ORIGINAL

COURT OF CLAIMS OF OHIO
CAPITOL SQUARE OFFICE BUILDING
65 SOUTH FRONT STREET, THIRD FLOOR
COLUMBUS, OHIO 43215

2014-00925

JOHN J. ROHRER
100 Hospital Drive
Athens, Ohio 45701,
Plaintiff,

JUDGE _____

Case No. _____

-vs-

VERIFIED COMPLAINT

STATE OF OHIO
Office of the Attorney General
c/o Michael DeWine
30 East Broad Street #14
Columbus, Ohio 43215

RICHARD CARROLL
individually and as agent of the
State of Ohio
Office of the Ohio Attorney General
c/o Michael DeWine
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

TIFFANY CRUZ
individually and as agent of the
State of Ohio
Office of the Ohio Attorney General
Patient Abuse and Neglect
150 E. Gay St., 17th Floor
Columbus, OH 43215

ELLEN W. BALLERENE, M.D.
individually and as agent of the
State of Ohio
c/o Samaritan Behavioral Healthcare

FILED
COURT OF CLAIMS
OF OHIO
2014 NOV 24 PM 3:17

ON COMPUTER

601 S Edwin C Moses
Dayton, OH 45417

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Herman Carson, Director)
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Athens, Ohio 45701

X OFFICE OF THE OHIO PUBLIC DEFENDER
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Columbus, Ohio 43215
)
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individually and as agent of the)
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14 S. Paint Street - Suite 54
Chillicothe, Ohio 45601 Attorney at law

JUDGE WILLIAM J. CORZINE
individually and as agent of the)
State of Ohio
100 Yaples Orchard Drive
Chillicothe, Ohio 45601

SUSAN PETTIT, Attorney at law
individually and as agent of the
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JUDGE LEONARD F. HOLZAPFEL
individually and as agent of the
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Chillicothe, Ohio 45601

DAVID F. SOEHNER, M.D.
individually and as agent of the
State of Ohio
Timothy B. Mortiz Forensic Unit)
Twin Valley Behavioral Healthcare
2200 W. Broad Street
Columbus, Ohio 43223

MARK HURST, M.D.
individually and as agent of the
State of Ohio
30 East Broad Street, 8th Floor)
Columbus, Ohio 43215-3430

MARC BAUMGARTEN
individually and as agent of the
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)

X TWIN VALLEY BEHAVIORAL HEALTHCARE
Timothy B. Moritz Forensic Unit
2200 W. Broad Street
Columbus, Ohio 43223

X OHIO MENTAL HEALTH
& ADDICTION SERVICES
30 East Broad Street, 8th Floor)
Columbus, Ohio 43215-3430
through its Director, Tracy Plouck

X APPALACHIAN BEHAVIORAL HEALTHCARE
100 Hospital Drive
Athens, Ohio 45701

MAIDA SIERRA, M.D.)
individually and as agent of the
State of Ohio
100 Hospital Drive
Athens, Ohio 45701

ANTHONY DERRICO, M.D.
individually and as agent of the
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100 Hospital Drive

Athens, Ohio 45701

MARK MCGEE, M.D.
individually and as agent of the
State of Ohio
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JOHN HAMILL, M.D.
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JEAN W. SCOTT, PhD
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State of Ohio
100 Hospital Drive
Athens, Ohio 45701

JANE KRASON
individually and as agent of the)
State of Ohio
100 Hospital Drive
Athens, Ohio 45701

JULIA LONG, R.N. or LPN
individually and as agent of the
State of Ohio)
100 Hospital Drive
Athens, Ohio 45701

BOB BARNHART
individually and as agent of the
State of Ohio
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Athens, Ohio 45701

BRIAN WILLARD
individually and as agent of the
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100 Hospital Drive
Athens, Ohio 45701)

KIHA SMITH
individually and as agent of the

State of Ohio
100 Hospital Drive
Athens, Ohio 45701

)

KELLY A. COON, D.O.,
individually
11340 Jackson Drive
The Plains, Ohio 45780

and

)

JOHN DOE STATE AGENCIES 1-10
individually and as agents of the
State of Ohio

Defendants.

COMPLAINT

COMES NOW the plaintiff, John J. Rohrer, by and through his attorney, David L. Kastner, and for cause of action against defendants states as follows:

JURISDICTION AND VENUE

1.This action is brought under Ohio Rev. Code Chapter 2743, where jurisdiction and venue are determined to be the Court of Claims of Ohio at the city of Columbus, Franklin County, Ohio. Plaintiff seeks a determination as to whether defendant employees, agents by estoppels, servants, and agencies above named have immunity pursuant to Ohio Rev. Code Sec. 9.86. Plaintiff seeks a further determination, pursuant to Ohio Rev. Code Sec. 2743.02(F), as to whether each and every one of the physicians, psychologists, nurses, other state employees and employees by estoppel, the attorney public defenders named hereinafter, the two judges named who are alleged to have participated in acts of aiding and abetting in crimes and committing torts and constitutional rights violations with malice and in bad faith against plaintiff while acting outside of their authorities as judges, as well as whether other state actors who were overseeing and/or supervising or implementing their "treatment" of plaintiff John J. Rohrer, whose identities are presently unknown, were acting within the course and scope of any State employment in their rendition of psychiatric or other claimed "treatment" to plaintiff, or in connection with legal services or other acts or omissions hereinbelow set forth. Plaintiff further seeks a determination of whether each said defendant, or any one of them, was acting with malicious purpose, in bad faith, or in a wanton or reckless manner, whether any of said employees is entitled to personal immunity under Ohio Rev. Code Sec. 9.86, and whether the courts of common pleas have jurisdiction over the civil action.

Jurisdiction of the claims against defendant Coon, who is not believed to be a State employee, is predicated on his acts of reckless negligence in aiding and abetting in

the disclosure of false and confidential treatment information and medical malpractice in connection with a letter he wrote dated September 10, 2014.

THE PARTIES

2.Plaintiff John J. Rohrer is a resident of the State of Ohio, County of Athens, having a mailing address of 100 Hospital Drive, Athens, Ohio 45701.

3.The State of Ohio is believed to claim immunity and to be subject to investigation by Attorney General Michael DeWine, whose principal office is located at 30 East Broad Street, #14, Columbus, Ohio 43215.

4. Defendant Ohio Attorney General maintains a "Patient Abuse and Neglect and Medicare Fraud" unit at 150 E. Gay St., 17th Floor, Columbus, Ohio 43215, and may be served as indicated at that address.

5. Defendant Richard Carroll has at all relevant times been an attorney licensed to practice law in the State of Ohio, and an employee of the Ohio Attorney General, which has at all times held him out as its employee or agent, or agent by estoppel. He may be served at 30 E. Broad Street, 26th Floor, Columbus, Ohio 43215.

6. Defendant Tiffany Cruz is an intake officer and employee, or employee by estoppel of the "Patient Abuse and Neglect and Medicare Fraud" unit at 150 E. Gay St., 17th Floor Columbus, OH 43215, and may be served as indicated at that address.

7. Defendant Ellen W. Ballerene M.D. is a physician who is licensed to practice medicine under the laws of the State of Ohio and was at all relevant times either employed by the State of Ohio or held out by said State of Ohio as its employee or agent. She may be served at Samaritan Behavioral Healthcare, 601 S Edwin C Moses, Dayton, OH 45417, as provided by law.

