

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

<hr/>		)	
ESTATE OF NICHOLAS SACCO		)	
Plaintiffs		)	
		)	
vs.		)	Case No.: _____
		)	Jury Trial Demanded
		)	
HILLSBOROUGH COUNTY HOUSE OF		)	
CORRECTIONS,		)	
AMERICAN INSTITUTIONAL MEDICAL		)	
GROUP,		)	
CHRISTOPHER BRAGA, M.D.		)	
CHRISTOPHER SCHWIEGER, P.A.		)	
DOE DEFENDANTS 1-30		)	
Defendants		)	
<hr/>		)	

**COMPLAINT & DEMAND FOR JURY TRIAL**

**PRELIMINARY STATEMENT**

1. This is a civil rights and medical malpractice action in which the plaintiff, ESTATE OF NICHOLAS SACCO, seeks relief for the defendants' violation of NICHOLAS SACCO'S rights secured by the Civil Rights Act of 1871, 42 U.S.C. § 1983, Title II of the Americans with Disabilities Act, [ADA] 42 U.S.C. §§ 12101, et seq., rights secured by the fifth and 14th Amendments to the United States Constitution, and of rights secured under the laws and constitution of the State of New Hampshire. The plaintiff seeks damages, both compensatory and punitive, affirmative and equitable relief, an award of costs, interest and attorneys' fees, and other and further relief as this Court deems just and equitable.

**PARTIES**

2. Plaintiff, JOANNE SACCO, THE ADMINISTRATOR OF THE ESTATE OF NICHOLAS SACCO, at all times relevant herein, resided at 38 Sugar Hill Lane, Manchester, NH 03109.

3. At all times relevant, NICHOLAS SACCO, was a “qualified individual” with a disability under the ADA and Rehabilitation Act in that he was emotionally and psychologically impaired to the extent that his ability to perform tasks of daily living, care for herself and control his mental health condition were impaired while an inmate in the Valley Street Jail in May of 2019.

4. Defendant HILLSBOROUGH COUNTY is a municipal entity created and authorized under the laws of the State of New Hampshire. It is authorized by law to operate a jail (Valley Street), through its Department of Corrections, to house inmates and detainees, with a place of business at 445 Willow Street, Manchester, NH 03103.

5. Defendant, AMERICAN INSTITUTIONAL MEDICAL GROUP, LLC. is a New Hampshire Corporation with its principal place of business located at 497 Hooksett Road, Unit 151, Manchester, NH 03104. At all times relevant AMERICAN INSTITUTIONAL MEDICAL GROUP was subcontracted by HILLSBOROUGH COUNTY DEPARTMENT OF CORRECTIONS to provide medical services for its prisoners. AMERICAN INSTITUTIONAL MEDICAL GROUP is comprised of CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A.

6. Defendant, CHRISTOPHER BRAGA, M.D., at all times relevant was a medical doctor, licensed to practice medicine in the State of New Hampshire and was contracted by defendant, HILLSBOROUGH COUNTY, to provide medical care to the prisoners at

Valley Street Jail. He is being sued in his individual capacity and/or as an employee, agent, or contractor of Defendants HILSLBOROUGH COUNTY and AMERICAN INSTITUTIONAL MEDICAL GROUP, LLC.

7. Defendant, CHRISTOPHER SCHWIEGER, P.A., at all times relevant was a physician's assistant, licensed to practice in the State of New Hampshire and was contracted by defendant, HILLSBOROUGH COUNTY, to provide medical care to the prisoners at Valley Street Jail. He is being sued in his individual capacity and/or as an employee, agent, or contractor of Defendants HILSLBOROUGH COUNTY and AMERICAN INSTITUTIONAL MEDICAL GROUP, LLC.

8. Doe Defendants include RNs, LPNs and other medical care personnel at Valley Street. acting individually and/or in their capacity as nurses and employees of Hillsborough County and the HILLSBOROUGH COUNTY HOUSE OF CORRECTIONS (hereinafter referred to as "NURSING DOE DEFENDANTS") and that were responsible for providing skilled nursing care to the inmates at the HILLSBOROUGH COUNTY HOUSE OF CORRECTIONS, including NICHOLAS SACCO. They are being sued in their individual capacities.

9. Doe Defendants further include Correctional Officers and other unknown correctional officers were acting individually and/or in their capacity as officers and employees of the HILLSBOROUGH COUNTY HOUSE OF CORRECTIONS (hereinafter referred to as "CORRECTIONAL DOE DEFENDANTS") and were responsible for the welfare and treatment of the inmates at the HILLSBOROUGH COUNTY HOUSE OF CORRECTIONS, including NICHOLAS SACCO.

10. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants DOES 1 through 30, are unknown to Plaintiffs who therefore sue

these defendants by such fictitious names. Plaintiffs will amend this complaint when the true names and capacities of these fictitiously named defendants are ascertained. Part of the basis for including Doe Defendants here is that the records at issue, including progress notes and watch notes, feature hand-written signatures or name entries that are illegible. Discovery will be necessary to ascertain these individuals' entities. Plaintiffs are informed and believe, and thereon allege, that each fictitiously named defendant, is responsible, strictly, negligently, in warranty, fraudulently or otherwise, for the occurrences alleged in this complaint and caused the injuries and damages sustained by Plaintiff as herein alleged.

#### **JURISDICTION/VENUE**

11. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343 (a)(3) and (4), this being an action seeking redress for the violation of plaintiff's constitutional and civil rights.

12. Jurisdiction is also invoked herein pursuant to the fourth, eighth and fourteenth amendments to the United States Constitution and 42 U.S.C. § 1983.

13. The plaintiff requests that this Court exercise supplemental jurisdiction over any state court cause of action that arise from a common nucleus of operative facts that give rise to the federally based causes of action pleaded herein. 28 U.S.C. § 1367.

14. Venue is proper in this Court pursuant to 28 U.S.C. §1391.

#### **JURY TRIAL DEMANDED**

15. Plaintiff demands a trial by jury on each of the causes of action pleaded herein.

**FACTS AND ALLEGATIONS**

16. NICHOLAS SACCO was a great kid from a great family. Nothing was more important to him than family. He would often golf with his dad, mom, uncles, brother and sister. He loved visiting his big brother and family in Arizona. NICHOLAS loved being active and he shared his interest in kayaking by buying his mom a kayak for his last Christmas. He was an excellent golfer. He was the only freshman at his high school who made it his freshman year. But more than anything else, he was caring and selfless. He always went out of his way to help others.



17. Yet, as has happened to too many others in New Hampshire, NICHOLAS SACCO found himself a victim of the opiate epidemic.

