UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

J.M., S.C., A.N., P.T., J.L, R.H., "JOHN DOE," "ROBERT DOE," T.W., M.K., and E.A. individually and on behalf of all other persons similarly situated, Plaintiff, v. SHEREEF M. ELNAHAL, M.D., Commissioner, New Jersey Department of Health, in his official capacity, et al., Defendants.	HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J. CIVIL ACTION NO. 2:18-cv-17303

PLAINTIFF'S REPLY BRIEF IN FURTHER SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

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PRELIMINARY STATEMENT

Plaintiffs submit this memorandum of law in further support of their application for preliminary injunctive relief, and in accordance with this Court's June 14, 2019 Order to Show Cause (ECF No. 36). As set forth below, Plaintiffs have described in precise detail the life-threatening conditions that currently exist at Greystone. In doing so, Plaintiffs have met each and every element of their claims and have demonstrated a substantial likelihood of success on the merits.

Defendants' opposition does not – and cannot – undermine the legitimacy and gravity of Plaintiffs' claims. Plaintiffs are in the custody and care of the Defendants. This State-custodial relationship imposes a duty and responsibility on Defendants that serves as the foundation of Plaintiffs' State-created danger theory under Section 1983, and is the lens through which the Court must view Defendants' willful disregard for patient safety.

Moreover, in light of the well-established deplorable conditions at Greystone, the Court owes no deference to the "professional judgment" of the Defendants. Plaintiffs have shown – through the selfless Declarations of credentialed professionals – that the treatment and policy decisions made by Defendants have caused and continue to cause injury and risk of death to Plaintiffs and to the patient population of Greystone.

Finally, irreparable harm is manifest. The Declarations provided to the Court by Plaintiffs establish the severity of the existent conditions at Greystone. To refer to today's Greystone as a "zoo" is not hyperbole. Absent the relief sought, Plaintiffs and all patients will continue to live in constant exposure to imminent physical injury or worse. Accordingly, we respectfully submit that Plaintiffs' application for issuance of a preliminary injunction should be granted.

LEGAL ARGUMENT

I. PLAINTIFFS HAVE DEMONSTRATED A LIKELIHOOD OF SUCCESS ON THE MERITS OF THEIR 1983 CLAIMS.

A. Plaintiffs Are Likely to Prevail On Their State-Created Danger Theory Of Liability Under Section 1983.

To prevail on a theory of state-created danger, a plaintiff must prove four elements: (1) the harm ultimately caused was foreseeable and fairly direct; (2) the defendant possessed the requisite degree of culpable intent; (3) there existed some relationship between the state and the plaintiff; and (4) the state actors used their authority to create an opportunity that otherwise would not have existed for harm to occur. Estate of Smith v. Marasco, 318 F.3d 497, 506 (3d Cir. 2003).

Defendants make the conclusory statements that Plaintiffs have failed to demonstrate the elements of a State-created danger claim, but do so in a factual vacuum and with a mis-application of the law. For example, Defendants cite to Bright v. Westmoreland Ct., 443 F.3d 276, 281 (3d Cir. 2006) for the proposition

that the State must engage in an affirmative "action" for liability under a state-created danger theory. However, Bright does not stand for that proposition. In Bright, the Third Circuit considered the fourth element of a state-created danger claim, namely, whether a state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted all. In so doing, the Court was tasked with evaluating whether the State owed a duty to protect an individual when it was made aware that a perpetrator could pose a threat to her. The Court found that, *in the absence of a State-custodial relationship*, the Due Process clauses generally do not confer an inherent affirmative right to governmental aid. In Bright, where the individual was *not* in state custody, the State did not have a duty to protect this individual based solely on the State's knowledge that another individual who was due for a probation revocation hearing posed a potential threat to her. The Third Circuit, relying on U.S. Supreme Court precedent, recognized that:

> "When the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general wellbeing." Id. at 280 citing DeShaney v. Winnebago Cty. Soc. Servs. Dept., 489 U.S. 189 at 199-200, 109 S. Ct. 998, 103 L.Ed 2d 249 (1989).

Here, it is indisputable that Plaintiffs are in the custody of the State, thereby imposing a duty on the State to assume responsibility for their safety and wellbeing. Id; see also Brown v. Grabowski, 922 F.2d 1097, 1100-01 (3d Cir. 1990) (same).

Recognizing that "the line between action and inaction may not always be clear," where a State actor affirmatively uses his state authority to create an opportunity for injury to the plaintiff, liability may attach. See Bright citing Rivas v. City of Passaic, 365 F.3d 181, 195 (3d Cir. 2004) (state actors affirmatively used state authority to create an opportunity for injury where they provided some, but not all, of the information necessary to treat the plaintiff's decedent). Here, the State's affirmative acts, such as Dr. Akerele's refusal to respond to "all available calls" for patients in State-custody, has indeed caused harm. See Gotay Decl. at ¶ 45; see also ¶ 26 (staffing decisions caused inordinate risk of psychiatric decompensation); see also Declaration of Dr. Irmute Usiene, MD, dated July 3, 2019, at ¶¶ 23-26 (Administration actively ignored credible information on illegal drug supply and distribution, and condoned staff's refusal to follow certain orders for fear of being assaulted).

Defendants have failed to meaningfully respond to the fact of their willful disregard for patient safety. Plaintiffs rely on Dr. Bakun's recitation of an instance where a patient was left to bleed to death and was deprived of critical life-saving aid beyond Basic Life Support (BLS) protocol in support of their argument that the state acted with "willful disregard for or deliberate indifference to plaintiff's safety." Bakun Decl. at ¶ 20. The event demonstrates that the Defendants' affirmative implementation of a reduced standard of care amounts to a deliberate indifference

for the lives and safety of patients at Greystone.[1] Defendants do not dispute the occurrence of the event.

Defendants also assert that Plaintiffs have failed to articulate that injury was foreseeable and preventable, incorrectly arguing that Plaintiffs rely only a single statement by Dr. Gormus that Greystone is a "zoo" in support of this element. This is simply inaccurate, as Plaintiffs' moving papers at p. 20 rely upon the Declarations of Drs. Bakun, Gotay, Gormus, Dhaibar, Hill and that of Pedro Mendoza to support the fact that Defendants' policies and practices have directly resulted in the death and serious bodily harm of numerous patients, and that Defendants had ample notice and opportunity to prevent same. See also Declaration of Dr. Aleksander Micevski, MD, dated July 3, 2019, at ¶¶ 14, 16 (lack of staffing, violence, and dangerous conditions were reported but ignored and led to retaliation against those who spoke out); Usiene Decl. at ¶¶ 14-16, 20-23, 28 (assaults are rampant, continuous and unchecked by the Administration). Indeed, Plaintiffs have demonstrated each of the elements of a State-created danger theory and have shown a substantial likelihood of success in proving a constitutional claim under 42 U.S.C.S. § 1983.

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[1] Plaintiffs also rely on the Declaration of Pedro Mendoza, which Defendants assert is "ineffective" because Mr. Mendoza ended his 7-year tenure as Director of Safety and Fire Department in February 2018. It is unclear how that alone renders the factual statements contained therein, based upon his personal knowledge, not worthy of the Court's consideration. (ECF No. 41, Def. Br. at p. 21).

B. Plaintiffs Have Overcome Any Presumption Of Validity Of The Treatment And Policy Decisions Made By Defendants.

The parties do not disagree that the Youngberg Court adopted a standard that it felt reflected "the proper balance between the legitimate interests of the State and the rights of the involuntarily committed to reasonable conditions of safety and freedom from unreasonable restraints"; i.e., one that "requires that the courts make certain that professional judgment in fact was exercised." Youngberg v. Romeo, 457 U.S. 307, 321 (1982). However, contrary to Defendants' argument, Plaintiffs have overcome the presumptive validity of the treatment and policy decisions made by Defendants through the Declarations of Drs. Bakun, Gotay, Gormus, Dhaibar, and Hill – each of whom are licensed clinical psychiatrists or medical doctors who also meet the definition of "professionals" as defined in Youngberg. Despite Defendants' representation to the contrary at p. 41 of their brief, each of these Declarations explicitly articulates that that the policies and practices in place at Greystone establish a "substantial departure from accepted professional judgment, practice, or standards." Bakun Decl. at ¶¶ 19, 25, 32, 40, 51, 52, 55, 62-64, 67-68; Gotay Decl. at ¶¶ 10 – 11, 13, 16, 20, 32, 42, 44, 48, 50, 55; Gormus Decl. at ¶¶ 14, 24, 25, 28, 43, 44, 47; Dhaibar Decl. at ¶¶ 5, 7, 15, 16, 18, 22; Hill Decl. at ¶¶ 6, 15, 19, 21, 22, 23, 26, 29.

Furthermore, as set forth in those Declarations and in Plaintiffs' moving papers, the above-cited instances do not amount to mere "disagree[ment] with

particular treatment decisions or policy-level decisions." (Def. Br. at 25). These Declarations contain the opinions and factual examples upon which professionals have determined the standard of care at Greystone to be a "substantial departure from accepted professional judgment, practice, or standards," and certainly overcome any presumption of validity.[2] Simply put, Defendants have failed to rebut the likelihood of success on the merits of Plaintiffs' § 1983 claims.

C. Plaintiffs Are Likely To Prevail On Their Claims Under The Americans With Disabilities Act And The Rehabilitation Act.

Plaintiffs have demonstrated that they are likely to prevail on their claims under both Title II of the ADA and their Rehabilitation Act ("RA") claims.[3] Plaintiffs have alleged in their First Amended Complaint that the Defendants violated the rights of the Plaintiffs under Title II of the ADA through their systemic failure to administer services, programs and activities in the most integrated settings appropriate, and by needlessly placing Plaintiffs and patients in institutional settings, and by failing to monitor such programs, services and activities so that Greystone patients can enjoy these services free from harm from other recipients. See Plaintiffs'

[2] Defendants do not rebut Plaintiffs' factual assertions regarding the improper and/or premature removal of patients from one-to-one treatment or the failure to properly stock, or make available, the code carts.

[3] Defendants concede that Plaintiffs satisfy the first and second elements under Title II of the ADA and under the RA, which require that Plaintiffs are disabled and qualify for the benefits sought. See Def. Br. at 26.

First Amended Complaint (ECF No. 30) at ¶ 446, citing ¶¶ 28-81; 89; 91; 93; 103; 112; 119; 124-127; 130-131; 133-134; 136; 139-255; 259-260; 263-283; 285-295; see also Bakun Decl. at ¶ 25; Usiene Decl. at ¶¶ 15, 22-25, 27-28.

