

GELMAN GELMAN WISKOW & MCCARTHY, LLC  
ONE BROADWAY  
SUITE 401  
ELMWOOD PARK, NJ 07407  
Attorneys for Plaintiff

RECEIVED / FILED  
Superior Court of New Jersey  
SEP 19 2008  
CIVIL CASE MANAGEMENT  
UNION COUNTY

MARK JOHNSON,  
Plaintiff,

vs.

COUNTY OF UNION, UNION COUNTY  
DEPARTMENT OF CORRECTIONS,  
CORRECTIONS OFFICER RHODES,  
CORRECTIONS OFFICER JOHN DOE 1-  
10 (FICTITIOUS NAMES), ROLANDO  
VALDEZ, RICHARD ROE 1-10  
(FICTITIOUS NAMES)

Defendants.

:  
: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION/UNION COUNTY  
: DOCKETING  
: UNN:L: 3182-08  
: CIVIL ACTION  
:  
: COMPLAINT, DEMAND FOR JURY, DEMAND  
: FOR INSURANCE INFORMATION,  
: DESIGNATION OF TRIAL COUNSEL AND  
: CERTIFICATION

Plaintiff, MARK JOHNSON, currently incarcerated at Bayside State  
Prison, 4293 Route 47, P.O. Box F-2, in the Town of Leesburg, County of  
Cumberland and State of New Jersey, by way of Complaint against the  
Defendants, says:

**FIRST COUNT**

1. At all times relevant herein, Defendants, COUNTY OF UNION and  
UNION COUNTY DEPARTMENT OF CORRECTIONS, are agencies organized and  
existing under and by virtue of the laws of the State of New Jersey.

2. At all times relevant herein, Defendants, CORRECTIONS OFFICER RHODES and CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES) were employed to work at the UNION COUNTY DEPARTMENT OF CORRECTIONS in Elizabeth, Union County, New Jersey.

3. On or about September 22, 2006, Plaintiff, MARK JOHNSON, was an inmate at the UNION COUNTY CORRECTIONAL FACILITY, located in Elizabeth, Union County, New Jersey.

4. At all times relevant herein, Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES), were inmates at the UNION COUNTY CORRECTIONAL FACILITY, located in Elizabeth, Union County, New Jersey.

5. At all times relevant herein, Plaintiff, MARK JOHNSON, was assigned to share a cell with Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES) at the UNION COUNTY CORRECTIONAL FACILITY.

6. At the same time and place, Defendant, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES) threatened Plaintiff, MARK JOHNSON, with imminent physical assault. Plaintiff, MARK JOHNSON, informed Defendants, CORRECTIONS OFFICER RHODES and CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), numerous times that he was being threatened with imminent physical harm by Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES), and that he was, thus, in danger of imminent physical harm. At that time, Plaintiff, MARK JOHNSON, made requests to Defendants, CORRECTIONS OFFICER RHODES and CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES) that either Plaintiff, MARK

JOHNSON, or Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES) be moved and/or transferred from the subject cell to prevent imminent physical harm to Plaintiff, MARK JOHNSON.

7. Defendants, CORRECTIONS OFFICER RHODES and CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), refused to move and/or transfer either Plaintiff, MARK JOHNSON or Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES) from the subject cell.

8. At the same time and place, Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES), then did physically assault the plaintiff, MARK JOHNSON.

9. Defendants, CORRECTIONS OFFICER RHODES and CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), were negligent in that they failed to properly supervise and screen inmates, and that they failed to properly move and/or transfer either Plaintiff, MARK JOHNSON, and/or Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES) out of the subject cell to avoid a physical assault on the plaintiff, MARK JOHNSON.

10. Defendants, COUNTY OF UNION and UNION COUNTY DEPARTMENT OF CORRECTIONS were negligent in that they failed to properly supervise and/or instruct their employees on what to do when an inmate(s) threatens another inmate in his cell with imminent physical harm.

11. Defendants, COUNTY OF UNION and UNION COUNTY DEPARTMENT OCORRECTIONS, were negligent in that they failed to properly train and or supervise inmates on proper behavior in the cell.

12. As a direct and proximate result of the negligence of the Defendants, Plaintiff, MARK JOHNSON, sustained severe and permanent personal injuries.

WHEREFORE, Plaintiff, MARK JOHNSON, demands judgment against Defendants, COUNTY OF UNION, UNION COUNTY DEPARTMENT OCORRECTIONS, CORRECTIONS OFFICER RHODES, CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), RONALDO VALDEZ, RICHARD ROE 1-10 (FICTITIOUS NAMES), individually, jointly or in the alternative, for damages, interest and costs of suit.

