

R. J. MARZELLA & ASSOCIATES, P.C.
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Pennsylvania Supreme Court I.D. No. 86072
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The Estate of Marie Lamey

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA
CIVIL ACTION – LAW

JOHN LAMEY AS EXECUTOR
FOR THE ESTATE OF MARIE LAMEY
Plaintiff

v.

NORTHUMBERLAND COUNTY;
NORTHUMBERLAND COUNTY BOARD OF
COMMISSIONERS;
TOWNSHIP OF RUSH;
VINNY CLAUSI;
FRANK SAWICKI;
MERLE PHILLIPS;
KYMBERLEY BEST;
PAUL FROUTZ;
JASON LEHMAN;
ERIC WENDT
Defendants

DOCKET NO.
CIVIL ACTION

JURY TRIAL DEMANDED

COMPLAINT

THE PARTIES

1. At all relevant times hereto, Marie Lamey was an adult individual with a residential address of 729 Elysburg Road, Catawissa, Pennsylvania 17820.

2. At all relevant times hereto, John Lamey was an adult individual with a residential address of 729 Elysburg Road, Catawissa, Pennsylvania 17820.
3. Northumberland County is a county located in central Pennsylvania and is the county in which the Plaintiffs resided at all relevant times hereto.
4. At all relevant times hereto, the Northumberland County Board of Commissioners was a local county government entity, acting under the color of state law, with a business address of 399 S. 5th Street, Sunbury, Pennsylvania 17801.
5. Rush Township is located within Northumberland County and is the township in which the Plaintiffs resided at all relevant times hereto.
6. At all relevant times hereto, Vinny Clausi was an adult individual and a sitting commissioner on the Northumberland County Board of Commissioners.
7. At all relevant times hereto, Frank Sawicki was an adult individual and a sitting commissioner on the Northumberland County Board of Commissioners.
8. At all relevant times hereto, Merle Phillips was an adult individual and a sitting commissioner on the Northumberland County Board of Commissioners.
9. At all relevant times hereto, Kymberley Best was an adult individual and the Chief Clerk of Northumberland County.
10. At all relevant times hereto, Paul Froutz was an adult individual, the Emergency Management Director of Northumberland County, and the Director of the 911 Center of Northumberland County.

11. At all relevant times hereto, Jason Lehman was an adult individual and an employee of Northumberland County in charge of the mapping system for 911 services in Northumberland County.
12. At all relevant times hereto, Defendant Lehman was an agent and/or, apparent agent, ostensible agent, employee and/or servant of Defendant Northumberland County.
13. At all relevant times hereto, Eric Wendt was an adult individual and an employee of Northumberland County. He was the computer technician in charge of the mapping software used by Northumberland County 911 services.
14. At all relevant times hereto, Defendant Wendt was an agent and/or, apparent agent, ostensible agent, employee and/or servant of Defendant Northumberland County.

JURISDICTION

15. Pursuant to 42 U.S.C.A. § 1983, Defendants' violation of Marie Lamey's rights afforded by the Fourteenth Amendment of the United States Constitution, grants this Honorable Court federal question jurisdiction over this matter.
16. Pursuant to 28 U.S.C. §1367(a), this Honorable Court also has jurisdiction over the related state negligence claims arising out of this action.

FACTS

17. On the night of February 14, 2011, Marie and John Lamey were at their home in Rush Township, Northumberland County, Pennsylvania.

18. At some point that night, Mrs. Lamey became unresponsive and lost consciousness.
19. A member of the family immediately contacted 911.
20. The 911 call from the Lamey's home was routed to the Montour County 911 system, despite the fact that the Lamey's home was in Northumberland County.
21. This routing error resulted in the dispatch of an ambulance from Danville EMS located in Montour County.
22. The Danville EMS station is located approximately eight (8) miles from the Lamey home.
23. Following dispatch, the Danville Ambulance took more than fourteen (14) minutes to arrive at the Lamey home.
24. Mrs. Lamey was unconscious upon arrival by Danville EMS.
25. Paramedics and EMT's from Danville EMS began CPR immediately.
26. The Danville EMS team administered cardiac medications and an endotracheal tube was placed.
27. Mrs. Lamey was then placed on Danville EMS's ventilation machine.
28. The Elysburg Fire Department EMS (hereinafter Elysburg EMS) station is located in Northumberland County, only 1.6 miles from the Lamey home.
29. The Elysburg EMS were not dispatched until 1:30 am and arrived at the Lamey home four (4) minutes later at 1:34 am.

30. Mrs. Lamey was transported by Danville EMS to Geisinger Medical Center's Emergency Department at 100 North Academy Avenue, Danville, Pennsylvania.
31. Unfortunately, due to the delay in instituting emergency care at the scene, Mrs. Lamey passed away on February 22, 2011.
32. The causes of death included respiratory failure, anoxic brain injury, and cardiac arrest.
33. In the years prior to the Lamey's February 14, 2011 call to 911, Defendant Froutz had submitted multiple requests to the Northumberland County Commissioners for a new Computer Aided Dispatch (CAD) System for the Northumberland County 911 Center.
34. These requests were submitted in writing either directly or through the Chief Clerk, Defendant Best.
35. The request was approved, and on January 25, 2011, a new CAD system went online for Northumberland County.
36. The CAD system experienced several technical issues after its inauguration.
37. Discrepancies that existed between the parcel numbers in each township within the county and the mailing addresses of the individual houses or buildings were resulting in dispatchers receiving 911 calls with an incorrect address for that caller.
38. This misinformation was the result of a problem with the mapping software used by the 911 centers.

