

mother, Elia Hoskins, deceased; Joe Gomez, on behalf of his father, Joe Albert Gomez, deceased; Mary Peterson, on behalf of her son, Joshua Peterson, deceased; Irma Maldonado, on behalf of her son, Sylvester Maldonado, Jr., deceased; Estella Ortiz, on behalf of her brother, Ruben Ortiz, deceased; Armando Olachia, on behalf of his wife, Carla Olchia, deceased; Jasmine Garza, on behalf of her daughter, Olivia Garza, deceased; Angelita Byars, on behalf of her mother, Juanita Saldivar, deceased; Liza Hinojosa, on behalf of her brother, Joel Hinojosa, Jr., deceased; Yvette Salas, on behalf of her sister, Yvonne Salas, deceased ("Plaintiffs"), and complain of Defendants Adel Shaker, M.D., individually and in his official capacity as Chief Medical Examiner of Nueces County, State of Texas ("Shaker"), Sandra Lyden, M.D., individually and in her official capacity as Chief Deputy Medical Examiner of Nueces County, State of Texas ("Lyden"), and Nueces County, Texas ("County"), hereafter collectively referred to as "Defendants," and for cause of action would show this Honorable Court as follows:

I.
DISCOVERY CONTROL PLAN

1. Plaintiffs request that discovery be conducted in accordance with a Level 3 Discovery Control Plan to be ordered by the Court as provided by Rule 190.4 of the Texas Rules of Civil Procedure.

II.
PARTIES

2. Plaintiff Maria Krauskopf is the surviving natural parent of her son, Elliott Hight, deceased, and is a resident of Nueces County, State of Texas.

3. Plaintiff Edna Pena is the surviving natural parent of her daughter Priscilla Honeycutt, deceased, and is a resident of Nueces County, State of Texas.

4. Plaintiff San Juana Kelly is the surviving natural parent of her son, Shane Kelly, deceased, and is a resident of Refugio County, State of Texas.

5. Plaintiff Joseph Hoskins is the surviving son of his mother, Elia Hoskins, deceased, and is a resident of Nueces County, State of Texas.

6. Plaintiff Joe Gomez is the surviving son of his father, Joe Albert Gomez, deceased, and is a resident of Ventura County, State of California.

7. Plaintiff Mary Peterson is the surviving natural parent of her son, Joshua Peterson, deceased, and is a resident of Nueces County, State of Texas.

8. Plaintiff Irma Maldonado is the surviving natural parent of her son, Sylvester Maldonado, Jr., deceased, and is a resident of Nueces County, State of Texas.

9. Plaintiff Estella Ortiz is the surviving sister of her brother, Ruben Ortiz, deceased, and is a resident of Nueces County, State of Texas.

10. Plaintiff Armando Olachia is the surviving husband of his wife, Carla Olachia, deceased, and is a resident of Nueces County, State of Texas.

11. Plaintiff Jasmine Garza is the surviving natural parent of her daughter, Olivia Garza, deceased, and is a resident of Nueces County, State of Texas.

12. Plaintiff Angelita Byars is the surviving daughter of her mother, Juanita Saldivar, deceased, and is a resident of Bee County, State of Texas.

13. Plaintiff Liza Hinojosa is the surviving sister of her brother, Joel Hinojosa, Jr., deceased and is a resident of Nueces County, State of Texas.

14. Plaintiff Yvette Salas is the surviving sister of her sister, Yvonne Salas, deceased, and is a resident of the State of Indiana.

15. Defendant Adel Shaker, M.D., is a duly licensed medical physician licensed by the State of Texas. He resides in the State of Texas and may be served with process by and through his attorney of record, The Kaplan Law Firm, 3901 S. Lamar Blvd #260, Austin, Texas 78704.

16. Defendant Sandra Lyden, M.D., is an individual residing in the County of Nueces, State of Texas. She may be served with process by and through her attorney of record, Stephen Giovanni, 5601 South Padre Island Drive, Corpus Christ, Texas 78412.

