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Of Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES P. CHASSE, JR.; JAMES P. CHASSÉ; LINDA
GERBER; and MARK CHASSE, individually and in his
capacity as Personal Representative of the ESTATE OF
JAMES P. CHASSE, JR.;

Plaintiffs,

vs.

CHRISTOPHER HUMPHREYS; KYLE NICE; CITY
OF PORTLAND; ROSANNE SIZER; TOM POTTER;
BRET BURTON; MULTNOMAH COUNTY;
PATRICIA GAYMAN; SOKUNTHY EATH; TRI-
COUNTY METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON; AMERICAN MEDICAL
RESPONSE NORTHWEST, INC.; TAMARA
HERGERT; and KEVIN STUCKER.

Defendants.

Case No. CV-07-0189-HU

AMENDED COMPLAINT
(Claims for Damages, Including
Civil Rights Violations, Wrongful
Death and other Common Law
Claims)

DEMAND FOR A JURY TRIAL

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I.

INTRODUCTION

1. On the afternoon of September 17, 2006, a Sunday, 42-year old James P. Chasse, Jr. (“Chasse”), was walking in the Northwest Portland neighborhood where he lived. Chasse was carrying a backpack containing, several vintage books, comics, and a sandwich. He was a gentle and a kind man who was in good physical health and enjoyed a peaceful life.

2. Chasse’s life was brought to a tragic end early that evening. Chasse had not used drugs or alcohol and had committed no crime. No one had complained about his behavior. Nevertheless, Portland Police Officer Christopher Humphreys (“Humphreys” with the assistance of Portland Police Sergeant Kyle Nice (“Nice”) and Multnomah County Deputy Sheriff Bret Burton (“Burton”) tackled Chasse, smashed him face first to the concrete sidewalk, and brutally assaulted him. Chasse was terrified and injured after being driven face first into the concrete by the three large officers whom he had never seen before. In response, he struggled in an attempt to avoid having his arms violently wrenched behind his back. Over the ensuing few minutes, and again without cause or provocation, Chasse was repeatedly and viciously punched, struck, kicked, kneed in the head, back, ribs, and chest by Humphreys, Nice, and Burton. According to the Medical Examiner, excluding the blows which broke his ribs, he was struck as many as 46 separate times, including 6 times in the head and 19 times in the torso. He was also repeatedly tasered by Burton.

3. As a result of that use of extreme, excessive, brutal, and deadly physical force, Chasse suffered massive physical injuries and trauma, including, but not necessarily limited to:

a. Multiple contusions and abrasions around his eyes, mouth, jaw and nose. A large

contusion on the back of his head. Contusions over his chest, back, abdomen and right hip.

Internal hemorrhaging of the posterior left and right chest wall.

b. Multiple fractures of his ribs, with associated hemorrhaging. These included fractures to 11 of 12 ribs in his posterior left chest wall. Many of these fractures were multiple and comminuted.

c. Perforation and penetration of his left lung posteriorly by the comminuted posterior rib fractures. Contusion and hemorrhaging into the soft tissue of his left and right lung and chest wall.

d. Multiple fractures of his distal left clavicle (shoulder).

e. The fractures to his ribs and left shoulder caused intense pain. The injuries to his ribs and the penetration of his left lung significantly decreased his ability to breathe, causing hypoxia, anxiety, fear and panic. Ultimately, these injuries led to cessation of breathing, respiratory arrest, seizure, and, finally, cardiac arrest.

4. After assaulting Chasse, and realizing there were many civilian witnesses to the events, Humphreys, Nice, and Burton, with the aid of other Portland police officers, engaged in a deliberate cover-up of their brutal assault of Chasse. Specifically: Humphreys publicly announced for paramedics and civilian witnesses to hear that he had found “cocaine” belonging to Chasse, when in fact he knew what he had found and bagged as evidence was bread crumbs; Nice claimed that Burton had found a “drug bindle” which Burton had seen Chasse throw to the ground; Humphreys and/or Nice gave false information to another police officer when they told that officer that Chasse had 14 “cocaine” convictions, when they knew he did not, thereby encouraging that officer to falsely inform civilian witnesses who were concerned about Chasse’s

welfare that he had those drug convictions; Humphreys, Nice, and Burton failed to disclose to the paramedics and other medical personnel that they had brutally assaulted Chasse; and Humphreys and other officers lied and told the public that Chasse was a “transient” and was using or “on drugs.”

5. Following their use of deadly force, and over the course of the next hour until he died, Defendants Humphreys, Nice, Burton and other defendants, including Portland firefighters/paramedics, and other Multnomah County deputy sheriffs and medical personnel, failed to provide any help whatsoever to this dying man, which ultimately resulted in him going into respiratory arrest, cardiac arrest, and then dying.

6. As described in ¶¶ 48-65, below, certain policies and well-established official practices and/or acts of the City of Portland, its Police Bureau, Multnomah County, the Multnomah County Sheriff’s Office, various Portland and Multnomah County officials, including Sizer and Potter, and AMR Northwest, also contributed, in part, to Chasse’s death.

7. This civil rights action is brought by the plaintiffs, who are Chasse’s father (James P. Chassé), mother (Linda Gerber), brother (Mark Chasse), and his estate. Plaintiffs seek damages arising out of the tragic and brutal death of Chasse which was caused by defendants. Plaintiffs also may seek necessary injunctive relief to enjoin and prevent the City of Portland and their employees and officials, from continuing to allow and cause egregious violations of the constitutional rights of and the wrongful deaths of innocent citizens.

8. Plaintiffs seek separate awards of economic damages, non-economic damages, attorney fees, and litigation expenses/costs against all defendants, as appropriate. Plaintiffs also seek separate awards of punitive damages against Defendants Humphreys, Nice, Sizer, Potter,

Burton, Gayman, Eath, American Medical Response Northwest, Inc., Hergert, and Stucker, under federal law.

II

JURISDICTION

9. This court has jurisdiction over plaintiffs' claims by virtue of 28 USC §§ 1331, 1343, and 1367, and 42 USC §§ 12133 and 12188.

III

PARTIES

10. Plaintiff James P. Chasse, Jr. ("Chasse") is deceased. At the time of his death, Chasse was 42 years old and had been living with a diagnosis of mental illness for more than 25 years.

