



3. After Mr. Freitag was found guilty of those charges, he was admitted to BCCF. While there, mental health professionals and correctional staff members knew he was at risk for yet another suicide attempt. They decided that Mr. Freitag should be observed in his cell every thirty minutes and concluded that he needed treatment with mental health providers.

4. As Mr. Freitag approached his sentencing date, he expressed to mental health providers severe anxiety and stress over the outcome of that proceeding. He was hoping he would be released on a non-custodial sentence and that he would be able to return to his job with the U.S. Postal Service where he had worked for more than 25 years.

5. Despite that anxiety, and despite the recognition noted in mental health records that Mr. Freitag was lacking in insight and judgment, mental health and correctional staff took no precautions as his sentencing proceeding approached. They did not place him on suicide watch. Nor did they ensure an immediate mental health assessment following his court date.

6. On August 24, 2018, Mr. Freitag had his sentencing in the Bucks County Court of Common Pleas. The trial judge imposed a sentence of six to twelve years imprisonment.

7. The next day, as part of a normal security protocol, correctional officers were supposed to check his cell once every thirty minutes. An officer looked in his cell at 10:21 am. For the next thirty-four minutes, the cell remained unmonitored. At 10:55 am, another prisoner walking by the cell yelled to correctional officers that Mr. Freitag was kneeling beside his bed with his head and arms prone on the bed and that there was blood on the floor.

8. An emergency alert was issued. Officers and medical staff found a gruesome scene. Mr. Freitag was surrounded by pools of blood. There were large amounts of blood on the cell walls. There appeared to be arteries and tendons strewn about the cell.

9. As the responding medical staff discovered, Mr. Freitag had broken a hard plastic cup and used a pointed shard of plastic to dig holes into both of his arms. Each hole was the size of a quarter.

10. Mr. Freitag could not be revived, and he was pronounced dead at the scene. He was 57 years old.

11. Plaintiff Charles Freitag, Jr., the decedent's son and the administrator of his estate, now seeks on behalf of Mr. Freitag's estate and heirs damages for the substantial pain and suffering, the loss of life, and the financial losses caused by the defendants' conduct.

## **II. JURISDICTION**

12. This Court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 1367(a).

## **III. PARTIES**

13. Decedent Charles Freitag, Sr., was at all times relevant to this Complaint a resident of Bensalem, Pennsylvania. He died at the age of 57 on August 25, 2018.

14. Plaintiff Charles Freitag, Jr. ("plaintiff"), the son of decedent Charles Freitag, Sr. ("Mr. Freitag"), was on October 15, 2018, appointed as the Administrator of the Estate of Charles Freitag, Sr. Plaintiff brings this action in his capacity as Administrator of the Estate and for the benefit of Mr. Freitag's heirs.

15. Defendant Bucks County is a municipal government entity in the Commonwealth of Pennsylvania, which manages and oversees the Bucks County Correctional Facility ("BCCF"), 1730 South Easton Road, Doylestown, PA 18901.

16. Defendant PrimeCare Medical, Inc. ("PrimeCare"), which has a principal place of business at 3940 Locust Lane, Harrisburg, PA 17109, was, at all times relevant to this

Complaint, the holder of a contract to provide all medical and mental health services to inmates at BCCF.

17. At all times relevant to this Complaint, defendant Stephan Brautigam, PMHNP, was a psychiatric-mental health nurse practitioner employed by defendant PrimeCare and assigned to work at BCCF.

18. At all times relevant to this Complaint, defendant Jessica Mahoney, Psy.D., was a psychologist employed by defendant PrimeCare and assigned to work at BCCF.

19. At all times relevant to this Complaint, defendant Avia James, LPC, was a licensed professional counselor employed by defendant PrimeCare and assigned to work at BCCF.

20. At all times relevant to this Complaint, defendant Christina Penge, LPC, was a licensed professional counselor employed by defendant PrimeCare and assigned to work at BCCF.

21. At all times relevant to this Complaint, defendants Brautigam, Mahoney, James, and Penge were working within the scope and course of their employment with defendant PrimeCare.

22. At all times relevant to this Complaint, defendants John Doe 1-10, were correctional officers or supervisors employed by defendant Bucks County to work at BCCF. Plaintiff does not presently know the names of these defendants but will seek leave to amend the Complaint so as to name each appropriate defendant after initial discovery.