Similarly, Plaintiffs have alleged in their First Amended Complaint that Defendants, by their actions and inactions complained of here, have violated and continue to violate the rights of Plaintiffs secured by the Rehabilitation Act, 29 U.S.C. § 794 and the regulations promulgated thereto, 28 C.F.R. 41.51 and 84, by limiting and continuing to limit their enjoyment in the rights, privileges, advantages, and opportunities that are enjoyed by other recipients of public programs when receiving aid, benefit or service. See Plaintiffs' Amended Complaint (ECF No. 30) at ¶ 456, citing ¶¶ 28-81; 89; 91; 93; 103; 112; 119; 124-127; 130-131; 133-134; 136; 139-255; 259-260; 263-283; 285-295.

Accordingly, contrary to the argument of Defendants, the First Amended Complaint, as well as Declarations which accompany Plaintiffs' moving papers, are rife with factual allegations and assertions that Defendants have been subject to discrimination by reason of disability in violation of Title II of the ADA and the RA. These factual allegations – which are not refuted by Defendants – satisfy the elements of Plaintiffs Title II and RA claims and demonstrate that Plaintiffs are likely to succeed on the merits.

D. Defendants' General Statement That Plaintiffs' Amended Complaint Has "Multiple Deficiencies" Is Woefully Insufficient.

Defendants argue at Point II. C. of their brief that Plaintiffs' claims are ripe for dismissal due to "multiple deficiencies, which will be addressed in Defendants' forthcoming motion to dismiss." (Def. Br. at 28). They go on to assert that due to "numerous defects" – none of which are briefed, or even referenced – Plaintiffs cannot establish a likelihood of success on the merits. Defendants cannot ask this Court to find Plaintiffs are unlikely to succeed on the merits based on "numerous" and "multiple deficiencies," without even articulating what they purport to be.

II. PLAINTIFFS HAVE CLEARLY DEMONSTRATED THAT IRREPARABLE HARM WILL BE SUFFERED IF THE REQUESTED RELIEF IS NOT GRANTED.

Plaintiffs have demonstrated that irreparable harm will indeed be suffered if the requested relief is not granted. Bakun Decl. at ¶¶ 21, 23-26, 29,32-34, 36, 39-40, 44-50, 62-64, 68; Gormus Decl. at ¶¶ 19-20, 24, 26, 38, 30-42, 43, 47; Gotay Decl. at 9-16, 18-19, 22-23, 30, 33, 39, 43, 45-50, 55; Dhaibar Decl. at ¶¶ 7, 12-13, 15, 20, 21, 25; Hill Decl. at ¶¶ 6, 7-9, 13-14, 15-19, 20-21, 23, 25, 29; Mendoza Decl. at ¶¶ 7-8, 17, 19-20; see also Micevski Decl. at ¶¶ 13-18. Where, as here, it is clear that Defendants' failure to administer appropriate care has resulted – and will continue to result - in patient death and injury, Plaintiffs have clearly established a threat of substantial and immediate irreparable harm.

Furthermore, Defendants attempt to recast the statements contained in Declarations submitted by Plaintiffs as "employment grievances" belittles the gravity and severity of the existing conditions inside the walls of Greystone. The statements made by the doctors employed at Greystone which relate to instances of retaliatory acts against them for voicing concerns about the standard of patient care at Greystone are not private employment grievances, but demonstrate the need for Court intervention to right this wrong. Moreover, they most certainly demonstrate an immediate harm to Plaintiffs and the patients at Greystone, as those statements pertaining to retaliation demonstrate a willful disregard by the Defendants of the dangers posed to Plaintiffs and Greystone patients as a result of the policies and practices in place.

Significantly, also before the Court are statements pertaining to the alteration of reports and/or concealment of information in connection with civil commitment hearings. Gormus Decl. at ¶¶ 30 – 42; Gotay Decl. at ¶ 39; Micevski Decl. at ¶¶ 22-27. Where one's liberty is at stake, it most certainly amounts to severe, immediate, and irreparable harm.

Finally, Defendants submitted declarations in support of their position that BLS is an appropriate standard of care such that it does not pose a risk of irreparable harm. Defendants argue that by doing so, they have created a genuine issue of fact that mandates denial of Plaintiffs' motion. This is not true. Where there are disputed

issues of fact, the Court may certainly resolve the motion for preliminary injunction by first holding an evidentiary hearing. See Arrowpoint Capital Corp. v. Arrowpoint Asset Mgmt, LLC, 793 F.3d 313, 324 (3d Cir. 2015) citing Prof'l Plan Exam'rs of N.J., Inc. v. Lefante, 750 F.2d 282, 288 (3d Cir. 1984). Accordingly, to the extent the declarations submitted by Defendants create an issue of fact as to whether BLS or ACLS is the appropriate standard of care; as to EMS response time; as to adequate staffing; as to the risk posed by the PIC; and as to the fire prevention infrastructure, we respectfully submit that an evidentiary hearing would be appropriate.[4] To the extent the Court deems expert testimony to be necessary with regard to these issues, Plaintiffs are prepared to provide it.

III. DEFENDANTS WILL SUFFER NO SIGNIFICANT HARDSHIP IF THE REQUESTED RELIEF IS GRANTED.

Defendants argue that, should the requested relief be granted, they would suffer the "onerous hardship" of interference with their ability to independently administer the hospital, inhibiting the ability of Greystone to give competent care to patients based on accepted standards. Defendants' administration of the hospital, and its failure to issue competent care, in direct disregard of appropriate medical standards, is precisely the issue before the Court. Plaintiffs are seeking relief that

[4] In this regard, by letter dated June 28, 2019 (ECF No. 42), counsel for Plaintiffs requested the opportunity to take oral direct testimony of Plaintiffs' declarants and to cross-examine Defendants' declarants.

would enjoin Defendants from unlawful and unconstitutional behavior and would ameliorate conditions that are life-threatening risks to patients and staff. Furthermore, to the extent that the requested relief causes any hardship on Defendants whatsoever, there is simply no public interest greater than the public interest in protecting the lives of those who cannot protect themselves.

IV. **PLAINTIFFS' BRIEF AND SUPPORTING DECLARATIONS ARE NOT PROCEDURALLY DEFICIENT**.

Finally, the declarations submitted in support of Plaintiffs' motion are not procedurally deficient.[5] 28 U.S.C. § 1746 requires declarations to be comprised of statements of fact based upon personal knowledge. Each of those submitted satisfy this requirement. Bakun Decl. at ¶ 14; Hill Decl. at ¶ 4; Mendoza Decl. at ¶ 3; Dhaibar Decl. at ¶ 4; Gormus Decl. at ¶ 8; Gotay Decl. at ¶ 8. While Defendants make the blanket assertion that the declarations are argumentative, the references cited reflect otherwise.

Furthermore, Defendants argue that the Bakun Declaration lacks specificity at Paragraph 51. However, in each of the paragraphs preceding it, Dr. Bakun outlines a series of examples of preventable injury and death that foreseeably resulted from the Defendants' implementation of BLS and abandonment of the

[5] While the Declarations initially submitted in support of Plaintiffs' order to show cause contained electronic signatures, Plaintiffs are simultaneously herewith filing corrected signature pages containing original signatures for each of those declarations.

superior Advanced Cardiac Life Support (ACLS). While his Declaration does not articulate the exact number of Greystone patients who will suffer a life-threatening emergency as a result of the Defendants' dismantling of the standard of care, it is sufficiently detailed to allow Defendants the opportunity to respond as to the propriety of implementing BLS over ACLS.

Furthermore, the current employment status of Dr. Hill and Mr. Mendoza has no bearing on whether the Court should consider the factual representations made therein. While Defendants argue that Dr. Hill and Mr. Mendoza have no knowledge of "current" conditions and practices at Greystone, having left their employment in 2018, the Defendants have not submitted any authority for the proposition that this renders their testimony baseless or not worthy of consideration by the Court.

Finally, Defendants assert that the relief sought is not specific and is fundamentally unenforceable.[6] In support, Defendants argue that, for example, Defendants have no way of knowing what would be considered "adequate" training, supervision, medical care or medication monitoring. Plaintiffs have alleged and factually supported numerous instances where patients have suffered injury, or their

[6] Defendants argue that the relief sought amounts to a disruption, rather than preservation, of the status quo. Where, as here, "the facts of the present case show clearly that the status quo is a condition of action which, if allowed to continue or proceed unchecked and unrestrained, will inflict serious irreparable injury," a preliminary injunction designed to prevent that remedy is appropriate. United States v. Price, 688 F.2d 204, 212 (3d Cir. 1982).

lives and safety are at risk, due to Defendants' systemic failure to provide adequate training, supervision, and medical and psychiatric care. The relief sought here is defined with adequate specificity so as to allow Defendants to address and correct the life-threatening conditions at Greystone.

CONCLUSION

For the foregoing reasons, we respectfully request that the Court grant Plaintiffs' Motion for a Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and enter the Order submitted herewith.

Respectfully submitted,

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J.M. et al., individually and on behalf of all other persons similarly situated,	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
	HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J.
Plaintiffs,	**CIVIL ACTION No.**: 2:18-cv-17303
v.	**REPLY DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION**
SHEREEF M. ELNAHAL, M.D., et al.	**Dr. Aleksandar Micevski, MD**
Defendants.	

I, Dr. Aleksandar Micevski, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. In 1994, I received a medical degree in Skopje, Macedonia.
3. From 1999 to 2004, I conducted research in molecular biology at Columbia University.

4. I completed my residency in psychiatry at Nassau University Medical Center in New York in 2008. From 2007 to 2008, I was the Chief Resident.
5. In 2009, I completed a Fellowship in Public Psychiatry at Columbia University in New York.
6. From 2012 to present, I am part-time psychiatrist at Rockland Psychiatric Center in Orangeburg, NY.
7. From 2009 to November in 2018, I worked as a clinical psychiatrist at Greystone Park Psychiatric Hospital (hereinafter "Greystone").
8. At Greystone, I held various leadership positions including Medical Director and the President of the Medical Staff Organization (hereinafter "MSO").
9. From November 2018 to present, I am currently the Chief of Inpatient Psychiatric Services at St. Joseph's Hospital and Medical Center in Paterson.
10. I currently also work as an on-call (TES) psychiatrist at Greystone.
11. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself. I have personal knowledge of every statement I make herein.
12. During my tenure as Medical Director, I realized that Greystone Administration publicly reported rate of

violence/assaults was so outrageously deflated; it was an ongoing joke among the medical staff.

