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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RENAE JOY SWAIM, as Special
Administrator of the Estate of Clinton Lee
Swaim; RENAE JOY SWAIM, an individual;
CLINTON THOMAS SWAIM, Jr., an
individual; and RENAE JOY SWAIM, as
parent and custodian of minor K.R.S.;
collectively,

Plaintiffs,

v.

STATE OF NEVADA *ex rel.* NEVADA
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION OF
PUBLIC AND BEHAVIORIAL HEALTH;
DAVID ATHERTON, an individual; MATT
BOWMAN, an individual; DAIKI "SAM"
BRANCH, an individual; JAMES
CAMERON, an individual; VIVIAN DAVIS,
an individual; ISAAC FLORES, an individual;
JOEL GOMEZ, an individual; CHRIS
HENRY, an individual; SAMANTHA
LYONS, an individual; ERICK MCBRIDE,
an individual; RICK MEIER, an individual;
BRAD MITCHELL, an individual; LUIS
OROZCO, an individual; LACEY PATIGA,
an individual; NICHOLAS PATIGA, an

Case No.:

Judge:

COMPLAINT

JURY DEMAND

GALLIAN WELKER & BECKSTROM, L.C.

540 East St. Louis Avenue
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Phone 702-892-3500

1 individual; BRANDON TAYLOR, an
2 individual; TANNER TROUT, an individual;
3 JOHN WEST, an individual; and DOES I to
X, inclusive; collectively,

4 Defendants.

5
6 Plaintiffs RENAE JOY SWAIM, as (1) Special Administrator of the Estate of Clinton Lee
7 Swaim, (2) individually, and (3) as parent and custodian of minor K.R.S, and CLINTON
8 THOMAS SWAIM, Jr., by and through their attorneys of the law firm of GALLIAN WELKER &
9 BECKSTROM, L.C., and in support of their claims against the Defendants, hereby aver and allege
10 as follows:

11
12 **PARTIES, JURISDICTION, AND VENUE**

13 1. At all times relevant hereto, Plaintiff RENAE JOY SWAIM (“Ms. Swaim”) is
14 and was a resident of Washoe County, Nevada.

15 2. At all times relevant hereto, Plaintiff CLINTON THOMAS SWAIM, Jr. (“CJ”) is
16 and was a resident of Washoe County, Nevada.

17 3. At all times relevant hereto, minor Plaintiff K.R.S. (“KRS”) is and was a resident
18 of Washoe County, Nevada.

19 4. Decedent Clinton Lee Swaim (“Mr. Swaim”) died on December 10, 2019, and
20 was, at the time of his death a detainee at Lake’s Crossing Center (“Lake’s Crossing”), a
21 maximum-security psychiatric facility, staffed and operated by Defendant NEVADA
22 DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND
23 BEHAVIORAL HEALTH, and located at 500 Galletti Way, Sparks (Washoe County), Nevada
24 89431.

25 5. Pursuant to Letters of Special Administration duly issued by the Second Judicial
26 District Court of the State of Nevada in and for the County of Washoe on October 13, 2021, in
27 Case No. PR21-00650, Ms. Swaim is the Special Administrator for the Estate of Clinton Lee
28 Swaim (the “Estate”).

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1 6. Defendant NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES,
2 DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (“DPBH”) is and was, at all times
3 relevant hereto, a legal entity and, pursuant to NRS 232.290 to 232.359, inclusive, a duly
4 authorized Department of the State of Nevada, with the Division of Public and Behavioral Health,
5 being a duly authorized division thereof, pursuant to NRS 232.300(2)(b).

6 7. Upon information and belief, Defendant DAVID ATHERTON is a resident of the
7 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake’s Crossing as
8 a Forensic Specialist¹ and was acting under color of law within the course and scope of said
9 employment by DPBH.

10 8. Upon information and belief, Defendant MATT BOWMAN is a resident of the
11 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake’s Crossing as
12 a Forensic Specialist and was acting under color of law within the course and scope of said
13 employment by DPBH.

