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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

Gregory Todd, Personal Representative
of the Estate of Paul Rolfes,

Plaintiff,

vs.

City of Helena, Darren Chavers, Andrew
Mohr, Nick Leshinski, Jacob Hamilton,
Bryce Liebel, and Does 1-10,

Defendants.

CV-25-87-H-JTJ

**Complaint &
Jury Trial Demand**

Plaintiff Gregory Todd, Personal Representative of the Estate of Paul Rolfes,
complains and alleges as follows:

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Introduction

1. Pursuant to Federal and Montana law, this is an action arising from the deprivation of civil rights under the color of law, negligence, assault and battery, and the resulting wrongful death and survival actions.
2. Mental health emergencies are common and law enforcement officers are often the first to respond to these emergencies and must properly handle these interactions.
3. Communities rely on law enforcement officers to handle these interactions properly to keep everyone safe.
4. This case is about the importance of law enforcement officers properly handling mental health emergencies, and the grave consequences that result when they do not.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction over the claims within this Complaint pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, 42 U.S.C. § 1983, 42 U.S.C. §§ 12102, *et seq*, and 29 U.S.C. § 794.
6. This Court has jurisdiction for the claims under the laws of the State of Montana against all Defendants pursuant to 28 U.S.C. § 1367.
7. Venue is proper under 28 U.S.C. § 1391 and Local Rule 1.2. Lewis and Clark County is within the Helena Division of the United States District Court for

the District of Montana. The events giving rise to the claims in this case occurred in this judicial district and division.

Parties

8. At all relevant times, Paul Rolfes resided in Lewis and Clark County, Montana. The Estate of Paul Rolfes has been established in Lewis and Clark County. *See In the Matter of Estate of Paul Rolfes*, Montana First Judicial District Court, Lewis and Clark County, Probate No.: ADP-2025-198.

9. Defendant City of Helena (“Helena”) is a municipality located in Lewis and Clark County, State of Montana. The Helena Police Department (“HPD”) is a department within Helena. Helena is liable for the actions of HPD, and Helena is the proper defendant.

10. At all relevant times, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel were employed by Helena as law enforcement officers, and worked and resided in Lewis and Clark County, Montana. They are sued in their individual and official capacities.

11. Plaintiff believes that the Doe Defendants are subject to the jurisdiction of the State of Montana and this Court. The Doe Defendants are parties that may have been involved in the occurrence described in this Complaint, may have been agents of, employers of, employees of franchisers or franchisees of, or contractually obligated to the named Defendants or are in privity with the named

Defendants and, therefore, said Doe Defendants may have committed one or more of the acts set out in this Complaint, or may be responsible through tortuous interference, strict liability, breach of warranty, negligence, negligent misrepresentation, the law of agency, respondeat superior, franchise law or by contract for the acts of the named Defendants. Plaintiff believes and therefore alleges that the Doe Defendants may have committed one or more of the acts described in this Complaint and that they would therefore be liable for the same. Plaintiff will amend these pleadings as the case progresses to specify the various acts and identities of the Doe Defendants.

Factual Allegations

12. Helena has long known that mental health emergencies are common and that its officers have often been the first responders to mental health emergencies.

13. Helena knew that responding to individuals in a mental health crisis requires a medical response, which differs from responding to a crime.

14. Helena knew that individuals in a mental health crisis are:

not likely to respond rationally to police officers [T]he tactics to be employed against an [“]emotionally distraught individual who is creating a disturbance or resisting arrest are ordinarily different from those involved in law enforcement efforts to subdue an armed and dangerous criminal who has recently committed a serious offense. In the former instance, increasing the use of force may, in some circumstances at least, exacerbate the situation; in the latter, a heightened use of less-than-lethal force will usually be helpful in bringing a dangerous situation to a swift end.[”].

Sheehan v. City and County of San Francisco, 743 F.3d 1211, 1227 (9th Cir. 2014) *rev'd in part on other grounds by City & Cnty. of San Francisco*, 575 U.S. 600 (2015) (citations omitted).

15. Helena knew that when responding to mental health emergencies that those individuals required additional accommodations, such as a mobile crisis response unit and/or mental health professional.

