

STATE OF WISCONSIN
CIRCUIT COURT
CHIPPEWA COUNTY

FILED
03-21-2017
Clerk of Circuit Court
Chippewa County, WI
2017CV000099
Honorable James M
Isaacson
Branch 2

ESTATE OF MELISSA ABBOTT,
by Special Administrator Tina Abbott
515 North 8th Street - Apt. 6C
Black River Falls, WI 54615

Plaintiff

STATE OF WISCONSIN - DEPARTMENT OF HEALTH SERVICES
1 West Wilson Street
Madison, WI 53703

Involuntary Plaintiff

v.

Case No.
Case Code: 30107
Case Type: PI-Other

VILLAGE OF LAKE HALLIE
Wayne Walkowiak, Board President
13136 30th Avenue
Chippewa Falls, WI 54729

ABC INSURANCE COMPANY

LAKE HALLIE POLICE DEPARTMENT
Cal Smokowicz, Chief of Police
13138 30th Avenue
Chippewa Falls, WI 54729

ADAM MEYERS
Lake Hallie Police Department
13138 30th Avenue
Chippewa Falls, WI 54729

DEF INSURANCE COMPANY

NORTHERN WISCONSIN CENTER
Jaqueline Neurohr, Director
2120 East Park Avenue
Chippewa Falls, WI 54729

JACQUELINE NEUROHR
Northern Wisconsin Center
2120 East Park Avenue
Chippewa Falls, WI 54729

GHI INSURANCE COMPANY

WAL-MART STORES, INC.
CT Corporation System, registered agent
8020 Excelsior Drive - Suite 200
Madison, WI 53717

Defendants

COMPLAINT

Plaintiff alleges and complains as follows:

1. Plaintiff is the Estate of Melissa Abbott by its Special Administrator Tina Abbott who resides at 515 North 8th Street - Apt. 6C, Black River Falls, Wisconsin 54615.
2. Melissa Abbot, deceased, was an adult resident/patient of Northern Wisconsin Center, Chippewa Falls, WI at the time of her death.
3. Involuntary Plaintiff, State of Wisconsin - Department of Health Services, a state governmental agency whose office is located at 1 West Wilson Street, Madison, Wisconsin 53703, paid health care expenses and claims to be subrogated to Plaintiff's right for health care payments.
4. Defendant Village of Lake Hallie, c/o Wayne Walkoviak, Board President, 13136 30th Avenue, Chippewa Falls, Wisconsin 54729 is, and at all relevant times was, a political entity charged with control and supervision of all law enforcement personnel employed by the Village of Lake Hallie.
5. Defendant ABC Insurance Company provided liability insurance coverage to Village of Lake Hallie and/or its agents and employees at all times material hereto.
6. Defendant Lake Hallie Police Department, c/o Cal Smokowicz, Chief of Police, 13138 30th Avenue, Chippewa Falls, Wisconsin 54729 is, and at all relevant times was, a political entity charged with control and supervision of law enforcement personnel employed by the Lake Hallie Police Department.
7. Defendant Adam Meyers, Lake Hallie Police Department, 13138 30th Avenue, Chippewa Falls, Wisconsin, 54729 is at all relevant times, upon information and belief, an employee of the Lake Hallie Police Department.
8. Defendant DEF Insurance Company provided liability insurance coverage to Lake Hallie Police Department and/or its agents and employees, including but not limited to Defendant Adam Meyers, at all times material hereto.
9. Defendant Northern Wisconsin Center, c/o Jacqueline Neurohr, Director, 2120 East Park Avenue, Chippewa Falls, Wisconsin 54729 is a state operated care facility for persons with disabilities and mental illness. Defendant Northern Wisconsin Center is a political entity operated by the State of Wisconsin's Department of Health Services, Division of Mental Health and Substance Abuse Services.
10. Defendant Jacqueline Neurohr is at all times material hereto, upon information and belief, the Director of Northern Wisconsin Center and is charged with management of all employees and patients/residents of Northern Wisconsin Center including but not limited to Melissa Abbott.

11. Defendant GHI Insurance Company provided liability insurance coverage to Northern Wisconsin Center and/or its agents and employees, including but not limited to Defendant Jacqueline Neurohr, at all times material hereto.

12. Defendant Wal-Mart Stores, Inc., is a self-insured corporate entity whose registered agent is CT Corporation System, 8020 Excelsior Drive, Suite 200, Madison Wisconsin 53717.

13. On April 8, 2016, in Chippewa County, Wisconsin, Melissa Abbott was injured and died as a result of a shooting that occurred at Wal-Mart located at 2786 Commercial Boulevard, Chippewa Falls, Wisconsin. Said injuries and death were proximately caused by the negligence of the Village of Lake Hallie and/or its agents and employees.

14. As a proximate result of the negligence of Defendant Village of Lake Hallie and/or its agents and employees, Melissa Abbott suffered personal injuries and died, resulting in damages to Plaintiff, Estate of Melissa Abbott, by Special Administrator Tina Abbott, pursuant to Wis. Stat. § 895.04.

