

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES LEE SALTMARSHALL, an
individual,

Plaintiff,

v.

PRIME HEALTHCARE SERVICES –
GARDEN CITY, LLC, a foreign
limited liability company doing
business as Garden City Osteopathic
Hospital, SHAWNA WRIGHT, MD, an
individual, VHS CHILDREN’S
HOSPITAL OF MICHIGAN, INC., a
foreign corporation doing business as
Children’s Hospital of Michigan,
SCOTT LANGENBERG, MD, an
individual, CHRISTIAN
BOWERFIELD, MD, an individual,
JONATHAN MUNSON, an individual,
JEFFREY TWARDZIK, an individual,
JEFFREY SMITH, an individual, and
the CITY OF INKSTER, a municipal
corporation,

Defendants.

Case No.: 18-cv-10887
Hon.

Lower Court:
WCCC Case No. 17-015025-CZ
Hon. Susan L. Hubbard

**DEFENDANTS’ NOTICE
OF REMOVAL PURSUANT TO
28 USC § 1331 (FEDERAL
QUESTION JURISDICTION)**

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**DEFENDANTS' NOTICE OF REMOVAL PURSUANT TO 28 USC § 1331
(FEDERAL QUESTION JURISDICTION)**

TO THE CLERK OF THE ABOVE-CAPTIONED COURT:

PLEASE TAKE NOTICE that Defendants City of Inkster (“Inkster”), Detective/Sergeant Jonathan Munson (“Munson”), Lieutenant Jeffrey Twardzik (“Twardzik”) and Detective/Lieutenant Jeffrey Smith (“Smith”) (collectively “Inkster Defendants”), by their counsel, hereby remove the matter entitled, *James Lee Saltmarsh v. Prime Healthcare Services – Garden City, LLC, Shawna Wright, MD, VHS Children’s Hospital of Michigan, Inc., Scott Langenberg, MD, Christian Bowerfield, MD, Jonathan Munson, Jeffrey Twardzik, Jeffrey Smith and the City of Inkster*, Case No. 17-015025-CZ, currently pending in the Wayne County Circuit Court (“State Court Lawsuit”), to the United States District Court for the Eastern District of Michigan. The bases for removal of the State Court Lawsuit are set forth below:

STATEMENT OF GROUNDS FOR REMOVAL

1. By information and belief, the State Court Lawsuit was commenced in the Wayne County Circuit Court with the filing of a Summons and Complaint on October 16, 2017. The State Court Lawsuit was given Case Number: 17-015025-CZ and was assigned to the Honorable Susan L. Hubbard.

2. None of the Inkster Defendants have been properly served with the Summons or Complaint or any other pleadings in the State Court Lawsuit. However, some of the Inkster Defendants have received copies of the Summons and Complaint. Munson found copies of the Summons and Complaint and a Motion and Order for a Second Summons in his mailbox at the Inkster Police Department Stationhouse on February 16, 2018; and he gave copies to Smith on the same day. Twardzik found copies of these same in his mailbox at the Inkster Police Department Stationhouse on February 20, 2018. Inkster has not been served. A copy of the Summons, Complaint and Motion and Order for a Second Summons, which constitute all process and pleadings received by Munson, Smith and Twardzik, and of which the Inkster Defendants have notice, are attached hereto as **Exhibit A**.

3. The Inkster Defendants do not know if the other Defendants named in the Complaint have been served. The other Defendants are Prime Healthcare Services – Garden City, LLC, d/b/a Garden City Osteopathic Hospital (“Garden City Hospital”), Shawna Wright, DO (“Dr. Wright”), VHS Children’s Hospital of Michigan, Inc., d/b/a Children’s Hospital of Michigan (“Children’s Hospital”), Scott Langenburg, MD¹ (“Dr. Langenburg”) and Christian Bowerfield, MD (“Dr. Bowerfield”) (collectively, “Medical Defendants”). There is no return of service filed in the State Court Lawsuit indicating that any of the Medical Defendants have been

¹ Scott Langenburg, MD, is referred to incorrectly as Scott Langenberg, MD, in the Complaint.

served. No attorneys have filed appearances or other pleadings on behalf of any of the Medical Defendants. Efforts to obtain information from Plaintiff's attorney concerning the status of service upon the Medical Defendants have been unsuccessful.

