

DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO	DATE FILED: November 3, 2022 10:45 AM FILING ID: 278A17DA881EE CASE NUMBER: 2022CV30614
COURT ADDRESS: Boulder County Justice Center 1777 Sixth Street Boulder, CO 80302	<COURT USE ONLY>
<p>KYLE TERMIN, Plaintiff</p> <p>v.</p> <p>JOE PELLE, in his official capacity as Sheriff of Boulder County, Colorado, GENE TAYLOR, MARIO MOORE and DON SHEPPARD, Defendants.</p>	
ATTORNEYS FOR PLAINTIFF: Scott Jurdem, Atty. Reg. #: 7840 Sarah Croog, Atty. Reg. #: 37979 Jonathan Greenlee, Atty. Reg. #: 46591 JURDEM, LLC 820 Pearl Street, Suite H, Boulder, CO 80302 Phone: (303) 402-6717; Fax: (303) 402-6718 E-mail: sj@jurdem.com; sac@jurdem.com; jmg@jurdem.com	Case Number: 22-CV-30614 Division 2
AMENDED COMPLAINT AND JURY DEMAND	

The Plaintiff, Kyle Termin, by and through his attorneys, Scott Jurdem, Sarah Croog and Jonathan Greenlee of the law firm of JURDEM, LLC, submits his Amended Complaint, demands a Jury Trial of the following claims for relief, and states, avers, and alleges as follows:

I. IDENTITY OF PARTIES AND NATURE OF CLAIMS

1. That at all times material hereto, the Plaintiff, Kyle Termin was a pre-trial detainee residing at Boulder County Jail 3200 Airport Rd, County of Boulder, State of Colorado.

2. That at all times material hereto, the Defendant, Joe Pelle was and is responsible for the management of the Boulder County Sheriff's Office located at 5600 Flatiron Parkway, Boulder Colorado 80301.

3. That at all times material hereto, the Defendant Joe Pelle was and is responsible for the operation of the Boulder County Jail, 3200 Airport Rd, County of Boulder, State of Colorado. C.R.S. § 30-10-511 (“The sheriff shall have charge and custody of the jails of the county, and of the prisoners in the jails, and shall supervise them himself or herself or through a deputy or jailer”); *also*, C.R.S. § 17-26-102 (Sheriff of county responsible for manner in which jail is kept.)

4. That at all times material hereto, the Defendant, Gene Taylor was employed by Defendant Joe Pelle as a Boulder County Jail Deputy.

5. That at all times material hereto, the Defendant Mario Moore was employed by Defendant Joe Pelle as a Boulder County Jail Deputy.

6. That at all times material hereto, the Defendant Don Sheppard was employed by Defendant Joe Pelle as a Boulder County Jail Deputy.

7. That at all times material hereto, the Defendant, Gene Taylor was a peace officer, as defined in C.R.S. § 24-31-901 (3), acting under color of law pursuant to the authority vested in him as a peace officer.

8. That at all times material hereto, the Defendant Mario Moore was a peace officer, as defined in C.R.S. § 24-31-901 (3), acting under color of law pursuant to the authority vested in him as a peace officer.

9. That at all times material hereto, the Defendant Don Sheppard was a peace officers, as defined in C.R.S. § 24-31-901 (3), acting under color of law pursuant to the authority vested in him as a peace officer.

10. As a pre-trial detainee the Plaintiff, Kyle Termin had individual rights creating a binding obligation on government actors including Defendants Gene Taylor, Mario Moore and Don Sheppard secured by the Bill of Rights, Article II § 25 of the Colorado Constitution under the Due Process Clause:

- (a) not be punished prior to an adjudication of guilt in accordance with due process of law,
- (b) not to be subjected to the arbitrary infliction of excessive force,
- (c) not to be subjected to force inspired by malice or by unwise, excessive zeal amounting to an abuse of official power,

- (d) to have Boulder County Jail deputies employ appropriate mental health interventions rather than use violent beatings when responding to behavioral concerns resulting from Plaintiff Termin's traumatic brain injury and mental disability,
- (e) not to have his mental health needs deliberately disregarded.
- (f) pursuant to the bill of rights, article II § 20 of the state constitution not to suffer the infliction of cruel and unusual punishment.

11. That at all times material hereto Defendants Gene Taylor, Mario Moore and Don Sheppard knew that the sometimes-concerning behaviors exhibited by Plaintiff Kyle Termin were likely the result of a mental health disability.

12. On April 4, 2022, Defendant Taylor struck the Plaintiff Kyle Termin, with three full force punches in the head and face, knocking him to the ground.

13. Not satisfied with the punishment already inflicted, Defendant Taylor then got on top of Plaintiff Termin, kicking him in the ribs four times with his knee, inflicting four massive knee strikes into Mr. Termin's side – even though Mr. Termin was already pinned to the floor.

14. At the time he was beaten by Defendant Taylor on April 4, 2022, Plaintiff Kyle Termin was alone in a solitary jail cell, almost naked, in handcuffs and leg irons, attached to a belly chain, in his underwear with only flip flops on his feet.

15. On April 4, 2022, Defendant Taylor Defendant Taylor used excessive force against Plaintiff Termin that was objectively unreasonable.

16. Defendant Sheppard assisted Defendant Taylor, holding Plaintiff's arms down such that Mr. Termin was unable to defend or protect himself from the attack.

17. Defendants Moore and Sheppard failed to object to Deputy Taylor's assault on Plaintiff Termin and failed to intervene despite having a realistic opportunity to intervene to prevent the harm from occurring.

18. Much of the assault was recorded on Defendant Moore's body camera, attached as **Exhibit 1**, previously submitted to the court via hand delivery on September 6, 2022.

19. By their conduct participating in and failing to intervene in the use of excessive force against Plaintiff on April 4, 2022, Defendants Taylor, Moore and Sheppard, all peace officers acting under color of law, caused Plaintiff Kyle Termin to suffer the deprivation of those

individual rights that created binding obligations on government actors secured by the Bill of Rights, Article II of the Colorado Constitution, and are liable to Plaintiff for legal and equitable relief and any other appropriate relief. C.R.S. §13-21-131.

