

111. The Fourth Amendment to the United States Constitution guarantees people the right not to be unreasonably seized by government officials, including police officers.

112. This right is violated if a police officer subjects a person to excessive force.

113. The Defendants developed policies, practices and customs which were not in accord with the Constitution of the United States and the State of New Jersey and which were contrary to Federal protection of the safety, rights, health and welfare of Decedent.

114. At all times mentioned herein and material hereto, there existed a particular danger to the Decedent as a result of these Defendants' actions and inactions as described.

115. At the time and place aforesaid, Defendants entered the residence of Decedent Michael Anthony Burris, who at all times refused the medical attention of Emergency Medical Technicians and Paramedics.

116. At the time and place aforesaid, these Defendants had knowledge that the Decedent had refused medical attention.

117. Despite this knowledge, the Millville Police on site proceeded to handcuff Mr. Burris, shackle his legs, and place him face down in the prone position on a Reeves Stretcher.

118. The Defendants were aware of the potential for danger and the foreseeability of the harm suffered by the Decedent, as evidenced by the fact that Decedent, prior to his death, screamed and yelled for help by telling the officers he could not breath while face down in the prone position on the stretcher.

119. The Millville Police responded to Mr. Burris' cries for help by stating "If you can talk, you can breathe," or words to this effect.

120. At all times mentioned herein and material hereto, these Defendants, by their negligent, grossly negligent, reckless, and other liability producing conduct, their wanton and willful disregard for the safety of Michael Burris, and their deliberate indifference to Mr. Burris' constitutional rights, created a dangerous environment by allowing the Decedent to continue to lie face down in the prone position, with handcuffs and shackles, as Decedent screamed and pled for help to save his life and prevent asphyxiation.

121. These Defendants knew or should have known that placing Decedent face down in the prone position, handcuffed and shackled, posed a significant risk of serious bodily injury or death.

122. Additionally, these Defendants acted with deliberate indifference to Decedent's constitutional rights and affirmatively acted to create Decedent's danger, or to render Decedent more vulnerable to the danger of asphyxiation by:

- a. failure to provide and afford careful care and response services to Decedent, as evidenced by the clear failure to abide by New Jersey Code requirements that prohibit placing an individual face down, in the prone position, on a stretcher;
- b. failure to provide and afford careful care and response services to Decedent, as evidenced by the failure to recognize the potential harm and safety concerns related to the potential asphyxiation when an individual is placed in the prone position on a stretcher;
- c. failure to conform with accepted standards of care for the transport of an individual, as evidenced by the inappropriate use of the stretcher in lieu of an acceptable and safe transfer device;
- d. allowing Decedent to asphyxiate after notice that the Decedent was having trouble breathing while in the prone position; and

- e. providing care and response services to Decedent which were below the standard of care in the community, as aforementioned above, increasing the risk of harm to Decedent's well-being.
- f. failing to identify unreasonable hazards and unseen dangerous conditions;
- g. failing to employ and select only qualified and competent individuals to offer care and response services;
- h. failing to provide proper training to its employees regarding proper transportation techniques;
- i. failing to uncover dangerous conditions of the stretcher during routine inspections of the same;
- j. failing to notice that the subject stretcher lacked required and necessary warnings and safeguards for safe and proper use;
- k. using deadly force;
- l. using excessive force and/or physical brutality;
- m. failing to properly notice or observe unsafe practices with respect to the use of the stretcher;
- n. failing to identify and correct unsafe practices with respect to the use of the stretcher, acting against Decedent's consent;
- o. acting against Decedent's life and liberty interests
- p. violating Decedent's Constitutional Rights
- q. violating Decedent's Federal Rights
- r. choosing not to turn Decedent face up, or out of the prone position
- s. choosing not to direct personnel to remove Decedent from the prone position
- t. choosing not to radio or instruct another officer or unit for assistance in moving Decedent;
- u. willfully ignoring impending harm to the Decedent when Decedent cried and screamed for help
- v. failing to properly recognize a medical emergency;
- w. failing to provide Decedent with medical assistance;
- x. failing to properly involve medical emergency services;

- y. refusing to discontinue bringing Decedent down the stairs on the stretcher, face down in the prone position despite Decedent's dire medical condition;
- z. failing to have appropriate policies and measures in place for recognizing medical emergencies;
- aa. failing to properly train and supervise its employees;
- bb. failing to have appropriate policies and measures in place for responding to medical emergencies; and
- cc. failing to have appropriate policies and measures in place for contacting appropriate medical emergency services.