23. At all times relevant to this Complaint, all defendants acted under color of state law.

24. At all times relevant to this Complaint, all defendants acted in concert and conspiracy and were jointly and severally responsible for the harms caused to the Estate of Charles Freitag, Sr., and Mr. Freitag's heirs.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Defendants' Knowledge of Suicide Risk Factors and Necessary Suicide Prevention Measures**

25. It is well recognized by professionals working in the correctional environment, including all defendants in this matter, that prisoner populations include many persons with serious mental illness and specialized mental health needs.

26. It is additionally well recognized by professionals working in the correctional environment, including all defendants in this matter, that prisoners with mental health needs are at substantial risk for attempting suicide while incarcerated.

27. Professionals working in the correctional environment, including all defendants in this matter, are aware of the specific factors that make a prisoner a risk to attempt suicide, including, but not limited to, a history of mental illness, especially a history of mental illness which limits insight and judgment; a history of prior suicide attempts; and negative outcomes in the prisoner's criminal matters.

28. Professionals working in the correctional environment, including all defendants in this matter, are aware that the likelihood of a suicide attempt for a prisoner is exceptionally high in the immediate aftermath of important developments in the prisoner's criminal matters, e.g., a denial of bail, a conviction, or the imposition of a sentence.

29. Professionals working in the correctional environment, including all defendants in this matter, are aware of several recognized methods to mitigate the risk of suicide for a prisoner who presents with significant and acute risk factors, including, but not limited to, enhanced

mental health interventions, such as evaluations by a psychiatrist, suicide risk assessments, and placement of the prisoner on suicide watch.

**B. Mr. Freitag's Suicide Attempts, Arrest, Prosecution, and Conviction**

30. On June 4, 2018, Mr. Freitag was admitted to BCCF after a jury in the Bucks County Court of Common Pleas found him guilty of aggravated assault.

31. At the time of his admission, Mr. Freitag had a recent mental health history that raised immediate concerns that he would attempt to harm himself while incarcerated.

32. That history was compressed into a short ten-month period.

33. As of August 2017, Mr. Freitag had led an exemplary life. He was a 25-year employee of the U.S. Postal Service and was well loved by his friends and family, especially his toddler granddaughter.

34. During the two years leading up to that point, however, Mr. Freitag had dealt with significant trauma and stressors. Two of his brothers died. Three of his closest friends died. His wife left him, and their divorce proceedings caused him to lose a large portion of savings built up during the course of his career.

35. In or around July or August 2017, Mr. Freitag was diagnosed with depression and prescribed medications to treat that condition.

36. In or around August 2017, Mr. Freitag no longer felt the effects of depression and stopped taking his prescribed medications.

37. The sudden cessation of his medication regimen caused an immediate mental health crisis, leading to despondency and erratic behavior.

38. On or around August 31, 2017—his 57th birthday—Mr. Freitag drove to a park and tried to kill himself by ingesting a bottle of sleeping pills while drinking whiskey.

39. He called local police to seek assistance; police were able to transport him to a hospital where he was treated and released that same day.

40. After that event, Mr. Freitag's mental health did not improve.

41. In early September 2017, Mr. Freitag drove onto the Betsy Ross Bridge in Philadelphia and contemplated jumping from the bridge. He then drove to work where he told his supervisor that he needed help.

42. Mr. Freitag's supervisor brought him to a hospital, where he was admitted on an inpatient basis.

43. By September 13, 2017, Mr. Freitag had been released from the hospital. But he remained suicidal.

44. That day, he used a box cutter to make multiple cuts in his arms, and he drove his truck to his ex-wife's house. There, he crashed the truck through the exterior wall of the house and ended up in the living room.

45. Police arrived at the house and located Mr. Freitag still seated in the driver's seat of the truck, bleeding from the wounds in his arms.

46. No one inside the house was injured.

47. Police reported that as they removed Mr. Freitag from the truck he was making suicidal statements.

48. Mr. Freitag was arrested and charged with multiple offenses. Bail was paid and he was not detained while awaiting trial.

49. Mr. Freitag was hospitalized for much of the next two months. He was diagnosed with Major Depressive Disorder and urged to remain on his prescribed medications.

50. Following his inpatient hospitalization, Mr. Freitag was able to return to a full time work schedule.

51. As Mr. Freitag approached a trial on his criminal charges, he was offered a negotiated resolution of the case requiring him to plead guilty to a felony offense in return for a non-incarceration, probationary sentence.