39. The dispatchers at the 911 center were not trained on how to handle the discrepancy.
40. Requests were made by Northumberland County to the townships within the county to modify their residential addresses, so that the 911 software would be able to identify the location of 911 callers.
41. Rush Township failed to comply with this request.
42. Members of the Elysburg Fire Company expressed concern regarding these technical difficulties and their potential danger at the Northumberland County Commissioners meeting on March 15, 2011. (*See Exhibit 1*).
43. At that meeting, Elysburg Assistant Fire Chief Robert Dlugé acknowledged that many jurisdictions within the county were experiencing problems with the 911 system.
44. Mr. Dlugé specifically acknowledged that the technical issues with the 911 system resulted in Mrs. Lamey's death because the 911 call from the Lamey home was forwarded to Montour County and the Danville EMS instead of the Elysburg EMS in Northumberland County.
45. Defendant Frouitz conceded that problems existed with the current system and ensured the attendants of the meeting that the Commissioners had committed to moving forward with making improvements.
46. Defendant Frouitz also recommended the Commissioners adopt a countywide ordinance mandating all municipalities compile proper addresses that would result in more efficient responses to 911 calls.

47. Letters testamentary on the Estate of Marie Lamey were granted to John Lamey, Executor, named in the will, on March 9, 2011.

48. Plaintiff, John Lamey, Individually and as the Executor for the Estate of Marie Lamey, deceased, brings this action on behalf of the Estate of Marie Lamey under and by virtue of the Act of 1976, July 9, P.L. 586, No. 142, §2, 42 Pa. C.S.A. §8301.

49. Plaintiff, John Lamey, Individually and as the Executor for the Estate of Marie Lamey, deceased, on behalf of all persons entitled to recover damages under and by virtue of the Act of 1976 July 9, P.L. 586, No. 142, §2, 42 Pa. C.S.A. §8302.

50. The following are all persons entitled by law to recover damages for the wrongful death and their relationship to the decedent.

- a. John Lamey, Husband
- b. Ian Lamey, Son
- c. Patrick Lamey, Son

51. At the time of her death, Marie Lamey was 50 years of age, having been born on January 7, 1961.

52. Mrs. Lamey did not bring a claim for damages during her lifetime.

53. As a result of Marie Lamey's wrongful death, Plaintiff has incurred medical, funeral, burial and related expenses and a claim is made therefor.

54. As a result of Marie Lamey's wrongful death, Plaintiff claims any and all damages recoverable under and by virtue of the Act of 1976, July 9, P.L. 506 No. 142, §2 42 Pa. C.S.A. §8301.
55. As a result of Marie Lamey's wrongful death, Plaintiff claims any and all damages recoverable under and by virtue of the Act of 1976, July 9, P.L. 586, No. 142, §2, 42 Pa. C.S.A. §8302.
56. As a result of the delay in EMS arriving at the Lamey home to administer life-saving medical care, Mrs. Lamey experienced an increase risk of harm that resulted in her death.
57. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for her welfare, and deliberate indifference to Mrs. Lamey's serious medical needs as alleged herein, Mrs. Lamey was placed at an increased risk of harm and, in fact, died as a result of Defendants' negligence and a claim is made therefor.
58. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for his welfare, and deliberate indifference, John Lamey has undergone great physical and mental pain and suffering, great inconvenience in carrying out his daily activities and a loss of life's pleasures and enjoyment and a claim is made therefor.
59. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for her welfare, and deliberate indifference to Mrs. Lamey's serious medical needs as alleged herein, she went untreated for a

critical period of time and ultimately resulted in her death and a claim is made therefor.

60. As a direct and proximate result of the Defendants' negligence, gross negligence and reckless disregard for her welfare, and deliberate indifference, Mrs. Lamey sustained physical pain, mental anguish, discomfort, inconvenience, distress and ultimately death as a result of her injuries and a claim is made therefor.

61. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for her welfare, and deliberate indifference to Mrs. Lamey's serious medical needs, John Lamey was forced to incur liability for medical treatment, medicines, hospitalizations, and miscellaneous expenses and a claim is made therefor.

62. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for her welfare, and deliberate indifference to Mrs. Lamey's serious medical needs as alleged herein, Mrs. Lamey experienced great physical pain and suffering and a loss of life's pleasures and enjoyment and a claim is made therefor.

63. As a direct and proximate result of the Defendants' negligence, gross negligence, reckless disregard for her welfare, and deliberate indifference to Mrs. Lamey's serious medical needs as alleged herein, Mrs. Lamey sustained a loss of earnings, a loss of earning power, and a loss of earning capacity and a claim is made therefor.

64. The Defendants in the above-caption are jointly and severely liable to the Plaintiff for the aforementioned injuries and damages set forth herein and incorporated by reference.

COUNT I – Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey
v.
Northumberland County**

65. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

66. Defendant Northumberland County is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by its negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to appropriately route 911 calls coming into Northumberland County;
- c. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- d. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- e. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

67. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Northumberland County for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT II – Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Northumberland County

68. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

69. Defendant Northumberland County is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by its negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

70. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Executor of the Estate of Marie Lamey demands judgment against Defendant Northumberland County for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT III- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Northumberland County Board of Commissioners

71. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

72. Defendant Northumberland County Board of Commissioners is liable to John Lamey for the injuries and damages herein which were directly and proximately

caused by their negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
73. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Northumberland County Board of Commissioners for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT IV– Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Northumberland County Board of Commissioners

74. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

75. Defendant Northumberland County Board of Commissioners is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by their negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

76. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Northumberland County Board of Commissioners for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT V-- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Township of Rush

77. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

78. Defendant Township of Rush is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by its negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

79. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Township of Rush for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT VI- Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Township of Rush

80. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

81. Defendant Township of Rush is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by its negligence,

gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
82. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Township of Rush for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT VII- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Vinny Clausi

83. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

84. Defendant Vinny Clausi is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

85. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Vinny Clausi for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT VIII– Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Vinny Clausi

86. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

87. Defendant Vinny Clausi is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

88. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Vinny Clausi for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT IX- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Frank Sawicki

89. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

90. Defendant Frank Sawicki is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross

negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
91. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Frank Sawicki for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT X- Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Frank Sawicki

92. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

93. Defendant Frank Sawicki is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

94. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Frank Sawicki for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XI– Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

**v.
Merle Phillips**

95. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

96. Defendant Merle Phillips is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

97. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Executor of the Estate of Marie Lamey demands judgment against Defendant Merle Phillips for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XII- Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Merle Phillips

98. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

99. Defendant Merle Phillips is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross

negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
100. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Merle Phillips for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XIII- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Kymerley Best

101. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
102. Defendant Kymerley Best is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by their negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:
- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
 - b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
 - c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

103. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Kymberley Best for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XIV– Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Kymerley Best

104. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
105. Defendant Kymerley Best is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by her negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:
- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
 - b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
 - c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
 - d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
 - e. failing to appropriately route 911 calls coming into Northumberland County;
 - f. failing to train Northumberland 911 dispatchers to use 911 system properly;
 - g. abandoning a known duty to train Northumberland 911 dispatchers;
 - h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

106. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Executor of the Estate of Marie Lamey demands judgment against Defendant Kymberley Best for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XV- Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Paul Froutz

107. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
108. Defendant Paul Froutz is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross

negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
109. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Paul Froutz for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XVI- Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Paul Froutz

110. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
111. Defendant Paul Froutz is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:
- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
 - b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
 - c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

112. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Paul Frouitz for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XVII– Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Jason Lehman

113. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
114. Defendant Jason Lehman is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:
- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
 - b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
 - c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
 - d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
 - e. failing to appropriately route 911 calls coming into Northumberland County;
 - f. failing to train Northumberland 911 dispatchers to use 911 system properly;
 - g. abandoning a known duty to train Northumberland 911 dispatchers;
 - h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

115. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Executor of the Estate of Marie Lamey demands judgment against Defendant Jason Lehman for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XVIII- Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Jason Lehman

116. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

117. Defendant Jason Lehman is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence,

gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;

- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
 - n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
 - o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
 - p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
 - q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
 - r. failing to train 911 employees where the need for more or different training is obvious;
 - s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
 - t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.
118. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in

Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Jason Lehman for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XIX– Violation of 42 U.S.C. § 1983

**John Lamey, as the Executor for
the Estate of Marie Lamey**

v.

Eric Wendt

119. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.

120. Defendant Eric Wendt is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by their negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:

- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
- b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
- c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;

- d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
- e. failing to appropriately route 911 calls coming into Northumberland County;
- f. failing to train Northumberland 911 dispatchers to use 911 system properly;
- g. abandoning a known duty to train Northumberland 911 dispatchers;
- h. failing to properly supervise Northumberland 911 dispatchers;
- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;

- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;
- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

121. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Eric Wendt for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT XX– Negligence

**John Lamey, as the Executor for
the Estate of Marie Lamey**

**v.
Eric Wendt**

122. Paragraphs one (1) through sixty-four (64) of this Complaint are incorporated herein by reference as if set forth at length.
123. Defendant Eric Wendt is liable to John Lamey for the injuries and damages herein which were directly and proximately caused by his negligence, gross negligence, reckless indifference, and/or deliberate indifference to the serious medical needs of Marie Lamey by:
- a. failing to provide Mrs. Lamey with emergency care in a timely manner;
 - b. failing to fully and/or appropriately staff the Northumberland County 911 Center;
 - c. failing to pay Northumberland County 911 employees fair and/or reasonable and/or sufficient wages;
 - d. failing to ensure employees of the Northumberland County 911 system were qualified to perform the functions and/or duties of their employment positions;
 - e. failing to appropriately route 911 calls coming into Northumberland County;
 - f. failing to train Northumberland 911 dispatchers to use 911 system properly;
 - g. abandoning a known duty to train Northumberland 911 dispatchers;
 - h. failing to properly supervise Northumberland 911 dispatchers;

- i. abandoning a known duty to supervise Northumberland 911 dispatchers;
- j. failing to address a pattern of behavior by 911 dispatchers that resulted in harm to the public;
- k. failing to address the need for more or different training of Northumberland County 911 dispatchers;
- l. failing to address the need for more or different supervision of Northumberland County 911 dispatchers;
- m. failing to ensure a properly functioning 911 system was in place in Northumberland County;
- n. failing to ensure that all townships within the county adhered to the address changes necessary for the 911 system to work properly;
- o. failing to address the problems with the 911 system despite having knowledge that the 911 dispatchers would confront the problem of conflicting addresses and parcel numbers;
- p. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite a history of 911 dispatchers mishandling such situations;
- q. failing to address the problem with the 911 system and/or the lack of training and/or supervision of 911 dispatchers despite such situations frequently causing the deprivation of a constitutional right;
- r. failing to train 911 employees where the need for more or different training is obvious;

- s. violating Mrs. Lamey's constitutional right to life as provided by the Fourteenth Amendment of the United States Constitution;
- t. creating and/or implementing and/or enforcing a policy and/or custom and/or practice that led to the deprivation of a constitutional right.

124. As a direct and proximate result of the Defendant's negligence, gross negligence, reckless indifference, and deliberate indifference to Marie Lamey's serious medical condition, she sustained injuries and damages as set forth in Paragraphs forty-eight (48) through sixty-four (64) above which are incorporated herein by reference as if set forth at length.

WHEREFORE, John Lamey, as Exectuor of the Estate of Marie Lamey demands judgment against Defendant Eric Wendt for compensatory damages, punitive damages, and attorneys' fees in an amount in excess of \$150,000.00 exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration.