16. Helena knew that to properly respond to mental health emergencies, it needed to identify the proper accommodation/modification to diffuse the interaction for the individual.

17. Helena knew without proper accommodation for individuals in a mental health crisis, the risks of an adverse result, such as violence and death, increase.

18. Mr. Rolfes had been diagnosed with schizophrenia, and struggled with addiction.

19. Mr. Rolfes's diagnosis substantially limited his major life activities including his ability to care for himself, interact with society, work, communicate, and accurately perceive reality.

20. Mr. Rolfes was on probation supervision. His probation officer knew of Mr. Rolfes's mental health concerns.

21. HPD knew Mr. Rolfes and of his mental health concerns.

22. Mr. Rolfes had previously been known to officers and had been taken into protective custody on prior occasions due to his mental health issues, including schizophrenia and auditory hallucinations.

23. Mr. Rolfes received social security disability and could not work for a stable income.

24. On November 2, 2024, Mr. Rolfes barricaded himself in the bathroom at Jester's Bar in Helena, Montana.

25. Mr. Rolfes was in the midst of a mental health emergency.

26. Jester's Bar staff called 911 seeking help with Mr. Rolfes.

27. Mr. Rolfes had previously been banned from Jester's Bar, and was not allowed on the premises.

28. Defendant Chavers responded to the 911 call.

29. Defendant Chavers tried to open the bathroom door, but was unsuccessful.

30. Defendant Mohr arrived on the scene.

31. Defendants Chavers and Mohr asked Mr. Rolfes to open the door and leave the bathroom. Mr. Rolfes responded but the officers could not make out what he was saying.

32. Defendants Chavers and Mohr told Mr. Rolfes that they would come and grab him if he did not open the door.

33. Mr. Rolfes told the officers he had a knife.

34. Mr. Rolfes said he would stab the officers if they came in the bathroom.
35. HPD yelled instructions at Mr. Rolfes and attempted to break in the door.
36. Mr. Rolfes explained to HPD that he was scared and needed help.
37. Mr. Rolfes asked for a mental health professional to respond to the incident to help.
38. Defendant Mohr brought in a shield and set up outside the bathroom door with his back to the back exit of Jester's Bar, while Defendants Hamilton and Chavers set up outside the bathroom door.
39. Defendants Leshinski and Erickson set up behind Defendant Mohr on his left and right and drew their firearms.
40. Defendant Mohr kicked in the lower portion of the bathroom door.
41. Mr. Rolfes was lying on the floor of the bathroom and began to stab randomly through the hole in the bathroom door.
42. Defendant Chavers drew his taser and pointed it at the door.
43. Mr. Rolfes asked for a nurse.
44. Mr. Rolfes was speaking on a phone in the bathroom with his mother, asking her to call the police because he was being attacked.
45. Mr. Rolfes dropped his phone out of the hole in the bathroom door.
46. Mr. Rolfes said that he wanted the police to come and help him because he was being attacked.

47. Mr. Rolfes stood up and opened the bathroom door.
48. Mr. Rolfes did not have a knife in his hands.
49. Defendant Mohr told Mr. Rolfes that he needed to exit the bathroom.
50. Mr. Rolfes took tentative steps forward and backward several times but did not leave the bathroom.
51. Mr. Rolfes continued to ask for a nurse.
52. Defendant Mohr yelled to Defendant Chavers to tase Mr. Rolfes, and Defendant Chavers deployed his taser at Mr. Rolfes.
53. Defendant Mohr dropped the shield and attacked Mr. Rolfes and began to wrestle him to the ground.
54. Mr. Rolfes may have attempted to strike Defendant Mohr with a knife.
55. Defendants Leshinski and Hamilton and Liebel shot Mr. Rolfes.
56. Mr. Rolfes died as a result of the gunshot wounds.
57. Officers thought that a wound on Defendant Mohr's collarbone was caused by Mr. Rolfes stabbing him with a knife.
58. HPD responded to Mr. Rolfes's need for help with a military response, not a community safety response.
59. In communicating with Mr. Rolfes, HPD expected Mr. Rolfes to respond logically and calmly when Mr. Rolfes's mental health emergency was the exact situation when someone could not respond logically and calmly.