14 9. Upon information and belief, Defendant DAIKI “SAM” BRANCH is a resident of
15 the State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake’s Crossing
16 as a Forensic Specialist and was acting under color of law within the course and scope of said
17 employment by DPBH.

18 10. Upon information and belief, Defendant JAMES CAMERON is a resident of the
19 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake’s Crossing as
20 a Forensic Specialist and was acting under color of law within the course and scope of said
21 employment by DPBH.

22 11. Upon information and belief, Defendant VIVIAN DAVIS is a resident of the State
23 of Nevada and, at all times relevant hereto, was employed by DPBH at Lake’s Crossing as a
24 Forensic Specialist and was acting under color of law within the course and scope of said
25 employment by DPBH.

26 12. Upon information and belief, Defendant ISAAC FLORES is a resident of the State

27 _____
28 ¹ “Forensic Specialists perform a combination of security and client care duties in a secure mental health facility for treatment/evaluation of the mentally and/or medically ill offender and/or offenders whose competency requires evaluation.” <https://www.careersingovernment.com/job/462096/forensic-specialist-1/>

1 of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a
2 Forensic Specialist and was acting under color of law within the course and scope of said
3 employment by DPBH.

4 13. Upon information and belief, Defendant JOEL GOMEZ is a resident of the State
5 of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a
6 Forensic Specialist and was acting under color of law within the course and scope of said
7 employment by DPBH.

8 14. Upon information and belief, Defendant CHRIS HENRY is a resident of the State
9 of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a
10 Forensic Specialist and was acting under color of law within the course and scope of said
11 employment by DPBH.

12 15. Upon information and belief, Defendant SAMANTHA LYONS is a resident of
13 the State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing
14 as a Forensic Specialist and was acting under color of law within the course and scope of said
15 employment by DPBH.

16 16. Upon information and belief, Defendant ERICK MCBRIDE is a resident of the
17 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as
18 a Forensic Specialist and was acting under color of law within the course and scope of said
19 employment by DPBH.

20 17. Upon information and belief, Defendant RICK MEIER is a resident of the State of
21 Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a Forensic
22 Specialist and was acting under color of law within the course and scope of said employment by
23 DPBH.

24 18. Upon information and belief, Defendant BRAD MITCHELL is a resident of the
25 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as
26 a Forensic Specialist and was acting under color of law within the course and scope of said
27 employment by DPBH.

28 19. Upon information and belief, Defendant LUIS OROZCO is a resident of the State

1 of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a
2 Forensic Specialist and was acting under color of law within the course and scope of said
3 employment by DPBH.

4 20. Upon information and belief, Defendant LACEY PATIGA is a resident of the
5 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as
6 a Forensic Specialist and was acting under color of law within the course and scope of said
7 employment by DPBH.

8 21. Upon information and belief, Defendant NICHOLAS PATIGA is a resident of the
9 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as
10 a Forensic Specialist and was acting under color of law within the course and scope of said
11 employment by DPBH.

12 22. Upon information and belief, Defendant BRANDON TAYLOR is a resident of
13 the State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing
14 as a Forensic Specialist and was acting under color of law within the course and scope of said
15 employment by DPBH.

16 23. Upon information and belief, Defendant TANNER TROUT is a resident of the
17 State of Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as
18 a Forensic Specialist and was acting under color of law within the course and scope of said
19 employment by DPBH.

20 24. Upon information and belief, Defendant JOHN WEST is a resident of the State of
21 Nevada and, at all times relevant hereto, was employed by DPBH at Lake's Crossing as a Forensic
22 Specialist and was acting under color of law within the course and scope of said employment by
23 DPBH.

24 25. DOES I to X, inclusive, are parties in contemplation at the time of the filing of the
25 original Complaint in this action. The true names, identities, and capacities of the Defendants
26 sued herein as DOES I to X, inclusive, are Forensic Specialists, Nursing Staff Members, or other
27 unspecified staff at Lake's Crossing employed by DPBH and acting under color of law within the
28 course and scope of said employment by DPBH, but they are otherwise unknown and cannot

1 31. On or about October 2, 2019, Mr. Swaim, who had previous diagnoses over the
2 course of life for bipolar disorder and depression, suffered an acute mental health event of
3 ultimately undetermined etiology, though relevant records indicate that he may have discontinued
4 use of prescription medicines in the few weeks prior.