Respectfully submitted,

R. J. MARZELLA & ASSOCIATES, P.C.

BY: Charles W. Marsar
CHARLES W. MARSAR, ESQUIRE
ID No. 86072

DATED: 2/13/13

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN LAMEY as Executor for	:	CIVIL ACTION - LAW
The Estate of Marie Lamey	:	NO. 4:13-CV-00379-MWB-SES
Plaintiff,	:	
	:	
v.	:	(ELECTRONICALLY FILED)
	:	
NORTHUMBERLAND COUNTY;	:	
NORTHUMBERLAND COUNTY	:	
BOARD OF COMMISSIONERS;	:	Honorable Matthew W. Brann
TOWNSHIP OF RUSH; VINNY	:	Magistrate Judge Susan E. Schwab
CLAUSI; FRANK SAWICKI;	:	
MERLE PHILLIPS; KYMBERLEY	:	
BEST; PAUL FROUTZ; JASON	:	
LEHMAN; and ERIC WENDT,	:	
Defendants	:	JURY TRIAL DEMANDED

**MOTION OF DEFENDANTS, NORTHUMBERLAND COUNTY;
NORTHUMBERLAND COUNTY BOARD OF COMMISSIONERS; VINNY
CLAUSI; FRANK SAWICKI; MERLE PHILLIPS; KYMBERLEY BEST;
PAUL FROUTZ; JASON LEHMAN; AND ERIC WENDT, TO DISMISS
PLAINTIFF'S COMPLAINT PURSUANT TO F.R.C.P. 12(b)(6)**

1. Plaintiff initiated this action via Complaint filed on February 13, 2013.
2. Counsel for Moving Defendants returned Waivers of Service of Summons on or about April 10, 2013.
 - a. Defendants' Motion to Dismiss, filed pursuant to F.R.C.P. 12 (b) (6), is timely.
3. Plaintiff's cause of action concerns the demise of Plaintiff's decedent, Marie Lamey.
4. According to Plaintiff's Complaint, on the night of February 14, 2011, decedent became unresponsive while at her home in Northumberland County, Pennsylvania.
5. According to Plaintiff's Complaint, a member of the Lamey household telephoned 911 seeking medical assistance.
6. The Complaint contends that the 911 system mistakenly dispatched the call to nearby Montour County rather than Northumberland County.
7. The Complaint alleges that the alleged routing error resulted in the dispatch of the Danville EMS approximately 8 miles away from the Lamey household.
8. The Complaint alleges that the Danville ambulance allegedly arrived some 14 minutes after the call.

9. The Complaint alleges that the Danville EMS transported Marie Lamey to Geisinger Medical Center in Danville, Pennsylvania.
10. Plaintiff's decedent, Marie Lamey, passed away days later on February 22, 2011.
11. Plaintiff contends that the 911 system should have dispatched the emergency call to the Elysburg EMS that was only 1.6 miles away from the Lamey home. The Complaint alleges that Elysburg EMS was dispatched after Danville EMS arrived and it took the Elysburg EMS only 4 minutes to arrive.
12. In sum, the Complaint contends that as a result of the delay in EMS arrival, decedent, Marie Lamey, experienced an increased risk of harm that ultimately caused her death.
13. Plaintiff's Complaint alleges causes of action for violation of 42 U.S.C. §1983 as well as negligence actions against Northumberland County, Northumberland Board of Commissioners, the County Commissioners, and specified County employees.
14. Plaintiff's Complaint alleges that this Honorable Court has Federal question jurisdiction over the 14 U.S.C. 1983 claims, in addition to supplemental jurisdiction over the related state negligence claims pursuant to 28 U.S.C. §1367 (a).

15. Plaintiff's claims under 42 U.S.C. §1983 fail to state a claim upon which relief could be granted because it does not allege a violation of a right secured by the Constitution and the laws of the United. See Huston v. Montgomery County, No. 95-4209 (E. D. Pa. 1995).
16. Plaintiff's state law related negligence claims are barred by the Pennsylvania Political Subdivision Tort Claims Act. See 42 Pa.C.S. §8541 et seq.

WHEREFORE, Defendants, Northumberland County, Northumberland County Board of Commissioners, and the individually named Defendant Commissioners, respectfully request that this Honorable Court grant the Motion to Dismiss pursuant to F. R.C.P. 12 (b) (6), and enter an Order dismissing Plaintiff's Complaint in its entirety with prejudice.

Respectfully submitted,

Date: May 17, 2013

s/ Timothy J. McMahon
Timothy J. McMahon, Esquire
PA Attorney ID# 52918
Marshall Dennehey Warner
Coleman & Goggin
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tjmcmahon@mdwcg.com
Tele: (717)651-3505 FAX-(717)651-9630
Attorney for Defendants

PROOF OF SERVICE

I, Timothy J. McMahon, of Marshall, Dennehey, Warner, Coleman & Goggin, do hereby certify that on this 17th day of May, 2013, I served a copy of the foregoing ***Motion to Dismiss*** via efilng as follows:

Charles W. Marsar, Jr., Esquire
R.J. Marzella & Associates, P.C.
3513 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiff

Andrew J. Bellwoar, Esquire
Sheryl L. Brown, Esquire
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941 Pottstown Pike, Suite 200
Chester Springs, PA 19425
Counsel for Rush Township

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Moosic, PA 18507
*Counsel for Northumberland County
Defendants*

s/ Timothy J. McMahon
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R. J. MARZELLA & ASSOCIATES, P.C.

