

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIKA LATTIMORE, as Guardian of
TIMESHA BEAUCHAMP, an incapacitated person,

Plaintiff,

Case No. 20- -cv
Hon.

vs.

CITY OF SOUTHFIELD, MICHAEL STORMS,
SCOTT RICKARD, PHILLIP MULLIGAN, and
JAKE KROLL, In their Individual Capacity,
Jointly and Severally,

Defendants.

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JAMES J. HARRINGTON, IV (P65351)
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COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES, Plaintiff, ERIKA LATTIMORE, as Guardian of
TIMESHA BEAUCHAMP, an incapacitated person, by and through their
attorneys, FIEGER, FIEGER, KENNEY & HARRINGTON, P.C., and for
her Complaint and Jury Demand against the above-named Defendants,
hereby states as follows:

JURISDICTION AND VENUE

1. This action arises under the United States Constitution and under the laws of the United States Constitution, particularly under the provisions of the Fourteenth Amendment to the United States Constitution and under the laws of the United States, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983 and 1988, and under the statutes and common law of the State of Michigan.

2. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 (a)(3), 1343(a)(4) and 42 U.S.C § 1983.

3. The actions alleged in this Complaint took place within Oakland County, State of Michigan, and as such, jurisdiction lies in the United States District Court for the Eastern District of Michigan (Southern Division).

4. Venue is proper pursuant to 28 U.S.C. § 1391 (d).

5. The amount in controversy exceeds Seventy-Five Thousand (\$75,000.00) dollars, excluding interests, costs, and attorney fees.

PARTIES

6. At all times relevant to this lawsuit, Plaintiff, **TIMESHA BEAUCHAMP**, an incapacitated person, was a resident of the City of Southfield, County of Oakland, State of Michigan.

7. At all times relevant hereto, ERIKA LATTIMORE, is the duly appointed Guardian of Plaintiff, TIMESHA BEAUCHAMP, an incapacitated person, by the Oakland County Probate Court.

8. At all times relevant hereto, Defendant, CITY OF SOUTHFIELD, was and is a municipal corporation, duly organized in carrying on governmental functions in the City of Southfield, State of Michigan, and one of the functions was to organize, operate, staff, train, and supervise the firefighters, paramedics, and emergency medical technicians at the Southfield Fire Department.

9. Upon information and belief, at all times relevant hereto, Defendant, MICHAEL STORMS, (hereinafter referred to as “STORMS”) is citizen of the State of Michigan and was acting under the color of state law within the course and scope of his employment as a paramedic and firefighter for the City of Southfield’s Fire Department.

10. Upon information and belief, at all times relevant hereto, Defendant, SCOTT RICKARD, (hereinafter referred to as “RICKARD”) is citizen of the State of Michigan and was acting under the color of state law within the course and scope of his employment as a paramedic and firefighter for the City of Southfield’s Fire Department.

11. Upon information and belief, at all times relevant hereto, Defendant, PHILLIP MULLIGAN, (hereinafter referred to as “MULLIGAN”) is citizen of the State of Michigan and was acting under the color of state law within the course and scope of his employment as an EMT and firefighter for the City of Southfield’s Fire Department.

12. Upon information and belief, at all times relevant hereto, Defendant, JAKE KROLL, (hereinafter referred to as “KROLL”) is citizen of the State of Michigan and was acting under the color of state law within the course and scope of his employment as an EMT and firefighter for the City of Southfield’s Fire Department.

FACTUAL STATEMENT

13. Plaintiff hereby reincorporates and reasserts each and every allegation set forth in the previous paragraphs of this Complaint. Plaintiff, TIMESHA BEAUCHAMP (hereinafter “TIMESHA”), is a 20-year old female with cerebral palsy, who is incompetent by reason of mental disability to manage her affairs.

14. On August 23, 2020, at or around 7:20 a.m., Plaintiff’s mother, Erika Lattimore, went into TIMESHA’s room, to administer her daily medication.

15. Ms. Lattimore noticed that TIMESHA was not as responsive and proceeded to sit her up and give her oxygen through an oxygen mask.

When TIMESHA's condition failed to improve, Ms. Lattimore yelled for TIMESHA's older brother, Steven Thompson, to come to the room.

16. When Steven came to TIMESHA's room, Ms. Lattimore informed him that TIMESHA was not responding to the oxygen and ran out to call 911 at approximately 7:27 a.m.