8.Defendant State of Ohio, through the Office of the Ohio Public Defender and the Multi-County Program Office of the Ohio Public Defender has at all relevant times held itself out as providing and directing the provision of legal services through its employees, or employee/agents by estoppel, including defendants John Scherff and Susan Pettit.

9.Defendant John Scherff has at all relevant times been an attorney licensed to practice law in the State of Ohio, a Ross County Public Defender, and an employee, or employee by estoppel of the Multi-County Program of the Office of the Ohio Public Defender, which has at all times held him out as its employee or agent. He may be served at 14 S. Paint Street - Suite 54, Chillicothe, Ohio 45601.

10.Defendant William J. Corzine has at all relevant times had the title of Ross County, Ohio common pleas judge, or was sitting by appointment in Ross County Case No. 09-CR-393. The State of Ohio has at all relevant times held defendant Corzine out as its employee or employee by estoppel. He has at all times since February 5, 2010 acted

wholly in the absence of jurisdiction in that case, and for further reasons specified hereinbelow is not entitled to judicial immunity. He may be served at 100 Yaples Orchard Drive, Chillicothe, Ohio 45601

11.Defendant Susan Pettit has at all relevant times been an attorney licensed to practice law in the State of Ohio, a Ross County Public Defender, and an employee or employee or agent by estoppel of the Multi-County Program of the Office of the Ohio Public Defender, which has at all times held her out as its employee or agent. She may be served at 14 S. Paint Street - Suite 54, Chillicothe, Ohio 45601.

12.Defendant Leonard F. Holzapfel has at all relevant times had the title of common pleas judge in the State of Ohio, sitting by appointment in Ross County Case No. 09-CR-393. The State of Ohio has at all relevant times held defendant Holzapfel out as its employee or employee by estoppel. He has at all relevant times acted wholly outside of his jurisdiction in Case No. 09-CR-393 and for further reasons specified hereinbelow is not entitled to judicial immunity. He may be served at the Ross County Courthouse Ctrm No.1, 2 North Paint Street, Chillicothe, Ohio 45601

13.Defendant Soehner is a physician who is licensed to practice medicine under the laws of the State of Ohio and has at all relevant times either been employed by the State of Ohio or held out by said State of Ohio, OMHAS, and/or Twin Valley Behavioral Healthcare, as its employee or agent. He may be served at the Timothy B. Moritz Forensic Unit of Twin Valley Behavioral Healthcare, 2200 W. Broad Street, Columbus, Ohio 43223, as provided by law.

14.Defendant Hurst is a physician who is licensed to practice medicine under the laws of the State of Ohio and at all relevant times was either employed by OMHAS or its predecessor organizations, or previously by TBMFU/TVBH, both of which agencies have at all relevant times held him out as its employee or agent. He may be served at OMHAS at 30 East Broad Street, 8th Floor, Columbus, Ohio 43215-3430, as provided by law.

15.Defendant Baumgarten is an attorney who is licensed to practice law in the State of Ohio and has at all relevant times been employed at OMHAS or its predecessor organizations, which has at all times held him out as its employee, agent, or agent by estoppel. He may be served at OMHAS at 30 East Broad Street, 8th Floor, Columbus, Ohio 43215-3430, as provided by law.

16.Defendant Timothy B. Moritz Forensic Unit, Twin Valley Behavioral Healthcare [TBMFU/TVBH], whose principal office is located at 2200 W. Broad Street, Columbus, Ohio, is a state psychiatric hospital operating under the direction of Ohio Mental Health and Addiction Services [OMHAS] or its predecessor organizations.

17. Ohio Mental Health and Addiction Services [OMHAS] is a state agency that has supervisory and regulatory authority over the psychiatric hospitals of the State of Ohio, including Appalachian Behavioral Healthcare [ABH] and the Timothy B. Moritz Forensic Unit of Twin Valley Behavioral Healthcare [TBMFU/TVBH]. OMHAS will be

referred to hereafter as being the current name of the state agency that has been known by the previous names of Ohio Department of Mental Health, and the Ohio Department of Mental Health and Addiction Services. OMHAS may be served as indicated through its director, Tracy Plouck, at 30 East Broad Street, 8th Floor, Columbus, Ohio 43215-3430, as provided by law.

18.Defendant Appalachian Behavioral Healthcare [ABH], whose principal facility is located at 100 Hospital Drive, Athens, Ohio, is a state psychiatric hospital operating under the direction of OMHAS. It may be served at this address through its chief executive officer, Jane Krason.

19.Defendants Maida Sierra and Anthony Derrico, are physicians who are licensed to practice medicine under the laws of the State of Ohio and who are, and have at all relevant times been, employees or employees by estoppel of defendants State of Ohio, ABH, and/or OMHAS, and are being held out by one or more of said agencies as its employees or agents. They may be served at ABH, 100 Hospital Drive, Athens, Ohio 45701 as provided by law.

20. Defendant Mark McGee, is a physician who is licensed to practice medicine under the laws of the State of Ohio and is, and has at all relevant times been, an employee or employee by estoppel of defendants State of Ohio, ABH, and/or OMHAS, and is being held out by one or more of said agencies as its employee or agent. He may be served at ABH, 100 Hospital Drive, Athens, Ohio 45701 as provided by law.

21. Defendant John M. Hamill is a physician who is licensed to practice medicine under the laws of the State of Ohio and is, and has at all relevant times been, an employee or employee by estoppel of defendants State of Ohio, ABH, and/or OMHAS, and is being held out by one or more of said agencies as its employee or agent. He may be served at ABH, 100 Hospital Drive, Athens, Ohio 45701 as provided by law.

22. Defendant Jean W. Scott is a psychologist who may be licensed under the laws of the State of Ohio and is, and has at all relevant times been, an employee or employee by estoppel of defendants State of Ohio, ABH, and/or OMHAS, and is being held out by one or more of said agencies as its employee or agent. She may be served at ABH, 100 Hospital Drive, Athens, Ohio 45701 as provided by law.

23. Defendant Krason is an employee or employee by estoppel, of defendants ABH or OMHAS, is Chief Executive Officer of ABH, and the "impartial decision maker" referred to in OAC Sec. 5122:2-1-02(G)(1)(b) assigned to investigate ABH patient grievances. She may be served as provided hereinabove, at 100 Hospital Drive, Athens, Ohio 45701.

24. Defendant Long is either a licensed practice nurse or a registered nurse under the laws of the State of Ohio, is and has at all relevant times been, an employee, or employee by estoppel, of defendants State of Ohio, ABH and/or OMHAS, is being held out by ABH as

its employee or agent, and may be served as provided hereinabove, at 100 Hospital Drive, Athens, Ohio 45701.

25.Defendant Barnhart is a nurse supervisor and employee or agent or employee by estoppel of defendants State of Ohio, ABH and/or OMHAS, is being held out by ABH as its employee or agent, and may be served as provided hereinabove, at 100 Hospital Drive, Athens, Ohio 45701.

26. Defendant Willard is an employee, or agent or employee by estoppel of defendants State of Ohio, ABH and/or OMHAS, is being held out by ABH as its employee or agent, and may be served as provided hereinabove, at 100 Hospital Drive, Athens, Ohio 45701.

27.Defendant Smith is an employee, or agent or employee by estoppel of defendants State of Ohio, ABH and/or OMHAS, is being held out by ABH as its employee or agent, and may be served as provided hereinabove, at 100 Hospital Drive, Athens, Ohio 45701.

