

ELANDIA MALOY

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CAROLYN COX, as the Special
Administrator of the Estate
of Charles Jernegan,
Deceased,

Plaintiff,

v.

CASE NO. 11-CV-457-
CVE-HFM

- (1) STANLEY GLANZ, SHERIFF
OF TULSA COUNTY, in his
Individual and Official
Capacities;
- (2) CORRECTIONAL HEALTHCARE
MANAGEMENT OF OKLAHOMA,
INC.;
- (3) SARA SAMPSON, MHR-MHP;
- (4) FAYE TAYLOR, LPN;
- (5) S. JEFFERIES, LPN;
- (6) L. RITCHIE, LPN;
- (7) RENADA LOWEN, RN;
- (8) CORRECTIONAL HEALTHCARE
COMPANIES, INC.; and
- (9) CORRECTIONAL HEALTHCARE
MANAGEMENT, INC.,

Defendants.

CONDENSED

DEPOSITION OF ELANDIA DIANE MALOY
TAKEN ON BEHALF OF THE DEFENDANTS
IN TULSA, OKLAHOMA
ON JANUARY 15, 2013

REPORTED BY: JUDY THOMPSON, CSR
CITY REPORTERS
117 PARK AVENUE
OKLAHOMA CITY, OKLAHOMA 73102



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1 A. No.
 2 Q. And you said that they eliminated your
 3 position. Was anybody that you were aware of
 4 supervising or doing your job after you left?
 5 A. I do not have knowledge of that.
 6 Q. Fair enough.
 7 Were you ever told by Pam Hoisington that
 8 you didn't have to match the red chart with their
 9 chart?
 10 A. No.
 11 Q. She never stated that to you?
 12 A. No.
 13 Q. While she wouldn't make your employees do
 14 it, she never told you that you didn't have to do it?
 15 A. No.
 16 Q. Did she not like you?
 17 MR. DAN SMOLEN: Object to the form.
 18 Q. (By Mr. Fortney) If you know.
 19 A. Secondhand knowledge, no.
 20 Q. You've been told by others she didn't like
 21 you?
 22 A. Yes.
 23 Q. But your testimony is that she did tell your
 24 other two employees that they didn't have to do it;
 25 is that true?

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1 A. Correct.
 2 Q. And how do you know that?
 3 A. Because when we had the meeting, because Pam
 4 would take us in the office one at a time. And I
 5 would write out several complaints. And when we had
 6 the meeting of all of us, it was stated that, Pam,
 7 you said I didn't have to do this. You said I didn't
 8 have to do this. Pam would tell them one thing and
 9 tell me another thing.
 10 Q. Pam would tell you they did have to do it;
 11 is that what you're telling me?
 12 A. No. She would tell them that they did not
 13 have to do it. And she would tell me that they have
 14 to do it.
 15 Q. That's what I meant.
 16 A. Yes.
 17 Q. When she was facing you, she was, like,
 18 well, absolutely, they have to do that, right?
 19 A. No, she wasn't.
 20 Q. I'm misunderstanding now. I thought you
 21 said she told you that they did have to do it, that
 22 you had to do it and they had to do it?
 23 A. When I was alone with her.
 24 Q. Right. When you were facing her, just girl
 25 to girl right there, employee to employee -- sorry,

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1 that got weird.
 2 When you were alone with her, and I don't
 3 know if you were confronting her about it, she would
 4 at least tell you, well, absolutely, they have to do
 5 those things?
 6 A. Yes.
 7 Q. But then whenever you were out of earshot,
 8 it's your belief she would tell them, you don't have
 9 to do that?
 10 A. Yes.
 11 Q. Right. How else did she try and undermine
 12 you?
 13 A. A couple of times, I had wrote both the
 14 ladies up for coming in late. They would come in all
 15 hours of the day. They leave anytime they wanted. I
 16 would attempt to write them up for that. And Pam
 17 tore up some of the write-ups in front of my face.
 18 Q. Now, you say you wrote them up. What
 19 happened to these write-ups, if you know?
 20 A. She tore the majority of them up in my face.
 21 Q. Well, that's the majority. That leads me to
 22 believe a minority exist somewhere.
 23 A. Well, actually, if I left the office with
 24 her, I didn't know what she did with them afterwards.
 25 Q. I just want to make sure I understand your