52. Because he was concerned that a felony offense would result in the termination of his employment with the U.S. Postal Service, Mr. Freitag refused to accept the proposed resolution.

53. Instead, he went to trial before a jury. Judge Diane E. Gibbons of the Bucks County Court of Common Pleas presided over the trial.

54. On June 4, 2018, the jury found Mr. Freitag guilty of, among other things, aggravated assault.

55. The court immediately revoked Mr. Freitag's bail, and he was sent to BCCF.

**C. Mr. Freitag's Particular Vulnerability to Suicide While Incarcerated**

56. On the afternoon of June 4, 2018, Mr. Freitag's was admitted to BCCF, where he met with a nurse employed by defendant PrimeCare. That nurse conducted an "Intake Suicide Screening," and recorded a number of factors pointing to the risk that Mr. Freitag would attempt to harm himself. Those factors included:

- a. He had a history of mental health treatment, with a diagnosis of depression;
- b. He had attempted suicide in the past, as evidenced by multiple scars on his arm;
- c. He was experiencing incarceration for the first time in his life;



- d. He had been hospitalized twice for mental health reasons in August and September 2017;
- e. He expressed extreme embarrassment, shame, or humiliation as a result of his charges and his incarceration.

57. These factors were recorded in defendant PrimeCare's electronic medical chart. From that point forward, all PrimeCare employees who viewed the chart during the course of their interactions with Mr. Freitag, including defendants Brautigam, Mahoney, James, and Penge, were aware that Mr. Freitag was particularly vulnerable to suicide.

58. On June 15, 2018, defendant Jessica Mahoney, Psy.D. met with Mr. Freitag. He informed Mahoney that he was "feeling badly" about his incarceration. He made clear to Mahoney that he wanted mental health professionals to follow up with him after his sentencing date, scheduled for August 24, 2018.

59. As Mr. Freitag's sentencing date approached, he grew substantially more anxious, and his mental health status deteriorated.

60. On July 31, 2018, Mr. Freitag spoke with his brother by telephone. He told his brother that he no longer wanted to get out of bed in the morning.

61. Mr. Freitag's brother was concerned because this statement was so out of character for Mr. Freitag, and he immediately contacted Mr. Freitag's lawyer. The lawyer sent an email to the Deputy Warden of BCCF stating, "I am getting reports that the inmate is not doing well incarcerated and has a history of suicide attempts. Would you mind looking into this for me?"

62. Later that same day, defendant Avia James, LPC evaluated Mr. Freitag. He reported that he was an “emotional wreck,” burdened by disbelief that he had been incarcerated. He was “beating himself up” and was tearful and very emotional.

63. Still, Mr. Freitag told defendant James that he believed his attorney would be able to get him a probationary sentence.

64. Given his emotional distress and concerns about his future, defendant James directed that Mr. Freitag be placed on a mental health observation status known as “Level 3 watch.”

65. This intervention required, first, that correctional officers observe Mr. Freitag’s cell in staggered timeframes every thirty minutes, and, second, that Mr. Freitag meet with mental health professionals three times per week.

66. The next day, August 1, 2018, defendant James evaluated Mr. Freitag again. Mr. Freitag told James he was thinking about all of the negative aspects in his life. James noted that he appeared to be depressed and anxious.

67. Two days later, on August 3, 2018, defendant James saw Mr. Freitag for another evaluation. Mr. Freitag told her he was trying to stay positive but that he was worried and anxious when thinking about his future. Mr. Freitag specifically mentioned his next court date—his sentencing—as something that was causing him anxiety. Once again, James noted that Mr. Freitag appeared to be depressed and anxious.

68. On August 6, 2018, defendant Christina Penge, LPC saw Mr. Freitag. She noted that Mr. Freitag was frustrated and that he had ongoing depression. She also noted that Mr. Freitag had only limited insight and judgment.

69. On August 8, 2018, defendant Mahoney saw Mr. Freitag. Mr. Freitag told her that he had bad anxiety which was increasing as his sentencing date approached. He was worried about what would happen and how the result would affect his life. He reported that he was “just trying to get to a place where he can quiet his mind.” Mahoney specifically noted that Mr. Freitag appeared anxious.