20. Defendant Joe Pelle in his official capacity negligently failed to fulfill his responsibility to exercise reasonable care in the operation of the Boulder County Jail including but not limited to:

- (a) Failing to train deputies such as Defendants Taylor, Moore and Sheppard to employ appropriate mental health interventions in response to behavioral issues exhibited by Plaintiff Termin,
- (b) Failing to supervise deputies such as Defendants Taylor, Moore and Sheppard to assure they would employ appropriate mental health interventions in response to behavioral issues exhibited by Plaintiff Termin,
- (c) Establishing pervasive practices, customs and policies at the Boulder County Jail resulting in the deliberate disregard of Plaintiff Termin's mental health needs which encouraged Defendants Taylor, Moore and Sheppard to employ violent beatings rather than appropriate mental health interventions in response to behavioral issues exhibited by Plaintiff Termin resulting from his traumatic brain injury and mental disability.

21. Defendant Joe Pelle in his official capacity also bears *respondeat superior* liability for the conduct of his employees, the Defendants Taylor, Moore and Sheppard within the course and scope of their employment on April 4, 2022.

22. The Colorado Governmental Immunity Act (CGIA) waives sovereign immunity from suit for injuries sustained by pretrial detainees arising out of the operation of the jail, regardless of whether tort liability is predicated on intentional or negligent conduct. *Cisneros v. Elder, Sheriff of El Paso County, Colorado*, 506 P.2d 828 (Colo. 2022).

23. More than 90 (ninety) days have passed since Plaintiff's complying Notice of Claim pursuant to C.R.S. § 24-10-109 was served on Boulder County (Colorado) Attorney Ben Pearlman representing the public entity as required by C.R.S. § 24-10-109 (3)(a).

24. The events at issue occurred at the Boulder County Jail, 3200 Airport Rd, County of Boulder, State of Colorado, such that jurisdiction and venue are proper in this Court.

II. FACTUAL DESCRIPTION OF EVENTS GIVING RISE TO PLAINTIFF'S CLAIMS

A. **Defendants Knew that Plaintiff Termin's Behavioral Issues Resulted From Significant Mental Health Needs and Traumatic Brain Injury**

25. Plaintiff Kyle Termin was placed into the custody of the Defendant Joe Pelle, Boulder County Sheriff at the Boulder County Jail on October 27, 2020.

26. As early as October 29, 2020, jail records reflect Plaintiff Termin's history of mental health issues.

27. Mr. Termin remained in the jail where he had his initial mental health evaluation on November 17, 2020. He was noted to be experiencing possible delusions and placed on special management status reserved for inmates diagnosed as having mental health problems.

28. On November 23, 2020, the court entered orders for Mr. Termin to undergo an in-custody evaluation of his competency by the Colorado Department of Human Services.

29. On December 30th, 2020, the report returned following the evaluation found that Mr. Termin was incompetent to proceed to adjudication.

30. Plaintiff Termin remained in custody at the Boulder County Jail and continued to exhibit bizarre and self-harming behaviors.

31. Plaintiff Termin's jail record contains a mental health note on February 11, 2021, reflecting that Plaintiff Termin "presents with significant behavioral concerns, which are likely the result of mental health history, traumatic brain injury and diagnosis of IDD. It is difficult for MH to interact with him and/or for CT to progress in jail due to frequent outburst with staff."

32. On June 9, 2021, Plaintiff Termin was admitted to the Colorado Mental Health Institute at Pueblo for inpatient competency restoration.

33. On June 29, 2021, a court order for involuntary medication of Mr. Termin with lithium, chlorpromazine, Haldol, olanzapine/Zyprexa was entered.

34. Following administration of the medications Mr. Termin was deemed restored to competency pursuant to an evaluation by Gabriela Gomez PhD on July 8, 2021.

35. Dr. Gomez indicated in part that Mr. Termin was “compliant with mood stabilizing and antipsychotic medication’s and demonstrating appropriate behaviors” noting “he may meet criteria for unspecified bipolar disorder given mood instability, agitation and aggression that improves following with the use of psychiatric medication. Bipolar disorder is a chronic treatable mood disorder typically treated with mood stabilizing medication.”

36. Mr. Termin was returned into the custody of the Boulder County Jail on July 22, 2021. He was discharged from CMHIP on lithium, Zyprexa, propranolol, trazodone, and gabapentin. In his jail record, Mr. Termin was noted to present as polite, calm, and stable stating he did well in Pueblo and was committed to doing well here (in the Boulder County Jail).

37. On July 29, 2021, Mr. Termin contacted Jail staff wanting to make sure he was still on lithium stating he was doing really well, and his mood was good. He stated that he “is planning on staying on medication because he is doing so well.”

38. Mr. Termin was released from custody at the Boulder County Jail on August 5, 2021.

39. Mr. Termin was placed back into the custody of the Boulder County Jail on November 26, 2021 and has remained in custody at the jail since that time.

40. Jail records note on December 22, 2021 that “Kyle’s recent behavior seems to be heading back to his old ways.” He was again designated a special management inmate due to mental health issues and was noted to be “behaving in an erratically aggressive manner.”

41. Jail records reflect that on December 28, 2021, Mr. Termin was being moved from special management to disciplinary segregation. Force was used to get him into a restraint chair. The records claim he allegedly spit on Officer McDonald. He was placed on level IIIA. He was upset and told the writer he would not get his commissary.

42. A note by Susan Hudson NP reflects that on December 30, 2021 she reminded Mr. Termin that when he came back from CMHIP he said he liked the way the medications made him feel and that they were working.

43. On January 7, 2022, mental health notes in the jail record reflect “history of dysregulated behaviors with recent assaultive behaviors.”

44. Jail records reflect that on January 29, 2022, Mr. Termin, as a result of his untreated mental illness, was exhibiting behavioral issues and noted to be extremely aggressive and unpredictable. He was placed on two Deputy/full restraint protocol. He was reportedly attempting to spit through the crack in the door. The jail record notes that Mr. Termin “meets criteria to remain on level 3A at this time due to danger to others.”

45. Jail records reflect that on January 30, 2022, jail staff responded to a call that inmate Termin was hurting himself. He was in the process of being placed in a restraint chair and had an obvious bloody contusion to his forehead. It was noted that Mr. Termin was “difficult to treat due to manic and volatile behavior.”

46. Jail records reflect that on February 1, 2022, module deputies reported that Mr. Termin had been banging his head and screaming loudly during the morning. Notes indicate “given current self-harming behaviors and high level of volatility he continues to meet criteria for a level IIIA.”

