

4/24/2018

JULIA C. DUDLEY, CLERK
BY: S/J.Vasquez

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

EDWARD KOVARI,
Plaintiff,

v.

BREVARD EXTRADITIONS, LLC, d/b/a
U.S. PRISONER TRANSPORT; PRISONER
TRANSPORTATION SERVICES OF
AMERICA, LLC; PRISONER
TRANSPORTATION SERVICES, LLC; and
JOHN DOES 1-6, in their individual and
official capacities,

Defendants.

DEPUTY CLERK

COMPLAINT
AND JURY DEMAND

CIVIL ACTION NO. 5:18-cv-00070

PRELIMINARY STATEMENT

1. Plaintiff Edward Kovari brings this action against private prisoner transportation companies Brevard Extraditions LLC d/b/a U.S. Prisoner Transport and Prisoner Transportation Services of America, LLC, and their parent company Prisoner Transportation Services, LLC (collectively "PTS Defendants"), as well as John Does 1-6, drivers and/or security guards employed by one or more PTS Defendants, for violation of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1983; negligence; gross negligence; and intentional infliction of emotional distress.

2. Over the course of an 18-day transport from Winchester, Virginia to Texas, Defendants subjected Mr. Kovari to extreme and inhumane conditions that violated all standards of decency. (The transport stemmed from an arrest based on a false report; all charges were eventually dismissed.) Defendants shackled Mr. Kovari in chains that were so tight that they left marks on his body, crammed him in the back of a van packed with other detainees, and regularly deprived him of adequate food and water. For the weeks that he was in Defendants' custody,

Defendants refused to make regular stops to allow him (or any other person who was being transported with him) to use the restroom, to shower, or even to sleep. He spent the duration of the transport sitting in human waste and filth and was routinely mocked and abused by John Does 1-6, who were employed as drivers and/or security guards by one or more PTS Defendants.

3. To make matters worse, Defendants expressly refused to provide Mr. Kovari, who suffers from hypertension, the daily prescription medications that he is required to take, or any other medical care, during the entire time that he was in Defendants' custody. Because of Defendants' deliberate failure to provide Mr. Kovari with any medication or medical care, Mr. Kovari's blood pressure spiked dangerously high, which created a serious risk of fatal injury. Mr. Kovari was in the midst of a hypertensive episode when he was finally delivered to authorities in Texas, which required days of in-patient treatment to resolve.

4. Unfortunately, Mr. Kovari's experience in Defendants' custody is not unique, but rather the predictable result of the PTS Defendants' customs, policies, and practices that dictate the manner in which they conduct their business. Among other things, Defendants have maintained various policies and practices that prioritize maximizing their profits by transporting as many detainees as possible, with the fewest stops for rest or care possible, over their obligation to safely transport those in their custody. These policies and customs create grossly unsafe, unsanitary, and inhumane conditions of confinement for the individuals that they transport.

5. Pursuant to the PTS Defendants' policies and practices, and consistent with Mr. Kovari's experience with Defendants, the individuals that the PTS Defendants transport are chained and locked in cages in the back of cargo vans that have little light, poor ventilation, and are dangerously hot in warmer months. The PTS Defendants' drivers work in shifts to maximize

the amount of time that the vehicles are on the road, and rest stops for the individuals that they transport are few and far between. As demonstrated by Mr. Kovari's experience, the PTS Defendants do not allow for routine bathroom breaks; their drivers instead demand that detainees relieve themselves in empty bottles or on themselves. Nor do the PTS Defendants provide regular stops to allow the individuals that they are transporting to change clothes or perform basic hygiene tasks; instead individuals spend most of the transport sitting in human waste and filth. During the transport, the PTS Defendants only provide detainees with cheap fast food and water is rationed.

6. And because the PTS Defendants seek to maximize the amount of money that they can make along any given route of travel, they schedule their drivers to do as many pickups as are requested, without regard for where individuals are ultimately to be dropped off or the maximum capacity of their vehicles. Accordingly, the PTS Defendants take long, circuitous routes—often traveling back to a state that they were in days prior to pick up additional people—before dropping off any individual at his ultimate destination. As a result, it is common for individuals detained by the PTS Defendants to be on the road and crammed in the back of a transport vehicles for weeks. Defendants adhered to these practices in Mr. Kovari's case and, as a result, took 18 days to transport Mr. Kovari from Virginia to Texas.

7. While the unsanitary and unsafe conditions of the PTS Defendants' transports create a significant risk of injury for any person in their custody, a trip in one of their transport vehicles can be life-threatening for persons with medical conditions because the PTS Defendants do not provide for the most basic medical needs of the individuals that they are transporting, as Mr. Kovari's transport experience demonstrates. The PTS Defendants do not provide training to their employees concerning the treatment of individuals with medical conditions, routinely refuse

to provide necessary prescription medications to the individuals who need them, and have even instructed their drivers to ignore individuals' requests for medical assistance, so as not to put their transports behind schedule. It is thus no surprise that numerous people transported by the PTS Defendants have been severely injured, and have even died, because the PTS Defendants refused to provide them with routine medical care while on the road.

8. As a result of the substantial mistreatment and abuse Mr. Kovari sustained at the hands of Defendants, he suffered significant physical pain and injury, and suffered and continues to suffer severe emotional distress. He brings this action as a result.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1343(a)(3)-(4), and 1367.

10. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to Mr. Kovari's claims occurred in this District and, upon information and belief, Defendants routinely conduct business in this District.

