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5 Attorney for Plaintiffs
6 CLORISSA D. PORTER and
WILLIAM D. SPENCER

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10 SOUTHERN DIVISION

11 CLORISSA D. PORTER; WILLIAM D.
12 SPENCER, on behalf of themselves and all those
similarly situated,

13 Plaintiffs,

14 vs.

15 SOUTHERN NEVADA ADULT MENTAL
HEALTH SERVICES, a mental health treatment
16 operation licensed by the State of Nevada, also
known as RAWSON-NEAL PSYCHIATRIC
17 HOSPITAL; CHELSEA SZKLANY, in her official
and individual capacities as hospital administrator
18 of SOUTHERN NEVADA ADULT MENTAL
HEALTH SERVICES; MIKE WILLDEN, in his
19 official capacity as director of NEVADA
DEPARTMENT OF HEALTH AND HUMAN
20 SERVICES, a department of the State of Nevada;
21 RICHARD WHITLEY, in his official capacity as
22 administrator of NEVADA DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH,
23 previously organized as the NEVADA DIVISION
OF HEALTH and the NEVADA DIVISION OF
24 MENTAL HEALTH & DEVELOPMENTAL
SERVICES; LEON RAVIN, M.D., in his
25 individual and official capacities as associate
26 medical director of RAWSON-NEAL
PSYCHIATRIC HOSPITAL; KYLE DEVINE, in
27 his official capacity as bureau chief of NEVADA
BUREAU OF HEALTH CARE QUALITY AND

Case No.

**CLASS ACTION COMPLAINT FOR
VIOLATION OF CIVIL AND
CONSTITUTIONAL RIGHTS, DAMAGES,
DECLARATORY AND INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

1 COMPLIANCE, the licensing authority; LINDA J.
2 WHITE, M.D., in her individual and official
3 capacities as statewide psychiatric medical director
4 of the State of Nevada; RAO PUVVADA, M.D., a
5 psychiatrist at RAWSON-NEAL PSYCHIATRIC
6 HOSPITAL, in his individual capacity; JACOB
7 MANJOORAN, M.D., a psychiatrist at RAWSON-
8 NEAL PSYCHIATRIC HOSPITAL, in his
9 individual capacity; and DOES 1 to 50,

Defendants.

INTRODUCTION

10 1. This is an action for preliminary and permanent injunctive relief and damages pursuant to
11 42 U.S.C. § 1983 based upon the ongoing violation by Defendants of the rights secured to patients in the
12 RAWSON-NEAL PSYCHIATRIC HOSPITAL by the Fourth, Eighth, and Fourteenth Amendments to
13 the United States Constitution; Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §
14 1213, *et seq.*; 28 U.S.C. § 1658; the Emergency Medical Treatment and Active Labor Act (“EMTALA”),
15 42 U.S.C. § 1395dd, *et seq.*; and applicable Nevada state laws, as set forth below.

16 2. Plaintiffs CLORISSA D. PORTER, WILLIAM D. SPENCER, and the class of similarly
17 situated persons they seek to represent, are former psychiatric patients at RAWSON-NEAL
18 PSYCHIATRIC HOSPITAL (“RAWSON-NEAL”) who, while still in need of psychiatric care, were
19 involuntarily discharged from the facility by Defendants and their agents and employees, and sent to out-
20 of-state destinations where Defendants knew said patients would be unable to obtain proper treatment,
21 care and housing. Plaintiffs, and the class they seek to represent, were medicated before their discharge
22 and required to leave the facility under the influence of powerful anti-psychotic/tranquilizing medication.
23 While Plaintiffs, and the class they seek to represent, were in a drugged state, and incompetent to give
24 informed consent, pursuant to standard procedure, institution staff physically escorted them from the
25 facility to waiting taxis bound for the Greyhound Bus Station in Las Vegas, Nevada. They were then
26 directed and required to travel on pre-paid tickets which had been previously ordered and paid for by
27 SOUTHERN NEVADA ADULT MENTAL HEALTH SERVICES (“SNAMHS”).

28 3. Defendant SNAHMS is a mental health treatment operation licensed by the State of
Nevada, which is also known as RAWSON-NEAL PSYCHIATRIC HOSPITAL, admitted Plaintiff

1 PORTER on January 7, 2013, and involuntarily discharged her by Greyhound bus to Flint, Michigan, on
2 January 9, 2013, and admitted Plaintiff SPENCER on August 26, 2012, and on September 20, 2012,
3 involuntarily discharged him by Greyhound bus to Los Angeles, California.

4 4. Defendant CHELSEA SZKLANY, the hospital administrator of SNAHMS, Defendant
5 LEON RAVIN, M.D., associate medical director of RAWSON-NEAL, Defendant DOES 5 through 15,
6 and agents and employees under said Defendants' control and supervision, sent Plaintiffs, and the class
7 they seek to represent, involuntarily, to out-of-state destinations at which no prior arrangements had been
8 made for their follow-up care. They were transported out of the State of Nevada and then "dumped" into
9 cities and states with which they had little or no prior contacts and where no one was present to receive
10 or to care for them. They travelled without persons assigned to accompany them to their destinations,
11 without any money, without provisions for medical care, without any emergency phone numbers, without
12 any written instructions or assistance of any kind, and without notice to any other medical facilities, law
13 enforcement personnel, or other public agencies regarding their needs for continued case and the possible
14 dangers they presented to themselves and to the public at large by reason of their severe mental illnesses.
15 Defendants and each of them supplied only a minimum amount of liquid nutrient and a supply of
16 psychiatric medication supposedly sufficient for the days of travel, until the discharged patients' arrival
17 at the destinations chosen by said Defendants.

18 5. Representative Plaintiff, CLORISSA D. PORTER ("PORTER"), was discharged from
19 RAWSON-NEAL, operated by Defendant SNAMHS, on January 9, 2013. She had been admitted on
20 January 7, 2013, "depressed" and was experiencing suicidal ideation and had a diagnosed history of bi-
21 polar disorder and schizophrenia. Defendants knew she was penniless and homeless and Defendants and
22 each of them as well as their agents and employees operating under their control and direction knew or
23 acted in reckless disregard of the fact that she would be unable to care for herself during the journey or
24 upon her arrival. Before she was discharged Plaintiff PORTER was Abilify and another psychotropic
25 medication which affect thinking and judgment. While Defendants and each of them and their agents and
26 employees had purportedly developed a written treatment plan which included making arrangements for
27 her to be taken into a program in Caro, Michigan, this treatment plan was intentionally disregarded and
28 violated by her involuntary discharge without any arrangements having been made for PORTER to get to

1 Caro from Flint Michigan to which she was sent, nor to enter into any program, contrary to the plan.

2 6. On January 9, 2013, Defendant psychiatrist DR. RAO PUVVADA (hereinafter
3 “PUVVADA”) ordered PORTER discharged, physically escorted from the facility, and placed in a taxi
4 which had been ordered by Defendants. Plaintiff PORTER was then transported to the Greyhound Bus
5 Station where a pre-paid ticket had been purchased by the Defendants to take PORTER to Flint,
6 Michigan, a city at least two hours from Cora, Michigan, at which Defendants had supposedly made
7 arrangements for her to get continued treatment. Knowing no one in Flint, with no money and no way to
8 travel to Cora, she contacted Defendant RAWSON-NEAL where staff told her to contact the facility in
9 Caro. PORTER contacted her cousin in Las Vegas, Nevada, who wired her funds for food. PORTER
10 experienced a mental breakdown and was admitted to a hospital in Michigan which attempted,
11 unsuccessfully, to obtain PORTER’S records from RAWSON-NEAL There was no follow-up plan and
12 no prior contact had been made with any institutions in Michigan from which PORTER could obtain
13 medical and psychiatric care, and no arrangements were made with any facility at which PORTER could
14 obtain shelter or assistance of any kind. She was only given four days of powerful anti-psychotic
15 medications, but no food. Other Greyhound passengers generously shared food with her because she had
16 nothing to eat during the two-day bus ride from Nevada to Michigan.