47. February 6, 2022, notes Mr. Termin as often being very unpredictable

48. Jail records reflect that on March 29, 2022, Mr. Termin stated that the mental health team “does not know him” even though we have a lot of contact with him during his last stay and during our checks.

49. Statements made and recorded on Deputy Joshua John’s April 4, 2022 body camera recording reflect that the defendants understood that Kyle Termin’s personality would cycle back and forth from cooperative to hostile.

50. Deputy Joshua John’s April 4, 2022 body camera recording after the beating captures Defendant Taylor discussing his knowledge of Plaintiff Termin, “somedays he’s nice, yes sir, no sir, depends on his mood.”

51. In response to Defendant Taylor’s description of Mr. Termin’s fluctuating behavior on Johns’ video, Sgt. Sager adds context with his understanding that Termin’s erratic behavior was due to a traumatic brain injury, mental health issues and knowledge that he had been to the state hospital and been medicated.

52. Given his lengthy history of significant, documented mental health issues at the jail, the defendants understood that Kyle Termin was suffering from impaired mental health.

53. Given his lengthy history at the jail, the defendants also understood that Kyle Termin was physically disabled.

B. Defendants Resorted to Violent Beating Rather Than Appropriate Mental Health Interventions in Response to Behavioral Issues Exhibited By Plaintiff Termin

54. In the days leading up to April 4, 2022, due to behavioral concerns, which Defendants understood were likely the result of Plaintiff's mental health history and traumatic brain injury, plaintiff Kyle Termin was housed in a cell in the disciplinary module.

55. Mr. Termin was confined to his cell for all but one hour and 15 minutes of the day.

56. When allowed out of his cell for the one hour and 15 minutes per day, Mr. Termin was required to wear full restraints, hand cuffs, leg cuffs and belly chain, and placed in the sub day room, a small, enclosed room, securing him away from all others, adjacent to the day room.

57. Jail records reflect that on April 4, 2022, medical was called after Plaintiff Termin was placed in a restraint chair with a bloody mouth and lacerated inner cheek.

58. According to Deputy Karl Ford's (#1377) report of the incident, on Monday April 4, 2022, Ford was working in the officer workstation covering the disciplinary and special management unit areas at the Boulder County Jail.

59. Deputy Ford reported that at approximately 8:40 a.m. jail deputies, the Defendants, Gene Taylor (#1483), Mario Moore (#1472) and Don Sheppard (#1358) went into the disciplinary module to ask Kyle Termin if he wanted his one hour and 15-minute time out.

60. When they approached the Plaintiff on April 4, 2022, the Defendants Taylor, Moore and Sheppard were aware of Plaintiff Termin's mental and physical disability.

61. Before moving Plaintiff, Kyle Termin, Defendant jail deputies placed him in a full restraint set up including leg cuffs connected by a chain to a set of handcuffs.

62. Mr. Termin was unclothed but for a pair of thin shorts provided by the jail.

63. Mr. Termin had only rubber flip flops on his feet when placed in the locked disciplinary module sub day room for his time out.

64. At about 9:45 a.m., the Defendant, former Deputy Taylor was doing a check in the disciplinary module.

65. At that time, Plaintiff Kyle Termin was inside the locked disciplinary module sub day room.

66. At about 9:45 a.m., when the Defendant, former Deputy Taylor, checked on Plaintiff Termin from outside the locked disciplinary module sub day room, Plaintiff Termin was wearing hand cuffs, leg cuffs, shackle restraints, and was behind the security glass of a locked door separating Mr. Termin from sheriff deputies and other inmates.

67. The Defendant, former Deputy Taylor claims that Plaintiff Termin pointed his finger at Deputy Taylor through the glass, and allegedly spat on the inside of the security glass in the locked door separating them.

68. At the time Plaintiff Termin allegedly made the hand gesture and spat he was in full restraints, alone in a solitary room, behind the security glass of a locked door, separating him from sheriff deputies and other inmates and was not endangering anyone.

69. Defendant Taylor decided to have two other deputies, defendants Sheppard and Moore, join him to enter the secure sub day room, confront Termin, take him back to his cell and lock him down.

70. Back at the officer workstation the deputies put gloves on, and Deputy Ford provided a spit mask handing it to Deputy Moore anticipating that Mr. Termin who had allegedly spit on the glass would spit at the deputies.

71. Although Mr. Termin's behavior in the isolated sub day room was erratic as a result of his mental disability, there was no urgency to confront Plaintiff Termin, and defendants could have waited for Mr. Termin to return to a less agitated state.

72. In preparing to confront Mr. Termin, the defendants elected not to utilize the face shields that were readily available.

73. It is evident from the cell block camera video that Mr. Termin was experiencing a mental health crisis and a response should have included the assistance of a mental health clinician as a co-responder to de-escalate the situation rather than the initial reliance on a direct physical confrontation by Deputy Taylor and the other deputies.

74. There was no necessity for the defendants, lead by former deputy Taylor to unlock and open the secure door, aggressively enter, and physically confront Mr. Termin without any effort to de-escalate the situation through mental health crisis intervention, or at least giving Mr. Termin an opportunity to calm down.

75. Rather than allowing the situation to cool down or switch out personnel to another deputy or co-responder who was better skilled at handling Mr. Termin's psychological issues, the defendants unnecessarily entered and confronted the Plaintiff while he was experiencing a mental health crisis and in an agitated state.

76. Defendant Taylor claims that when he entered the room Mr. Termin allegedly spit at him.

77. What happened next is recorded on Deputy Moore's body worn camera. *See, Exhibit 1.* Defendant Taylor cocked his arm back, hauled off and attacked Mr. Termin, assaulting and battering him, with three full force punches in the head and face, knocking him to the ground.

78. Defendant Taylor then got on top of Mr. Termin, inflicting punishment by kicking him in the ribs four times with his knee, delivering four massive knee strikes into Mr. Termin's side – even though Mr. Termin was already pinned down and helpless.

79. Defendant Taylor inflicted the punches and kicks on Plaintiff Termin while Kyle Termin was in handcuffs and shackles and Defendant Sheppard was holding his arms down.