PARTIES

11. Plaintiff Edward Kovari resides in Stephens City, Virginia. From on or about September 12, 2016 to on or about September 30, 2016, Mr. Kovari was a pretrial detainee in the custody of the Defendants.

12. Defendant Brevard Extraditions, LLC d/b/a/ U.S. Prisoner Transport ("USPT"), is a for-profit corporation with its principal place of business in Melbourne, Florida. USPT provides prisoner transportation and extradition services, to and from anywhere in the United States, for state and local governments and government agencies. Upon information and belief, USPT routinely conducts its business in Virginia.

13. Defendant Prisoner Transportation Services of America, LLC (“PTSA”) is a limited liability company with its principal place of business in Nashville, Tennessee. Like USPT, PTSA contracts with state and local governments, correctional facilities, and law enforcement agencies nationwide to transport arrestees and incarcerated prisoners across jurisdictional lines. Upon information and belief, as part of its nationwide service, PTSA routinely conducts its business in Virginia.

14. Defendants USPT and PTSA are wholly operating subsidiaries of Defendant Prisoner Transportation Services, LLC, a limited liability company with its principal place of business in Nashville, Tennessee. Prisoner Transportation Services, LLC acquired USPT and PTSA on or around June 2015. Upon information and belief, the combined entity is the largest for-profit extradition company in the country.

15. As a result of the acquisition, Prisoner Transportation Services, LLC assumed common control and management of USPT and PTSA. While USPT and PTSA continued to offer the same prisoner transportation services that they offered prior to the acquisition, the functions and activities of the two companies were, and remain, consolidated as a result of the acquisition. For example, after acquisition by Prisoner Transportation Services, LLC, the pickup and delivery schedules for USPT and PTSA were combined, such that a government agency contacting USPT to provide transportation services from one state to another could arrange for pickup by the nearest available vehicle, regardless of whether the vehicle was owned by USPT or PTSA before the acquisition. In addition to sharing vehicles, USPT and PTSA coordinated and consolidated the training and supervision of employees and centralized other management support functions under Prisoner Transportation Services, LLC’s management and control.

16. Upon information and belief, because the activities and operations of USPT and PTSA are consolidated, these companies have the same management, training protocols, policies, practices, and manner of conducting their respective businesses. Upon information and belief, Prisoner Transportation Services, LLC owns and has complete operating control over USPT and PTSA and adopted, approved, and/or ratified the policies, practices, and customs at issue in this Complaint. Prisoner Transportation Services, LLC; USPT; and PTSA operate as a single entity, are mutual agents of each other, have operating control over each other, and/or, upon information and belief, are engaged in a joint venture pursuant to a contractual arrangement.

17. Upon information and belief, Defendants John Does 1-6 are residents of the United States and were employed by one or more of the PTS Defendants at all times relevant to this Complaint. John Does 1-6 were drivers and/or security guards who transported Mr. Kovari, subjected him to abusive treatment, and effectuated the policies and practices of Defendants at issue in this Complaint. Their specific identities are unknown to Mr. Kovari at this time.

18. Further, in acting or omitting to act as alleged herein, the PTS Defendants acted through their employees and/or agents, including John Does 1-6, and are responsible for the acts and omissions of these employees and/or agents within the scope of their employment or agency. In acting or omitting to act as alleged herein, each employee or officer of the PTS Defendants, including John Does 1-6, was acting within the course and scope of his or her actual or apparent authority pursuant to such agencies, or the alleged acts or omissions of each employer or officer as agent, including John Does 1-6, were subsequently ratified and adopted by the PTS Defendants as principal.

19. The service that Defendants provide—namely, the extradition and transportation of arrestees and incarcerated prisoners—has traditionally been performed exclusively by the State. At all times relevant to this Complaint, Defendants were state actors, acting under color of state law.

FACTUAL BACKGROUND

I. The Policies, Practices, and Customs of the PTS Defendants Create Grossly Unsanitary, Inhumane, and Dangerous Conditions for the Individuals They Transport

20. While state and local law enforcement officials have traditionally been responsible for the extradition and out-of-state transport of fugitives, arrestees, and prisoners, increasingly states and municipalities are outsourcing these functions to private prisoner transportation companies, like the PTS Defendants.

21. The PTS Defendants provide extradition and secure transportation services for state and local governments, including sheriff's offices, police departments, state departments of correction, and other government agencies.

22. The PTS Defendants represent that their services cost a fraction of what it would cost a state or local government to transport its own prisoners, mainly by conserving the expense and resources associated with having local law enforcement officials accomplish extraditions. Defendant USPT, for example, claims that using its services "can increase the amount of prisoners transported by approximately 30% with the same operating budget and keeping [local]

officers where they are needed most.”¹ Similarly, Defendant PTSA tells law enforcement agencies: “we can move your prisoner at less cost than if you did it yourself.”²

23. In an attempt to fulfill their promise to prospective clients to perform extradition and transportation services more cheaply than a government agency can, while also maximizing their own profits, the PTS Defendants have maintained customs and practices that prioritize transporting as many detainees, with as few stops for rest or care, as possible over their obligation to safely transport those in their custody. The PTS Defendants’ policies, customs, and practices have predictably resulted in grossly unsafe, unsanitary, and inhumane conditions of confinement for the individuals they transport. These practices and policies are carried out by their employees, who transport detainees for the PTS Defendants.

24. The PTS Defendants charge per prisoner, per mile (calculated based upon the distance between the pickup and drop off point). To maximize the amount of money the PTS Defendants can make along any given route of travel, the PTS Defendants schedule their drivers to do as many pickups as are requested, without regard for where detainees are ultimately to be dropped off.