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1 testimony here. Your testimony is you really don't
 2 have any idea whether these exist today or not?
 3 MR. DAN SMOLEN: Object to the form.
 4 A. Yes.
 5 MR. FORTNEY: That's all the questions I
 6 have. Thank you.
 7 MR. DAN SMOLEN: I've got some questions.
 8 CROSS-EXAMINATION
 9 BY MR. DAN SMOLEN:
 10 Q. Diane, would you just describe to me what
 11 your job description was as the supervisor over
 12 medical records, what you believe your job
 13 description to be?
 14 A. It was to maintain Medical Records and to
 15 make sure the employees under me were doing what
 16 their job description was, which was filing, pulling
 17 the charts, scheduling the physicals and making sure
 18 medical records were all in their charts
 19 appropriately.
 20 Q. Okay. In that capacity, as a supervisor,
 21 did you ever participate in NCCHC audits?
 22 A. Yes, I did.
 23 Q. And do you know what an NCCIC is, as it
 24 pertained to your job at David I. -- well, that's a
 25 bad question.

30 (Pages 114 to 117)

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1 Did you understand what NCCHC was?
 2 A. Yes.
 3 Q. What did you understand NCCHC to be?
 4 A. It was for their accreditation to operate in
 5 the jail.
 6 Q. And when you say "their accreditation,"
 7 whose accreditation?
 8 A. It was for medical's accreditation, and it
 9 was, also, the jail had a standard that they wanted
 10 to keep, which was called the five star.
 11 Q. Okay. And in your capacity as a medical
 12 records supervisor, did you participate in the audit
 13 process?
 14 A. Yes.
 15 Q. And describe to me -- let me ask it this
 16 way: Were you notified when there would be NCCHC
 17 audits?
 18 A. Yes.
 19 Q. And how were you notified?
 20 A. We were told by our supervisor that the
 21 audit was coming, that we had to get the medical
 22 records in order.
 23 Q. And in that process, were you ever asked to
 24 falsify documents?
 25 MR. SHERMAN: Object to the form.

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1 A. Yes.
 2 Q. (By Mr. Dan Smolen) Were you ever asked to
 3 falsify charts?
 4 MR. SHERMAN: Object to the form.
 5 A. Yes.
 6 Q. (By Mr. Dan Smolen) Explain to me how that
 7 would happen.
 8 A. Pam had come to us and wanted perfect
 9 charts. She wanted every chart to be kind of altered
 10 if there was something in there bad or if there were
 11 sick calls in the charts that were not addressed.
 12 The sick call has a place where the inmate writes on
 13 the chart or the paper, and it has a diagnosis where
 14 the nurse writes what she did to this inmate. She
 15 did not want any of the sick calls to be blank. So
 16 she had people remove those sick calls or she either
 17 had the nurses fill in something that they seen or,
 18 even if it was a duplicate, to write "duplicate" on
 19 it.
 20 Q. Did she ever ask you to create, essentially,
 21 falsify files that would then be provided to NCCHC
 22 during the audit process?
 23 A. Yes.
 24 Q. How did she go about requesting that of you?
 25 MR. WEBSTER: Object to the form.

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1 A. She picked out certain names that she
 2 wanted, which were not high acuity charts. She did
 3 not want the charts of inmates that were really sick.
 4 She wanted inmates that were fit and didn't have a
 5 lot of medical issues.
 6 Q. (By Mr. Dan Smolen) Was there any name
 7 given to a specialized, like falsified chart?
 8 MR. WEBSTER: Object to the form.
 9 Q. (By Mr. Dan Smolen) That you would
 10 reference?
 11 A. No. We called them the dummy charts.
 12 Q. Who called them dummy charts?
 13 A. Just individuals.
 14 Q. And describe to the jury, if you would,
 15 please, what your understanding of a dummy chart was
 16 as a supervisor of medical records.
 17 MR. WEBSTER: Object to the form.
 18 A. It was a chart that was, basically, created
 19 that did not have all of the medical history in it of
 20 that individual. Most of it may have been taken
 21 out. If there were any blank sick calls that were on
 22 there, it was taken out. It was items like that.
 23 Q. (By Mr. Dan Smolen) And what was the
 24 purpose of a dummy chart?
 25 MR. WEBSTER: Object to the form.

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1 A. In order to pass the audit.
 2 Q. (By Mr. Dan Smolen) And how were the dummy
 3 charts, your understanding, how you were taught with
 4 respect to the practices at David L. Moss, how was a
 5 dummy chart used to help CHC and David L. Moss or the
 6 Sheriff's Office pass the audit?
 7 MR. WEBSTER: Object to the form.
 8 MR. FORTNEY: Object to the form.
 9 A. Because when the audit came, they had a line
 10 of baskets of charts that they doctored. And they
 11 wanted the audit people to select from these charts.
 12 They had baskets of charts that they already had
 13 altered and were in perfect condition. They wanted
 14 the auditors to pick from these charts, which would
 15 pass the audit.
 16 Q. (By Mr. Dan Smolen) You were directed to do
 17 this, correct?
 18 A. Correct.
 19 Q. This was a common practice, correct?
 20 MR. FORTNEY: Object to the form.
 21 MR. WEBSTER: Object to the form.
 22 A. Yes.
 23 Q. (By Mr. Dan Smolen) As the Director -- were
 24 you commonly asked to do this?
 25 MR. WEBSTER: Object to the form.