4. This Notice of Removal is being filed within 30 days after Munson, Smith and Twardzik received the Summons, Complaint and Motion and Order for a Second Summons, as required by 28 USC § 1446(b).

5. The United States District Court for the Eastern District of Michigan, Southern Division, has jurisdiction over this case based federal question jurisdiction pursuant to 28 USC § 1331.

PLAINTIFFS' FEDERAL CLAIMS

6. In Count I of the Complaint in the State Court Lawsuit, Plaintiff James Lee Saltmarsh ("Saltmarsh") alleges that all of the Defendants violated 42 USC § 1983 by conspiring to deprive him of his rights under the Fifth and 14th Amendments to the United State Constitution (Complaint, ¶¶ 6, 7, 58-65). Accordingly, this Court has original jurisdiction over Count I of Saltmarsh's Complaint because it is a civil action arising under the Constitution, laws or treaties of the United States. 28 USC § 1331.

7. Specifically, in Saltmarsh's Complaint, he alleges that, on the afternoon of April 20, 2017, he and his daughter, Janiya L. Saltmarsh ("Janiya"), who was then about eight months old, were asleep in the same adult bed at the Alpine

Motel at 26131 Michigan Avenue in the City of Inkster (Complaint, ¶¶ 31-33). Saltmarshall further alleges that he awakened, went to the bathroom and, when he returned, found that Janiya was non-responsive (Complaint, ¶ 34). Saltmarshall called 911 at approximately 4:23 PM and began to attempt resuscitation (Complaint, ¶¶ 31, 33-37). Inkster Police Department and Fire Department representatives responded to Saltmarshall's 911 call, initiated efforts to resuscitate Janiya and transported both Saltmarshall and Janiya to Garden City Hospital (Complaint, ¶¶ 38-39). At Garden City Hospital, Dr. Wright examined Janiya and concluded that she had injuries to her anus and a relatively large amount of rectal bleeding (Complaint, ¶¶ 42-45). Dr. Wright stated that the staff found anal tearing in and around Janiyah's rectum (Complaint, ¶ 46). Dr. Wright further stated that the nature of the injury to Janiya's rectum could only have been caused by something being inserted into her rectum (Complaint, ¶ 46). Saltmarshall claims that, based on Dr. Wright's conclusions, Munson and Smith arrested him and took him into custody (Complaint, ¶¶ 47-48).²

8. Later on April 20, 2017, Janiya was transported to Children's Hospital, where she was examined by Dr. Langenburg and Dr. Bowerfield (Complaint, ¶¶ 49-53). Dr. Langenburg "concluded that Janiya had skull fracture, brain swelling, lung bruising and anal laceration" (Complaint, ¶ 50). Dr. Langenburg "opined that the trauma was not due to an accident" (Complaint, ¶ 51). Dr. Bowerfield "opined that

² Saltmarshall actually was arrested under outstanding warrants previously issued by the 34th and 36th Judicial District Courts.

Janiya suffered bi-lateral retinal hemorrhaging indicative of shaken baby syndrome” (Complaint, ¶ 52). Dr. Bowerfield “did not believe the injuries could have been caused by a fall from a bed and he ruled out the possibility that the anal laceration could have been caused by constipation or some other internal condition” (Complaint, ¶ 53).

9. Janiyah died on April 23, 2017.

10. On April 23, 2017, the Wayne County Prosecutor Kim Worthy charged Saltmarshall with felony murder, first degree child abuse and first degree criminal sexual conduct (Complaint, ¶ 77). A warrant for Saltmarshall’s arrest was authorized on April 24, 2017, and he was arraigned on the same day in the 22nd District Court and bound over.