70. On August 10, 2018, defendant Penge again saw Mr. Freitag. He reported that his condition was unchanged. He was continuing to have anxiety related to the upcoming sentencing and was concerned about his family. Penge noted that Mr. Freitag still had only limited insight and judgment.

71. Penge saw Mr. Freitag for another evaluation on August 14, 2018. At this point, he told Penge that he believed he would be able to get his job back on his release. Once again, Penge observed that Mr. Freitag had limited insight and judgment.

72. On August 15, 2018, defendant Stephan Brautigam, PMHNP, saw Mr. Freitag. He reported that Mr. Freitag believed he would be released from custody after his sentencing date and would have his job back.

73. Penge then saw Mr. Freitag on August 17, 2018. Despite his statements in his last two mental health encounters expressing hope for release and return to his job, Mr. Freitag informed Penge that he remained anxious about his sentencing. She confirmed her earlier observations that Mr. Freitag had only limited insight and judgment.

74. On August 22, 2018, defendant Mahoney saw Mr. Freitag. He repeated that he was anxious about his sentencing hearing, scheduled for just two days later. He also told Mahoney that, based on conversations with his lawyer, he believed he would get out of prison and get his job back.

75. The next day, August 23, 2018, the day before his sentencing, defendant Penge met for a final time with Mr. Freitag. He told Penge he was nervous about his sentencing hearing. Penge, yet again, noted that Mr. Freitag had limited insight and judgment.

76. As of August 23, 2018, based on their interactions with Mr. Freitag and their review of notes entered into Mr. Freitag's medical chart, defendants Brautigam, Mahoney, James, and Penge were aware of the following facts:

- a. Mr. Freitag had an established mental health history with a diagnosis of Major Depressive Order;
- b. Mr. Freitag had attempted suicide twice within the past year, with the second attempt occurring in a dramatic fashion giving rise to his incarceration;
- c. Mr. Freitag continued to exhibit symptoms of mental illness, including depression, anxiety, and limited insight and judgment;
- d. Mr. Freitag was in the midst of his first incarceration and was embarrassed and humiliated;
- e. Mr. Freitag told his family that he did not want to get out of bed in the morning any more;
- f. Mr. Freitag had built up an expectation that he would be released from prison as a result of his sentencing proceeding;
- g. Mr. Freitag believed that, in connection with his anticipated release, he would be able to return to his job with the U.S. Postal Service, a position that he valued greatly based on his 25-year employment history;

- h. Mr. Freitag believed the sentencing proceeding would cause significant anxiety and stress, and he asked for mental health intervention to be scheduled following that proceeding; and
- i. Mr. Freitag experienced growing anxiety during the lead up to the sentencing proceeding.

77. Based on this background, defendants Brautigam, Mahoney, James, and Penge were aware that Mr. Freitag was particularly vulnerable to suicide and that the result of his sentencing proceeding was a stressor likely to cause him to act on that vulnerability.

78. Despite that knowledge, defendants Brautigam, Mahoney, James, and Penge did not schedule an immediate mental health intervention to address Mr. Freitag's mental health condition and suicide risk following his sentencing.

79. Instead defendants scheduled an evaluation for Mr. Freitag for August 27, 2018—three days after the sentencing hearing.

80. Nor did defendants Brautigam, Mahoney, James, and Penge direct that correctional staff take any precautions with Mr. Freitag should he be returned to BCCF as a result of the sentencing proceeding.

81. Instead, defendants Brautigam, Mahoney, James, and Penge allowed the thirty-minute watch protocol first instituted nearly a month earlier to remain in place.

**D. Mr. Freitag's Sentencing, The Failure to Properly Monitor  
Mr. Freitag's Cell, and Mr. Freitag's Suicide**

82. Mr. Freitag had his sentencing hearing on August 24, 2018.

83. At that hearing, numerous family members and friends attended in support of Mr. Freitag.

84. Mr. Freitag's counsel presented to the court extensive evidence concerning Mr. Freitag's mental illness and suicide attempts and, based on that evidence, asked the court to impose a probationary sentence.

85. The court rejected that request and imposed a sentence of six to twelve years imprisonment in the Pennsylvania Department of Corrections.

86. Mr. Freitag was deeply distraught by this sentencing. Because he was expecting to be released from prison, the realization that he faced a minimum of six years and as many as twelve years in state prison left him shocked and stunned.