17 7. Representative Plaintiff WILLIAM D. SPENCER was admitted to RAWSON-NEAL on
18 August 26, 2012, severely depressed. After a few weeks at RAWSON-NEAL, Defendant
19 MANJOORAN noted that SPENCER had previously lived in Glendale, California and told him that he
20 had a one-way ticket on a Greyhound bus to Los Angeles, California, for him. Dr. MANJOORAN told
21 him that after Greyhound dropped him off in Los Angeles, he should “call 9-1-1” for help. SPENCER
22 told MANJOORAN that that arrangement was unacceptable as he had no intention of returning to
23 California and that he wanted to stay in Las Vegas, Nevada where he’d been living for the past two years.
24 He refused to accept Dr. MANJOORAN’S suggested discharge plan.

25 8. On September 20, 2012, Dr. MANJOORAN told SPENCER that he was being discharged
26 that night and that he would be discharged to a “residential aftercare facility” in Pasadena, California
27 where he would receive further treatment and have a support structure which would allow him to return
28 to work. He was told that housing arrangements had been made at the aftercare facility in Pasadena.

1 9. That evening, between 10:00 P.M. and 12 A.M., Spencer was given a receipt for a
2 Greyhound bus ticket and three days' worth of depression medication. He was then escorted by hospital
3 staff to a taxi waiting outside of RAWSON-NEAL which took him to the Greyhound bus station where
4 he boarded the bus without food or money for an eight hour bus ride to Los Angeles, with no way to get
5 to Pasadena. It would have no made no difference, however, since contrary to explicit representations,
6 no prior arrangements had been made for SPENCER and he promptly became homeless, experienced
7 panic attacks and anxiety.

8 10. After learning of the "dumping" of a putative class member, JAMES FLAVY COY
9 BROWN, in Sacramento by Defendants, the Sacramento Bee newspaper began to investigate the
10 circumstances which led to BROWN's arrival in Sacramento and discovered that since the year 2008
11 approximately 1,500 patients of the RAWSON-NEAL PSYCHIATRIC HOSPITAL in Las Vegas,
12 Nevada, have been transported by Greyhound Bus to almost every state in the country, all with minimum
13 provisions to sustain them during protracted bus rides.

14 11. A random survey conducted by the NEVADA BUREAU OF HEALTH CARE QUALITY
15 AND COMPLIANCE (hereinafter "NBHCQC") of thirty (30) discharges of psychiatric patients from
16 Rawson-Neal revealed discharges in violation of policy and procedures of the Centers for Medicare and
17 Medicaid and the facility's own policies occur frequently. Patients, such as PORTER, SPENCER and
18 BROWN, were involuntarily placed on Greyhound buses and sent out of state without prior arrangements
19 having been made for follow-up care. These patients were not informed where they should go to receive
20 continuing care upon arrival at their destinations. Discharge orders did not specify the amount of
21 nutritional supplements to be provided to the patients for their extended bus trips; and appropriate and
22 necessary prescription medications were not provided. Furthermore, necessary information was not
23 provided on discharge documentation.

24 12. A May 4, 2013, investigation by the Centers for Medicare and Medicaid Services
25 (hereinafter "CMS"), a component of the U.S. Department of Health and Human Service (hereinafter
26 "DHHS"), also looked at the same thirty (30) patient charts. Its report corroborates the findings of the
27 NBHCQC and, in addition, faults the hospital's governing body for: 1) failing to ensure that the medical
28 staff was accountable to the governing body for the quality of care provided to patients; 2) failing to

1 ensure there was an effective discharge planning process that applied to all patients; 3) failing to identify
2 at an early stage of hospitalization patients who were likely to suffer adverse consequences upon
3 discharge without an adequate discharge plan; 4) failing to ensure patients were provided with a
4 discharge planning evaluation and needs assessment on a consistent basis in accordance with facility
5 policies and procedures; 5) failing to ensure a discharge planning evaluation was included in patients'
6 medical records according to facility policies and procedures; and 6) failing to ensure arrangements were
7 made by hospital staff for the initial implementation of patients' discharge plans. Cumulatively, these
8 systemic practices resulted in the failure of the facility to deliver statutory mandated care to patients.

9 13. After reviewing forty-seven (47) RAWSON-NEAL patient records, CMS reported
10 wholesale violations of its Standards for Discharge Planning (42 C.F.R. § 489.24(e)), including absence
11 of documentation regarding locations to which patients were being sent when discharged out-of-state;
12 absence of documentation that the patients were told how to access shelter or services; absence of
13 documentation regarding available services and how the patients could access those services; and lack of
14 documentation that any attempts were made to contact family or other support persons prior to discharge
15 of the psychiatric patients. These findings appeared in CMS' Summary Statement of Deficiencies, based
16 upon a survey completed on May 9, 2013.

17 14. Prior patients of RAWSON-NEAL have come forward and described being bussed to
18 various cities throughout the United States on the representation from Defendants and their agents and
19 employees that arrangements had been made for their housing and continued care but that, upon arriving
20 at the pre-determined destinations, these patients discovered that no arrangements for continued care,
21 treatment, housing and/or shelter had been made and that representations to the contrary were false.

22 15. Many prior patients discharged and subjected to "Greyhound therapy" — the name given
23 to the treatment described above — immediately became homeless, and several committed suicide. This
24 group of patients discharged from RAWSON-NEAL and bussed out of state suffered damages both
25 physical and psychological from which they may never recover. Unless the practices described herein
26 are enjoined, grave damages will continue to be inflicted upon this most vulnerable portion of our
27 population.
28

JURISDICTION & VENUE

1
2 16. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331 (in that it
3 arises under the Constitution of the United States); 28 U.S.C. § 1343(a)(3) (in that it is brought to address
4 deprivations, under color of state authority, of rights, privileges, and immunities secured by the United
5 States Constitution); Title II of the ADA, 42 U.S.C. 1213, *et seq.*; 28 U.S.C. 1658; EMTALA, 42 U.S.C.
6 §1395dd, *et seq.*; and under 28 U.S.C. § 1343(a)(4) (in that it seeks to obtain equitable relief under Acts
7 of Congress, specifically, under 42 U.S.C. § 1983, 42 U.S.C. 1213, *et seq.*; 28 U.S.C. 1658; 42 U.S.C. §
8 1395dd, *et seq.*; and the Declaratory Judgment Act (28 U.S.C. §§ 2201(a) and 2202)). The Court has
9 supplemental jurisdiction of the state law claims under 28 U.S.C. § 1367.