11. Plaintiff James P. Chassé is Chasse's surviving father.

12. Plaintiff Linda Gerber is Chasse's surviving mother.

13. Mark Chasse is Chasse's surviving brother. He is the duly appointed Personal Representative of the Estate of James P. Chasse, Jr.

14. At all material times herein, Defendant Christopher Humphreys and Defendant Kyle Nice were Portland Police Officers acting within the course and scope of their employment with the City of Portland ("Portland"). They are sued in their individual capacities only.

15. Portland is a public body responsible under state law for the acts and omissions of its employees and officials, including those whose conduct is at issue herein.

16. At all material times herein, Portland Police Chief Rosanne Sizer and Portland Mayor Tom Potter have been Portland officials acting within the course and scope of their

employment with Portland. With respect to policy and training matters material to the City of Portland and its Police Bureau and at all material times herein, they have been policy makers. They are sued in their individual and official capacities.

17. At all material times herein, Defendant Bret Burton was a Multnomah County deputy sheriff acting within the course and scope of his employment with Multnomah County. He is sued in his individual capacity only.

18. Defendant Multnomah County is a public body responsible under state law for the acts and omissions of its employees and officials, including those whose conduct is at issue herein.

19. At all material times herein, Patricia Gayman and Sokunthy Eath were Multnomah County health nurses acting within the course and scope of their employment with Multnomah County. They are sued in their individual capacities only.

20. The Tri-County Metropolitan Transportation District of Oregon (“TriMet”) is a public body responsible under state law for the acts and omissions of its employees and other individuals selected and assigned to its Transit Police Division, including those whose conduct is at issue herein. TriMet has entered into intergovernmental agreements with Portland, the County, and other jurisdictions, to have police officers and deputy sheriffs, such as Humphreys and Burton, selected and assigned to work with the TriMet Transit Police Division (“Transit Police Division”) and to provide transit police services. Portland, Multnomah County, other jurisdictions with police departments, and TriMet, work together and jointly decide which police officers and deputy sheriffs shall be selected and assigned to the Division. Supervision of police personnel for the daily operations of the Transit Police Division is provided by the division’s

command personnel.

21. At all material times herein, Humphreys and Burton had been selected and assigned, respectively, by Portland, Multnomah County, and TriMet to the Transit Police Division. In that capacity, they were agents of TriMet.

22. Defendant American Medical Response Northwest, Inc. (“AMR Northwest”) is a subsidiary of American Medical Response, Inc. AMR Northwest is registered in and doing business in Oregon. At all times material herein, AMR Northwest has been a medical transportation company, engaged in the business of providing exclusive emergency ambulance and advanced life support services, *i.e.* emergency medical services, for Multnomah County through a contract with the County to provide those public services.

23. At all material times herein, Tamara Hergert and Kevin Stucker were paramedics acting within the course and scope of their employment with AMR Northwest as providers of emergency ambulance and advanced life support services, *i.e.* emergency medical services, for Multnomah County through a contract with the County and their employer, AMR Northwest, to provide those public services. They are sued in their individual capacities only.

24. At all material times herein, Defendants Hergert, Stucker and AMR Northwest were willful participants in joint activity with Defendant Multnomah County.

25. At all material times herein, there was a sufficiently close nexus between Defendant Multnomah County and Defendants Hergert, Stucker and AMR Northwest so that the actions of the latter three defendants may be fairly treated as that of Multnomah County itself.

26. At all material times herein, Defendants Hergert, Stucker and AMR Northwest were performing a public function.

27. At all material times herein, Defendants Portland and Multnomah County received federal funding.

28. At all times material herein, defendants acted under color of state law.

IV

FACTS

A. Events Near NW 13th and Everett St. (approx. 5:18 - 5:45 p.m.)

29. On the afternoon of September 17, 2006, a Sunday, 42-year old Chasse was walking in the Northwest Portland neighborhood where he lived. Chasse was carrying a backpack containing several vintage books, comics, and a sandwich. Chasse had not used drugs or alcohol and had committed no crime. No one had complained about his behavior.

30. Nevertheless, without cause or provocation, near the corner of NW 13th Avenue and NW Everett Street and at approximately 5:18 p.m., Chasse was tackled, smashed to the concrete sidewalk, and brutally assaulted by Humphreys with the assistance of Nice and Burton. Chasse was terrified and injured after being smashed face first to the concrete sidewalk by the three large officers whom he had never seen before. In response, he struggled in an attempt to avoid having his arms violently wrenched behind his back for handcuffing. Thereafter and again without cause or provocation, Chasse was repeatedly and viciously punched, struck, kicked, and kneed in the head, back, ribs, and chest by Humphreys, Nice, and Burton. According to the Medical Examiner, excluding the blows which broke his ribs, he was struck as many as 46 separate times, including 6 times in the head and 19 times in the torso. He was also repeatedly tasered by Burton. No later than 5:22 p.m., those defendants had handcuffed Chasse behind his back and tied his hands to his feet which were also tied together with a hobble, thereby hogtying

him.

31. As a result of the above described conduct by those defendants, Chasse suffered massive physical injuries and trauma, including, but not necessarily limited to:

a. Multiple contusions and abrasions around his eyes, mouth, jaw and nose. A large contusion on the back of his head. Contusions over his chest, back, abdomen and right hip.

Internal hemorrhaging of the posterior left and right chest wall.

b. Multiple fractures of his ribs, with associated hemorrhaging. These included fractures to 11 of 12 ribs in his posterior left chest wall. Many of these fractures were multiple and comminuted.

c. Perforation and penetration of his left lung posteriorly by the comminuted posterior rib fractures. Contusion and hemorrhaging into the soft tissue of his left and right lung and chest wall.

d. Multiple fractures of his distal left clavicle (shoulder).

e. The fractures to his ribs and left shoulder caused intense pain. The injuries to his ribs and the penetration of his left lung significantly decreased his ability to breathe, causing hypoxia, anxiety, fear and panic. Ultimately, these injuries led to cessation of breathing, respiratory arrest, seizure, and, finally, cardiac arrest.