80. Mr. Termin was unable to defend or protect himself from the attack. Defendants Moore and Sheppard continued to assist defendant Taylor and failed to object to Defendant Taylor's assault on Mr. Termin, failing to intervene despite having every opportunity to do so.

81. While much of the assault was recorded on Defendant Moore's body camera there is one segment during which Mr. Termin is screaming in pain that is blocked when Defendant Sheppard's back gets in front of Defendant Moore's body camera.

82. During a review of body camera recordings that remain available, supervisors at the jail discussed their knowledge of Mr. Termin's mental health issues, traumatic brain injury, physical disability, need for medication, and past trips to the Colorado Mental Health Institute at Pueblo.

83. Defendants and their supervisors are aware that consistent with his mental disability, Mr. Termin can be very cooperative at one moment and then later take on an entirely different persona.

84. Given the Defendants' understanding that Kyle Termin was no longer being provided the medication necessary to stabilize him, providing adequate mental health crises intervention or at least allowing him some time to return to his cooperative self was preferable to running in, attacking, and battering a mentally ill pre-trial detainee.

85. Ignoring their knowledge of Mr. Termin's mental illness, the jail deputies are recorded on Deputy Josh John's body camera referring to Kyle Termin and the other inmates as "shitbags," and referring to the punishment inflicted by Defendant Taylor's assault on Termin as "awesome" and "cool."

86. Deputy John's recording reflects a custom, policy or practice of ratifying blatantly illegal and improper conduct. These ratifications evidence that such police conduct is carried out pursuant to the regimen of training provided by Defendant Pelle, and that such conduct is customary.

87. None of the jail deputy defendants involved in the April 4, 2022 incident that is the subject of this Complaint have been disciplined.

88. Plaintiff Termin's experience at the Boulder Jail was not unique in that Jail Deputies employed by Defendant Pelle have unlawfully used excessive force against other citizens, particularly targeting some of society's most vulnerable: those with mental and other disabilities; and despite criticism of these practices, have failed to employ adequate corrective measures.

89. Records of Mr. Termin's history at the jail show he was in the Boulder County Jail from October 27, 2020 through August 5, 2021 and reincarcerated from November 26, 2021 until the present date, such that Defendant Pelle and his employee deputies involved in the April 4, 2022 incident at the Boulder County Jail were well aware of Mr. Termin's mental health issues and physical disability.

90. Mental health issues were more than apparent during Mr. Termin's incarceration to the extent his competency to participate in criminal court proceedings was raised on November 20, 2020, and he was found not competent to proceed on January 21, 2021.

91. On June 18, 2021, the court entered an order requiring that Mr. Termin be treated with involuntary medication and because of such treatment he was restored to competency on July 9, 2021.

92. At all times material hereto, the defendants have had access to and knowledge of Mr. Termin's mental health related behavioral issues which caused him to be erratic, sometimes aggressive, self-harming and unpredictable. Then he was treated with medication. He was calm and reasonable on medication. When he received treatment, he was a model prisoner.

93. Jail records reflect that on July 29, 2021, Mr. Termin even asked jail staff for lithium indicating he "is planning on staying on medication because he is doing so well." The defendants deliberately failed to provide him the treatment he needed to manage him while in the jail.

94. It was obvious to defendants that if Mr. Termin was not provided the treatment he needed, a mental health crises was likely.

95. Defendants' deliberate disregard of Mr. Termin's mental health needs was the proximate cause of the violent incident that occurred on April 4, 2022. The facts set forth in detail in the previous paragraphs 1 through 94 are more than sufficient to provide a factual basis for Plaintiff's claim that the conduct of Defendants at issue was willful and wanton, as required by C.R.S. § 24-10-110(5)(a).

C. Formal Internal Affairs Investigation Finds That Excessive and Unlawful Force Was Used Against Plaintiff Kyle Termin During the April 4, 2022 Incident

96. Formal reports of the incident designated IR 22-01411 concerning the Use of Force against Kyle Termin were completed by deputy defendants Taylor, Moore, and Sheppard on April 4, 2022.

97. Sgt. Christopher Sager, Sgt. Daniel Newcomb, deputies Ford, Ubias, Ekabua, Kanizay, Bauer, Resnikoff, and jail mental health supervisor Pamela Levett also submitted formal use of force incident reports on April 4, 2022.

98. At the time of this incident it was the policy of the Boulder County jail to have operations commanders review all use the force reports to assure no policy or procedure had been violated during the incident.

99. At the time of the incident on April 4, 2022 the Boulder County jail had a backlog of use of force reports.

100. Due to the backlog, the use of force reports IR22-01411 documenting the April 4, 2022 incident had not been reviewed and no investigation of the reported use of force occurred until after the receipt of plaintiff Termin's notice of claim on June 2, 2022.

101. The defendant, former deputy Gene Taylor resigned from his employment by Defendant Joe Pelle as a Boulder Jail deputy after the April 4, 2022 incident and prior to any investigation of the incident by Defendant Pelle.

102. Following Defendant Pelle's receipt of the June 2, 2022 notice of claim, Sgt. Jake Stanzel completed an administrative review of the use of force against Kyle Termin on April 4, 2022 and referred the incident to internal affairs for further review.

103. On June 7, 2022, Undersheriff Tom Sloan assigned Sergeant Brian Lindsay to conduct an internal affairs investigation of the incident.

104. Pursuant to his investigation Sergeant Lindsay completed IA report 2022-25.

105. Sergeant Brian Lindsay's report reflects his review of written and recorded materials along with witness interviews, concluding with his interview of Deputy Taylor on September 22, 2022.

106. Following the internal affairs investigation of the April 4, 2022 incident reflected in IA report 2022-25 and signed by Defendant Pelle, the excessive force complaint against defendant Taylor was substantiated.

107. Defendant Pelle's internal investigation found Defendant Taylor to have used excessive and unlawful force against Kyle Termin during the incident.

108. Allegations that plaintiff Kyle Termin was the victim of an assault and battery committed against him by defendant Gene Taylor were determined to be substantiated.

109. Defendant Pelle's report of disposition to IA 2022-25 determined that "Deputy Taylor did not act within our department policy, BCSO policy 502, regarding his use of force."

110. In the report, Division Chief Jeff Goetz concludes by stating, "it is my opinion that Deputy Taylor did not need to use knee strikes due to the placement of inmate Termin lying

on his stomach and the fact that he was shackled, and his feet would've had a little ability to travel too far in a kicking motion.”