28.Defendant Coon is a physician who is licensed to practice medicine under the laws of the State of Ohio and holds himself out as not being "an employee of the State of Ohio in any capacity". He may be served at 1340 Jackson Drive, The Plains, Ohio 45780 as provided by law.

29. Defendants Doe 1-10 are known only by their fictitious names and plaintiff will amend this Complaint to allege their true identities when ascertained.

30. Plaintiff has no knowledge that any of the above named individual defendants, except defendant Coon, are other than employees, or employee/agents by estoppel of the state agencies indicated hereinabove.

STATEMENT OF FACTS

31. It has been known at all relevant times that there is no blood test, no neuro-imaging, no genetic, laboratory or other testing that will validly and reliably diagnose what is being called schizophrenia, schizo-affective, or bi-polar disorder. *See* attached Exs. A & B. [Aff. Whitaker, DSM IV (Tr) p. 305]

32. It has been known at all relevant times that diagnoses of "mental illness", unlike diagnoses of physical diseases, are based entirely on a subjective evaluation of behaviors.

33. It has been known at all relevant times that there is no known "brain disease" that causes the conditions that are called schizophrenia, schizo-affective disorder, or bi-polar disorder.

34.It has been known at all relevant times that there is no evidence that the brains of people who have not been labeled "mentally ill" are different from the brains of those

with a schizophrenic, schizo-affective, or bi-polar label provided that the latter group have never used pharmaceutical products.

35. It has been known at all relevant times that there is no "chemical imbalance" that causes what is called schizophrenia, schizo-affective disorder, or bi-polar disorder.

36.It has been known at all relevant times that no such "chemical imbalance" exists at all in association with what is being called schizophrenia, schizo-affective disorder, or bi-polar disorder, unless pharmaceutical products have been or are being used, or unless there is a general medical condition.

37.There is a major schism in the psychiatric and psychological community as to whether the "Diagnostic and Statistical Manual of Mental Disorders" [the DSM] is a valid diagnostic tool for "mental illness".

38.Among those psychiatrists who have publicly stated that the DSM is "invalid" are two directors of the National Institute of Mental Health [NIMH] – Dr Thomas Insell and Dr. Allen Frances, the latter being a past member of the DSM committee.

39. Notwithstanding that the DSM no longer enjoys general acceptance in the scientific community, it continues to be treated as legitimate by some members of the judiciary, including defendant Holzapfel, and by state psychiatric hospitals and agencies such as defendants OMHAS, ABH and TBMFU/TVBH which agencies depend on revenues from billings for pharmaceutical products.

40. Insurance billings and the prescribing of psychotropic drugs are keyed to specific diagnoses contained in the DSM.

41.There are some 5 versions of the DSM, each version adding to the previous version, the number of human behaviors deemed pathological according to the vote of a small committee of psychiatrists.

42. It has been known at all relevant times that neither the DSM IV (Tr) nor the DSM V approves the legitimacy of diagnoses of schizophrenia, schizo-affective disorder, or bipolar disorder without first ruling out "another medical conditions". *See* attached Ex. C. [DSM IV (Tr), p. 99]

43. It has been known at all relevant times that "general medical conditions" encompass essentially all medical disorders known to man, including without limitation nutritional deficiencies and disorders caused by drug reactions, and which

> "are coded on Axis III and that are listed outside the 'Mental Disorders' chapter of ICD [International Classification of Diseases]."[Ex. D: DSM IV (Tr), p. 181].

44. None of the defendants in this case have ever diagnosed plaintiff John Rohrer with any disorder after having first ruled out general medical conditions per the DSM.

45. Although the DSM variously defines schizophrenia, and schizo-affective conditions based on observations of behavior perceived to display too much "pronounced elation", such mental disorders are also diagnosed per the DSM based on behaviors that are considered too depressed. [DSM II, p. 35]

46.Those who are sometimes elated and sometimes depressed are often diagnosed as bi-polar, which is considered a form of schizophrenia.

47.Those who display blunted emotions, being neither elated nor depressed, nor cycling back and forth, are also said to have schizophrenia or schizo-affective disorder.

48. Although some psychiatrists consider the hallmark of schizophrenia to be hallucinations and well-developed delusions, neither hallucinations nor well-developed delusions are generally considered a necessary component of a diagnosis of schizophrenia or schizo-affective disorder.

49. There remains no universally accepted definition of schizophrenia, schizo-affective disorder or bi-polar disorder.

50.The DSM does not state or imply that all persons with the label of schizophrenic, schizo-affective, or bi-polar should be hospitalized or drugged.

51.There are numerous studies indicating that pharmaceutical products can be effective at masking certain behavioral symptoms in the very short term, but that they are not safe or effective for the treatment of people long-term who have labels of being "mentally ill". *See* Ex. E attached listing of 25 studies with brief summaries.

52.Several of the studies attached indicate that most people who have been labeled "mentally ill" will recover, in the sense of being restored to their family relationships, work, and all normal civic responsibilities, if they do not take psychotropic drugs.

53.Several of the studies attached and the attached affidavit of Robert Whitaker indicate that more than half of people studied who continue to take psychotropic drugs as prescribed, will become permanently physically and/or mentally disabled and a burden to taxpayers.

54. The DSM's have been known at all relevant times to support the concept that serotonin reuptake inhibitors (SSRI drugs used to treat psychiatric patients) are associated with mania, akathisia, and disinhibition.

55.The DSM's have also at all relevant times been known to support the concept that neuroleptic drugs, such as Invega and Risperdal are associated with hostility and agitation.

56. It has been known at all relevant times that mania, akathisia, disinihibition, hostility, and agitation are commonly associated with acts of violence.

57. In 2011 a Harvard study was publicized confirming that indeed many ssri drugs and neuroleptic drugs are empirically associated with thousands of documented acts of violence against others, including murder, even among people with no prior history of violence. *See* attached Moore TJ, Glenmullen J, Furberg CD. Prescription drugs associated with reports of violence towards others. *PLoS ONE.* 2010 Dec 15;5(12):e15337.

58.That there is no proven relationship between a label of "schizophrenia", or "schizo-affective disorder" or "bi-polar disorder" and violence among those with said label who are not taking or withdrawing from, psychotropic drugs.

59. No evidence has ever been admitted in any court resulting in a specific judicial finding that plaintiff John Rohrer suffers or suffered from schizophrenia, schizo-affective disorder, bi-polar disorder, or any other label contained in the DSM.

60.No evidence has ever been admitted in any court making any of the specific findings required by Ohio Rev. Code Sec. 5122.01(A) or (B), both of which are required to support a legal conclusion that plaintiff John Rohrer is a "mentally ill" person who is "subject to hospitalization by court order".

61. Plaintiff has been involuntarily confined as a patient at Twin Valley Behavioral Healthcare from February, 2010 until September 19, 2012, and at Appalachian Behavioral Healthcare from September 19, 2012 until the present, as a result of a January 25, 2010 proceeding in the Ross County Common Pleas Court in Case No. 09-CR-393 before defendant Corzine in which no evidence was admitted.

62.The 09-CR-393 proceedings were preceded and precipitated by multiple acts of medical malpractice committed from 2008 through September 1, 2009 by defendant Ballerene who had been prescribing for plaintiff the drugs Celexa, Invega, Buspar, Neurontin, Klonopin, and Abilify, among others, and who knew, but recklessly chose to ignore, the fact that some combination of the assaultive environment of the OMHAS supervised group home in which plaintiff was placed at that time, and the drugs defendant Ballerene was coercing plaintiff to take, were leading to plaintiff's suffering suicidal ideation at that time.