BY: Charles W. Marsar, Jr., Esquire

Pennsylvania Supreme Court I.D. No. 86072

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Attorneys for Plaintiff,

The Estate of Marie Lamey

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA
CIVIL ACTION – LAW**

JOHN LAMEY AS EXECUTOR	:	
FOR THE ESTATE OF MARIE LAMEY	:	
Plaintiff	:	CIVIL ACTION
v.	:	NO. 4:13-cv-00379-MWB-SES
	:	
NORTHUMBERLAND COUNTY;	:	
NORTHUMBERLAND COUNTY BOARD OF	:	
COMMISSIONERS;	:	
TOWNSHIP OF RUSH;	:	
VINNY CLAUSI;	:	
FRANK SAWICKI;	:	
MERLE PHILLIPS;	:	
KYMBERLEY BEST;	:	
PAUL FROUTZ;	:	
JASON LEHMAN;	:	JURY TRIAL DEMANDED
ERIC WENDT	:	
Defendants	:	

**PLAINTIFF'S RESPONSE TO MOTION OF DEFENDANTS, NORTHUMBERLAND
COUNTY; NORTHUMBERLAND COUNTY BOARD OF COMMISSIONERS; VINNY
CLAUSI; FRANK SAWICKI; MERLE PHILLIPS; KYMBERLEY BEST; PAUL FROUTZ;
JASON LEHMAN; AND ERIC WENDT, TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO F.R.C.P. 12(b)(6)**

1. Admitted.

2. Admitted.

a. Admitted

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Denied. It is specifically denied that the Plaintiff's claims under 42 U.S.C. §1983 fail to state a claim upon which relief could be granted. The Plaintiff's claim alleges a violation of a right secured by the Constitution and the laws of the United States. See Beswick v. City of Philadelphia, 2001 WL 210292 (E.D.Pa. 2001).

16. Admitted.

WHEREFORE, Plaintiff, John Lamey as Executor for the Estate of Marie Lamey, respectfully requests that this Honorable Court deny the Motion to Dismiss pursuant

to F.R.C.P. 12(b)(6) as to the Plaintiff's claims under 42 U.S.C. §1983 and grant the Motion to Dismiss pursuant to F.R.C.P. 12(b)(6) as to the Plaintiff's state law related negligence claims.

Respectfully submitted,

R. J. MARZELLA & ASSOCIATES, P.C.

BY: S/ CHARLES W. MARSAR, JR.
CHARLES W. MARSAR, JR., ESQUIRE
ID No. 86072

DATED: JUNE 5, 2013

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

	:	
	:	CIVIL ACTION
	:	
John Lamey,	:	NO. 4:13-cv-00379-MWB-SES
Executor of the Est. of Marie Lamie	:	
	:	
Plaintiff	:	
	:	
v.	:	
Northumberland County, et.al.	:	
	:	
Defendants	:	

CERTIFICATE OF SERVICE

I, Katie L. Adam, hereby certify that Plaintiff's Response to Motion of Defendants, Northumberland County; Northumberland County Board of Commissioners; Vinny Clausi; Frank Sawicki; Merle Phillips; Kymberley Best; Paul Froutz; Jason Lehman; and Eric Wendt to Dismiss Plaintiff's Complaint Pursuant to F.R.C.P. 12(b)(6) has been filed electronically on June 5, 2013 and is available for reviewing and downloading from the Court's Electronic Case Filing System. The ECF System's electronic service of the Notice of Electronic Case Filing constitutes service on all parties who have consented to electronic service.

R.J. Marzella & Associates

BY: s/ Katie L. Adam
Katie L. Adam, Law Clerk to
Charles W. Marsar, Esquire
Attorney for Plaintiff

Dated: June 5, 2013

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN LAMEY AS EXECUTOR FOR
THE ESTATE OF MARIE LAMEY,

Plaintiff,

v.

NORTHUMBERLAND COUNTY, et al.,

Defendants.

CIVIL ACTION NO. 4:13-CV-00379

(BRANN, J.)
(MEHALCHICK, M.J.)

REPORT AND RECOMMENDATION

This is a civil rights action, initiated upon the filing of the complaint in this matter on February 13, 2013, seeking an award of compensatory and punitive damages. ([Doc. 1](#)). In the complaint, the plaintiff pleads a claim under [42 U.S.C. § 1983](#) against each of the ten Defendants, asserting that the Defendants' actions constituted a state-created danger that deprived the Plaintiff's decedent of her life in violation of the due process clause of the Fourteenth Amendment to the United States Constitution. In addition, the Plaintiff pleads state negligence claims against each defendant based on the same conduct.

On May 17, 2013, the Northumberland County Defendants¹ filed a motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. ([Doc. 19](#)). On

¹ The "Northumberland County Defendants" are: Northumberland County, a political subdivision of the Commonwealth of Pennsylvania; the Northumberland County Board of Commissioners, the county's governing body; the individual County Commissioners, Vinny Clausi, Frank Sawicki, and Merle Phillips; Kymberley Best, the Chief Clerk of the County; Paulo Frouzt, Emergency Management Director for the County; and County employees Jason Lehman and Eric Wendt.

May 21, 2013, they filed a brief in support of their motion. (Doc. 20). On June 5, 2013, the Plaintiff filed his response to this motion and a brief in opposition. (Doc. 21; Doc. 22).

On June 7, 2013, Defendant Rush Township filed a separate motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, together with a brief in support of its motion. (Doc. 23; Doc. 24). On July 5, 2013, the Plaintiff filed his response to this motion and a brief in opposition. (Doc. 25; Doc. 26). On July 12, 2013, Rush Township filed its reply brief. (Doc. 27).

The motions are now ripe for decision on the papers. *See* Fed. R. Civ. P. 78(b); L.R. 7.9.