25. Pursuant to the PTS Defendants’ practices, the PTS Defendants take long, circuitous routes—often traveling back to a state that they were in days prior to pick up additional prisoners—before dropping off any detainees at their ultimate destinations. As a result, it is common for the PTS Defendants’ detainees to be on the road, locked in their transport vehicles, for weeks at a time.

¹ See U.S. Prisoner Transport Services, <https://www.usprisonertransport.com/services/> (last visited April 23, 2018).

² See PTS of America, <http://prisonertransport.net/index.html> (last visited April 23, 2018).

26. The PTS Defendants' drivers rotate during the course of any given transport so that the vehicles do not have to stop for prolonged periods of time to allow drivers to rest.

27. Occasionally, but rarely, the PTS Defendants make arrangements with local jails that agree to house detainees overnight at some points during the course of the transport. Save for these rare instances, the PTS Defendants' detainees spend close to the entire length of the transport in the back of the PTS Defendants' "mobile jails."

28. The PTS Defendants' mobile jails are most often vans outfitted with steel interior cages, in which detainees are locked; two metal benches that run the length of the back passenger compartment of the van, on which detainees sit; and a metal divide between the two benches. In line with their practice of picking up as many detainees as they can for transport, the PTS Defendants, and their drivers and employees, cram individuals shoulder-to-shoulder in their cages, sometimes exceeding the maximum capacity of their vehicles.

29. The PTS Defendants' transport vans usually do not have seatbelts or safety restraints for the individuals that they are transporting.

30. The PTS Defendants largely control the stops and breaks that their drivers are permitted to take during the course of the transport; and any such stops or breaks are few and far between pursuant to their policies and practices.

31. The PTS Defendants' transport vehicles do not have toilets. As a matter of policy, they do not provide for regular bathroom breaks for the individuals they are transporting, so as to maximize the amount of time that their transport vehicles are on the road. As a result, the PTS Defendants' drivers instruct the individuals that they are transporting to urinate in empty cups and bottles.

32. The PTS Defendants' cages are not regularly cleaned along the transport route and, as a result, detainees are routinely forced to sit in human waste—their own or that of other people in their cage—for the entire time that they are in transport. Individuals in the PTS Defendants' custody are generally not permitted to shower, brush their teeth, change their clothes, or perform any basic hygiene tasks, sometimes for a period of weeks.

33. For the entire time that detainees are in the PTS Defendants' custody, they are tightly shackled at the wrist, waist, and ankles. Because the PTS Defendants do not provide for regular stops or breaks during the transport, those in transport are not permitted to regularly walk or stretch while on the road. Instead, the PTS Defendants require the individuals that they transport to remain cramped in the back of the PTS Defendants' transport vehicles for the duration of the trip.

34. There is little ventilation in the back of the PTS Defendants' mobile jails where prisoners are transported. In warmer months, the temperature in the cages can reach extreme levels that create a significant risk of heat stroke or heat-related illness to the individuals that the PTS Defendants transport. Yet, the PTS Defendants' policies and practices do not provide for regular checks or procedures to ensure that temperatures remain at a safe level or that the overall conditions in the back of the PTS Defendants' transport vans are safe.

35. Because the PTS Defendants' policies and practices do not provide for regular stops along the course of the transport to attend to the individuals being transported, drivers do not take the breaks necessary to provide detainees with adequate food and water. The drivers and employees accompanying the transport provide detainees with cheap fast food and water is rationed.

36. While the grossly unsanitary, overcrowded, and unsafe conditions of the PTS Defendants' transport create a significant risk of injury to any person in the PTS Defendants' custody, individuals who have disabilities or who suffer from medical conditions are particularly vulnerable. As a matter of practice and custom, the PTS Defendants do not provide for the medical needs of persons in their custody, despite their constitutional obligation to do so.

37. The PTS Defendants do not provide training to their drivers or other employees who accompany individuals in transport concerning the care and management of individuals with medical conditions or who need regular medication. The PTS Defendants do not perform health or medical assessments of individuals before assuming responsibility for them. They have not established procedures for their employees to trade information regarding the medical needs of detainees when the PTS Defendants' employees rotate at various points along the course of the transport. Managerial agents of the PTS Defendants, who control the stops that the PTS Defendants' drivers are permitted to make along their routes, have instructed drivers not to stop for medical treatment, so as not to place the transport behind schedule.

38. In fact, the PTS Defendants specifically train and encourage their employees to ignore many of the requests that they receive for medical attention during the course of the transport. Under the PTS Defendants' policy, as summarized by a high-ranking official of Defendant PTSA, unless a medical condition is "life or death, [they] can't open the cage on the vehicle."³ Of course, the PTS Defendants' employees are not sufficiently trained, and thus not qualified, to ascertain which medical conditions qualify as "life or death" emergencies merely by

³ Eli Hager & Alysia Santo, *Inside the Deadly World of Private Prisoner Transport*, The Marshall Project, July 8, 2016, <https://www.themarshallproject.org/2016/07/06/inside-the-deadly-world-of-private-prisoner-transport> (last visited April 23, 2018).

looking at a person. Nor does the PTS Defendants' policy allow their employees to provide necessary medical attention to those in transport for a host of medical concerns and complications that may not, in the PTS Defendants' estimation, rise to a "life or death" situation, but nonetheless create a substantial risk of physical pain or long-term injury if left unattended—such as the regular administration of prescription medications.

39. Unsurprisingly, because the PTS Defendants conduct their business in the manner that they do, numerous people have been significantly injured, or in some cases have died, because they did not receive basic medical care or necessary medication while in the PTS Defendants' custody.