17. Ms. Lattimore also called TIMESHA's godmother, Tedra Davis, to inform her of TIMESHA's condition. Ms. Davis called her mother, Savanna Spears, to which both women immediately proceeded to Ms. Lattimore's home.

18. At approximately 7:34 a.m., Defendants STORMS, RICKARD, MULLIGAN, and KROLL of the Southfield Fire Department arrived at Ms. Lattimore's home in response to the emergency dispatch.

19. Defendants, STORMS, RICKARD, MULLIGAN, and KROLL entered the home and approached TIMESHA's bedroom where TIMESHA was on her bed and appeared to be unresponsive.

20. TIMESHA's mother informed Defendants, STORMS, RICKARD, MULLIGAN, and KROLL of TIMESHA's medical condition and the medication that TIMESHA was currently taking.

21. Cardiopulmonary resuscitation (hereinafter “CPR”) compressions were commenced with TIMESHA still on her bed.

22. At approximately 7:48 a.m., TIMESHA still had air movement in her lungs, as shown on the capnography reading.

23. At approximately 7:54 a.m., the capnography was still showing a reading indicating that TIMESHA had air movement in her lungs.

24. At approximately 8:03 a.m., Defendants, STORMS, RICKARD, MULLIGAN, and KROLL discontinued CPR and declared TIMESHA deceased prior to obtaining permission to discontinue efforts.

25. The cardiac monitor showed that CPR was discontinued at 8:04 a.m. despite the monitor showing electrical activity.

26. At approximately 8:07 a.m., officers with the Southfield Police Department arrived at Ms. Lattimore’s home.

27. At approximately 8:09 a.m., Defendant, STORMS, called Dr. Darr at Ascension Providence Southfield Hospital to obtain permission to discontinue resuscitative efforts five minutes after resuscitative efforts had ceased.

28. Defendant, STORMS, erroneously advised Dr. Darr that TIMESHA did not have any rhythm change.

29. At no point did Defendants, STORMS, RICKARD, MULLIGAN and KROLL, attempt to verify circulation or respiration by auscultation despite the CO2 level indicating respiration by the TIMESHA.

30. While Defendants, STORMS, RICKARD, MULLIGAN and KROLL were packing their items away into the ambulance, family member, ERIKA LATTIMORE called out to Defendants to inform them that TIMESHA was still breathing and that she had felt a pulse.

31. Defendants, STORMS, RICKARD, MULLIGAN and KROLL, went back up to look at TIMESHA.

32. Defendant, STORMS, placed the monitor back on TIMESHA, at which time the monitor clearly showed that TIMESHA still had organized electrical activity indicating she was not dead.

33. Despite clearly seeing organized electrical activity Defendants, STORMS, RICKARD, MULLIGAN and KROLL, informed the family that TIMESHA's body was reacting to medication that was given to her, and that she was dead.

34. Defendants, STORMS, RICKARD, MULLIGAN and KROLL, proceeded to leave for a second time when TIMESHA's brother, Steven, frantically notified Defendants and the present Southfield Police Officers that he observed TIMESHA's body move and that she had gasped for air.

35. Defendants, STORMS, RICKARD, MULLIGAN and KROLL, advised TIMESHA's family that there would be chest movement due to the medication given but that TIMESHA was in fact dead.

36. Defendants, STORMS, RICKARD, MULLIGAN and KROLL, refused to respond to the family's plea for medical attention even though TIMESHA was still alive.

37. At all times relevant Defendants, STORMS, RICKARD, MULLIGAN and KROLL, had enough information that Plaintiff TIMESHA BEAUCHAMP was suffering from an emergency medical condition requiring immediate medical attention.

38. Upon information and belief, at approximately 8:36 a.m., Southfield Police Officer Mattison called the Oakland County Medical Examiner's office to inform them of TIMESHA's death and was given a medical examiner case number.

39. Upon information and belief, Southfield Police Officer Mattison, then gave Ms. Lattimore the medical examiner case number.

40. Ms. Lattimore was instructed by Southfield Police Officer Mattison to provide the medical number to the funeral home of her choosing upon their arrival to pick up TIMESHA.

41. Defendants, STORMS, RICKARD, MULLIGAN, and KROLL and Southfield Police Department then left the home of Ms. Lattimore.