18. On Thursday, May 16, 2019 at 12:40 p.m., Plaintiff NICHOLAS SACCO was arrested for theft when he removed a security drive from an item within a Bedford, NH Target store and tried to exit the store without paying for such item.

19. At the time of his arrest, Plaintiff NICHOLAS SACCO was on probation and had been using 5 grams of heroin daily. As is common with petty theft charges, Plaintiff NICHOLAS SACCO's opiate addiction had driven him to commit this crime.

20. On Thursday, May 16, 2019 at 2:38 p.m., Plaintiff NICHOLAS SACCO was incarcerated at HCDOC, which is a 700-bed facility.

21. On Friday, May 17, 2019 a bail order was issued by the terms of which Plaintiff NICHOLAS SACCO was released on personal recognizance for his theft-related charges. However, whereas these new charges resulted in a probation violation, Plaintiff NICHOLAS SACCO was ordered to be detained for 72 hours.

22. Weekends are not counted in the 72-hour hold, so Plaintiff NICHOLAS SACCO served an extra two days – a total of 5 days for a probation violation.

23. Plaintiff NICHOLAS SACCO's 72-hour hold was set to expire on Tuesday, May 21, 2019 at 11:15 a.m.

24. Tragically, it was just two hours before this 72-hour hold was set to expire that Plaintiff NICHOLAS SACCO was rushed to Elliot Hospital by way of ambulance at 9:05 a.m.

25. On Wednesday, May 22, 2019, at 6:51 p.m., Plaintiff NICHOLAS SACCO was pronounced dead.

26. The autopsy report identified Plaintiff NICHOLAS SACCO'S cause of death as "complications from opioid withdrawal."

27. The timeline clearly shows that – throughout these five days - Defendants, with deliberate indifference, denied Plaintiff NICHOLAS SACCO access to medical care to treat his serious medical needs.

**DEFENDANTS, with Deliberate Indifference, Denied Plaintiff NICHOLAS SACCO  
Access to Medical Care Adequate to Treat His Serious Medical Needs**

28. A table summarizing Plaintiff NICHOLAS SACCO'S stay at HCDOC, including specific interactions and treatment with specific individuals, is included below:

<b>Time</b>	<b>Care Provider</b>	<b>Source</b>	<b>Event/Description</b>
<b>May 16, 2019</b>			
1538			Booked
?		HCDOC/Suicide Risk	Negative
?	Officer Name?	HCDOC/Medical History	Officer observes NS does not appear to be under influence. Is carrying medications (don't know what). Pt. states takes Albuterol to sleep? Rest of history is negative. Officer states: "Nurse Gue notified of potential risk at approximately 1750".
?	Officer Lissa Raposa	HCDOC/Officer Observations	Officer does not note acute illness, drug ETOH, MH at intake.
?	B.Ryann, RN?	HCDOC Consent to Treatment	Consent for medical treatment signed.
??	BRyann, RN	HCDOC Health Services Medical Advisement	No dairy products until further notice.
1830	BRyann, RN	HCDOC Interdisciplinary Progress Note	"IM seen in booking for (illeg). IM denies drug and ETOH use. Denies psych history, STI. Medical hx of asthma. State he uses and inhaler verified per pharmacist. IM state he has a severe allergy to all dairy products. Anaphylaxis. Future oriented to work and have a family with his girlfriend. No watch indicated. F/U prn.
1830	BRyann, RN	HCDOC Intake MH Screening	Negative MH intake screen: approved for gen pop. Denies drugs/alcohol.
<b>May 17, 2019</b>			
1030		HCDOC/Transport	To HSC North by HCSO.



1044		HCDOC/Inmate Activities	To Court.
1300	K. Hu, LPN	HCDOC Interdisciplinary Progress Note	"IM OTC unable to complete premed. F/U at later time".
1315	Dr. Braga/D Malo, LPN	Physicians Orders	Phone order: Albuterol inhaler 90 mcg 1-2 puffs TID prn.
1640		HCDOC/Inmate Activities	Return from Court.
<b>May 18, 2019</b>			
??	D. Elicron, LPN	HCDOC Health Services Medical Advisemen t	Lower bunk, lower tier, no gym, no weightlifting, no rec year activities, seizure advisement, floor mattress-until cleared by medical. No dairy products until further notice.
2110	NM	HCDOC alcohol and drug detox flowsheet	c/o N/V BP sitting: 128/84 BP standing: P sitting: 112 P standing: RR: 18
2120	illeg	HCDOC Interdisciplinary Progress Note	"IM c/o feeling dizzy. Ambulates to dayroom table, states he is detoxing from 5 grams of Heroin daily, last use 2 days ago. c/o N/V, is eating meals and drinking fluids. VS as charted. IM advised he will be moving cells and on DW, states "no, it's okay, I just need to sleep, you don't have to do all that". DW started. Lt. Fitzpatrick notified.
2120	Illeg, LPN	HCDOC Watch Notificatio n	Recommended start detox watch.
2230	E. Gatfer, LPN	HCDOC Interdisciplinary Progress Note	"IM seen on 2A after requesting to see a nurse d/t asthmatic S/S. IM ambulated to dayroom table with slow steady upright gait. A&O x 3, R=18, O2 sat= 98%, P 124. No SOB observed, no wheezing difficulty. IM states" well actually, it's not my asthma, I'm just not feeling well. I'm really not having trouble breathing, but I'm dizzy and I want to go to the hospital. I'm detoxing. IM advised that this writer was about to do detox checks and will F/U upon return. IM advised to

			relax and stay in bed when possible. Styrofoam cup issued to increase hydration. IM also advised that we will continue to monitor his V/S well-being while here. F/U with detox checks.”
2345	E. Gatfer, LPN	HCDOC Interdisciplinary Progress Note	“IM seen on 2A for detox check. VS as charted. c/o N/V. Increased appetite/fluids/sleep. A&O x 3, upright, steady strong gait. Continue on detox watch at risk for detox.”
	EG	HCDOC alcohol and drug detox flowsheet	c/o N/V BP sitting: 104/72 BP standing: 112/74 Pulse sitting: 114 Pulse standing: 128 RR: 18
<b>May 19, 2019</b>			
0100	E. Gatfer, LPN	HCDOC Interdisciplinary Progress Note	“Called to unit d/t IM c/o detox s/s, IM states he is detoxing from alcohol and benzos now, only reportedly heroin before because he “forgot”. Urine sample collected. IM states he took benzos without prescription got it off the street “whatever I can get an as much as possible every day”. VS WNL. IM A&O x 3, upright, steady gait. Continue to monitor.
0130	E. Gatfer, LPN	HCDOC Interdisciplinary Progress Note	UA positive for fentanyl. Negative for all other substances.
0300	E. Gatfer, LPN	HCDOC Interdisciplinary Progress Note	Called to unit 2A d/t IM requesting nurse. IM c/o restlessness/leg cramps. IM advised this is a typical detox symptom, not abnormal. IM requested medication or to go to hospital. IM advised no meds given on third shift. Continue to monitor.
1 <sup>st</sup> watch	Badges 31, 166, 185	HCDOC/Watch Sheet	Notes every 15 minutes throughout shift
0645	31	HCDOC/Watch Sheet	1 <sup>st</sup> shift relieved 3 <sup>rd</sup> shift, all info passed on.
0815	Morrison, RN	HCDOC alcohol and drug detox flowsheet	c/o N/V BP sitting: 112/70 BP standing: 106/70 Pulse sitting: 120 Pulse standing: 122 RR: 16
0830	Badge 166	HCDOC/Watch Sheet	“Assessed by Nurse Morrison”.