17. Defendant Nueces County is a subdivision of the State, organized and operating under the Constitution and laws of the State of Texas. The governing body of the County is the Nueces County Commissioners Court ("Commissioners Court"). The Nueces County Medical Examiner's Office ("Medical Examiner's Office") and the Nueces County Human Resources Department ("HR Department") are separate departments of Defendant Nueces County. The County may be served with process by serving Ms. Jenny P. Dorsey, County Attorney for the County of Nueces, Texas, at the Nueces County Courthouse, 901 Leopard Street, Corpus Christi, Texas 78401.

III. JURISDICTION AND VENUE

18. This Court has jurisdiction of this matter because the matter in controversy is within the jurisdictional limits of the Court.

19. Venue in Nueces County in this cause is mandatory under § 15.015 of the Texas Civil Practice and Remedies Code because an action against a county must be brought in that county, and proper under § 15.002(1) of the Texas Civil Practice and Remedies Code because Nueces County is the county in which all or a substantial part of the underlying events or omissions in this action occurred.

IV.
STATEMENT OF FACTS

20. All of said Plaintiffs herein, each brings this cause of action, individually, stemming from the damages they sustained as a result of the negligent acts or omissions of Defendants, individually and collectively, as more fully set forth herein.

21. Defendant Shaker was hired and employed by Defendant Nueces County as a medical examiner in its Medical Examiner's Office beginning in approximately 2014. In 2020, the Commissioners Court appointed Shaker as Chief Medical Examiner of Nueces County, a position he continuously held until February 2, 2022.

22. Defendant Lyden was hired by Shaker and employed by Nueces County as its Chief Deputy Medical Examiner on a probationary basis from December 6, 2022, until January 14, 2022.

23. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden admitted to performing an autopsy, attended by Shaker, on a 27-year old Corpus Christi woman, the deceased wife of a Corpus Christi police officer, on January 3, 2022. Further, Lyden reached a cause-of-death conclusion of "blunt force injuries," with which Shaker concurred.

24. Plaintiffs are informed and believe, and upon such information and belief allege, that following a meeting between representatives of the Corpus Christi Police Department and the Corpus Christi District Attorney, and the belief expressed by a police detective that Lyden could not provide a satisfactory explanation for her medical opinion, the woman's body was transported to Georgetown, Texas, for an independent second autopsy, which determined that the woman had died of natural causes.

25. By memorandum dated January 14, 2022, Shaker advised Lyden that her employment with the County was terminated effective immediately for failure to complete her probationary period satisfactorily.

26. Plaintiffs are informed and believe, and upon such information and belief allege, that on January 14, 2022, the same day Lyden was terminated by the County, investigators with the Nueces County District Attorney's Office seized from the Medical Examiner's Office 33 files of autopsy cases worked by Lyden, including one document granting cremation orders and a bag filled with patients' assorted prescription medications.

27. On January 26, 2022, the Commissioners Court issued a press release in which it stated that Lyden "was discharged for good cause when she was unable to produce a temporary Texas license [issued by Texas Medical Board] which she claimed to have received."

28. On March 3, 2022, the Texas Rangers executed a search warrant on Lyden's residence. Plaintiffs are informed and believe, and upon such information and belief allege, that before the search began, Lyden admitted to Ranger Patrick O'Connor that she was in possession of dangerous drugs that belonged to decedents. Further, Lyden showed Ranger O'Connor a brown paper bag, located in the garage at the residence, that contained nine bottles of prescription medications, eight of which reflected a name Ranger O'Connor recognized as a decedent who underwent an autopsy at the Medical Examiner's Office before Lyden was employed there. Further, Ranger O'Connor, pursuant to a separate search warrant, later seized the dangerous drugs as well as documents evidencing Lyden had been untruthful on her TMB application.

29. On March 4, 2022, Ranger O'Connor appeared before Justice of the Peace Joe Benavides with an Affidavit for Arrest Warrant for Lyden, which stated he had probable cause to believe Lyden had made, presented, and used a government record with the intent to defraud and harm another with knowledge of its falsity. Judge Benavides signed the warrant that date, authorizing Lyden's arrest.

30. On March 7, 2022, Lyden was arrested for tampering with a government record, in violation of Texas Penal Code § 37.10(5), a state jail felony, in relation to her hiring. At a subsequent hearing in Nueces County's 319th District Court, Lyden was ordered by the court to surrender her passport.