11. The Wayne County Medical Examiner conducted an autopsy of Janiyah on April 24, 2017, but did not issue an Autopsy Report until June 12, 2017. In the Autopsy Report, the Medical Examiner concluded that Janiyah’s death was caused by asphyxia which likely was the result of Saltmarshall’s negligence in sleeping with her in an adult bed. The Medical Examiner concluded that Janiyah’s death was accidental. The Medical Examiner did not find evidence of skull fractures or shaken baby syndrome.

12. Based on the Autopsy Report, the criminal charges against Saltmarshall relating to Janiyah were dismissed on June 29, 2017. Saltmarshall was “retained in

custody” for an additional four days because of the charges relating to Janiyah’s death (Complaint, ¶ 57).

13. Saltmarshall alleges that the Inkster Defendants conspired with the Medical Defendants to charge and prosecute Saltmarshall despite medical evidence to the contrary (Complaint, ¶¶ 59-64). Saltmarshall asserts that this alleged conspiracy constitutes a violation of 42 USC ¶ 1983 by all Defendants (Complaint, Count I).

14. Based on these same factual allegations, Saltmarshall asserts state common law claims of malicious prosecution, false arrest and false imprisonment, intentional infliction of emotional distress and gross negligence against all Defendants (Complaint, Counts II-V). Accordingly, this Court has supplemental jurisdiction over Counts II through V of Saltmarshall’s Complaint because they arise from the same set of operative facts as Count I.

THE OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED

15. All of the Inkster Defendants have consented to this removal.

16. The Inkster Defendants believe that, as of the present time, the Medical Defendants have not been properly joined and served in the State Court Lawsuit.

17. The Inkster Defendants believe that no Defendant has previously sought similar relief with respect to this matter.

18. The prerequisites for removal under 28 USC § 1441 have been met.

19. In accordance with 28 USC § 1446(d), written notice of the filing of this Notice of Removal will be given to all parties of record. Furthermore, a copy of this Notice will be filed with the Clerk of the Wayne County Circuit Court.

20. The Inkster Defendants believe that the allegations contained in this Notice are true and correct. Furthermore, the Inkster Defendants believe that United States District Court for the Eastern District of Michigan has jurisdiction over the claims asserted by Saltmarsh in his Complaint.

21. The Inkster Defendants file this Notice and thereby remove the State Court Lawsuit to the United States District Court for the Eastern District of Michigan. Plaintiff's counsel is notified to proceed no further in the State Court Lawsuit unless or until the State Court Lawsuit is remanded by order of the United States District Court.

ALLEN BROTHERS, PLLC

/s/ Charles S. Rudy

David Jones (P57103)

Charles S. Rudy (P27881)

Attorneys for the Inkster Defendants

400 Monroe Street, Suite 620

Detroit, Michigan 48226

(313) 962-7777

crudy@allenbrotherspllc.com

March 14, 2018

CERTIFICATE OF SERVICE

TARA KENDRICK, hereby certify that on March 16, 2018, I electronically filed the foregoing document, and this Certificate of Service with the Clerk of the Court using the ECF system which will send notification and copy of such filing to the attorneys of record. I also sent copy of same to attorneys of record via First Class U.S. Mail with Postage fully prepaid.

/s/ Tara Kendrick

Tara Kendrick

400 Monroe Street, Suite 620

Detroit, MI 48226

(313) 962-7777

tkendrick@allenbrotherspllc.com

INDEX OF EXHIBITS

EXHIBIT

TITLE

A

Summons and Complaint

EXHIBIT A

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	SUMMONS AND COMPLAINT	CASE NO 17-019025-CZ Hon. Susan L. Hubbard
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2 Woodward Ave., Detroit MI 48226

Court Telephone No. 313-224-5183

Plaintiff SALT MARSHALL, JAMES <hr/> Plaintiff's Attorney Lillian F. Diallo 52036 500 Griswold St Ste 2340 Detroit, MI 48226-4484	v	Defendant CITY OF INKSTER <hr/> Defendant's Attorney
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SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 10/16/2017	This summons expires 1/15/2018	Court clerk File & Serve Tyler
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.