5 32. Some time on October 2, 2019, Mr. Swaim left his home and walked
6 approximately five miles to his mother-in-law's home, which he again left shortly thereafter,
7 absent his shoes or shirt.

8 33. On October 2, 2019, after 11:00 p.m. and in forty-eight-degree weather, Mr.
9 Swaim was observed, disrobed, wandering through a retail store parking lot in Sparks, Nevada,
10 in response to which a private party contacted the Sparks Police Department.

11 34. The Sparks Police Department and Regional Emergency Medical Services
12 Authority detained Mr. Swaim, at which time it was observed that he was evidently confused
13 about his own actions and uncertain as to why he had disrobed; Mr. Swaim was also carrying a
14 Bible and whispering into the empty night sky.

15 35. It was determined by the Sparks Police Department and a counselor on scene that
16 Mr. Swaim was unable to care for himself and should be detained pursuant to a legal hold for
17 "Inability to Care for Yourself," and Mr. Swaim was subsequently transported to Renown
18 Regional Medical Center where he was admitted for initial evaluation and treatment.

19 36. Shortly thereafter, after Mr. Swaim was placed in a hospital room, a medical
20 technician attempted to secure Mr. Swaim's vitals, including blood pressure and oxygen
21 saturation levels, during which process, Mr. Swaim began to shake and indicate he was cold.

22 37. While the medical technician was attempting to secure Mr. Swaim's oxygen
23 saturation levels, Mr. Swaim suddenly jumped up, placing his arm around the technician's neck,
24 squeezing, impacting the technician's breathing.

25 38. Sparks Police Department officers in the hospital room immediately responded
26 and tackled and "tased" Mr. Swaim, compelling him to release the medical technician, who
27 suffered substantial, but temporary, injuries to her person (some of which occurred during and a
28 as a result of being tackled by the police officers).

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1 39. Mr. Swaim, who had no prior criminal convictions, was handcuffed, arrested, and
2 charged by the Washoe County Sheriff with one Category B Felony count of Battery on a
3 Protected Person by Strangulation.

4 40. On October 16, 2019, Mr. Swaim presented to Lake’s Crossing for a Competency
5 Evaluation pursuant to an order by the Justice Court of Reno Township under authority of NRS
6 178.415, regarding his present ability to understand the nature of the criminal charges against
7 him, the nature and purpose of the court proceedings, and his ability to aid and assist with his
8 criminal defense.

9 41. Based on the Competency Evaluation interview and observed behavior, which
10 collectively indicated prior suicide attempts, and ongoing symptoms of denial of his own name
11 and identity, mania, agitation, paranoia, continued confusion, refusal to wear clothing, and a
12 diagnosis of “Bipolar I Disorder, Most Recent Episode Manic, Severe, With Psychotic Features,”
13 Mr. Swaim was deemed incompetent to stand trial, a danger to himself, and requiring commitment
14 and inpatient admission in order for Mr. Swaim to regain competence and receive mental health
15 treatment from multiple therapeutic modalities.

16 42. On October 29, 2019, an Order was entered by the Second Judicial District Court
17 of the State of Nevada in and for the County of Washoe in Case No. CV19-01975, remanding Mr.
18 Swaim to Lake’s Crossing in accord with the notations in the above Paragraph 41.

19 43. Upon or shortly after his arrival at Lake’s Crossing on November 14, 2019, Mr.
20 Swaim was designated by Lake’s Crossing for “Constant” watch due to suicide risk, which is the
21 highest level of oversight at the facility and requires constant monitoring by camera and by staff
22 every fifteen (15) minutes.²

23 44. Mr. Swaim was, sometime thereafter, reclassified under “Q15 Special” watch (also
24 for, *inter alia*, suicide risk), which requires consistent visual observation of detainees (“clients”)
25 “to check to see if there is chest movement,” as well as further mandating that “[a]ll head counts
26 and special watches shall include visual contact with the client [and...] may include pulling back
27

28 ² Quoted references herein and in Paragraphs 44 and 45 are excerpted from Lake’s Crossing Policy Sections 4.003 – 4.005.