111. The internal affairs investigation found defendant, former deputy Gene Taylor to have used physical force that exceeds the degree of force permitted by law.

112. Defendant, former deputy Gene Taylor has not been disciplined for his misconduct.

III. STATE LAW TORT CLAIMS AGAINST PUBLIC ENTITY DEFENDANT JOE PELLE IN HIS OFFICIAL CAPACITY HAVING WAIVED SOVEREIGN IMMUNITY

A. FIRST CLAIM FOR RELIEF AGAINST DEFENDANT BOULDER COUNTY SHERIFF JOE PELLE (Liability For the Negligent Operation of the Boulder County Jail)

113. Preceding paragraphs 1 through 112 are incorporated here again as though set out in their entirety.

114. The Colorado Governmental Immunity Act (CGIA) waives sovereign immunity from suit for injuries sustained by pretrial detainees arising out of the operation of the jail, regardless of whether tort liability is predicated on intentional or negligent conduct. *Cisneros v. Elder, Sheriff of El Paso County, Colorado*, 506 P.2d 828 (Colo. 2022).

115. On April 4, 2022, Plaintiff Termin was incarcerated in the Boulder County Jail but not yet convicted of the crime for which he was being incarcerated such that the waiver of sovereign immunity reflected in C.R.S. § 24-10-106 (1.5)(b), inures to his benefit and Defendant Pelle in his official capacity is subject to liability for injuries resulting from the negligent or intentional operation of the Boulder County Jail.

116. More than 90 (ninety) days have passed since Plaintiff's complying Notice of Claim pursuant to C.R.S. § 24-10-109 was served on Boulder County (Colorado) Attorney Ben Pearlman representing the public entity as required by C.R.S. § 24-10-109 (3)(a).

117. Defendant Joe Pelle in his official capacity negligently failed to fulfill his responsibility to exercise reasonable care in the operation of the Boulder County Jail.

118. Defendant Joe Pelle in his official capacity negligently failed to train deputies such as Defendants Taylor, Moore and Sheppard to employ appropriate mental health interventions in response to the behavioral issues exhibited by Plaintiff Termin.

119. Defendant Joe Pelle in his official capacity negligently failed to supervise deputies such as Defendants Taylor, Moore and Sheppard to assure they would employ appropriate mental health interventions in response to behavioral issues exhibited by Plaintiff Termin.

120. Defendant Joe Pelle in his official capacity negligently established and/or permitted pervasive practices, customs and policies at the Boulder County Jail resulting in the deliberate disregard of Plaintiff Termin's mental health needs.

121. The resulting pervasive practices, customs and policies at the Boulder County Jail were a causal factor in Defendants Taylor and Sheppard's resorting to violent beatings and defendant Moore's complicit failure to object or intervene, rather than employing appropriate mental health interventions in response to behavioral issues exhibited by Plaintiff Termin resulting from his mental disability.

122. As evidenced by the reported mistreatment of multiple Boulder Jail inmates in mental health crises, including but not limited to Ryan Partridge (2016), Lauren Gotthelf (2017) and Travis Cole (2020), Boulder Jail Deputies employed by Defendant Pelle have engaged in a persistent practice of law enforcement misconduct, and the officials responsible for assuring that such misconduct does not occur have consistently failed to properly train, supervise, and discipline individual officers who have engaged in such misconduct.

123. Defendant Joe Pelle's negligent failure to fulfill his responsibility to exercise reasonable care in the operation of the Boulder County Jail was the proximate cause of the violent incident that occurred on April 4, 2022.

124. Defendant Joe Pelle's negligent failure to fulfill his responsibility to exercise reasonable care in the operation of the Boulder County Jail was the proximate cause of Plaintiff Kyle Termin's injuries, damages and losses as set forth in later paragraphs.

B. SECOND CLAIM FOR RELIEF AGAINST DEFENDANT BOULDER COUNTY SHERIFF JOE PELLE (Employer Liability for the Conduct of Employees: *Respondent Superior*)

125. Preceding paragraphs 1 through 124 are incorporated here again as though set out in their entirety.

126. That during their interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendants, Gene Taylor, Mario Moore and Don Sheppard were acting within the course and scope of their authority as employees of the Boulder County Sheriff's Office.

127. Defendant Joe Pelle in his official capacity bears *respondent superior* liability for injuries resulting from the conduct of his employees, the Defendants Taylor, Moore and Sheppard within the course and scope of their employment on April 4, 2022.

Respondent Superior Liability for Assault and Battery

128. The Defendants, Gene Taylor and Don Sheppard's actions on April 4, 2022, resulted in physical contact with the plaintiff.

129. The Defendants, Gene Taylor and Don Sheppard intended to make harmful or offensive physical contact with the plaintiff.

130. The Defendants, Gene Taylor and Don Sheppard's contact was harmful and offensive and constituted a battery against the Plaintiff.

131. As a result of the assault and battery committed against the Plaintiff by Defendants, Gene Taylor and Don Sheppard, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

132. Defendant, Gene Taylor and Don Sheppard's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

133. The Defendant Joe Pelle in his official capacity is legally responsible for the assault and battery committed against the Plaintiff by his employees, Defendants Gene Taylor and Don Sheppard on April 4, 2022, occurring within the course and scope of their employment.

134. The assault and battery committed against the Plaintiff by Defendants Gene Taylor and Don Sheppard on April 4, 2022, was the proximate cause of Plaintiff Kyle Termin's injuries, damages and losses as set forth in later paragraphs, and Defendant Joe Pelle in his official capacity is legally responsible for all resulting damages caused by his employees, Defendants Gene Taylor and Don Sheppard.

Respondent Superior Liability for Negligence

135. On April 4, 2022, the defendants Gene Taylor, Mario Moore and Don Sheppard's previously described actions toward the Plaintiff Kyle Termin were negligent

136. As a result of the negligence of Defendants, Gene Taylor, Mario Moore and Don Sheppard, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

137. Defendant, Gene Taylor, Mario Moore and Don Sheppard's actions as described in earlier paragraphs were the proximate cause of Plaintiff Termin's injuries, damages and losses.