60. In communicating with Mr. Rolfes, HPD lost patience and sought to quickly resolve the situation.
61. This situation required time to reasonably calm down.
62. HPD failed to properly communicate with Mr. Rolfes to deescalate the interaction or navigate Mr. Rolfes's mental health emergency.
63. HPD failed to request or use a mental health professional to assess and deescalate the interaction and navigate Mr. Rolfes's mental health emergency.
64. HPD failed to create time and space to calm the interaction with Mr. Rolfes.
65. Instead of approaching Mr. Rolfes understanding it was a medical emergency—which required medical professionals trained in dealing with his health emergency—the Defendants escalated the interaction, making it a more significant medical emergency.
66. HPD chose to not utilize the mobile crisis response unit, or other mental health response, despite knowing that Mr. Rolfes was in a mental health emergency.
67. HPD chose to not use non-lethal tools in its interaction with Mr. Rolfes.
68. Even assuming that use of firearms was somehow justified, HPD failed to use firearms in the least threatening manner to simply disable Mr. Rolfes.
69. Until Defendant Mohr attacked him, Mr. Rolfes was never an actual threat to the HPD, or anyone.

70. Until Defendant Mohr attacked him, Mr. Rolfes could not be a physical threat to anyone because of the medical emergency that he was experiencing.

71. Until Defendant Mohr attacked him, Mr. Rolfes was incapable of being an actual threat to trained and armed law enforcement officers, especially when the officers had firearms pointed at him.

72. It is unreasonable to conclude that Mr. Rolfes was a threat to anyone.

73. In its response to Mr. Rolfes's calls for help, HPD had ample information to properly approach this situation and assist Mr. Rolfes to navigate this emergency.

74. HPD knew Mr. Rolfes was disabled.

75. HPD knew responding to individuals with disabilities, including Mr. Rolfes, required accommodations for the disability.

76. Accommodations for mental health emergencies were available to HPD, including but not limited to the mobile crisis response unit, mental health professionals, individuals trained in crisis intervention, and SRT.

77. With Mr. Rolfes, HPD chose not to utilize its available accommodations.

78. Instead, HPD escalated this situation with unnecessary violence and killed Mr. Rolfes.

79. Mr. Rolfes asked HPD to save his life. HPD killed Mr. Rolfes.

80. Typical of law enforcement agencies, HPD is organized with a paramilitary structure, where rank, title, and chain of command guide the law enforcement officer's decisions.

81. HPD's customs and practices related to this organizational structure directly impacted its abilities to properly respond to mental health emergencies.

82. HPD had a policy and custom of escalating interactions with individuals in a mental health emergency.

83. This is not the type of policy that would be in writing. It is a custom that that is taught through the leadership, routines, and culture of HPD.

84. The custom was known because HPD has a history responding to mental health emergencies with violence.

85. HPD approved, ratified, supported, and encouraged violent responses to mental health emergencies.

86. Proper hiring, training, and supervision are vital for law enforcement agencies to successfully navigate mental health emergencies.

87. When responding to mental health emergencies, law enforcement should take reasonable actions, including but not limited to the following:

- a. Seek the expertise of and utilize mental health professionals;
- b. Patiently interact with individuals in a mental health emergency;
- c. Create time and distance to resolve a mental health emergency;

- d. Approach the interaction understanding they have responded to help an individual in a health emergency, and that no crime has been committed;
 - e. Engage trained negotiators to resolve the interaction;
 - f. De-escalate, rather than escalate, interactions with individuals;
 - g. Understand that attacking an individual escalates the interaction and creates fear;
 - h. Initiate a productive dialogue to resolve the interaction;
 - i. Pull back and not closely engage after learning that the individual possesses a knife;
 - j. Not use force when responding to a medical emergency;
 - k. Position law enforcement officers in locations with proper cover and safety;
 - l. Interact with individuals who possess knives;
 - m. Utilize non-lethal force such as chemical options and physical barriers; and
 - n. Use force to the minimum extent necessary to resolve an interaction.
88. Law enforcement officers violate individual, constitutional rights when they do not implement these reasonable actions.
89. HPD knew that these reasonable actions were necessary to properly accommodate individuals with mental health disabilities.