42. At approximately 9:00 a.m., Ms. Lattimore called James H. Cole Funeral Home who sent their contractor, Holmes Removal Services to pick up TIMESHA's body.

43. At all times relevant, Leslie Holmes with Holmes Removal Services arrived at 11:25 a.m. to pick up TIMESHA's body and asked Ms. Lattimore if in fact TIMESHA was deceased due to observing TIMESHA's chest moving.

44. Ms. Lattimore informed Mr. Holmes that she was advised by Defendants that TIMESHA's body would move due to the medication administered but that she in fact was dead and provided Holmes the medical examiner case number she was given.

45. Mr. Holmes wrapped up TIMESHA's body in the sheet she was laying in and placed her into the body bag before escorting her out of the home for transport to the funeral home.

46. TIMESHA was then transported to James H. Cole Funeral Home to process her body for funeral services.

47. Upon information and belief, TIMESHA arrived at James H. Cole Funeral Home approximately at 11:40 a.m., at which time, Mr. Holmes

and Steven Shaw, the embalmer for the funeral home, unzipped the body bag and saw TIMESHA with her eyes open, her chest moving up and down, and gasping for air.

48. Upon information and belief, Mr. Shaw immediately called 911 to which Detroit EMS arrived to pick up TIMESHA and take her to Sinai Grace Hospital.

49. At or around 11:45 a.m., Ms. Lattimore received a frantic call from the funeral home telling her that her daughter was still alive and on her way to the hospital.

50. TIMESHA was admitted to Sinai Grace Hospital, at which time doctors confirmed that TIMESHA was very much alive.

51. Upon information and belief, and at all times relevant hereto, Defendant STORMS uploaded his report to the Michigan EMS Information System later that evening on August 23, 2020, at approximately 21:04 p.m.

52. Upon information and belief, the following morning, on August 24, 2020, at approximately 10:02 a.m., Defendant, STORMS, altered the information provided on his initial report, more than 24 hours after ceasing life-saving efforts and declaring TIMESHA dead.

53. On August 27, 2020, Kathy Wahl, an employee of the Michigan Department of Health and Human Services (hereinafter referred to as

“MDHHS”) and Division Director of Bureau of EMS, Trauma and Preparedness, filed an Emergency Order Suspending the License of Defendant, RICKARD.

54. Per the emergency order, Defendant RICKARD’s conduct evidenced that he was not performing in a manner consistent with his education, licensure, or approved medical control authority protocols in violation of Section 20958 (1)(e) of the Michigan Public Health Code.

55. On August 28, 2020, Kathy Wahl, filed an Emergency Order Suspending the License of Defendant, STORMS.

56. Per the emergency order, Defendants STORMS’ conduct as previously set forth above, evidenced that they were not performing in a manner consistent with their education, licensure, or approved medical control authority protocols in violation of Section 20958 (1)(e) of the Michigan Public Health Code.

57. According to the two Orders issued by the State of Michigan, Defendants STORMS’ and RICKARD’s conduct as previously set forth above, evidenced that they knowingly violated or aided or abetted others in the violation of the rules promulgated under the Michigan Public Health Code in violation of Section 20958(1)(d) of the Michigan Public Health Code.

58. On August 28, 2020, Defendants MULLIGAN and KROLL, received Notices of Intent to Suspend their EMT's license from MDHHS. As a direct and proximate result of the wrongful acts and omissions of Defendants, STORMS, RICKARD, MULLIGAN and KROLL, Plaintiff TIMESHA BEAUCHAMP suffered substantial harm.

COUNT I
VIOLATION OF CIVIL RIGHTS PURSUANT TO THE
14TH AMENDMENT TO THE CONSTITUTION
AND 42 U.S.C. §1983, 1988 – DEFENDANTS, STORMS, RICKARD,
MULLIGAN and KROLL

59. Plaintiff, ERIKA LATTIMORE, as Guardian of TIMESHA BEAUCHAMP, hereby reasserts and re-alleges each and every allegation contained in Paragraphs 1 through 56 as though fully set forth herein.

60. As a citizen of the United States Plaintiff TIMESHA BEAUCHAMP was entitled to all rights, privileges, and immunities accorded to all citizens of the State of Michigan and of the United States, in violation of the 14th Amendment to the United States Constitution.

61. At all times relevant hereto, Plaintiff TIMESHA BEAUCHAMP had a right to adequate and sufficient medical care and/or treatment such that her life would be preserved and she at all times would be free from needless unjustified and preventable pain, suffering, and deterioration of her health and well-being.