123. The unlawful actions of Defendants were taken or ratified by final policy makers for the Millville Police Department, Department of Public Safety, City of Millville & City of Millville and thus constitute policies, practices, customs and usages sufficient to impose municipal liability.

124. The Defendants' conduct and lack thereof placed the Decedent in a dangerous position which was at all times materially foreseeable.

125. Decedent was unable to act in his own defense to prevent the harm imposed by the Millville Police Department, Department of Public Safety, City of Millville & City of Millville.

126. Defendants knew that their policies, procedures and customs would result in injury and denial of constitutional rights to Plaintiffs' Decedent.

127. Defendants' deliberate indifference to Decedent's constitutional rights resulted from official positions, policies and/or well settled practices on the part of Defendants so as to establish them as official policy.

128. The inadequacy of Defendants' existing practices and policies was so likely to result in violation of Decedent's constitutional rights that Defendants can be reasonably said to have been deliberately indifferent to those rights.

129. As a direct and proximate result of the negligent, grossly negligent, reckless, and other liability producing conduct of Defendants and their wanton and willful disregard for the safety of Michael Burris, which shocks the conscience, Decedent, Michael Anthony Burris, was caused to suffer those injuries, damages, suffering and death described above, and was deprived of his liberty interest in his bodily integrity and his interest in life, without due process of law guaranteed by the 14th Amendment of the United States Constitution.

130. Defendants' conduct and wanton and willful disregard for Michael Burris' safety placed Decedent in a dangerous position which was at all times materially foreseeable.

131. At all times mentioned herein and material hereto, Defendants acted with willful disregard for and/or reckless indifference to Decedent's safety, acted with deliberate indifference to Decedent's constitutional rights, and rendered Decedent more vulnerable to serious bodily injury and death.

132. The Defendants' acts were the proximate cause of the injuries and death of Decedent.

133. The acts and omissions by Defendants, and each of them denied Decedent equal protection as guaranteed by the 4th and 14th amendment to the United States Constitution.

134. Defendants' denial of Decedent's rights under the 4th and 14th Amendments was egregious, irrational and objectively unreasonable.

WHEREFORE, Plaintiffs demand judgment against the Defendants for such damages as may be permitted pursuant to applicable law, together with interest, costs and attorney's fees.

COUNT V - NEW JERSEY CIVIL RIGHTS ACT

PLAINTIFFS V. MILLVILLE POLICE DEPARTMENT, DEPARTMENT OF PUBLIC SAFETY, CITY OF MILLVILLE; THE CITY OF MILLVILLE, UNDERWOOD-MEMORIAL HOSPITAL, UNDERWOOD-MEMORIAL HOSPITAL MOBILE INTENSIVE CARE UNIT, MILLVILLE RESCUE SQUAD, INC., D/B/A AND/OR MILLVILLE RESCUE SQUAD, JOHN BUTSCHKY, ROSS HOFFMAN, EDWIN ANSARA, WILLIAM STADNICK III, JULIO PUMAREJO, TROY PAYEUR, ROBERT SMITH, CHARLES BENNETT, JR., KAREN MORENO, ERIC STORMES, SHERRIE D. COOMBS, & ABC CORPORATIONS 6-10

135. All preceding paragraphs are incorporated here by reference.

136. This is a civil rights action brought pursuant to N.J. Stat. §10:6-2, the New Jersey Civil Rights Act, asserting that the conduct of the Millville Police Department, Department of Public Safety, City of Millville, The City of Millville, Underwood-Memorial Hospital, Millville Rescue Squad, Inc., D/B/A And/Or Millville Rescue Squad, John Butschky, Ross Hoffman, Edwin Ansara, William Stadnick III, Julio Pumarejo, Troy Payeur, Robert Smith, Charles Bennett, Jr., Karen Moreno, Eric Stormes, Sherrie D. Coombs & ABC Corporations 6-10 and other officials that resulted in the injuries suffered by Plaintiffs and Plaintiffs' Decedent under color of law deprived Plaintiffs and Plaintiffs' Decedent of substantive rights, privileges and immunities secured by the Constitution and/ or laws of the United States and of this State.

137. All acts taken by Defendants were taken under color of law as defined by 42 U.S.C. § 1983, were under the pretense and color of law in their official capacity, and represent a misuse of power possessed by virtue of law and under the pretense of the statutes, ordinances, policies, practices, customs, regulations and/or usages of the Millville Police Department, Department of Public Safety, City of Millville and The City of Millville, the New Jersey

Department of Health and Senior Services, the New Jersey Office of Emergency Medical Services, and/or the State of New Jersey.