Family Division Cases

There is no other pending or resolved action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

There is no other pending or resolved civil action arise out of the same transaction or occurrence as alleged in the complaint.

An civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)
Place where action arose or business conducted	

Date _____ Signature of attorney/plaintiff _____



If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

MC 01 (5/15) SUMMONS AND COMPLAINT MCR 2.102(B)(11), MCR 2.104, MCR 2.105, MCR 2.107, MCR 2.113(C) (2)(a),(b), MCR 3.206(A)

Approved, SCAO		Original - Court 1st copy - Defendant 2nd copy - Plaintiff	
3rd	STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	MOTION FOR SECOND SUMMONS AND ORDER	CASE NO. 17-015025-CZ

Court address: 2 Woodward Ave Detroit, MI 48228
 Court telephone no. (313) 224-5183

Plaintiff name(s), address(es), and telephone no(s).
 JAMES SALT MARSHALL

Plaintiff's attorney, bar no., address, and telephone no.
 LILLIAN DIALLO (P#2036)
 LARRY FOLK (P#8184)
 500 GRISWOLD, STE 2340
 DETROIT, MI 48226
 313.969.6533

Defendant name(s), address(es), and telephone no(s).
 PRIME HEALTHCARE SERVICES - GARDEN CITY, LLC,
 a foreign limited liability company doing business as
 Garden City Osteopathic Hospital, SHAWNA WRIGHT, M.D.,
 an individual, VHS CHILDREN'S HOSPITAL OF MICHIGAN,
 INC., a foreign corporation doing business as
 Children's Hospital of Michigan, SCOTT LANGENBERG,
 M.D.,
 an individual, CHRISTIAN BOWERFIELD, M.D., an individual,
 JONATHAN MUNSON, an individual, JEFFREY SMITH, an individual,
 jointly and severally,
 CITY OF INKSTER,
 Municipal corporation,

17-015025-CZ
 FILED NUMBER
 WAYNE COUNTY CLERK
 1/25/2018 12:35:00 PM
 CATHY M. GARRETT

/s/ Lisa Rutledge

NOTE: A second summons must be ordered before the initial summons expires.

MOTION

1. A complaint was filed on 10/16/2017 and does not expire until 01/15/2017
Date Date
2. Diligent attempts have been made to personally serve process on the defendant; however, the defendant has either moved, is evading service, or other Evading Service.
3. I REQUEST a second summons be issued before the original summons expires for the following reasons:
We are unable to effectuate service for named parties.

10/13/17
Date

[Handwritten Signature]
Signature of attorney/plaintiff

ORDER

4. IT IS ORDERED the motion to extend time for service and to issue a second summons
 - is denied. initial summons had already expired.
 - is granted and a second summons shall be issued to expire on 4/01/2018 and Case is reinstated
Date
- 1/25/2018 /s/ Susan Hubbard
Date Judge

**STATE OF MICHIGAN IN THE THIRD CIRCUIT
COURT FOR THE COUNTY OF WAYNE
CIVIL DIVISION**

JAMES LEE SALTMARSHALL, an individual,

Plaintiff,

v.

Case No. CZ

Hon.

PRIME HEALTHCARE SERVICES - GARDEN CITY, LLC,
a foreign limited liability company doing business as
Garden City Osteopathic Hospital, SHAWNA WRIGHT, M.D.,
an individual, VHS CHILDREN'S HOSPITAL OF MICHIGAN,
INC., a foreign corporation doing business as
Children's Hospital of Michigan, SCOTT LANGENBERG, M.D.,
an individual, CHRISTIAN BOWERFIELD, M.D., an individual,
JONATHAN MUNSON, an individual, JEFFREY SMITH, an individual,
CITY OF INKSTER, a Municipal corporation,

jointly and severally,

Defendants.