1310	Morrison (?), RN	HCDOC Interdiscipl inary Progress Note	On W. No c/o N/V/D and a "little better". Continue DW.
1450	Badge 31	HCDOC/W atch Sheet	"First shift relieved by 2 <sup>nd</sup> shift, all info passed on".
2 <sup>nd</sup> watch	Badges 193, 161, 195	HCDOC/W atch Sheet	
1450	Badge 193	HCDOC/W atch Sheet	"2 <sup>nd</sup> shift C/o Wallace on to relieve 1 <sup>st</sup> shift C/o Plimpton.
1615	Badge 193	HCDOC/W atch Sheet	"Detox check by Nurse Malo".
1700		HCDOC alcohol and drug detox flowsheet	c/o restlessness, agitation N/V BP sitting: 118/78 BP standing: 114/76 Pulse sitting: 125 Pulse standing: 125 RR: 16 c/o lightheaded, no energy
1755	Malo, LPN	HCDOC Interdiscipl inary Progress Note	On DW, c/o lightheadedness, no energy, restless, N/V (unwitnessed), decreased appetite, increased fluids, see detox sheet, (illeg) Continue DW.
2245	Badge 195	HCDOC/W atch Sheet	" Relieved by 3 <sup>rd</sup> shift , info exchanged".
3 <sup>rd</sup> watch	Badges 180, 145	HCDOC/W atch Sheet	Notes every 15 minutes throughout shift.
2045	Badge 180	HCDOC/W atch Sheet	3 <sup>rd</sup> shift on to relieve 2 <sup>nd</sup> shift. "All info passed on".
<b>May 20, 2019</b>			
0015	Badge 180	HCDOC/W atch Sheet	"Inmate out in dayroom for detox check with Nurse Gustafson".
0015	E. Gustafson, LPN	HCDOC alcohol and drug detox flowsheet	c/o weakness, restlessness, sweating, N/V BP sitting: 118/68 BP standing: 117/70 Pulse sitting: 114 Pulse standing: 111 RR: 16
0030	E. Gustafson, LPN	HCDOC Interdiscipl inary	"IM on detox watch...Alert & oriented x 3, slow steady upright gait. IM c/o N/V/D (unwitnessed), c/o aches, cold sweats, dizziness, lightheaded, restless, lack of sleep,

		Progress Note	decreased appetite, increased fluids, at risk for detox, continue detox watch.
0530	Badge 180	HCDOC/W atch Sheet	“Inmate speaking with Nurse Bancroft”.
0530	L. Bancroft, RN	HCDOC Interdiscipl inary Progress Note	“IM called with c/o SOB, lungs clear bilaterally, no distress, c/o feeling lightheaded, recommended to slow down his breathing. ? anxiety?”
0812	Kathy Hu, LPN	HCDOC Interdiscipl inary Progress Note	“IM on DW...increase meals and fluids(?), denies V/D, has nausea and restlessness. No issues reported. VS as charted, risk for detox, continue DW.
0812	Kathy Hu, LPN	HCDOC alcohol and drug detox flowsheet	c/o restlessness, nausea BP sitting: 118/72 BP standing: 114/68 Pulse sitting: 106 Pulse standing: 114 RR: 18
1255	Kathy H, LPN	HCDOC Medical History and Screening	Notes uses heroin, last use 5/16. 5G every day. Currently nauseated due to detoxing. States is restless when he stops taking drugs. Uses tobacco. States is currently detoxing. States has medical problems (asthma) Uses Albuterol. Has been in jail before. Denies MH history.
1255	Kathy Hu, LPN	HCDOC Interdiscipl inary Progress Note	“Premed done...denies any (??) and any psych history. Medical history of asthma. Inhaler verified at CVS, see med verification sheet. Uses 5 grams heroin daily last used 5/16. Complains of restlessness and nausea. Is on a detox watch VS as charted. PPD planted R arm. Medical access explained.
?	?	HCDOC Physical Assessment	No sig, but appears to be same writing as the LPN who did the intake screen. Physical assessment form is blank except for vital signs: P 108, R18, T 98.6, BP 128/84.
	Katy Hu, LPN	HCDOC Consent to Treatment	Second consent signed.
1600	KCall...LP N?	HCDOC Interdiscipl inary Progress Note	“IM on DW. VS as charted. c/o nausea, denies V/D, reports is drinking fluids and eating. Says he last used heroin on Saturday. Reports cold sweats. No further issues reported. Risk detox, Continue Detox watch”.
1615	KC	HCDOC alcohol and drug detox flowsheet	c/o nausea BP sitting: 110/68 BP standing: 112/64 Pulse sitting: 102 Pulse standing: 98 RR: 16

2 <sup>nd</sup> watch		HCDOC/W atch Sheet	Notes every 15 minutes throughout shift.
<b>May 21, 2019</b>			
0032	L. LPN	HCDOC Interdiscipl inary Progress Note	“IM on DW. VS as charted. ....diaphoretic, pupils dilated”.
0032	L	HCDOC alcohol and drug detox flowsheet	c/o restlessness and sweating BP sitting: 100/50 BP standing: 100/50 Pulse sitting: 100 Pulse standing: 101 RR: 18
0815	Lt. Carl Brown	HCDOC/E mergency Medical Transport to Elliott Hospital	Officer Goulding was conducting med pass with Nurse Masci. Sacco on detox watch and slow coming out for his check. Slumped while sitting on bunk and began vomiting repeatedly.
0815	Nicole Masci, LPN	HCDOC/In cident Report	LPN Masci states she arrived on the unit to conduct medication administration. Cellmate stated NS was in “rough shape”. NS crawled to the doorway and when asked, said he was “not good”. Appeared lethargic and nauseated. Vomited green bile. LPN asked for more medical staff to assist. Nurse Morrison arrived, VS taken. Relayed to PA Schweiger, and called 911. PA Schweiger arrived and started chest compressions. Masci administered Narcan once. No shock advised by AED.
0825	Lt. Carl Brown	HCDOC/E mergency Medical Transport to Elliott Hospital	PA-C Schweiger assessed Sacco and began CPR with Nurse Masci. One shock with AED.
No time	Schweiger, PA	HCDOC Interdiscipl inary Progress Notes	PA’s notes: pt. in bed, jaundiced, older than chronological age, no pulse, no respirations. Transferred to floor, started CPR, nasal Narcan x 1, AED place, shock advised. Maintained CPR until 911 crew arrived.
0830		HCDOC/Tr ansport Form	HCDOC was transporting agency.
0834	Lt. Carl Brown	HCDOC/E mergency	EMS arrived and began care.