32. Shortly after being assaulted and hogtied, Chasse stopped breathing and lost consciousness. Nice made a Code-3 request for medical assistance at approximately 5:23 p.m. By approximately 5:26 p.m., AMR Northwest paramedics Hergert and Stucker along with Portland firefighters/paramedics had arrived. Chasse had regained consciousness, but was moaning in pain. After the arrival of the medical personnel, Humphreys, Nice, and Burton were

unreasonable, deliberately indifferent to, and/or negligent with regard to Chasse's serious medical needs and engaged in a deliberate cover-up of their assault of Chasse, in one or more but not limited to the following ways:

- a. By failing to disclose to the paramedics from AMR Northwest and the Portland firefighters/paramedics that they had brutally assaulted and smashed Chasse to the concrete and had repeatedly and viciously punched, struck, kicked, and kneed him in the head, back, ribs and chest, and tasered him;
- b. By Humphreys publicly announcing for paramedics and civilian witnesses and paramedics to hear that he had found "cocaine" belonging to Chasse when Humphreys knew what he had found and bagged as evidence was bread crumbs;
- c. By publicly misrepresenting that Chasse was involved with drugs and was under the influence of drugs;
- d. By conspiring with other police officers to further denigrate Chasse in the eyes of civilian witnesses and the paramedics, by causing another police officer who came on the scene tell witnesses that Chasse had 14 prior "cocaine" convictions, when Humphreys and Nice knew that information was a lie and that Chasse had no drug convictions;
- e. By falsely arresting and charging Chasse with crimes to cover up the unlawful and unconstitutional stop and use of extreme, excessive, brutal, and deadly physical force; and
- f. By preventing trained medical personnel from discovering and treating Chasse's injuries.

33. AMR paramedics Hergert and Stucker were unreasonable and/or negligent with regard to Chasse's serious medical needs, in one or more but not limited to the following ways:

- a. By failing to take an adequate and complete history of the nature and cause of Chasse's injuries;
- b. By failing to determine the cause and mechanism of his injuries, including his cessation of breathing and unconsciousness;
- c. By failing to perform a complete and thorough physical exam;
- d. By failing to thoroughly assess Chasse's respiratory status;
- e. By failing to take adequate and accurate vital signs;
- f. By failing to treat Chasse's respiratory problem with supplemental oxygen;
- g. By failing to determine the cause and to treat the condition causing blood to drain from Chasse's mouth;
- h. By failing to turn over the care of Chasse to a person of higher medical skill; and
- i. By failing to follow the Multnomah County Emergency System protocols, as well as AMR's own protocols, applicable to someone in Chasse's condition.

34. The Portland firefighters/paramedics were also negligent with regard to Chasse's serious medical needs as described in ¶¶ 31 and 33 above.

35. Instead of transporting or allowing the transport of Chasse to a hospital, Humphreys and Burton arrested and transported Chasse to the Multnomah County Detention Center ("jail") and falsely charged him with crimes to cover up their unlawful and unconstitutional stop, detention and arrest of Chasse and their use of extreme, excessive, brutal, brutal, and deadly physical force against him.

B. Events Driving to the Jail (approx. 5:46 - 6:05 p.m.)

36. Humphreys, Burton, and other Portland police officers carried Chasse hogtied,

face down to a police cruiser, despite the injuries to his ribs, shoulder and profuse bleeding from his mouth. While being carried, Chasse screamed, moaned, and struggled because he was in intense pain due to his rib injuries, punctured lung, and fractured clavicle and could not breathe because of these injuries, was hypoxic, and feared for his life. As he screamed and moaned in pain, a Portland firefighter/paramedic made mocking moans and cries, suggesting that Chasse was faking his injuries.

37. En route to the jail, Humphreys continued his coverup of what had been done to Chasse by listing him as a “transient” in his police report, despite having his actual street address from Chasse’s Oregon identification card, which was in Humphreys’ possession.

38. After arriving at the jail, in a further attempt to cover up the severity of Chasse’s critical injuries Humphreys and Burton covered Chasse’s head and face, which was bloody, with a gauze “spit sock.” The “spit sock” further complicated Chasse’s breathing because the blood flowing from his mouth congealed on the sock, around his mouth and nose. The sock also prevented others from assessing his level of consciousness.

C. Events in the Jail (approx. 6:06 - 6:19 p.m.)

39. At approximately 6:06 p.m., Chasse was carried into a separation cell by Humphreys, Burton, and Multnomah County deputy sheriffs. While being carried, Chasse screamed, moaned, cried out, and struggled because he was in intense pain from the multiple rib fractures and fractured shoulder, was hypoxic, and feared he would suffocate to death. After being placed on the floor in the separation cell, the handcuffs and straps around his feet were removed from Chasse. Chasse was left on the floor of the cell, with the bloody “spit sock” still on his head covering his face. While lying on the floor, Chasse:

- a. Moaned and cried out for help;
- b. Stopped breathing and lapsed into unconsciousness;
- c. Suffered repeated seizures; and
- d. Continued to bleed from his mouth into the gauze “spit sock” covering his face.

40. The events described in ¶ 39, above, were observed by Humphreys, Burton, and/or various jail personnel, including ones medically trained such as Gayman and Eath. Nevertheless, no one entered Chasse’s cell or otherwise tried to help Chasse or attend to his medical needs. No one called 911 or summoned paramedics.

41. Humphreys and Burton engaged in a deliberate cover-up of their assault of Chasse and were deliberately indifferent and/or negligent with regard to his critical injuries and serious medical needs, in one or more but not limited to the following ways:

- a. By failing to disclose they had brutally assaulted and smashed Chasse to the ground and had repeatedly and viciously punched, struck, kicked, kneed, and tasered him;
- b. By failing to disclose to employees at the jail, including medical personnel, that Chasse had stopped breathing and became unconscious after the assault;
- c. By misrepresenting that Chasse was involved with drugs or was under the influence of drugs;
- d. By covering Chasse’s head and face with a “spit sock” to conceal his facial and head injuries and that he continued to bleed from his mouth;
- e. By failing to remove the blood-covered gauze “spit sock” from his head when he stopped breathing and went into convulsions;
- f. By ignoring Chasse’s moans and cries of intense pain;

g. By not calling 911 and summoning paramedics after he had stopped breathing and gone into convulsions; and

h. By continuing to ask jail officials to accept Chasse after he had stopped breathing and had gone into convulsions, thus delaying Chasse's transport to a hospital.

