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US DISTRICT COURT CLERK
WESTERN DISTRICT OF KY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

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NO. 3:05-CV-433-S

MARTEL CHAPMAN

Individually and on Behalf of
All Other Similarly Situated

PLAINTIFF

V.

HARDIN COUNTY

SERVE:

Hon. Harry Berry
Hardin County Judge Executive
Courthouse, 100 Public Square
Elizabethtown, Kentucky 42701

**LOUIS B. LAWSON, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS
JAILER OF HARDIN COUNTY**

SERVE:

Louis B. Lawson
Jailer
Hardin County Jail
100 Lawson Blvd.
Elizabethtown, Kentucky 42701

**JOHN and JANE DOES NOS. 1, 2, and 3,
INDIVIDUALLY AND IN THEIR OFFICIAL
CAPACITIES AS OFFICERS AND EMPLOYEES
OF THE HARDIN COUNTY JAIL**

Defendants.

COMPLAINT

Comes the Plaintiff, Martel Chapman, by and through counsel, and for
her Complaint states as follows:

- (1) Plaintiff, Martel Chapman, files this action individually and on behalf of
all persons who contracted MRSA as a consequence of the neglect,
intent, recklessness and/or deliberate indifference of Defendants.

Specifically, the Jail negligently, intentionally, recklessly and/or with deliberate indifference allowed Methicillin-Resistant Staphylococcus Aureus (MRSA) to be introduced to the jail population. Subsequently, the infection spread among the jail population.

- (2) Defendant's conduct effected many other inmates at the jail. These inmates include numerous men and women, similarly situated to the Plaintiff, who likewise contracted MRSA. There are questions of law and fact in this case that are common to all members of the class. The class of individuals include all those who contracted MRSA at the jail from one year preceding the filing of this Complaint to the present, and Plaintiff's claims are typical of those of the class of individuals likewise infected, and she will fairly and adequately protect the interest of the class.
- (3) Plaintiff, and all others similarly situated, seek actual and punitive damages from Defendants under the Civil Rights Act of 1871, 42 U.S.C. Section 1983, for gross and unconscionable violation of their rights, privileges and immunities guaranteed them under the Eighth, Tenth and Fourteenth Amendments to the Constitution of the United States. This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331 and 1343. Plaintiff, and the other members of their class also seek damages for negligence, gross negligence, outrageous conduct and intentional infliction of emotional distress. Elizabethtown, Hardin County,

Kentucky is the location of the jail where all the actions occurred and venue is proper in this Court.

- (4) Plaintiffs bring this action as a Class Action pursuant to Rules 23(b) (1) (2) & (3) of the Federal Rules of Civil Procedure.
- (5) Plaintiff will fairly and adequately protect the interests of all class members. She is a member of the class and her claims are typical of the claims of all class members. Plaintiff is offended at the treatment offered her and the class members and will aggressively pursue the interests of the entire class. Plaintiff's claims are consistent with and not antagonistic with those with any other person within the class.
- (6) A Class Action is superior to other available methods for the fair and efficient adjudication of this controversy because:
 - (a) A multiplicity of suits with consequent burden on the courts and Defendants should be avoided.
 - (b) It would be virtually impossible for all class members to intervene as parties-plaintiff in this action.
 - (c) Upon adjudication of Defendants' liability, claims of the class members can be determined by this Court.
- (7) Plaintiff is a resident of Hardin County, Kentucky. Defendant, Hardin County, at all times mentioned herein, employed, and was responsible for the establishment of policies either formally or by custom for, and was responsible for the employment, training, supervision and conduct of the officers and employees of the Hardin County Jail. Defendant,

Louis B. Lawson, is Jailer of Hardin County and as such established policies formally or by custom for, and was responsible for the employment, training, supervision and conduct of the officers and employees of the Hardin County Jail. Defendants John and Jane Does numbers one, two and three, identities presently unknown, were at all times mentioned herein Officers and employees of the jail and participated in the unconstitutional and tortious actions against the Plaintiffs individually and/or in their official capacities.

