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CIT 018
#408

2012-CI-06719

037TH JUDICIAL DISTRICT COURT

DANEIL DELANY ET AL VS THE GEO GROUP IN

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DANIEL DELANY AND CYNTHIA DELANY, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF DARRELL CLAYTON DELANY, DECEASED
PLAINTIFFS

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IN THE DISTRICT COURT OF

JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

vs.

THE GEO GROUP, INC., AND WARDEN JAMES COPELAND
DEFENDANTS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Daniel DeLany and Cynthia DeLany, Individually and on Behalf of the Estate of their son, Darrell Clayton DeLany, hereinafter called Plaintiffs, complaining of and about The Geo Group, Inc., and Warden James Copeland, hereinafter called Defendants, and for causes of action would show unto the Court the following:

I.

DISCOVERY CONTROL PLAN

1.1 Plaintiffs intend to conduct discovery under Level 2. Alternatively, a tailored discovery plan under Level 3 should be entered by the court pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.

PARTIES AND SERVICE

2.1 Plaintiffs, **DANIEL DELANY AND CYTHINA DELANY** bring this suit individually, and on behalf of, the **ESTATE OF THEIR SON, DARRELL CLAYTON DELANY**. Plaintiff Darrell Clayton DeLany was a resident and a citizen of Texas at the time of his death in Texas.

2.2 Defendant, **THE GEO GROUP, INC.** is a private jail company and has a central regional office and its principal place of business in Bexar County, Texas at 218 S. Laredo St., San Antonio, Texas 78207. The Geo Group, Inc. (GEO) may be served by serving its registered agent for service, Prentice Hall Corporation System, Inc. at 107 Brazos Street, Suite 1050, Austin, Texas 78701.

2.3 Defendant, **WARDEN JAMES COPELAND**, is an individual resident and citizen of Texas, and a resident of Bexar County, Texas and can be served with process at the Central Texas Detention Facility, 218 S. Laredo, St., San Antonio, Texas 78207.

III.

JURISDICTION AND VENUE

3.1 Venue is proper in Bexar County under Texas Civil Practice & Remedies Code section 15.002 because

- (A) all or a substantial part of the events or omissions occurred in Bexar County;
and
- (B) Defendant James Copeland is an individual resident of Bexar County.

IV.

EXCLUSION OF FEDERAL CLAIMS

4.1 Plaintiffs hereby give notice that only claims arising under Texas state law are alleged in this suit. This suit specifically excludes all federal causes of action. The only causes of action which are intended to be litigated in this Court are those concerning rights arising under the Laws and Constitution of the sovereign State of Texas.

V.

FACTS

5.1 Darrell Clayton DeLany was in the care and custody of the Central Texas Detention Facility (CTDF), a privately owned and operated GEO facility located at 218 S. Laredo St., San Antonio, Bexar County, Texas. Warden James Copeland was the warden of the jail and was responsible for the day to day operations. Warden James Copeland had overall authority over the facility and negligently supervised the CTDF. Darrell Clayton DeLany suffered severe trauma, extreme physical injuries, extreme pain and suffering, and death. CTDF was completely controlled by Defendant Copeland, and by GEO, by and through their corporate officers.

5.2 On December 29, 2011, Darrell Clayton DeLany was found dead while supposedly being monitored by GEO and its personnel. His death was caused by specific breaches of duty by Defendants GEO, and Copeland, and as a result of the corporate direction given by GEOs corporate officers which include grossly inhumane treatment, abuse, neglect, illegal and malicious conditions of confinement, and subsequent cover up of wrongdoing.

VI.

CAUSES OF ACTION

Negligence / Gross Negligence

6.1 Defendant GEO, and Copeland were grossly negligent and negligent in proximately causing the suffering and death of Darrell Clayton DeLany, and damages to his wrongful death beneficiaries. These injuries and damages were foreseeable and proximately caused by Defendants' negligent, reckless, grossly negligent and intentional disregard of legal duties of care. Additionally, the following acts, omissions, and breaches proximately caused Plaintiffs' injuries:

1. Defendants GEO and Copeland abused and neglected Darrell Clayton DeLany.
2. Defendants GEO, and Copeland negligently, recklessly, knowingly, or intentionally failed to provide a safe environment and a healthful place to live for Darrell Clayton DeLany.
3. Defendants GEO, and Copeland negligently, recklessly, knowingly, or intentionally failed to provide or maintain custodial care and services free from unreasonable risk of harm as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
4. Defendants GEO, and Copeland negligently, recklessly, knowingly, or intentionally failed to use reasonable care to supervise or control the correctional officers as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
5. Defendants GEO, and Copeland negligently, recklessly, knowingly or intentionally hired and retained unqualified corrections officers, inadequately trained and equipped such officers, and inadequately staffed the facility as would a reasonable jailor of ordinary prudence under the same or similar circumstances. Furthermore, Defendants negligently failed to implement adequate safeguards to keep Darrell Clayton DeLany free from injury.

6. Defendants GEO, and Copeland negligently, recklessly, knowingly, or intentionally failed to provide adequate policies, procedures, or regulations as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
7. Defendants GEO, and Copeland negligently, recklessly, knowingly, or intentionally failed to comply with existing policies, procedures, or regulations as would a reasonable jailor of ordinary prudence under the same or similar circumstances.

Each of such acts and omissions, singularly or in combination with others, constituted negligence and gross negligence that proximately caused the injuries that decedent suffered and that resulted in his death.

Negligent Activity

6.2 Defendants GEO, and Copeland engaged in negligent activity. Each of the acts or omissions, singularly or in combination with others, constituted negligent and gross negligent activity that proximately caused the injuries that decedent suffered and that resulted in his death.

