

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JACLYN CURRIE, as Personal Representative, )  
Administrator for the Estate and on behalf of )  
PHILLIP OKORO, )  
 )  
Plaintiff )

vs. )

No. 09-866-MJR

TOM CUNDIFF, INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS SHERIFF OF )  
WILLIAMSON COUNTY, ILLINOIS; )  
THE COUNTY OF WILLIAMSON AND )  
UNKNOWN EMPLOYEES AND SUPERVISORS )  
OF WILLIAMSON COUNTY JAIL, )  
 )  
Defendants. )

**ANSWER TO COMPLAINT**

NOW Come the Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, and for their Answer to Plaintiff's Complaint, say:

**INTRODUCTION**

1. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that Phillip Okoro was incarcerated at the Williamson County Jail but deny that there was any conversation with jail employees and family members of the decedent; but otherwise lack sufficient knowledge to either admit or deny the remaining allegations of Paragraph 1; however, to the extent a response is required, the Defendants deny each and every allegation of Paragraph 1.

2. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that Phillip Okoro passed away on December 23, 2008, but otherwise deny each and every allegation of 2.

### **JURISDICTION AND VENUE**

3. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that this Court would have jurisdiction over the claims as asserted by the Plaintiff's Complaint and that venue would be proper but these Defendants deny that the Plaintiff's Complaint states a cause of action against these Defendants.

### **PARTIES**

4. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that on December 23, 2008, Phillip Okoro was in the custody of the Williamson County Jail but otherwise lack sufficient knowledge to either admit or deny the allegations of Paragraph 4; however, to the extent a response is required, the Defendants deny each and every allegation of Paragraph 4.

5. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, lack sufficient knowledge to either admit or deny the allegations of Paragraph 5; however, to the extent a response is required, the Defendants deny each and every allegation of Paragraph 5.

6. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, lack sufficient knowledge to either admit or deny the allegations of Paragraph 6; however, to the extent a response is required, the Defendants deny each and every allegation of Paragraph 6.

7. Defendant, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois admits that he was the Sheriff of Williamson County at the relevant times thereof but states that the remaining allegations are nothing more than legal conclusions and not facts; however, to the extent a response is required, Defendant, Tom Cundiff denies each and every remaining allegation of Paragraph 7.

8. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, make no response to Paragraph 8 in that it is nothing more than a legal conclusion; however, to the extent a response is required, the Defendants deny each and every allegation of Paragraph 8.

9. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 9.

10. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that The County of Williamson is a county within the State of Illinois but otherwise deny each and every remaining allegation of Paragraph 10.

#### **The Death of Mr. Okoro**

11. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, admit that on October 15, 2008, Phillip Okoro was arrested and taken to the Williamson County Jail but otherwise lack sufficient knowledge to either admit or deny the remaining allegations of Paragraph 11; however, to the extent a response is required the Defendants deny each and every remaining allegation of Paragraph 11.

12. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 12.

13. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 13.

14. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 14.

15. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 15.

16. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 16.

**Count I-42 U.S.C. §1983  
Violations of Constitutional Rights**

17. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, reallege their answers to the Complaint as and for their answers to Paragraph 17 of Count I.

18. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 18.

19. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 19.

20. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 20.

21. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 21.

22. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 22.

23. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 23.

24. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 24.

**Count II-State Law Claim  
Wrongful Death**

25. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 25 of Count II.

26. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 26.

**Count III-State Law Claim  
Survival Action**

27. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 27 of Count III.

28. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 28.

29. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 29.

30. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 30.

**Count IV-State Law Claim  
Family Expense**

31. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 31 of Count IV.

32. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of

Paragraph 32.

**Count V-State Law Claim  
Intentional Infliction of Emotional Distress**

33. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 33 of Count V.

34. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 34.

35. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 35.

36. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 36.

37. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 37.

**Count VI-State Law Claim  
Respondeat Superior**

38. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 38 of Count VI.

39. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of

Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 39.

40. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 40.

**Count VII-State Law Claim  
Indemnification**

41. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 41 of Count VII.

42. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 42.

43. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 43.

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44. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, repeat and reallege their answers to the Complaint as and for their answers to Paragraph 44.

45. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 45.



46. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 46.

47. Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, deny each and every allegation of Paragraph 47.

WHEREFORE, Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, demand that Plaintiff take nothing by her Complaint and these Defendants have judgment for their costs in this cause most wrongfully sustained.

**DEFENDANTS DEMAND TRIAL BY A JURY.**

**FIRST AFFIRMATIVE DEFENSE**

NOW Come the Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, by Bleyer and Bleyer their attorneys, and for their First Affirmative Defense allege that the Plaintiff's Complaint was not filed within the time specified in the statute of limitations.

**SECOND AFFIRMATIVE DEFENSE**

NOW Come the Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, by Bleyer and Bleyer, their attorneys, and for their Second Affirmative Defense state that Plaintiff's Complaint fails to state a cause of action as a matter of law.

**THIRD AFFIRMATIVE DEFENSE**

NOW Comes the Defendants, Tom Cundiff, Individually and in his official capacity as

Sheriff of Williamson County, Illinois, County of Williamson, by Bleyer and Bleyer, its attorneys, and for its Third Affirmative Defense states these defendants have immunity from punitive damages pursuant to 745 ILCS 10/2-102 and 745 ILCS 10/2-213.

#### **FOURTH AFFIRMATIVE DEFENSE**

NOW Comes the Defendant, County of Williamson, by Bleyer and Bleyer, its attorneys, and for its Fourth Affirmative Defense states that a local public entity is not liable for an injury allegedly resulting from an act or omission of its employee where its employee is not liable 745 ILCS 10/2-109.

#### **FIFTH AFFIRMATIVE DEFENSE**

NOW Come Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, by Bleyer and Bleyer, their attorneys, and for their Fifth Affirmative Defense state states that Williamson County, Illinois is not liable for the actions of its employees. *Monell vs. New York City Department of Social Services*, 436 U.S. 658 (1978).

#### **SIXTH AFFIRMATIVE DEFENSE**

NOW Come Defendant, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois by Bleyer and Bleyer, his attorneys, and states that he is not liable to the Plaintiff in that he is entitled to qualified immunity.

#### **SEVENTH AFFIRMATIVE DEFENSE**

NOW Come the Defendants, Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County, Illinois and County of Williamson, by Bleyer and Bleyer, and state that the Defendants were not deliberately indifferent to the Decedent's medical condition.

BLEYER and BLEYER

S/Joseph A. Bleyer  
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## CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2010, I electronically filed an Answer to Complaint on behalf of Tom Cundiff, Individually and in his official capacity as Sheriff of Williamson County and the County of Williamson with the Clerk of the Court using CM/ECF System which will send notifications of such filing to the following:

Arthur Loevy  
Jon Loevy  
Tara Thompson  
Loevy & Loevy  
312 North May Street  
Suite 100  
Chicago, IL 60607

I hereby certify that on January 27, 2010, I mailed by United States Postal Service, the documents to the following nonregistered participants:

None

S/JOSEPH A. BLEYER

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