40. These instances of injury and death are well-documented in various investigative reports detailing the PTS Defendants' pattern of prisoner abuse and neglect. For example, in July 2016, months before Mr. Kovari's encounter with Defendants, The Marshall Project, a non-profit, national news organization that covers the criminal justice system, in conjunction with The New York Times, published a report summarizing the results of their in-depth investigation of private prisoner transportation companies that focused, in large part, on the PTS Defendants.⁴ Among other things, the report documented specific instances in which individuals have died from otherwise routine medical conditions because the PTS Defendants either refused to provide the individual with medical treatment or as a result of being denied prescription medication.

41. Pursuant to the PTS Defendants' policies and practices described herein, as carried out by John Does 1-6, Plaintiff Edward Kovari was subjected to grossly unsanitary and

⁴ *See id.*

unsafe conditions of confinement and his serious medical needs were ignored for the 18 days that he was in Defendants' custody.

II. Defendants Subjected Edward Kovari to Unconstitutional Conditions of Confinement and Were Deliberately Indifferent to His Significant Medical Needs

42. Edward Kovari is 39 years old.

43. In or around December 2015, Mr. Kovari moved from Houston, Texas to Winchester, Virginia.

44. Mr. Kovari has hypertension. To manage his condition, he must take daily prescription medications. Failure to take his prescribed medications can lead to a significant risk of stroke, heart attack, kidney failure, or death.

45. Accordingly, after being diagnosed, Mr. Kovari consistently took his required medications and was thus able to manage his condition without significant harm or hospitalization. That changed in September 2016 when Defendants subjected Mr. Kovari to inhumane and unsanitary conditions of confinement, ignored his requests for medical treatment, and refused to provide him access to his prescription medications during an 18-day transport from Winchester, Virginia to Houston, Texas.

46. Defendants took custody of Mr. Kovari after he was arrested on an out-of-state theft charge. Specifically, on or around September 1, 2016, Mr. Kovari was at a gas station in Winchester, Virginia. A Virginia police officer, running plate numbers for out-of-state license plates, discovered that Mr. Kovari's car, unbeknownst to Mr. Kovari, had been reported stolen in Houston, Texas.

47. The theft charge stemmed from a false report and was ultimately dismissed in its entirety—but not before Mr. Kovari was arrested, arraigned on a fugitive warrant, and held in the

Northwest Regional Adult Detention Center (“Detention Center”) in Winchester, Virginia to await extradition to Texas.

48. Because Mr. Kovari cannot go for prolonged periods without taking his hypertension medications, Mr. Kovari informed employees of the Detention Center of his condition and that he was required to take daily medications. At the Detention Center, he received his medications.

49. Mr. Kovari was held at the Detention Center from approximately September 2, 2016 through September 12, 2016.

50. Upon information and belief, either local law enforcement or the local government seeking Mr. Kovari’s extradition entered into an arrangement with one or more of the PTS Defendants to provide prisoner transportation and extradition services. Accordingly, on or about September 12, 2016, Defendants, including one or more of John Does 1-6, arrived at the Detention Center to transport Mr. Kovari to Texas to face charges for the allegedly stolen car.

51. The Detention Center released Mr. Kovari to Defendants’ custody. Upon being released to Defendants’ custody, Defendants owed a duty to Mr. Kovari to exercise reasonable and ordinary care in providing safe transportation, free from injury or harm, and to arrange for the treatment of his medical needs while in their custody.

52. In his first interactions with Defendants in Winchester, Virginia, Mr. Kovari told Defendants that he had hypertension and was required to take daily, prescribed medications. Despite being made aware of Mr. Kovari’s medical condition, and pursuant to the PTS Defendants’ policies and practices, Defendants did not perform any medical assessment of Mr. Kovari or make any efforts to ascertain the nature or extent of his medical needs. Defendants did

not take possession of Mr. Kovari's prescribed medications or make any efforts to obtain the medications that he needed in Virginia before taking him into their custody.

53. Defendants were supposed to transport Mr. Kovari from Winchester, Virginia to Houston, Texas—a distance of around 1,350 miles or 20 hours of driving. However, instead of the transport lasting 20 hours, it took Defendants over 400 hours—18 days.

54. Because Defendants pick up as many detainees as possible, without regard to any detainee's ultimate destination, Defendants drove Mr. Kovari through multiple states, often reversing direction, before he was released from Defendants' custody in Texas. While Defendants did not tell Mr. Kovari or the other individuals detained where they were along the route, upon information and belief, Defendants transported Mr. Kovari from and through Virginia, south to Florida, north through South and North Carolina, back through Virginia, to Missouri, to Tennessee, and then circled around Texas, picking up additional passengers along the way, until ultimately reaching Houston, Texas.

55. As is the case with the PTS Defendants' transport vehicles generally, the conditions of Mr. Kovari's transport were cramped, grossly unsanitary, and unsafe.

56. Over the course of the transport, Mr. Kovari rode in three of the PTS Defendants' vans and each was configured in the same or similar manner. The vans had steel dividers in the passenger compartments, running from the front to the back, that separated the compartments into two sections. Each of these sections had a steel bench that also ran from front to back. Each of these sections was also outfitted with an interior cage, in which detainees were locked.