87. Mr. Freitag was returned to BCCF on the afternoon of August 24, 2018.

88. As a result of the actions and inactions of defendants Brautigam, Mahoney, James, and Penge, however, Mr. Freitag had no mental health intervention on his return to BCCF.

89. As these defendants were aware, the minimal intervention resulting from the thirty-minute watch protocol initiated on July 31, 2018, did not constitute a suicide precaution and was insufficient to protect a person particularly vulnerable to suicide.

90. Defendants John Doe 1-10 were the correctional staff members responsible for implementing the thirty-minute watch protocol.

91. That protocol required a correctional officer to look into Mr. Freitag's cell at staggered time periods at least once every thirty minutes.

92. Based on the previous two-plus months of Mr. Freitag's incarceration during which he was placed on a prolonged watch status, defendants John Doe 1-10 were aware of Mr. Freitag's particular vulnerability to suicide.

93. Defendants John Doe 1-10 knew that the 30-minute watch protocol had been ordered to ensure Mr. Freitag's safety and, likewise, knew that they had to fulfill the protocol's requirements.

94. Shortly after 9:00 a.m. on the morning of August 25, 2018, the day after Mr. Freitag was sentenced, Mr. Freitag's cellmate left their shared cell to play basketball.

95. Correctional officers checked Mr. Freitag in his cell at 10:04 a.m. and then again at 10:21 a.m.

96. Under the thirty-minute watch protocol defendants John Doe 1-10 were required to check Mr. Freitag's cell within thirty minutes.

97. Defendants John Doe 1-10, with knowledge that they were violating the thirty-minute watch protocol, failed to do so.

98. At 10:55 a.m., another prisoner looked into Mr. Freitag's cell and yelled to correctional officers that Mr. Freitag was kneeling beside his bed with his head and arms prone on the bed and that he was surrounded by a pool of blood.

99. An emergency alert was issued and officers found Mr. Freitag unresponsive. They attempted to stem the substantial bleeding coming from gaping wounds in his arms and to revive him. But they were unable to do so and Mr. Freitag was pronounced dead.

100. An autopsy confirmed that Mr. Freitag died due to self-inflicted incised wounds of both arms.

**E. Defendants' Violation of Ms. Freitag's Constitutional and Federally Protected Rights and Relevant Standards of Care**

101. Defendants Brautigam, Mahoney, James, Penge, and John Doe 1-10 were aware of Mr. Freitag's particular vulnerability to suicide.

102. Notwithstanding their knowledge of Mr. Freitag's particular vulnerability to suicide, defendants Brautigam, Mahoney, James, Penge, and John Doe 1-10, with deliberate indifference and in violation of relevant standards of care, failed to take actions to address Mr. Freitag's vulnerability to suicide.

103. Defendants Brautigam, Mahoney, James, and Penge failed to, among other things, ensure that Mr. Freitag would have necessary mental health interventions upon the completion of his sentencing proceeding.

104. Defendants John Doe 1-10 failed to observe Mr. Freitag in his cell in compliance with the 30-minute watch protocol.

105. Instead, defendants Brautigam, Mahoney, James, Penge, and John Doe 1-10 allowed Mr. Freitag to remain in his cell, unmonitored, and without mental health intervention following a sentencing proceeding, which, for nearly a month, Mr. Freitag had identified as a significant stressor.

106. Mr. Freitag's suicide was the direct and proximate result of the defendants' failures as outlined above.

107. At all times relevant to this Complaint, as evidenced by the failures outlined above, defendants PrimeCare and Bucks County, with deliberate indifference, failed to develop and implement policies, practices, and procedures to ensure that prisoners in the position of Mr. Freitag would be treated in a way that would mitigate significant risks of suicide.

108. At all times relevant to this Complaint, as evidenced by the failures outlined above, defendants PrimeCare and Bucks County, with deliberate indifference, failed to properly train, supervise and discipline their respective employees so as to ensure that prisoners in the position of Mr. Freitag would be treated in a way that would mitigate significant risks of suicide.



109. In particular, defendant PrimeCare failed to enact policies, practices and procedures and/or ensure training regarding the need for its mental health practitioner employees to ensure mental health interventions following critical court proceedings and other events identified as stressors by prisoners with a mental health history.

110. Further, defendant Bucks County failed to enact policies, practices and procedures and/or ensure training regarding, among other things, the need for its correctional employees to comply with watch protocols instituted by medical and/or mental health staff and/or the need to seek mental health interventions for an inmate particularly vulnerable to suicide.