VII.

RESPONDEAT SUPERIOR AND JOINT AND SEVERAL LIABILITY

7.1 At all times whenever an act of a vice-principal, employee, agent, and/or servant of Defendant GEO performed some act in relation to this lawsuit, such individual was performing acts within the scope and course of his/her employment with the GEO Defendants. Defendant GEO is legally responsible for the misconduct of those vice-principals, employees, agents and servants under the doctrine of *respondeat superior* and joint and several liability.

7.2 Defendant GEO is liable for their acts, as well as acts of their vice-principals, agents, servants, and employees under the doctrine of *respondeat superior*. Such agents, servants, and employees had a right and duty to control the perpetrators and are liable for their conduct.

7.3 Defendant GEO is also liable for the acts of their employees because (1) Defendants authorized the doing and the manner of the act; (2) the agents were unfit and Defendants acted with malice in employing or retaining them; (3) the agent was employed in a managerial capacity and was acting in the scope of employment; or (4) the employer or a manager of the employer ratified or approved the act.

7.4 As a result of the ongoing corporate scheme of abuse, neglect, public corruption and cover up, which is orchestrated by Defendant GEO, and Copeland, their agents, servants, and employees, all of them are engaged in a joint enterprise and partnership. Individual Defendants are accordingly personally liable for their own individual torts and are also liable for all the actions of all others.

7.5 Vicarious liability also arises from Defendants' practice of failing to enforce rules and procedures designed to protect inmates. Each of such acts omissions, singularly or in combination with others, proximately caused the injuries that decedent suffered and that resulted in his death.

7.6 Defendant GEO is liable jointly as a result of their participatory assistance, and encouragement of the wrongful conduct that caused Plaintiffs' injuries.

VIII.

WRONGFUL DEATH AND SURVIVAL CLAIMS

8.1 Plaintiffs are surviving heirs at law, and are the parents of Darrell Clayton DeLany, hereinafter called "the decedent." Plaintiffs bring this wrongful death and survival action pursuant to TEX. CIV. PRAC. & REM. CODE, 71.001 et. seq. and 71.021, respectively, because of injuries suffered by the decedent resulting in decedent's wrongful death based upon the facts and legal theories more fully set out above. Plaintiffs sue in all capacities in which they are entitled to recover.

8.2 Decedent was injured as a result of Defendant's negligence described more fully above. As a result of said occurrence, the decedent suffered bodily injuries resulting in the decedent's death.

8.3 At the time of the decedent's wrongful death, the decedent was survived by his parents, Daniel and Cynthia DeLany, who are entitled to recover damages in this action.

8.4 Daniel Delany and Cynthia DeLany are the decedent's parents, and is the personal representatives of decedent's estate. Plaintiffs seek damages for the conscious pain and suffering and mental anguish that the decedent suffered prior to death and for the reasonable and necessary expenses which were reasonably incurred because of such wrongful death. Plaintiffs also bring individual claims for the personal injuries suffered by him. Plaintiffs seek damages within the jurisdictional limits of the court.

IX.

EXEMPLARY DAMAGES

9.1 Defendants GEO, and Copeland have specific intent to cause substantial injury to Plaintiffs or are substantially certain such injury will occur. Alternatively, Defendants

GEO, and Copeland engaged in conduct which, when viewed objectively from their standpoint at the time of occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and of which the Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others, including Daniel and Cynthia DeLany and their son. Defendants GEO, and Copeland caused Plaintiff serious harm, including the death of Darrell Clayton DeLany.

9.2 Defendants GEO, and Copeland are liable for their own criminal acts and the criminal acts of their employees because Defendants authorized the doing and the manner of the act; the employees were unfit and Defendants acted with malice in employing or retaining the employees, the employees were employed in a managerial capacity and were acting in the scope of employment; or Defendants or a manager of Defendants ratified or approved the act(s).

V.

DAMAGES FOR PLAINTIFF, THE ESTATE OF DARRELL CLAYTON DELANY

10.1 During his lifetime, decedent was industrious and energetic. He gave advice, counsel, comfort, care and protection to his parents. In all reasonable probability, he would have continued to provide for and support his family for the remainder of their lives. As a direct and proximate result of the occurrence made the basis of this lawsuit, Darrell Clayton DeLany was caused to suffer great physical and emotional injury, and death.

10.2 As a direct and proximate result of the occurrence made the basis of this lawsuit,

Darrell Clayton DeLany incurred the following damages:

1. Physical pain and suffering in the past;
2. Mental anguish in the past;
3. Loss of earning and lost earning capacity in the past and future.

XI.

DAMAGES FOR PLAINTIFF, DANIEL DELANY

11.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Daniel DeLany has incurred the following damages:

1. Mental anguish, grief and sorrow in the past;
2. Mental anguish, grief and sorrow in the future;
3. Loss of Consortium in the past, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love; and,
4. Loss of Consortium in the future, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love.

XII.

DAMAGES FOR PLAINTIFF, CYNTHIA DELANY

12.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Cynthia DeLany has incurred the following damages:

1. Mental anguish, grief and sorrow in the past;
2. Mental anguish, grief and sorrow in the future;
3. Loss of Consortium in the past, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love; and,

4. Loss of Consortium in the future, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love.

XIII.

JURY DEMAND

13.1 Plaintiffs demand a trial by jury.

XIV.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, respectfully pray that Defendants be cited to appear and answer herein, that a preliminary injunction be issued, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants Geo, and Copeland, jointly and severally, for all damages caused to Plaintiffs including general, special and exemplary damages; pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Signed this 20th day of April, 2012.

Respectfully submitted,

By: 

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