57. Mr. Kovari's hands were cuffed, his legs were shackled, and he was confined to a steel bench on one side of the van. He was unable to stretch or straighten his legs during the

transport because the steel divider was positioned directly in front of him. With barely any room for his shackled legs, his knees would repeatedly hit against the divider. He was also forced to lean forward in his seat so his head would not strike the top of the van. Mr. Kovari remained in this same position, without being able to move, walk, or stand, for as many as 12 continuous hours at a time.

58. Mr. Kovari's whole body began to hurt after just a few hours in Defendants' custody. The pain from the shackles was unbearable and left visible marks on his body. His legs would often go numb from the shackles and his immobile position. The pain was constant and excruciating. Mr. Kovari informed the guards and drivers, including one or more of John Does 1-6, that he was in pain; however, they ignored his complaints.

59. Defendants packed the van with detainees. At various points during the transport, there were as many as 15 people crammed in the cargo van, and six people on the same, small bench as Mr. Kovari, which, upon information and belief, exceeded the maximum capacity of the van. When Defendants packed six people on the bench that he was sitting on, there was not enough room for everyone to fit, so Mr. Kovari had to lie on the floor of the van, with the feet of other detainees resting on his stomach.

60. While none of the vans in which Mr. Kovari was transported had adequate sources of light, the last van in which Mr. Kovari travelled had a thick covering over the windows that rendered the back passenger compartment completely dark. During this portion of the trip, Mr. Kovari could not see inside of the van, could not tell whether it was day or night, and was disoriented.

61. Because of the cramped and uncomfortable conditions of the PTS Defendants' vans, Mr. Kovari would go days without sleeping. The only time that Mr. Kovari was able to get

any rest during the transport was when he had to lay on the floor because the van was too packed for him to sit.

62. Consistent with the PTS Defendants' policies and practices, while drivers and officers, including John Does 1-6, stopped to take bathroom breaks as they needed, Defendants did not take regular breaks to allow Mr. Kovari, and others in the van, to use the bathroom. Instead, the PTS Defendants' employees, including one or more of John Does 1-6, ordered detainees, including Mr. Kovari, to urinate in bottles if they had to use the bathroom. On at least one occasion, an individual defecated on the floor of the van. Defendants did not stop to clean the floor because Defendants do not provide for regular breaks to ensure that the conditions of the van are sanitary, or for any other reason. On another occasion, an individual got sick and vomited in the back of the van. Defendants again did not stop to clean the mess, and Mr. Kovari was forced to spend days sitting in vomit and human waste.

63. Mr. Kovari was only allowed to shower on the rare occasions that the PTS Defendants arranged for detainees to stay at a local jail or facility overnight. For the most part, he was unable to shower or perform any basic hygiene tasks. He was not allowed to wash or change his clothes and thus spent 18 days in the same clothes, wet with sweat and vomit.

64. It was unbearably hot throughout the duration of the transport. The back of the PTS Defendants' van had no functioning air conditioning or windows that opened, and Defendants rarely stopped to allow Mr. Kovari to get fresh air or escape the extreme temperatures. Accordingly, Mr. Kovari was forced to sit shackled in sweltering heat for days on end.

65. On one occasion, the PTS Defendants' van had a flat tire and they stopped on the side of the road to wait for assistance. Despite the extreme heat in the van, one or more of John

Does 1-6 did not allow the detainees out of the van. After approximately three hours of being trapped in the PTS Defendants' van, local police officers came to the scene to provide roadside assistance. Observing the conditions in which Defendants kept the detainees, the police ordered one or more of John Does 1-6, under the threat of arrest, to let the detainees out of the van to go to the bathroom on the side of the road and have a break from the heat.

66. The van did not have any seat belts and the driving of the Defendants' employees, including John Does 1-6, was often erratic because, upon information and belief, the drivers did not take sufficient breaks for rest. Mr. Kovari felt the car abruptly swerve many times on the road. Because of the erratic driving, Mr. Kovari's head would often hit the steel wall both in front and behind him, causing him additional pain.

67. Defendants deprived Mr. Kovari of adequate food and water during the course of the transport. Pursuant to the PTS Defendants' policies and practices, Defendants' employees, including one or more of John Does 1-6, would drive for as many as 12 hours at a time without stopping to feed Mr. Kovari or any of the other individuals in the transport van. When John Does 1-6 finally fed Mr. Kovari, it was always a dollar burger from a fast food restaurant and a bottle of warm water. John Does 1-6 repeatedly ignored Mr. Kovari's, and the other detainees', pleas for more water. As a result, Mr. Kovari had terrible heartburn and an upset stomach throughout the entire 18-day transport.

68. To make matters worse, John Does 1-6 taunted, threatened, and abused Mr. Kovari during the course of the transport. On one occasion, when Mr. Kovari was finally allowed to get out of the van, his legs would not move because they were numb both from the pain of the shackles and because he had been unable to move or stretch his legs while in transport. Mr. Kovari, unable to get out of the van or walk, fell to the ground. Rather than

helping him, two of the John Doe Defendants laughed at him. When Mr. Kovari specifically asked for help standing up, one of the John Doe Defendants deliberately took a step back instead so that Mr. Kovari would be unable to get off of the ground.

69. Throughout the transport, at least twice a day, one or more of John Does 1-6 would threaten to use their mace or taze the detainees. Mr. Kovari witnessed a number of events in which Defendants' employees, including one or more of John Does 1-6, threatened to use, or used, force against individuals in their custody for no reason at all. Witnessing these incidents and the constant threats by Defendants' employees to use physical force against him, Mr. Kovari felt that he was in danger every minute of the transport.