90. HPD failed to accommodate Mr. Rolfes when it chose not to take these reasonable actions.

91. HPD knew that when it failed to take these reasonable actions during mental health emergencies, the consequences include violations of an individual's rights, violence, and excessive use of force.

92. HPD knew that the risk of injury or death to an individual in a mental health crisis increases when it does not properly accommodate this disability.

93. HPD acted with deliberate indifference to mental health emergencies.

94. HPD disregarded the known consequences of its actions.

95. As a result, Mr. Rolfes suffered the known consequences with his death.

96. In the last minutes of his life, Mr. Rolfes lived through considerable fear, anguish, and distress, and extreme pain from the bullets striking Mr. Rolfes.

97. Mr. Rolfes was a treasured member of his community and his death is a significant loss for his family.

98. As a result of the above actions and inactions of the Defendants, Mr. Rolfes suffered from serious or severe bodily injuries and emotional distress.

99. As a result of the above actions and inactions of the Defendants, Mr. Rolfes suffered significant pain and, ultimately, died.

100. As a result of the above actions and inactions of the Defendants, Mr. Rolfes's family has suffered from his death.

101. As a result of the above actions and inactions of the Defendants, Mr. Rolfes's family has suffered from serious or severe emotional distress.

102. The serious or severe emotional distress that Mr. Rolfes and his family suffered were a reasonably foreseeable consequence of the actions and inaction of the Defendants.

103. The actions and inaction of the Defendants foreseeably created an unreasonable risk of harm to Mr. Rolfes and his family.

104. Due to the actions and inaction of Helena and Defendant officers, Plaintiff's damages result from both wrongful death and survivor actions. *See* § 27-1-501, MCA; § 27-1-513, MCA; *Payne v. Eighth Judicial District Court*, 2002 MT 313, ¶¶ 10, 11, 14, 313 Mont. 118, 60 P.3d 469.

42 U.S.C. § 1983

105. Plaintiff realleges each previous paragraph as though fully set forth herein.

106. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel are people subject to the United States Constitution.

107. Helena is an entity subject to the United States Constitution.

108. Mr. Rolfes was a person protected by the United States Constitution.

109. Federal law provides:

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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1983.

110. The United States Constitution, Amendment IV provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

111. The United States Constitution, Amendment XIV, § 1 provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

112. The actions and inactions of the Defendants violated Mr. Rolfes's rights within the United States Constitution, Amendments IV and XIV.

42 U.S.C. § 1983 – Individuals

113. Plaintiff realleges each previous paragraph as though fully set forth herein.

114. At all relevant times, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel acted under color of law, statutes, ordinances, rules, regulations, customs, policies, practices, and/or usages of HPD.

115. At all relevant times, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel acted within the course and scope of their employment.

116. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, while acting under the color of law, deprived Mr. Rolfes of his civil rights under the Fourth Amendment of the U.S. Constitution to be free from excessive force.

117. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel failed and used unlawful and excessive force, violating Mr. Rolfes's constitutional rights.

118. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel while acting under the color of law, deprived Mr. Rolfes of his civil rights under the Fourteenth Amendment of the U.S. Constitution to due process of law.

119. Mr. Rolfes's constitutional rights required Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel to not deprive him of his right to liberty and life without due process of law.

120. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel violated Mr. Rolfes's constitutional rights.

121. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel proceeded with unreasonable and deliberate indifference regarding their failures and the violation of Mr. Rolfes's constitutional rights.

122. Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel's violations of Mr. Rolfes's constitutional rights shock the conscience.

123. Pursuant to 42 U.S.C. § 1983, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel are liable to Mr. Rolfes because they deprived Mr. Rolfes of his constitutional rights.

124. As a result of these violations of Mr. Rolfes's constitutional rights, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

42 U.S.C. § 1983 – Helena

125. Plaintiff realleges each previous paragraph as though fully set forth herein.

126. “[A] local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those who edicts or acts

may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983.” *Monell v. New York City Department of Social Services*, 436 U.S. 658, 694 (1978).

127. “[T]he inadequacy of police training may serve as the basis for § 1983 liability only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact.” *City of Canton, Ohio v. Harris*, 489 U.S. 378, 388 (1989).