I. FACTUAL BACKGROUND

Plaintiff's complaint (Doc. 1) makes the following factual allegations, which for purposes of deciding the Defendants' motions to dismiss, this Court will accept as true. On the evening of February 14, 2011, Marie Lamey and her husband, the Plaintiff, were at their home in Rush Township, located within Northumberland County, Pennsylvania. (Doc. 1, ¶17). Marie Lamey became unresponsive and lost consciousness. (Doc. 1, ¶18). A member of the family dialed 911 to call for medical assistance. (Doc. 1, ¶19). Although the Lamey home was located within Northumberland County, the call was routed to the 911 system in neighboring Montour County, resulting in the dispatch of an ambulance from Danville EMS, located approximately eight miles from the Lamey home. (Doc. 1, ¶¶20-22). The Danville EMS ambulance arrived at the Lamey home approximately fourteen minutes later. (Doc. 1, ¶23). Upon arrival, the Danville EMS personnel found Marie Lamey unconscious and immediately began administering CPR, and then they administered cardiac medications, inserted an endotracheal tube, and placed Marie Lamey on a ventilation machine. (Doc. 1, ¶¶24-27). Marie Lamey was then transported to the emergency department at Geisinger Medical Center in Danville,

Pennsylvania. (Doc. 1, ¶30). She passed away several days later. (Doc. 1, ¶31). The causes of death included respiratory failure, anoxic brain injury, and cardiac arrest. (Doc. 1, ¶32).

While Danville EMS was on scene, a second ambulance was dispatched from Elysburg EMS, located 1.6 miles from the Lamey home. (Doc. 1, ¶28). The Elysburg EMS ambulance arrived at the Lamey home just four minutes after being dispatched. (Doc. 1, ¶29). The complaint alleges that Marie Lamey's death was caused by the delay in instituting emergency care at the scene, and that proper routing of the initial 911 call would have resulted in the prompt dispatch of an ambulance from Elysburg EMS and earlier commencement of emergency care on scene, which may have saved Marie Lamey's life. (Doc. 1).

The complaint alleges that the call-routing error was caused by a problem in the mapping software used by the Northumberland County 911 system. A new computer-aided dispatch system for Northumberland County was instituted on January 25, 2011. (Doc. 1, ¶35). In its first few weeks of operation, the new dispatch system had experienced several technical issues, the nature of which are not specified in the complaint. (Doc. 1, ¶36). The particular technical problem that manifested on February 14, 2011, however, involved a discrepancy between the parcel numbers in each township within the county and the mailing addresses assigned to the individual houses or buildings, which was mishandled by the mapping software and resulted in dispatchers receiving the 911 call with an incorrect location for the caller. (Doc. 1). Northumberland County allegedly knew of this particular problem and had requested that the townships within the county modify their residential addresses to permit the software to correctly map each caller's location. (Doc. 1). Rush Township allegedly failed to comply with this request, and Northumberland County allegedly failed to adequately train its dispatchers to handle the addressing issue. (Doc. 1, ¶).

The Defendants have moved to dismiss the complaint in its entirety for failure to state a claim upon which relief can be granted.

II. MOTION TO DISMISS STANDARD

Rule 12(b)(6) of the Federal Rules of Civil Procedure authorizes a defendant to move to dismiss for “failure to state a claim upon which relief can be granted.” *Fed. R. Civ. P. 12(b)(6)*. “Under Rule 12(b)(6), a motion to dismiss may be granted only if, accepting all well-pleaded allegations in the complaint as true and viewing them in the light most favorable to the plaintiff, a court finds the plaintiff’s claims lack facial plausibility.” *Warren Gen. Hosp. v. Amgen Inc.*, 643 F.3d 77, 84 (3d Cir. 2011) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007)). Although the Court must accept the allegations in the complaint as true, it is not compelled to accept “unsupported conclusions and unwarranted inferences, or a legal conclusion couched as a factual allegation.” *Morrow v. Balaski*, 719 F.3d 160, 165 (3d Cir. 2013) (quoting *Baraka v. McGreevey*, 481 F.3d 187, 195 (3d Cir. 2007)).

Under Rule 12(b)(6), the defendant has the burden of showing that no claim has been stated. *Kehr Packages, Inc. v. Fidelcor, Inc.*, 926 F.2d 1406, 1409 (3d Cir. 1991); *Johnsrud v. Carter*, 620 F.2d 29, 32–33 (3d Cir. 1980); *Holochek v. Luzerne County Head Start, Inc.*, 385 F. Supp. 2d 491, 495 (M.D. Pa. 2005). Although a plaintiff is entitled to notice and an opportunity to respond to a motion to dismiss, he has no obligation to do so – he may opt to stand on the pleadings rather than filing an opposition. The Court must nevertheless examine the complaint and determine whether it states a claim as a matter of law. *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991); *Anchorage Assocs. v. Virgin Islands Bd. of Tax Review*, 922 F.2d 168, 174 (3d Cir. 1990). In deciding the motion, the Court may consider the facts alleged on the face of the complaint, as well as “documents incorporated into the complaint by reference, and matters of

which a court may take judicial notice.” *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007).²

III. DISCUSSION

A. SECTION 1983 CLAIMS

The Plaintiff has pleaded a § 1983 civil rights claim against each of the Defendants, asserting that their actions deprived Marie Lamey of her life in violation of the due process clause of the Fourteenth Amendment. The Defendants have moved to dismiss this civil rights claim on the ground that the complaint fails to allege a deprivation of substantive due process.

Section 1983 provides in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

42 U.S.C. § 1983.

Section 1983 does not create substantive rights, but instead provides remedies for rights established elsewhere. *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 816 (1985). To establish a § 1983 claim, the Plaintiff must establish that the Defendants, acting under color of state law, deprived the decedent of a right secured by the United States Constitution. *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1141 (3d Cir. 1995).