138. At all times mentioned herein and material hereto, the Decedent possessed a liberty interest in the freedom from unwanted invasion of his bodily integrity, which right is secured under the 4th and 14th Amendments to the Constitution of the United States, and by Title 42, United States Code, §1983.

139. The Fourth Amendment to the United States Constitution guarantees people the right to be secure in their homes against unreasonable seizures by government officials, including police officers.

140. This right is violated if a police officer subjects a person to excessive force or, by means of physical force, restrains the liberty of a citizen.

141. The Defendants developed policies, practices and customs which were not in accord with the Constitution of the United States and the State of New Jersey and which were contrary to Federal protection of the safety, rights, health and welfare of Decedent.

142. At all times mentioned herein and material hereto, there existed a particular danger to the Decedent as a result of these Defendants' actions and inactions as described.

143. At the time and place aforesaid, Defendants entered the residence of Decedent Michael Anthony Burris, who at all times refused the medical attention of Emergency Medical Technicians and Paramedics.

144. At the time and place aforesaid, these Defendants had knowledge that the Decedent had refused medical attention.

145. The Defendants knew or should have known that improperly restraining the Decedent and positioning him face down in the prone position on a Reeves Stretcher placed him at extreme risk of fatal injury by positional asphyxia.

146. Despite this knowledge, the Millville Police on site proceeded to handcuff Mr. Burris, shackle his legs, and place him face down in the prone position on a Reeves Stretcher.

147. Despite this knowledge, the Millville Rescue Squad personnel failed to intervene or take charge of Mr. Burris' health requirements and participated in delivering care in a manner which risked catastrophe.

148. The Defendants disregarded a known and obvious consequence of their actions and failed to avoid the fatal results of their treatment of Mr. Burris, conduct which exhibited clear indifference to Mr. Burris' rights under the constitution and law of New Jersey.

149. The Defendants were aware of the specific potential for danger and the foreseeability of the harm suffered by the Decedent, as evidenced by the fact that Decedent, prior to his death, screamed and yelled for help, telling the officers and emergency medical technicians that he could not breath while restrained, face down, in the prone position on the stretcher.

150. The Millville Police responded to Mr. Burris' cries for help by stating "If you can talk, you can breathe," or words to this effect.

151. At all times mentioned herein and material hereto, these Defendants, by their negligent, grossly negligent, reckless, and other liability producing conduct, their wanton and willful disregard for the safety of Michael Burris, and their deliberate indifference to Mr. Burris' rights under the Constitution and laws of New Jersey, created a dangerous environment by allowing the Decedent to continue to lie face down in the prone position, with handcuffs and shackles, as Decedent screamed and pled for help to save his life and prevent asphyxiation.

152. These Defendants acted with deliberate indifference to Decedent's constitutional rights and affirmatively acted to create Decedent's danger, or to render Decedent more vulnerable to the danger of asphyxiation by:

- a. failure to provide and afford appropriate care and response services to Decedent, as evidenced by the clear failure to abide by New Jersey Code requirements that prohibit placing an individual face down, in the prone position, on a stretcher;
- b. failure to provide and afford appropriate care and response services to Decedent, as evidenced by the failure to recognize the potential harm and immediate, critical safety concerns related to the potential asphyxiation when an individual is placed in the prone position on a stretcher;
- c. failure to conform with accepted standards of care for the transport of an individual, as evidenced by the inappropriate use of the stretcher in lieu of an acceptable and safe transfer device;
- d. allowing Decedent to asphyxiate after clear notice that the Decedent was having trouble breathing while in the prone position; and
- e. providing care and response services to Decedent which were below the standard of care in the community, as aforementioned above, increasing the risk of harm to Decedent's well-being.
- f. failing to identify unreasonable hazards and unseen dangerous conditions;
- g. failing to employ and select only qualified and competent individuals to offer care and response services;
- h. failing to provide proper training to its employees regarding proper transportation techniques;