13. Greystone's standard of care for its patients began to rapidly deteriorate around 2014. After hearing multiple complaints by patients, staff, families, and agencies, the then-President of the Medical Staff at the time, Dr. Mark Shuchman appointed me the President of an AdHoc Committee on Staffing and Safety at Greystone. Four other Greystone physicians and I reviewed the staffing and violence data collected by Greystone, published a report with the findings, generally finding the rate of violence and patient census to significantly increase, while the staffing decreased. The Medical Executive Committee approved the report and agreed to the recommended ways to remedy the issues - to hire Medical Security Officers and to hire more psychiatrists. The report was presented to Greystone CEO at the time, but was also submitted to the Assistant Commissioner Lynn Kovich and the State Medical Director, Dr. Eilers. Ms. Kovich met with the Medical Staff at Greystone at least twice, accompanied by Dr. Eilers. She agreed that it is a necessity to address staffing and violence issues immediately. However, she moved to another position soon thereafter and could not finish addressing the issues, but in general, she supported an increase of recruitment of

psychiatrists and the hiring of trained medical security officers. Ms. Valerie Mielke replaced Ms. Kovich as an Assistant Commissioner. Ms Mielke met with the Medical Staff only once after Ms. Kovich's departure. Ms. Mielke also received a copy of the same report, but the issues were not addressed. Ms. Mielke completely halted the meetings with the Medical Staff at Greystone.

14. In response to these conditions and the consistent overcrowding at the time, I informed the Greystone Board of Trustees, then Chaired by Eric Marcy, Esq. I provided the Board with real data on staffing, violence and overcrowding. The medical staff could not tolerate that overcensus patients were sleeping on the floors, in the dayrooms, without privacy and without having basic lockers for their property. The Board went into open confrontation with the CEO during the Board meetings, strongly pushing the CEO to address the issues, but the requests were completely ignored. Nothing was done.

15. I repeatedly raised the issues surrounding the dangerous conditions during Managing Physician's Meetings with Dr. Eilers, Greystone CEO and Dr. Ketki Dadhania, MD, who is responsible for clearing and sending the new patients to Greystone. We were told to stop complaining because they

cannot stop admissions, and if we continue to complain, they will open the "gates of hell" and send us even more patients.

16. During my short tenure as an Acting Medical Director, I repeatedly discussed the issues on staffing and safety with Dr. Eilers, Ms. Teresa McQuaide, and Valerie Mielke during local meetings at Greystone and during Managing Physician's Meetings in Trenton (monthly meetings of Medical Directors of State Psychiatric Hospitals) regarding what was an out of control increase in violence, significant increase of staff injuries, lack of staffing, dangerous conditions, and difficult-to-understand indifference by the Administration and the Central Office in Trenton. They continued to ignore the life-threatening conditions.

17. Dr. Eilers, the Division of Mental Health and Substance Abuse (DMHSA), the Central Office, and Greystone Administration never did anything to alleviate the rapidly declining conditions. Instead, we saw retaliation by the CEO and the Greystone Administration against the individuals who spoke out against the conditions at Greystone. This became the culture. For example, the physician who reported the data to CMS, Dr. Walter Bakun was suspended by the CEO. The Medical Staff and the Medical Executive Committee followed the required due process as described in the Medical Staff Bylaws, established an AdHoc committee to investigate the

case and submitted a report with recommendations to the Medical Executive Committee, stating that Dr. Bakun is cleared to return to work and stating that the suspension is seen as a retaliatory activity by the CEO toward Dr. Bakun, directly related to his advocacy efforts. The Medical Executive Committee approved the report and demanded Dr. Bakun to return to work immediately. The CEO was furious that the Medical Staff cleared Dr. Bakun and the division between parties became so deep that the CEO completely ignored the Medical Staff report on Dr. Bakun and unilaterally proceeded with suspension anyway.

18. Realizing that Department of Human Services, the Central Office in Trenton, and the Greystone CEO/Administration had no intent or will to fix life-threatening conditions for patients at the hospital, members of the medical staff decided to report the conditions to the Centers for Medicare and Medicaid Services (hereinafter "CMS"). The detailed report of CMS's investigation accurately highlighted the conditions at Greystone and found numerous Administrative failures, including citing the Greystone Administration with "Failure to Govern" citation.

19. Towards the end of the CMS survey/investigation, the head investigator expressed concerns about possible violation of patients' rights and asked me in my capacity as the Acting

Medical Director, whether the situation warranted a report to the Department of Justice.

20. When she asked me if she should make a report to the Department of Justice, I answered, "no." This is the single greatest regret of my entire professional career. I had hoped things would become better. I was wrong.

21. As the Acting Medical Director, despite multiple advocacy efforts at many levels (Greystone, Central Office in Trenton, advocacy groups, Assistant Commissioner and others), I realized that Greystone could no longer meet an adequate standard of care for its patients, and that the conditions became life threatening. Medical Staff Bylaws were completely ignored by the CEO and the Greystone Administration, injuries were happening with alarming frequency and regularity (patient-to-patient and patient-to-staff). Voiceless, and refusing to be seen as part of the Administration, I resigned from the Acting Medical Director position and remained a clinical unit psychiatrist. However, in the coming period, conditions at Greystone continued to deteriorate, which caused a massive exodus of full-time psychiatrists from Greystone, including myself.

22. Prior to my resignation as a full-time clinical psychiatrist at Greystone in 2018, Dr. Akerele and Swang Oo instructed the psychiatrists on numerous occasions to inaccurately

represent our status to the courts during our testimony. Specifically, because multiple units were without psychiatrists, our caseloads increased significantly. The psychiatrists were not familiar with many of the cases they were assigned to cover on a short notice. We were instructed to not testify that we had little to no basis of knowledge regarding many patients, that sometimes we met patients just prior to their hearing. We were told that we cannot say we are "covering psychiatrist", rather we had to find "creative words" to explain to the Judge who we are.

23. Dr. Akerele and Swang Oo said if we say we are "covering psychiatrists" it would make Greystone "look bad."
24. Ms. Oo would routinely sit in sealed commitment hearings, and relay our testimony to the Greystone Administration, especially during circumstances where we testified to a lack of knowledge regarding patients on the record.
25. I ignored Dr. Akerele and Ms. Oo's instructions because they are unlawful and unethical. During one commitment hearing where Ms. Oo was monitoring us, I accordingly testified that I had insufficient knowledge regarding a patient to make a clinical determination.
26. As a result of my testimony, Ms. Oo informed Dr. Akerele, (who was not present because the hearing was sealed), of my testimony. Dr. Akerele and Ms. Oo called me into the office

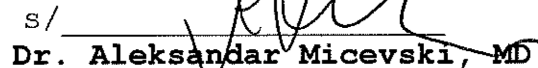
where I was humiliated and reprimanded for telling the truth. I was explicitly threatened with retaliation, and told to "never do this again."

27. The pressure to lie under oath, the significant caseload increase due to lack of psychiatrists, our inability to provide proper clinical care were the primary reasons for my resignation as a full-time clinical psychiatrist at Greystone.
28. I am now an on-call psychiatrist at Greystone with no responsibility to testify.
29. As an on-call evening psychiatrist, I am only responsible for approximately four evening shifts every month at Greystone.
30. My duties as an on-call psychiatrist are different from that of a full-time psychiatrist. I am not a part of the treatment team. I do not conduct case rounds. I do not speak with the patients unless there is a psychiatric emergency. I do not consult with nurses, other psychiatrists, or members of the treatment team for the purposes of regular medication titration or monitoring. I do not draft court reports.
31. The purpose of my role is limited to addressing psychiatric emergencies during the evening time when the full-time psychiatrist is not present.

32. My presence as a psychiatrist does not augment the modality of treatment for patients other than in cases of psychiatric emergency.
33. Any representation that on-call psychiatrists are acting in the capacity of a treating psychiatrist is false.
34. The above in no way encompasses the totality of events or circumstances that have transpired. Through agreeing to voluntarily testify, I am seeking relief from this Court that patients' lives currently imperiled may be saved.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,



s/______________________
Dr. Aleksandar Micevski, MD

Executed: July 3, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated, Plaintiffs, v. SHEREEF M. ELNAHAL, M.D., et al. Defendants.	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J. **CIVIL ACTION No.**: 2:18-cv-17303 **REPLY DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION** **Dr. Irmute Usiene, MD**

I, Dr. Irmute Usiene, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. In 2011, I completed my residency in psychiatry at Bergen Regional Medical Center.
3. From 2011 to 2018, I was a clinical psychiatrist at New Bridge Medical Center (formerly known as Bergen Regional Medical Center).

4. From 2015 until November 2018, I was a clinical psychiatrist at Greystone Park Psychiatric Hospital (hereinafter "Greystone").
5. From November 2018 until the present, I am a clinical psychiatrist at St. Joseph's Medical Center.
6. I am also currently an on-call (TES) psychiatrist at Greystone.
7. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself. I have personal knowledge of every statement I make herein.
8. As an on-call evening psychiatrist, I am responsible for approximately one evening shift a week at Greystone.
9. My duties as an on-call psychiatrist are significantly different from that of a clinical psychiatrist. I am not a member of any treatment team. I do not participate in treatment team rounds. I do not consult with nurses, psychiatrists, or other members of the treatment team for the purposes of regular medication titration or monitoring. I do not draft court reports and testify regarding patients temporarily under my care.
10. The purpose of my role is limited to responding to psychiatric emergencies during the evening, when the treating psychiatrist is not present.

11. My presence as a psychiatrist does not augment the modality of treatment for patients other than in cases of psychiatric emergency.
12. Any representation that on-call psychiatrists are acting in the capacity of a treating psychiatrist is false.
13. Greystone has a severe shortage of staff, including security personnel.
14. As a direct result of staff and security shortage and mismanagement, assaults occur daily.
15. Doctors and treatment team members cannot protect patients from assaults in any meaningful way.
16. If there is just one assaultive patient on the unit, stable patients will decompensate and cannot sleep at night.
17. The environment that the patients are in is neither conducive to treatment nor is it therapeutic.
18. We have repeatedly reported to the Greystone Administration that the infrastructure is flawed, staffing levels are inadequate, the violence prevention is non-existent, and the standard of care for patients has not been met.
19. We have repeatedly reported to the Greystone Administration that psychiatrists cannot meet the minimum standard of care due to the conditions maintained by the Administration.
20. For example, in 2017, a patient was repeatedly psychologically tormented and physically assaulted on the

unit. She was so terrified that she could not sleep at night. She did everything by the book. The patient immediately informed staff every time she was assaulted. The patient did not physically defend herself out of fear of breaking the hospital rules. Despite this, Greystone staff was completely unable to protect her, and the assaults continued unabated. I made repeated requests to the Administration asking that this patient be transferred. As usual, the Greystone Administration did nothing.