63.When plaintiff tried to alert defendant Ballerene in July, 2009 that he believed the drugs could be inducing feelings of violence, she ridiculed and then ignored him, recklessly continuing to prescribe in particular, the SSRI drug, Celexa, among other dangerous substances about whose mechanisms and interactions she either knew nothing about, or knew about and chose to ignore.

64.That the ssri drug Celexa was known in 2008 and 2009 to be associated with acts of violence, including murders committed by persons with no previous history of violence.

65. That during late August, 2009 and September 1, 2009, while still being assaulted at the OMHAS supervised group home, while continuing to take the Celexa as prescribed by defendant Ballerene, and while bleeding from a recent physical and sexual attack, plaintiff struck another man at the home, resulting in the man sustaining a cut requiring stitches.

66. As a result of said September 1, 2009 assault, plaintiff was charged with felonious assault on or about September 1, 2009 and incarcerated in solitary confinement at the Ross County Jail where he was held for months, required to wear a flimsy "suicide gown", tasored, and repeatedly assaulted.

67.Defendant Ballerene, upon learning of the September 1, 2009 assault at the group home, refused to follow up in any regard with plaintiff's medical or psychological condition while he was in solitary confinement, and abandoned him as a patient.

68.Plaintiff has been unable, despite the exercise of due diligence, to discover documents corroborating defendant Ballerene's 2009 prescribing records for plaintiff, until March or April, 2014, primarily because the owner of the OMHAS- supervised group home destroyed the records in 2013, according to an admission said owner made to the undersigned attorney in March, 2014.

69. Throughout 2009 defendant Ballerene had committed other acts of medical malpractice against plaintiff by refusing to acknowledge that plaintiff was suffering from post-traumatic stress, choosing instead to misdiagnose him and prescribe the aforementioned psychotropic drugs at excessive and unnecessary dosages, thereby exacerbating his post-traumatic stress, causing plaintiff unnecessary pain and suffering, past present, and future, and setting him up for further traumatic stress, dependence on psychotropic drugs, drug-induced brain damage and other medical conditions, from which plaintiff has been attempting to recover ever since.

70. At all relevant times, defendant Ballerene had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.said defendant Balllerene undertook a fiduciary duty towards plaintiff by acting as plaintiff's psychiatrist and prescribing potentially deadly drugs for him as part of the doctor-patient relationship she claimed to have with plaintiff, thereby agreeing to provide him with adequate and ethical care that did not harm him;

b. defendant Ballerene assumed an affirmative duty to act on behalf of the plaintiff by virtue of accepting him as a patient, affirmatively undertaking to "treat" him, and billing the State, or accepting a salary for his "services" for said "treatment".

c. Defendant Ballerene at all relevant times had actual and constructive knowledge that her failure to act competently on plaintiff's behalf could lead to harm;

d. That defendant Ballerene at all relevant times had direct personal contact with plaintiff, including sufficient contact that enabled her to know actually or constructively that her treatment of plaintiff violated plaintiff's right to informed consent, his right to not be mis-diagnosed and the mis-diagnosis used to drug him into suicidality, and his right to not be physically and medically harmed;

e. Plaintiff was justified in relying on the apparent lawfulness and competence of defendant Ballerene's actions, and failures to warn him of the adverse effects of the drugs she was coercing him to take, not realizing that defendant Ballerene's actions and failures to act were in derogation of his rights.

71. In September, 2009 the office of the Multi-County Public Defender was appointed to represent plaintiff.

72.That no agent or employee of said defendant Multi-County Public Defender office at any time interviewed plaintiff in the jail or made any inquiry as to his medical or psychological condition while there, or interviewed him regarding the September 1, 2009 assault.

73. Plaintiff met defendant Scherff for the first time during the January 25, 2010 purported commitment proceedings in Ross County Case No. 09 CR 393.

74. That instead of attempting to represent his client, defendant Scherff consciously disregarded his obligation to make even a token effort to prepare himself or plaintiff for the January 25, 2010 proceedings by failing and refusing to do any of the following:

a. explain to plaintiff the nature, purpose and consequence of the commitment portion of the January 25, 2010 proceedings, including without limitation the fact that (i) such proceedings were for the purpose of determining whether plaintiff would be locked up by the State; (ii) that such incarceration was not an automatic consequence of plaintiff's having just entered a plea of NGRI to the felonious assault; (iii) that the State had to specifically prove by clear and convincing evidence that plaintiff was at that time "mentally ill" and "subject to hospitalization by court order" within the meaning of Ohio Rev. Code Secs. 5122.01(A) and (B) before t hey could take his freedom; (iv) that the State was specifically required by Ohio Rev. Code Sec. 2945.40(B) to either provide plaintiff with a full hearing according to Ohio Rev. Code Sec. 2945.40 within 10 days of January 25, 2010 or discharge him;

b. notify plaintiff of the pendency of the commitment phase of the proceedings, as a distinct matter from the criminal charge;

c. explain to plaintiff or assert on his behalf, any of his statutory and procedural due process hearing rights, including, without limitation, each of the following rights:

(i)the right to call his own witnesses, including an independent expert evaluator, who would have established that plaintiff did not meet the definition of a person

who was "mentally ill" and "subject to hospitalization by court order", such specific findings being mandated before defendant Corzine could lawfully commit him;
(ii)the right to cross-examine witnesses against him, which would have established the absence of evidence that plaintiff did not meet the legal definition of being "mentally ill" and "subject to hospitalization by court order"
(iii) the right to effective counsel;
(iv)the right to require the State to prove each element of the Ohio Rev. Code Sec. 5122(A) and (B) definition of mental illness by clear and convincing evidence before defendant Corzine could lawfully commit him.

d. discuss the matter with plaintiff prior to the day of the proceedings, which failure ensured that there would not be time to obtain medical records and subpoena witnesses;

e. conduct any type of investigation whatsoever;

f. formulate any trial strategy whatsoever;

g. obtain any of plaintiff's medical or hospital records;

h. obtain any of plaintiff's group home records, which would have revealed that it was pharmaceutical drugs taken as prescribed coupled with the abusive conditions of the State-supervised home, plus untreated post-traumatic stress disorder thereby caused, which defendant Ballerene had refused to treat, which led to the September 1, 2009 assault charge;

i. request the appointment of an independent expert evaluation, including a psychologist and/or pharmacologist who could and would have determined plaintiff to have been involuntarily intoxicated at the time of the September 1, 2009 assault, rather than "insane" on September 1, 2009, or "mentally ill" or "subject to hospitalization by court order" on January 25, 2010 or at any other time;

j. research any caselaw applicable to the time-honored defense of involuntary intoxication, a temporary condition, which would have further corroborated the absence of legal authority to impose involuntary confinement upon the plaintiff on January 25, 2010;

k. research post-"hearing" any of the many legal grounds that rendered the supposed memorialization of the January 25, 2010 "hearing", i.e. the February 1, 2010 "Entry" unlawful, including without limitation, the following:

(i)the complete absence of evidence presented on 1/25/10, which rendered the 2/1/10 confinement "Entry" based on said 1/25/10 proceeding, a nullity, a matter which defendant Scherff knew full well because he participated in said sham "hearing" in which no evidence was ever marked, identified, or admitted and in which no state witnesses testified;

(ii) the 2/1/10 confinement "Entry" was based on no prior notice to plaintiff of the nature, purpose, and consequence of the 1/25/10 proceedings, but rather on the false and fraudulent concealments of material facts from plaintiff by defendants Scherff and Corzine, details of which are specifically pled hereinbelow, which reasonably led plaintiff to believe the commitment proceedings were *pro forma* and that it was automatic that plaintiff would be confined in a mental hospital;

(iii) the complete absence of any notice or opportunity at all to be heard, in violation of plaintiff's rights to substantive and procedural due process guaranteed to him by the Fourteenth Amendment, constitutional rights violations that defendant willfully and wantonly enabled, in complicity with defendant Corzine and the prosecutor's office.

l. object to the entering of a purported commitment order without evidence.