10 17. The statute of limitations related to the claims of Plaintiffs CLORISSA D. PORTER and
11 WILLIAM D. SPENCER, and the putative class members they seek to represent, was tolled by the
12 litigation in the action *Brown v. Southern Nevada Adult Mental Health Services*, United States District
13 Court for the District of Nevada, Case No. 2:13-cv-01039-JCM-PAL, where the same class claims
14 asserted in this Complaint were asserted therein.

15 18. Venue is proper in the United State District Court for the District of Nevada under 28
16 U.S.C. § 1391(b). Defendants are located in the District of Nevada and many of the acts and/or omissions
17 complained of herein occurred or will occur in this District.

18 19. Intradistrict venue is proper in the Southern Division of the United State District Court for
19 the District of Nevada under District of Nevada L.R. IA 6-1, because this action arises from acts and/or
20 omissions which occurred in the County of Clark, Nevada.

21 **PARTIES**

22 20. Plaintiff CLARISA D. PORTER is a 33 year old indigent woman diagnosed with Bi-Polar
23 disorder and Schizophrenia who was a resident of Las Vegas, Nevada, when, on January 7, 2013, she
24 was admitted to Defendant RAWSON-NEAL, psychotic, depressed and suicidal. PORTER was
25 prescribed psychoactive medication and, on January 9, 2013, he was involuntarily discharged and,
26 without having given her competent consent, was instructed, required, and escorted to a taxi to be taken
27 to the Greyhound Bus Station to be transported by Greyhound bus to Flint, Michigan, a city with which
28 he had no prior contacts and where he knew no one. Defendants made no arrangements for her to be met

1 upon arrival, to be sheltered, or for any follow-up care for his psychiatric and medical problems, and
2 provided no advance warning to local police or other agencies. Neither was PORTER advised to where
3 she should report to access the services she required and, having contacted RAWSON-NEAL for
4 assistance, was told that she should call a shelter in Caro, Michigan to see if they could provide
5 transportation. She experienced a mental breakdown, was without medication, and was admitted,
6 homeless and without any support, to a hospital in Michigan.

7 21. Plaintiff WILLIAM D. SPENCER is a 51 year old man who was employed in Las Vegas,
8 Nevada, when he was diagnosed with severe depression and admitted to RAWSON-NEAL on August
9 26, 2012. He was medicated and after a couple of weeks at the facility spoke with Defendant Dr.
10 MANJOORAN who noted that he had once lived in Glen dale, California and told SPENCER that he had
11 a one-way Greyhound bus ticket for him to Los Angeles, California. Defendant MANJOORAN told SPE
12 NCER that after Greyhound dropped him off in Los Angeles, he should “call 9-1-1” for help. SPENCER
13 told Defendant MANJOORAN that the arrangement was not acceptable to him, that he had no intention
14 of returning to California and wished to stay in Las Vegas, Nevada where he’d been living for the past
15 two years and where he had the best prospect to obtain employment and housing. He refused Defendant
16 MANJOORAN’ proposed discharge plans.

17 22. On September 20, 2012, Dr. MANJOORAN told SPENCER that he was being discharged
18 that night. SPENCER again expressed his desire to remain in Las Vegas but, in response, SPENCER
19 was told that he was going to be discharged to a “residential aftercare facility” in Pasadena, California
20 where he would receive further treatment and have a support structure to assist him to return to work.
21 SPENCER was told that housing arrangements had already been made for him in the aftercare facility in
22 Pasadena. He accepted the discharge plan with the aforementioned assurances.

23 23. That evening, shortly before midnight, SPENCER was given a receipt for the pre-
24 purchased Greyhound bus ticket and three days’ worth of depression medication he’d been prescribed at
25 RAWSON-NEAL. He was then escorted by hospital staff to a taxi waiting outside of RAWSON-NEAL
26 and taken to the Greyhound bus station.

27 24. After receiving the itinerary at the bus station, SPENCER realized he was bound for Los
28 Angeles, not Pasadena, and began to experience a panic attack. He attempted to change his destination

1 but was told that there was no Pasadena Greyhound bus station. SPENCER called RAWSON-NEAL and
2 was told that staff at the aftercare facility would drive to Los Angeles, pick him up and transport him to
3 Pasadena; he was told to call the aftercare facility once he reached Los Angeles.

4 25. Early in the morning of September 21, 2012, SPENCER arrived in Riverside, California,
5 without money or food, and having had nothing to eat during the eight hour bus ride. He immediately
6 called the aftercare facility in Pasadena, as he was instructed to do by RAWSON-NEAL and was
7 informed that they had no information about him or his arrival, that they had not been contacted by
8 RAWSON-NEAL, that they never performed “pickups” of residents, and furthermore, they had no space
9 for him at the facility. SPENCER experienced a severe panic attack and contacted the local police who
10 contacted the aftercare facility and received the same information. He became homeless in Riverside
11 until he finally connected with relatives in Hesperia, California who assisted him to recover from the
12 experiences of being misled and “dumped” by RAWSON-NEAL

13 26. Defendant MIKE WILLDEN (hereinafter “WILLDEN”) is, and at all times material
14 hereto was, the Director of the NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES
15 (hereinafter “NDHHS”), and oversees the provision of mental health services, and by statute, must
16 monitor all state funded mental health services. NDHHS is also directly involved in decisions regarding
17 agency structure, staffing and program development. Pursuant to N.R.S. § 433.314, NDHHS duties
18 include, but are not limited to, establishing policies to ensure adequate development and administration
19 of services. Defendant WILLDEN is sued in his official capacity.

20 27. Defendant RICHARD WHITLEY (hereinafter “WHITLEY”) is the Administrator of the
21 NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (hereinafter “DPBH”) whose task it
22 is to administer the provisions of the law relating to his/her division subject to administrative supervision
23 by the director. Establishment of the DPBH was preceded by the NEVADA DIVISION OF HEALTH
24 and the NEVADA DIVISION OF MENTAL HEALTH & DEVELOPMENTAL SERVICES, for which
25 Defendant WHITLEY was, and at all times material hereto, the administrator of both agencies.
26 Defendant WHITLEY is sued in his official capacity.

27 28. CHELSEA SZKLANY (hereinafter “SZKLANY”) is, and at all times material hereto was,
28 the Administrator of and is responsible for the care and treatment provided to patients by SOUTHERN

1 NEVADA ADULT MENTAL HEALTH SERVICES, as licensed by the State of Nevada to operates the
2 psychiatric treatment facility known as RAWSON-NEAL PSYCHIATRIC HOSPITAL, to which
3 Plaintiffs PORTER and SPENCER were admitted, respectively on January 7, 2013, and August 26,
4 2012, and from which they were involuntarily discharged and transported out-of-state by Greyhound bus,
5 respectively on January 9, 2013, and September 20, 201. Defendant SZKLANY is sued in her individual
6 and official capacities. For ease of reference, this complaint will refer to RAWSON-NEAL when
7 discussing the facility operated by SNAMHS.

8 29. Defendant LEON RAVIN, M.D. (hereinafter "RAVIN") is, and at all times material
9 hereto was, Associate Medical Director and responsible for care provided to patients at the RAWSON-
10 NEAL. Defendant RAVIN is sued in his individual and official capacities.

11 30. Defendant ROA PUVVADA, M.D., at all times material hereto was, a psychiatrist
12 responsible for the care and treatment of Plaintiff PORTER who, among other things, ordered PORTER
13 discharged to Flint, Michigan, by Greyhound bus without making appropriate arrangements for
14 PORTER'S follow-up care. Defendant PUVVADA is sued in his individual capacity.