62. That actions and omissions by Defendants, STORMS, RICKARD, MULLIGAN and KROLL, under the 14th Amendment to the United States Constitution, as well as 42 U.S.C. §1983 and §1988 were all performed under the color of state law and were objectively unreasonable and performed knowingly, deliberately and indifferently to Plaintiff TIMESHA BEAUCHAMP's wellbeing and serious medical needs and in reckless disregard to Plaintiff TIMESHA BEAUCHAMP's safety.

63. That the conduct of Defendants, STORMS, RICKARD, MULLIGAN and KROLL, were acting under the color of state law when they deprived Plaintiff, TIMESHA BEAUCHAMP of her clearly established rights, privileges, and immunities in violation of the 14th Amendment of the Constitution of the United States, and of 42 U.S.C. §1983 and §1988.

64. The Defendants exhibited deliberate indifference, pursuant to the Fourteenth Amendment to the United States Constitution, to serious medical needs, to wit:

- a. Deliberately ignoring Plaintiff TIMESHA BEAUCHAMP's obvious and serious medical needs;
- b. Failure to obtain proper medical attention Plaintiff TIMESHA BEAUCHAMP whose dire condition necessitated the same;
- c. Failing to provide intravenous fluid to Plaintiff TIMESHA BEAUCHAMP;

- d. Failing to perform adequate CPR techniques;
- e. Deliberately ignoring the monitor that clearly showed Plaintiff TIMESHA BEAUCHAMP have a cardiac rhythm;
- f. Deliberately ignoring the capnography reading on the monitor showing that Plaintiff TIMESHA BEAUCHAMP was respirating;
- g. Failing to get permission to discontinue CPR resuscitative efforts;
- h. Making a determination of death without the proper authority;
- i. Deliberately omitting facts to the appropriate medical authority in order to wrongfully stop resuscitative efforts;
- j. Failing to supply proper medical attention after being notified that Plaintiff TIMESHA BEAUCHAMP had a pulse and was still breathing;
- k. Deliberately ignoring the monitor that clearly showed Plaintiff TIMESHA BEAUCHAMP had organized electrical activity;
- l. Failing to confirm asystole in 3 leads before making a determination of death;
- m. Failing to supply proper medical attention after being notified that Plaintiff TIMESHA BEAUCHAMP was moving;
- n. Failing to transfer the Plaintiff TIMESHA BEAUCHAMP to the hospital for treatment, monitoring, observation, and supportive measures;

- o. Demonstrating conduct so reckless that it demonstrates a substantial lack of concern for whether any injury would result;
- p. Wrongfully causing Plaintiffs to suffer extreme emotional distress;
- q. Recklessly, or otherwise improperly denying, or delaying access to medical care for an individual who was suffering from a serious medical condition; and
- r. Any and all other breaches that may become known throughout the course of this litigation.

65. That the above described conduct of Defendants, STORMS, RICKARD, MULLIGAN and KROLL, as specifically set forth above, was the proximate cause of Plaintiff TIMESHA BEAUCHAMP's injuries and damages, including but not limited to the following:

- a. Severe hypoxic brain injury;
- b. Acute hypoxemic respiratory failure due to cardiopulmonary arrest;
- c. Cardiogenic septic shock;
- d. Electrolyte imbalance;
- e. Metabolic acidosis;
- f. Conscious pain and suffering;
- g. Fright, shock, and terror;
- h. Humiliation and mortification;

- i. Mental anguish;
- j. Exemplary, compensatory, and punitive damages allowed under Michigan and federal law;
- k. Attorney fees and costs pursuant to 42 USC § 1988;
- l. Any and all other damages otherwise recoverable under federal and Michigan state law.

66. EMS Defendants are not entitled to governmental or qualified immunity.

WHEREFORE, Plaintiff, ERIKA LATTIMORE, as Guardian of TIMESHA BEAUCHAMP, respectfully requests that this Honorable Court enter judgment in their favor and against Defendants, jointly and severally, in an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, together with interest, costs and attorney fees, as well as punitive and/or exemplary damages.

