

General Civil Case Filing Information Form (Non-Domestic)

Court
 Superior
 State

County Fulton

Date Filed 08-01-2005
 MM-DD-YYYY

Docket # 2005CV104215

Plaintiff(s)

Neal Mary L.
 Last First Middle I. Suffix Prefix Maiden

Neal Hattie M. (Nelson)
 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs 2

Plaintiff/Petitioner's Attorney Pro Se

 Last First Middle I. Suffix

Bar # _____

Defendant(s)

THE COCHRAN FIRM
 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

No. of Defendants 1

FILED IN OFFICE

AUG - 1 2005

J. VanDyke

DEPUTY CLERK SUPERIOR COURT
 FULTON COUNTY, GA

Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossession/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgment Garnishment, Attachment, or Other Relief
- Non-Domestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil Specify _____

If Tort is Case Type:
 (Check no more than TWO)

- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other Specify FRAUD

Are Punitive Damages Pleaded? Yes No

III. NATURE OF THE CASE

5. On August 1, 2003, The Cochran Firm, Atlanta office, conducted a telephone consultation with Plaintiff May Neal, who stated Plaintiffs' desire to file a wrongful death suit regarding the death of Larry Neal.
6. The Cochran Firm, Atlanta office, after hearing the details of Plaintiffs' case, referred the matter to The Cochran Firm, Memphis office.
7. The Cochran Firm, Memphis office, called Plaintiffs and conducted a telephone consultation with Plaintiff Mary Neal regarding her desire to file a wrongful death action against the Memphis Jail regarding the death of her brother, Larry Neal.
8. The Cochran Firm, Memphis office, told Plaintiff Mary Neal to expect a call back after the Cochran Firm conducted a conflict check.
9. The Cochran Firm called Plaintiffs back and said that there was no impediment to The Cochran Firm's acceptance of Plaintiffs' wrongful death action.
10. The Cochran Firm, Memphis office, made an appointment with Plaintiffs for contract signing regarding their undertaking Plaintiffs' wrongful death case.
11. Defendant The Cochran Firm contracted to act as Plaintiffs' attorney in connection with their wrongful death claim in the death of Larry Morris Neal ("Larry"), a mentally ill heart patient.
12. Larry was the son of Hattie Neal and brother of Mary Neal.
13. Larry was never married and left no legal dependants.
14. On August 1, 2003, police reported that Larry died while an inmate at Shelby County Jail.

15. The cause of death listed on Larry's death certificate is Arteriosclerotic Cardiovascular Disease.
16. Plaintiffs assert that Larry's death was caused by the Larry's deprivation of continuous and proper medical and psychiatric care and prescription drugs during his incarceration at Shelby County Jail ("the Jail").
17. Plaintiffs assert that Larry's death was due to deliberate negligence by the Jail's administrators and officers in disregard of Larry's U. S. Constitutional rights and federal rights grounded in the Constitution (42 U.S.C. Section 1983) as well as federal law.
18. Plaintiffs informed Defendant that there were three parties Plaintiffs considered culpable for Larry's wrongful death, including (1) the State of Tennessee, (2) the care home where Larry last lived; and (3) the Jail.
19. Defendant promised Plaintiffs during their contract meeting that Defendant would perform all legal and necessary actions to prepare and defend their suit(s), specifically including:
 - a. have Hattie Neal appointed Executor and Beneficiary of Larry's Estate and Mary Neal appointed Administrator of the Estate;
 - b. conduct a thorough investigation of Larry's illness and death at the Jail and ascertain the Jail's records, Larry's arrest records, police transport records, and any other official records from Memphis City Police and the Jail related to Larry;