15 31. Defendant JACOB MANJOORAN, M.D., at all times material hereto was, a psychiatrist
16 responsible for the care and treatment of Plaintiff SPENCER who, among other things, ordered
17 SPENCER discharged to Los Angeles, California, by Greyhound bus without making appropriate
18 arrangements for SPENCER'S follow-up care. Defendant MANJOORAN is sued in his individual
19 capacity.

20 32. Defendant KYLE DEVINE (hereinafter "DEVINE") is, and at all times material hereto
21 was, the Bureau Chief of the NEVADA BUREAU OF HEALTH CARE QUALITY AND
22 COMPLIANCE (hereinafter "BHCQC"), and is responsible for receiving and investigating complaints
23 that relate to health care facilities within the State of Nevada. DEVINE is also responsible for licensing
24 and certifying facilities, such as SNAMHS which operates the RAWSON-NEAL. Pursuant to N.R.S. §
25 439.150, the State Board of Health is supreme in all non-administrative matters and has general
26 supervision over all matters relating to the preservation of health and lives of Nevada citizens and over
27 the work of State Health Officer and all district, county and city health departments. Additionally, the
28 Department is designated as the agency to cooperate with federal authorities in the administration of

1 certain parts of the Social Security Act. Pursuant to N.R.S. § 439.160, the Health Division has
2 supervisory power over local health officers, and has authority to investigate cases of violation of the
3 law. Defendant DEVINE is sued in his official capacity.

4 33. Defendant LINDA J. WHITE, M.D. (hereinafter "WHITE") is, and at all times material
5 hereto was, the Statewide Psychiatric Medical Director of the State of Nevada and, in that capacity, is
6 responsible for the supervision and direction of the provision of services at RAWSON-NEAL operated
7 by SNAHMS. Defendant WHITE is sued in her individual and official capacities.

8 34. Defendant DOES 1 through 4, inclusive, are, and at all times material hereto, were the
9 social workers or other members of a discharge team, and responsible for the planning, oversight and
10 monitoring of discharging patients pursuant to federal and state regulations.

11 35. Defendant DOES 5 through 15, inclusive, are, and at all material times hereto, were
12 psychiatrists, mental health professionals, nurses, and other health workers and supervisors who were
13 responsible for making and executing policies which resulted in the discharge and transportation to out of
14 State of Nevada locations of patients for whom no prior follow-up care arrangements had been made,
15 resulting in the damage complained of herein.

16 36. Defendant DOES 16 through 50, inclusive, are all persons or entities who were in some
17 way responsible for the care and treatment of Plaintiffs PORTER and SPENCER, and the class of
18 persons they seek to represent, and/or for hiring, training, monitoring, creating and/or implementing
19 policies and procedures relating to, and/or supervising those directly responsible for the care and
20 treatment of PORTER and SPENCER who failed to discharge their duties appropriately causing
21 PORTER and SPENCER, and the class of persons they seek to represent, to suffer damages.

22 37. The real names and identities of those persons and entities identified herein as DOES 1 to
23 50 are not now known and are therefore sued herein by their fictitious names. Plaintiff requests leave of
24 court to substitute their real names and identities when the same are ascertained. DOES 1 to 50 are sued
25 in their individual and official capacities

26 **GENERAL ALLEGATIONS**

27 38. At all times relevant herein, all wrongful acts described were performed under color of
28 state law and/or in concert with or on behalf of those acting under the color of state law.

Clorissa Porter

1
2 39. On January 11, 2013, then 30 year-old Plaintiff and class representative PORTER arrived
3 in Flint, Michigan in unstable, untreated, severe psychiatric condition, having traveled by Greyhound bus
4 on a one-way ticket from Las Vegas, Nevada, prepaid by Defendant SNAMHS. PORTER had been
5 involuntarily discharged from the RAWSON-NEAL, operated by SNAMHS, on January 9, 2013, on
6 orders from Defendant PUVVADA who represented to her that arrangements had been made for her to
7 obtain shelter at a facility at Caro, two hours away from Flint. In fact, no transportation had been
8 arranged for her to get to Caro and no prior arrangements had been made for her to be accommodated at
9 any shelter in Caro. She experienced a mental breakdown, was hospitalized. She remained in Michigan
10 with no way to return to Nevada to be with her family. Defendant PUVVADA acted with deliberate
11 indifference to, and with reckless disregard of, Plaintiff PORTER's psychiatric condition in discharging
12 her and in requiring her to leave the State to go to a remote location where she was without resources and
13 had no access to necessary continuing care.

14 40. As Defendants, and each of them, knew, PORTER was discharged without money, food
15 or identification, knew no one in Flint and had no way to get to Caro where, it was falsely represented, a
16 care facility was awaiting her arrival. Importantly, Defendants also knew that PORTER did not wish to
17 go to Michigan and was suffering from bi-polar disorder and schizophrenia. No plan for a continuation of
18 her psychiatric or medical treatment was formulated before PORTER was dispatched to the Greyhound
19 bus station in Las Vegas, Nevada, and no contact was made by Defendants with any provider of medical
20 or psychiatric or any other services in Michigan for follow-up care.

William D. Spencer

21
22 41. On September 20, 2012, around midnight, SPENCER was involuntarily discharged from
23 RAWSON-NEAL and transported by taxi to the Greyhound Bus station for transport to Pasadena where
24 it was represented that he would be admitted to a "residential aftercare facility" where he would receive
25 further treatment and have a support structure to get him back to work. Although SPENCER stated to
26 RAWSON-NEAL staff, including Defendant MANJOORAN, that he wanted to remain in Las Vegas, he
27 was told that housing arrangements had already been made for him at the aftercare facility in Pasadena.
28 The Greyhound bus did not, in fact, go to Pasadena where there was no Greyhound station but rather

1 took him to Riverside, California, from where he contacted the Pasadena aftercare facility and learned
2 that they could not pick him up, that they had no space for him at any rate, and that no arrangements had
3 been made by RAWSON-NEAL for SPENCER to be accommodated at their facility.

4 42. SPENCER became homeless in Riverside where he remained on the streets for a week,
5 traumatized and depressed, before contacting family members who provided him some assistance in
6 Hesperia, California.

7 43. Defendant MANJOORAN acted with deliberate indifference to, and with reckless
8 disregard of, Plaintiff SPENCER's psychiatric condition in discharging him and in requiring him to leave
9 the State to go to a remote location where he was without resources and had no access to necessary
10 continuing care.

11 44. As Defendants, and each of them, knew, SPENCER was discharged without money, food
12 or identification, knew no one in Riverside and had no way to get to Pasadena where, it was falsely
13 represented, a residential care facility was awaiting his arrival. Defendants also knew that SPENCER
14 was severely depressed, wished to remain in Las Vegas where he had lived and worked the prior two
15 years, and did not wish to go to Pasadena or to any other location in California. No plan for a
16 continuation of his psychiatric or medical treatment was formulated before SPENCER was dispatched to
17 the Greyhound bus station in Las Vegas, Nevada, and no contact was made by Defendants with any
18 provider of medical or psychiatric or any other services in California for follow-up care.