75. Defendant Scherff flagrantly violated his duty of loyalty to the plaintiff as his client by agreeing without plaintiff's prior knowledge or consent, to allow the proceedings to continue without the presence of any witnesses, and/or by failing to move to dismiss any claim there might have been for involuntary hospitalization due to the absence of evidence or witnesses, the absence of even a prosecutorial motion, and due to any the other due process grounds set forth herein.

76. Defendant Scherff was "filling in" during the said January 25, 2010 proceedings for another public defender employee/employee by estoppel of defendant public defender organizations, said other public defender having likewise refused to investigate the case, interview the plaintiff, or do anything to represent him in the matter.

77. That had defendant Scherff investigated the violence associated effects of such drugs as Invega and Celexa, mixed with other dangerous drugs being administered by defendant Ballerene, which were known during early 2010, then even a minimally adequate investigation would have disclosed that

a. said drugs were known to individually cause akathisia, mania, and disinhibition, factors known to pre-dispose persons to acting violently;

b. drug interactions among the drugs being inflicted on plaintiff, coupled with the effects of sudden drug withdrawal, and the adverse reactions said interactions caused, were and still are unpredictable but often adverse;

c. plaintiff was being subjected to said unpredictable drug interactions by the coercive actions of the State of Ohio, as directed by defendant OMHAS and its predecessors, which are associated with the kind of erratic prescribing patterns that defendant Ballerene was perpetrating in the State supervised group home,

78. That had defendant Scherff been competent or researched any of the legal issues, or requested a continuance so as to be able to do so, he would have found multiple legal grounds that he could and should have made a record of for appeal, including the complete absence of evidence to support an order of confinement.

79.That despite knowing that no evidence had been introduced against plaintiff or in support of involuntary hospitalization, defendant Scherff also refused to learn about or argue less restrictive alternatives, during the January 25, 2010 proceedings

80. Neither defendant Scherff nor defendant Corzine made any effort to explain to plaintiff the nature, purpose or consequence of the commitment portion of the January 25, 2010 proceedings, or the burden of proof required of the prosecution, thereby maliciously and in bad faith disregarding all their fiduciary duties they owed him, thereby affirmatively giving plaintiff the false idea that hospitalization following a plea of Not Guilty by Reason of Insanity was automatic.

81.Defendant Scherff either failed to correctly recognize any of the legal issues, or recklessly or intentionally further violated his duty of loyalty to the plaintiff by wantonly deciding to ignore said issues, consciously disregarding the life-threatening impact his refusal to represent plaintiff would have upon him, and the resulting harm that false imprisonment would cause him.

82. Defendant Scherff made no effort to confirm the obvious fact that plaintiff, though highly traumatized and frightened, did not meet the definition of being "mentally ill" and "subject to hospitalization by court order".

83. Defendant Scherff chose to remain silent during the entire proceedings, except when he specifically attempted to betray plaintiff by agreeing to some sort of unspecified "stipulation" without plaintiff's prior knowledge or his consent, and with full knowledge that he would thereby be expediting at least the appearance that defendant Corzine was succeeding in unlawfully stripping plaintiff of his rights to liberty, such actions and failures to act continuing to threaten plaintiff to this date and potentially for life.

84. Defendant Scherff failed to object to defendant Corzine's consideration of matters not in evidence, despite the fact that both said defendants knew or should have known that such consideration of matters outside the record was clearly outside of any court's jurisdiction to consider, a violation of plaintiff's basic procedural and substantive due process rights under state and federal constitutions, and rendered the 1/25/10 proceedings not a "hearing" within any ordinary or legal meaning of the term, including not within the meaning of the term as used in Ohio Rev. Code Sec. 2945.40.

85. Defendant Scherff refused to object to defendant Corzine's consideration of matters purporting to be based on the secret, non-evidentiary off-the-record confidential patient treatment records, both defendants thereby acting recklessly and in bad faith in violation of Ohio Rev. Code Sec. 2317.02, Ohio Rev. Code Sec. 4732.19 or other applicable statutory privileges belonging to plaintiff, by ignoring the fact that plaintiff had never

provided informed consent to such disclosure for any purpose, much less for the purpose of confining him against his will

86. Defendant Scherff refused to object to defendant Corzine's consideration of conclusory, non-fact-based written material that was never entered into evidence, which also violated the clear statement of law enunciated in *In re Miller*, 63 OhioSt3d 99, 108 (1992) prohibiting non-fact-based material from being used to incarcerate those accused of "mental illness".

87. Defendant Scherff failed to argue the financial bias of any purported author of the off-the-record, non-evidentiary "report" , which he knew or should have known was being considered by defendant Corzine as if it were evidence.

88.Defendant Scherff wholly abandoned any adversarial role or duty of loyalty to plaintiff, instead allying himself against the plaintiff and serving as a second prosecutor in the case, thereby depriving plaintiff of a hearing at all, much less one that could "reliably serve its function as a vehicle for the determination of guilt or innocence" of being "mentally ill" in violation of *Rose v. Clark*, 478 U.S. 570, 577-578 (1986).

89. Defendant Scherff failed to find, investigate, argue, or present any evidence that would have established even that there were less restrictive alternatives to involuntary hospitalization.

90.Defendant Scherff did not bother to read prior to hearing, the confidential, off-the-record "report" supposedly from the state's psychologist, gave up plaintiff's right to cross examine any witness the state might have produced, and refused to advise plaintiff of his rights to require the sworn testimony of said psychologist, had there been any such testimony, to be subjected to cross-examination.

91. Defendant Corzine was at all relevant times immediately before and during the January 25, 2010 proceedings, well aware that plaintiff was being subjected to ineffective counsel, who had done no preparation, including not even having read the non-evidentiary "report" and who was therefore basically absent except in body.

92. Neither defendant Scherff nor defendant Corzine made any effort to ascertain that disclosure of information purporting to be based on confidential treatment records was inadmissible or to advise plaintiff of same.

93. Defendant Scherff chose to not represent plaintiff in any meaningful way whatsoever, because of well-know time and financial pressures of his own afflicting the Public Defenders' offices of the State of Ohio, but which conflicted with the primary obligation of defendants Scherff, Multi-County Public Defender, and the Ohio Public Defender to provide effective, competent, or even minimally adequate representation of clients.