		Medical Transport to Elliott Hospital	
0855	Lt. Carl Brown	HCDOC/Emergency Medical Transport to Elliott Hospital	Pulse detected.
0840		HCDOC/Inmate Activities	Medical transport to Elliott Hospital.
0900	Lt. Carl Brown	HCDOC/Emergency Medical Transport to Elliott Hospital	Transported off unit.
0905	Lt. Carl Brown	HCDOC/Emergency Medical Transport to Elliott Hospital	Ambulance departed facility.

29. There should be no question that Plaintiff NICHOLAS SACCO had a “serious medical need.”

30. Some factors to consider in determining whether a “serious medical need” is at issue are: 1) whether a reasonable physician or layperson would perceive the medical need in question as important and worthy of comment or treatment; 2) whether the medical condition significantly affects daily activities; and 3) the existence of chronic and substantial pain. (Clement v. Gomez, 2002).

31. A “serious medical need” is present whenever the failure to treat an offender’s condition could result in further significant injury, the unnecessary and wanton infliction of pain, or death. (Clement v. Gomez, 2002).

32. Plaintiff NICHOLAS SACCO asked to go to the hospital on Saturday May 18, 2019 and again on Sunday May 19, 2019.

33. Plaintiff NICHOLAS SACCO continued to show signs of late/severe withdrawal on May 18, May 19, May 20, and May 21, 2019, which was documented by multiple NURSING DOE DEFENDANTS (restlessness and a pulse over 100) on multiple occasions, yet no action was taken to inform the MD or PA of NS's travail, and emergency care was not sought.

34. That Plaintiff NICHOLAS SACCO exhibited withdrawal symptoms indicating a substantial risk is confirmed in the Autopsy Report findings, which states in part: "History of withdrawal symptoms prior to demise (nausea, vomiting, anorexia for several days)...History of "feeling dizzy" on 5/18/19...History of syncopal episode/collapse on 5/20/19."

35. On May 21, 2019, HCDOC Sergeant Brendan Diminico was present while Manchester Department Detectives Justin Breton and Kevin Jusza interviewed Sacco's cellmate Michael Differ.

36. Differ stated in part: Differ knew that Sacco was detoxing. On Monday 5/20/19 Differ observed that Sacco started to become lightheaded and having a hard time standing on his own two feet at ties. On the night of 5/20/19 during third shift hours, Differ observed Sacco faint/collapse inside of the cell. Differ advised two correctional officers of this and they came to the cell door and told Sacco to stand up and go lay down on his secondary mattress (on the cell floor next to the bunk). Differ recalled that Sacco was unable to stand and move on his own. Then, Differ observed two correctional officers grab Sacco by the back of the shirt and drag him to the mattress on the floor.

37. On the morning of 5/21/19 at approximately 7:30 a.m., Differ observed Sacco still lying on his secondary mattress on the cell floor next to the bunk. Differ observed that Sacco had been vomiting on the cell floor.

38. At approximately 8:30 a.m. that same day, Differ observed a nurse arrive for medication pass. Differ advised Sacco that the nurse was on the unit and that the unit officer called Sacco's name to come out and see her. Sacco replied, "Hold on, one second, one second, one second." Differ observed that Sacco was unable to stand up on his own so he called the unit officer over to the cell. Differ was then moved into a different cell so that Sacco could finally be assessed.

39. When pressed as to whether Differ knew of Sacco consuming any drugs or substances while incarcerated at the facility, Differ denied having any such knowledge.

40. Plaintiff Nicholas Sacco's recorded calls during his incarceration also illustrate that he had a serious medical need that was being disregarded.

41. Per HCDOC Deputy Chief of Security Brian Martineau's investigative report, the nine recorded calls went as follows:

5/17/2019	1819hrs (5 min) – (603) 703-6077 (Scott Sacco (Father): explaining to him about his arrest (target – Bedford PD) Father asks if he was shoplifting he states "No" and that Bedford arrested him on a warrant for Probation. Telling his father he will be out on Tuesday afternoon (5/21/19) asking for them (Mom or Dad) to bring him over to his Probation officer. Father informs him he put \$25.00 in his account (Phone calls). Sacco informs his father he is eating some of the food.
5/17/2019	1832hrs (5 min) – (603) 835-4169 (Katy (Girlfriend): Telling her he went to court and he will be out of jail on Tuesday (72hr hold). Girlfriend tells him "Eric" told her he got arrested for stealing. She accuses him of lying to her and she informed him she is "Done w/ him" because he "lied to her". He states "Really... I'm detoxing". He admits that he is using drugs and wants her to go to his apartment to tell his roommates he will be out Tuesday (5/21/19). She appears to be breaking up w/ him claiming she is done and will be moving out of New Hampshire. He tells her his addiction was controlling him and she insists that she is "Done w/ him".



5/17/2019	1848hrs (4 min) (603) 703-6077 (Scott Sacco (Father) / Joanna Sacco (Mother): She tells him she went to court (Sacco claims he was downstairs never went up to the court (didn't see his mother). Mother asks him what his plan is, he states after he meets w/ Probation he is going to get into a program. Mother asks if he was stealing and he states "No" that a cop just came up to him maybe a lost prevention officer called the police and told them he was there. Mother tells him not to lie to her and he states he is not. She asks how he is doing and he states "Not great".
5/17/2019	1854hrs (3 min) – (603) 835-4169 (Katy (Girlfriend): Calling to tell her he was sorry and she told him she was going to tell his roommates he will be out Tuesday. He tells her to take the food out the refrigerator. He tells her he is sorry, he is going to change and that he can't keep doing this anymore and that he will call her tomorrow.
5/18/2019	1243hrs (4 min) (603) 703-6077 (Scott Sacco (Father): Tells his father he is not doing well at all. He father tells him he is trying to set up the "smoker" and Sacco tells him to look it up on Youtube. Ask what his mother is doing. Sacco tells his father he hopes he can get into Green Mountain (Program / Granite Pathways) on Tuesday – They take his insurance. If he can't get in there maybe get into the Farnum Center.
5/18/2019	1338hrs (2 min) (603) 703-6077 (Scott Sacco (Father): Tells his father he is just calling to say good night. States he isn't feeling well and can barely stand up. Father asks he can call Granite Pathways
5/18/2019	1418hrs (1 min) (603) 703-6077 (Scott Sacco (Father): Ask him to write down a number (603) 835-4169 – text "Katy" and tell her he couldn't get a hold of her and that he will try again tomorrow at 1230 and that he loves her and misses her.