21. These assaults continued for weeks. During one incident, this patient was punched in the back of her head. For the first time, she struck back.

22. These types of incidents occur regularly.

23. At Greystone, there is no patient safety. Patients cannot become psychiatrically stable in an environment where they are not safe.

24. The Greystone Administration is not capable of stopping the influx of illegal drugs into the Hospital. One of my patients drafted and submitted a letter to the Greystone Administration detailing how illegal drugs were being transported into the Hospital and distributed to the patients. This letter was completely ignored by the Administration.

25. Nurses at Greystone sometimes refuse orders to administer seclusion, restraints, or PRN injections to psychiatrically decompensated patients out of fear of being assaulted. Professionally, I cannot blame them. Greystone is not adequately staffed. Most of the staff are not adequately equipped to deal with psychiatric decompensation or violence.
26. As a result, violent patients are allowed to continue their psychiatrically decompensated rampages. Nurses on occasion would tell me, "you do it" in response to PRN or restraint orders I signed for acutely aggressive patients, citing a concern of being assaulted. Staff are afraid of the patients.
27. The above in no way encompasses the totality of events or circumstances that have recently transpired. Through agreeing to voluntarily testify, I am seeking relief from this Court so that patients' lives currently imperiled may be saved.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dr. Irmute Usiene, MD

Executed: July 3, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated,	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
Plaintiffs,	HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J.
v.	**CIVIL ACTION No.:** 2:18-cv-17303
SHEREEF M. ELNAHAL, M.D., et al.	**DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION**
Defendants.	**Dr. Walter Bakun**

I, Dr. Walter Bakun, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a medical doctor, licensed to practice in New Jersey, New York, and Pennsylvania.
2. I am Board Certified in emergency medicine.
3. In 1983, I graduated from St. George's University in Grenada with a medical degree.

4. In 1986, I completed my residency in internal medicine at Bergen Pines County Hospital in Paramus, New Jersey. As part of my residency, I also received emergency room training at Jersey City Medical Center and UMDNJ in Newark.
5. From 1986 to 1998, I worked as an emergency room physician at Barnert Hospital in Paterson, New Jersey.
6. From 1998 to 1999, I worked as an emergency room physician at Elizabeth General Medical Center.
7. From 1999 to 2004, I worked as a full-time physician at Robert Wood Johnson University Hospital in Rahway, New Jersey.
8. From 2003 to 2006, I worked as a part-time physician at the Center of Occupational Health, a subsidiary of St. Michael's Medical Center in Newark, New Jersey.
9. From 2005 to 2006, I worked as a part-time occupational health physician at Concerta, located throughout New Jersey.
10. From March 2003 to 2007, I worked as an emergency room physician at Pascack Valley Hospital in Westwood, New Jersey.
11. From March 2007 to present, I work as a full-time physician at Greystone Park Psychiatric Hospital (hereinafter "Greystone").
12. From November 2016 to June 2017, I was the Vice-President of the Medical Staff Organization at Greystone.

13. From July 2017 to present, I have been the President of the Medical Staff Organization at Greystone.
14. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself and at the potential cost of my career. I have personal knowledge regarding every statement I make herein.
15. In October 2017, the Greystone Medical Staff Organization filed a "No Confidence Resolution" against the Greystone Administration due to its inability to properly operate Greystone. At the time, I was the President of the Medical Staff Organization.
16. The "No Confidence Resolution" addressed the many issues at Greystone, including: safety, staffing, and inadequate medical response, which resulted from the gross mismanagement by the Greystone Administration.
17. Since at least 2014, prior to the "No Confidence Resolution," we informed the Administration of these problems time after time, but our concerns have fallen on deaf ears. As a result, the Administration caused multiple doctors and psychiatrists to resign in a short period of time.
18. To this day, I have no confidence in the Greystone Administration and their ability to operate Greystone.

19. The conditions at Greystone are deplorable and inhumane. Plaintiffs and patients are neither receiving adequate medical nor psychiatric care.
20. The Greystone Administration treats patients like animals, not people. They continue to demonstrate that they do not care about patients' lives and safety.
21. As a direct result of the Administration's depraved indifference to human life, multiple people have died or faced life-threatening conditions, the majority of which are entirely foreseeable and preventable.
22. The Greystone Administration takes any measure to advance its own agenda. For example, this culture empowered one Greystone administrator to potentially allow a patient to bleed to death rather than permit the necessary medical intervention.
23. Under the current Greystone Administration's policies and procedures, Greystone patients will continue to die.
24. The Greystone Administration and Department of Health have acted in concert to destroy Greystone's standard of care.
25. The Greystone Administration is deliberately indifferent to the medical needs of its patients. As a result, Greystone patients, individuals who suffer from disabilities, are being denied appropriate medical care.

26. In 2017, the Greystone Administration and Department of Health diminished Greystone's standard of medical care by implementing a policy lowering the emergency response in life threatening situations from Advanced Cardiac Life Support to Basic Life Support.
27. Prior to this policy change, since 2008, Advanced Cardiac Life Support was the standard operating procedure at Greystone.
28. Since 2014, the Administration has been attempting to downgrade the standard of care for all staff, including medical doctors.
29. In my professional opinion, Basic Life Support is grossly insufficient to provide adequate medical care at Greystone.
30. Basic Life Support involves the mere use of basic CPR. Basic CPR cannot be used effectively to save the lives of the Greystone patients who are on dangerous medications, at risk of cardiac arrest, and confined in a hospital where violence and medication mismanagement is rampant.
31. The Administration does not care about Greystone's patients and instituted a policy requiring Basic Life Support to reduce their liability in dangerous life-threatening scenarios.

32. To support this policy, they have maintained that Advanced Cardiac Life Support is unnecessary, an opinion that is utterly reckless.
33. To enforce this policy and advance the Department of Health's Agenda, the Administration has intentionally ignored and downplayed the instances where patients' lives were saved by Advanced Cardiac Life Support.
34. There is a proven track record of saving lives at Greystone through Advanced Cardiac Life Support. I have personally saved the lives of patients that would have died, but for Advanced Cardiac Life Support.
35. On one occasion, I saved the life of a patient that was close to death. The patient could not breathe and I utilized an Advanced Airway, an Advanced Cardiac Life Support intervention, to save his life.
36. Since I have started working at Greystone, the Advanced Airway has saved more lives than any other intervention.
37. In response to this life saving measure, the Administration considered disciplining me for utilizing a modality of care beyond Basic Life Support. Without this Advanced Cardiac Life Support mechanism, this patient would likely have died.
38. Similarly, I saved another Greystone patient's life by placing an external jugular line and administering 50% dextrose IV for severe hypoglycemia. Had this not been done,

this patient could have died or survived with severe neurological damage.

39. On another occasion, I used Advanced Cardiac Life Support to save a patient's life who slit her wrist during the night as a suicide attempt. When she was discovered in the morning by staff, she was unresponsive, completely pale from blood loss, and her blood had seeped through her mattress and formed a pool on the floor. The member of the Greystone Administration, who was the first to arrive on the scene, did nothing but wait for the basic ambulance to arrive and continued to allow the patient to die. When I arrived and attempted to give life-saving aid, the Administrator physically obstructed my access to further the Administration's policy of Basic Life Support and non-intervention to avoid liability. I was told to "go away," "we don't need you." No one was doing anything to save this patient's life; no one was even in the room to stop the bleeding. I elected to advance past the Administrator who was obstructing the doorway and immediately identified that the patient was in stage 3 to stage 4 hemorrhagic shock and at imminent risk of death. I utilized Advanced Cardiac Life Support to save this patient's life. In my professional judgement, not only would it have been inhumane and reckless

for me to "just wait until the basic ambulance arrived," it would have likely cost this patient her life.

40. To implement the policy of Basic Life Support, the Greystone Administration dismantled the code carts by removing critical Advanced Cardiac Life Support mechanisms and instruments. The Administration also implemented the policy of not deploying the code carts until the responding doctor requests it, significantly limiting the opportunity during what is frequently a narrow window of time to administer lifesaving measures.

41. I have pleaded with the Greystone Administration time and again to automatically deploy the code carts during a code blue, where a patient's life is in imminent jeopardy. This would cost the Administration nothing. Instead, they threatened me with discipline to intimidate me into dropping the issue.

42. Not deploying the code cart immediately when a code blue is called is like not sending a firetruck with the firefighters to the scene of a fire.

43. The Greystone Administration has repeatedly minimized the importance of the code cart, despite the fact that code carts are integral to the universal standard of care across hospitals, emergency rooms, and paramedic response nationwide.

44. The failure of the Administration's policy of solely using Basic Life Support directly led to patient deaths.

45. For example, on at least two occasions, patients have died because the code cart did not arrive in time and the responding physician was unable to render effective aid.

46. On another occasion, a Greystone employee died while on duty because critical lifesaving equipment had been removed from the code carts.

47. On another occasion, a Greystone patient suffered cardiac arrest and died. There was no epinephrine in the code cart to restore his blood pressure and save his life. Epinephrine is a necessity in any adequately equipped code cart.

48. In yet another example, a Greystone patient died from a pulmonary embolus. His death could have been prevented with Advanced Cardiac Life Support.

49. The ambulance response time ranges anywhere from approximately 20 minutes to 1 hour, which is completely unacceptable and likely constitutes a fatal delay during a life-threatening emergency.

50. When coupled with our patient population that includes geriatric patients and other individuals with preexisting medical conditions, most of whom take psychiatric medications with significant inherent risks, Greystone's lack of care is unconscionable.

51. Statistically, we have a rough estimate of the Greystone population who will face a life-threatening emergency from the factors described above. Yet, knowing the risks, the Greystone Administration has elected to dismantle the standard of care necessary for doctors like myself to save them.

52. Moreover, the Greystone Administration and the Department of Health has continuously failed to maintain adequate staffing levels required to provide sufficient medical and psychiatric care to its patients.

53. The shortage of psychiatrists has directly caused patients to decompensate and become violent. Due to the Administration's policies, the staff is ill-equipped to deal with these dangers.