128. Helena has the duty to ensure that the policies, custom, and practice of Helena protect constitutional rights.

129. Helena failed to adequately hire, supervise, train, or discipline its law enforcement officers. These failures reflect Helena’s deliberate indifference.

130. Helena established, condoned, ratified, and/or encouraged customs, policies, patterns, and practices that directly and proximately caused the deprivation of civil and constitutional rights of Mr. Rolfes.

131. Helena did so with deliberate indifference to the rights of Mr. Rolfes and had actual and/or constructive knowledge of the pervasive and widespread practice of Helena’s use of excessive force, yet it failed, and continues to fail, to end the practice.

132. These written and unwritten policies, customs, patterns, and practices include but are not limited to:

- a. Failing to train HPD law enforcement officers regarding the constitutional rights to be free from excessive force;
- b. Failing to discipline law enforcement officers that have repeatedly used force without justification;
- c. Failing to investigate and review use-of-force incidents;
- d. Failing to properly supervise and monitor law enforcement officers;
- e. Failing to properly screen, during the hiring process;
- f. Failing to supervise law enforcement officers to eliminate excessive force;
- g. Inadequate training, supervising, and disciplining of law enforcement officers;
- h. Inadequate training law enforcement officers to respond to mental health emergencies without unnecessary force and/or intervene when excessive force is being deployed;
- i. Failing to take corrective action despite patterns of constitutional violations;
- j. Failing to understand that actions and inaction foreseeably caused injury to Mr. Rolfes;
- k. Failing to use appropriate care and discretion;

l. Hiring and retaining law enforcement officers when HPD knew or should have known their propensity to abuse their position of authority; and

m. Failing to engage mental health professionals during mental health emergencies.

133. Helena breached its duty to adequately hire, train, and supervise its officers.

134. Helena proceeded with an unreasonable and deliberate indifference regarding mental health emergencies, which violated Mr. Rolfes's constitutional rights.

135. Helena's violations of Mr. Rolfes's constitutional rights shock the conscience.

136. Helena's customs and practice unreasonably resulted from its deliberate indifference.

137. Helena's deliberate indifference violated Mr. Rolfes's rights and caused his death.

138. Helena's customs were the moving force behind the violation of Mr. Rolfes's constitutional rights.

139. Helena's failures were the proximate cause of injury and damage to Mr. Rolfes and his family.

140. The policies, customs, and practices implicitly or explicitly adopted by Helena amounted to deliberate indifference to and conscious disregard of Mr. Rolfes's constitutional rights and ratified the violation of his rights.

141. As a result of Helena's breaches of its duties, Mr. Rolfes's constitutional rights were violated.

142. Helena's breach resulted in Mr. Rolfes's death.

143. Helena acted unreasonably and with deliberate indifference and disregard for the constitutional and civil rights of Mr. Rolfes.

144. Helena's failure to hire, supervise, train, or discipline its officers and employees was so obvious that the failure to do so is a policy of "deliberate indifference."

145. The excessive use of force used by the law enforcement officers was a custom, practice, and/or policy of Helena, which condones and accepts use of force without justification.

146. Pursuant to 42 U.S.C. § 1983, Helena is liable to Mr. Rolfes because it deprived Mr. Rolfes of his constitutional rights.

147. As a result of Helena's violations of Mr. Rolfes's constitutional rights, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

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Negligence – Helena

148. Plaintiff realleges each previous paragraph as though fully set forth herein.

149. At all relevant times, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel worked within the course and scope of their employment, thus Helena is liable for their actions.

150. Defendants are State actors and entities subject to the Montana Constitution.

151. Mr. Rolfes is a person protected by the Montana Constitution.

152. Helena has duties of care to protect our constitutional rights and keep us safe.

153. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, have duties of care to protect constitutional rights and keep citizens safe.

154. The Montana Constitution, Article II, § 3 provides:

All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways.

155. The Montana Constitution, Article II, § 4 provides: "The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws."

156. The Montana Constitution, Article II, § 17 provides: “No person shall be deprived of life, liberty, or property without due process of law.”

157. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, breached its duty when it violated Mr. Rolfes’s rights from Montana’s Constitution by failing to properly respond to this mental health emergency as alleged herein.