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<p>1 A. Yes.</p> <p>2 Q. (By Mr. Dan Smolen) And you were in charge</p> <p>3 of the medical records; you were in charge of the</p> <p>4 charts, correct?</p> <p>5 MR. WEBSTER: Object to the form.</p> <p>6 A. Yes.</p> <p>7 Q. (By Mr. Dan Smolen) There would have been</p> <p>8 no one there with as much knowledge over the charting</p> <p>9 and this type of request than you, correct?</p> <p>10 MR. FORTNEY: Object to the form.</p> <p>11 MR. WEBSTER: Object to the form.</p> <p>12 A. Correct.</p> <p>13 Q. (By Mr. Dan Smolen) With respect to audits,</p> <p>14 do you ever recall a time when you were at CHC or the</p> <p>15 Sheriff's Office received a bad audit?</p> <p>16 MR. WEBSTER: Object to the form.</p> <p>17 A. Yes.</p> <p>18 Q. (By Mr. Dan Smolen) Was that audit</p> <p>19 addressed with you?</p> <p>20 A. Yes.</p> <p>21 Q. How was it addressed with you?</p> <p>22 A. They came to us. Before the audit, the</p> <p>23 Sheriff gave -- he had a meeting with all the</p> <p>24 department heads and told us how important it was to</p> <p>25 pass this audit and told CIIM they were going to lose</p>	<p>1 response to a failed audit?</p> <p>2 MR. WEBSTER: Object to the form.</p> <p>3 A. The auditors left bullets as to what was</p> <p>4 supposed to change, what they were supposed to</p> <p>5 improve. And Pam Hoisington was to write a report as</p> <p>6 to how she was going to address these defects. And</p> <p>7 from our understanding, they were going to come back</p> <p>8 in a couple of weeks, a period of weeks, and she was</p> <p>9 supposed to lay out how she was going to address</p> <p>10 these defects.</p> <p>11 Q. And did she ever address the defects?</p> <p>12 MR. WEBSTER: Object to the form.</p> <p>13 A. No.</p> <p>14 Q. (By Mr. Dan Smolen) What would she do?</p> <p>15 A. Push it under the rug. She would not</p> <p>16 address the defects. She wrote out a plan, and it</p> <p>17 was never implemented.</p> <p>18 Q. But would she ever paper over in the charts</p> <p>19 to look like the plan had been implemented?</p> <p>20 MR. WEBSTER: Object to the form.</p> <p>21 A. She would tell people that the plan was</p> <p>22 implemented, but it never was implemented.</p> <p>23 Q. (By Mr. Dan Smolen) Okay. Based on your</p> <p>24 personal observations, you knew the plan had never</p> <p>25 been implemented?</p>
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<p>1 their contract if they failed this audit. And heads</p> <p>2 were going to roll, is what Glanz said. He was the</p> <p>3 one that was giving the meeting, him and Chief Albin.</p> <p>4 After we had the audit, the auditors were told to</p> <p>5 pick charts from the charts.</p> <p>6 But, in fact, we were made to carry the</p> <p>7 charts up to Chief Albin's office. And the auditor</p> <p>8 said, no, thank you; we're not going to pull charts</p> <p>9 out of this chart thing; we're going to pull our own</p> <p>10 charts.</p> <p>11 So they went back downstairs and pulled just</p> <p>12 random charts from everywhere. And they failed the</p> <p>13 audit.</p> <p>14 After the auditors left, we had another</p> <p>15 meeting. And Chief Albin and Glanz were highly upset</p> <p>16 that we failed the audit. And they were saying</p> <p>17 what's going to change and things like that. And</p> <p>18 they were mad about failing the audit.</p> <p>19 Q. Even though you failed the audit, based on</p> <p>20 your observations as a supervisor, did the medical</p> <p>21 treatment ever change?</p> <p>22 MR. FORTNEY: Object to the form.</p> <p>23 MR. WEBSTER: Object to the form.</p> <p>24 A. No.</p> <p>25 Q. (By Mr. Dan Smolen) What would happen in</p>	<p>1 MR. WEBSTER: Object to the form.</p> <p>2 A. No.</p> <p>3 Q. (By Mr. Dan Smolen) Did you observe any</p> <p>4 other practices, for example, with respect to inmates</p> <p>5 being denied medical treatment pending them being</p> <p>6 transferred to the State Penitentiary?</p> <p>7 A. Yes.</p> <p>8 Q. Describe that practice, if you would,</p> <p>9 please.</p> <p>10 A. A young man came into the facility, and he</p> <p>11 was urinating blood. And they put in sick calls, and</p> <p>12 it took a call for them to address his situation.</p> <p>13 And when they did, they -- it took some</p> <p>14 paperwork -- in order for them to get the tests or</p> <p>15 for them to be seen by an outside doctor, it would</p> <p>16 have to go to the Sheriff and other places for</p> <p>17 approval for him to be seen by an outside doctor.</p> <p>18 The doctor that was there advised the HSA,</p> <p>19 which is Pam Hoisington, for him to be seen by an</p> <p>20 outside doctor because he couldn't treat him.</p> <p>21 After all of the paperwork, he got to see an</p> <p>22 outside doctor. And it was determined that he had</p> <p>23 kidney stones. So they began a regimen of medication</p> <p>24 to break up the kidney stones. He never passed them.</p> <p>25 So he got to see the doctor again. And the doctor</p>