70. Consistent with their policies and practices concerning medical care and treatment, the PTS Defendants were deliberately indifferent to Mr. Kovari's significant medical needs. Mr. Kovari expressly told the PTS Defendants' employees, including one or more of John Does 1-6, that he had hypertension and needed to take medications on a daily basis when they picked him up in Winchester, Virginia. Additionally, information about Mr. Kovari's medical condition was readily available from the Detention Center that provided Mr. Kovari with his prescription medications during the time that he was confined there.

71. Further, the physical symptoms Mr. Kovari experienced while in Defendants' custody were consistent with a hypertensive episode and sufficiently put Defendants on notice that Mr. Kovari needed medical attention. Despite knowing that Mr. Kovari suffered from hypertension and required daily prescription medications, Defendants refused Mr. Kovari access to his medication throughout the entire transport.

72. After the first three days of Defendants refusing to provide him access to his necessary medications, Mr. Kovari began to feel sick. He had a headache, started to see spots,

felt clammy, disoriented, and nauseous. From his physical symptoms alone, it would have been clear to any reasonable observer that Mr. Kovari was in distress. The symptoms Mr. Kovari began exhibiting, and that continued for the duration of the transport, were classic signs of an oncoming hypertensive crisis, which can be life-threatening.

73. When he began to feel the physical symptoms of his hypertension, Mr. Kovari pounded the steel wall in front of him to get the attention of the PTS Defendants' employees, including one or more of John Does 1-6, to tell them (again) that he needed his medication. The employees heard Mr. Kovari's request for assistance, but purposefully ignored it.

74. Mr. Kovari repeatedly made complaints to the PTS Defendants' employees, including one or more of John Does 1-6, that he was in pain, needed access to his medication, and should be taken to a hospital. At least once a day over the 18 days that he was in Defendants' custody, Mr. Kovari requested that he be taken to a hospital and/or given medication.

75. Because the PTS Defendants do not provide medical care unless their untrained employees believe it is a "life or death" situation, and because the PTS Defendants do not permit their employees to make regular stops for medical care, Defendants repeatedly ignored, or refused, Mr. Kovari's requests. Instead of providing medical assistance, Defendants' employees, including one or more of John Does 1-6, told Mr. Kovari: "shut-up or we're going to taze you," or "you did the crime, you're going to do the time," suggesting that their deliberate refusal to provide medical care was a form of punishment for him.

76. The PTS Defendants' employees, in fact, attempted to silence Mr. Kovari from requesting medical treatment, despite their obligation to provide it to him. In response to one of his requests that he be taken to the hospital, at least one of the John Doe Defendants told the

other individuals being transported that if the van stopped to take Mr. Kovari to the hospital, everyone would have to wait in the van until he was discharged. The John Doe Defendant then told the other detainees that taking Mr. Kovari to the hospital would add more time to the already lengthy transport and ultimately delay their schedule. Similarly suffering from the unbearable conditions of Defendants' transport, some detainees threatened Mr. Kovari with bodily harm if he continued to insist on going to the hospital. Defendants' employees, including one or more of John Does 1-6, did nothing in response to these threats and, in fact, encouraged them in an effort to deter Mr. Kovari from continuing to request medical attention.

77. As a result of this conduct, Mr. Kovari feared for his safety. If he went to the hospital, he would likely have to face attacks from the other detainees. If he did not go to the hospital, Mr. Kovari risked a heart attack or other significant medical complications. Fearing immediate bodily harm, Mr. Kovari felt that he had no real choice but to temporarily withdraw his request for medical assistance on this occasion.

78. Upon information and belief, Mr. Kovari would not have been taken to the hospital regardless. Even despite Defendants' attempts to deter him from seeking medical treatment, Mr. Kovari later tried to get the PTS Defendants' employees, including one or more of John Does 1-6, to take him to the hospital because he felt his condition worsening. Pursuant to their policies and practices, Defendants continued to ignore or refuse his requests. In sum, Defendants did not take Mr. Kovari to the hospital on any occasion that he requested treatment over the course of the 18 days that he was in their custody. Defendants never provided Mr. Kovari with his prescription medication or made any efforts to obtain medication for him, despite his repeated requests.

79. Measuring Mr. Kovari's blood pressure to confirm his condition would have taken minutes. However, because the PTS Defendants do not have anyone trained to perform medical assessments accompanying the transport, and also because Defendants do not provide for sufficient stops and breaks during the transport, Mr. Kovari's blood pressure was not measured at all.

80. During the transport, the PTS Defendants' employees—from both USPT and PTSA—rotated positions, taking turns driving and swapping out roles and responsibilities with other employees. During at least one point in which there were mechanical difficulties with the transport van, for example, PTSA provided a new transport vehicle with new drivers and guards to continue along the transport. Because the PTS Defendants have the same practices and policies, the conditions to which Mr. Kovari was subjected were the same for the entire duration of the transport.

INJURY TO PLAINTIFF

81. As a result of Defendants' unlawful conduct, Mr. Kovari suffered significant physical pain and injury and suffered, and continues to suffer, severe emotional distress.

82. By the time Defendants finally arrived in Houston, Texas (Harris County), on or about September 30, 2016, Mr. Kovari's blood pressure was dangerously high as a result of Defendants' deliberate refusal to provide him with medication and necessary medical attention. The significant stress that Mr. Kovari experienced as a result of the grossly unsanitary and unsafe conditions of his confinement, over a prolonged period of time, exacerbated his condition.

83. The physical symptoms that he experienced as a result of Defendants' conduct—which included headache, nausea, dizziness, and physical pain—lasted the duration of the

transport and were a direct result of Defendants' refusal to provide him with medical treatment and the unconstitutional conditions of his confinement.