158. Helena violated Mr. Rolfes’s rights under Montana’s Constitution.

159. Helena negligently failed to intervene.

160. Helena negligently failed to take reasonable steps to keep Mr. Rolfes safe.

161. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel negligently used force.

162. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, negligently failed to perform their official duties.

163. Helena negligently failed to comply with their legal obligations under Montana and Federal law.

164. Helena was negligent.

165. Helena’s negligence legally and proximately caused the injuries suffered by Mr. Rolfes and his family.

166. Helena is liable for said acts of negligence.

167. As a result of Helena's negligence, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

Assault and Battery – Helena

168. Plaintiff realleges each previous paragraph as though fully set forth herein.

169. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, intentionally made harmful and offensive contact with Mr. Rolfes.

170. Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, used force that exceeded what was necessary regarding Mr. Rolfes's mental health emergency.

171. The intentional acts of Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, constituted assault and battery on Mr. Rolfes, and directly and proximately caused injuries to Mr. Rolfes.

172. As a result of the assault and battery by Helena, through Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

Infliction of Emotional Distress

173. Plaintiff realleges each previous paragraph as though fully set forth herein.

174. As a result of the actions of Defendant Helena and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, Mr. Rolfes and his family suffered serious or severe emotional distress.

175. The serious or severe emotional distress that Mr. Rolfes and his family suffered were a reasonably foreseeable consequence of the actions of Defendant Helena and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel

176. Defendant Helena and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel knew or should have known that their actions would cause or have a high probability of causing injury to Mr. Rolfes and his family. Despite this, Defendant Helena and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel, acted with a conscious disregard of the high probability of injury to Mr. Rolfes and his family.

177. That said acts or omissions by Defendant Helena and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel as set out above have proximately caused and resulted in negligent and/or intentional infliction of emotional distress on Mr. Rolfes and his family.

178. As a result of the emotional distress caused by Defendant Helena, and Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and

Bryce Liebel, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

Disability Claims – Helena

179. Plaintiff realleges each previous paragraph as though fully set forth herein.

180. Mr. Rolfes was a qualified individual with a disability protected by the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (collectively “Disability Laws”). *See* 42 U.S.C. §§ 12102, 12131(2); 29 U.S.C. § 794(a); 45 C.F.R. § 84.4.

181. “Title II of the ADA was expressly modeled after § 504 of the Rehabilitation Act.” *Duvall*, 260 F.3d at 1135. “[T]here is no significant difference in the analysis of rights and obligations created by the two statutes . . . and cases interpreting either statute are applicable and interchangeable.” *Est. of Jackson v. City of Modesto*, 2021 WL 4819604, at *10 (E.D. Cal. Oct. 14, 2021) (citing *Douglas v. California Dept. of Youth Auth.*, 285 F.3d 1226, 1229 n.3 (9th Cir. 2002)).

182. The ADA guarantees qualified individuals with disabilities an equal opportunity to access “the services, programs, or activities of a public entity.” *See* 42 U.S.C. § 12132.

183. Section 504 of the Rehabilitation Act mandates that “[n]o otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance....” 29 U.S.C. § 794(a).

184. Discrimination under Section 504 includes affording “a qualified person with a disability an opportunity to receive benefits or services that is not equal to that offered persons without disabilities,” or providing “a qualified person with a disability with benefits or services that are not as effective (as defined in § 84.4(b)) as the benefits or services provided to others.” 45 C.F.R. § 84.52(a)(2)-(3); *see* 45 C.F.R. §§ 84.4(b)(1)(ii) & (2).

185. The Disability Laws prohibit discrimination against disabled individuals.

186. Mr. Rolfes suffered from schizophrenia and addiction, which are disabilities within the meaning of the Disability Laws.

187. Defendants observed and knew of Mr. Rolfes’s disabilities.

188. Under the Disability Laws, Mr. Rolfes was disabled.

189. Helena is a “public entity” subject to the Disability Laws.

190. Helena receives federal financial assistance pursuant to Section 504 and is governed by the Rehabilitation Act.

191. Under the Disability Laws, public entities are responsible for the discriminatory actions of their employees.

192. Probation, detention, and law enforcement are programs, services, and/or activities within the meaning of Disability Laws.