31. Plaintiffs are informed and believe, and upon such information and belief allege, that based on the Texas Rangers' investigation and according to a probable cause statement that was part of a Nueces County District Attorney's search warrant, Lyden, at the time she was employed by the County, did not possess a license to practice medicine in Texas and did not have on file with the Texas Medical Board ("TMB") a Texas emergency visiting practitioner temporary permit to practice medicine in the state signed by Shaker or any other sponsoring physician. Further, a "healthcare provider verification profile" provided by the TMB stated that in fact Lyden's permit to practice in the state of Texas had been terminated. Further, Shaker knew Lyden did not have the Texas medical license required by state statute, despite weekly discussions about the issue; that knowledge notwithstanding, Shaker hired Lyden as Chief Deputy Medical Examiner anyway and she became a supervisory employee of the County.

32. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden responded untruthfully on the medical license application she submitted to the TMB by stating she had never been arrested, never been charged with a violation of law involving drugs, never been placed on probation, never been convicted of a criminal offense, and never had her prescription certificate revoked.

33. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden in fact had been arrested and convicted in Florida of two criminal offenses involving the abuse of prescription medication within the previous five years. Further, one of Lyden's two convictions in Florida involved her substance abuse related to a "driving under the influence" crash, leaving the scene of the crash, and then crashing again in a neighboring county, to which she pled guilty and for which she was placed on probation for nine months.

34. Plaintiffs are informed and believe, and upon such information and belief allege, that the Drug Enforcement Administration ("DEA") interviewed Lyden when she was practicing in Hawaii, at which time she admitted abusing prescription medication and was forced to surrender her prescription certificate permit. Further, the TMB flagged the false entries on Lyden's application for a medical license, which is a government record.

35. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden created a fictitious letter of recommendation, dated January 2017 and included in Lyden's personnel file, from a Dr. Fatemeh Rhanna Mousavi in Florida, who advised investigators she had never completed a record of recommendation for Lyden. Further, an email Lyden sent to the TMB reflecting communications between Lyden and Dr. Mousavi, whose name was misspelled in the email address, also was created by Lyden; Dr. Mousavi confirmed that the email was fictitious as well.

36. Plaintiffs are informed and believe, and upon such information and belief allege, that the County knew, or reasonably should have known, that Lyden lacked the lawfully required licensure or permitting to practice medicine in the state of Texas; yet, that notwithstanding, the County issued an offer of employment to Lyden that, upon her acceptance, granted her full privileges to perform dozens of unauthorized autopsies in the County's Medical Examiner's Office on the parents, siblings, and children of these Plaintiffs.

37. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden, while employed by Nueces County from December 6, 2022, until January 14, 2022, conducted no fewer than 30 autopsies despite the fact she did not possess a license to practice medicine in Texas and did not have on file with the TMB a Texas emergency visiting practitioner temporary permit to practice in this state signed by Shaker or any other sponsoring physician. Lyden certainly knew, and Shaker knew or reasonably should have known, that all autopsies conducted by Lyden while she was employed as the Nueces County Chief Deputy Medical Examiner were performed without the requisite proper and lawfully authorized licensure.

38. Plaintiffs are informed and believe, and upon such information and belief allege, that Lyden conducted autopsies and post-mortem examinations with diagnoses of causes and manners of death on December 6, 7, 8, 9, 13, 14, 15, 16, 17, 29, and 30, 2021, and January 3, 7, 8, and 12, 2022.

39. On April 12, 2022, both Shaker and Lyden were arrested. Plaintiffs are informed and believe, and upon such information and belief allege, that Shaker was charged with 17 separate counts under the Texas Occupations Code related to Lyden's hiring, each a third-degree felony, including 15 counts of prohibited practice by a physician, one count of unprofessional or dishonorable conduct by a physician, and one

count of failure to delegate general authority. Further, Lyden, for whom this was the second arrest related to her employment by the County, was charged with 21 counts, including seven counts of tampering with a government document, 13 counts of violating the Occupations Code with financial harm, and one count of misrepresentation regarding entitlement to practice medicine.