94.Plaintiff, as a person judicially determined earlier in the same January 25, 2010 hearing to be competent to knowingly and intelligently waive a jury trial, had the clear legal right under the Sixth and Fourteenth Amendments to knowingly and intelligently

waive his right to appointed counsel and to represent himself. *Faretta v. California* 422 U.S. 806 (1975); *People v. Reason*, 334 N.E.2d 572 (N.Y. 1975)(there are not two types of competence, one to stand trial, and the other to waive the right to be represented by counsel and to act as one's own attorney)

95. Defendants Scherff and Corzine refused to advise plaintiff of such right to self-representation, though knowing that plaintiff could not have fared any worse by representing himself than he did at the hands of defendant Scherff's malpractice and the fraud perpetrated upon him by defendants Scherff and Corzine, particularly if defendant Corzine had fully explained to him his rights under Ohio Rev. Code Sec. 2945.40.

96.Defendants Multi-County Public Defender and the Ohio Public Defender have at all relevant times, been well aware of their inability to provide adequate or effective representation to clients, particularly those in Ohio's mental illness system, but have recklessly, wantonly, and in bad faith refused to take measures in the trial courts, including the court of defendant Corzine on January 25, 2010, and again on March 4, 2011 as set forth in greater detail herein below, which had they done so, could have protected the interests of the client, plaintiff John Rohrer.

97. Although knowing that he was not competent to represent plaintiff or any other person facing involuntary hospitalization, neither defendant Scherff nor the Multi-County Public Defender nor the Ohio Public Defender made any effort to so inform defendant Corzine on the record, or to seek a continuance in any effort to become competent.

98.Defendant Corzine was at all relevant times aware of the ineffective counsel problem associated with representation by attorneys from the Multi-County Public Defender's office but recklessly, wantonly and in bad faith chose to do nothing to remedy the situation for the benefit of litigants such as plaintiff, apparently because such ineffective assistance of counsel shortened his workday.

99. Defendants Scherff and Corzine participated in the perpetration of a fraud upon the plaintiff during and after the January 25, 2010 proceedings, and also participated in the perpetration of a fraud upon the plaintiff during the 30 day period following the February 1, 2010 "Entry" in which, despite defendant Scherff's obligation to advise plaintiff of his right to appeal, he refused to so advise plaintiff of said right, and instead joined with defendant Corzine in committing the following wrongful acts:

a. Concealment. Both Scherff and Corzine concealed from plaintiff the fact that he had the following rights and that they were violated on 1/25/10 by refusing to advise him of his:

(i) right to meaningful notice of the nature and purpose of the confinement hearing;

(ii) right to a reasonable opportunity to be heard;

(iii) right to require the State to provide a hearing in which the state would have been required to prove by clear and convincing evidence that plaintiff met the legal definition of being "mentally ill" according to both Ohio Rev. Code Sec. 5122(A) and (B);

iv. right to cross-examination of the State's witnesses;

v. right to a commitment hearing that would not be a sham with an automatic, pre-arranged outcome;

vi. right to effective counsel; and all the other associated rights set forth hereinabove which were denied to plaintiff during the January 25, 2010 confinement "hearing"

vii. right to appeal the 2/1/10 confinement "Entry" due to violation of said rights.

Defendant Corzine further recklessly advanced such efforts at concealment of plaintiff's appeal rights and delay of the discovery of the tortious acts committed by himself and defendant Scherff, when he refused to order the transcription of the proceedings of 1/25/10, in violation of his clear and specific mandate to do so under Ohio Rev. Code Sec. 2945.40(D).

b.Material Facts The aforementioned facts as to plaintiff's rights which defendants Scherff and Corzine concealed from him, were all material to plaintiff's ability to defend his future liberty, his health, and the fundamental constitutional interest he had and still has to his bodily autonomy.

c. Knowledge/conscious disregard of falsity. Defendant Scherff's and defendant Corzine's legal trainings caused them to have actual or constructive knowledge that their affirmative acts of concealing the material facts as to plaintiff's rights clearly failed to constitute a correct statement or application of well-recognized Ohio statutory, constitutional, or federal state or constitutional law.

d.Intent to mislead – Defendants Scherff and Corzine may be inferred to have intended the natural and probable consequences of their conduct [*People v. Kaufman*, 92 P 861 (Cal. 1907)], i.e. that plaintiff would rely on their fraudulent concealments of his rights as representing an accurate statement of the law. Scherff and Corzine were at all times aware that their concealment of material facts would probably result in physical harm to plaintiff, intentional or negligent infliction of mental distress upon him, and false imprisonment, but chose instead to shorten their time in court and streamline plaintiff's psychiatric incarceration.

e. Justifiable reliance - Plaintiff had a right to rely on the belief that the rights defendants Scherff and Corzine did not explain to him did not exist or apply to him, such belief having been induced by the failure of said knowledgeable and reasonably trusted defendants Scherff and Corzine, during said January 25, 2010 proceeding, to advise him of legal rights which he lacked the training to determine for himself.

f. a resulting injury proximately caused by the reliance – plaintiff relied to his detriment – resulting in his unlawful confinement and subsequent forced drugging, having as of the time of the within filing lost the right to an immediate appeal and almost five years of his life to unlawful confinement/false imprisonment– as a proximate result of defendant Scherff and Corzine's willful and unprivileged acts and failures to act which induced plaintiff to believe that he had no rights.

100. Defendant Scherff made no objection to the complete absence of evidence to support the February 1, 2011 purported confinement "Entry".

101. Defendant Scherff recklessly or intentionally refused to consult with plaintiff about the possibility of an appeal of said February 1, 2010 forced drugging "Entry", evidently due to being so incompetent he was unaware that it was void on its face, or at least appealable, on the grounds of his own ineffectiveness and other rights violations which he had previously failed to advise plaintiff about and which are set forth herein.

102. Defendant Scherff further sabotaged any right plaintiff would have in the future with subsequent attorneys, to appeal from, or re-open the unlawful confinement "Entry" of February 1, 2010 by refusing to order up a transcript of the January 25, 2010 proceedings, thereby leaving the record barren for the use of future attorneys and compounding the malpractice he had already committed.

103. That due to his indigence, created and/or lengthened by his false imprisonment/unlawful confinement, plaintiff has been unable to avail himself of competent legal representation until December, 2013

104. It was not until February 20, 2014 that plaintiff's privately retained attorneys were able to discover for the first time the full extent of defendant Scherff's wanton and willful malpractice, when the transcript of the January 25, 2010 proceeding [Ex. F], which they ordered, first became available to plaintiff, revealing that defendant Scherff had actively engaged in bad faith in acts and omissions during the said January 25, 2010 proceedings, all of which constituted a proximate or contributing cause of the unlawful issuance of the purported confinement "Entry" of February 1, 2010. [Ex. G]

105.That the actions and willful failures to act by defendant Scherff have given the false appearance that plaintiff had legal counsel on January 25, 2010, by reason of which the subsequently entered February 1, 2010 confinement Entry *continues to this day* to be used by other defendants named herein as justification for the commission of false imprisonment, medical malpractice, assault, battery, torture, and intentional infliction of mental distress upon plaintiff.

106. At all relevant times, defendant Scherff had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.said defendant Scherff undertook the fiduciary duty towards him by promising defendant Corzine, then acting as the Ross County Common Pleas Court that had appointed him, that he would enter into an attorney-client fiduciary relationship with plaintiff, thereby agreeing to provide him with effective counsel;

b. defendant Scherff assumed an affirmative duty to act on behalf of the plaintiff by virtue of accepting him as a client, affirmatively undertaking to "represent" him, and billing the State for services for said "representation";

c.Defendant Scherff at all relevant times had actual and constructive knowledge that his failure to act competently on plaintiff's behalf could lead to harm;

d.That defendant Scherff at all relevant times had direct personal contact with plaintiff, including sufficient contact that enabled him to know actually or constructively that his representation of plaintiff violated his wishes to oppose the proposed involuntary; confinement, particularly had defendant Scherff informed him that such confinement was not automatic and that there were ample legal grounds for opposing same;

e.Plaintiff was justified in relying on the apparent lawfulness and competence of the undertakings and representations, and failures to warn, in which defendant Scherff engaged, not realizing that his actions and failures to act were in derogation of plaintiff's rights.