LEGAL WARRIORS, PLLC
Lillian F. Diallo (P52036)
Attorneys for Plaintiff
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Detroit, MI 48226
(313) 965-6633
lilliandiallo@sbcglobal.net

Larry Polk (P48164)
Lpolk14405@aol.com

PLAINTIFFS COMPLAINT AND JURY DEMAND

There is no pending or resolved civil action arising out
of the transaction or occurrence alleged in the complaint

Plaintiff, by and through his attorneys, state in support of his Complaint against the named Defendants as follows:

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff James Lee Saltmarsh is a United States citizen and resident of the city of Detroit, Wayne County, Michigan.
2. Plaintiff is the father of Janiyah L. Saltmarsh ("Janiyah") (dob 8/17/2016).
3. Plaintiff was the lawful custodial parent and primary care giver of Janiyah.
4. This Court has personal jurisdiction over Defendants named herein because they conduct business in Wayne County, Michigan.
5. Venue is proper in this Court as Defendants conduct their business Wayne County, Michigan, which is located within the jurisdiction of the Eastern District of Michigan.
6. This civil action is brought pursuant to 42 U.S.C. § 1983 seeking monetary damages against Defendants for violation of Fourteenth Amendment of the U.S. Constitution.
7. Defendants, who are comprised of current or former government employees of the City of Inkster police department, acting in their respective official capacities, under the color of law, individually and collectively acted in concert and conspired with Defendant employees of Garden City Hospital and Children's Hospital of Michigan, to deliberately deprive Plaintiff of his civil rights secured by the United States Constitution (5th and 14th Amendment) and State Constitution by depriving Plaintiff of life and liberty without due process of law when they falsely arrested, falsely imprisoned and maliciously prosecuted Plaintiff when the facts and circumstances

were inconsistent with the charges.

Defendant Shauna Wright

8. Defendant Shauna Wright ("Dr. Wright"), at all times relevant, was an employee of Defendant Prime Healthcare Services -- Garden City, doing business as Garden City Osteopathic Hospital, acting within the scope of her employment.

9. Dr. Wright examined Janiya and opined that the infant had injuries to her anus as well as a relatively large amount of rectal bleeding.

10. Dr. Wright stated during the examination of Janiya that the anal tearing in and around the child's rectum could have only been caused by something inserted into the rectum.

11. According to Dr. Wright, the injuries found on Janiya were inconsistent with the description of the incident given by the father.

Defendant Scott Langenberg

12. Defendant Scott Langenberg ("Dr. Langenberg"), at all times relevant, was an employee of Defendant VHS Children's Hospital of Michigan, Inc. dba Children's Hospital of Michigan, acting within his scope of employment.

13. Dr. Langenberg advised the police that Janiya had skull fractures, brain swelling, lung bruising and anal laceration.

14. Dr. Langenberg opined that the trauma suffered by Janiya was not due to an accident.

15. Dr. Langenberg deliberately abandoned his role as an independent medical examiner to act in concert with the police department, as part of the prosecution apparatus.

Defendant Christian Bowerfield

16. Defendant Christian Bowerfield ("Dr. Bowerfield"), at all times relevant, was an employee of Defendant VHS Children's Hospital of Michigan, Inc. dba Children's Hospital of Michigan, acting within the scope of his employment.

17. Defendant Dr. Bowerfield advised police that Janiya had bi-lateral retinal hemorrhaging, indicative of shaken-baby syndrome, as well as the anal laceration.

18. Dr. Bowerfield also stated that he was unable to confirm the existence of skull fractures or obvious external trauma to the head.

19. After speaking to Defendant Detective Munson, Dr. Bowerfield opined that Janiya's injuries could not have been caused by a fall from a bed.