- c. conduct personal interviews with inmates incarcerated at the time that Larry was a prisoner at the Jail to ensure the validity of records released by the Jail;
 - d. secure Larry's medical and psychiatric records;
 - e. conduct personal interviews with Larry's family members;
 - f. conduct interviews with administrators, officials, and cohabitants of the care homes where Larry lived prior to his death.
 - g. secure records from the State of Tennessee regarding Larry's care and interview Larry's State-appointed Social Worker; and
 - h. file and defend the Plaintiffs' wrongful death suit(s).
20. Defendant requested, and was provided, the name and contact information for Larry's State-appointed social worker, the names of hospitals where Larry was treated during the 42 years he was mentally and physically disabled, and contact information for local family members who could provide information relative to the case.
21. At the contract meeting, Defendant informed Plaintiffs that preparing a case for Court would likely take several months.
22. Defendant further informed Plaintiffs upon intake of the case that over the coming months, Defendant would be busy conducting investigation and discovery regarding their case.
23. On August 13, 2003, Defendant wrote the Plaintiffs and reminded them that the legal process is lengthy, and that Plaintiffs should not be disturbed by periods of

silence from Defendant during the course of the investigation, because Plaintiffs' attorneys would be doing much work on their case without directly contacting Plaintiffs.

24. Defendant's letter cautioned that Plaintiffs should not attempt to "hurry the process of litigation."
25. David McLaughlin was the attorney assigned to handle Plaintiffs' case.
26. Plaintiffs' relied on Defendant's word that a vigorous investigation and discovery period was underway by Defendant, and waited several months before asking for an initial status report.
27. After approximately three months, Plaintiffs sent an inquiry to Mr. McLaughlin regarding the status of their case.
28. Mr. McLaughlin did not respond to Plaintiffs inquiry into the status of their case.
29. Plaintiffs continued to rely on the word and reputation of Defendant, and waited several more months before making a second attempt to ascertain a status report on their case.
30. Plaintiff's inquiry, again directed to Mr. McLaughlin, went unanswered.
31. On June 9, 2003, Plaintiff Mary Neal again wrote Mr. McLaughlin requesting status information regarding the wrongful death case within 24 hours.
32. Plaintiffs sent a copy of that request to Julian Bolton, the managing partner at The Cochran Firm, Memphis office.
33. Mr. McLaughlin finally responded on June 14, 2004, and informed Plaintiffs that work on Plaintiffs' case had been "stalled for a few months" by a possible conflict

of interest within Defendant due to Julian Bolton being a Shelby County Commissioner.

34. Mr. McLaughlin stated in the correspondence that Shelby County Jail is owned and run by Shelby County.
35. Mr. McLaughlin's revelation contradicted Defendant's statement before executing the contract with Plaintiffs, almost 11 months earlier, that Defendant had performed a conflict check and no conflicts existed.
36. Plaintiffs Mary Neal and Hattie Neal have not lived in Shelby County for about two decades.
37. Plaintiffs therefore had no knowledge of local politics of Shelby County Government.
38. Information about this possible conflict of interest made some of Larry's local family members uncomfortable with proceeding with Defendant's representation.
39. Realizing presentation of Larry's wrongful death case might rely partly on the testimony of those family members, Plaintiffs requested on June 18, 2004, that Defendant terminate its contract with Plaintiffs.
40. Plaintiffs assert that Defendant was deliberately negligent in its duty to maintain communication with Plaintiffs.
41. Plaintiffs assert that The Cochran Firm deliberately lied to Plaintiffs when Defendant stated, prior to contract signing, that there was no conflict of interest regarding Defendant's legal representation.