42. Gayman and Eath at the jail were unreasonable, showed deliberate indifference to, and/or were negligent and further contributed to the worsening of Chasse's condition and, ultimately, his tortured death, in one or more but not limited to the following ways:

a. By failing to take an adequate and complete history of the nature and cause of Chasse's injuries;

b. By failing to determine the cause and mechanism of his injuries, including his cessation of breathing and unconsciousness;

c. By failing to perform a complete and thorough physical exam;

d. By failing to thoroughly assess Chasse's respiratory status;

e. By failing to take any vital signs;

f. By failing to treat Chasse's respiratory problem with supplemental oxygen;

g. By failing to determine the cause and to treat the condition causing blood to drain from Chasse's mouth;

h. By failing to turn over the care of Chasse to a person of higher medical skill.

i. By failing to enter the cell and help Chasse when he stopped breathing, and then went into convulsions;

j. By failing to remove the blood-covered gauze "spit sock" from his head and face when they knew or should have known that the "spit sock" would make Chasse's breathing even

more difficult and would conceal his level of consciousness;

k. By not providing any emergency medical assistance;

l. By ignoring Chasse's moans and cries of intense pain; and

m. By not immediately calling 911 and summoning paramedics to treat these life threatening conditions and transport Chasse to a hospital after he had again stopped breathing and begun convulsing.

43. Because of Chasse's serious medical needs, Gayman and Eath refused to allow Chasse to remain at the jail, *i.e.*, they determined he was medically unacceptable and could not be booked and kept at the jail. They also refused to provide him with emergency medical treatment. At least in part, the decision not to provide him with emergency medical treatment was caused by Multnomah County's policy of refusing to provide individuals with emergency medical treatment when the individual is unconscious or, in the judgment of the county's medical personnel, medically unacceptable.

D. Events While Taking Chasse out of the Jail (approx. 6:20 - 6:22 p.m.)

44. After Gayman and Eath determined Chasse could not be kept at the jail, Humphreys and Burton reapplied, or caused the reapplication of, the handcuffs and the hobble to Chasse, and carried him out of the jail to a police vehicle for transport to a hospital. Chasse was carried by Burton and some of the deputy sheriffs to the police cruiser handcuffed behind his back, with his feet tied together, face down, and still with the "spit sock" on, even though they knew or should have known that being carried like that would further aggravate his rib and lung injuries and worsen his respiratory problems which were life threatening. While being carried out of the jail, Chasse continued to moan, cry out, and struggle because he was in intense pain,

was hypoxic, panicky, and was suffocating to death.

E. Driving to Portland Adventist Hospital (approx. 6:23 - 6:29 p.m.)

45. After leaving the jail at approximately 6:23 p.m, Humphreys and Burton showed deliberate indifference and further contributed to the worsening of Chasse's condition and, ultimately, his tortured death, in one or more but not limited to the following ways:

a. By proceeding to take the critically injured Chasse with life threatening, respiratory injuries to a distant hospital (Portland Adventist) with no increased speed, lights, or siren (Code 1);

b. By transporting Chasse alone in the back of the police cruiser with a blood-covered gauze "spit sock" over his head and face, when they knew or should have known they could not monitor his level of consciousness this way and that it would make breathing even more difficult for Chasse; and

c. When, at approximately 6:24 p.m., they noticed that Chasse had stopped breathing, they failed to call 911. Instead, they drove approximately 30 blocks before, they took an exit ramp off the freeway, stopped, and then summoned paramedics, by failing to disclose information to the paramedics that he had stopped breathing on two prior occasions, gone into convulsions and had been kicked, punched and kneed in his chest and ribs. Chasse did not regain consciousness. Attempts to resuscitate him at the scene were unsuccessful.

F. At Providence Medical Center

46. Paramedics transported Chasse to the Providence Medical Center, where he was pronounced dead at 7:04 p.m.

47. Humphreys and Burton failed to tell the Emergency Room physician and staff at

Providence Medical Center how Chasse was injured and the course of his treatment.

G. The Policies, Practices, and Acts of Portland, Multnomah County, Their Respective Officials, and TriMet Which at Least in Part Caused Chasse's Inhumane and Tortured Death

48. Prior to the death of Chasse, Portland, Sizer, Potter and other Portland officials had never terminated or even disciplined a Portland police officer who acting in the line of duty has caused the death of an innocent citizen through the use of deadly force or who has otherwise caused an in-custody death. As such, that well-established refusal to discipline constituted an official practice of Portland and its police bureau to support, condone, and ratify the unlawful and unconstitutional use of deadly force or other force that results in death.

49. As of September 17, 2006, Portland, Sizer, Potter and other Portland officials, knew or had reason to know that Humphreys had a history of and propensity for:

- a. Using extreme, excessive, and brutal physical force against innocent citizens, including force which is deadly or potentially deadly;
- b. Violating the constitutional rights of innocent citizens;
- c. Covering up or attempting to cover up his and others' unlawful and unconstitutional conduct by falsifying his police reports and providing other false information related to his conduct.

50. During the time Humphreys had Chasse in custody, and thereafter, Humphreys falsified his police report and provided other false information to try and cover up his unlawful and unconstitutional conduct which caused Chasse's tortured death. Portland, Sizer, Potter and other Portland officials, know or should know about that conduct of Humphreys and nonetheless

have not disciplined or terminated Humphreys.

51. Portland, Sizer, Potter and other Portland officials, have failed and refused to protect Chasse and other innocent citizens from unlawful and unconstitutional conduct by Humphreys by not taking necessary and appropriate steps to protect Chasse and other innocent citizens from being subjected to such conduct, and thereby supporting, condoning, and ratifying Humphreys' conduct, as described in ¶¶ 49 and 50, above. At the very least, Portland and Portland's officials knew or should have known that such necessary and appropriate steps at the very least would have included:

- a. timely and appropriate training;
- b. timely and appropriate discipline;
- c. timely and appropriate termination;
- d. the implementation and operation of an effective early warning system to identify, monitor, and take necessary and appropriate steps to prevent certain Portland police officers from repeatedly engaging in or allowing unlawful and unconstitutional conduct, including that which causes the wrongful death of innocent citizens;
- e. the implementation and operation of a thorough, independent, and effective review system to investigate deaths of citizens caused by the police use of physical and all in-custody deaths.

52. As described in ¶¶ 48-51, above, the inaction and deliberate indifference by Portland and Portland's officials in the face of the known dangerous risks posed by Humphreys, Nice, and other Portland police officers constituted an official policy or practice of Portland.