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1 Q. Let's go back to some of the things we were
 2 talking about.
 3 You said that Pam Hoisington falsified
 4 documents and falsified charts, correct?
 5 A. Yes.
 6 Q. And you participated in that, right?
 7 A. Yes.
 8 Q. You, actually, helped falsify these
 9 documents and helped falsify these charts, correct?
 10 A. Well, she would -- yes.
 11 Q. And, as I gather your testimony, she was
 12 trying to -- and you correct me if I'm wrong -- she
 13 was trying to cherry pick the files that the auditors
 14 would see?
 15 A. Yes.
 16 Q. But that didn't work. Those files that were
 17 cherry picked were delivered up to Albin's office,
 18 and the auditor said, no, no, no. We don't want to
 19 see the cherry-picked files. We want to go pick them
 20 randomly ourselves. That's your understanding?
 21 A. Yes.
 22 Q. So they then came down and were able to
 23 randomly look at any file that they wanted to,
 24 correct?
 25 A. No.

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1 Q. Explain.
 2 A. There were certain files that were put away,
 3 that they would not have had access to.
 4 Q. Okay. Despite the fact that, and according
 5 to your testimony, that certain files were cherry
 6 picked and tried to be given to them for auditing and
 7 they refused that, right?
 8 A. Yes.
 9 Q. Then they said no, no. We want to come down
 10 and look at the files as they are, right?
 11 A. Yes.
 12 Q. But your testimony is that certain files had
 13 been pulled and wouldn't even be available for them
 14 to review; is that what you're telling us?
 15 A. Yes.
 16 Q. How many inmate files was that done to?
 17 A. I don't recall. She had a list that she
 18 provided to us to pull the charts and put them in
 19 what was called -- it's a milk crate. And she took
 20 those files in her office. So I don't recall what
 21 she did with them.
 22 Q. And when you say "a list," I appreciate
 23 you probably can't -- can you tell me a single name
 24 that was on the list?
 25 A. I can't remember any.

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1 Q. Fair enough. Can you tell me,
 2 approximately, how many names were on this list, 10,
 3 20, 5?
 4 A. Above 20.
 5 Q. Above 20-plus names?
 6 A. Yes.
 7 Q. And did you maintain a copy of this list?
 8 A. No.
 9 Q. And you participated in pulling these files
 10 to put in the milk crate to hide from the auditors,
 11 correct?
 12 A. It was three ladies in there, so we all did,
 13 yes.
 14 Q. Don't try and jump in the crowd. You
 15 participated, right?
 16 A. Yes.
 17 Q. Now, what I didn't hear you say is that Pam
 18 Hoisington did that at the direction of Stanley
 19 Glanz. That is not your testimony, is it?
 20 A. No.
 21 Q. You're not saying she did that at the
 22 direction of Tim Albin, are you?
 23 MR. DAN SMOLEN: Object to the form.
 24 A. We were told that, if it was a problem
 25 chart, that the auditors better not see those.