107. Defendant Scherff had a clear legal duty to use such skill, prudence, competence and diligence as members of the legal profession who undertake the representation of persons being targeted for involuntary commitment, commonly possess and exercise, in providing legal services to plaintiff.

108.Defendant Scherff also had a clear legal duty to refrain from providing such legal "services" with a malicious purpose, in bad faith, or in a wanton or reckless manner.

109.Throughout defendant Scherff's purported representation of plaintiff, his conduct fell well below the applicable standard of care that he owed to clients, because he acted negligently, recklessly, wantonly, willfully, with malice, with gross disregard for all professional standards, and with conscious disregard for plaintiff's rights under state statute and substantive and procedural due process as set forth hereinabove, when he knew or should have known that such conscious disregard of plaintiff's rights would create a great probability of causing him substantial harm, as has been set forth in greater detail herein.

110.That defendant Scherff, acting in concert with defendants Corzine, Multi-County Public Defenders, and the Office of the Ohio Public Defender, violated all of said duties to plaintiff for the additional reason that he was incompetent to represent clients during mental health proceedings, whether due to lack of training, bigoted attitudes towards those labeled "mentally ill", willful and wanton ignorance of the provisions of Ohio Rev. Code Sec. 5122.01(A) and (B), or because of a conflict of interest with his own personal financial motives in spending as little time as possible representing any given client due to a shortage of funds for such representation.

111. Notwithstanding the non-existence of any valid legal ground to confine him as set forth hereinabove, plaintiff has been continuously and unlawfully confined against his will since September 1, 2009 due to the bad faith actions and omissions of the various state actor defendants named herein and others who tormented him in the Ross County jail between September 1, 2009 and January 25, 2010.

112. Prior to and on March 4, 2011 defendant Soehner held himself out to be plaintiff's treating psychiatrist at the facility known as The Timothy B. Moritz Forensic Unit/Twin Valley Behavioral Healthcare [TBMFU/TVBH].

113. At all relevant times, defendant Soehner had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.said defendant Soehner undertook a fiduciary duty towards plaintiff by acting as plaintiff's psychiatrist and prescribing potentially deadly drugs for him as part of the doctor-patient relationship he claimed to have with plaintiff, thereby agreeing to provide him with adequate and ethical care that did not harm him;

b. defendant Soehner assumed an affirmative duty to act on behalf of the plaintiff by virtue of accepting him as a patient, affirmatively undertaking to "treat" him, and billing the State, or accepting a salary for his "services" for said "treatment".

c. Defendant Soehner at all relevant times had actual and constructive knowledge that his failure to act competently on plaintiff's behalf could lead to harm;

d.That defendant Soehner at all relevant times had direct personal contact with plaintiff, including sufficient contact that enabled him to know actually or constructively that his treatment of plaintiff violated his right to informed consent, the right to not be mis-diagnosed and the mis-diagnosis used to batter him, the right to not be physically and/or medically harmed, the right to receive "treatment" that was not psychologically abusive, and the right to have the confidentiality of his private treatment records observed;

e. Plaintiff was justified, and in any case, had no choice but to rely on the apparent lawfulness and competence of defendant Soehner's actions, and failures to warn him of the adverse effects of the drugs he was forcing upon him, not realizing that defendant Soehner's actions and failures to act, including defendant Soehner's unlawful communications or attempts at communication with defendant Corzine were in derogation of plaintiff's rights.

114.On or about March 4, 2011 defendants Soehner and Hurst, on information and belief, caused some form of communication pertaining to plaintiff's confidential treatment records to be delivered to defendant Corzine, then Ross County Common Pleas Judge.

115. Such communications, if any, were delivered to said defendant Corzine without plaintiff's consent.

116. On information and belief, said communications falsely implied that plaintiff was incapable of making his own treatment decisions, including the decision as to whether to refuse the psychotropic drugs defendants Soehner and Hurst wanted to inflict upon plaintiff without his consent.

117. Said communications were delivered for the purpose of inducing defendant Corzine to issue an order in Ross County Common Pleas Court Case No. 09 CR-393, purporting to authorize the forced drugging of plaintiff with unspecified toxic drugs at unspecified dosages.

118.That defendant Hurst was at the time he participated in the communication(s), the Chief Clinical Officer at defendant TBMFU/TVBH, and is now the Medical Director at defendant OMHAS.

119.That defendant Hurst at all times had the right and the duty to supervise the actions of defendant Soehner and to prevent acts of malpractice and other illegalities, but refused to properly exercise such duty to supervise, choosing instead to further the unlawful, excessive drug-prescribing agenda of defendants Soehner, TBMFU/TVBH, Baumgarten and OMHAS

120. That said communications by Hurst and Soehner to defendant Corzine were transmitted in violation of plaintiff's rights to confidentiality of his records according to Ohio Rev. Code Sec. 2317.02, Ohio Rev. Code Sec. 4732.19 and/or other applicable statutory privileges under Ohio law, in an effort to unlawfully and maliciously destroy plaintiff's rights to make his own treatment decisions without the use of force or coercion.

121. That said communications were actually and constructively known by defendants Hurst and Soehner to be insufficient to satisfy any of the 3 required findings set out in *Steele v. Hamilton County Community Mental Health Bd.*, 90 OhioSt3d 176 (2000), all of which had to be satisfied, any forced drugging ordered without being based on any of the 3 findings of *Steele*, particularly when also being in violation of state and federal statutes prohibiting felonious assault, chemical restraint, and torture, being tortious, criminal, and beyond the power of any court to inflict.

122. *Steele v. Hamilton County* is and was at all relevant times, the leading case in Ohio setting forth the minimum requirements the State of Ohio was required to prove before it could be considered that a lawful forced drugging order had been issued.

123. That all defendants, as an essential element of their jobs, at all relevant times had actual or constructive knowledge of the clear legal mandates of *Steele v. Hamilton County*.

124. That defendants Ballerene, Soehner, Hurst, TBMFU/TVBH, OMHAS, Baumgarten, ABH, Sierra, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, and Coon, because of their professional associations with psychiatry, have at all relevant times been fully aware of, or had actual or constructive knowledge of the nature and existence of the allegations contained in paragraphs 31-58 hereinabove, and the existence and general nature of Exhibits A-E attached to this Complaint.

125. That despite actual and constructive knowledge of the existence and general nature of information that disputes the legitimacy of the theories of "mental illness" and its "treatment" as practiced or promoted by said defendants Ballerene, Soehner, Hurst, TBMFU/TVBH, OMHAS, Baumgarten, ABH, Sierra, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, and Coon, said defendants have at all times, in violation of the First Amendment rights of their patients, engaged and continue to engage in a ruthless pattern of *conduct designed to conceal the availability of said alternative information*, including the existence and efficacy of alternative therapies, to patients and their families.