193. In *Duvall v. County of Kitsap*, the Ninth Circuit determined that the “deliberate indifference standard” was “the appropriate test for intentional discrimination under the ADA.” 260 F.3d 1124, 1138 (9th Cir. 2001).

194. Under the Disability Laws, Helena knew Mr. Rolfes needed an accommodation due to his mental health disability, which satisfies the first prong of “knowledge that a harm to a federally protected right is substantially likely.”

195. “We have observed that ‘mere speculation that a suggested accommodation is not feasible falls short of the reasonable accommodation requirement; the Acts create a duty to *gather* sufficient information from the disabled individual and qualified experts as needed to determine what accommodations are necessary....’”

Duvall, 260 F.3d at 1136 (quoting case) (emphasis added).

196. “[A] public entity does not ‘act’ by proffering just any accommodation: it must consider the particular individual’s need when conducting its investigation into what accommodations are reasonable.” *Id.* at 1139.

197. “Deliberate indifference requires both [1] knowledge that a harm to a federally protected right is substantially likely, and [2] a failure to act upon that the likelihood.” *Id.* at 1139.

198. “[I]ntentional discrimination’ in the context of Title II of the ADA does not involve discriminatory animus or specific intent to violate someone’s rights; rather, it involves ‘deliberate indifference’ to a disabled person’s need for an

accommodation. To establish deliberate indifference, a plaintiff must show that the public entity had knowledge that an ADA violation was likely to occur, and that, at a minimum, the public entity failed to act.” *Quick v. San Francisco Superior Court*, 65 F.Supp.3d 907, 909 (N.D. Cal. 2014) (citing *Duvall*, 260 F.3d at 1139); *see also* 28 C.F.R. § 35.130(b)(1)(i)-(iii).

199. Helena knew that mental health emergencies presented unique risks and consequences.

200. Because of these risks and consequences, Helena had resources and tools to accommodate mental health emergencies.

201. These resources and tools include, but are not limited to, requesting a mental health provider to evaluate Mr. Rolfes, having the patience to effectively communicate with Mr. Rolfes, and/or creating the time necessary to resolve Mr. Rolfes’ mental health emergency.

202. Helena had the available resources and tools to accommodate Mr. Rolfes’s needs, but it intentionally chose to not use those resources and tools.

203. Helena increased the risk to Mr. Rolfes by not using these resources and tools.

204. Helena disregarded the known and obvious consequences to Mr. Rolfes, his death, by not using these resources and tools.

205. Helena failed to act by not considering Mr. Rolfes's need for an accommodation.

206. Helena did not gather sufficient information from "qualified experts as needed to determine what accommodations [were] necessary."

207. Helena did not consider Mr. Rolfes's particular needs.

208. Helena chose to subject Mr. Rolfes to increase risks by not accommodating his mental health disability.

209. As a result of Mr. Rolfes's disability, Helena shot and killed Mr. Rolfes.

210. In doing so, Helena denied him the benefit of the available resources and tools to assist individuals in a mental health crisis.

211. Helena discriminated against Mr. Rolfes.

212. Helena failed to modify its approach with Mr. Rolfes when it did not request mental health services, effectively communicate, and create time to resolve the crisis.

(1) Failure to Modify

213. Plaintiff realleges each previous paragraph as though fully set forth herein.

214. Discrimination includes the failure to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability...." *See* 28 C.F.R. § 35.130(b)(7)(i).

215. Helena is obligated to modify its policies, practices, and procedures when necessary to avoid discrimination on the basis of disability.

216. Helena did not modify its policies, practices, and procedures with Mr. Rolfes.

217. Helena chose to not modify its approach with Mr. Rolfes, which could have included:

- a. Identify what specific accommodation Mr. Rolfes needed;
- b. Dispatch of emergency services trained in handling a person in a mental health crisis;
- c. Request services trained in handling a person in a mental health crisis;
- d. Dispatch of the mobile crisis unit;
- e. Dispatch crisis intervention teams;
- f. Dispatch the SRT;
- g. Deescalate the situation;
- h. Utilize non-lethal techniques and/or weapons;
- i. Utilize crisis intervention techniques;
- j. Utilize the crisis response program;
- k. Utilize a crisis negotiator; or
- l. Utilize a mental health professional.