15. Defendant Village of Lake Hallie has been duly served with a notice of circumstance and claim as required by §893.80, Wis. Stats., a copy of which is attached hereto and made a part hereof as if set forth in full.

16. The conduct and actions of Defendant Village of Lake Hallie, and/or its agents and employees, acting in concert and under color of law, was excessive and unreasonable, without lawful justification or reason, and was designed to and did cause specific and serious physical harm, pain and suffering, and death, in violation of Melissa Abbott's rights as guaranteed under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to the United States Constitution, including but not limited to the right to be free from the use of excessive, unreasonable, and unjustified force and the right to substantive due process.

17. On April 8, 2016, in Chippewa County, Wisconsin, Melissa Abbott was injured and died as a result of a shooting that occurred at Wal-Mart located at 2786 Commercial Boulevard, Chippewa Falls, Wisconsin. Said injuries and death were proximately caused by the negligence of the Lake Hallie Police Department and/or its agents and employees, including but not limited to Defendant Adam Meyers.

18. As a proximate result of the negligence of Defendant Lake Hallie Police Department and/or its agents and employees, including but not limited to Defendant Adam Meyers, Melissa Abbott suffered personal injuries and died, resulting in damages to Plaintiff, Estate of Melissa Abbott, by Special Administrator Tina Abbott, pursuant to Wis. Stat. § 895.04.

19. Defendant Lake Hallie Police Department and Defendant Adam Meyers have been duly served with a notice of circumstance and claim as required by §893.80, Wis. Stats., a copy of which is attached hereto and made a part hereof as if set forth in full.

20. The conduct and actions of Defendant Lake Hallie Police Department, and/or its agents and employees, including but not limited to Defendant Adam Meyers, acting in concert and under color of law, was excessive and unreasonable, without lawful justification or reason, and was designed to and did cause specific and serious physical harm, pain and suffering, and death, in violation of Melissa Abbott's rights as guaranteed under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to

the United States Constitution, including but not limited to the right to be free from the use of excessive, unreasonable, and unjustified force and the right to substantive due process.

21. On April 8, 2016, in Chippewa County, Wisconsin, Melissa Abbott, while in the care of Northern Wisconsin Center and Defendant Jacqueline Neurohr was injured and died as a result of a shooting that occurred at Wal-Mart located at 2786 Commercial Boulevard, Chippewa Falls, Wisconsin. Said injuries and death were proximately caused by the negligence and/or negligent care of Northern Wisconsin Center and/or its agents and employees, including but not limited to Defendant Jacqueline Neurohr.

22. As a proximate result of the negligence and/or negligent care of Defendant Northern Wisconsin Center and/or its agents and employees, including but not limited to Defendant Jacqueline Neurohr, Melissa Abbott suffered personal injuries and died, resulting in damages to Plaintiff, Estate of Melissa Abbott, by Special Administrator Tina Abbott, pursuant to Wis. Stat. § 895.04.

23. The conduct and actions of Defendant Northern Wisconsin Center, and/or its agents and employees, including but not limited to Defendant Jacqueline Neurohr, acting in concert and under color of law, was excessive and unreasonable, without lawful justification or reason, and was designed to and did cause specific and serious physical harm, pain and suffering, and death, in violation of Melissa Abbott's rights as guaranteed under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to the United States Constitution, including but not limited to the right to be free from the use of excessive, unreasonable, and unjustified force and right to substantive due process.

24. On April 8, 2016, in Chippewa County, Wisconsin, Melissa Abbott was injured and died as a result of a shooting that occurred at Wal-Mart located at 2786 Commercial Boulevard, Chippewa Falls, Wisconsin. Said injuries and death were proximately caused by the negligence of Defendant Wal-Mart Stores, Inc. and/or its agents and employees.

25. As a proximate result of the negligence of Defendant Wal-Mart Stores, Inc., and/or its agents and employees, Melissa Abbott suffered personal injuries and died, resulting in damages to Plaintiff, Estate of Melissa Abbott, by Special Administrator Tina Abbott, pursuant to Wis. Stat. § 895.04.

26. The conduct of Defendant Wal-Mart Stores, Inc. and/or its agents and employees was malicious and with intentional disregard to the rights and safety of Melissa Abbott and the Plaintiff Estate of Melissa Abbott is entitled to punitive damages.

WHEREFORE, judgment is demanded as follows:

(1) Finding that the acts of Defendants Village of Lake Hallie, The Lake Hallie Police Department, Adam Meyers, Northern Wisconsin Center, and Jacqueline Neurohr violated the Fourth and Fourteenth Amendments of the United States Constitution and other law;

(2) Against the Defendants for damages and other relief in accordance with the allegations of the complaint and pursuant to 42 U.S.C. § 1983;

(3) Awarding punitive damages against any and all named Defendants that the Court sees fit;

(4) Imposing mandatory injunctive relief requiring the Village of Lake Hallie, Lake Hallie Police Department, and Northern Wisconsin Center to provide necessary training, personnel, and

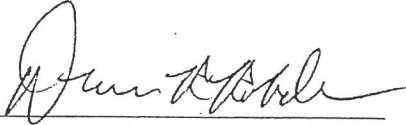
resources to adequately protect the constitutional rights of citizens and patients of the Northern Wisconsin Center;

(5) Awarding the Plaintiff reasonable attorney fees and all applicable pre-judgment and post-judgment interest;

(6) For costs, interest and such other relief the court deems just and proper.