#### **SECOND COUNT**

1. The allegations of the First Count are repeated herein as if fully set forth at length.

2. At the same time and place, Defendants, COUNTY OF UNION, UNION COUNTY DEPARTMENT OCORRECTIONS, CORRECTIONS OFFICER RHODES, CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES) knew, or should have known, that an assault on Plaintiff, MARK JOHNSON, was likely to take place. Nonetheless, the Defendants negligently failed to take precautions and failed to take preventative measures and/or actions to prevent the subject assault from taking place

3. As a direct and proximate result of the negligence of the Defendants, Plaintiff, MARK JOHNSON, sustained severe and permanent personal injuries.

WHEREFORE, Plaintiff, MARK JOHNSON, demands judgment against Defendants, COUNTY OF UNION, UNION COUNTY DEPARTMENT OCORRECTIONS, CORRECTIONS OFFICER RHODES, CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), individually, jointly or in the alternative, for damages, interest and costs of suit.

#### **THIRD COUNT**

1. The allegations of the First and Second Counts are repeated herein as if fully set forth at length.

2. Defendants, CORRECTIONS OFFICER RHODES, CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), were at all times mentioned herein, employed by the COUNTY OF UNION and/or UNION COUNTY DEPARTMENT OF CORRECTIONS.

3. The aforementioned Defendants knew that an assault on Plaintiff, MARK JOHNSON, was likely to take place. Nonetheless, the Defendants negligently failed to take precautions, and failed to take preventative measures and/or actions to prevent the subject assault from taking place.

4. As a direct and proximate result of the negligence of the Defendants, Plaintiff, MARK JOHNSON, sustained severe and permanent personal injuries.

5. At all relevant times, the Defendants' actions were outside the course and scope of their employment, and were willful and wanton. As such, they are personally liable for the Plaintiff's injuries.

WHEREFORE, Plaintiff, MARK JOHNSON, demands judgment against Defendants individually, jointly or in the alternative, for damages, interest and costs of suit.

#### FOURTH COUNT

1. The allegations of the First, Second and Third Counts are repeated herein as if fully set forth at length.

2. Defendants, CORRECTIONS OFFICER RHODES, CORRECTIONS OFFICER JOHN DOE 1-10 (FICTITIOUS NAMES), were at all times mentioned herein, employed by the COUNTY OF UNION and/or UNION COUNTY DEPARTMENT OF CORRECTIONS, and acted within the course and scope of their employment.

3. As such, the Defendants, COUNTY OF UNION and/or UNION COUNTY DEPARTMENT OF CORRECTIONS, are vicariously liable for their actions.

WHEREFORE, Plaintiff, MARK JOHNSON, demands judgment against Defendants individually, jointly or in the alternative, for damages,

battered by the Defendants, RONALDO VALDEZ and/or RICHARD ROE 1-10 (FICTITIOUS NAMES).

3. As a direct and proximate result of the intentional, malicious, willful and atrocious conduct of the Defendants, RONALDO VALDEZ and/or RICHARD ROE 1-10 (FICTITIOUS NAMES), Plaintiff, MARK JOHNSON, was caused to be severely and permanently injured and to incur great medical expenses, all to his detriment.

WHEREFORE, Plaintiff, MARK JOHNSON, demands judgment against the Defendants, RONALDO VALDEZ and RICHARD ROE 1-10 (FICTITIOUS NAMES), for damages together with interest and costs of suit.

**DEMAND FOR INSURANCE INFORMATION**

Pursuant to Rule 4:10-2(b), Plaintiff hereby demands that the Defendants provide to the Plaintiff a copy of any and all insurance policies, or in the alternative, a statement as to the insurance coverages of the Defendants, relative to Plaintiff's claims.

**DEMAND FOR JURY**

Plaintiff, MARK JOHNSON, hereby demands a Trial by Jury on all issues so triable.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to the provisions of Rule 4:25-4, the Court is advised that JAMES T. McCARTHY, ESQ., is hereby designated as trial counsel on behalf of the Plaintiff, MARK JOHNSON.

**CERTIFICATION**

Pursuant to Rule 4:5-1, it is hereby certified that this matter in controversy is not the subject of any other action pending in any Court, is not the subject of a pending arbitration proceeding and none is contemplated.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GELMAN GELMAN WISKOW & McCARTHY, LLC  
ATTORNEYS FOR PLAINTIFF

BY: \_\_\_\_\_  
JAMES T. McCARTHY, ESQ.

DATED: September 18, 2008