218. Helena intentionally failed to provide Mr. Rolfes with reasonable modifications, violating the Disability Laws.

219. Because Helena had ample reason to believe that Mr. Rolfes was in a mental health crisis, failing to respond with someone trained in handling a person in a mental health crisis violated the Disability Laws.

220. Helena's violations of the Disability Laws were taken with deliberate indifference to the likelihood that its actions and inactions would increase the risks to Mr. Rolfes, including his death.

221. Helena's violations of the Disability Laws were taken with deliberate indifference to the likelihood that its actions and inactions violated federally protected rights.

222. Helena's violations of the Disability Laws proximately caused Mr. Rolfes's death.

223. As a result of Helena's violations of the Disability Laws, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

(2) Failure to Provide Effective Communication

224. Plaintiff realleges each previous paragraph as though fully set forth herein.

225. A public entity must “take appropriate steps to ensure that communications with . . . members of the public. . . with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a)(1).

226. Helena intentionally decided to not take appropriate steps to ensure communication with Mr. Rolfes were as effective as communication with an individual without a mental health disability.

227. Defendants did not communicate with Mr. Rolfes in a way that could be understood by a person in a mental health crisis.

228. As a result, Mr. Rolfes could not communicate with Helena – the entity that is required to communicate effectively with him.

229. Helena’s violations of the Disability Laws were taken with deliberate indifference to the likelihood that its actions and inactions would increase the risks to Mr. Rolfes, including his death.

230. Helena’s violations of the Disability Laws were taken with deliberate indifference to the likelihood that its actions and inactions would likely violate federally protected rights.

231. Helena’s violation of the Disability Laws proximately caused Mr. Rolfes’ death.

232. As a result of Helena’s violations of the Disability Laws, Mr. Rolfes and his family have been and continue to be injured and damaged in an amount to be determined at trial.

Punitive Damages — Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel

233. Plaintiff realleges each previous paragraph as though fully set forth herein.

234. That, upon information and belief, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel committed the acts alleged herein with knowledge of facts or with intentional disregard of facts that created a high probability of injury to Mr. Rolfes, and (a) deliberately or recklessly proceeded to act in conscious or intentional disregard of the high probability of injury to Mr. Rolfes; and/or (b) deliberately or recklessly proceeded to act with indifference to the high probability of injury to Mr. Rolfes.

235. The actions of Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel were “motivated by evil motive or intent, or ... involve[d] reckless or callous indifference to the federally protected rights of [Mr. Rolfes].” *Smith v. Wade*, 461 U.S. 30, 56 (1983).

236. By performing the acts alleged, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel acted with deliberate disregard for Mr. Rolfes’s constitutional rights, permitting an award for punitive damages.

237. By performing the acts alleged, Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel acted with malice towards Mr. Rolfes, permitting an award for punitive damages.

Jury Trial Demand

Plaintiff demands trial by jury on all issues so triable.

Prayer for Relief

Plaintiff prays for judgment as follows:

1. Compensatory damages from Defendants jointly and severally;
2. Punitive damages against Defendants Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, and Bryce Liebel;
3. For declaratory and injunctive relief;
4. Costs and disbursements incurred;
5. Interest;
6. Attorneys' fees; and
7. Any additional relief the Court deems just and appropriate.

Dated this 8th day of December, 2025.

/s/ Hillary P. Carls
/s/ Timothy Bechtold
Attorneys for Plaintiff

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Gregory Todd, Personal Representative of the Estate of Paul Rolfes

(b) County of Residence of First Listed Plaintiff Lewis & Clark
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Timothy Bechtold PO Box 7051 Missoula, MT 59807 406-721-1435
Hillary Carls, PO Box 85, Bozeman, MT 59771 406-577-2145

DEFENDANTS

City of Helena, Darren Chavers, Andrew Mohr, Nick Leshinski, Jacob Hamilton, Bryce Liebel, and Does 1-10

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1983

Brief description of cause:
lawsuit alleges civil rights violations and negligence

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

12/08/2025

SIGNATURE OF ATTORNEY OF RECORD

/s/Timothy M. Bechtold

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.