20. After speaking to Defendant Munson, Dr. Bowerfield opined that the anal laceration could not have been caused by constipation or some other internal condition.

21. Dr. Bowerfield's findings were obviously influenced by the narrative proffered by Detective Munson. Although he was unable to confirm the existence of skull fractures or obvious external trauma to the head, he opined that the injuries were indicative of shaken baby syndrome.

22. Convinced that the anal laceration was not caused by constipation or some other internal condition, Dr. Bowerfield abandoned his role of independent medical care professional and

took on the role in the conspiracy of the prosecution.

Defendant Jonathan Munson

23. Defendant Jonathan Munson (Detective Munson) was at all relevant times, a Detective with the Inkster Police Department, acting in his official capacity as the "officer in charge" and within the scope of his employment.

24. Detective Munson ordered the orchestration of the police department and conspiracy with the investigating officers and medical community to establish a narrative that would deprive Plaintiff of his liberty in a rush to judgment, with contrived evidence fashioned to convict Plaintiff rather than an investigation of the facts with an objective view for the truth.

25. Detective Munson's investigation, riddled with contrived evidence and erroneous conclusions, obliterated the American presumption of innocent until proven guilty.

26. Medical personnel and police department officials acted in concert to establish a case against Plaintiff, including the use of text messages and verbal communication that influenced and contaminated the investigation.

Defendant Jeffrey Twardzik

27. Defendant Jeffrey Twardzik (Lt. Twardzik) was at all relevant times, a Lieutenant with the Inkster Police Department, acting in his official capacity and within the scope of his employment.

28. Upon information and belief, Lt. Twardzik spoke to doctors at Children's Hospital (believed to be Defendant Dr. Langenberg) in an effort to influence the medical findings to find head trauma resulting from a shaken baby, in addition to other contrived findings to be consistent with the narrative proposed by the police department.

Defendant Jeffrey Smith

29. Defendant Detective Jeffrey Smith (Lt. Smith) was at all relevant times, a Lieutenant with the Inkster Police Department, acting in his official capacity and within the scope of his employment.

30. Detective Lt. Smith made the determination to arrest Plaintiff and he assisted in placing Plaintiff into police custody.

General Allegations

31. On or about April 20, 2017, at approximately 4:23pm, Plaintiff called 911 to report that his daughter Janiya was unresponsive.

32. Plaintiff was staying as a guest at the Alpine Motel located at 26131 Michigan Avenue, in the city of Inkster, County of Wayne.

33. Plaintiff had fallen asleep in an adult bed, next to his infant daughter.

34. He went to the bathroom and noticed his daughter was non-responsive when he returned.

35. He picked her up to check on her welfare.

36. As he noticed she was non-responsive, he began to attempt resuscitation.

37. He called 911 for assistance.

38. The Inkster Police and Fire Department responded to the emergency call to 911.

COUNT I
VIOLATION OF 42 U.S.C. § 1983
Civil Conspiracy to Violate Civil Rights
Resulting in Bodily Injury
AGAINST ALL DEFENDANTS

58. Plaintiff reiterates the allegations set forth in paragraphs 1 through 57, as if fully stated herein.

59. A criminal defendant is entitled to an assumption of innocence, which is a basic tenet of the criminal justice system.

60. While the law enforcement agencies have latitude to investigate crimes and potential crimes, the role of the medical community should be that of independent fact-finder and not a part of the law enforcement apparatus.

61. When the medical community takes sides in criminal investigations, it becomes a party to an agreement for the unlawful purpose of prosecuting innocent individuals.

62. The law enforcement officials from Defendant Inkster police department include Defendants Jonathan Munson, Jeffrey Smith and Jeffrey Twardzik, which are deemed state actors.

63. The medical community that worked to prosecute Plaintiff include doctors from Defendant Garden City Hospital (Defendant Shauna Wright, M.D.) and Defendant Children's Hospital of Michigan (Defendants Scott Langenberg, M.D. and Christian Bowerfield, M.D.) that encouraged the state actors with contrived evidence meant to point the finger at Plaintiff despite exculpatory medical evidence to the contrary.