53. Portland, Sizer, Potter and other Portland officials have not disciplined or

terminated Humphreys and Nice since September 17, 2006, thereby supporting, condoning, and ratifying the extreme, excessive, brutal and deadly physical force used by them to kill Chasse. At least in part, that ratification makes Portland, Sizer and Potter liable for Chasse's death.

54. As a result of the conduct described in ¶¶ 48-51, above, Humphreys and Nice knew or had reason to know that they could, with impunity, use extreme, excessive, brutal and deadly physical force and otherwise act unlawfully and violate the constitutional rights of innocent citizens.

55. Prior to September 17, 2006, Portland, Sizer, Potter, other Portland officials, Multnomah County, and Multnomah County's officials, knew of the critical importance of providing adequate and necessary crisis intervention or other such training to its law enforcement personnel to enable them to appropriately interact with, recognize, accommodate, and reasonably treat innocent citizens, including those living with mental illness or otherwise deemed by defendants to be "less desirable" citizens, so as to provide an appropriate non-physical or limited, non-deadly, physical response. Nonetheless, Sizer, Potter, Portland, Multnomah County, and their respective officials, did not provide such training and thereby were deliberately indifferent and/or negligent with regard to the well-established risk that its law enforcement personnel would unreasonably escalate situations and cause serious physical injury and death to innocent citizens.

56. As of September 17, 2006, Portland, Sizer, Potter and other Portland officials had an unwritten, if not written, policy or well-established official practice of aggressively seeking to remove what they deemed "undesirable" innocent citizens, including those living with mental illness or otherwise deemed by defendants to be "less desirable" citizens, from the Portland's

downtown, including the neighborhood where Chasse lived. At least in part, that unwritten, if not written, policy or well-established official practice of “cleaning up the streets” was deliberately indifferent to the rights of innocent citizens, including those living with mental illness or otherwise viewed as “undesirable” by defendants because of their appearances or behaviors.

57. Knowing or having reason to know what they did about Humphreys’ propensity to use extreme, excessive, and brutal physical force against innocent citizens, Portland, Sizer, Potter, other Portland officials, and TriMet, were deliberately indifferent and/or negligent with regard to the well-established constitutional rights of Chasse and other innocent citizens, when Humphreys was selected and assigned by Portland and TriMet to the Transit Police Division to provide transit police service.

58. Portland and the Portland Police Bureau have a written policy which allows, encourages, and directs Portland police officers to use deadly force by taking innocent citizens to the ground during foot pursuits, even though the officers do not have reasonable suspicion or probable cause to believe that someone poses an immediate risk of death or serious bodily injury to some other person. Similarly, Portland and the Portland Police Bureau provide training that allows, encourages, and directs such conduct.

59. The tackling and smashing of Chasse to the ground was an impact strike that constituted deadly force. The punching, striking, kicking, and kneeling of Chasse to Chasse’s head, chest, ribs, and back were impact strikes that also constituted deadly force.

60. Portland and the Portland Police Bureau have written policies which do not include as deadly force the take down of citizens to the ground and the use of hands and feet to

make or cause impact strikes to the head and other vital areas such as the chest and back. As a result, Portland police officers are allowed, encouraged, and directed to use hands and feet to make impact strikes to a person's head and other vital areas such as the chest or back, even though the officers do not have reasonable suspicion or probable cause to believe that someone poses an immediate risk of death or serious bodily injury to some other person. Similarly, Portland and the Portland Police Bureau provide training that allows, encourages, and directs such conduct.

61. Portland and the Portland Police Bureau have a written policy which allows, encourages, and directs its police officers to use deadly physical force when their police officers have *only* reasonable suspicion, as opposed to probable cause, to believe that someone poses an immediate risk of death or serious bodily injury to some other person. Similarly, Portland and the Portland Police Bureau provide training that allows, encourages, and directs such conduct.

62. Prior to September 17, 2006, Portland, Sizer, Potter, other Portland officials, Multnomah County, Multnomah County's officials and AMR Northwest knew of the critical importance of providing emergency medical services for those individuals in police custody. Nonetheless, those defendants did not have the necessary and appropriate policies in place and did not provide the necessary and appropriate training to ensure that such emergency medical services were provided and, as such were deliberately indifferent and/or negligent with regard to the well-established risk that their law enforcement personnel and their emergency medical services personnel would unreasonably deny emergency medical services to those in police custody. Examples of their actionable conduct include, but are not limited to,

- a. not requiring the disclosure to emergency medical services personnel of the nature

and severity of force used by their law enforcement personnel on the individual;

b. not requiring the disclosure of the nature and seriousness of the medical problems which their law enforcement personnel observed the individual having;

c. prohibiting their law enforcement personnel from waiving or refusing or attempting to waive or refuse emergency medical services for an individual in police custody;

d. not requiring complete cooperation with emergency medical services personnel;

e. not requiring AMR Northwest's employees to obtain a complete patient history, including a request for the disclosure by law enforcement personnel of the nature and severity of force used by law enforcement personnel on the individual and the nature and seriousness of the medical problems which law enforcement personnel observed the individual having; and

f. prohibiting AMR Northwest's employees from accepting or relying upon a waiver or refusal of emergency medical services given by law enforcement personnel rather than the individual in police custody.

63. By September 17, 2006, Humphreys, Nice, Burton, Hergert and Stucker did not have the necessary training to ensure appropriate medical care and treatment of someone in Chasse's situation, as described above.

64. As of September 17, 2006, Multnomah County and the Multnomah County Sheriff's Office had written policies or well-established official practices which were deliberately indifferent and/or negligent with regard to the critical injuries and serious medical needs of those innocent citizens brought into its jails. As one example, the Sheriff's Office had a written policy of refusing to formally admit an individual to one of its jails when the individual needs emergency medical services, but does not require jail personnel to provide those necessary

services or to ensure that necessary services are provide in a timely and adequate manner. Specifically, such policies and practices allowed, encouraged, and directed its deputy sheriffs and medical personnel to deny necessary and appropriate emergency medical treatment to innocent citizens even though they were critically injured. As another example, Multnomah County and its officials did not have the necessary policies and training in place which were foreseeably necessary if the County was to ensure that the acts of Gayman and Eath, as described herein, did not occur.