1 bed covers, using lights, etc. to assure visual recognition and client’s physical condition.”

2 45. All relevant staff at Lake’s Crossing were duly informed of Mr. Swaim’s watch
3 status, ostensibly with the additional understanding that the Lake’s Crossing policy required “that
4 any client placed on suicide or self-mutilation watch shall not have the means to inflict injury to
5 themselves, due to personal belonging, or to have items readily available to cause injury,” and
6 “Clients placed on Suicide Watch will NOT be allowed to have any items in their rooms,”
7 without written exceptions outlined in the client’s program orders.”

8 46. For approximately one month, Mr. Swaim’s detention at Lake’s Crossing was
9 largely unremarkable, in context.

10 47. On December 10, 2019, while detained at Lake’s Crossing and despite being
11 designated by that facility as being on “Suicide & Self-Mutilation Watch” and under the “Special
12 Watch Policy,” the entirely unwatched Mr. Swaim ended his own life by hanging himself with a
13 bedsheet.

14 48. On December 8 and 9, 2019, prior to taking his life, Mr. Swaim’s demeanor and
15 behavior observably changed, with altered mood and affect visible to other detainees and certain
16 Lake’s Crossing staff, yet, despite the evident shift in mood and behavior, no additional action or
17 oversight was undertaken by Lake’s Crossing staff, even though it was known and certain that
18 Mr. Swaim was an acknowledged suicide risk.

19 49. On the night of December 9, 2019, and into the early morning hours of December
20 10, 2019, Lake’s Crossing staff routinely and regularly failed to exercise due diligence in keeping
21 a “constant” watch on Mr. Swaim, failed to perform their duty in accord with Lake’s Crossing
22 Policy and as would reasonably be expected in order to assure Mr. Swaim’s safety, and failed to
23 prevent Mr. Swaim from irrevocably acting on his known suicide risk.

24 50. As is detailed more fully below, on the night of December 9, 2019, and into the
25 early morning hours of December 10, 2019, Lake’s Crossing staff did not assure that Mr. Swaim
26 did not have access to the means to injure himself (in fact, the implements of Mr. Swaim’s death
27 were provided to him directly by Lake’s Crossing staff), nor did the Lake’ Crossing staff regularly
28 (or, seemingly, at all) check Mr. Swaim for “chest movement” or otherwise make “visual contact

1 with [Mr. Swaim]... to assure visual recognition and client’s physical condition.”

2 51. At approximately 8:26 on the morning of December 10, 2019, Mr. Swaim was
3 found dead in his room, hung by his own bedsheet which had been “knotted three (3) times” and
4 “looped around the sink and placed over the top of the [five-foot] privacy wall.”³

5 52. In response to Mr. Swaim’s suicide, an investigation was undertaken by Detective
6 Earl of the Department of Public Safety, leading to a report under Investigation Division Case
7 19I000764⁴ which summarily enumerates the deliberate and persistent pattern of indifference to
8 Mr. Swaim’s serious mental health condition, as below, ultimately requesting that the matter be
9 “forwarded to the Nevada Attorney General’s Office for review and determination of any criminal
10 culpability.”⁵

- 11
- 12 a. Det. Earl noted that it did not appear the staff conducted the “visual contact”
procedure as outlined in Procedure # 7 consistently if at all.
 - 13 b. Det. Earl noted the “every 15 minutes” check was not consistently, if at all,
14 conducted on SWAIM. SWAIM, according to this policy, would have been
considered a Constant Suicide/Q15 Suicide watch level.
 - 15 c. Det. Earl noted that it did not appear that [Lake’s Crossing] followed proper
16 procedure outlined in this policy due to the fact there were other items in
SWAIM’S room such as “extra bed linen” for example.
 - 17 d. Det. Earl found several inconsistencies between the procedures outlined in the
18 [Lake’s Crossing] policies and the actual way these procedures were performed
by [Lake’s Crossing] staff as documented via the review of the [Lake’s
19 Crossing] video surveillance footage.
 - 20 e. The [Lake’s Crossing] video surveillance footage showed that the [Lake’s
21 Crossing] staff did not consistently (if at all) perform their duties as outlined in
the following [Lake’s Crossing] policies: Policy #4.003 – Head Count, Policy
22 #4.004 – Special Watch/Program Orders, and Policy #4.005 – Suicide and Self-
23 Mutilation Watch.
- 24