19 **INJUNCTIVE ALLEGATIONS**

20 45. The failures of Defendants, and each of them, all acting under color of state law, to deliver
21 the statutorily mandated care to patients in their custody and control resulted in the systematic disregard
22 of their serious psychological and medical conditions and resulted in adverse consequences, which
23 predictably flow from such failures, and caused damages to patients who were the victims of such
24 disregard.

25 46. Unless preliminarily and permanently enjoined from violating statutory and federal
26 constitutional provisions, and policies and procedures and standards in place to safeguard the condition
27 of patients under their care and control, Defendants' disregard of those statutory and federal
28 constitutional provisions and policies, procedures and standards will continue and Plaintiff members of

1 the class will likely be damaged as PORTER and SPENCER were damaged when bused out-of-state after
2 being discharged from RAWSON-NEAL.

3 **CLASS ALLEGATIONS**

4 47. Plaintiffs PORTER and SPENCER seek to have a class certified under Rule 23(b)(2)
5 and/or 23(b)(3) of the Federal Rules of Civil Procedure. The Class is defined as follows:

6 A class of all persons in need of mental health services who were admitted and
7 subsequently discharged from SOUTHERN NEVADA ADULT MENTAL HEALTH
8 SERVICES' RAWSON-NEAL PSYCHIATRIC HOSPITAL facility who meet the
9 following criteria:

- 10 a. upon discharge escorted to a pre-paid taxi and transported to the
11 local Greyhound bus terminal and provided a voucher for a one-
12 way ticket to an out-of-state destination; and
13 b. without documentation in hospital records of arrangements for the
14 continuation of their treatment; for follow-up care; and for them to
15 be met, upon arrival, and/or directed to facilities at which shelter
16 and/or continuation of care could be obtained.

17 48. The class is so numerous that joinder of all members is impractical. Based on an
18 examination of records, Plaintiffs are informed and believe that between 2008 and January 2013, more
19 than 1500 patients were discharged from RAWSON-NEAL, placed on Greyhound buses, and shipped out
20 of state on pre-paid bus tickets without required follow-up arrangements for them having been made and
21 documented in hospital records. Plaintiffs are informed and believe that more than several hundred of
22 those patients were inappropriately and illegally discharged in violation of the U.S. Constitution and
23 statutes, Nevada State laws and regulations, and the institution's own stated policies and procedures.
24 There are questions of law and fact common to all members of the class, since all share the same factual
25 and legal nexus.

26 49. The claims of the representative Plaintiffs, PORTER and SPENCER, are typical of the
27 claims of the class members. The representative parties will fairly and adequately represent the interests
28 of the class.

50. Defendants' discharge customs, practices, and policies, sometimes referred to as
"Greyhound therapy," have affected all members of the class in the same way, thereby making injunctive
and declaratory relief appropriate to the class as a whole.

- 1 51. Common questions of fact to be determined with respect to the class include:
- 2 a. Whether Defendants operate a facility which provides emergency treatment to
- 3 persons who need mental health services;
- 4 b. Whether Defendants discharge patients and arrange transportation for them to
- 5 Greyhound Buses for out-of-state transport on pre-paid, one-way tickets;
- 6 c. Whether Defendants customarily administer prescription psychotropic medications
- 7 to the patients being discharged for out-of-state transportation;
- 8 d. Whether Defendants customarily represented to the patients being discharged for
- 9 out-of-state destinations that arrangements had been made for them to receive,
- 10 upon arrival at those destinations, shelter, care, and treatment for their continuing
- 11 medical and psychological needs;
- 12 e. Whether, contrary to representations, no arrangements are customarily made for
- 13 the discharged patients to be met and /or to receive the care Defendants
- 14 represented the patients would receive;
- 15 f. Whether patients who are residents of counties in the State of Nevada when
- 16 admitted to Rawson-Neal Psychiatric Hospital, operated by Defendant SNAMHS,
- 17 are discharged, not to the counties in the State of Nevada where they previously
- 18 resided, but rather transported to out-of-state locations;
- 19 g. Whether representations were customarily made to induce patients to sign
- 20 “consent to discharge” forms;
- 21 h. Whether defendants and their agents knew or should have known that the persons
- 22 signing “consent to discharge” forms, prior to Greyhound Bus out-of-state
- 23 transportation were under the influence of psychotropic medications or otherwise
- 24 mentally impaired such that they were incapable of giving knowing, informed
- 25 consent, and
- 26 i. Whether psychiatric patients of Defendants who were bussed to out-of-state
- 27 locations without prior arrangements having been made to provide them with
- 28 appropriate shelter, care and continuing medical and psychiatric treatment were

1 harmed.

2 52. The common questions of law to be determined with respect to the class are:

- 3 i. Whether Defendant SZKLANY's, RAVIN's, PUVVADA's, MANJOORAN's and
4 DOES 1 to 50's discharge practices relating to out-of-state transport of psychiatric
5 patients violate the rights of class members under the Fourth, Eighth and
6 Fourteenth Amendments to the United States Constitution, Nevada State law, and
7 the institution's policies and procedures;
- 8 ii. Whether Defendants WILLDEN, WHITLEY, SZKLANY, RAVIN, WHITE, and
9 DOES 1 to 50, by virtue of their positions of authority, were responsible for the
10 acts and violations of the institutions and subordinates under their control and
11 direction; and
- 12 iii. Whether Defendants SZKLANY, RAVIN, PUVVADA, MANJOORAN, and
13 DOES 1 to 50, in their individual capacities, violated their fiduciary duties and
14 policies, procedures and regulations which were promulgated and designed to
15 protect the vulnerable patients in their care.

16 53. These questions of law and fact are common to all members of the class and predominate
17 over any question affecting individual class members.

18 54. The class representative knows of no conflict of interest among class members. Plaintiffs
19 are represented by Allen Lichtenstein, who is an experienced civil rights attorney who can vigorously
20 prosecute this action.

21 **MUNICIPAL & SUPERVISORY ALLEGATIONS**

22 55. SNAMHS, and its hospitals it is licensed to operate, including RAWSON-NEAL, is
23 required by Code of Federal Regulations, 42 C.F.R. § 482.43, to have in effect a discharge planning
24 process that applies to all patients. Contrary to this requirement, Defendants WILLDEN, WHITLEY,
25 SZKLANY, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to 50 failed to ensure that a
26 comprehensive discharge plan was implemented for patients discharged from the facility and failed to
27 identify patients who were likely to suffer adverse health consequences upon discharge without an
28 adequate discharge plan. Furthermore, the above-named Defendants denied individuals qualified for

1 protection under Title II of the ADA and EMTALA the benefit of a safe involuntary commitment and
2 discharge, in violation of their obligations as public entities.

3 56. Defendants SZKLANY, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to 50 failed
4 to provide an appropriate safe discharge plan for patients according to physicians' orders and failed to
5 ensure a discharge planning evaluation was completed on patients that included the likelihood that
6 patients would need post-hospital services and identify where such services would be received. As a
7 result, patients were discharged with deliberate indifference to, and reckless disregard of, their serious
8 medical and psychiatric needs for which no discharge plan was developed or followed. To the contrary,
9 patients, including Plaintiffs PORTER and SPENCER, and members of the class which they seek to
10 represent, were administered powerful psychotropic medications and, while unable to intelligently and
11 knowingly consent, were involuntarily placed into taxis, and conveyed to Greyhound buses into which
12 they were loaded for out-of-state destinations at which no prior arrangements had been made for
13 provision of necessary follow-up care, in violation of the policies set out in 42 C.F.R. 482, Title II of the
14 ADA, EMTALA, and in violation of the Fourth, Eighth and Fourteenth Amendments to the United States
15 Constitution.