65. Portland, Sizer, Potter, Multnomah County and AMR Northwest have ratified the respective conduct of their employees and those they supervise, related to Chasse, including, but not limited to, his inhumane, tortured and wrongful death and their cover-up of the cause of his death. In part, these defendants' ratification is evidenced by their complicity in the cover-up of what happened to Chasse and their failure and refusal to discipline any of their employees for their conduct or take any other necessary and appropriate remedial action in response to their conduct.

66. At least in part, one or more of the policies, official practices, and acts of Portland, Multnomah County, TriMet, AMR Northwest, and their respective officials, described in ¶¶ 48-65 above, was a cause of Chasse's death.

H. Additional Facts

67. As described herein, Chasse's treatment and resulting death was so unreasonable and so arbitrary that it shocks the conscience.

68. As a result of the above conduct by defendants, Chasse suffered and endured severe emotional distress and conscious, severe physical and mental pain and suffering, before he

died.

69. As a result of the above conduct by defendants, Chasse's estate has incurred funeral expenses and other out-of-pocket losses resulting from Chasse's critical injuries and wrongful death.

70. As a result of the above conduct by defendants, Chasse's parents, as the heirs of their son's estate, have suffered a loss of Chasse's services and the loss of his society and companionship.

71. Defendants acted with a conscious disregard for Chasse's right to life. In addition, or in the alternative, defendants' conduct was wanton, reckless, and in disregard of plaintiffs' well-established constitutional rights.

72. As a result of the above conduct by defendants which was so unreasonable and so arbitrary that it shocks the conscience, James P. Chassé, Linda Gerber, and Mark Chasse, have suffered and continue to suffer stress, anxiety, mental trauma, pain and suffering.

73. The filing and service of the Complaint herein provided the public body defendants with timely written notice of all state law claims herein and will satisfy the notice requirements of the Oregon Tort Claims Act. This Complaint should also provide Portland, Multnomah, and TriMet, with timely notice of all state law claims which may be added in any further amended complaint herein.

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V

FIRST CLAIM FOR RELIEF

(Section 1983 – Fourth Amendment Violations –

Unreasonable Seizure / Excessive Force)

74. As applicable, plaintiffs incorporate the above.

75. As described above, in violation of the Fourth Amendment to the United States Constitution, Defendants Humphreys, Nice, and Burton:

a. Had no lawful or constitutional basis for their stop, detention and arrest of Chasse since Humphreys, Nice and Burton did not have any reasonable suspicion or probable cause to believe Chasse had committed or was committing a crime.

b. Had no lawful or constitutional basis for the use of any physical force to stop, detain or arrest Chasse.

c. Had no lawful or constitutional basis for the use of any deadly, or potentially deadly, physical force to stop, detain or arrest Chasse.

d. Had no lawful or constitutional basis to subject Chasse to extreme, excessive, brutal, and brutal, deadly physical force resulting in his wrongful and tortured death.

76. As described above and at least in part, one or more of Defendant Portland's, Sizer's and Potter's policies, their well-established official practices, and/or their acts, described above, caused, or otherwise makes them liable for, the violation of Chasse's right not to be subjected to violations of his rights under the Fourth Amendment to the United States Constitution.

77. The ratification of the conduct of their employees described above makes

Portland, Sizer, Potter and Multnomah County liable for the violation of the Fourth Amendment described in this claim.

78. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Humphreys, Nice, Portland, Sizer, Potter, Multnomah County and Burton, in amounts to be determined at trial.

79. As a result of the above, Chasse's estate is entitled to an award of punitive damages against Humphreys, Nice, Sizer, Potter and Burton, in amounts to be determined at trial.

80. Pursuant to 42 USC § 1988, Chasse's estate should be awarded its attorney fees and litigation expenses/costs against all defendants named in this claim.

VI

SECOND CLAIM FOR RELIEF

(Section 1983 – Fourth Amendment Violation –

Unreasonable Denial of Medical Care and Treatment)

81. As applicable, plaintiffs incorporate the above.

82. As described above, Defendants Humphreys, Nice, Burton, Gayman, Eath, Hergert and Stucker unreasonably denied the medical care and treatment to which Chasse was entitled under the Fourth Amendment to the United States Constitution.

83. As described above, Defendants Humphreys, Nice, Sizer, Potter, Burton, Gayman, Eath, Hergert and Stucker were deliberately indifferent to or caused the deliberate indifference to Chasse's critical injuries and serious medical needs, in violation of the Fourth Amendment to the United States Constitution.

84. As described above and at least in part, one or more of Portland's, Multnomah

County's, AMR Northwest's and their respective officials', including Sizer's and Potter's, policies or their well-established official practices were a cause of the conduct of their employees' unreasonable conduct and/or their deliberate indifference to Chasse's critical injuries and serious medical needs and, ultimately, a cause of his death, in violation of the Fourth Amendment to the United States Constitution.

85. The ratification of the conduct of their employees and those they supervised, as described above, makes Portland, Sizer, Potter, Multnomah County, and AMR Northwest liable for the violation of the Fourth Amendment described in this claim.

86. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Humphreys, Nice, Sizer, Potter, Portland, Burton, Multnomah County, AMR Northwest, Hergert, and Stucker, in amounts to be determined at trial.

87. As a result of the above, Chasse's estate is entitled to an award of punitive damages against Defendants Humphreys, Nice, Sizer, Potter, Burton, Gayman, Eath, AMR Northwest, Hergert, and Stucker, in amounts to be determined at trial.

88. Pursuant to 42 USC § 1988, Chasse's estate should be awarded its attorney fees and litigation expenses/costs against all defendants named in this claim.

VII

THIRD CLAIM FOR RELIEF

(Section 1983 – Fourteenth Amendment Violation –

Unreasonable Denial of Medical Care and / Punishment of Pre-booking Detainee)

89. As applicable, plaintiffs incorporate the above.

90. As described above, Gayman and Eath were deliberately indifferent to Chasse's

critical injuries and serious medical needs and caused his tortured death, in violation of the Fourteenth Amendment to the United States Constitution.

91. As described above, the conduct of Gayman and Eath at the jail inflicted punishment on Chasse in violation of the Fourteenth Amendment to the United States Constitution.

92. As described above, Gayman and Eath violated Chasse's Fourteenth Amendment rights because their conduct was unreasonable and/or arbitrary in failing and/or refusing to provide him with treatment for his critical injuries and serious medical needs.