64. The combination of agreement of these two Defendant groups worked in a concerted way to accomplish a criminal or unlawful purpose (by erroneously charging Plaintiff despite the medical evidence to the contrary).

65. As a result, of the unlawful conspiracy action of Defendants, Plaintiff suffered bodily injury, loss of liberty, mental anguish, defamation of character and emotional distress.

WHEREFORE, Plaintiff prays for a Judgment in his favor for violation of his civil rights and violation of the federal and state constitutions, including compensatory relief for emotional distress, punitive damages, pain and suffering for Defendant's unlawful conduct in an amount that exceeds \$25,000.00, the jurisdictional threshold for this Court.

COUNT II
MALICIOUS PROSECUTION
AGAINST ALL DEFENDANTS

66. Plaintiff reiterates the allegations set forth in paragraphs 1 through 65, as if fully stated herein.

67. The goal of the medical community in a law enforcement investigation should be to provide high-quality, timely, accurate, and reliable medical/scientific services with the use of best practices and best available technology with a view toward unbiased testimony and objective transparency.

68. Medical community assessment conducted in the context of law enforcement investigations should be independent of law enforcement personnel efforts to either prosecute criminal suspects or to determine whether a criminal act has indeed been committed.

69. Objective medical testimony is best conducted in the medical setting independent of the law enforcement setting and free from influence and intimidation. Defendants colluded, exchanged theories and findings in sacrifice of best practices for the sake of expediency to charge, arrest, imprison and prosecute Plaintiff unfairly.

70. Defendants' failed to make a full and fair disclosure to the prosecutor by advising that the medical community defendants colluded with the law enforcement defendants to develop a theory of the case rather than independent objection investigations.

71. Defendants' collusion resulted in a theory of the case unsupported by the independent medical examiner.

72. Despite the allegations contrived by the Defendants, the Office of the Wayne County Medical Examiner refuted the bases for the arrest, imprisonment and prosecution of Plaintiff and the charges were terminated in his favor "in the interests of justice."

73. The medical examiner refuted the malicious lie that there were fractures of the skull.

74. The medical examiner opined that the structures of the brain stem and cerebellum revealed no evidence of any abnormalities. He further stated that serial sections of the brain in the coronal plane revealed no lesions or anatomic defects on any of the sections, refuting shaken baby syndrome and skull fractures conjured up by the defendants.

75. Postmortem autopsy examination, including external examination of the body, internal examination of the organs, did not reveal any injuries on the body, completely contradicting the Defendants theory of the case.

76. The opinion of the medical examiner concluded that the death was caused by an accident and not the theories proffered by Defendants.

77. The Complaint against Plaintiff charging murder charges, criminal sexual conduct and child abuse was filed on the same date and despite the opinion of the medical examiner.

78. There was no probable cause for the charges given the opinion of the medical examiner, notwithstanding the contrived evidence proffered by defendants' collusion to charge Plaintiff.

79. The malicious prosecution resulted in a special injury to Plaintiff included the loss of opportunity to properly grieve and mourn the loss of his daughter; emotional distress by first learning of the death of his daughter in the courtroom hearing the charges against him; and, false arrest and imprisonment in violation of Plaintiff's right to liberty.

WHEREFORE, Plaintiff is entitled to a Judgment in his favor for compensatory relief including loss of wages, loss of employment, emotional distress and pain and suffering for the malicious prosecution of Plaintiff in an amount that exceeds \$25,000.00, the jurisdictional threshold for this court.

COUNT III
FALSE ARREST AND FALSE IMPRISONMENT
AGAINST ALL DEFENDANTS

80. Plaintiff reiterates the allegations set forth in paragraphs 1 through 79, as if fully stated herein.

81. Defendants' colluded and conspired to initiate criminal prosecution proceedings against Plaintiff for the murder, criminal sexual assault and child abuse charges related to his own daughter.