40. On or about May 4, 2022, a third employee of the Medical Examiner's Office, Mary Alexandra "Alex" Medina ("Medina"), was arrested related to Lyden's employment by the County. Medina's arrest occurred following an interview the preceding February with Ranger O'Connor, who concluded that Medina falsely stated that she had no knowledge that Lyden was practicing medicine without a valid Texas medical license. Medina was charged with a false report to a peace officer, federal special investigator, or law enforcement employee, a violation of Texas Penal Code § 37.08, a class B misdemeanor.

41. The Nueces County Human Resources Department is a department of Defendant Nueces County. According to the County's written policy, the purpose of the HR Department is to implement "the rules and directives of (the) Commissioners Court to provide human resource management services to the offices and departments of Nueces County.... Through professional and effective processes, qualified applicants are recruited and selected to become valuable human resource assets."

42. Julie Guerra ("Guerra") is, and at all times relevant to the facts cited herein has been, the Director of the HR Department. Guerra was appointed HR Director by the Nueces County Commissioners Court, and in that capacity her responsibilities have included guiding the hiring process for the County and supervising those employees within the HR Department to effectuate County policy.

43. Plaintiffs are informed and believe, and upon such information and belief allege, that during the course of the Texas Rangers' investigation, Guerra told Ranger O'Connor that she was responsible for paperwork such as a criminal history check, driver's license verification, and drug screening. Further, Ranger O'Connor stated in Shaker's arrest affidavit that because Guerra had access to Lyden's employment paperwork and certifications, he believed Guerra knew Lyden had been practicing medicine without a license for Nueces County.

44. Plaintiffs are informed and believe, and upon such information and belief allege, that at a specially called County Commissioners meeting on April 19, 2022, County Commissioners looked to Guerra for an explanation of what had unfolded with the personnel working in the Medical Examiner's Office. Further, her attorney told the Commissioners, "We don't know exactly what happened.... The one thing (that) is clear is that we got scammed. Nueces County got scammed. And as much as we think that we're invincible to scams, it happens to the best of us, and that's what happened here."

45. Individual Nueces County Commissioners similarly voiced their concern about the community's loss of confidence brought about by the actions and conduct of employees in the Medical Examiner's Office and, specifically, the impact it had on the families the County was entrusted to serve. The week following Lyden's termination by the County, Precinct 3 Nueces County Commissioner John Marez was quoted by Corpus Christi's KRIS 6 News as stating, "This is a concern that's dealing with lies and . . . dealing with families that have been victims and, and potentially become victims again by not getting the right, accurate information provided about their family members."

46. Precinct 4 Nueces County Commissioner Brent Chesney was quoted by media sources as stating:

You would hope the HR department was involved in anything related to any hiring in the county, because to me, that's why you have an HR department.... So, first and foremost, the look needs to be at the HR department on this as well and not just the medical examiner... The primary concern for me is that one, potentially people were not qualified to be doing the work. And two, why the autopsy in question there was such a mistake made by not only the one that we just did hire, not the one that we hired, but the one that Shaker hired. And that allegedly he agreed with those findings. And yet, an independent group out of another county that was hired found it completely to be the opposite.

47. Precinct 1 Nueces County Commissioner Robert Hernandez was quoted by media sources as agreeing with Commissioner Chesney, stating "I would think that's one of the responsibilities they have to do to know who you're getting, who you're bringing on board. These are very delicate cases and a lot is at stake."

48. State law sets forth the requisite qualifications for a person to be appointed by a county as a medical examiner in Texas. More specifically, article 49.25(2) of the Texas Code of Criminal Procedure, "Appointments and Qualification," provides:

- (a) The commissioners court shall appoint the medical examiner, who serves at the pleasure of the commissioners court. A person appointed as the medical examiner must be:
 - (1) a physician licensed by the Texas Medical Board; or
 - (2) a person who:
 - (A) is licensed and in good standing as a physician in another state;
 - (B) has applied to the Texas Medical Board for a license to practice medicine in this state; and
 - (C) has been granted a provisional license under Section 155.101 (Provisional License to Practice in Certain Areas), Occupations Code.

- (b) To the greatest extent possible, the medical examiner shall be appointed from persons having training and experience in pathology, toxicology, histology and other medico-legal sciences.
- (c) The medical examiner shall devote the time and energy necessary to perform the duties conferred by this Article.