54. Rampant levels of assaults, unanswered all-available calls for help, drug overdoses, medication mismanagement, and psychiatric decompensation have become an every day occurrence at Greystone. The Greystone Administration's normalization of these occurrences is terrifying. To say that the violence problem currently at Greystone is serious is an understatement. Due to the astronomical rate of assault, doctors and psychiatrists are scared to even walk on the units.

55. Greystone has been historically overcrowded. I have seen patients sleeping on the floor of units that exceeded capacity. For example, I observed two geriatric female patients sleeping on the floor on one-inch floor mats, not mattresses, for four days. Patients were also placed in Greystone study rooms, small interview rooms, and corridors connecting the sister units when there are no beds available in the units.
56. Through the implementation of their policies, the Administration and Department of Health perpetuate these dangerous conditions.
57. The Greystone Administration has engaged in systemic fraud and deception to mislead regulatory agencies, courts, its staff, and the public.
58. The Greystone Administration conceals incriminating information and incidents that directly result from its own policies.
59. The Greystone Administration has also misrepresented that critical life-threatening conditions at Greystone have been fixed. For example, they represented that dangers above the Patient Information Center, where many patients remove the tiles and grab the suspended wires to attempt to asphyxiate themselves, have been secured.

60. After hearing this information, in front of witnesses, I opened the ceiling tiles myself, demonstrating that this was yet another lie.

61. The Administration's claim that the violence at Greystone is decreasing is another misrepresentation. While it may be true that the number of violent incidents decreased due to the lowered patient population, the problems causing the culture of violence have not been addressed at all. Violence per capita remains consistent, as would be evident to any professional who works at Greystone. As soon as Greystone resumes regular admissions, it is in my professional opinion that the number of violent incidents will skyrocket.

62. Furthermore, the Greystone Administration and Department of Health fails to provide adequate lifesaving training to the Greystone staff, but fraudulently represents that they do.

63. For example, the Greystone Administration has held CPR training courses where it does not provide training scenarios, but merely provide the attendees passing certifications.

64. Similarly, the Administration fraudulently forced the doctors to sign and attest to a log-rolling training that doctors had yet to receive. Additionally, numerous employees, myself included, were ordered to sign and attest that we have received the training, even though we did not.

65. The Greystone Administration intimidates and retaliates against the staff that question their policies or speak out against them.

66. In March 2018, the Greystone Administration and Department of Health suspended me as a form of retaliation for my outspoken views and criticism of their policies. The Greystone Administration circumvented the Medical Staff Bylaws to suspend me. The committee reviewing the suspension concluded that there was no justification for the suspension. Instead, it was pretextual. Additionally, the Administration caused multiple doctors and psychiatrists to resign in a short period of time.

67. As a result of the aforementioned, the Medical Staff Organization filed a grievance in which we requested that Greystone units be closed and admissions cease until the escalating violence is addressed and an adequate standard of care is restored.

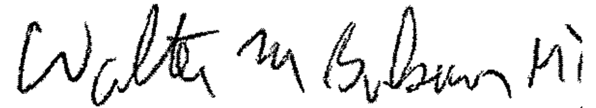
68. If the current policies and procedures remain, it is my professional opinion that people will die. It would be a statistical anomaly if the Greystone Administration and the Department of Health's policies and procedures do not kill another individual in the near and foreseeable future.

69. The above in no way encompasses the totality of egregious circumstances that have transpired at Greystone. I am

willing to testify before the Court in full detail, should it permit.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,



Dr. Walter M. Bakun, MD

Executed on: June 12, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated, Plaintiffs, v. SHEREEF M. ELNAHAL, M.D., et al. Defendants.	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J. **CIVIL ACTION No.:** 2:18-cv-17303 **DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION** **Dr. Anthony Gotay**

I, Dr. Anthony Gotay, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. In 2007, I graduated from UMDNJ in Newark, NJ with Doctor of Medicine Degree.
3. In 2014, I completed my residency in psychiatry at Harvard South Shore, Brockton VA Hospital.

4. From July 2014 to March 2015, I was the Medical Director of the Outpatient Substance Abuse Program at Trinitas Medical Center, in Elizabeth, NJ.

5. From March 2015 to March 2017, I worked at the East Orange VA Hospital as a staff psychiatrist.

6. From March 2017 to present, I work as a full-time staff psychiatrist at Greystone Park Psychiatric Hospital ("Greystone").

7. On or around July 2017, I was appointed the Vice-President of the Medical Staff Organization at Greystone, a position I continue to hold, but for a period in 2018 where I served as the Acting-President.

8. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself and at the potential cost of my career. I have personal knowledge regarding every statement I make herein.

9. It is not a question of "if" another patient will die a completely preventable death in the near foreseeable future at Greystone, it is a question of "when."

10. Many patients are not receiving the appropriate standard of care.

11. Patients do not receive adequate psychiatric care at Greystone; some patients barely receive any care at all.

12. There is a significant shortage of competent doctors, nurses, and mental health technicians currently working at Greystone.

13. Entire units at Greystone currently do not have assigned treating psychiatrists. Patients, especially in units not covered by a full-time psychiatrist, decompensate due to the lack of clinical care and proper medication titration.

14. Even patients in units with a full-time covering psychiatrist are being harmed. Some psychiatrists, completely overworked by the Greystone Administration, have reported overmedicating or undermedicating patients that have directly resulted in health consequences for those patients and others. Our repeated pleas for assistance to the Greystone Administration is futile.

15. Patients are being physically assaulted by psychiatrically decompensated patients to the point where they can be killed. Numerous assaults of all kinds occur daily.

16. The Greystone Administration is deliberately indifferent to the safety and well-being of patients under its care.

17. The Administration has engaged in an orchestrated course of conduct of mafioso-like behavior to intimidate staff into silence, consolidate power, and to keep the status-quo.

18. As a direct result of the Greystone Administration's actions and policies, patients and staff members are at risk of imminent bodily harm or death every single day.
19. This Court is our last hope for intervention, because the Greystone Administration have demonstrated time and again that they will lie, threaten, and retaliate in the face of these life-threatening conditions. If drastic changes do not come in the immediate future, it is my professional judgement that more patients will be seriously harmed.
20. Since I began working at Greystone at March 2017, I, along with my colleagues, repeatedly and insistently notified the Greystone Administration regarding what we collectively believe to be a dire deficiency in safety, staffing, and the standard of care provided for patients at Greystone.
21. I, along with my colleagues, in no uncertain terms expressed to the Administration that if these conditions persisted, patients will be seriously hurt or die.
22. Tragically, our predictions were correct; many preventable serious bodily injuries to patients have occurred in just the last year alone.
23. I quickly realized that despite our best efforts, the problems surrounding preventable patient decompensation, overdosing, suicide attempts, assaults, and lack of standard

of care were being intentionally ignored by the Administration.

24. Rather than remediation, the Administration continued its systematic retaliation against the doctors, including myself, who spoke out against the unconscionable conditions patients are being subjected to.

25. The Greystone Administration has, and continues to, actively deceive the public, the courts, and even its own employees regarding the conditions at the hospital.

26. I repeatedly and insistently told the Greystone Administration that patients are psychiatrically decompensating because there are not enough psychiatrists and other necessary employees.

27. I repeatedly and insistently told the Greystone Administration that patients are being assaulted by other decompensated patients, and that the Greystone Administration's policies and procedures are directly causing the inability to ensure a basic level of safety for patients.

28. I repeatedly and insistently told the Greystone Administration that illegal narcotics are being bought into the hospital, and patients are overdosing on these illegal drugs.

29. I repeatedly and insistently told the Greystone Administration that the physical infrastructure in Greystone is extremely unsafe, are conducive to staff and patient assaults and preventable suicide attempts.
30. I repeatedly and insistently told the Greystone Administration that the patient load they currently assign me render me unable to give an adequate standard of care to my patients.
31. My concerns are repeatedly dismissed.
32. We had filed union grievances, votes of no confidence, written petitions, and other oral and written submissions to the Greystone Administration demanding change. We voluntarily testified before the Greystone Board of Trustees regarding the conditions.
33. No meaningful changes were made prior to the filing of the Public Defender's class action litigation. The only change resulting from the filing of the litigation has been a reduction in admissions, and therefore, the patient population. The dangerous, overcrowded conditions were previously ignored by the Greystone Administration for years.
34. Dr. Bakun is the President of the Medical Staff Organization. He is also very vocal regarding the deplorable conditions patients suffer at Greystone Hospital. In a brief period in

2018, he was placed on leave by the Greystone Administration on what was universally perceived to be a transparent and pretextual basis to silence him and send a message to the other doctors.

35. I was appointed as the head of the Ad Hoc Committee to determine whether the allegations against Dr. Bakun were substantiated. It was intimated to me by the Greystone Administration to substantiate the Administration's allegations against Dr. Bakun. The Administer subsequently attempted to violate the Greystone Bylaws and influence the process. I refused to give into their coercion.

36. I refused to engage in their conspiracy, and I refused to keep silent regarding the ongoing conditions at Greystone Hospital and the systematic coverup by the Administration. I believed I was given an "overload" of cases as retaliation.

37. When I was the Acting-President of the MSO (Due to Dr. Bakun's involuntary leave) I was bombarded with over double the caseload of what the average staff-psychiatrist was assigned. This is in direct violation of Greystone's Bylaws, which hold that the President, due to the need to conduct managerial duties, can only be assigned half the caseload of a regular staff-psychiatrist.

38. It was made clear to me by the Greystone Administration's threats as to their intention to retaliate against me. For

example, I was threatened with discipline for "not completing" the work of the MSO even though the Administration knew I was covering 4 times the patient load that the MSO president should cover.

39. Since 2018, the staff-psychiatrists have been instructed on numerous occasions by the Greystone Administration to intentionally conceal from the courts our lack of knowledge regarding patients during testimony. I was present during numerous meetings where we were explicitly told not to tell the court that we are "covering psychiatrists," that we didn't spend enough time with patients, or that we did not have an adequate basis of knowledge to testify.

40. The Greystone Administration is much more concerned with controlling its public façade and avoiding personal accountability than actually understanding and meeting the basic needs of its patients.

41. For example, the Greystone Administration seemingly have no understanding or do not care that depending on the different levels of acuity in patients, they require very different needs and supervision.

42. In 2017, I, along with my colleagues, submitted a time study based on what we clinically determined to be the minimum ratio of psychiatrists-patients that would give us barely

enough time to meet a minimum standard of care. That, too, was completely ignored.