111. The risk of harm to prisoners like Mr. Freitag in the absence of appropriate policies, practices, and procedures and/or appropriate training, supervision, and discipline was obvious and apparent to defendants PrimeCare and Bucks County.

112. Given his diagnosed mental health condition, Mr. Freitag was a qualified individual with a disability under federal law.

113. When Mr. Freitag was deprived of appropriate mental health interventions as outlined above, he was deprived of services, programs, or activities of defendant Bucks County, by reason of his disability.

114. At all times relevant to this Complaint, the conduct of all defendants was in willful, reckless, and callous disregard of Mr. Freitag's rights under federal and state law.

115. As a direct and proximate result of the conduct of all defendants, Mr. Freitag experienced enormous physical and emotional pain and suffering.

116. As a direct and proximate result of the conduct of all defendants, Mr. Freitag was caused to lose his life and the enjoyment of his life, including complete loss of earnings and earnings capacity.

## V. WRONGFUL DEATH AND SURVIVAL ACTIONS

117. Plaintiff, as Administrator of the Estate of Charles Joseph Freitag, Sr., bring this action on behalf of Mr. Freitag's heirs under the Pennsylvania Wrongful Death Act, 42 Pa. C.S. § 8301.

118. Plaintiff is Mr. Freitag's sole heir under the Wrongful Death Act.

119. Mr. Freitag did not bring an action against defendants for damages for the injuries causing his death during his lifetime.

120. Mr. Freitag's heirs have, by reason of Mr. Freitag's death, suffered pecuniary loss, and have or will incur expenses for the costs of Mr. Freitag's funeral, the costs of Mr. Freitag's headstone, and the costs of administering Mr. Freitag's estate.

121. Mr. Freitag's heirs have, by reason of Mr. Freitag's death, suffered further pecuniary loss including expected contributions and financial support from Mr. Freitag for food, clothing, shelter, medical care, education, entertainment, recreation, and gifts.

122. Plaintiff also brings this action on behalf of the Estate of Charles Joseph Freitag, Sr., under the Pennsylvania Survival Statute, 42 Pa. C.S. § 8302, under which all claims Mr. Freitag would have been able to bring had he survived may be brought by Mr. Freitag's estate.

123. Mr. Freitag's estate has, by reason of Mr. Freitag's death, suffered pecuniary loss, and has or will incur expenses for the costs of Mr. Freitag's funeral, the costs of Mr. Freitag's headstone, and the costs of administering Mr. Freitag's estate.

124. As a direct and proximate result of the conduct of all defendants, Mr. Freitag experienced extraordinary physical and emotional pain and suffering before his death, and, as a result of his death, suffered the loss of the enjoyment of his life and complete loss of earnings and earnings capacity.

125. Plaintiff, via this survival action, seeks damages for these harms caused to Mr. Freitag.

## **VI. CLAIMS FOR RELIEF**

### **COUNT 1**

#### **Plaintiff v. Defendants Brautigam, Mahoney, James, Penge, and John Doe 1-10 Federal Constitutional Claims**

126. Defendants Brautigam, Mahoney, James, Penge, and John Doe 1-10 were deliberately indifferent to Mr. Freitag's particular vulnerability to suicide and thereby violated Mr. Freitag's right to be free from cruel and unusual punishment under the Eighth Amendment to the United States Constitution and/or his right to due process of law under the Fourteenth Amendment to the United States Constitution.

### **COUNT 2**

#### **Plaintiff v. Defendants Bucks County and PrimeCare Federal Constitutional Claims**

127. The violations of Mr. Freitag's constitutional rights under the Eighth and /or Fourteenth Amendment to the United States Constitution, plaintiff's damages, and the conduct of the individual defendants were directly and proximately caused by the actions and/or inactions of defendants Bucks County and PrimeCare, which have, with deliberate indifference, failed to establish policies, practices, and procedures and/or have failed to properly train, supervise and discipline their employees regarding the protection of suicidal prisoners as outlined above.

### **COUNT 3**

#### **Plaintiff v. Defendants Bucks County Title II, Americans with Disabilities Act, 42 U.S.C. § 12132**

128. Mr. Freitag was a qualified individual with a disability as defined under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132. Defendant Bucks County, with deliberate indifference, failed to ensure the use of appropriate watch protocols and the adoption

of procedures to obtain mental health interventions for prisoners in its custody, and, as such deprived Mr. Freitag of the benefits of Bucks County's services, programs, or activities on account of his disability.