16 57. Defendants SZKLANY and RAVIN, as supervisors of their positions at SNAMHS and
17 RAWSON-NEAL, respectively, were aware of the unlawful and inadequate discharge policies and
18 practices described above. SZKLANY and RAVIN acquiesced and/or were culpably indifferent to
19 continued application of such unlawful discharge policies and practices.

20 58. The above-described actions by Defendants, and each of them, caused and, unless
21 preliminarily and permanently enjoined, will continue to cause great psychological, physical and
22 emotional suffering, degradation, pain, and injury, financial loss, and loss of liberty to Plaintiffs
23 PORTER and SPENCER and the class they seek to represent.

24 59. On September 30, 2013, the City Attorney of San Francisco filed a class action lawsuit on
25 behalf of the City and County of San Francisco against the State of Nevada seeking to bar Nevada from
26 conducting the patient-dumping discharge practices described herein, and seeking reimbursement for San
27 Francisco's costs to provide care to the patients who had been dumped by Nevada into San Francisco.
28 *See* <<http://www.sfcityattorney.org/2013/09/12/nevada-patient-dumping-class-action/>>. The case was

1 subsequently settled by Nevada for a payment of \$400,000.00 and implementation of policies that were
2 intended to limit Nevada's ability to dump patients in the future.

3 **FIRST CLAIM**

4 **Unreasonable Seizure**

5 **(Fourth & Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

6 60. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
7 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

8 61. The First Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
9 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants
10 CHELSEA SZKLANY, in her official and individual capacities (for equitable relief and damages);
11 MIKE WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official
12 capacity (for equitable relief); KYLE DEVINE, in his official capacity (for equitable relief); LINDA J.
13 WHITE, M.D., in her official and individual capacities (for damages and equitable relief); LEON
14 RAVIN, M.D., in his official and individual capacities (for damages and equitable relief); RAO
15 PUVVADA, M.D., in his individual capacity (for damages); JACOB MANJOORAN, M.D., in his
16 individual capacity (for damages); and DOES 1 to 50, in their official and individual capacities (for
17 damages and equitable relief).

18 62. Defendants, and each of them, are state actors subject to strictures of the Fourth
19 Amendment. Defendants, through the use of coercion, physical force or show of authority, restrained or
20 restricted Plaintiffs PORTER and SPENCER and the class they seeks to represents' freedom of
21 movement. Defendants administered powerful psychotropic medications to Plaintiffs PORTER and
22 SPENCER and the members of the class they represent, misrepresented services allegedly arranged for
23 them, then involuntarily discharged them, placed them into taxis for transport to Greyhound buses, and
24 required them to board these buses for transport out of State while under the influence of powerful
25 psychiatric medications for severe mental illness that rendered them incapable of informed consent.
26 These compelled transports, under the circumstances, were coercive in nature and implemented without
27 voluntary consent, and constituted unreasonable seizures and violated Plaintiffs' right to due process of
28 law under the Fourteenth Amendment, and to liberty under the Fourth Amendment, of the U.S.

1 Constitution and 42 U.S.C. § 1983.

2 63. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to
3 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to
4 Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the
5 U.S. Constitution, or was wantonly or oppressively done.

6 64. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
7 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

8 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
9 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

10 **SECOND CLAIM**

11 **Cruel and Unusual Punishment**

12 **(Eighth & Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

13 65. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
14 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

15 66. The Second Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
16 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants MIKE
17 WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official capacity
18 (for equitable relief); CHELSEA SZKLANY, in her official and individual capacities (for equitable relief
19 and damages); LEON RAVIN, M.D., in his official and individual capacities (for damages and equitable
20 relief); RAO PUVVADA, M.D., in his individual capacity (for damages); JACOB MANJOORAN,
21 M.D., in his individual capacity (for damages); KYLE DEVINE, in his official capacity (for equitable
22 relief); LINDA J. WHITE, M.D., in her official and individual capacities (for damages and equitable
23 relief); and DOES 1 to 50, in their official and individual capacities (for damages and equitable relief).

24 67. Defendants, and each of them, have and for all times material hereto, had a duty to
25 provide for the physical and psychiatric needs of their patients. Instead of providing such care, however,
26 Defendants, and each of them, demonstrated deliberate indifference to and reckless disregard of those
27 needs by discharging Plaintiffs PORTER and SPENCER, and the members of the class they seek to
28 represent, by taxi and Greyhound bus to locations outside of the State of Nevada without documenting in

1 the hospital record and providing for the continuation of necessary medical and psychiatric services, thus
2 causing Plaintiffs PORTER and SPENCER, and the class they seek to represent, to suffer physical and
3 psychological harm. Defendants' actions or inactions were sufficiently analogous to criminal
4 punishment, because they effectively banished Plaintiffs PORTER and SPENCER, and the class they
5 seek to represent, to out-of-state locations outside of the State of Nevada. The aforesaid deliberate
6 indifference and banishment to their serious physical and psychiatric condition constitutes cruel and
7 unusual punishment in violation of the Eighth Amendment to the United States Constitution.

8 68. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to
9 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to
10 Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the
11 U.S. Constitution, or was wantonly or oppressively done.

12 69. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
13 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

14 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
15 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

16 **THIRD CLAIM**

17 **Procedural Due Process**

18 **(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

19 70. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
20 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

21 71. The Third Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
22 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants MIKE
23 WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official capacity
24 (for equitable relief); CHELSEA SZKLANY, in her individual and official capacities (for damages and
25 equitable relief); RAO PUVVADA, M.D., in his official and individual capacities (for damages and
26 equitable relief); JACOB MANJOORAN, M.D., in his individual capacity (for damages); KYLE
27 DEVINE, in his official capacity (for equitable relief); LINDA J. WHITE, M.D., in her official and
28 individual capacities (for damages and equitable relief); and DOES 1 to 50, in their official and

1 individual capacities (for damages and equitable relief).

2 72. Plaintiffs PORTER and SPENCER, and the class they seek to represent, maintained a
3 procedurally-protected property interests in various statutes and regulations. *See, e.g.*, N.R.S. §
4 433A.400; N.R.S. § 433.314; 42 C.F.R. § 482.43; 42 C.F.R. § 489.24(e); and 45 C.F.R. § 205.10.
5 Additionally, they maintained a liberty interest against being involuntarily discharged without voluntary
6 consent or any form of notice, hearing, or means of challenging the involuntary discharge.

7 73. Plaintiffs PORTER and SPENCER, and the class they seek to represent, were not given
8 notice, a hearing or any appropriate due process as a means to challenge or reverse Defendants'
9 involuntary discharge and compelled out-of-state transport of them, in violation of the procedurally-
10 protected interest outlined above which are protected by the Due Process Clause of the Fourteenth
11 Amendment to the U.S. Constitution. Any government interest in involuntarily discharge is outweighed
12 by the risk of erroneous deprivation and private interests at stake.

13 74. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to
14 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to
15 Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the
16 U.S. Constitution, or was wantonly or oppressively done.

