing items to each other and entering cells to which they were not assigned.

12 61. Heathcock knew that the cell door locks were broken, saw that more than two
13 inmates were out of their cells, knew that this was a dangerous condition and disregarded it.

14 62. Heathcock made the deliberate choices to: not to notify a supervisor about
15 inmates being out of their cells, not to summon a floor officer to lockdown the inmates, not
16 notify his supervisor and/or the floor officer that a security check had not been conducted
17 within the 1 hour time frame, and not call an ICS.

18 63. Instead, Heathcock continued his telephone conversation.

19 64. At about 21:30pm inmates opened Andrew McCormick's cell because the cell
20 door lock was broken.

21 65. Over the next half hour 8 to 10 inmates entered and exited McCormick's cell,
22 taking turns beating and stomping him.

1 74. This includes taking certain action and refraining from other actions such that
2 Morey Unit was operated in a manner that maintained a safe and secure environment for
3 inmates-, including Andrew McCormick.

4 75. Defendant State of Arizona, through its employees Ryan, Larson, Ramos,
5 Chavez, Holland and Heathcock, breached that duty systematically and repeatedly including
6 without limitation, the acts and omissions set forth above resulting in the Morey Unit being
7 operated in a manner such that it presented a grave and imminent danger to Andrew
8 McCormick.

9 76. As a direct and proximate result of the actions and inactions Defendant of the
10 State of Arizona, through its employees Ryan, Larson, Ramos, Chavez, Holland and
11 Heathcock, Andrew McCormick died a painful and premature death.

12 77. The acts and omissions set forth above also demonstrate gross and wanton
13 negligence the State of Arizona knew or had reason to know that the acts of its employees
14 individually and collectively created an unreasonable risk of harm to Andrew McCormick
15 and a high probability that substantial harm would result.

16 78. Andrew's death has caused, among other damage, Steven and Jody and other
17 members of Andrew's family needless immobilizing and debilitating grief, anguish and
18 suffering.

19 79. Andrew's death has also deprived Steven and Jody and other members Andrew's
20 family of Andrew's love, affection, companionship, comfort, financial support, guidance,
21 and sustained other damages that will be demonstrated at trial.

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COUNT TWO
42 USC § 1983 8th Amendment

Against
Ryan, Larson, Ramos, Holland Chavez and Heathcock

80. Defendants Ryan, Larson, Ramos, Holland, Chavez and Heathcock are sued in their individual capacities. Ryan, Larson, Ramos, Holland, Chavez and Heathcock

81. Defendants Ryan, Larson, Ramos, Holland, Chavez and Heathcock, at all material times, were all acting under color of state law.

82. Defendants Ryan, Larson, Ramos, Holland, Chavez and Heathcock are “persons” within the meaning of 42 USC§ 1983.

83. The Eighth Amendment to the United States Constitution, which applies to defendants pursuant to the Due Process Clause of the Fourteenth Amendment, forbids one who acts under the color of law from being deliberately indifferent to the safety and well-being of individuals in their custody and control.

84. At all relevant times, Andrew McCormick was in the custody and control of Defendants.

85. Defendants Ryan, Larson, Ramos, Chavez, Holland and Heathcock violated the Eighth Amendment to the United States Constitution, as applicable to them via the Fourteenth Amendment, by each being deliberately indifferent to the safety and well-being of Andrew McCormick.

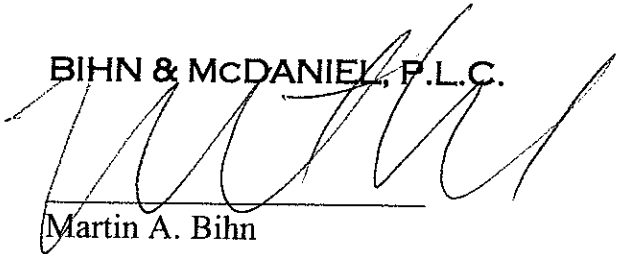
86. Defendants Ryan, Larson, Ramos, Holland Chavez and Heathcock conduct in this regard was objectively unreasonable and undertaken with willful, reckless and malicious indifference to Andrew McCormick's constitutional rights and liberty interests and with no regard to the likelihood that harm would and did result.

1 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 2 A. For compensatory, general and special damages against each and every
3 Defendant, jointly and severally, in amounts to be proven at trial but not less
4 than \$3,000,000.00;
- 5 B. For punitive and exemplary damages against the Defendants, except the State
6 of Arizona, in an amount appropriate to punish the wrongful conduct alleged
7 herein and to deter such conduct in the future;
- 8 C. For pre- and post-judgment interest to the extent provided by law;
- 9 D. For Plaintiffs' incurred costs, including all incurred attorneys' fees and court
10 costs, pursuant to 42 U.S.C. § 1988 and as otherwise authorized by any other
11 statute or law; and
- 12 E. For such other relief as this Court may deem proper.

13 Dated this 16th day of May, 2019.

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15 BIHN & MCDANIEL, P.L.C.

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18 Martin A. Bihn
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