25 ³ Quotes referenced herein and in the Paragraphs following are from the February 10, 2021, Department of Public
26 Safety Report, for Investigation Division Case 19I000764, authored by Detective Earl. The date of the report, as
noted, is much after the events in question, but the Report is clear that the investigation was conducted immediately,
starting the day Mr. Swaim was discovered, on December 10, 2019.

27 ⁴ The Report is predicated on and cites to interviews with Lake’s Crossing staff and facility video footage which are
not yet in Plaintiffs’ possession.

28 ⁵ It is not known to Plaintiffs at this time if any such referral was made or, if so, what determinations were made by
that office. All subparagraphs here are directly excerpted from the noted Report.

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- 1 f. The most blaring of these policy violations pertained to Policy #4.003 -
2 Procedure #7 which states: "All head counts, and special watches shall include
3 visual contacted with the client. This may include pulling back bed covers,
4 using lights, etc. to assure visual recognition and client's physical condition.
5 Flashlights will be used in necessary."
- 6 g. Det. Earl noted it would have been virtually impossible based on the manner in
7 which [Lake's Crossing] conducted their room checks via "quick walk-bys",
8 and the fact the lights in SWAIM'S were off which was evident by some of the
9 FS use of their flashlights as they walked by his door, to have been able to
10 recognize SWAIM'S physical condition.
- 11 h. At no time between approximately 2015 hours on December 9[, 2109] until
12 approximately 0826 hours on December 10[, 2019], when N. PATIGA
13 discovered SWAIM, did Det. Earl observe any [Lake's Crossing] staff member
14 ever enter SWAIM'S room in order "to assure visual recognition and client's
15 physical condition," as outlined in Procedure #7.
- 16 i. Det. Earl specifically noted that on December 10[, 2019], between
17 approximately 0427 hours and 0445 hours based on client BOSTWICK's
18 demeanor and actions, BOSTWICK heard noises coming from SWAIM'S room
19 as he was in the process of taking his life.
- 20 j. Although there was no audio, it appeared BOSTWICK made several attempts
21 to tell FS GOMEZ "something." It was apparent that BOSTWICK was trying
22 to tell GOMEZ what he heard coming from SWAIM'S room; and that GOMEZ
23 in essence "blew off" BOSTWICK and did not take what BOSTWICK had him
24 seriously.
- 25 k. After BOSTWICK and GOMEZ conversed, he (GOMEZ) immediately crossed
26 from the east side of the hall (where he spoke to BOSTWICK) to the west side
27 of the hall, which completely bypassed SWAIM'S room altogether.
- 28 l. According to the timestamps observed on the video surveillance footage from
the time BOSTWICK first appeared to be listening to sounds coming from
SWAIMS room, to the time where BOSTWICK and GOMEZ conversed until
the time GOMEZ exited the hall, very little time passed, approximately a
minute.
- m. It is plausible that had GOMEZ conducted a check of SWAIM in the manner
as required by LCC policy at that time, he may have been able to discover/assist
SWAIM at that time or even when he returned to conduct another round of
visual room checks approximately five (5) minutes later.
- n. It is important to note here, that WCME Dr. Callahan explained SWAIM would
have lost consciousness very quickly, in a matter of seconds, it would have
taken approximately 5 to 8 minutes for death to occur.

1 and governing Lake's Crossing policy with respect to assuring that Mr. Swaim did not have the
2 means to inflict injury to himself, due to personal belonging, or to have other items readily
3 available to cause self-inflicted injury.

4 58. All of the individual Defendant's individual acts or omissions put Mr. Swaim at
5 substantial risk of suffering serious harm (to wit, death), which harm was fully manifested when
6 Mr. Swaim was allowed to commit suicide with the bed sheets that Lake's Crossing had provided
7 to him.