5/18/2019	1422hrs (7 min) (603) 835-4169 (Katy (Girlfriend): She informs him she is walking home for work, she asked him to call her back and he states he can't because he will be locking down soon. Tells her he is "wicked sick" and feels like he is "dying" and that he is going crazy because he has nobody to talk too. She informs him that it is his fault and needs to go through this so he won't do it again. He states he isn't eating because he is throwing up whatever he eats. She tells him he needs to eat and he say "Yeah". He states he has been drinking as much water as possible and he has been eating but he been throwing it up. She informs him a mutual friend that works at McDonald's saw him there "Nodding out" and that he can't be doing that and she knew what was going on. He claims he is going to be a different person when he gets out he will not lose her "To that shit". She tells him I can't be with anyone that does drugs.
5/19/2019	1304hrs (3 min) (603) 835-4169 (Katy (Girlfriend): He tells her he is really sick , no energy he can barely eat any food and that he passed out last night in his cell three times. States he got up to brush his teeth and that he lost his vision and he passed out. She said he needs to drink more water and he states he is and that he has a cup in his cell. He tells her he doesn't feel well and he needs to go lay down and will call her later. She tells him the worst is over and that he will start to feel better and the weather is getting better

42. On June 28, 2016, an Agreement for Provision of Physician Services was entered into by and between HCDOC and AMERICAN INSTITUTIONAL MEDICAL GROUP, which is comprised of one doctor - CHRISTOPER BRAGA, M.D.- and one physician's assistant - CHRISTOPHER SCHWIEGER, P.A.

43. Under the terms of this agreement, AMERICAN INSTITUTIONAL MEDICAL GROUP was to be paid significant sums as follows:

Year 1: 07/01/16 – 06/30/17	\$26,250.00 per month (\$315,000.00 per year)
Year 2: 07/01/17 -06/30/18	\$27,037.50 per month (\$324,450.00 per year)
Year 3: 07/01/18 – 06/30/19	\$27,848.62 per month (\$334,183.50 per year).

44. Such compensation is quite generous when considering that providing the medical services for HCDOC is just a part time job for CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A. The agreement only requires a total of 12 hours of onsite work at HCDOC between these two providers, which is a fundamentally flawed and limited amount of time for AMERICAN INSTITUTIONAL MEDICAL GROUP to agree to provide the needed services to HCDOC.

45. Jails with an average daily population the size of HCDOC should have a provider (MD, PA, NP) on staff about half time, Monday through Friday, with providers on call in the off-hours and on weekends. There is no evidence that this requirement was met here, nor that nurses ever contacted a provider, even when Plaintiff NICHOLAS SACCO'S vital signs were worsening, and AMERICAN INSTITUTIONAL MEDICAL GROUP, CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A had been contracted to provide the very services that Plaintiff NICHOLAS SACCO needed.

46. Defendants failed to follow written procedure. The HCDOC Health Services Department "Detox Procedure" dated February 21, 2019, just three months before Plaintiff NICHOLAS SACCO arrived there, states: "Inmates detoxing from opiates and alcohol may need pharmacological management based upon their symptoms and vital signs. The assessment of these individuals is important, thus they need to be monitored closely and frequently. The Doctor will determine, based upon the nurses' assessment, whether an individual requires medical intervention and initiation of the Detox Protocol."

47. The retention of third party American Institutional Medical Group came on the heels of the tenure of Dr. Matthew Masewic. Dr. Masewic had his license temporarily suspended in May of 2016 - just a month before HCDOC entered into this agreement with American Institutional Medical Group – after facing accusations of substandard care in

the treatment of inmates. During his seven years of overseeing medical care at the facility, Dr. Masewic faced a number of federal lawsuits and complaints over his handling of inmate medical needs. The complaints included claims that he failed to sign off on needed medications for inmates, failed to maintain adequate medical records and failed to supervise nursing staff. These same failures are present here in this case. When American Institutional Medical Care replaced Dr. Masewic, neither it nor HCDOC made any meaningful changes to patient care, and the long-standing indifference to medical needs at Valley Street jail persists to this day.

48. HCDOC has been indifferent to complaints about substandard treatment at the jail dating back even further than Dr. Masewic's tenure and to at least the early 1990's. Dr. Charles Ward, who treated inmates at Valley Street for over a decade, was known to refuse treatment to people with mental health problems. During his tenure at HCDOC, Ward was named in more than two dozen lawsuits before the county decided not to renew his contract.

49. In 2013, the Union Leader reported that Hillsborough County has paid almost a million dollars in settlements for jail medical cases over five years.

50. HILLSBOROUGH COUNTY has years of actual knowledge of its gross failure to provide constitutionally appropriate medical care to its inmates, and yet it has remained deliberately indifferent. There is an abundance of additional information of confirming this. The title of an NHPR article dated May 3, 2016 reads: "Allegations of substandard care span decades at Valley Street Jail." Valley Street Jail's Facebook page is littered with comments about substandard medical care.

51. This is not the first lawsuit against CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A related to their provision of medical services at HCDOC. On March 19, 2020, Plaintiff Linda Rancourt asserted similar claims.

52. These failures are even more troubling when considering that, in recent years, HCDOC's census has been well below the number of available of beds. Even though it is a 700-bed facility, HCDOC has only held about 250 residents at any particular time. If CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A are unable to provide constitutionally appropriate medical care to its inmates for 1/3 of the possible population of inmates at HCDOC, it is scary to wonder what could happen if census were to increase.

53. Nursing staff failed to consider or assess Plaintiff NICHOLAS SACCO'S obvious symptoms; instead, they described his travail in great detail in the nursing notes and took no action to assist him. In fact, on May 19, 2019 at 3:00 a.m., Plaintiff NICHOLAS SACCO asked LPN Gatfer for help and she told him nurses "didn't give medications on third shift". The HCDOC Healthcare Policies and Procedures policy entitled "Inmate Medication" states: "Nursing personnel are accountable for the administering of inmate medication according to the orders of the facility physician during their respective shift." Gatfer's absurd response to a patient requesting help could be grounds for discipline by the board of health.