42. Because Defendant waited until June 14, 2004 (10.5 months), to reveal Defendant's conflict of interest to Plaintiffs, Plaintiffs were unable to find another law firm willing to take the case on a contingent-fee basis, due to the limited time remaining to prepare and file the suits.
43. Attorneys whom Plaintiffs contacted after Defendant confessed its conflict of interest relayed that whereas they felt Plaintiffs' case had merit, their firms required a longer period of time for investigation and preparation and than what remained on the Plaintiffs' statute of limitations to bring wrongful death suits in the State of Tennessee.
44. Plaintiffs relied on Defendant to mail Plaintiffs' case file prior to August 1, 2004.
45. Plaintiffs expected to use data collected by Defendant to file a *pro se* complaint(s) in the matter of Larry's wrongful death.
46. Defendant never sent the Plaintiffs' case file.
47. Plaintiffs did not even know if they could name Hattie Neal was Beneficiary and Executor in the case style of the *pro se* Complaint, due to Plaintiff's lack of their case file.
48. Mr. McLaughlin had stated that there was a possible conflict with Defendant representing Plaintiffs' case against the Jail only.
49. Plaintiffs therefore anticipated their case file to contain documentation relevant to the items in Paragraph 19(a) through Paragraph 19(g) above, with the possible exception of Larry's jail records.

50. Plaintiffs assert that Defendant did not send Plaintiffs the case file with legal work completed prior to August 1, 2004, precisely because Defendant had intentionally performed none of the substantive legal work Defendant promised.
51. Plaintiffs assert that Defendant accepted Plaintiffs as clients in order to use their position as Plaintiffs' counsel to protect the Jail from prosecution for Larry's wrongful death.
52. Defendant's fraud and neglect of duty and bad faith directly caused Plaintiffs to miss the August 1, 2004 filing deadline regarding their case against the Jail, the State of Tennessee, and the care home where Larry last lived.

IV. BACKGROUND

53. Larry was a severely mentally ill heart patient, 54 years of age at the time of his death.
54. Larry was first hospitalized for his paranoid schizophrenic mental disorder at the age of 12, when he was admitted as an inpatient to Western State Mental Hospital in Bolivar, Tennessee.
55. Larry remained a mental patient throughout his lifetime and was committed many times as an inpatient for his mental illness at both Western State and Tennessee Psychiatric Hospitals, as well as the psychiatric wards of medical hospitals for emergency psychiatric intervention.
56. In addition to his mental illness, Larry was diagnosed with heart disease around age 45.

57. Larry was hospitalized numerous times for heart disease and respiratory illness, and depended on prescription drugs to preserve his life.
58. On or around July 13, 2003, Larry failed to return to the care home where he lived, and the care home notified Larry's Tennessee-appointed social worker.
59. Larry's social worker informed Larry's family that he was missing and that a thorough search for Larry was underway.
60. Larry's social worker reported that a missing persons' report had been made with the police, and that all metropolitan hospitals, the Jail, and the county morgue were notified about this missing mentally ill heart patient.
61. Larry's social worker reported further that those facilities' intake records were being checked for Larry Neal or a John Doe who met Larry's description.
62. Over approximately the next 18 days, Larry's social worker kept Larry's family informed regarding the search, and told the family that the Jail and area hospitals and the morgue had reported to him that they did not have Larry in residence.

The Jail

63. On August 1, 2003, officers from the Jail went to the home where Larry's mother used to live, which was then occupied by another family member, and reported Larry's death in the Jail.
64. Police reported that Larry had been incarcerated during his entire time "missing."
65. Police reported Larry was scheduled to be arraigned on charges within days after his death.
66. Larry was on prescription drugs for his medical and physical conditions.

67. Prescription drug containers carry identifying information regarding the patient.
68. Larry's identity was apparently not determined in the Jail until his death.
69. Plaintiffs therefore assert that Larry Neal was deprived of his prescribed heart and psychiatric medication during his incarceration.
70. Larry had been incarcerated numerous times in the Jail over a 30-year span for misdemeanors resulting from his mental illness.
71. Memphis Police had numerous times provided and/or facilitated Larry safe transport to psychiatric and medical facilities in the Metropolitan Memphis area during Larry's psychotic episodes or medical emergencies.
72. Therefore, Plaintiffs assert that Memphis Police and the Jail's officials and administrators knew or should have known Larry's identity.
73. Plaintiffs assert that Police and the Jail officials and administrators knew or should have known about Larry's need for continuous medical and psychiatric treatment.
74. The Jail officials and administrators have a duty to protect inmates' rights under The Constitution of the United States of America, and their deliberate, negligent disregard of Larry's constitutional rights comprised a civil rights violation (42 USC 1983) and a violation of federal law.
75. At the time of Larry's incarceration and death at the Jail, Shelby County was under a Settlement Agreement with the United States of America pursuant to a complaint filed by the U.S. Justice Department under Title II of the American with Disabilities Act.