36. According to the County's written policy, it is a medical examiner's main job:

to examine bodies and look for signs of trauma or other causes of death. The medical examiner checks investigative and police reports and looks at the medical records of the deceased, looking for clues as to what caused the death. Additionally, the medical examiner looks at bodily tissues under a microscope and reviews toxicology reports. After all his research, the medical examiner writes up his findings and presents them to police officers, investigators and family members. The medical examiner may also be called as an expert witness for court cases.

49. Section 16 of the Texas Constitution, "Official Oath of Office," requires that a chief medical examiner, as a duly appointed officer, shall take and sign the written, official oath of office that appears in Section 16 before he or she enters upon the duties of the office.

50. Although the Texas Constitution requires a medical examiner to sign a written oath of office before taking office, Shaker never signed such an oath for his position as the Nueces County Chief Medical Examiner after his predecessor Dr. Ray Fernandez, who signed an oath of office in 2003 upon becoming the County's Chief Medical Examiner, retired in 2020. According to the Texas Penal Code, an individual who has not signed an oath of office does not have the authority to be a chief medical examiner in a Texas county or to run a medical examiner's office, which means that hundreds of autopsies Shaker and his office performed or supervised since 2020 have been conducted without valid or lawful authority; the results of the autopsies, therefore, may be deemed by a court as void and nonbinding. Further, the 17 surrounding counties that have sent their autopsies to Nueces County also are impacted by Defendants' acts and omissions.

51. State law sets forth the requisite qualifications for a person to be employed by a county as an assistant to a medical examiner in Texas. More specifically, article 49.25(3) of the Texas Code of Criminal Procedure, "Assistants," provides:

The medical examiner may, subject to the approval of the commissioners court, employ such deputy examiners, scientific experts, trained technicians, officers and employees as may be necessary to the proper performance of the duties imposed by this Article upon the medical examiner.

52. The damage to Plaintiffs is one that has been visited upon them through absolutely no fault of the Plaintiffs, either individually or as a group. The County is supported financially by the community and in turn has a duty to provide services to that community, and to these Plaintiffs, in an adequate, safe, and responsible manner. The County, its Medical Examiner's Office, and its HR Department failed in their duty to provide these services to Plaintiffs in such a manner, and the damage and repercussions emanating from that failure have gone, and will continue to endure, well beyond Plaintiffs and the physical borders of Nueces County.

53. The autopsies themselves, besides being conducted by an unlicensed medical practitioner, have created challenges to the legal cases associated with the deceased individuals. There have been excessive, unreasonable delays in the completion of many autopsies, and some autopsies still have not been, and may never be, satisfactorily completed. The autopsies performed by Lyden are all suspect in their conclusions. Further, a new autopsy or examination of the body of the decedents can no longer be performed due to the demise or cremation of the bodies. As a result, a reliable conclusion, including the alleged manner and cause of death of the deceased, is no longer ascertainable. Further, the autopsy reports that have been completed are now subject to challenge in subsequent legal proceedings. The credibility of Defendant Lyden as a testifying witness, or expert, will be challenged. Her conclusions on the autopsies are

subject to impeachment as a result of her many misrepresentations on government records and her past acts themselves.

54. The bodies of Plaintiffs' loved ones were, in some instances, negligently handled by non-licensed personnel and maintained under conditions that resulted in their deterioration; body parts were unnecessarily removed; bodies were delivered to funeral homes by the County in a mutilated, deformed state without standard remedial measures such as suturing; and death certificates were falsified.

55. The personal impact on the lives of Plaintiffs and their families has been painful, deep-seated, and all-consuming. The negligent and intentional infliction of mental anguish and suffering sustained by Plaintiffs has resulted from the manner and methods undertaken by officials, employees, and representatives of the County, the Medical Examiner's Office, and the HR Department arising from all described acts and omissions described herein.