43. It is critical that patients on psychiatric medication are given regular blood toxicity monitoring and Abnormal Involuntary Movement Scale Testing ("AIMS"). Failure to conduct regular blood toxicity monitoring can lead to serious health consequences, including death. Failure to regularly conduct AIMS testing can lead to severe tardive dyskinesia for life, even if the medication is discontinued.

44. Lapses in testing or monitoring are a frequent occurrence, due to the Greystone Administration's failure to provide enough staffing. Recently, the Quality Assurance Committee had found that the prevalence of lapses in testing is directly correlated with units without assigned permanent psychiatrists.

45. In just the recent months, there were multiple instances where decompensated patients went on assaultive rampages, destroying property and assaulting other patients and staff. When calls for "all-available help" were made, there were no psychiatrists available to respond (Dr. Akerele almost always refuses to respond, despite being present at the hospital). As a result, patients were allowed to continue their decompensated rampages because psychiatrists were not

present to deescalate the patient, administer medication, or order seclusion or restraint.

46. In one recent instance, my patient on Unit D2 clinically decompensated and was assaultive and destroying property. I was not at work that day and timely notified the Greystone Administration. However, the Administration did not order another psychiatrist to cover my unit. Coupled with the crippling psychiatrist shortage, no psychiatrist came to the unit to assist, even when numerous all-available calls for help were made. This patient continued the episode of psychiatrically decompensated destruction unchecked for over 4 hours, harming himself, others, and staff.

47. There have been multiple preventable suicide attempts in the last several months, including an instance where a patient attempted to hang herself by standing on the Patient Information Center, pulling down the wires, and wrapping it around her neck. This is despite the false claims the Greystone Administration has made that these conditions had already been remedied.

48. We are frequently pressured by the Greystone Administration to take patients off one-to-one prematurely. The Greystone Administration seems to have no concern regarding the patients when coming to its decision of whether to keep a patient on one-to-one. Rather, they are more concerned about

the number of one-to-one staffing concurrently deployed. In my experience, when the number of one-to-one staffing exceeds 20, the Administration's policy is to force doctors to discontinue one-to-one observation, no matter the risks involved.

49. Recently, the Greystone Administration discontinued a one-to-one for my patient already set to be transferred to Ann Klein Forensic Center due to his assaultive behavior. My adamant protest fell on deaf years. Almost immediately, the patient attempted to elope from the hospital. The police were called. The patient assaulted the police officers, putting himself and others at dire risk of harm.

50. At Greystone, we frequently prescribe medications that can cause metabolic syndromes. Metabolic syndromes are a cluster of conditions that can lead to heart attack, stroke, and diabetes. We have geriatric patients, and many patients with significant preexisting conditions. Therefore, it is inconceivable that the Greystone Administration is systematically downgrading the standard of emergency medical care to its patients, especially because the ambulance response time to and from Greystone is notoriously poor. With the inherent risks of medication and this patient population, Greystone's downgrading of its emergency care from supporting Advanced Cardiac Life Support to Basic Life

Support is just another example demonstrating a depraved indifference to human life.

51. Currently, the conditions at Greystone are so dangerous that psychiatrists and other staff do not feel safe to conduct basic interactions with patients in order to appropriately assess their psychiatric condition, titrate their medication, and keep them reasonably informed regarding their treatment.

52. The Greystone Administration has recently escalated its campaign of misinformation; rather than just promising changes that never come, the Administration is now lying to its staff by stating that critical changes have already been made, despite this being obviously false.

53. These lies are absurd to the point of laughable if human lives weren't at risk; for example, the Greystone Administration recently represented to staff doctors and a mediator during a grievance hearing that critical infrastructure fixes were made, dangerous furniture were replaced, staff levels are up, and assault levels are down. The lies by the Greystone Administration were not only outrageous, it was made to the very doctors who work on the purportedly "fixed" units every day.

54. In short, the policies and procedures implemented by the Greystone Administration has rendered us unable to do our

jobs that would adequately satisfy our patients' needs at even a basic level.

55. The Greystone Administration has failed to administer the appropriate standard of care for its patients. As a direct result of their actions and omissions, patients have been seriously hurt. The risk of patient mortality is currently imminent and dire.

56. The above in no way encompass the totality of egregious circumstances that have transpired at Greystone. I am willing to testify before the Court in full detail, should it permit.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dr. Anthony Gotay, MD

Executed on: June 12, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated, Plaintiffs, v. SHEREEF M. ELNAHAL, M.D., et al. Defendants.	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J. **CIVIL ACTION No.**: 2:18-cv-17303 **CORRECTED DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION** **Dr. Margarita Gormus**

I, Dr. Margarita Gormus, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. In 2009, I completed my residency in psychiatry at Bergen Regional Medical Center in Paramus, NJ.
3. In 2010, I completed a one-year fellowship in psychosomatic medicine.

4. From 2010 to 2013, I worked as a staff psychiatrist at St. Clare's Hospital in Boonton, NJ.
5. From 2013 to 2014, I was employed as a staff psychiatrist at Newton Hospital.
6. From 2014 to present, I worked as a full-time staff psychiatrist at Greystone Park Psychiatric Hospital (hereinafter "Greystone").
7. From April 2018 to August 2018, I served as the Chief of Psychiatry at Greystone Hospital.
8. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself and at the potential cost of my career. I have personal knowledge regarding every statement I make herein.
9. Since 2014, conditions at Greystone have been rapidly deteriorating. The Greystone Administration has systematically destroyed the standard of care for patients at Greystone.
10. The best way to describe how things currently are is that the Administration has turned Greystone more into a zoo than a hospital.
11. The conditions patients are forced to endure daily are not suitable for human beings.

12. Patients psychiatrically decompensate at an unprecedented rate. Entire units are filled with patients who have decompensated due to the lack of psychiatric coverage.
13. Safety is nonexistent for patients and staff alike.
14. The standard of care patients receive is disastrous.
15. Greystone is currently grossly mismanaged, and the Administration shows an intentional disregard for the safety and well-being of its patients.
16. Rather than fixing the life-threatening risks to patients and staff, the Administration is instead attempting to stop the truth from coming out by engaging in witness tampering, intimidation, and retaliation against staff. The Administration is actively deceiving the courts and the public.
17. I voluntarily resigned from the position of Chief of Psychiatry after only 4 months in 2018 because the Greystone Administration often asked me to do things that were illegal, contrary to the Greystone Bylaws, and downright dangerous to patients.
18. I quickly realized upon accepting the position that the Greystone Administration wanted to use me as a pawn, and to get me to do their dirty work, such as their schemes to retaliate against doctors who were speaking out against the conditions in the hospital.

19. For instance, the Greystone Administration tried to force me to assign a massive caseload to Dr. Gotay when he was the Acting President of the Medical Staff Organization. Dr. Gotay was specifically targeted for retaliation by the Administration. I refused because I knew what the Administration was doing was morally wrong and illegal. I did not want to participate. The reason I told the Administration for my refusal is that the Bylaws state that the Medical Staff Organization President can only have half the caseload of a staff psychiatrist. I asked the Administration to reconsider its position. In response, the Administration took control of case assignments away from me and gave Dr. Gotay an untenable amount of work without my approval.
20. This type of "case dumping" and "overloading" behavior directly causes extremely dangerous and untherapeutic conditions for patients- the Greystone Administration was not only aware of this, but this was part of their retaliation.
21. Retaliation happened routinely against psychiatrists, for even perceived dissention. As the Chief of Psychiatrist, when I confronted the Administration about the need to stop "pushing doctors out," I was told, "don't worry, even if all of them leave, Greystone will stay open."

22. In or around May 2018, Dr. Gaviola was viciously assaulted and an emergency meeting was scheduled. At the meeting, a member of the Administration said that it was Dr. Gaviola's "fault that he got punched in the face by a patient because he should have known not to stand so close to him."

23. The Administration also showed slides inaccurately depicting that violence at Greystone had decreased. When a staff psychiatrist pointed out the obviously inaccurate information during the meeting, he was punished.

24. The Greystone Administration also forced me to prematurely take patients off one-to-one observation. In one recent instance, despite my repeated begging, the Greystone Administration stopped the one-to-one observation of a decompensated patient acutely suffering from pica, a disorder characterized by a compulsive ingestion of non-edible substances, such as sharp objects, metal, stone, and feces. The Administration did not even bother to place the patient on intermittent observation or ask the unit nurses to pay close attention to her. As a result, shortly after the patient was discontinued from one-to-one, she broke off a radio antenna and swallowed it. The patient almost expired, and likely will have health consequences for the rest of her life. When the patient was in surgery, a member of the Greystone Administration retroactively put in

paperwork into the chart, clinically justifying the discontinuation.

25. The Greystone Administration also forced me to discharge dangerous patients, some of whom were not clinically ready to leave the hospital. It became apparent that the Administration valued me for my signature as the Chief of Psychiatry, not my actual professional or clinical judgement.

26. During my tenure as Chief of Psychiatry, I attempted to address the safety concerns at Greystone, but was actively prevented to do so by the Administration. On or around May 2018, the hospital was down to as few as 6 psychiatrists and approximately 7 units were without covering psychiatrists. (As a general rule, if any psychiatric unit does not have an assigned psychiatrist for approximately 30 days, the entire patient population of the unit will become psychiatrically decompensated.) The rate of psychiatric decompensation was so high it was more akin to something one would see in an inaccurately depicted movie rather than the reality of a modern hospital. I believed that if I didn't act soon, patients would die. Therefore, I called for an emergency meeting with the psychiatrists to address the issues, as was within the scope of my responsibilities as the Chief. However, the Administration cancelled the meeting, told me

"You do not know what you are doing," "there is no emergency," "there is no shortage of psychiatrists," and that I was "creating a panic and being a drama queen." At this point, the Administration permanently took away my responsibility of assigning cases to doctors.

27. When I resigned as Chief of Psychiatry, I left a letter of resignation detailing the problems, and openly protested the Greystone Administration's conduct, and that it jeopardizes the lives of the patients. The retaliation then began against me. I am currently assigned approximately 47 forensic patients, which is easily double the average caseload. Furthermore, forensic patients are the most difficult, dangerous, and time-consuming cases, due to their acuity.

28. I currently cannot meet an adequate standard of care for my patients. This is not just the product of the Greystone Administration's neglect- this is their intended consequence. The only reason I have not yet resigned is because I know things will get even worse for the patients if I leave.

29. Recently, I was assigned to a high-profile patient that no other doctor wanted. The case had a lot of media attention, and it was a perceived source of embarrassment to the

Greystone Administration regarding how the case had been handled previous to my assignment.