138. The Defendant Joe Pelle in his official capacity as Sheriff of Boulder County is legally responsible for the negligence of his employees, Defendants Gene Taylor, Mario Moore and Don Sheppard on April 4, 2022, occurring within the course and scope of their employment.

139. The negligence of Defendants Gene Taylor, Mario Moore and Don Sheppard on April 4, 2022 was the proximate cause of Plaintiff Kyle Termin's injuries, damages and losses as set forth in later paragraphs, and Defendant Joe Pelle in his official capacity as Sheriff of Boulder County is legally responsible for all resulting damages caused by his employees, Defendants Gene Taylor, Mario Moore and Don Sheppard.

IV. CLAIMS AGAINST INDIVIDUAL PEACE OFFICER DEFENDANTS GENE TAYLOR, MARIO MOORE AND GENE SHEPPARD

A. FIRST CLAIM FOR RELIEF AGAINST DEFENDANT GENE TAYLOR
(Civil Action for Deprivation of Rights: C.R.S. § 13-21-131)

140. Preceding paragraphs 1 through 139 are incorporated here again as though set out in their entirety.

141. As a pre-trial detainee the Plaintiff, Kyle Termin, had individual rights creating a binding obligation on government actors secured by the Bill of Rights, Article II § 25 of the Colorado Constitution under the Due Process Clause:

- (a) not be punished prior to an adjudication of guilt in accordance with due process of law,
- (b) not to be subjected to the arbitrary infliction of excessive force,
- (c) not to be subjected to force inspired by malice or by unwise, excessive zeal amounting to an abuse of official power, and
- (d) pursuant to the bill of rights, article II § 20 of the state constitution not to suffer the infliction of cruel and unusual punishment.
- (e) to have defendants employ appropriate mental health interventions rather than use violent beatings when responding to behavioral concerns resulting from his traumatic brain injury and mental disability,
- (f) not to have his mental health needs deliberately disregarded.

142. As explained in the preceding paragraphs of this Complaint, the Defendant, Gene Taylor while serving as a peace officer, as defined in C.R.S. § 24-31-901 (3), acting under color of law, subjected and caused the Plaintiff Kyle Termin to be subjected to the deprivation of his individual rights as described in paragraph 141 (a) through (f), above, that create binding obligations on government actors secured by the Bill of Rights, Article II of the state constitution.

143. As a result of the offending conduct of Defendant Gene Taylor, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

144. Defendant, Gene Taylor's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

145. Defendant Taylor's conduct at issue as described in the previous paragraphs was attended by circumstances of willful and wanton conduct, purposefully committed which he must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

B. SECOND CLAIM FOR RELIEF AGAINST DEFENDANT GENE TAYLOR

(Assault and Battery)

146. Preceding paragraphs 1 through 145 are incorporated here again as though set out in their entirety.

147. That at all times material hereto, the Defendant, Gene Taylor, was a peace officer, as defined in C.R.S. § 24-31-901 (3).

148. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Gene Taylor was acting under color of law, C.R.S. § 13-21-131(1).

149. The defendant Taylor's actions on April 4, 2022 resulted in physical contact with the plaintiff.

150. The defendant intended to make harmful or offensive physical contact with the plaintiff.

151. The contact was harmful and offensive.

152. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Gene Taylor was acting within the course and scope of his authority as an employee of the Boulder County Sheriff's Office.

153. As a result of the offending conduct of Defendant Gene Taylor, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

154. Defendant, Gene Taylor's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

C. THIRD CLAIM FOR RELIEF AGAINST DEFENDANT GENE TAYLOR
(Negligence)

155. Preceding paragraphs 1 through 154 are incorporated here again as though set out in their entirety.

156. That at all times material hereto, the Defendant, Gene Taylor, was a peace officer, as defined in C.R.S. section 24-31-901 (3).

157. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Gene Taylor was acting under color of law, C.R.S. § 13-21-131(1).

158. On April 4, 2022, the defendant Former Boulder County Sheriff's Deputy Gene Taylor's previously described actions toward the Plaintiff Kyle Termin were negligent

159. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Gene Taylor (#1483) was acting within the course and scope of his authority as an employee of the Boulder County Sheriff's Office.

160. As a result of the offending conduct of Defendant Gene Taylor, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

161. Defendant, Gene Taylor's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

**D. FIRST CLAIM FOR RELIEF AGAINST DEFENDANT MARIO MOORE
(Civil Action for Deprivation of Rights: C.R.S. § 13-21-131)**

162. Preceding paragraphs 1 through 161 are incorporated here again as though set out in their entirety.

163. As a pre-trial detainee the Plaintiff, Kyle Termin had individual rights creating a binding obligation on government actors secured by the bill of rights, article II § 25 of the state constitution under the Due Process Clause:

- (a) not be punished prior to an adjudication of guilt in accordance with due process of law,
- (b) not to be subjected to the arbitrary infliction of excessive force,
- (c) not to be subjected to force inspired by malice or by unwise, excessive zeal amounting to an abuse of official power, and
- (d) pursuant to the bill of rights, article II § 20 of the state constitution not to suffer the infliction of cruel and unusual punishment.

- (e) to have defendants employ appropriate mental health interventions rather than use violent beatings when responding to behavioral concerns resulting from his traumatic brain injury and mental disability,
- (f) not to have his mental health needs deliberately disregarded.

164. The Defendant, Boulder Sheriff's Department Deputy Mario Moore while serving as a peace officer, as defined in section 24-31-901 (3), under color of law subjected and caused the Plaintiff Kyle Termin to be subjected to the deprivation of his individual rights as described in paragraph 163 (a) – (f), above, that create binding obligations on government actors secured by the bill of rights, article II of the state constitution.

165. As a result of the offending conduct of Defendant Boulder Sheriff's Department Deputy Mario Moore, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

166. Defendant, Boulder Sheriff's Department Deputy Mario Moore's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

167. Defendant Moore's conduct at issue as described in the previous paragraphs was attended by circumstances of willful and wanton conduct, purposefully committed which he must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

E. SECOND CLAIM FOR RELIEF AGAINST DEFENDANT MARIO MOORE

(Negligence)

168. Preceding paragraphs 1 through 167 are incorporated here again as though set out in their entirety.

169. That at all times material hereto, the Defendant, Mario Moore, was a peace officer, as defined in C.R.S. section 24-31-901 (3).

170. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Boulder Sheriff's Department Deputy Mario Moore was acting under color of law, C.R.S. § 13-21-131(1).

171. On April 4, 2022, the defendant Boulder Sheriff's Department Deputy Mario Moore's previously described actions and inaction during the interaction with the Plaintiff Kyle Termin were negligent

172. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Boulder Sheriff's Department Deputy Mario Moore was acting within the course and scope of his authority as an employee of the Boulder County Sheriff's Office.

173. As a result of the negligence of Defendant Boulder Sheriff's Department Deputy Mario Moore, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

174. Defendant, Boulder Sheriff's Department Deputy Mario Moore's negligence was the proximate cause of Plaintiff Termin's injuries, damages and losses.

**F. FIRST CLAIM FOR RELIEF AGAINST DEFENDANT DON SHEPPARD
(Civil Action for Deprivation of Rights: C.R.S. § 13-21-131)**

175. Preceding paragraphs 1 through 174 are incorporated here again as though set out in their entirety.

176. As a pre-trial detainee the Plaintiff, Kyle Termin had individual rights creating a binding obligation on government actors secured by the bill of rights, article II § 25 of the state constitution under the Due Process Clause:

- (a) not be punished prior to an adjudication of guilt in accordance with due process of law,
- (b) not to be subjected to the arbitrary infliction of excessive force,
- (c) not to be subjected to force inspired by malice or by unwise, excessive zeal amounting to an abuse of official power, and
- (d) pursuant to the bill of rights, article II § 20 of the state constitution not to suffer the infliction of cruel and unusual punishment.
- (e) to have defendants employ appropriate mental health interventions rather than use violent beatings when responding to behavioral concerns resulting from his traumatic brain injury and mental disability,
- (f) not to have his mental health needs deliberately disregarded.

177. The Defendant, Boulder Sheriff's Department Deputy Don Sheppard while serving as a peace officer, as defined in section 24-31-901 (3), under color of law, by his actions and failure to intervene subjected and caused the Plaintiff Kyle Termin to be subjected to the deprivation of his individual rights as described in paragraph 176 (a) – (f), above, that create binding obligations on government actors secured by the bill of rights, article II of the state constitution.

178. As a result of the offending conduct of Defendant Boulder Sheriff's Department Deputy Don Sheppard, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

179. Defendant, Boulder Sheriff's Department Deputy Mario Moore's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

180. Defendant Moore's conduct at issue as described in the previous paragraphs was attended by circumstances of willful and wanton conduct, purposefully committed which he must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

G. SECOND CLAIM FOR RELIEF AGAINST DEFENDANT DON SHEPPARD

(Assault and Battery)

181. Preceding paragraphs 1 through 180 are incorporated here again as though set out in their entirety.

182. That at all times material hereto, the Defendant, Don Sheppard, was a peace officer, as defined in C.R.S. section 24-31-901 (3).

183. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Boulder Sheriff's Department Deputy Don Sheppard was acting under color of law, C.R.S. § 13-21-131(1).

184. The defendant's actions on April 4, 2022 resulted in physical contact with the plaintiff.

185. The defendant intended to make harmful or offensive physical contact with the plaintiff.

186. The contact was harmful and offensive.

187. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Boulder Sheriff's Department Deputy Don Sheppard was acting within the course and scope of his authority as an employee of the Boulder County Sheriff's Office.

188. As a result of the offending conduct of Defendant Boulder Sheriff's Department Deputy Don Sheppard, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

189. Defendant, Don Sheppard's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

**H. THIRD CLAIM FOR RELIEF AGAINST DEFENDANT DON SHEPPARD
(Negligence)**

190. Preceding paragraphs 1 through 189 are incorporated here again as though set out in their entirety.

191. That at all times material hereto, the Defendant, Boulder Sheriff's Department Deputy Don Sheppard, was a peace officer, as defined in C.R.S. section 24-31-901 (3).

192. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Boulder Sheriff's Department Deputy Don Sheppard was acting under color of law, C.R.S. § 13-21-131(1).

193. On April 4, 2022, the defendant Boulder Sheriff's Department Deputy Don Sheppard previously described actions toward the Plaintiff Kyle Termin were negligent

194. That during his interaction with the Plaintiff, Kyle Termin on April 4, 2022, the Defendant, Don Sheppard was acting within the course and scope of his authority as an employee of the Boulder County Sheriff's Office.

195. As a result of the offending conduct of Defendant Boulder Sheriff's Department Deputy Don Sheppard, Plaintiff Kyle Termin suffered injuries, damages and losses as set forth in later paragraphs.

196. Defendant, Boulder Sheriff's Department Deputy Don Sheppard's actions were the proximate cause of Plaintiff Termin's injuries, damages and losses.

V. DAMAGES SOUGHT AGAINST PUBLIC ENTITY DEFENDANT JOE PELLE IN HIS OFFICIAL CAPACITY HAVING WAIVED SOVEREIGN IMMUNITY

As a direct and proximate result of the conduct of the Defendant Joe Pelle, in his official capacity as Sheriff of Boulder County, as aforesaid, the Plaintiff, Kyle Termin, has in the past incurred, pain, suffering, and a loss of enjoyment of a natural life, and will, in the future, incur pain, suffering, and a loss of enjoyment of a natural life; the Plaintiff, Kyle Termin, in the past has experienced physical impairment and disfigurement, and will, in the future, endure physical impairment and disfigurement; the Plaintiff, Kyle Termin, has in the past suffered emotional distress, embarrassment, humiliation, and anxiety and will, in the future, suffer emotional distress, embarrassment, humiliation, and anxiety; the Plaintiff, Kyle Termin, has in the past suffered inconvenience and loss of time and will, in the future, suffer inconvenience and loss of time; the Plaintiff, Kyle Termin, will, in the future, incur expenses for the services of doctors, nurses, hospitals, therapists, medicines, and special equipment; the Plaintiff, Kyle Termin, will, in the future, suffer a loss of time, earnings, and impairment of his earning capacity; the Plaintiff, Kyle Termin, will, in the future, incur expenses for the replacement of necessary services and other expenses; all to his damage.