COUNT II
42 U.S.C. § 1983 – MONELL LIABILITY
DEFENDANT CITY OF SOUTHFIELD

67. Plaintiff hereby restates and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

68. At all times relevant, Defendant CITY OF SOUTHFIELD failed to train, discipline and supervise Defendants, STORMS, RICKARD, MULLIGAN and KROLL, promulgating and maintaining de facto

unconstitutional customs, policies, or practices rendering them liable for the constitutional violations alleged herein under *Monell v. Dept. of Social Services of the City of New York*, 436 U.S. 658 (1978).

69. At all times relevant, Defendant CITY OF SOUTHFIELD knew or should have known that the policies, procedures, training supervision and discipline of Defendants, STORMS, RICKARD, MULLIGAN and KROLL, were inadequate for the tasks that each Defendant was required to perform.

70. At all times relevant, Defendant, CITY OF SOUTHFIELD failed to establish, implement or execute adequate policies, procedures, rules and regulations to ensure individuals, such as Plaintiff, TIMESHA BEAUCHAMP, received prompt and adequate emergency services.

71. At all times relevant, Defendant CITY OF SOUTHFIELD were on notice or should have known, of a history, custom, propensity, and pattern at times relevant to the allegations herein for Defendants, STORMS, RICKARD, MULLIGAN and KROLL, and other employees of the Southfield Fire Department by acting with deliberate indifference to the serious medical needs of citizens of the community, specifically Plaintiff, TIMESHA BEAUCHAMP, by refusing to provide prompt and competent access to medical treatment, evaluation, care, and intervention.

72. Defendant CITY OF SOUTHFIELD implicitly authorized, approved, or knowingly acquiesced in the deliberate indifference to the serious medical needs of citizens, and knew or should have known that such treatment would deprive citizens, such as Plaintiff, TIMESHA BEAUCHAMP, of their constitutional rights.

73. At all times relevant, Defendant CITY OF SOUTHFIELD knew that its policies, procedures, customs, propensity and patterns of allowing paramedics and/or EMT's to avoid taking someone with a serious medical condition to the hospital would deprive citizens of treatment, such as Plaintiff, TIMESHA BEAUCHAMP.

74. At all times relevant, Defendant CITY OF SOUTHFIELD knew that its policies, procedures, customs, propensity and patterns allowed paramedics and/or EMT's to stop resuscitative efforts before getting permission from proper authorities.

75. Upon information and belief, Defendant CITY OF SOUTHFIELD maintained a policy that allowed paramedics and EMT's to falsely inform citizens, such as the family of TIMESHA, that any movement of TIMESHA was not a sign of life but rather medication working through the body.

76. By inadequately training and/or supervising their paramedics and EMT'S and having a custom or policy of deliberate indifference to the constitutional rights of their citizens, the CITY OF SOUTHFIELD encouraged and cultivated the conduct which violated Plaintiffs' rights under the Fourteenth Amendments of the United States Constitution

77. That the above described conduct of the Defendants, as specifically set forth above, was the proximate cause of Plaintiff TIMESHA BEAUCHAMP's injuries and damages, including but not limited to the following:

- a. Severe hypoxic brain injury;
- b. Acute hypoxemic respiratory failure due to cardiopulmonary arrest;
- c. Cardiogenic septic shock;
- d. Electrolyte imbalance;
- e. Metabolic acidosis;
- f. Conscious pain and suffering;
- g. Fright, shock, and terror;
- h. Humiliation and mortification;
- i. Mental anguish;
- j. Exemplary, compensatory, and punitive damages allowed under Michigan and federal law;
- k. Attorney fees and costs pursuant to 42 USC § 1988;

1. Any and all other damages otherwise recoverable under federal and Michigan state law.

78. Defendants are not entitled to governmental or qualified immunity.

WHEREFORE, Plaintiff, ERIKA LATTIMORE, as Guardian of TIMESHA BEAUCHAMP, respectfully requests that this Honorable Court enter judgment in their favor and against Defendants, jointly and severally, in an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, together with interest, costs and attorney fees, as well as punitive and/or exemplary damages.

Respectfully submitted,

/s/ Raquel Munoz

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Dated: October 8, 2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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of TIMESHA BEAUCHAMP, an incapacitated person,

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DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, ERIKA LATTIMORE, as Guardian of
TIMESHA BEAUCHAMP, an incapacitated person, by and through their
attorneys, FIEGER, FIEGER, KENNEY & HARRINGTON, P.C., hereby
demands a trial by jury in the above-captioned matter.

Respectfully submitted,

/s/ Raquel Munoz

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Dated: October 8, 2020