17 75. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
18 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

19 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
20 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

21 **FOURTH CLAIM**

22 **State-Created Danger (Substantive Due Process)**

23 **(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

24 76. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
25 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

26 77. The Fourth Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
27 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants MIKE
28 WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official capacity

1 (for equitable relief); CHELSEA SZKLANY, in official and individual capacities (for damages and
2 equitable relief); LEON RAVIN, M.D., in his official and individual capacities (for damages and
3 equitable relief); RAO PUVVADA, M.D., in his individual capacity (for damages); KYLE DEVINE, in
4 his official capacity (for equitable relief); JACOB MANJOORAN, M.D., in his individual capacity (for
5 damages); LINDA J. WHITE, M.D., in her official and individual capacities (for damages and equitable
6 relief); and DOES 1 to 50, in their official and individual capacities (for damages and equitable relief).

7 78. Plaintiffs PORTER and SPENCER, and the members of the class they seek to represent,
8 were subject to Defendants' involuntary discharge and compelled out-of-state transport, which
9 affirmatively placed them in a position of danger which they otherwise would not have faced but for the
10 Defendants' actions, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S.
11 Constitution. Plaintiffs PORTER and SPENCER, and the members of the class they seek to represent,
12 were placed in a position of danger that they were not in prior to entering RAWSON-NEAL for
13 treatment, upon involuntary out-of-state discharge.

14 79. Defendants' actions or inactions constitute conscience-shocking behavior which fails to
15 comport with traditional ideas of fair play and decency, resulting in interference of the rights of Plaintiffs
16 PORTER and SPENCER's, and the members of the class they seek to represent, liberty, which includes
17 the right to move around freely, in violation of the Due Process Clause of the Fourteenth Amendment to
18 the U.S. Constitution.

19 80. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to
20 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to
21 Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the
22 U.S. Constitution, or was wantonly or oppressively done.

23 81. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
24 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

25 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
26 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

FIFTH CLAIM

Special Relationship (Substantive Due Process)

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

82. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

83. The Fifth Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants MIKE WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official capacity (for equitable relief); CHELSEA SZKLANY, in her individual and official capacities (for damages and equitable relief); LEON RAVIN, M.D., in his official and individual capacities (for damages and equitable relief); RAO PUVVADA, M.D., in his individual capacity (for damages); JACOB MANJOORAN, M.D., in his individual capacity (for damages); KYLE DEVINE, in his official capacity (for equitable relief); LINDA J. WHITE, M.D., in her official and individual capacities (for damages and equitable relief); and DOES 1 to 50, in their official and individual capacities (for damages and equitable relief).

84. Plaintiffs PORTER and SPENCER, and the members of the class they seek to represent, were subject to Defendants' involuntary discharge and compelled out-of-state transport, after Defendants had obtained custody and formed a special relationship with them through which Defendants assumed some responsibility for their safety and well-being, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

85. Defendants' actions or inactions constitute conscience-shocking behavior which fails to comport with traditional ideas of fair play and decency, resulting in interference of the rights of Plaintiffs PORTER and SPENCER's, and the members of the class they seek to represent, liberty, which includes the right to move around freely, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

86. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the

1 U.S. Constitution, or was wantonly or oppressively done.

2 87. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
3 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

4 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
5 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

6 **SIXTH CLAIM**

7 **Wealth Discrimination (Equal Protection)**

8 **(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

9 88. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
10 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

11 89. The Sixth Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
12 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants MIKE
13 WILLDEN, in his official capacity (for equitable relief); RICHARD WHITLEY, in his official capacity
14 (for equitable relief); CHELSEA SZKLANY, in her individual and official capacities (for damages and
15 equitable relief); LEON RAVIN, M.D., in his official and individual capacities (for damages and
16 equitable relief); RAO PUVVADA, M.D., in his individual capacity (for damages); JACOB
17 MANJOORAN, M.D., in his individual capacity (for damages); KYLE DEVINE, in his official capacity
18 (for equitable relief); LINDA J. WHITE, M.D., in her official and individual capacities (for damages and
19 equitable relief); and DOES 1 to 50, in their official and individual capacities (for damages and equitable
20 relief).

21 90. Defendants, upon information and belief, treated indigent patients such as Plaintiffs
22 PORTER and SPENCER, and the members of the class they seek to represent, differently, shipping out-
23 of-state via taxi and Greyhound bus those who could not pay for services in RAWSON-NEAL, while
24 retaining or arranging appropriate discharge for patients who were not indigent. Thus Defendants' above-
25 described policies, practices and procedures were intended and designed to and did single out indigent
26 patients and have the purpose and effect of depriving indigent psychiatric patients of their right to equal
27 psychiatric and medical care in SNAHMS' RAWSON-NEAL. These policies and actions are based on
28 Defendants' animus towards this disfavored group and/or their desire to preserve the fiscal integrity of

1 their programs and lack a rational relationship to any legitimate state interest. In adopting and
2 implementing these policies and practices with intent to harm and disadvantage indigent patients in their
3 care and custody, Defendants have violated the equal protection clause and 42 U.S.C. § 1983.

4 91. Defendants SZKLANY, WHITE, RAVIN, PUVVADA, MANJOORAN, and DOES 1 to
5 50's conduct was motivated by evil motive or intent, involved reckless or callous indifference to
6 Plaintiffs', and the class they seek to represent, Fourth and Fourteenth Amendment rights secured by the
7 U.S. Constitution, or was wantonly or oppressively done.

8 92. As a direct and proximate result of the Defendants' actions, Plaintiffs, and the class they
9 seek to represent, suffered injuries entitling them to receive compensatory and punitive damages.

10 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
11 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

12 **SEVENTH CLAIM**

13 **Disability Discrimination**

14 **(Title II of the Americans with Disabilities Act; 42 U.S.C. § 1213, et seq. & 28 U.S.C. § 1658)**

15 93. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate
16 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

17 94. The Seventh Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
18 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants
19 SOUTHERN NEVADA ADULT MENTAL HEALTH SERVICES; MIKE WILLDEN, in his official
20 capacity (for damages and equitable relief); RICHARD WHITLEY, in his official capacity (for damages
21 and equitable relief); CHELSEA SZKLANY, in her official capacity (for damages and equitable relief);
22 RAVIN, in his official capacity (for damages and equitable relief); KYLE DEVINE, in his official
23 capacity (for damages and equitable relief); LINDA J. WHITE, M.D., in her official capacity (for
24 damages and equitable relief); and DOES 1 to 50, in their official capacities (for damages and equitable
25 relief).

26 95. Plaintiffs PORTER and SPENCER, and the members of the class they seek to represent,
27 are qualified disabled persons under Title II of the ADA, and were suffering from a mental disability at
28 the time of the incident giving rise to this action.

1 96. SNAMHS is a public entity under Title II of the ADA. SNAMHS and its hospital
2 administrator, Defendants SZKLANY, WILLDEN, WHITLEY, RAVIN, PUVVADA, MANJOORAN,
3 DEVINE, and WHITE violated Plaintiffs PORTER and SPENCER's, and the members of the class they
4 seek to represent, federally guaranteed right to be free from discrimination on the basis of disability by
5 failing to make reasonable modifications to their policies, practices and procedures to ensure their needs,
6 as individuals with a disability, would be met.