8 59. Despite the awareness of the indicated watch status and the high degree of risk
9 associated with failure to follow requisite protocol, each individual Defendant failed to take
10 necessary reasonable (even easy) measures to abate Mr. Swaim's risk, when each repeatedly
11 failed to make visual contact through a door window with Mr. Swaim every fifteen minutes to
12 assure his physical condition or to remove such items from his room as could lead to his harm.

13 60. The consistent and persistent behavior by no less than eighteen individual
14 Defendants, acting under color of law within the course and scope of their individual employment
15 by DPBH, demonstrates a custom, pattern, and practice approved and endorsed by the DPBH,
16 fairly representing its official policy, wherein the written Lake's Crossing policy and the various
17 detainee's safety and mental health conditions are deliberately and intentionally ignored, and the
18 risks associated with detainees on suicide watch (or similar designation) is entirely discounted
19 and disregarded, which, pursuant to *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978),
20 accords liability to DPBH for the noted constitutional deprivations as relate to Mr. Swaim.

21 61. As a result of every named Defendants' actions, Mr. Swaim's Fourteenth
22 Amendment rights were unequivocally violated, leading to his wrongful and untimely death.

23 62. The indicated acts and omissions by each of the Defendants are the direct and
24 proximate cause of Mr. Swaim's death and associated pain and suffering, for which his Estate is
25 entitled to recover, on Mr. Swaim's behalf, monetary damages, including exemplary and punitive
26 damages.

27
28 ///

SECOND CLAIM FOR RELIEF

As to All Defendants;

Wrongful Death under NRS 41.085

63. Plaintiffs reassert and reallege the allegations contained in Paragraphs 1 through 62 of this Complaint and, by this reference, incorporate them herein as if set forth in full.

64. NRS 41.085(2) indicates that “[w]hen the death of any person ... is caused by the wrongful act or neglect of another, the heirs of the decedent and the personal representatives of the decedent may each maintain an action for damages against the person who caused the death.”

65. Each of Defendants’ wrongful acts or negligent omissions as fully described hereinabove are the direct and proximate cause Mr. Swaim’s death and associated pain and suffering.

66. As a result of Mr. Swaim’s death, each Plaintiff suffered significant damages.

67. In accord with the provisions of NRS 41.085(4), Mr. Swaim’s heirs, to wit, Ms. Swaim, in her individual capacity, CJ, and KRS are each entitled to recover “pecuniary damages for the person’s grief or sorrow, loss of probable support, companionship, society, comfort and consortium, and damages for pain, suffering, or disfigurement” of Mr. Swaim.

68. In accord with the provisions of NRS 41.085(5), Ms. Swaim, as Special Administrator of the Estate, is entitled to recover “all special damages... including funeral expenses.”⁶

THIRD CLAIM FOR RELIEF

As to All Defendants;

Negligence

69. Plaintiffs reassert and reallege the allegations contained in Paragraphs 1 through 68 of this Complaint and, by this reference, incorporate them herein as if set forth in full.

70. The individual Defendants each owed Mr. Swaim a duty to adhere to the applicable written Lake’s Crossing policies with respect to assuring Mr. Swaim’s safety as an individual

⁶ Exemplary and punitive damages, normally available to the Estate under NRS 41.085, are excluded by NRS 41.035.

1 with a known risk of substantial self-harm.

2 71. Further, the individual Defendants each owed Mr. Swaim a duty, as his guardians
3 and detainers, to take all reasonably necessary steps to assure Mr. Swaim's safety, including risk
4 of injury to Mr. Swaim by himself, external sources, or other third parties.

5 72. Without limitation and via the doctrine of *respondeat superior*, Defendant DPBH,
6 for whom each individual Defendant was acting under color of law within the course and scope
7 of their individual employment by DPBH, also owed Mr. Swaim the respective duties noted
8 above.

9 73. Each Defendant violated their respective duties to adhere to applicable policy and
10 to take all reasonably necessary steps to assure Mr. Swaim's safety.

11 74. As a direct and proximate result of each of the Defendants' breach of their
12 respective duties, Mr. Swaim suffered pain, suffering, and wrongful death

13 75. As a result of Mr. Swaim's death, each Plaintiff suffered significant damages.