56. The County, the Medical Examiner's Office, and the HR Department were responsible for investigating the credentials and the hiring of a fully qualified, certified forensic pathologist as that office's Chief Deputy Medical Examiner. That responsibility notwithstanding, Defendants County and Shaker failed to adequately investigate Defendant Lyden's professional and criminal background and credentials. Despite the lack of a proper investigation, the County and Shaker nevertheless hired Lyden as the County's Chief Deputy Medical Examiner. More specifically, Shaker knew that, contrary to Texas state law, Lyden, at the time she was hired and throughout the duration of her employment by the County, was not licensed by the State of Texas or permitted by the TMB to temporarily practice medicine in Texas. Defendants County and Shaker therefore knew, or reasonably should have known, that Defendant Lyden was hired, supervised, and retained to practice medicine in the Nueces County Medical Examiner's Office when

she was not lawfully authorized to do so, or, alternatively, Defendants County and Shaker negligently or grossly negligently hired, supervised, and retained Lyden to practice medicine in that Office when she was not lawfully qualified to do so.

57. By letters dated May 24, 2022, July 7, 2022, and October 6, 2022, legal counsel for Plaintiffs filed Notices of Claim with the Honorable Barbara Canales, Nueces County Judge, notifying the County of Plaintiffs' intent to sue the County regarding damages they sustained as a direct and proximate result of the intentional acts, the omissions and failures to act, and the negligence and gross negligence of the County and its employees and agents.

V. **CAUSES OF ACTION**

A. Negligence

58. The County incorporates paragraphs 1 through 58, above, as if set forth fully herein.

59. Defendants violated the duty they owed to Plaintiffs to exercise reasonable and ordinary care and to follow generally accepted standards during the performance of their work in the following particulars: (a) Defendants County and Shaker failed in their duty to properly hire, supervise, and retain Defendant Lyden; and (b) Defendant County failed in its duty to properly hire, supervise, and retain Defendant Shaker. Each of such acts and omissions, singularly or in combination with others, constituted negligence that proximately caused the damages suffered by Plaintiffs.

60. Defendants knew, or reasonably should have known, that any negligent acts or omissions they committed would result in emotional distress or mental anguish by Plaintiffs.

61. Defendants Shaker's and Lyden's negligent acts or omissions in the mishandling of the corpses of Plaintiff's loved ones have resulted in damages. The manner in which the corpses were allowed to decompose was the result of Defendant Shaker's and Lyden's negligence. Further, the mutilation of the corpses was either intentional or negligently committed by Defendants or County employees and arises to willful, wanton, and grossly negligent misconduct for which punitive damages are sought.

62. As a direct and proximate result of Defendants' negligence, Plaintiffs have suffered injuries and damages.

63. As a direct and proximate result of the damages sustained by Plaintiffs caused by Defendants' negligence and conduct, Plaintiffs have suffered damage, and in all reasonable probability Plaintiffs will continue to suffer damages in the future. This lawsuit is brought by Plaintiffs to recover these damages from Defendants.

VI. DAMAGES

64. Plaintiffs seek money damages within the Court's jurisdictional limits for: (a) mental anguish damages Plaintiffs have sustained in the past; and (b) mental anguish damages that Plaintiffs will, in all probability, sustain in the future.

65. Plaintiffs seek exemplary damages from Defendants and allege that Defendants were grossly negligent. Defendants were aware of a substantial and unjustifiable risk of harm to Plaintiffs but disregarded same.

VII. INTEREST AND ATTORNEY'S FEES

66. Plaintiffs are entitled to pre-judgment and post-judgment interest as provided by law.

VIII.
CONDITIONS PRECEDENT

67. All conditions precedent to the causes of action asserted herein have occurred, been performed, or have otherwise been waived.

IX.
REQUEST FOR DISCLOSURE

68. Plaintiffs request that each Defendant disclose, within fifty (50) days of the service of this request, the information or materials described in Rule 194.2 of the Texas Rules of Civil Procedure.

X.
DEMAND FOR JURY TRIAL

69. Plaintiffs, pursuant to the Texas Rules of Civil Procedure, hereby demand a trial by jury upon all issues herein.

XI.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants Shaker, Lyden, and Nueces County be cited to appear and answer herein, that Plaintiffs be granted judgment in their favor, and that Plaintiffs recover from and against Defendants the following:

1. Actual damages;
2. Punitive damages;
3. Special and consequential damages;
4. Pre-judgment interest at the highest rate allowed by law;
5. Post-judgment interest at the highest rate allowed by law;
6. Reasonable and necessary attorney's fees;
7. All court costs; and

8. Such other and further relief, at law or in equity, to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

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