7 97. The exercise of the policy to place an involuntary committed patient in an unstable,
8 untreated, severe psychiatric condition in a taxi to be placed in a Greyhound on a one-way ticket to
9 another city with which he had no personal ties and without arrangements having been made for
10 continuation of care, constituted a violation of the right to receive medical care while in custody of the
11 state under Title II of the ADA. Pursuant to 42 C.F.R. § 482.12, 42 C.F.R. § 482.11, 42 C.F.R. § 482.13,
12 42 C.F.R. § 482.43, and N.A.C. 449.332 Defendants, including Defendant SZKLANY were required to
13 exercise the same level of care to all patients during discharge. Title II of the ADA requires protection of
14 rights. Failure to protect Plaintiffs PORTER and SPENCER, and the members of the class they seek to
15 represent, violated their constitutional right to reasonable medical care without conscious indifference by
16 Defendants.

17 98. As a direct and proximate result of Defendants' conscious indifference to and reckless
18 disregard of the needs of Plaintiffs PORTER and SPENCER, and the members of the class they seek to
19 represent, and Defendants' refusal to provide safe medical care to an involuntarily committed patient
20 during discharge while in their care and custody and their failure to protect him and the class he seeks to
21 represent, Plaintiffs PORTER and SPENCER, and the members of the class they seek to represent,
22 suffered injuries entitling them to receive compensatory and punitive damages.

23 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
24 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

25 **EIGHTH CLAIM**

26 **Patient-Dumping**

27 **(Emergency Medical Treatment and Active Labor Act; 42 U.S.C. § 1395dd, et seq.)**

28 99. Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER reallege and incorporate

1 the allegations of the preceding paragraphs 1 to 59 as if fully set forth in this Claim.

2 100. The Eighth Claim is asserted on behalf of Plaintiffs CLORISSA D. PORTER and
3 WILLIAM D. SPENCER, and the members of the class they seek to represent, against Defendants
4 SOUTHERN NEVADA ADULT MENTAL HEALTH SERVICES; MIKE WILLDEN, in his official
5 capacity (for equitable relief); RICHARD WHITLEY, in his official capacity (for equitable relief);
6 CHELSEA SZKLANY, in her official and individual capacities (for damages and equitable relief);
7 LEON RAVIN, M.D., in his official and individual capacities (for damages and equitable relief); RAO
8 PUVVADA, M.D., in his individual capacity (for damages); JACOB MANJOORAN, M.D., in his
9 individual capacity (for damages); KYLE DEVINE, in his official capacity (for equitable relief); LINDA
10 J. WHITE, M.D., in her official and individual capacities (for damages and equitable relief); and DOES 1
11 to 50, in their official and individual capacities (for damages and equitable relief).

12 101. EMTALA imposes special responsibilities on a hospital with an emergency department.
13 Pursuant to EMTALA's medical screening requirement, if an individual seeks emergency care from a
14 hospital with an emergency department and if that hospital participates in the Medicare program, then
15 "the hospital must provide for an appropriate medical screening examination within the capability of the
16 hospital's emergency department . . . to determine whether or not an emergency medical condition . . .
17 exists." 42 U.S.C. § 1395dd(a). Once an individual with an emergency medical condition has been
18 admitted, the hospital must stabilize the patient and, if transferring the patient, comply with 42 C.F.R. §
19 489.24(e).

20 102. At all material times alleged herein, RAWSON-NEAL had a psychiatric observation unit
21 (POU) which meets the EMTALA definition of a dedicated emergency department.

22 103. At all material times alleged herein, RAWSON-NEAL was a Medicare participant.

23 104. Defendants, including medical staff at RAWSON-NEAL failed to provide for an
24 appropriate medical screening examination of Plaintiffs PORTER and SPENCER, and the members of
25 the class they seek to represent, within the capability of the hospital's emergency department in order to
26 determine whether or not they suffered from an emergency medical condition upon his arrival to the
27 RAWSON-NEAL.

28 105. Pursuant to EMTALA's stabilization before transfer requirement, a hospital is liable if it

1 detected an emergency medical condition for any individual who came to the hospital, but failed “to
2 stabilize” that condition before transferring the individual. 42 U.S.C. § 1395dd(b)-(c). The term “to
3 stabilize” means “to provide such medical treatment of the condition as may be necessary to assure,
4 within reasonable medical probability, that no material deterioration of the condition is likely to result
5 from or occur during the transfer of the individual from a facility[.]” 42 U.S.C. § 1395dd(e)(3)(A).
6 Transfer includes both discharge and movement to another facility. 42 U.S.C. § 1395dd(e)(4).

7 106. Staff at Defendant SNAHMS-operated RAWSON-NEAL detected that Plaintiffs
8 PORTER and SPENCER, and the members of the class they seek to represent, were suffering from an
9 emergency medical condition, but failed to stabilize them prior to discharging him from the hospital.
10 RAWSON-NEAL staff failed to determine, within reasonable medical probability, that no material
11 deterioration of Plaintiffs PORTER and SPENCER’s, and the members of the class they seek to
12 represent, emergency medical condition was likely to result from or occur during their transfer from
13 RAWSON-NEAL.

14 107. Defendants “transferred”/involuntarily discharged Plaintiffs PORTER and SPENCER,
15 and the members of the class they seek to represent,, without determining that there was another facility
16 that had agreed to accept them; without determining that space and qualified personnel in a facility were
17 available to provide necessary treatment to them; without providing a receiving facility with all of their
18 medical records; without providing them with information about how and where to get shelter and access
19 to services they required; and without documenting in the medical record that information which was
20 necessary for them to have to obtain necessary continuing care and treatment.

21 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
22 and for all members of the class which they seek to represent, pray for relief as hereunder appears.

23 **PRAYER**

24 WHEREFORE, Plaintiffs CLORISSA D. PORTER and WILLIAM D. SPENCER, for themselves
25 and for all members of the class which they seek to represent, seek relief from the Court as follows:

- 26 1. For an order certifying the proposed class under Federal Rule of Civil Procedure 23;
27 2. For a temporary restraining order and/or preliminary injunction and permanent injunction
28 enjoining and restraining Defendants from continuing or repeating the unlawful policies, practices and

1 conduct complained of herein;

2 3. For declaratory judgment that Defendants' policies, practices and conduct as alleged
3 herein were/are in violation of Plaintiffs' rights under the United States Constitution, and Nevada law;

4 4. For damages in an amount according to proof;

5 5. Punitive damages;

6 6. For attorneys' fees as provided by law;

7 7. For costs of suit; and

8 8. For such other and further relief as the Court may deem just and proper.

9 Dated: December 20, 2016

Respectfully Submitted,

10
11 /s/ Allen Lichtenstein
By: _____

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Attorney for Plaintiffs
CLORISSA D. PORTER and
WILLIAM D. SPENCER

JURY TRIAL DEMAND

A JURY TRIAL IS DEMANDED on behalf of Plaintiffs CLORISSA D. PORTER and
WILLIAM D. SPENCER.

Dated: December 20, 2016

Respectfully Submitted,

/s/ Allen Lichtenstein
By: _____

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CERTIFICATE OF INTERESTED PARTIES

Pursuant to LR 7.1-1, the undersigned, counsel of record for Plaintiffs, certifies that there are no other known parties other than the named parties that have an interest in the outcome of this case.

Dated this 20th day of December 2016

Respectfully submitted by

/s/ Allen Lichtenstein

Allen Lichtenstein

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