54. Plaintiff NICHOLAS SACCO'S care givers ignored his worsening symptoms by failing to: a) contact the provider in house or on call, b) take him to the Urgent Care Center/call the Urgent Care Center, c) take him to the ED, or d) dial 911.

55. The blatant disregard of Plaintiff NICHOLAS SACCO'S serious medical need shows breach of standard of care toward NS's fragile health status and is further evidenced by the following:

56. Plaintiff NICHOLAS SACCO had been incarcerated previously and had undergone withdrawal, so he was a known entity to HCDOC and its staff.

57. Plaintiff's previous dates of incarceration at HCDOC are approximately: 3/14/14 – 3/16/14; 10/17/17 – 10/25/17; 6/22/18 – 6/27/18; and 7/13/18 – 7/18/18.

58. The Elliott Health System hospital report states that Plaintiff NICHOLAS SACCO was taking Buprenorphine-Naloxone (Suboxone). This is a medication prescribed for opiate users. He should have been continued on this medication at HCDOC.

59. Plaintiff NICHOLAS SACCO'S symptoms and vital signs throughout withdrawal in previous incarcerations were significantly different than those of May 2019.

60. Over nine encounters with healthcare staff, Plaintiff NICHOLAS SACCO'S pulse was taken seventeen times. There are fifteen notations in the health care record which show Plaintiff NICHOLAS SACCO'S pulse not within normal limits. Among the seventeen times his pulse was taken, he displayed tachycardia (pulse exceeding 100 beats per minute) 15 times, which is a symptom of late or severe withdrawal. There is no evidence that a provider was ever notified of his abnormal pulse.

Date	Time	Pulse Rate
5/18	2110	112
	2230	124
	2345	114
		128
5/19	0100	"WNL" per LPN Gatfer, but there are no VS recorded.
	0815	120
		122

	1700	125
		125
5/20	0015	114
		111
	0812	106
		114
	1255	108
	1615	102
		98
5/21	0032	100
		101
	1130	52

61. There are at least twenty-one notations in the health care record which show Plaintiff NICHOLAS SACCO'S symptoms indicated late or severe withdrawal. NURSING DOE DEFENDANTS documented restlessness and/or agitation ten times, which is a symptom of late or severe withdrawal. There is no evidence that a provider was ever notified of his symptomatology as it worsened.
62. Proper Access to Care is the hallmark standard upon which jail healthcare policies and procedures are developed. Appropriate access to care was not provided to Plaintiff NICHOLAS SACCO, and this failure contributed directly to his death.
63. Jail staff noted on his intake form that Plaintiff NICHOLAS SACCO had a 5 gram per day heroin habit, yet waited over two days to initiate withdrawal protocol. Had they initiated protocol earlier, they would have had a better baseline record of his symptoms and vital signs. The first time a pulse was recorded for Plaintiff NICHOLAS SACCO was 2 days and 6 hours after he had been booked, and his pulse was 112: significantly high. The HCDOC Healthcare Policies and Procedures policy entitled "Medical Procedures" states: "It is the policy of the HCDOC to care for inmates who may be in need of emergency or non-emergency medical and dental care...the nurse will notify

the appropriate physician/dentist/psychologist of the emergency and the condition of the inmate.”

64. Only once, on May 17, 2019, was a provider called to discuss Plaintiff NICHOLAS SACCO, and the discussion narrowly related to his asthma and use of an Albuterol inhaler. On the morning of his demise, May 21, 2019 CHRISTOPHER SCHWEIGER, P.A. responded to the scene. Even though there had been a provider in house, there is no indication that a provider ever assessed Plaintiff NICHOLAS SACCO for withdrawal symptoms. Nurses alone, mostly LPNs, were relied upon to assess his status.

65. Jail staff allowed Plaintiff NICHOLAS SACCO to languish. Plaintiff NICHOLAS SACCO asked to go to the hospital on May 18 and May 19 and was denied both times by an LPN. LPNs are not educated to assess patients nor to make a determination for transport to the hospital.

66. Even though the HCDOC policies and procedures and jail protocol is neither evidence-based nor current, it was the protocol in place in May 2019, and the nurses failed to follow it. The HCDOC’s “Standing Orders for Opiate Withdrawal Protocol” state, in part, that: “if indicated by signs and symptoms, initiate standing orders as outlined below for Opiate Withdrawal Protocol”. The protocol goes on to describe a tapering dose of Vistaril. No nurses considered the tapering dose of Vistaril, even when Plaintiff NICHOLAS SACCO’s symptoms in fact, were late/severe, and did indicate a need for commencement of medication therapy.

67. Had the nurses started Vistaril, standard of care would have dictated they advise the MD/PA that Vistaril had been started. During that conversation, they would have been required to report the signs and symptoms which they believed warranted the

commencement of Vistaril. At that time, they would have had to describe Plaintiff NICHOLAS SACCO's tachycardia and restlessness, signs of late/severe withdrawal. That report to the MD/PA would likely have caused the MD/PA to examine Plaintiff NICHOLAS SACCO or to request the nurse have him examined in the ED.

### **Opioid Withdrawal in the Jail Setting**

68. Withdrawal from opiates, benzodiazepines, and/or alcohol is the third leading cause of death in jails. All correctional facilities, regardless of size, should have a system for screening, diagnosis, and appropriate treatment of opioid, benzodiazepine, and alcohol withdrawal. Newly admitted jail detainees and inmates have high rates of opioid, benzodiazepine, and alcohol dependence, and acute withdrawal from these substances is common in correctional facilities.

69. Due to lack of available data, it is difficult to estimate the exact percentage of people who come into New Hampshire county jails addicted to opioids. But recent state statistics show that about 50 percent of inmates at the NH State Prison have a diagnosis of Opioid Use Disorder (OUD). The state doesn't publish similar statistics on county jails. What this means is that the jails must serve not just as a holding pen for alleged criminals, but also as medical facilities for people going through an excruciating and potentially fatal withdrawal process and who need continued care and treatment options throughout their stay.

70. Untreated opioid withdrawal results in needless suffering, potential interruption of vital treatments such as antiretroviral treatment for HIV, and masking of symptoms from other life-threatening illness. In the presence of significant chronic illness, untreated opioid withdrawal has resulted in deaths. Even in healthy patients, untreated opioid withdrawal results in needless suffering, diversion of opioids within the facility, and



behavioral challenges for custodial staff. Additionally, patients with a known history of Opioid Use Disorder (OUD) often take multiple different prescription and illegal drugs in order to attain the high they desire: opioid use alone is not common.