82. Notwithstanding contrived testimony by Defendants meant to conjure serious charges against Plaintiff, the charges against Plaintiff were dismissed in his favor "in the interest of justice."

83. Defendants' instituted charges and maintained the contrived testimony despite physical evidence to the contrary.

84. But for the collusion and contrived testimony, charges would not have been levied against Plaintiff because there was no probable cause for the arrest or detention of Plaintiff.

85. The collusion and contrived testimony was undertaken with malice and a purpose of instituting criminal charges other than an interest of justice or in the pursuit of the truth.

86. Defendants' collusion included the exchanging of text messages whereby the medical community and law enforcement eliminated the lines of their respective objectivity in the pursuit of prosecuting Plaintiff for crimes he did not commit, at the most difficult time of his life at the loss of his child.

87. As a result of the false arrest, without probable cause, Defendants likewise falsely

imprisoned Plaintiff for the period of time detained, including the period under house arrest.

88. The imprisonment of Plaintiff continued even in light of the medical examiner evidence that proved the Defendant's conclusions and theories supporting charges were false.

89. The unlawful arrest and imprisonment caused plaintiff to miss all the memorial services related to his daughter. As a result, Plaintiff was denied the opportunity to grieve and mourn the loss of his daughter properly, exacerbating the pain of the loss.

WHEREFORE, Plaintiff is entitled to a Judgment in his favor for compensatory relief including loss of wages, loss of employment, emotional distress and pain and suffering for the unlawful false arrest and imprisonment of Plaintiff in an amount that exceeds \$25,000.00, the jurisdictional threshold for this court.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST ALL DEFENDANTS

90. Plaintiff reiterates the allegations set forth in paragraphs 1 through 89, as if fully stated herein.

91. The collusion of Defendants to mount charges against Plaintiff instead of the pursuit of truth amounts to extreme and outrageous conduct.

92. Conduct that withheld the news of the death of Plaintiff's daughter until an arraignment where he was being charged for these heinous crimes was extreme and outrageous resulting in severe emotional distress evidenced by Plaintiff's emotional outburst.

93. Defendants knew or recklessly should have known that withholding this information,

provide high-quality, timely, accurate, and reliable medical/scientific services with the use of best practices and best available technology with a view toward unbiased testimony and objective transparency.

100. Medical community assessment conducted in the context of law enforcement investigations should be independent of law enforcement personnel influence and intimidation.

101. Defendants duty extends to efforts to prosecute criminal suspects or even to determine whether a criminal act has indeed been committed.

102. Despite these duties, Defendants colluded, exchanged theories and findings in sacrifice of best practices for the sake of expediency to charge, arrest, imprison and prosecute Plaintiff.

103. The lack of ordinary care and diligence resulted in charges against Plaintiff that was based on contrived evidence that was clearly refuted by independent medical examination.

104. Defendants knew or should have known that care and diligence was necessary to avert wrongful damages to Plaintiff.

105. Defendants conduct amounted to gross negligence that proximately caused foreseeable damages to Plaintiff.

WHEREFORE, Plaintiff is entitled to a Judgment in his favor for compensatory relief including loss of wages, loss of employment, emotional distress and pain and suffering for the unlawful false arrest and imprisonment of Plaintiff in an amount that exceeds \$25,000.00, the jurisdictional threshold for this court.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray:

- A. That a Judgment be issued in favor of Plaintiff, against Defendants, both individually and collectively, jointly and severally;
- B. That a Judgment and appropriate award of compensatory damages, in excess of \$25,000.00, be entered against Defendants, jointly and severally;
- C. That a Judgment for an award of punitive damages be entered against Defendants, jointly and severally; and,
- D. An appropriate award of reasonable attorney fees and legal costs be entered against Defendants, jointly and severally.

Respectfully submitted,

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