**COUNT 4**

**Plaintiff v. Defendants Brautigam, Mahoney, James, Penge, and PrimeCare  
State Law Negligence Claims**

129. Defendants Brautigam, Mahoney, James, and Penge had a duty to comply with generally accepted medical and mental health standards of care in their treatment of Mr. Freitag.

130. Defendants Brautigam, Mahoney, James, and Penge violated their duty of care.

131. The defendants' violation of their duty of care to Mr. Freitag was a direct and proximate cause and a substantial factor in bringing about plaintiff's damages as outlined above, and, as a result, defendants are liable to plaintiff.

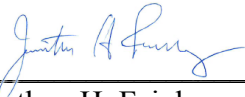
132. Because the individual defendants were acting as agents, servants, and/or employees of defendant PrimeCare, and because the individual defendants were acting within the scope and course of their employment, and under the direct control and supervision of defendant PrimeCare, defendant PrimeCare is liable to plaintiff on the basis of *respondeat superior* liability.

## VII. REQUESTED RELIEF

**Wherefore**, plaintiff respectfully requests:

- A. Compensatory damages as to all defendants;
- B. Punitive damages as to defendants Brautigam, Mahoney, James, Penge, John Doe 1-10, and PrimeCare;
- C. Reasonable attorneys' fees and costs;
- D. Such other and further relief as may appear just and appropriate.

Plaintiff hereby demands a jury trial.



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JS 44 (Rev 02/19)

CIVIL COVER SHEET

19-cv-5750

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)

19 5750

I. (a) PLAINTIFFS

Charles Joseph Freitag, Jr. as Administrator of the Estate of Charles Joseph Freitag, Sr

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Jonathan H. Feinberg, Kairys, Rudovsky, Messing, Feinberg & Lin, 718 Arch St., Ste 501 S, Phila, PA 19106, 215-925-4400

DEFENDANTS

Bucks County, PrimeCare Medical, Inc., Stephan Brautigam, PMHNP, Jessica Mahoney, Psy D, Avia James, LPC, Christina Penge, LPC, John 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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Click here for Nature of Suit Code Descriptions

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity) 42 USC 1983

Brief description of cause: Deliberate indifference to particular vulnerability to suicide

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: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE 12/05/2019 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

DEC - 6 2019



UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TJS

19 5750

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: c/o 718 Arch Street, Suite 501 South, Philadelphia, PA 19106
Address of Defendant: 1730 S. Easton Road, Doylestown, PA 18901
Place of Accident, Incident or Transaction: Bucks County Correctional Facility

RELATED CASE, IF ANY:

Case Number Judge Date Terminated

Civil cases are deemed related when Yes is answered to any of the following questions

- 1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?
4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

I certify that, to my knowledge, the within case is/is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE 12/05/2019
Must sign here
Attorney-at-Law / Pro Se Plaintiff
88227
Attorney I D # (if applicable)

CIVIL: (Place a v in one category only)

A. Federal Question Cases:

- 1 Indemnity Contract, Marine Contract, and All Other Contracts
2 FELA
3 Jones Act-Personal Injury
4 Antitrust
5 Patent
6 Labor-Management Relations
7 Civil Rights
8 Habeas Corpus
9 Securities Act(s) Cases
10 Social Security Review Cases
11 All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1 Insurance Contract and Other Contracts
2 Airplane Personal Injury
3 Assault, Defamation
4 Marine Personal Injury
5 Motor Vehicle Personal Injury
6 Other Personal Injury (Please specify)
7 Products Liability
8 Products Liability - Asbestos
9 All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Jonathan H. Feinberg, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs

Relief other than monetary damages is sought.

DATE 12/05/2019
Sign here if applicable
Attorney-at-Law / Pro Se Plaintiff
DEC - 6 2019
88227
Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

TJS

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Charles Joseph Freitag, Jr., as

Administrator of Estate of Charles :

Joseph Freitag, Sr. :

Bucks County et al. :

CIVIL ACTION

**19 5750**

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (  )

<u>12/5/2019</u>	<u><i>Justin A. Feinberg</i></u>	<u>Plaintiff</u>
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
<u>215-925-4400</u>	<u>215-925-5365</u>	<u>jfeinberg@krlawphila.com</u>
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>