71. Medically supervised withdrawal, formerly known as detoxification, is the gradual reduction or tapering of medication over time under the supervision of a provider (physician, NP, or PA) to properly manage and substantively mitigate symptoms of withdrawal. Patients at high risk for opioid withdrawal can be started on therapy before they show symptoms of withdrawal. This should require a provider's written order: nurses are not trained or credentialed to initiate medications.

72. Prophylactic medication should be considered for any patient with moderate or severe OUD. The facility provider should be contacted to develop and initiate the treatment plan and orders, as standing orders should not be used without provider supervision. Continued monitoring throughout incarceration is necessary to determine whether symptoms will worsen and require medication or will continue to abate. Today, maintenance with buprenorphine, methadone, or extended-release naltrexone is the primary treatment for OUD. The older Vistaril protocol provides basic relief from most of the symptoms associated with opioid withdrawal, however, this approach is not supported by clinical research or by the medical literature.

73. In 2016, 64,000 Americans died of drug overdose – about two thirds of them linked to opioids. Overdose deaths have risen fivefold since 1999, and the crisis has evolved over the years, with prescription opioids giving way to heroin and illicit fentanyl as the primary drivers of the epidemic. The opioid epidemic has caused jails and prisons to re-examine their protocols for treatment of opioid-addicted offenders.

74. Johns Hopkins University Bloomberg American Health Initiative offers ten standards of care to serve as recommendations for law enforcement agencies as they grapple with the opioid crisis. Specifically, recommendation #4 states: “To save lives from overdose, address opioid addiction, and reduce recidivism, the standard of care should be for Departments to advocate for access to effective treatment that offers all three FDA-approved medications for individuals in jail, in prison, and under community supervision with the appropriate transition to continuing care.”

75. There is no evidence in the HCDOC Opioid Withdrawal protocol that the jail offers any of the FDA-approved medications for individuals suffering opioid addiction and withdrawal. The protocol offers only Vistaril.

76. The FDA-approved medications are methadone, buprenorphine, and naltrexone.

77. The treatment of opiate withdrawal at the Hillsborough County Department of Corrections further falls short of current evidence-based standards of care. Specifically:

78. Protocol does not require offenders undergoing withdrawal to be housed separately in an infirmary or withdrawal unit, which would improve observation and would make assessment easier.

79. Protocol does not require offenders undergoing withdrawal to be referred to the provider.

80. Protocol does not require offenders undergoing withdrawal to be monitored using a quantifiable scale (like CIWA, COWS, or a blended scale) which records observations and assessments over time and gives a weighted “score” after each assessment.

81. Protocol does not indicate when to start “standing order” medication.

82. Protocol does not require offenders undergoing withdrawal be monitored by Registered Nurses.

**COUNT I – § 1983 CIVIL RIGHTS CLAIM AGAINST ALL INDIVIDUAL DEFENDANTS**

83. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

84. Incorporated paragraphs include those which refer or relate to specific interactions, observations, evaluations, and/or medical care by and between each individual defendant and Plaintiff NICHOLAS SACCO.

85. NURSING DOE DEFENDANTS, at all times relevant were medical providers, licensed to practice in the State of New Hampshire and were employees and/or agents of the Department of Corrections of defendant HILLSBOROUGH COUNTY. They were responsible individually and collectively for providing medical care to the inmates, including the plaintiff, at the Valley Street Jail.

86. CORRECTIONAL DOE DEFENDANTS, at all times relevant, were employees and/or agents of the Department of Corrections of defendant HILLSBOROUGH COUNTY and were acting under color of state law in the course and scope of their duties and functions.

87. At all times relevant CHRISTOPER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A. provided medical services to by HILLSBOROUGH COUNTY DEPARTMENT OF CORRECTIONS through the entity AMERICAN INSTITUTIONAL MEDICAL GROUP.

88. These individual defendants knew or should have known that the plaintiff was suffering a serious medical condition but were deliberately indifferent to this condition.

89. These individual defendants failed to adequately monitor the plaintiff, failed to adequately treat the plaintiff, failed to assess the plaintiff, and failed to promptly obtain

proper emergency medical care for the plaintiff and otherwise exhibited a deliberate indifference to plaintiff, NICHOLAS SACCO'S, serious medical condition.

90. The individual defendants also outrageously ignored the fact that NICHOLAS SACCO was going into a life-threatening drug withdrawal.

91. The conduct and inactions of the individual defendants, acting under color of state law, was done with deliberate indifference to plaintiff, NICHOLAS SACCO, and was outrageous and shocks the conscience, and was the direct and proximate cause of specific, serious and permanent bodily and psychological harm, pain and suffering, and ultimately death, in violation of NICHOLAS SACCO'S rights as guaranteed by 42 U.S.C. § 1983 and the fourteenth amendment to the United States Constitution. Moreover, the conduct and inactions of the individual defendants, acting under color of state law, was done intentionally, maliciously, and sadistically, with deliberate indifference to the rights of NICHOLAS SACCO.

**COUNT II — § 1983 MONELL CLAIM AGAINST HILLSBOROUGH COUNTY**

92. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

93. At all times material to this complaint, defendant HILLSBOROUGH COUNTY had in effect de facto policies, practices, customs and usages resulting in a gross failure to provide constitutionally appropriate medical care to its inmates.

94. These policies included, but are not limited to:

- a policy of denying inmates needed medical care and treatment pending approval by the Hillsborough County Commissioners; and
- a policy of denying inmates appropriate withdrawal medication and treatment, including legally prescribed medication prior to being incarcerated.

95. Over the years, there have been many inmates in medical situations comparable to Plaintiff NICHOLAS SACCO'S, i.e. going through drug detoxification and withdrawal and/or experiencing dehydration, for whom the medical care provided was also constitutionally inadequate. Certain of these incidents have resulted in lawsuits and court orders, including *McEvoy v. Hillsborough Cty.*, No. 09-CV-431-SM, 2011 WL 1813014, (D.N.H. May 5, 2011).

96. In sum, HCDOC has received numerous prior complaints involving inadequate medical care and attention to inmates, including inadequate care given during drug withdrawal.

97. These policies, practices and customs, were a direct and proximate cause of the unconstitutional conduct of individual defendants, including NURSING DOE DEFENDANTS, CORRECTIONAL DOE DEFENDANTS, CHRISTOPER BRAGA,

M.D. and CHRISTOPHER SCHWIEGER, P.A., including, but not limited to, the unconstitutional deliberate indifference to the serious medical needs of plaintiff, NICHOLAS SACCO.

98. Even though the defendant came to learn of the unconstitutional conduct of the defendants, including NURSING DOE DEFENDANTS, CORRECTIONAL DOE DEFENDANTS, CHRISTOPHER BRAGA, M.D. and CHRISTOPHER SCHWIEGER, P.A., on or before the date of Plaintiff NICHOLAS SACCO's DEATH, defendant HILLSBOROUGH COUNTY failed to discipline any of the defendants for their unconstitutional conduct.