It is well established that “the Due Process Clause[] generally confer[s] no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty or

² In addition to the complaint in this matter (Doc. 1), the Court has reviewed the sole exhibit attached to the complaint (Doc. 1-1), which appears to be an excerpt from the minutes of a public meeting of the Northumberland County Board of Commissioners on March 15, 2011, during which recent problems with the 911 computer-aided dispatch system were discussed.

property interests of which the government itself may not deprive the individual.” *DeShaney v. Winnebago County Dep’t of Soc. Servs.*, 489 U.S. 189, 196 (1989). The Third Circuit has further held that “there is no federal constitutional right to rescue services, competent or otherwise. Moreover, because the Due Process Clause does not require the State to provide rescue services, it follows that we cannot interpret that clause so as to place an affirmative obligation on the State to provide competent rescue services if it chooses to provide them.” *Brown v. Commonwealth of Pa. Dep’t of Health Emergency Med. Servs. Training Inst.*, 318 F.3d 473, 478 (3d Cir. 2003); *see also Badway v. City of Philadelphia*, 415 Fed. App’x 420, 421 (3d Cir. 2011) (relying on *Brown* in rejecting argument that, by inducing public to rely on flawed emergency services, municipality was liable for death caused by delay in arrival of paramedics).

The Supreme Court has recognized two exceptions to this general rule: the “special relationship” exception and the “state-created danger” exception. *See DeShaney*, 489 U.S. at 200–01; *Kneipp v. Tedder*, 95 F. 3d 1199, 1201 (3d Cir. 1996). Under *DeShaney*, a “special relationship” exists only where the State affirmatively acts to curtail the individual’s freedom such that he or she can no longer care for him or herself, such as through incarceration, involuntary institutionalization, or similar restraint of personal liberty. *See DeShaney*, 489 U.S. at 199–201; *see also Regalbuto v. City of Philadelphia*, 937 F. Supp. 374, 379–80 (E.D. Pa. 1995) (finding no “special relationship” was established by a 911 dispatcher’s assurances that help was on its way), *aff’d*, 91 F.3d 125 (3d Cir. 1996) (table decision). The Plaintiff does not argue that a special relationship existed in this case.

Under the “state-created danger” theory, “liability may attach where the state acts to *create or enhance* a danger that deprives the plaintiff of his or her Fourteenth Amendment right to substantive due process.” *Morrow*, 719 F.3d at 177 (emphasis in original). To establish a

claim under § 1983 claim under the state-created danger theory, a plaintiff must prove the following four elements:

- 1) the harm ultimately caused was foreseeable and fairly direct;
- 2) a state actor acted with a degree of culpability that shocks the conscience;
- 3) a relationship between the state and the plaintiff existed such that the plaintiff was a foreseeable victim of the defendant's acts, or a member of a discrete class of persons subjected to the potential harm brought about by the state's actions, as opposed to a member of the public in general; and
- 4) a state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted at all.

Morrow, 719 F.3d at 177.

With respect to its caveat in the third element, the Third Circuit has previously noted that “when the alleged violation involve[s] a policy directed at the public in general, ... the basis for the state-created danger theory [i]s obviated insofar as the defendant lacked specific knowledge of the plaintiffs’ condition, and a relationship between the defendants and plaintiffs did not exist.” *Kneipp*, 95 F.3d at 1208 (citing *Mark*, 51 F.3d at 1153).

Moreover, “the Third Circuit’s cases uniformly require physical intervention in which the state, through its action, imposes limits on a person’s freedom of action that make the person more vulnerable to danger.” *Perez v. City of Philadelphia*, 701 F. Supp. 2d 658, 668 (E.D. Pa. 2010). State-created danger liability requires an affirmative act by state actors that “either impermissibly limited the freedom of the plaintiffs to act on their own behalf or barred their access to outside support.” *D.R. v. Middle Bucks Area Vocational Technical Sch.*, 972 F.2d 1364, 1376 (3d Cir. 1992) (en banc); see also *Perez*, 701 F. Supp. 2d at 669. Nowhere in the complaint does the Plaintiff allege an action by any of the Defendants that limited the options available to the decedent after her family called 911: Marie Lamey’s family could have taken her to the

hospital, called a private ambulance, or engaged in some other form of self-help. Instead, they voluntarily limited their freedom of action by relying on the 911 call alone. See *Perez*, 701 F. Supp. 2d at 670. Reliance on rescue services dispatched pursuant to a 911 call, by itself, is insufficient to establish state-created danger liability. See *Ye v. United States*, 484 F.3d 634, 640 (3d Cir. 2007); *Bright v. Westmoreland County*, 443 F.3d 276, 284 (3d Cir. 2006); *Brown*, 318 F.3d at 483; *Thornton v. City of Pittsburgh*, 777 F. Supp. 2d 946, 954 (W.D. Pa. 2011); *Perez*, 701 F. Supp. 2d at 670.

In support of his argument, the Plaintiff relies exclusively on an unpublished Eastern District of Pennsylvania case, *Beswick v. City of Philadelphia*, No. CIV. A. 00-1304, 2001 WL 210292 (E.D. Pa. Mar. 1, 2001), attempting to draw a parallel between the facts of *Beswick* and those of this case. However, *Beswick* appears to be in conflict with subsequent Third Circuit decisions that have explicitly rejected the proposition that delayed rescue services may give rise to state-created danger liability. See *Brown*, 318 F.3d at 478; *Badway*, 415 Fed. App'x at 421. It is also in conflict with a subsequent decision by the same court. See *Perez*, 701 F. Supp. 2d at 670.