- i. failing to uncover dangerous conditions of the stretcher during routine inspections of the same;
- j. failing to notice that the subject stretcher lacked required and necessary warnings and safeguards for safe and proper use;
- k. using deadly force;
- l. using excessive force and/or physical brutality;
- m. failing to properly notice or observe unsafe practices with respect to the use of the stretcher;
- n. failing to identify and correct unsafe practices with respect to the use of the stretcher, acting against Decedent's consent;
- o. acting against Decedent's life and liberty interests;
- p. violating Decedent's Constitutional Rights;
- q. violating Decedent's Federal and State Rights;
- r. choosing not to turn Decedent face up, or out of the prone position;
- s. choosing not to direct personnel to remove Decedent from the prone position;
- t. choosing to violate practices known to preserve Decedent's life and his rights, privileges and immunities;
- u. choosing not to radio or instruct another officer or unit for assistance in moving Decedent;
- v. willfully and maliciously ignoring impending harm to the Decedent when Decedent cried and screamed for help;
- w. failing to properly recognize a medical emergency;
- x. failing to provide Decedent with appropriate, necessary, competent medical assistance;
- y. failing to properly employ medical emergency services;
- z. refusing to discontinue bringing Decedent down the stairs on the stretcher, face down in the prone position despite Decedent's dire medical condition;
- aa. failing to properly train and supervise its employees;
- bb. failing to have appropriate policies, training and procedures in place for recognizing medical emergencies;

cc. failing to have appropriate policies, training and procedures in place for responding to medical emergencies; and

dd. failing to have adequate policies, training and procedures in place for contacting appropriate medical emergency services.

153. The unlawful actions of Defendants were taken or ratified by final policy makers for the Millville Police Department, Department of Public Safety, City of Millville, The City of Millville, the New Jersey Department of Health and Senior Services, the New Jersey Office of Emergency Medical Services, and/or the State of New Jersey and thus constitute policies, practices, customs and usages sufficient to impose municipal liability.

154. The Defendants' conduct and omissions placed the Decedent in a dangerous position which was at all times materially foreseeable.

155. Decedent was unable to act in his own defense to prevent the harm imposed by the Defendants.

156. Defendants knew that their policies, procedures and customs would result in injury and denial of constitutional rights to Plaintiffs' Decedent.

157. Defendants' deliberate indifference to Decedent's constitutional rights resulted from official positions, policies and/or well settled practices on the part of Defendants so as to establish them as official policy.

158. The inadequacy of Defendants' existing practices and policies was so likely to result in violation of Decedent's constitutional rights that Defendants can be reasonably said to have been deliberately indifferent to those rights.

159. As a direct and proximate result of the negligent, grossly negligent, reckless, and other liability producing conduct of Defendants, their wanton and willful disregard for the safety of Michael Burris, and their deliberate indifference to Mr. Burris' rights under the constitution and the laws of New Jersey which shocks the conscience, Decedent, Michael Anthony Burris, was caused to suffer those injuries, damages, suffering and death described above, and was deprived of his liberty interest in his bodily integrity and his interest in life, without due process of law guaranteed by the 14th Amendment of the United States Constitution.

160. Defendants' conduct and omissions and wanton and willful disregard for Michael Burris' safety placed Decedent in a dangerous position which was at all times materially foreseeable.

161. At all times mentioned herein and material hereto, Defendants acted with willful disregard for and/or reckless indifference to Decedent's safety, acted with deliberate indifference to Decedent's constitutional rights, and rendered Decedent more vulnerable to serious bodily injury and death.

162. The Defendants' acts were the proximate cause of the injuries and death of Decedent.

163. The acts and omissions by Defendants, and each of them denied Decedent equal protection as guaranteed by the 4th and 14th amendment to the United States Constitution.

164. Defendants' denial of Decedent's rights under the 4th and 14th Amendments was egregious, irrational and objectively unreasonable.

WHEREFORE, Plaintiffs demand judgment against the Defendants for such damages as may be permitted pursuant to applicable law, together with interest, costs and attorney's fees.

COUNT VI - NEGLIGENCE

PLAINTIFFS V. UNDERWOOD-MEMORIAL HOSPITAL, UNDERWOOD-MEMORIAL HOSPITAL MOBILE INTENSIVE CARE UNIT TROY PAYEUR, ROBERT SMITH, SHERIE COOMBS & ABC CORPORATIONS 6-10

165. All preceding paragraphs are incorporated here by reference.

166. On July 31, 2010, Defendants undertook response services at the late Mr. Burris' residence.

167. Defendants had a duty to act reasonably in the response services and evaluation of Decedent.

168. At the time and place aforesaid, the Defendants had knowledge that the Decedent had refused medical attention.

169. Despite this knowledge, the responders on site proceeded to physically restrain Mr. Burris, handcuff Mr. Burris, shackle his legs, and place him face down in the prone position on a Reeves stretcher.