Dated this 16th day of March, 2017.

BYE, GOFF & ROHDE, Ltd.



By: Dean R. Rohde, #1001151
Jeffrey A. Muszynski, #1074414
Attorneys for Plaintiff(s)

258 Riverside Drive, BOX 167
River Falls, Wisconsin 54022
Telephone: (715) 425-8161
E-mail: dean@byegoff.com

A TWELVE-PERSON JURY IS REQUESTED

STATE OF WISCONSIN
CIRCUIT COURT
CHIPPEWA COUNTY

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Honorable James M
Isaacson
Branch 2

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JACQUELINE NEUROHR
Northern Wisconsin Center
2120 East Park Avenue
Chippewa Falls, WI 54729

GHI INSURANCE COMPANY

CHIPPEWA VALLEY INVESTIGATIONS
PROCESS SERVER Wayne Rugg
TIME _____ A.M. FILED DATE 4/4/17
SERVED UPON & ADDRESS 13138 30th Ave
Village of Lake Hallie
 PERSONAL SUBSTITUTE
 POSTED CORPORATE

Bye, Goff & Rohde, Ltd.
P.O. Box 167
River Falls, WI 54022

-1-

RECEIVED

APR 07 2017

Per Kyle Zimmerman
PROCL. - T. A. D. M. S. S.

WAL-MART STORES, INC.
CT Corporation System, registered agent
8020 Excelsior Drive - Suite 200
Madison, WI 53717

Defendants

SUMMONS

THE STATE OF WISCONSIN
To each Defendant named above:

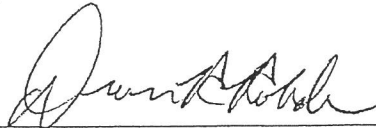
You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to the Court, at the courthouse for the county named above, and to Bye, Goff & Rohde, Ltd., Plaintiff's attorneys, whose address is 258 Riverside Drive, PO Box 167, River Falls, Wisconsin 54022. You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 16th day of March, 2017.

BYE, GOFF & ROHDE, Ltd.



By: Dean R. Rohde, #1001151
Jeffrey A. Muszynski, #1074414
Attorneys for Plaintiff(s)

258 Riverside Drive, BOX 167
River Falls, Wisconsin 54022
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Bye, Goff & Rohde, Ltd.
P.O. Box 167
River Falls, WI 54022

STATE OF WISCONSIN
CIRCUIT COURT
CHIPPEWA COUNTY

ESTATE OF MELISSA ABBOTT,
by Special Administrator Tina Abbott

Plaintiff

STATE OF WISCONSIN - DEPARTMENT OF HEALTH SERVICES

Involuntary Plaintiff

v.

Case No. 17-CV-99
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VILLAGE OF LAKE HALLIE
ABC INSURANCE COMPANY
LAKE HALLIE POLICE DEPARTMENT
ADAM MEYERS
DEF INSURANCE COMPANY
NORTHERN WISCONSIN CENTER
JACQUELINE NEUROHR
GHI INSURANCE COMPANY
WAL-MART STORES, INC.

Defendants

INTERROGATORIES & REQUEST FOR PRODUCTION OF DOCUMENTS

TO: VILLAGE OF LAKE HALLIE
Wayne Walkviak, Board President
13136 30th Avenue
Chippewa Falls, WI 54729

PLEASE TAKE NOTICE that the Defendant, Village of Lake Hallie, is required to answer the following interrogatories and request for production of documents under oath and in accordance with Wis. Stat. §§ 804.08, 804.09, within forty-five (45) days after service.

INSTRUCTIONS

1. Answer each interrogatory separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection must be stated in lieu of answer.
2. An evasive or incomplete answer is deemed to be a failure to answer under Rule 804.12, Wisconsin Rules of Civil Procedure.
3. You are under a continuing duty to supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert witness at trial and the subject matter in which he is expected to testify. Furthermore, you are under a similar duty to correct any incorrect response when you later learn that it is incorrect.

INTERROGATORIES


1. State the following with respect to all policies of liability insurance under which the Village of Lake Hallie and/or its agents and employees were insureds on April 8, 2016:
 - (a) The name of the company.
 - (b) The policy number.
 - (c) The liability insurance limits.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Produce a certified copy of the policy(ies) of insurance referred to in the within interrogatories.

Dated this 29th day of March, 2017.

BYE, GOFF & ROHDE, Ltd.


By: Jeffrey A. Muszynski, #1074414
Attorneys for Plaintiff(s)

258 Riverside Drive, BOX 167
River Falls, Wisconsin 54022
Telephone: (715) 425-8161
E-mail: jeff@byegoff.com