Moreover, the facts of *Beswick* are distinguishable from the facts of this case. The conduct at issue in *Beswick* was a 911 dispatcher's referral of a medical emergency call to a private ambulance company in return for a referral fee, and in violation of an established regulation that required all medical emergencies to be referred directly to the fire department; here, the conduct alleged in the complaint was the adoption and implementation of a flawed computer-aided dispatch system by the county. First, the dispatcher's act in *Beswick* was a purposeful one, as opposed to the inadvertent delay involved in this case. See *Brown*, 318 F.3d at 481 (noting that a delay by EMTs in reaching the decedent was not caused by their purposely delaying their rescue efforts). Second, the dispatcher's act in *Beswick* effectively barred the

victim from receiving fire department assistance, re-routing the call for help instead to a private ambulance company. See *Beswick*, 2001 WL 210292, at *15 (finding that dispatcher's acts prevented victim from receiving promised public aid from fire department paramedics); see also *D.R.*, 972 F.2d at 1376; *Perez*, 701 F. Supp. 2d at 669. Third, the dispatcher's act in *Beswick* concerned a discrete victim whose perilous condition was known to the dispatcher when she referred the call to a private ambulance company instead of the fire department, whereas the adoption and implementation of an allegedly flawed computer-aided dispatch system in this case was an act directed at the public in general, without any specific knowledge of Marie Lamey's condition (which, of course, had not yet occurred). See *Kneipp*, 95 F.3d at 1208. Indeed, this case better resembles the earlier *Huston* case discussed within the *Beswick* opinion, in which the same court found no state-created danger in a municipality's flawed 911 system, where a combination of human and computer error caused a delay that allegedly contributed to the decedent's death. See *Beswick*, 2001 WL 210292, at *14; *Huston v. Montgomery County*, No. CIV. A. 95-4209, 1995 WL 766308, at *4-*6 (E.D. Pa. Dec. 28, 1995).

Accordingly, the complaint has failed to state a plausible claim of violation of the Marie Lamey's substantive due process rights.³ The Third Circuit has instructed that if a complaint is vulnerable to dismissal for failure to state a claim, the district court must permit a curative amendment, unless an amendment would be inequitable or futile. *Grayson v. Mayview State*

³ To the extent the complaint seeks to impose liability upon the two municipalities, Northumberland County and Rush Township, it should be noted that they may only be held vicariously liable pursuant *Monell v. Dep't of Soc. Servs. of N.Y.*, 436 U.S. 658 (1978). To state a § 1983 claim against a municipality, a plaintiff must allege (1) a constitutional injury (2) that was caused when the municipality took action pursuant to a custom or policy. *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 120 (1992). But regardless of any policy or practice it may have adopted, municipal liability under *Monell* requires an underlying constitutional violation. See *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); *Williams v. Borough of West Chester*, 891 F.2d 458, 467 (3d Cir. 1989).

Hosp., 293 F.3d 103, 108 (3d Cir. 2002). The factual allegations in this case are not in dispute, and even accepting all of the Plaintiff's allegations as true, there is no plausible claim for a violation of Marie Lamey's right to substantive due process. Further amendment will not cure this deficiency. Therefore, it is recommended that the Plaintiff's § 1983 claims be dismissed with prejudice pursuant to [Rule 12\(b\)\(6\) of the Federal Rules of Civil Procedure](#).

B. STATE LAW NEGLIGENCE CLAIMS

The remaining claims are substantively identical state law negligence claims against each of the Defendants. Where a district court has dismissed all claims over which it had original jurisdiction, the Court may decline to exercise supplemental jurisdiction over state law claims. [28 U.S.C. § 1367\(c\)\(3\)](#). Whether the Court will exercise supplemental jurisdiction is within its discretion. *Kach v. Hose*, 589 F.3d 626, 650 (3d Cir. 2009). That decision should be based on "the values of judicial economy, convenience, fairness, and comity." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988). Ordinarily, when all federal law claims have been dismissed and only state law claims remain, the balance of these factors indicates that these remaining claims properly belong in state court. *Cohill*, 484 U.S. at 350. Finding nothing in the record to distinguish this case from the ordinary one, the balance of factors in this case "point[s] toward declining to exercise jurisdiction over the remaining state law claims." *See Cohill*, 484 U.S. at 350 n.7. Therefore, it is recommended that the Plaintiff's state law negligence claims be dismissed without prejudice pursuant to [28 U.S.C. § 1367\(c\)\(3\)](#).

IV. RECOMMENDATION

Based on the foregoing, it is recommended that:

1. The Northumberland County Defendants' motion to dismiss ([Doc. 19](#)) be **GRANTED**;
2. The Rush Township Defendants' motion to dismiss ([Doc. 23](#)) be **GRANTED**;
3. Counts I, III, V, VII, IX, XI, XIII, XV, XVII, and XIX of the complaint ([Doc. 1](#)) be **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to [Rule 12\(b\)\(6\) of the Federal Rules of Civil Procedure](#);
4. Counts II, IV, VI, VIII, X, XII, XIV, XVI, XVIII, and XX of the complaint ([Doc. 1](#)) be **DISMISSED WITHOUT PREJUDICE** pursuant to [28 U.S.C. § 1367\(c\)\(3\)](#); and
5. The Clerk be directed to **CLOSE** this case.

BY THE COURT:

Dated: January 22, 2014

s/ Karoline Mehalchick

KAROLINE MEHALCHICK
United States Magistrate Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN LAMEY AS EXECUTOR FOR
THE ESTATE OF MARIE LAMEY,

Plaintiff,

v.

NORTHUMBERLAND COUNTY, et al.,

Defendants.

CIVIL ACTION NO. 4:13-CV-00379

(BRANN, J.)
(MEHALCHICK, M.J.)

NOTICE

NOTICE IS HEREBY GIVEN that the undersigned has entered the foregoing **Report and Recommendation** dated **January 22, 2014**. Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in [28 U.S.C. § 636\(b\)\(1\)\(B\)](#) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

Dated: January 22, 2014

s/ Karoline Mehalchick
KAROLINE MEHALCHICK
United States Magistrate Judge