84. In addition, as a result of Defendants' conduct, Mr. Kovari experienced a hypertensive crisis. During the routine intake process at the Harris County Sherriff's Office, a medical professional measured Mr. Kovari's blood pressure. A normal systolic blood pressure is 120 or below; Mr. Kovari's blood pressure was over 200 when Harris County medical personnel conducted their medical assessment. Systolic pressure above 180 constitutes a hypertensive crisis, which can lead to a range of life-threatening complications.

85. Based on their medical assessment, Harris County medical personnel determined that Mr. Kovari needed immediate medical treatment and admitted him to the Harris County Health Services Division ("HSD"), an in-patient medical infirmary that, among other things, provides treatment for serious medical needs and emergency medical services to individuals detained at the Harris County Jail of the same type as provided in a hospital setting.

86. It took two days of observation and treatment at HSD to stabilize Mr. Kovari's condition. This treatment would not have been necessary had Defendants provided him with his medications during transport.

87. In addition to the physical pain and injury that he suffered, Mr. Kovari suffered the deprivation of his constitutional rights and suffered, and continues to suffer, humiliation, embarrassment, and severe emotional distress as a result of Defendants' unlawful actions. For the entire time that Mr. Kovari was in Defendants' custody, Mr. Kovari suffered emotional distress from the stress and uncertainty of not knowing when or whether he would receive his medication, as well as from the intolerable conditions of his confinement. Throughout the course of the transport, Mr. Kovari was in constant fear that Defendants' refusal to provide medical

treatment, and the manner in which they transported him, might result in his death. John Does 1-6 carried out Defendants' policies and taunted, abused, and threatened him throughout the course of the transport, which also caused Mr. Kovari severe stress and anxiety.

88. The emotional injury that Defendants caused Mr. Kovari persists to the present. Mr. Kovari continues to experience embarrassment and humiliation, have nightmares, and suffer from severe emotional distress and anxiety as a result of Defendants' unlawful conduct.

89. Through the actions described above, Defendants acted intentionally, maliciously, and with willful, wanton, callous, and reckless disregard for Mr. Kovari's rights under the law.

90. At the time that Mr. Kovari was placed in Defendants' custody, Defendants were well aware that their manner of conducting business posed a significant risk of serious injury to the individuals that they transported.

91. The PTS Defendants, for example, were aware of numerous deaths and significant injuries that occurred during their transports because individuals were not provided access to their medications, were involved in car accidents because of the lack of rest stops and unsafe driving conditions created by the manner in which the PTS Defendants conduct their business, or other reasons related to the PTS Defendants' policies and practices. In fact, months before Mr. Kovari's interaction with Defendants, a federal official released a public correspondence urging the United States Department of Justice to investigate the nature and extent of abuses in the private prisoner transportation industry, citing a number of deaths that have occurred at the hands of the PTS Defendants in support of the request.⁵ Despite having actual knowledge that their

⁵ Letter from Human Rights Defense Center to Surface Transportation Board (Aug. 8, 2016), [https://www.stb.gov/FILINGS/all.nsf/UNID/2950025C042B75E985258009007443E7/\\$file/241255.pdf](https://www.stb.gov/FILINGS/all.nsf/UNID/2950025C042B75E985258009007443E7/$file/241255.pdf) (last visited April 23, 2018).

customs and practices were dangerous, Defendants nonetheless subjected Mr. Kovari to overcrowded, unsanitary, and unsafe conditions of confinement and denied him necessary medication and medical treatment for a prolonged period of time.

CAUSES OF ACTION

FIRST CAUSE OF ACTION—Violation of the U.S. Constitution (42 U.S.C. § 1983)

92. Plaintiff Edward Kovari re-alleges and incorporates by reference paragraphs 1-91, as if fully set forth herein.

93. At all relevant times, Defendants acted under the color of State law in performing functions traditionally performed by the State, namely the extradition and transport of arrestees and pretrial detainees. The PTS Defendants contract with state and local governments and government agencies to provide these services. Defendants are state actors under 42 U.S.C. § 1983.

94. At the time that Mr. Kovari was released to Defendants' custody, Mr. Kovari was a pretrial detainee and thus entitled to the protections of the Fourteenth Amendment to the United States Constitution.

95. Through their policies, practices, and conduct as described herein, Defendants subjected Mr. Kovari to extreme, grossly unsanitary, and unsafe conditions of confinement that posed a risk of serious damage to his safety and violated contemporary standards of decency, in violation of the Fourteenth Amendment.

96. The Fourteenth Amendment also requires that pretrial detainees be provided medical care to at least the extent that is required for those who have been convicted of a crime.

97. Through their policies and practices as described herein, Defendants were deliberately indifferent to Mr. Kovari's known medical needs. Defendants were aware that Mr. Kovari suffered from hypertension, but deliberately refused to provide him with necessary medical treatment or medical care over the course of an 18-day period. The PTS Defendants fail to properly train their agents to take seriously the urgent medical needs of those in their custody, have no practices in place for ensuring that detainees get the prescription medications that they need, and, in fact, have policies that encourage their employees to ignore the serious medical needs of detainees. John Does 1-6 carried out the PTS Defendants' unlawful policies and purposefully ignored Mr. Kovari's known and significant medical needs.

98. As a result of the unconstitutional conditions of his confinement and Defendants' deliberate indifference to Mr. Kovari's known, significant medical needs, Mr. Kovari suffered serious physical and emotional injury as described in this Complaint.