93. As described above and at least in part, one or more of Multnomah County's and Multnomah County's officials' policies or their well-established official practices were a cause of the deliberate indifference to Chasse's critical injuries and serious medical needs, and of the failure to provide treatment for Chasse's critical injuries and serious medical needs, and of the infliction of punishment, and were a cause of his death, in violation of the Fourteenth Amendment to the United States Constitution.

94. The ratification of the conduct of its employees described above makes Multnomah County liable for the violation of the Fourteenth Amendment described in this claim.

95. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Gayman, Eath and Multnomah County in amounts to be determined at trial.

96. As a result of the above, Chasse's estate is entitled to an award of punitive damages against Gayman and Eath, in amounts to be determined at trial.

97. Pursuant to 42 USC § 1988, Chasse's estate should be awarded its attorney fees

and litigation expenses/costs against all defendants named in this claim.

VIII

FOURTH CLAIM FOR RELIEF

(Section 1983 – Fourteenth Amendment Violation –

Unreasonable Conduct and/or Conduct Which Is So Arbitrary

That it Shocks the Conscience)

98. As applicable, plaintiffs incorporate the above.

99. As described above, Defendants Humphreys, Nice, Burton, Gayman, Eath, Hergert, and Stucker violated the plaintiffs' Fourteenth Amendment rights because their conduct was unreasonable and/or so arbitrary that it shocks the conscience.

100. As described above and at least in part, one or more of Portland's, Multnomah County's, AMR Northwest and their officials' policies, well-established official practices, and/or acts caused, or otherwise make them liable for, the violation of plaintiffs' Fourteenth Amendment rights.

101. The ratification of the conduct of their employees described above makes Portland, Multnomah County, and AMR Northwest liable for the violation of the Fourteenth Amendment described in this claim.

102. As a result of the above, plaintiffs are entitled to an award of non-economic damages against Defendants Humphreys, Nice, Portland, Burton, Gayman, Eath, Multnomah County, AMR Northwest, Hergert, and Stucker, in amounts to be determined at trial.

103. As a result of the above, plaintiffs are entitled to an award of punitive damages against Defendants Humphreys, Nice, Sizer, Potter, Burton, Gayman, Eath, AMR Northwest,

Hergert, and Stucker, in amounts to be determined at trial.

104. Pursuant to 42 USC § 1988, plaintiffs should be awarded their attorney fees and litigation expenses/costs against all defendants named in this claim.

IX

FIFTH CLAIM FOR RELIEF

(Section 1983 – Fourteenth Amendment Violation –

Deprivation of Equal Protection Rights)

105. As applicable, plaintiffs incorporate the above

106. As described above, Defendants Humphreys, Nice, Burton, Gayman, Eath, Hergert and Stucker violated the Chasse's Fourteenth Amendment rights because they discriminated against or caused the discrimination against him on the basis that he was mentally ill or perceived to be mentally ill, in violation of the Fourteenth Amendment.

107. As described above and at least in part, one or more of Portland's, Multnomah County's, and their officials' policies, and well-established official practices, and/or acts caused, or otherwise make them liable for, the violation of Chasse's Fourteenth Amendment rights.

108. The ratification of the conduct of their employees described above makes Portland, Multnomah County, and AMR Northwest liable for the violation of the Fourteenth Amendment described in this claim.

109. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Humphreys, Nice, Portland, Burton, Gayman, Eath, and Multnomah County, AMR Northwest, Hergert and Stucker, in amounts to be determined at trial.

110. As a result of the above, Chasse's estate is entitled to an award of punitive damages against Defendants Humphreys, Nice, Burton, Gayman, AMR Northwest, Eath, Hergert and Stucker, in amounts to be determined at trial.

111. Pursuant to 42 USC § 1988, Chasse's estate should be awarded their attorney fees and litigation expenses/costs against all defendants named in this claim.

X

SIXTH CLAIM FOR RELIEF

(Sections 1985(3) and 1986 – Fourteenth Amendment Violation –

Deprivation of Equal Protection Rights

Because of Chasse's Known or Perceived Mental Illness)

112. As applicable, plaintiffs incorporate the above.

113. Pursuant to 42 USC §1985(3), plaintiffs allege that Defendants Humphreys, Nice, and Burton acted together and with others to deprive Chasse of his Fourteenth Amendment equal protection rights because of his known or perceived mental illness, which actions were a cause of his injuries, pain, suffering, and tortured death. Additionally, pursuant to 42 USC § 1986, one or more of the defendants neglected or refused to prevent the deprivation of Chasse's rights as described herein.

114. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Humphreys, Nice and Burton, in amounts to be determined at trial.

115. As a result of the above, Chasse's estate is entitled to an award of punitive damages against Defendants Humphreys, Nice and Burton, in amounts to be determined at trial.

116. Pursuant to 42 USC § 1988, Chasse's estate should be awarded its attorney fees and litigation expenses/costs against all defendants named in this claim.

XI

SEVENTH CLAIM FOR RELIEF

(Discrimination Based Upon Disability)

117. As applicable, plaintiffs incorporate the above.

118. Chasse's mental illness was a disability within the meaning of the ADA, the Rehab Act, ORS 659A.142 and Portland City Ordinance 23.01.070.

119. Defendants knew or should have known that Chasse was disabled for purposes of this claim.

120. Defendants Portland, Multnomah County and AMR Northwest failed to evaluate their service policies and practices and the effects thereof that do not comply with federal anti-discrimination statutes pertaining to disability and/or modify their service policies and practices in order to comply with federal anti-discrimination statutes pertaining to disability. This failure violates both the ADA and the Rehab Act.

121. Defendants Portland, Multnomah County and AMR Northwest failed to accommodate Chasse's disability in violation of Titles II and III (for AMR Northwest only) of the ADA, ORS 659A.142 and Portland City Ordinance 23.01.070. The same failure to accommodate occurred under Section 504 of the Rehab Act as applicable to Defendants Portland and the Multnomah County.

122. Defendants Portland, Multnomah County and AMR Northwest failed to provide reasonable modification to their policies and/or practices to accommodate individuals with

mental or psychological disabilities in violation of the ADA, ORS 659A.142 and Portland City Ordinance 23.01.070.