- (8) Defendants, individually and in conspiracy with one another, engaged in the conduct described below under the color of law of the Commonwealth of Kentucky and Hardin County. Defendants failed to employ qualified persons for positions of authority; to properly or conscientiously train and supervise the conduct of such persons after their employment; and to promulgate appropriate operating policies and procedures either formally or by custom to protect the constitutional rights of the inmates at the jail; and to ensure that proper policies and procedures were followed to safeguard the health and safety of the inmates. Defendants' conduct was intentional or grossly negligent, or indicated active malice toward Plaintiff and the class for a total and reckless disregard for and indifference to their constitutional and common law rights, justifying an award of punitive damages in addition

to the actual damages which Plaintiff and the class are entitled to recover.

- (9) Defendants were required by statute to promulgate medical and safety procedures to be implemented and followed at the jail. Defendants either failed to promulgate proper policies to protect the inmates from MRSA and/or failed to follow their own policies and protocol established to diagnose, treat, isolate, and prevent the spread of MRSA. Defendants failed to properly clean and disinfect the jail, uniforms, and linens, pursuant to an applicable or appropriate protocol, which caused the continual spread of MRSA. Defendants failed to provide proper and necessary medical treatment to those infected, which caused the continual spread of MRSA. Defendants failed to isolate the infected inmates, which caused the continual spread of MRSA.
- (10) Defendants' violation of statutes, ordinances, regulations, policies, procedures, protocol, customs and practices of the Commonwealth of Kentucky and Hardin County, either written or unwritten continued over many months of time. Defendants' practices constitute an arbitrary use of Government power, and evince a total disregard for the constitutional and common law rights of the inmates, including Plaintiff and the members of the class, who they were required to protect.
- (11) Plaintiff and the class, through Defendants' intentional or grossly negligent conduct, were deprived without due process of law of the following rights, privileges and immunities guaranteed them by the

Constitution of the United States in violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983:

(a) Their right not to be subjected to cruel and unusual punishment under the Eighth, Tenth and Fourteenth Amendments of the Constitution of the United States and Civil Rights Act of 1871, 42 U.S.C. § 1983;

(b) Their right to the equal protection of the law secured by the Fourteenth Amendment.

(12) By virtue of Defendants' violations described above and their negligence, Plaintiff and the class have suffered and will suffer severe mental and emotional distress.

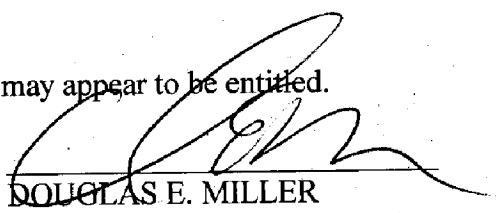
(13) Defendants' negligence and statutory violations, committed intentionally or recklessly with indifference to the rights of the Plaintiffs, proximately caused all of their damages, as follows:

- (a) Medical expenses, past and future;
- (b) Physical pain and suffering past and future;
- (c) Loss of enjoyment of life;
- (d) Loss of consortium;
- (e) Mental anguish, past and future;
- (f) Risk of future complications;
- (g) Diminution of earning capacity.

- (14) Defendants' conduct in failing to protect Plaintiff and members of the class was intentional, reckless, deliberate, wanton, malicious and grossly negligent.
- (15) Plaintiff will show that Defendants' treatment of her was not unusual, but a continuing pattern by Defendants of willfully and deliberately ignoring a serious medical risk and the medical needs of the inmates. Such conduct is the result of the customs and practices of the jail, which are systematically applied to all persons who exhibit medical conditions or problems while incarcerated at the jail.

WHEREFORE, Plaintiffs and the class demand:

- (1) That this action proceed as a Class Action;
- (2) Trial by jury;
- (3) Award of attorney fees and costs;
- (4) Award of actual damages, more particularly described above;
- (5) Award of punitive damages;
- (6) All other relief to which they may appear to be entitled.



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