14 76. Mr. Swaim's heirs, to wit, Ms. Swaim, in her individual capacity, CJ, and KRS are
15 each entitled to recover their particularized damages for their grief or sorrow, loss of probable
16 support (Ms. Swaim and KRS), companionship, society, comfort and consortium, and damages
17 for pain, suffering, or disfigurement of Mr. Swaim.

18 77. Ms. Swaim, as Special Administrator of the Estate, is entitled to recover all special
19 damages, including funeral expenses.

20
21 **FOURTH CLAIM FOR RELIEF**

22 *As to Defendants State of Nevada (DPBH);*

23 *Negligent Hiring, Training, Selection, and Supervision*

24 78. Plaintiffs reassert and reallege the allegations contained in Paragraphs 1 through
25 77 of this Complaint and, by this reference, incorporate them herein as if set forth in full.

26 79. Defendant DPBH, as well as other individuals, staff, managers, and officers
27 employed by or acting under the authority of DPBH, had a mandatory duty to properly and
28 completely regulate, train, test, and supervise all personnel under their control so as to avoid

1 unreasonable risk of harm to Lake's Crossing detainees, including Mr. Swaim.

2 80. Defendant DPBH, as well as other individuals, staff, managers, and officers
3 employed by or acting under the authority of DPBH, negligently breached their duty of care to
4 Mr. Swaim in that they failed to adequately train and supervise their personnel to follow written
5 Lake's Crossing policy and to otherwise take all necessary steps to assure the safety and well-
6 being of Mr. Swaim and other detainees.

7 81. As a direct and proximate result Defendants DPBH's breach of its duty to properly
8 and completely regulate, train, test, and supervise all personnel under their control so as to avoid
9 unreasonable risk of harm to Lake's Crossing detainees, Mr. Swaim suffered pain, suffering, and
10 wrongful death.

11 82. As a result of Mr. Swaim's death, each Plaintiff suffered significant damages.

12 83. Mr. Swaim's heirs, to wit, Ms. Swaim, in her individual capacity, CJ, and KRS are
13 each entitled to recover their particularized damages for their grief or sorrow, loss of probable
14 support (Ms. Swaim and KRS), companionship, society, comfort and consortium, and damages
15 for pain, suffering, or disfigurement of Mr. Swaim.

16 84. Ms. Swaim, as Special Administrator of the Estate, is entitled to recover all special
17 damages, including funeral expenses.

18
19 **PRAYER FOR RELIEF**

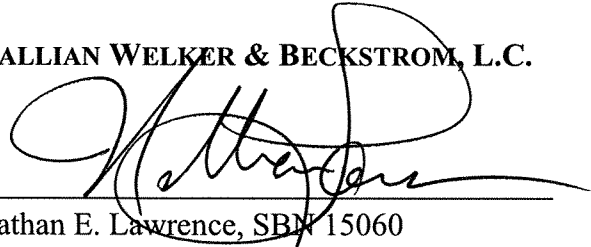
20 **WHEREFORE**, Plaintiffs hereby respectfully request judgment in their favor and against
21 Defendants as follows:

- 22 1. As to the first claim for relief, monetary damages, including exemplary and
23 punitive damages;
- 24 2. As to the second, third, and fourth claims for relief, damages for emotional
25 distress and for loss of the love, affection, nurturing, guidance, expectation of
26 inheritance, assistance, services, happiness of association, care, training,
27 counsel, advice, society of Mr. Swaim, and other benefits of the relationship
28 between Mr. Swaim and his heirs;

- 1 3. For Plaintiffs' loss of past and future economic support as heirs of Mr. Swaim;
- 2 4. For expenses for funeral and burial;
- 3 5. For pre-judgment and post-judgment interest as allowed by law;
- 4 6. For attorneys' fees and costs accrued and accruing; and
- 5 7. For such other and further relief as the Court deems just under the
- 6 circumstances.
- 7

8 DATED this 7th day of December 2021.

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10 **GALLIAN WELKER & BECKSTROM, L.C.**



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