76. Under the terms of the Jail's Agreement with the United States of America, the Jail was to issue a report concerning all deaths of inmates.
77. The U.S. Justice Department never received a report from the Jail regarding Larry's death.
78. Plaintiffs assert that the Jail's breach of that Agreement regarding proper intake procedures and care for handicapped inmates resulted in Larry's wrongful death.

State of Tennessee

79. Larry's mother, Plaintiff Hattie Neal, provided a home and care for Larry until he reached the approximate age of 35.
80. At that age, Larry went into the bedroom window of a neighbor, and police intervention was necessitated.
81. Larry reported that he heard a baby crying for his attention as he walked by the home he unlawfully entered.
82. Realizing Larry could have been killed as an intruder, Plaintiff Hattie Neal determined that she could not provide Larry the level of care he required.
83. Plaintiff Hattie Neal surrendered Larry to the guardianship of the State of Tennessee.
84. After that point, Larry lived in State-appointed care homes.
85. Larry was a Tennessee resident and a ward of the State of Tennessee.
86. Larry had a right to proper medical and psychiatric care under the Tennessee Code Title 33.

87. The care and protection Larry received from the State was negligent and below the acceptable standard according to the Tennessee Code.
88. Larry met the “substantial likelihood of serious harm” standard in the Tennessee Code.
89. The State should have institutionalized Larry to ensure his continuous care and supervision.
90. The State left Larry to roam the streets freely despite his mental condition.
91. Larry’s mental illness rendered him unable to understand and follow the laws governing conduct in society.
92. Because Larry was not institutionalized for mental illness, Larry suffered numerous arrests for misdemeanor offenses.
93. Larry’s mental and physical condition had deteriorated over the years immediately preceding his death to the point that his family requested that Larry be committed as an inpatient to a mental institution.
94. The State refused the family’s request to commit Larry to an inpatient facility in response to Larry’s deteriorating mental health.
95. Larry once left a hospital (where he was just out of the Intensive Care Unit) wearing only a hospital gown and paper slippers, and he walked three miles in subfreezing weather to visit a relative: this is the kind of care Larry received.
96. Larry could not withstand his incarceration in the Jail because of his poor health, worsened by years of neglect by the State of Tennessee.

97. The State did not exhaust every means to alert the public regarding Larry's status as a missing mentally ill heart patient (between approximately July 13, 2003 to his death in the Jail on August 1, 2003).
98. The State should have used the media and other means to locate Larry prior to his death.

The Care Home

99. Plaintiffs received a report that Larry was detained by police several days prior to his final arrest due to an incident wherein Larry, in a psychotic episode, allegedly spit on a nurse in a medical treatment facility while the nurse attempted to take Larry's blood pressure.
100. Plaintiffs conclude that Larry was displaying signs of heightened mental disturbance during the days immediately prior to his final arrest that ended in his death.
101. Larry's care home knew or should have known of Larry's worsening mental state and should therefore have sought psychiatric attention for Larry.
102. Plaintiffs assert that Larry's care home violated the standard of care by not seeking psychiatric intervention for Larry during the days immediately preceding his final arrest.

V. CONCLUSION

103. Without the strength of a lawsuit, Plaintiffs have been unsuccessful to date in obtaining from authorities any explanation regarding the circumstances of Larry's incarceration and death in the Jail.