170. Defendants breached their duties, by and through their agents, servants, workers and/or employees and were jointly and severally by their negligent, grossly negligent, reckless, and other liability producing conduct and their wanton and willful disregard for the safety of Michael Burris careless, as follows:

- a. failure to provide and afford careful care and response services to Decedent, as evidenced by the clear failure to abide by New Jersey Code

requirements that prohibit placing an individual face down, in the prone position, on a stretcher;

- b. failure to provide and afford careful care and response services to Decedent, as evidenced by the failure to recognize the potential harm and safety concerns related to the potential asphyxiation when an Individual Is placed In the prone position on a stretcher;
- c. failure to conform with accepted standards of care for the transport of an individual, as evidenced by the inappropriate use of the stretcher in lieu of an acceptable and safe transfer device;
- d. allowing Decedent to asphyxiate after notice that the Decedent was having trouble breathing while in the prone position; and
- e. providing care and response services to Decedent which were below the standard of care in the community, as aforementioned above, increasing the risk of harm to Decedent's well-being.
- f. failing to identify unreasonable hazards and unseen dangerous conditions;
- g. failing to employ and select only qualified and competent individuals to offer care and response services;
- h. failing to provide proper training to its employees regarding proper transportation techniques;
- i. failing to uncover dangerous conditions of the stretcher during routine inspections of the same;
- j. failing to notice that the subject stretcher lacked required and necessary warnings and safeguards for safe and proper use;
- k. failing to properly notice or observe unsafe practices with respect to the use of the stretcher;
- l. failing to identify and correct unsafe practices with respect to the use of the stretcher;
- m. choosing not to turn Decedent face up, or out of the prone position;
- n. choosing not to direct personnel to remove Decedent from the prone position;
- o. choosing not to radio or instruct another unit for assistance in moving Decedent;

- p. willfully ignoring impending harm to the Decedent when Decedent cried and screamed for help;
- q. failing to properly recognize a medical emergency;
- r. failing to provide Decedent with medical assistance;
- s. failing to properly involve medical emergency services;
- t. failing to properly train and supervise its employees;
- u. refusing to discontinue bringing Decedent down the stairs on the stretcher, face down in the prone position despite Decedent's dire medical condition;
- v. failing to have appropriate policies and measures in place for recognizing medical emergencies;
- w. failing to have appropriate policies and measures in place for responding to medical emergencies; and
- x. failing to have appropriate policies and measures in place for contacting appropriate medical emergency services.

171. By reason of the negligent, grossly negligent, reckless, and other liability producing conduct of Defendants and their wanton and willful disregard for the safety of Michael Burris, as aforesaid, Decedent was caused to sustain the serious and permanent personal injury and death, as set forth above.

172. By conducting themselves as set forth above, Defendants' acts and/or omissions were substantial factors in, a factual cause of, and/or increase the risk of Decedent's injuries and death.

WHEREFORE, Plaintiffs demand judgment against the Defendants for such damages as may be permitted pursuant to applicable law, together with interest, costs and attorney's fees.

COUNT VII - NEGLIGENCE

**PLAINTIFFS V. MILLVILLE RESCUE SQUAD, INC.,
d/b/a and/or MILLVILLE RESCUE SQUAD, CHARLES BENNETT, JR., KAREN
MORENO, ERIC STORMES & ABC CORPORATIONS 6-10**

173. All preceding paragraphs are incorporated here by reference.

174. On July 31, 2010, Defendants undertook response services at the late Mr. Burris' residence.

175. Defendants had a duty to act reasonably in the response services and evaluation of Decedent.

176. At the time and place aforesaid, the Defendants had knowledge that the Decedent had refused medical attention.

177. Despite this knowledge, the responders on site proceeded to physically restrain Mr. Burris, handcuff Mr. Burris, shackle his legs, and place him face down in the prone position on a stretcher.