99. The purpose and / or effect of the defendant HILLSBOROUGH COUNTY's failure to discipline these defendants was to reinforce the aforementioned de facto policies, practices, customs and usages.

100. Furthermore, Defendant HILLSBOROUGH COUNTY failed to establish guidelines for, and/or train, supervise or educate its agents and employees, including the defendants, about correct practices and procedures in the provision of medical care.

101. HILLSBOROUGH COUNTY knew or should have known that its gross failure to provide constitutionally appropriate medical care to its inmates was related to its failure to properly hire, supervise, discipline and train its employees.

102. These policies, practices and customs of defendant HILLSBOROUGH COUNTY were the direct and proximate cause of bodily and psychological harm, pain and suffering, and death, in violation of NICHOLAS SACCO'S rights as guaranteed by 42 U.S.C. §1983 and the fourteenth amendment to the United States Constitution.

**COUNT III –ADA CLAIM**

103. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

104. Plaintiffs theories of disability discrimination are: 1) “accommodation;” and 2) disparate treatment on account of disability.

105. Prior to becoming incarcerated NICHOLAS SACCO suffered from an opioid use disorder that was controlled in part by medication, including Buprenorphine-Naloxone (Suboxone).

106. The defendants knew of his disability and his need for medication and treatment.

107. The defendant, HILLSBOROUGH COUNTY is a recipient of federal financial assistance.

108. Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.*, applies to prisoners. See *Penn. Dep’t of Corr. v. Yeskey*, 524 U.S. 206 (1998).

109. NICHOLAS SACCO repeatedly requested an accommodation for his need for medicine and treatment to control his disability.

110. The Plaintiff’s requested accommodation was reasonable in the circumstances.

111. The Plaintiff’s requested accommodation was medically necessary to allow him to function on a daily basis while incarcerated and otherwise engage in major life activities within the confines of the Valley Street Jail – it was also medical necessary for him to stay alive.

112. Prior to NICHOLAS SACCO going into withdrawal from the defendants’ depriving him of medicine and treatment, he was qualified to participate in all appropriate prison activities.

113. The defendants deliberately refused to accommodate NICHOLAS SACCO'S disability-related needs in such fundamentals as mobility, hygiene, medical care, and virtually all other prison programs.

114. Medical care offered to inmates is one of the services, programs or activities covered by Title II of the ADA.

115. The defendants were deliberately indifferent to the plaintiff's constitutional rights protected by the 14<sup>th</sup> Amendment.

116. Indeed, after the plaintiff began to exhibit the obvious signs of withdrawal, the defendants ignored him, retaliated against him, and/or ridiculed him before using excessive physical force to try to control him on the night of 5/20/19 while he was undergoing extreme withdrawal symptoms. Defendants' discriminatory motive is illustrated throughout Plaintiff NICHOLAS SACCO's stay, including repeatedly ignoring his requests to be brought to the hospital. Another example is the incident on the night of 5/20/19 during third shift hours, when cellmate Differ observed Sacco faint/collapse inside of the cell. Differ advised two correctional officers of this and they came to the cell door and told Sacco to stand up and go lay down on his secondary mattress (on the cell floor next to the bunk). Differ recalled that Sacco was unable to stand and move on his own. Differ observed two correctional officers grab Sacco by the back of the shirt and drag him to the mattress on the floor. Plaintiff NICHOLAS SACCO was treated this way because he was stereotyped by HCDOC as another opiate junkie.

117. The defendants' actions were discriminatory on their face because they were based on stereotypes of disabled men with opioid use disorder rather than an individualized inquiry into the plaintiff's genuine medical needs.



118. The failure of the defendants to accommodate the plaintiff resulted, while he was in extremis during withdrawal, in him being excluded and denied from participation in or be denied the benefit of the services, programs, and activities otherwise available to him as an inmate.

119. Said exclusions and denials by the defendants were because of his disability and the defendants' perception of his disabling condition.

120. The defendants' refusal to accommodate the plaintiff's needs were the result of their perception and stereotyping of him as a man suffering from a disability.

121. The defendant HILLSBOROUGH COUNTY discriminated against NICHOLAS SACCO because of his disability and deprived him of services he was entitled to. The policies and procedures of the HILLSBOROUGH COUNTY are constitutionally inadequate to provide disabled individuals, such as plaintiff HILLSBOROUGH COUNTY, with services he requires and to prohibit discrimination against him due to his disability.

122. As a result of HILLSBOROUGH COUNTY's actions, the plaintiff NICHOLAS SACCO has been injured and suffered physical injuries, medical expenses, emotional distress, pain, anguish, and death.

123. HILLSBOROUGH COUNTY's actions were intentional and with reckless disregard and deliberate indifference to the plaintiff's rights as a person with a disability.

**COUNT IV –MEDICAL NEGLIGENCE CLAIM AGAINST AMERICAN INSTITUTIONAL MEDICAL GROUP, CHRISTOPER BRAGA, M.D., CHRISTOPHER SCHWIEGER, P.A, and NURSING DOE DEFENDANTS**

124. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

125. These individual defendants, as health professionals, had a duty to Plaintiff NICHOLAS SACCO, to provide him with reasonable and proper medical care in accordance with the applicable standard of care.

126. As set forth above, these individual defendants breached their duties of care to NICHOLAS SACCO for the aforementioned reasons, including by failing to adequately monitor, assess, and treat his withdrawal-related symptoms.

127. As a direct and proximate result, Plaintiff NICHOLAS SACCO died and suffered damages as set forth herein.

**WHEREFORE**, Plaintiff seeks the following relief and recovery against all Defendants:

- A. Compensatory damages to Plaintiff for past, present, and future damages, including, but not limited to his death, pain and suffering, loss of enjoyment of life, together with interest and costs as provided by law;
- B. Enhanced compensatory damages;
- C. Punitive damages
- D. All ascertainable economic damages, including past and future loss of earnings and/or earning capacity;
- E. Costs, pre-trial interest, and attorneys' fees; and
- F. Such further relief as may be proper and just.

Respectfully submitted,

ESTATE OF NICHOLAS SACCO  
By Its Attorneys,

SHAHEEN & GORDON, P. A.

Dated: April 10, 2020

/s/ Anthony M. Carr  
Anthony M. Carr (NH Bar # 267623)  
107 Storrs Street  
P. O. Box 2703  
Concord, NH 03302  
(603) 225-7262  
[acarr@shaheengordon.com](mailto:acarr@shaheengordon.com)