30. On or around November 2018, shortly after I became the primary treating psychiatrist for this patient, Deputy Attorney General Swang Oo began to arrange "special meetings" with me. The subject of these meetings was to coerce me to testify that the patient was psychotic and dangerous. In my professional judgement, the patient was not. At these meetings, Ms. Oo tried to put words in my mouth and made clinical conclusions regarding the patient. However, I repeatedly told Ms. Oo that I would only tell the truth in court and maintained my opinion.

31. In response, Ms. Oo contacted Dr. Feibusch, my direct supervisor at the time.

32. I wrote my first expert report for this patient near the end of November 2018, in anticipation of testimony. Expert reports, as I view them, are submissions I make to the court that must be truthful under the penalty of perjury.

33. On or around December of 2018, as we are mandated to do, I forwarded the report to Arlington King, the court liaison. Mr. King forwarded the report to Ms. Oo and the Greystone Administration.

34. On or around December 10, 2018, Eric Madurki, Deputy CEO, called me and told me directly that I "must change" the

report to reflect that the patient is "psychotic and dangerous." When I refused to change the report, Mr. Madurki responded "okay, we will change the report for you."

35. On or around December 11, 2018, I was scheduled to testify at the patient's hearing. However, prior to the hearing, an edited report was sent to me by Mr. King. More specifically, I realized that material portions of my original report were altered, including the portions indicating that I met with Ms. Oo regarding the patient. All references to Ms. Oo's involvement were deleted. After realizing this, I printed out my original report, but was unable to testify because the hearing was adjourned.

36. I confronted Mr. King about the edited report and he stated that Ms. Oo and the Administration edited the report.

37. On or around January 2019, I was ordered to participate in a teleconference with Ms. Oo, Mr. King, Lisa Ciaston, and Dr. Feibusch. The purpose of the teleconference was to intimidate me. I was specifically instructed that I had to "prove that [the patient] is psychotic right now." I maintained my objections and stated that I will only tell the truth. I stated that I am not a forensic psychiatrist and I asked Dr. Feibusch, who is a forensic psychiatrist, to evaluate the patient and testify himself. In response, Dr. Feibusch again instructed me that I must testify and must

"prove" that the patient is psychotic. Additionally, Ms. Ciaston told me that "anyone can do this," and that I do not "have to be a forensic psychiatrist," but instead, "must listen to my superiors." There were veiled threats throughout the entirety of this teleconference, similar to the other meetings.

38. In or around January 2019, I drafted my second report for the patient and submitted it on Saturday prior to the court hearing. In my report, I stated that my supervisor gave me advice for my opinion.

39. On Monday, the day before the hearing, I received a call from Mr. King, who stated, "you know why I'm calling, they're asking me to get you to change the court report." I refused to change my report and stated that the Administration did not have permission to change it. On the day of the hearing, I called out sick because the intimidation, stress, and retaliation became too much for me to handle. The hearing was rescheduled for the third time.

40. For my third court report, Dr. Feibusch ordered me once again to "prove that [patient] is dangerous" and to testify that he is "psychotic."

41. At the hearing and during my testimony, the patient's attorney asked me if I was pressured to testify in a certain way or if I was pressured to change my opinion in my report.

I immediately broke down and asked for a ten-minute recess, because I knew that if I told the truth, I would be retaliated against worse than I had already been.

42. Although Dr. Feibusch repeatedly ordered me to conclude that the patient is psychotic and dangerous, to the best of my knowledge, he never evaluated or even met the patient prior to the last court date.

43. The hospital continues to be an absolute disaster where there is rampant chaos. Just recently, a patient set his mattress on fire in my unit in an attempt to burn down the hospital. If a staff member had not walked by when he did, there could have been a catastrophic loss of life. It is commonly known that there is inadequate fire insulation between the units of the hospital.

44. All-available calls for help are made multiple times a day, and assaults continue unabated. Patients often continue decompensated assaults for hours before a successful intervention.

45. Overdoses and drug abuse are steadily increasing within the patient population. Recently, I had to run a "code blue" because I was the first doctor on the scene to a patient who overdosed on heroin. The code cart arrived before the medical doctor. In overdose situations, time is of the essence. I attempted to administer Narcan, but quickly

realized that basic supplies were missing from the code cart. To save this patient's life, I had to improvise. Having no other options, I had to use a stethoscope as a tourniquet in order to get IV access.

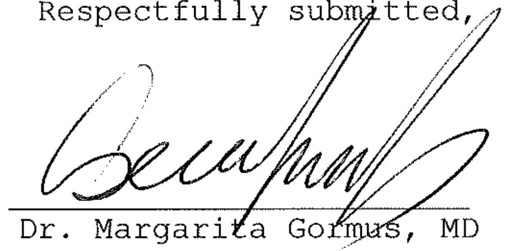
46. The problems surrounding preventable patient decompensation, overdosing, suicide attempts, assaults, and lack of standard of care are being intentionally and nefariously ignored by the Administration.

47. The Greystone Administration has failed to administer the appropriate standard of care for its patients. As a direct result of their actions and omissions, patients have died and have been seriously hurt. The risk of patient mortality is currently imminent and dire.

48. The above in no way encompasses the totality of events or circumstances that have recently transpired. Through agreeing to voluntarily testify, I am seeking relief from this Court that patients' lives currently imperiled may be saved.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,



Dr. Margarita Gormus, MD

Executed: June 12, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated,	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
Plaintiffs,	HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J.
v.	**CIVIL ACTION No.**: 2:18-cv-17303
SHEREEF M. ELNAHAL, M.D., et al.	**DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION**
Defendants.	**Dr. Yeshuschandra Dhaibar**

I, Dr. Yeshuschandra Dhaibar, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. I have been practicing for over forty years, and I am board certified in the field of psychiatry.
3. From 2014 to present, I work as a full-time staff psychiatrist at Greystone Park Psychiatric Hospital

(hereinafter "Greystone"). Between 2014-2016, I was the Chief of Psychiatry at Greystone.

4. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself and at the potential cost of my career. I have personal knowledge regarding every statement I make herein.

5. When I was the Chief of Psychiatry, it became very apparent to me that the standard of care patients received was in rapid decline.

6. This decline was accelerated by many factors, including the closures of other state hospitals. Seemingly overnight, Greystone was the recipient of a huge influx of developmentally disabled patients and geriatric patients. Greystone is not and had never been equipped to treat these two populations.

7. Greystone's standard of care was neither designed to offer adequate care to developmentally disabled patients, nor designed to house geriatric patients. It is not a question of whether the standard of care can be met for these two populations- the modality of care of an inpatient psychiatric unit is not the appropriate standard of care for these respective patient populations, who require particularized therapy and housing.

8. When I was the Chief of Psychiatry, I recognized that that the conditions at the hospital were rapidly deteriorating. Problems surrounding increased violence and decreased staffing were not being addressed.

9. I reported these problems to the Greystone Administration, and insisted that changes be made. I was explicit and stated in no uncertain terms that something had to be done, or patients will continue to suffer. As a result, the Greystone Administration retaliated against me and removed me as the Chief of Psychiatry.

10. Since my removal as the Chief of Psychiatry to present, there has been a mass exodus of psychiatrists, due to the Greystone Administration's systematic eroding of the standard of patient care, not providing adequate support and understanding, and creating an atmosphere of intimidation and retaliation. All the while, violence continued to climb unabated. Out of fear and retaliation, psychiatrists could not render an adequate standard of care under these difficult and trying circumstances.

11. The Greystone Administration had paid lip service for years that things will change- nothing effective and substantial enough had been accomplished.

12. Greystone is currently critically understaffed. There are not enough nurses, mental health technicians, or

psychiatrists. The understaffing is a major factor contributing to Greystone's inability to meet the minimum standard of care for its psychiatric patients.

13. Units routinely lack assigned psychiatrists. The remaining psychiatrists who provide coverage to these units are forced to provide emergent care and to put out fires, rather than providing routine patient care. This coverage is in addition to our primary assigned units. Lapses in coverage are common. This arrangement is not sustainable and erodes and diminishes the standard of care.

14. Patients need to be adequately monitored and cared for to meet a basic standard of care. At a minimum, there needs to be consistent medication management, consistent blood work monitoring, consistent psychiatric care, and consistent nursing care. As a result of the Greystone Administration's purposeful conduct, these standards cannot adequately be met.

15. Currently, there is neither consistent nor continuous psychiatric and nursing care, preventing patients from receiving proper treatment. There is no adequate treatment plan for patients, because there is not adequate staffing to carry out the basic functions of a psychiatric hospital.

16. Greystone does not have an Electronic Health Record system, which creates a greater propensity of various errors.

17. Because of the Greystone Administration's policies and procedures, patient care is currently being administered in a haphazard, random, and inconsistent manner.
18. If appropriate treatment is chronically not rendered, there is no therapeutic alliance, and patients inevitably psychiatrically decompensate. This directly causes violence.
19. The psychiatric staff has constantly complained to the Greystone Administration time and again regarding these extreme problems. The Administration continues to do nothing. Despite its false representations, it has not even made the cost-efficient fix of suspending the computer wires above the ceiling tiles to prevent a common method of suicide attempt that has occurred dozens of times in the preceding years alone. Weeks after the Administration's representation that this problem has been fixed, we discovered this to be untrue.
20. The Administration continues to force doctors to take patients prematurely off one-to-one, despite conducting no real clinical review. This is dangerous and reckless, as the consequences have evidenced.
21. The Greystone Administration's deliberate incompetence is causing imminent risk of death and serious bodily harm for its patients.

22. Since the filing of the law suit, there have been a dramatic reduction in admissions. However, the various other issues responsible for causing violence have not adequately been addressed.

23. Though the lower Greystone Administrators will most likely take the brunt of the blame, it is clear to me the direction for the Administration's malfeasance comes from high in the State's chain of command. This cycle of behavior consisting of retaliation and chronic mismanagement have been ongoing for years. Despite different CEOs and other local administrators, the Administration's standard operating procedure remains steady. I cannot fathom that this pattern of wrongdoing comes from these individual actors alone.

24. I have had multiple job offers, including a job offer as a medical director for a county hospital for more pay, but I turned it down because I could not in good conscience leave Greystone in its current state. Numerous excellent doctors have left already, and I believe that if I leave now, things will become even worse for the patients and the remaining doctors.

25. Despite this, staff psychiatrists have reached a level of absolute desperation. I am absolutely desperate for change from the Administration. Without immediate change, people will die.