SECOND CAUSE OF ACTION—Negligence

99. Plaintiff Edward Kovari re-alleges and incorporates by reference all of the allegations set forth in paragraphs 1 to 91 above and further alleges as follows:

100. At all relevant times, Mr. Kovari was a pretrial detainee in the care, control, and custody of Defendants, who owed a duty to him to exercise reasonable and ordinary care in providing safe transportation free from injury or harm, and to arrange for treating his medical needs should any arise during transport.

101. Throughout the transport, Defendants breached their duty to Mr. Kovari, including in the following ways:

- a. Subjecting Mr. Kovari to grossly unsanitary and unsafe conditions of confinement as described in this Complaint;

- b. Denying Mr. Kovari his required daily medications for hypertension; and
- c. Refusing to provide Mr. Kovari with necessary medical attention for his hypertension.

102. Defendants' actions and omissions were the direct and proximate cause of Mr. Kovari's injuries.

103. Mr. Kovari in no way contributed to his own injuries.

104. Defendants made conscious decisions to either act or fail to act causing Mr. Kovari to suffer grave physical pain and anguish, humiliation and embarrassment, and severe emotional distress.

105. Defendants are liable to Mr. Kovari for all damages resulting from their negligence.

THIRD CAUSE OF ACTION—Gross Negligence

106. Plaintiff Edward Kovari re-alleges and incorporates by reference all of the allegations set forth in paragraphs 1 to 91 above and further alleges as follows:

107. At all relevant times, Mr. Kovari was a pretrial detainee in the care, control, and custody of Defendants, who owed a duty to him to exercise reasonable and ordinary care in providing safe transportation free from injury or harm, and to arrange for treating his medical needs should any arise during transport.

108. Throughout the transport, Defendants breached their duty to Mr. Kovari, including in the following ways:

- a. Subjecting Mr. Kovari to grossly unsanitary and unsafe conditions of confinement as described in this Complaint;
- b. Denying Mr. Kovari his required daily medications for hypertension; and

- c. Refusing to provide Mr. Kovari with necessary medical attention for his hypertension.

109. Defendants' actions and omissions were the direct and proximate cause of Mr. Kovari's injuries.

110. Mr. Kovari in no way contributed to his own injuries.

111. Defendants made conscious decisions to either act or fail to act causing Mr. Kovari to suffer grave physical pain and anguish, humiliation and embarrassment, and severe emotional distress.

112. As described in detail above, Defendants acted wantonly, oppressively, and with malice in conscious disregard of Mr. Kovari's safety. In acting or failing to act, as described above, Defendants showed indifference to Mr. Kovari and an utter disregard of prudence amounting to a complete neglect of his safety. Such conduct warrants an award of punitive damages in actions for gross negligence.

113. Defendants are liable to Mr. Kovari for all damages resulting from their gross negligence.

FOURTH CAUSE OF ACTION—Intentional Infliction of Emotional Distress

114. Plaintiff Edward Kovari re-alleges and incorporates by reference all of the allegations set forth in paragraphs 1 to 91 above and further alleges as follows:

115. At all relevant times, Mr. Kovari was a pretrial detainee in the care, control, and custody of Defendants, who owed a duty to him to exercise reasonable and ordinary care in providing safe transportation free from injury or harm, and to arrange for treating his medical needs should any arise during transport.

116. Defendants' conduct toward Mr. Kovari, as described herein, was intentional and/or reckless. Defendants knew or should have known that the acts or omissions described herein, including the grossly unsanitary and unsafe conditions to which Mr. Kovari was subjected, the refusal to provide medications or medical care, and the other abusive conduct at issue in Mr. Kovari's Complaint, would shock and outrage a person of ordinary sensibilities.

117. Defendants' actions, including the grossly unsanitary and unsafe conditions to which Mr. Kovari was subjected, Defendants' refusal to provide required medications and medical care, and the other abusive conduct described in Mr. Kovari's Complaint, were extreme, outrageous, and intolerable.

118. As a direct and proximate result of the intentional acts or omissions of Defendants, Mr. Kovari suffered (1) severe emotional distress and (2) physical pain and injury. For the entire time that Mr. Kovari was in Defendants' custody, Mr. Kovari suffered severe emotional distress and anxiety from, among other things, the intolerable conditions of his confinement, Defendants' refusal to provide him with his medications and medical care, the significant emotional distress associated with his constant fear that Defendants' actions might result in his death, as well as the significant emotional distress he suffered as a result of the physical pain and injury caused by Defendants. The physical pain and injury Mr. Kovari suffered as a result of Defendants' conduct ultimately required emergency medical intervention and required days of in-patient treatment to resolve. Mr. Kovari continues to experience severe emotional distress, stress, anxiety, nightmares, embarrassment, and humiliation as a result of Defendants' conduct and the physical pain and injury he suffered as a result.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Edward Kovari prays that this Court grant the following relief:

- a. grant Plaintiff appropriate declaratory relief, finding that Defendants' conduct violated the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1983; and constituted negligence, gross negligence, and intentional infliction of emotional distress;
- b. enter a judgment for compensatory damages in favor of Plaintiff in an amount to be determined by a jury that would fully compensate Plaintiff for the injuries alleged herein resulting from Defendants' conduct;
- c. award punitive damages to Plaintiff in an amount to be determined by a jury that would punish Defendants for the willful, wanton, and reckless conduct alleged herein and that would effectively deter similar conduct in the future;
- d. award Plaintiff his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988(b); and
- e. grant such other relief as it deems just and equitable.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 24, 2018

Respectfully submitted,

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**pro hac vice application to be filed*