178. Defendants breached their duties, by and through their agents, servants, workers and/or employees and were jointly and severally by their negligent, grossly negligent, reckless, and other liability producing conduct and their wanton and willful disregard for the safety of Michael Burris, as follows:

- a. failure to provide and afford careful care and response services to Decedent, as evidenced by the clear failure to abide by New Jersey Code requirements that prohibit placing an individual face down, in the prone position, on a stretcher;

- b. failure to provide and afford careful care and response services to Decedent, as evidenced by the failure to recognize the potential harm and safety concerns related to the potential asphyxiation when an Individual Is placed In the prone position on a stretcher;
- c. failure to conform with accepted standards of care for the transport of an individual, as evidenced by the inappropriate use of the stretcher in lieu of an acceptable and safe transfer device;
- d. allowing Decedent to asphyxiate after notice that the Decedent was having trouble breathing while in the prone position; and
- e. providing care and response services to Decedent which were below the standard of care in the community, as aforementioned above, increasing the risk of harm to Decedent's well-being.
- f. failing to identify unreasonable hazards and unseen dangerous conditions;
- g. failing to employ and select only qualified and competent individuals to offer care and response services;
- h. failing to provide proper training to its employees regarding proper transportation techniques;
- i. failing to uncover dangerous conditions of the stretcher during routine inspections of the same;
- j. failing to notice that the subject stretcher lacked required and necessary warnings and safeguards for safe and proper use;
- k. failing to properly notice or observe unsafe practices with respect to the use of the stretcher;
- l. failing to identify and correct unsafe practices with respect to the use of the stretcher;
- m. choosing not to turn Decedent face up, or out of the prone position;
- n. choosing not to direct personnel to remove Decedent from the prone position;
- o. choosing not to radio or instruct another unit for assistance in moving Decedent;
- p. willfully ignoring impending harm to the Decedent when Decedent cried and screamed for help;

- q. failing to properly recognize a medical emergency;
- r. failing to provide Decedent with medical assistance;
- s. failing to properly involve medical emergency services;
- t. failing to properly train and supervise its employees;
- u. refusing to discontinue bringing Decedent down the stairs on the stretcher, face down in the prone position despite Decedent's dire medical condition;
- v. failing to have appropriate policies and measures in place for recognizing medical emergencies;
- w. failing to have appropriate policies and measures in place for responding to medical emergencies; and
- x. failing to have appropriate policies and measures in place for contacting appropriate medical emergency services.

179. By reason of the negligent, grossly negligent, reckless, and other liability producing conduct of Defendants and their wanton and willful disregard for the safety of Michael Burris, as aforesaid, Decedent was caused to sustain the serious and permanent personal injury and death, as set forth above.

180. By conducting themselves as set forth above, Defendants acts and/or omissions were substantial factors in, a factual cause of, and/or increase the risk of Decedent's injuries and death.

WHEREFORE, Plaintiffs demand judgment against the Defendants for such damages as may be permitted pursuant to applicable law, together with interest, costs and attorney's fees.

COUNT VIII - NEGLIGENCE PER SE

PLAINTIFFS V. MILLVILLE POLICE DEPARTMENT, DEPARTMENT OF PUBLIC SAFETY, CITY OF MILLVILLE, THE CITY OF MILLVILLE, UNDERWOOD-MEMORIAL HOSPITAL, UNDERWOOD-MEMORIAL HOSPITAL MOBILE INTENSIVE CARE UNIT, MILLVILLE RESCUE SQUAD, INC., d/b/a and/or MILLVILLE RESCUE SQUAD, JOHN BUTSCHKY, ROSS HOFFMAN, EDWIN ANSARA, WILLIAM STADNICK III, JULIO PUMAREJO, TROY PAYEUR, ROBERT SMITH, CHARLES BENNETT, JR., KAREN MORENO, & ERIC STORMES, SHERRIE D. COOMBS & ABC CORPORATIONS 6-10

181. All preceding paragraphs are incorporated here by reference.

182. Defendants' duties, as promulgated by the New Jersey Administrative Code, are set forth in part at *N.J.A.C. 8:40-4.10(c)*, which provides as follows:

Physical behavioral restraints shall not be of a type, or utilized in a manner, that causes undue physical discomfort, harm or pain to a patient. Hard restraints, such as handcuffs, are specifically prohibited unless the law enforcement officer who applied the hard restraints or handcuffs personally accompanies the patient. A patient placed in any type of restraint shall be closely monitored to ensure that his or her airway is not compromised in any way. In no circumstance shall a patient be placed prone (that is, face-down) on a stretcher while in restraints.

183. The Defendants failed, refused and/or neglected to perform their legal duties and obligations under the above code.

184. New Jersey code requires that the Defendants comply with all federal, state and local regulations.

185. The Defendants violated the above code by doing the exact opposite of the clear requirements of 4.10 (c), namely, placing Decedent face down, in the prone position, on a stretcher, while restrained.