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1 Q. (By Mr. Fortney) Hold on. Pam Hoisington
 2 told you that?
 3 A. It came from Chief Albin and Sheriff Glanz.
 4 Q. How were you communicated that from them?
 5 A. When we had the first meeting, it is
 6 discussed what charts were going to be placed for the
 7 auditors to see. It was told that certain charts,
 8 not only did they audit, they went around to several
 9 inmates and talked to certain inmates. And it was
 10 certain people that they did not want to talk to,
 11 because they were known as troublemakers and things
 12 like that.
 13 So it was told in that meeting that they
 14 didn't want them to see certain inmates. And even,
 15 at point, they moved inmates from cell to cell,
 16 because they didn't want them seen. And even had
 17 some of them off the premises, so they won't be
 18 seen.
 19 Q. You're telling me that -- who said this?
 20 Albin or Glanz, or who said this?
 21 A. This came from Albin.
 22 Q. Your testimony under oath today is that Tim
 23 Albin told you all in a meeting to hide charts?
 24 A. Yes.
 25 Q. And how did he say that?

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1 A. He said that he did not want the problem
 2 charts to be seen by the auditors, and he did not
 3 want the problem inmates to be seen by auditors.
 4 I do remember one particular gentleman that
 5 they did not want to be seen by the auditor. And I
 6 recall his first name to be James. They did not want
 7 him to be seen by the auditors, because he was one of
 8 the inmates that they were giving the loaf and they
 9 were mistreating.
 10 Q. Where was he located; do you know?
 11 A. At one point in time, he was in F-24.
 12 Q. Does he have any special medical condition,
 13 that you recall?
 14 A. No.
 15 Q. With regard to the loaf, since you brought
 16 that up, this was something that you personally
 17 witnessed Tom Huckaby make or do to a prisoner's
 18 food?
 19 A. I did not see him make it. I saw him
 20 serving it to some of the inmates at the jail.
 21 Q. And where did you see him do this?
 22 A. Medical. I've seen him do it in F-24.
 23 Q. And when you say he would serve it to the
 24 inmate, describe, specifically for the record, what
 25 you observed.

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1 A. When the medical trays -- the trays come
 2 in. The kitchen people bring the trays. And each
 3 tray is sometimes their specialty trays. If you have
 4 a diabetic, you have the diabetic tray. If you have
 5 a suicide watch, you'll have the paper tray or just
 6 finger foods, or something like that.
 7 If he was down there, he would give the
 8 person the loaf. A lot of times he would make
 9 himself present to kind of egg on the person that was
 10 in suicide.
 11 Or one particular gentleman, they would
 12 always have a riff because he was cursing and he was,
 13 you know, not very pleasant. And he would serve him
 14 one, also. And he was in F-24.
 15 Q. Now, when you're saying he would serve him
 16 one, would it come down already in the loaf form, or
 17 would he do that to it or have somebody do that to it
 18 once it came down to Medical?
 19 A. It would be in the loaf form.
 20 Q. Are you saying that somebody had done this
 21 back up in Food Service?
 22 A. Yes.
 23 Q. And then he would come down. You,
 24 personally, saw him come down and make sure that the
 25 inmate that he wanted it got that loaf?

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1 A. Yes. At one point in time, the person that
 2 was housed in F-24, Huckaby placed him on suicide
 3 watch, because he felt like it was mistreatment and
 4 didn't give him any clothes or any blanket or any
 5 mat. And he was there naked. And there's windows
 6 there for everybody to see him. He would serve him a
 7 loaf. He served him a loaf for, like, two weeks that
 8 this person wouldn't eat or....
 9 Q. These dummy charts you described, as a chart
 10 that did not have all of the medical history in it --
 11 A. Yes.
 12 Q. -- how would that medical history be
 13 removed?
 14 A. Pam would go through the charts herself, and
 15 she would take out what she felt was damning. And
 16 she would request certain charts on certain ones.
 17 And she would remove anything she felt was damning.
 18 Q. Did you participate in that, too?
 19 A. No.
 20 Q. Did you personally see her do that?
 21 A. Yes.
 22 Q. You said there were several audits while you
 23 were down there?
 24 A. Yes.
 25 Q. How many?

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1 A. I don't recall.
 2 Q. I need an approximation. We know of one.
 3 Are you talking about a half dozen, two more, three
 4 more?
 5 A. Maybe about five.
 6 Q. About five, in total?
 7 A. Yes.
 8 Q. Do you recall what agency was conducting
 9 that audit?
 10 A. I remember the Health Department came. That
 11 was one of them. And I believe that JCAOH came.
 12 Q. The Joint Accreditation Committee on
 13 Hospitals?
 14 A. I believe so.
 15 Q. And you believe they conducted an audit?
 16 A. Yes.
 17 Q. With regard to the Health Department, was
 18 that a general audit, or were they investigating
 19 something specific, if you know?
 20 A. I don't know.
 21 Q. You haven't made any allegations about any
 22 fraudulent behavior with regard to those. Is that
 23 just because you haven't been asked or should I go
 24 into that? Were there other activities similar to
 25 the allegations you've made in this NCCHC audit?