Plaintiff Kyle Termin seeks damages for his injuries and losses described above against Defendant Joe Pelle, in his official capacity as Sheriff of Boulder County, Colorado for the negligent operation of the Boulder County Jail and damages to satisfy his legal responsibility for the tortious conduct of his employees, Defendants Gene Taylor, Mario Moore and Don Sheppard under the rule of *Respondeat Superior*, for injuries inflicted upon Kyle Termin, as follows:

- a) Damages in an amount to be proven at trial, including but not limited to compensatory damages for Plaintiff's economic and non-economic losses, mental anguish, humiliation, and consequential damages as a result of the mental and physical injuries suffered, as necessary to fully and fairly compensate Plaintiff;
- b) Costs and attorney's fees pursuant to Colorado law;
- c) Pre- and post-judgment interest from the date of accrual of this action as permitted by Colorado law;

- d) If for any reason Defendant Taylor, Moore and/or Sheppard's portion of any eventual judgment in favor of Plaintiff Termin on his Civil Action for Deprivation of Rights returned herein is uncollectible from either of these defendants, Defendant Joe Pelle, in his official capacity is obligated to satisfy the full amount of the judgment. C.R.S. § 13-21-131(4)(a), ("Notwithstanding any provision of this section to the contrary, if the peace officer's portion of the judgment is uncollectible from the peace officer, the peace officer's employer or insurance shall satisfy the full amount of the judgment or settlement.")
- e) Such other and further relief as the Court deems appropriate.

VI. DAMAGES SOUGHT AGAINST INDIVIDUAL PEACE OFFICER DEFENDANTS GENE TAYLOR, MARIO MOORE AND GENE SHEPPARD

As a direct and proximate result of the conduct of the individual peace officer Defendants Gene Taylor, Mario Moore and Don Sheppard, as aforesaid, the Plaintiff, Kyle Termin, has in the past incurred, pain, suffering, and a loss of enjoyment of a natural life, and will, in the future, incur pain, suffering, and a loss of enjoyment of a natural life; the Plaintiff, Kyle Termin, in the past has experienced physical impairment and disfigurement, and will, in the future, endure physical impairment and disfigurement; the Plaintiff, Kyle Termin, has in the past suffered emotional distress, embarrassment, humiliation, and anxiety and will, in the future, suffer emotional distress, embarrassment, humiliation, and anxiety; the Plaintiff, Kyle Termin, has in the past suffered inconvenience and loss of time and will, in the future, suffer inconvenience and loss of time; the Plaintiff, Kyle Termin, will, in the future, incur expenses for the services of doctors, nurses, hospitals, therapists, medicines, and special equipment; the Plaintiff, Kyle Termin, will, in the future, suffer a loss of time, earnings, and impairment of his earning capacity; the Plaintiff, Kyle Termin, will, in the future, incur expenses for the replacement of necessary services and other expenses; all to his damage.

Plaintiff Kyle Termin seeks damages for his injuries and losses described above against the individual peace officer Defendants Gene Taylor, Mario Moore and Don Sheppard and Plaintiff further seeks all damages and recoveries for deprivation of individual rights allowed pursuant to C.R.S. § 13-21-131 (Statutory immunities and statutory limitations on liability, damages, or attorney fees do not apply to claims brought pursuant to this section; nor does the "Colorado Governmental Immunity Act" apply to such claims,) negligence, Assault and Battery by Defendants Gene Taylor and Don Sheppard, including but not limited to as follows

- a) Damages for deprivation of Kyle Termin's individual rights that create binding obligations on government actors secured by the Bill of Rights, article II, including but not limited to §§ 25, 20 of the State Constitution;
- b) Damages in an amount to be proven at trial, including but not limited to compensatory damages for Plaintiff's economic and non-economic losses, mental anguish, humiliation, and consequential damages as necessary to fully and fairly compensate Plaintiff;
- c) Plaintiff seeks exemplary damages as permitted by C.R.S. § 13-21-131.
- d) Plaintiff recognizes that a claim for exemplary damages in an action governed by section C.R.S. § 13-21-102 may not be included in an initial claim for relief and is allowed only by amendment to the pleadings after the initial exchange of disclosures. C. R. S. §13-21-102 (1.5)(a). However, this action is governed by C.R.S. § 13-21-131 which contains no such prohibition.
- e) Plaintiff includes his claim for exemplary damages at this time in good faith, for the express purpose of extending, limiting, modifying and establishing the meaning and manner of claiming such damages under C.R.S. § 13-21-131, as permitted by C.R.S. § 13-17-201(2).
- f) damages sufficient to permanently alter the policy and practice of the individuals and entities involved here that will result in incarcerated, mentally ill, physically disabled pretrial detainees receiving the care and treatment consistent with the standards expected in our community and sufficient to provide for Kyle Termin's safe future care and treatment.
- g) Costs of this suit, expert witness fees and attorney's fees pursuant to C.R.S. § 13-21-131(3);
- h) Pre- and post-judgment interest from the date of accrual of this action as permitted by law;
- i) If for any reason Defendant Taylor, Moore and/or Sheppard's portion of any eventual judgment in favor of Plaintiff Termin on his Civil Action for

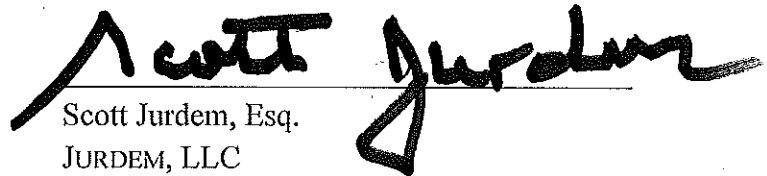
Deprivation of Rights returned herein is uncollectible from either of these defendants, Defendant Joe Pelle, in his official capacity is obligated to satisfy the full amount of the judgment. C.R.S. § 13-21-131(4)(a), (“Notwithstanding any provision of this section to the contrary, if the peace officer's portion of the judgment is uncollectible from the peace officer, the peace officer's employer or insurance shall satisfy the full amount of the judgment or settlement.”)

j) Such other and further relief as the Court deems appropriate.

PLAINTIFF REQUESTS A TRIAL TO A JURY OF SIX ON ALL ISSUES.

Respectfully submitted this 3rd day of November, 2022.

JURDEM, LLC


Scott Jurdem, Esq.
JURDEM, LLC

In accordance with C.R.C.P. 121 § 1-26(9), a printed copy of this document, with original signatures, is being maintained by the filing party and will be made for inspection by othim parties, or this Court, upon request.