123. Defendants Portland, Multnomah County and AMR Northwest discriminated against Chasse based on his disability in violation of the ADA, ORS 659A.142 and Portland City Ordinance 23.01.070. The same discrimination occurred under Section 504 of the Rehab Act as applicable to Defendants Portland and the Multnomah County.

124. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Portland, Multnomah County, and AMR Northwest, in amounts to be determined at trial.

125. As a result of the above, Chasse's estate is entitled to its attorney fees and litigation expenses/costs against all defendants named in this claim, under all applicable provisions of federal and state law.

XII

EIGHTH CLAIM FOR RELIEF

(Intentional Infliction of Severe Emotional Distress - State Law Claim)

126. As applicable, plaintiffs incorporate the above.

127. As described above, the employees of Portland and Multnomah County intentionally inflicted severe emotional distress on Chasse while he was still alive.

128. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Portland and Multnomah County in amounts to be determined at trial.

129. Chasse's estate should be awarded its costs, including expert witness fees, against

Defendants Portland and Multnomah County.

XIII

NINTH CLAIM FOR RELIEF

(Wrongful Death - State Law Claim)

130. As applicable, plaintiffs incorporate the above.

131. In one or more of the ways described above, Portland, Multnomah County, TriMet, and AMR Northwest were negligent. Those defendants are responsible for their negligence, the negligence of their employees, and other tortious conduct which caused the wrongful death of Chasse.

132. As a result of the above, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Portland, Multnomah County, TriMet, and AMR Northwest, in amounts to be determined at trial.

133. Chasse's estate should be awarded its costs, including expert witness fees, against Defendants Portland, Multnomah County, TriMet, and AMR Northwest.

XIV

TENTH CLAIM FOR RELIEF

(Section 1983 – Injunctive Relief)

134. As applicable, plaintiffs incorporate the above.

135. Plaintiffs have repeatedly requested Portland and its respective employees and officials to take immediate, voluntary steps to adhere to the requirements of the Fourth Amendment to the United States Constitution. Nonetheless:

a. They have failed and refused to implement and operate an effective early warning

or intervention system to identify and take necessary and appropriate action with respect to Portland police officers with high use of force rates to prevent those officers from engaging in or allowing unlawful and unconstitutional conduct.

b. They have failed and refused to implement and operate a thorough, independent, and effective review system to investigate deaths of citizens caused by the police use of physical force and all in-custody deaths.

c. They have failed and refused to change and/or supplement any Portland Police Bureau written policy, official practice, or training it gives to its officers, to ensure that those living with mental illness, and others who are perceived by defendants to be mentally ill, are treated fairly and with respect and are not discriminated against because they are mentally ill or are perceived by defendants to be mentally ill.

d. They have failed and refused to change the Portland Police Bureau's current, written "foot pursuit" policy which allows, encourages, and directs Portland police officers to take innocent citizens to the ground during foot pursuits, even though the officers do not have reasonable suspicion or probable cause to believe that someone poses an immediate risk of death or serious bodily injury to some other person. The new written policy should prohibit Portland police officers from taking innocent citizens to the ground during foot pursuits unless the officers have probable cause to believe that someone poses an immediate risk of death or serious bodily injury to some other person.

e. They have failed and refused to change the Portland Police Bureau's current, written policy which does not include as deadly physical force the use of hands and feet to make or cause impact strikes to the head and other vital areas such as the chest and back. The new

written policy should prohibit Portland police officers from using their hands and feet to make impact strikes to a person's head and other vital areas such as the chest, ribs or back unless the officers have probable cause to believe the person poses an immediate risk of death or serious bodily injury to some other person.

f. They have failed and refused to change their current, written policy which allows, encourages, and directs its police officers to use deadly physical force when their police officers have *only* reasonable suspicion to believe that someone poses an immediate risk of death or serious bodily injury to some other person. The new written policy should prohibit Portland police officers from using deadly physical force unless the officers have probable cause to believe that someone poses an immediate risk of death or serious bodily injury to some other person.

136. Plaintiffs seek injunctive relief and ask the federal court to order Defendant Portland and its employees and officials to make the necessary changes to their policies and official practices, as set forth in ¶ 135, above, to prevent further egregious violations of the constitutional rights, including the wrongful deaths, of innocent citizens. To the extent it may be necessary, plaintiffs also request the federal court to exercise continuing jurisdiction and oversight over the operation of the Portland Police Bureau to ensure that the changes are implemented in a timely and effective manner.

137. Plaintiffs should be awarded their attorney fees and litigation expenses/costs against Defendant Portland pursuant to 42 USC § 1988.

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XV

ELEVENTH CLAIM FOR RELIEF

(False Imprisonment - State Law Claim)

138. As applicable, plaintiffs incorporate the above.

139. As described above, the employees of Defendants Portland and Multnomah County falsely imprisoned Chasse previous to his death.

140. As a result of the false imprisonment, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Portland and Multnomah County in amounts to be determined at trial.

141. Chasse's estate should be awarded its costs, including expert witness fees, against Defendants Portland and Multnomah County.

XVI

TWELFTH CLAIM FOR RELIEF

(Battery - State Law Claim)

142. As applicable, plaintiffs incorporate the above.

143. As described above, the employees of Defendants Portland and Multnomah County battered Chasse previous to his death.

144. As a result of the battery, Chasse's estate is entitled to an award of economic and non-economic damages against Defendants Portland and Multnomah County in amounts to be determined at trial.

145. Chasse's estate should be awarded its costs, including expert witness fees, against Defendants Portland and Multnomah County.

WHEREFORE, plaintiff prays for relief from the Court as follows:

1. Assume jurisdiction in this matter over plaintiffs' claims;
2. Award plaintiffs their economic and non-economic damages against defendants in amounts to be determined at trial in accordance with the allegations and claims set forth above;
3. Award punitive damages to plaintiffs against Defendants Humphreys, Nice, Sizer, Potter, Burton, AMR Northwest, Hergert and Stucker, in amounts to be determined at trial in accordance with the allegations and claims set forth above;
4. Award plaintiffs their attorney fees and litigation expenses/costs against defendants in accordance with the allegations and claims set forth above;
5. Enter all appropriate injunctive relief which may be sought;
6. Grant such other relief as may be just and proper.

PLAINTIFFS DEMAND A JURY TRIAL.

DATED this 11th day of September 2008.

TOM STEENSON, OSB #74313
503 / 221-1792
Of Attorneys for Plaintiffs