26. The above in no way encompass the totality of egregious circumstances that have transpired at Greystone. I am willing to testify before the Court in full detail, should it permit.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dr. Yeshuschandra Dhaibar, MD

Executed: June 12, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated,	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
Plaintiffs,	HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J.
v.	**CIVIL ACTION No.**: 2:18-cv-17303
SHEREEF M. ELNAHAL, M.D., et al.	**DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION**
Defendants.	**Dr. Danijela-Ivelja Hill**

I, Dr. Danijela-Ivelja Hill, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I am a clinical psychiatrist, licensed to practice in the State of New Jersey.
2. From 2012 - 2017, I worked as a clinical psychiatrist at Rutgers University Behavioral Health.
3. From April 2017- May 2018, I worked as a staff psychiatrist at Greystone.

4. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself. I have personal knowledge regarding every statement I make herein.
5. Since I began working at Greystone, I became extremely concerned about the safety for patients and staff. I was vocal to the Greystone Administration from the outset regarding the need for change to prevent patient deaths and serious bodily injury.
6. It became immediately apparent to me that the Greystone Administration failed to maintain a basic standard of care for its patients.
7. Units are not properly designed to prevent foreseeable tragedies. The Patient Information Center is structurally designed in a way that is a hotbed for assaults and suicide attempts.
8. Patients frequently tried to hang themselves. I witnessed it myself on multiple occasions.
9. I also witnessed staff members retreating and barricading themselves into the chart room because of violent patients jumping over the Patient Information Center. Staff were often too scared to deescalate or physically contain assaultive patients. Instead, violent patients freely continue assaulting other patients and destroying property until help arrived, sometimes much later.

10. Patients routinely escaped the hospital by kicking open the security doors.
11. I was extremely vocal regarding the need for increased staffing for doctors, nurses, and mental health technicians. I informed the Administration regarding the necessary changes every chance I had.
12. Rather than increasing staffing, the Administration repeatedly decreased the amount of active staffing, including doctors and nurses.
13. On or around May 7, 2018, there was only 1 nurse on duty in the Borderline Personality Unit where I worked, which was designated for caring for individuals that can be relatively volatile. I informed the Administration that this was a tragedy waiting to happen, as I was actively managing no less than 5 patients in psychiatric crisis. The Administration refused to send help. A patient crossed the Patient Information Center, assaulted me, and shattered my knee.
14. The Administration not only ignored my injury, but made up stories about me, and attempted to intimidate me to remain silent regarding the unsafe conditions by threatening me, humiliating me, and overworking me.

15. Patients were routinely psychiatrically undermedicated or overmedicated due to the lack of time. Mismedication often results in decompensation for the patient.

16. Patients routinely self-harmed, left screaming to themselves, banged their heads on the floor or against the walls, engaged in assaultive behavior, and needed to be held down. Major incidents occurred constantly.

17. Entire psychiatric units were not covered by psychiatrists, who were all overworked. 4 out of the 6 admissions units, where the patients were acute and psychiatrically unstable, had no covering psychiatrist.

18. Half the units at Greystone had no covering psychiatrist.

19. Due to the lack of appropriate medication monitoring, psychiatrists were limited by the Greystone Administration regarding the type of psychiatric medication we were allowed to prescribe. This prevented psychiatrists from properly medicating certain patients who required these medications to properly stabilize.

20. We were specifically instructed by the Greystone Administration to not prescribe the psychiatric medications which would require the most blood monitoring. Those medications, however, are oftentimes the most effective and appropriate medications to administer.

21. The restraint protocol was woefully inadequate, as patients have cut themselves out routinely.

22. The staff's ability to deescalate patients and to administer restraints was completely inadequate.

23. The Greystone Administration routinely pressured us to take patients off one-to-one observation, despite the risks it posed. Already overworked, the Administration would force the psychiatrists to spend hours every week justifying our decisions to keep patients on one-to-one. The Administration arbitrarily took patients off one-to-one regardless of the psychiatrist's clinical assessments.

24. I routinely saw other patients and staff members being assaulted. This occurred daily.

25. I have responded to several "code blue" calls, and sometimes I would actively administer aid until the emergency doctor arrived. The medical response falls well below the professional standard, because equipment and training were systematically being downgraded.

26. I, along with my colleagues, constantly bought up the aforementioned deficiencies to the Administration. Rather than change, the Administration retaliated against us, and destroyed whatever standard of care was left in the process.

27. I resigned from Greystone due to the Administration's retaliation against me, and its complete deafness to improve patient care and safety.

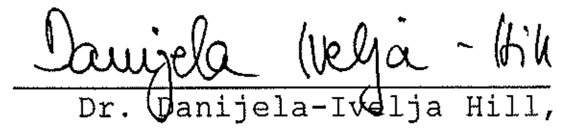
28. In psychiatry, there is a concept that the best predictor of future conduct is past behavior. The Administration's previous conduct demonstrated that they have no desire, intent, or will to make any improvements upon patient care or safety. In my professional judgement, I have no confidence that the Greystone Administration will do anything differently in the future.

29. The Greystone Administration has failed to administer the appropriate standard of care for its patients. As a direct result of their actions and omissions, patients have been seriously hurt.

30. The above in no way encompasses the totality of egregious circumstances that had transpired at Greystone during my employment. I am willing to testify before the Court in full detail, should it permit.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,



Dr. Danijela-Ivelja Hill,

MD

Executed on: June 12, 2019

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J.M. et al., individually and on behalf of all other persons similarly situated, Plaintiffs, v. SHEREEF M. ELNAHAL, M.D., et al. Defendants.	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY HON. ESTHER SALAS, U.S.D.J. HON. CATHY L. WALDOR, U.S.M.J. **CIVIL ACTION No.**: 2:18-cv-17303 **DECLARATION IN SUPPORT OF PRELIMINARY INJUNCTION** **Pedro Mendoza**

I, Pedro Mendoza, of full age, hereby declare as follows under penalty of perjury pursuant to Section 1746 of Title 28 of the United States Code:

1. I was the Director of Safety and Fire Department at Greystone Park Psychiatric Hospital from April of 2011 until February of 2018.

2. I have been a safety professional for more than 30 years, including 18 years as a New Jersey State employee. From 1981 to 1992, I was a Guidance and Navigation Production Engineer

at Singer-Kearfott. From 1992 - 2011, I was a Manufacturing Manager, Director of International Technical Services, and Safety Manager at Gilian Instruments.

3. I am making this voluntary statement under oath and agree to testify in court at no benefit to myself. I have personal knowledge regarding every statement I make herein.

4. As the Director of Safety and Fire Department, I had access to Greystone Administration's internal records, including assault levels, structural and engineering deficits, and fire safety violations.

5. I had "read access" to then Chief Operating Officer Ross Friedman's computer files.

6. I was also "covering" the responsibilities of Fire Chief Vincent Conte and supervising the Greystone Fire Department staff.

7. In 2017, I was ordered by the Greystone Administration to modify the records of assaults submitted to the Public Employees Occupational Safety and Health of the Department of Health.

8. I have personal knowledge that the Greystone Administration had tampered with other sets of data to reflect a significantly lower level rate of assault, and that these fraudulent sets of data had been submitted to New Jersey

State regulators. I was ordered to "work with" these fraudulent sets of data, but repeatedly refused.

9. I openly opposed the Greystone Administration's conspiracy to deceive State regulators, its employees, and the public. I knew the conduct the Greystone Administration was engaged in is illegal. Further, the Greystone Administration's response in the face of a growing humanitarian crisis was unconscionable.

10. Because of my refusal, the Greystone Administration sustained a campaign of hostility, retaliation, and slander against me that ultimately resulted in my removal from Greystone on February of 2018.

11. During my tenure as Director, I also repeatedly opposed the Administration's total disregard towards addressing the issues surrounding violence. The escalading levels of violence and mortality at Greystone had reached a point where patients were seriously hurt daily. Many of the problems contributing to the dangerous conditions were completely preventable by the Greystone Administration.

12. Rather than fixing any myriad of issues, the Administration engaged in a massive coverup, where fraud, intimidation, deceit, and manipulation were commonplace.

13. The Greystone Administration wanted to deny that workplace violence existed and was working to actively conceal that workplace violence was increasing.

14. The Administration wanted to conceal that fractures, concussions, and other injuries were occurring recurrently, and that employees and patients were being sent out to the emergency rooms in incidents that were increasing with alarming regularity.

15. Prior, I was the safety professional assigned to work in conjunction with Engineering Department and contractors to address the various issues regarding the structural renovations and deficiency for Greystone after we obtained possession and occupancy of the new building. The deficiencies were found by the Joint Commission during their routine accreditation inspection.

16. Greystone's contractor, Torcon, had failed to fulfill its contractual obligations during the building of Greystone Hospital, including missing installation of Fire Stop between the major structural support beams. Without Fire Stop, in the event of a fire, the heat from the fire could warp the support beams, causing total structural failure and collapse.

17. In my professional judgement, making the Hospital firesafe was paramount, as Greystone routinely treats arsonists, and fires had been set in the Hospital before.

18. We were informed at various Safety Committee Meetings by the Greystone Administration that Greystone would have approximately 17 million dollars from the Torcon litigation to implement critical infrastructure fixes, such as the Fire Stop. In my professional judgement, I determined this to be of paramount priority.

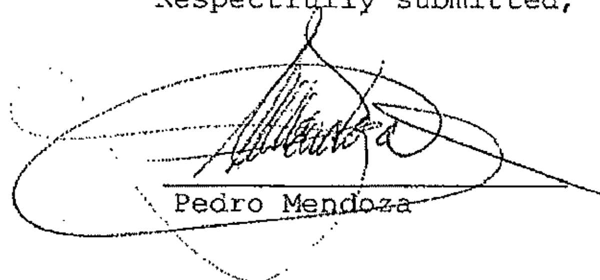
19. However, the vast majority of the 17 million dollars recovered from the litigation, once received by the State, were diverted. Most of the critical infrastructure fixes that we spent months planning were never executed. The only changes made were in select rooms directly cited by the Joint Commission to pass inspection, despite these issues existing in virtually every other comparable structural location in the hospital. The Administration was more concerned about appearances rather than actual safety. To my knowledge, critical infrastructure problems that cause direct threats to the safety of patients were never addressed.

20. The Greystone Administration had failed to administer the appropriate standard of care for its patients. As a direct result of their actions and omissions, patients had died and had been seriously hurt.

21. The above in no way encompass the totality of egregious circumstances that have transpired at Greystone. I am willing to testify before the Court in full detail, should it permit.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,



Pedro Mendoza

Executed on: June 12, 2019