126. That as part of said campaign to conceal dissenting views about the type of psychiatry being practiced or promoted by said defendants Ballerene, Soehner, Hurst, TBMFU/TVBH, OMHAS, Ohio Attorney General, Carroll, Cruz, Baumgarten, ABH, Sierra, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, and Coon, *including information indicating that defendants' practices are ineffective and harmful*, said defendants have at all relevant times engaged in the following acts evincing a pattern of conduct designed to discredit, pathologize, punish, retaliate against, trivialize and force drug those patients who, like plaintiff, speak openly about said alternative information, said acts including without limitation:

a.Promoting the idea that "recovery" from "mental illness" cannot be achieved without submitting for life to admittedly dangerous drugging, which is therefore then said to justify coercive and forced drugging, as defendants Hurst, Baumgarten, and OMHAS teach to OMHAS-associated employees and agents by estoppel [http://mha.ohio.gov/Portals/0/assets/Initiatives/Public-Private/Court%20Ordered%20Medication%20Processes%2010%2024%202013%20Final%20Draft2.pdf];

b. Promoting the idea that one who resists forced drugging is more seriously "mentally ill" than those who submit, a tactic that has been and is being implemented against plaintiff John Rohrer by defendants Soehner, Hurst, TBMFU/TVBH, ABH, Sierra, McGee, Derrico, Hamill, and Scott;

c. Promoting the idea that "recovery" merely means "overcoming the negative impact of a psychiatric disability despite its continued presence" [TBMFU/TVBH Patient Handbook];

d. Promoting that idea that the only type of "recovery" possible "does not mean a cure nor does it imply being symptom free" [TBMFU/TVBH Patient Handbook];

e. Promoting the idea, as if it were an indisputable fact, that "people who have mental disorders on average die twenty-five years sooner than people without mental disorders" [TVBH patient handbook] when there is considerable evidence that such a statement is false and misleading given that its only or primary support lies in studies based on deaths of drugged psychiatric patients;

f. Promoting the non-evidence based theory that "mental illness" is the same thing as "brain disease", as do defendants Hurst, ABH, and OMHAS;

g. Maintaining a uniform policy of refusing to provide meaningful, effective non-drug therapy for the majority of patients, including plaintiff, who are often merely traumatized, not "mentally ill";

h. Maintaining a uniform policy of exacerbating the stress and trauma of the majority of defendants' patients, including plaintiff, by abusive "treatment team" interrogation/insult sessions in which no patient input into treatment is tolerated, as have defendants TBMFU/TVBH and ABH and in particular, defendants Soehner and Sierra, and as is currently being perpetrated by defendant Derrico;

i. Retaliating against plaintiff and others for expressing dissident views about the supposed safety and efficacy of the drugs Risperal, Depakote, and the ssri drugs, particularly by the ABH defendants whose retaliatory acts against plaintiff include or have recently included without limitation

i.Banning him from internet use, thereby interfering with plaintiff's access not only to alternative health and legal information but also his access to family, friends, doctors, and attorney, in violation of plaintiff's First and Sixth Amendment rights;

ii.Refusing to protect him from physical batteries from other patients, at times standing and watching;

iii.Writing false, malicious and misleading statements in plaintiff's records for the purpose of influencing officials, including defendants Corinze and Holzapfel in their official conduct, to keep him falsely imprisoned;

iv. Engaging in physical batteries against plaintiff;

v. Forcibly drugging him;

vi. Exerting influence *ex parte* upon defendant Holzapfel for even more dangerous drugs to force drug him with;

vii. Refusing to provide a legitimate grievance procedure;

viii. Refusing to provide a legitimate patients rights advocate;

ix. ordering plaintiff to stop co-facilitating patient support and discussion groups even though patients enjoyed and admittedly benefitted from them;

x. Falsely, repeatedly, and maliciously portraying plaintiff as "dangerous" by parading him at doctors' offices and in court appearances in chains and shackles to such an extent that it not only was degrading but it also interfered with plaintiff's ability to participate in court proceedings and communicate with his attorney, in violat.ion of plaintiff's First Amendment rights to reasonable court access and free speech

xi. Using false information about the drug Risperdal to induce plaintiff to take more of it than indicated during tapering from said drug, thereby endangering plaintiff's life, as was done by defendant Derrico on or about November 13, 2014.

j. Refusing to abide by statutory obligations to investigate patient abuse at state psychiatric facilities, including the abuse against plaintiff being perpetrated at ABH and

reported in March, 2014 to defendant Cruz at defendant Ohio Attorney General's Office of Patient Abuse and Medicare Fraud, said defendant Cruz refusing or having been instructed to refuse to investigate, defendant Assistant Ohio Attorney General Carroll choosing or having been instructed instead to defend the complained-of abusive practices of defendant ABH in Ohio Supreme Court Case No. 2014-0268, even though both said defendants had actual and constructive knowledge of the dangers of Risperdal Consta and Depakote, because defendant Ohio Attorney General received settlements of $7.8 million in August, 2012 and $52.7 million in November, 2013, both as a result of the criminal activities of the Risperdal manufacturer, as well as $14.45 million in 2012 as a result of settlements for the criminal activity of Abbott Laboratories in connection with its marketing of Depakote.

127. That on information and belief, some portion of the communication made by defendants Hurst and Soehner to Judge Corzine was based on defendant Soehner's various mis-diagnoses of plaintiff, or adoption of mis-diagnoses of others, when both Soehner and Hurst knew or should have known that any such diagnoses were not based on well-recognized principles of psychiatry due to failure to rule out general medical conditions including without limitation post- traumatic stress disorder and Traumatic Brain Injury , and in utter disregard of the absence of any indicator that plaintiff lacked legal "capacity" or "competence" to refuse forced drugging and in utter disregard that forced drugging constituted malpractice for patients such as plaintiff suffering from post-traumatic stress disorder.

128. Defendants Hurst and Soehner, during their efforts to obtain ostensible approval to force drug plaintiff, which actions served the economic interests of defendants TBMFU/TVBH and OMHAS, have acted in furtherance of the policies of OMHAS and TVMFU/TVBH by making an example of plaintiff to other patients of what happens to those who wish to make their own treatment decisions.

129. Defendants Hurst and Soehner knew or should have known that injectable forms of pharmaceutical drugs are more dangerous medically than the oral form, but chose to make a decision in favor of the administrative convenience and Medicare/Medicaid billing advantages, of the injectable form in derogation of the best interests of the patient, plaintiff John Rohrer, despite FDA warnings about Risperdal for long-term use, the federal torture statute, the ethical principles of their own profession, the American Psychiatric Association, other principles of state and federal law applicable to forced drugging and even in derogation of OMHAS policies of allowing patients who are forced drugged, the option of using the oral form.

130. Defendants Hurst and Soehner have acted towards plaintiff at all relevant times in a manner that is reckless, wanton, and malicious and without any regard whatsoever for the danger in which they were placing plaintiff's life when they sought, and obtained the "Entry" of March 14, 2011, which they then used to justify the infliction of an assortment of dangerous psychotropic drugs by force into the body of plaintiff.

131.That plaintiff has been unable, though the reasonable exercise of due diligence, to confirm the full extent of what specific communication or communications were in fact made to said defendant Corzine during March, 2011 or before, but did discover on or about January 30, 2014 for the first time, the probable existence of such communication when plaintiff's private counsel received the transcript of the proceedings of March 4, 2011 [Ex. H], thereby revealing the origin of the ostensible justification for the injuries that have been inflicted upon him ever since.

132. Defendant Corzine had never allowed said communication from defendants Soehner and Hurst to be marked, identified, or admitted into evidence, and, if such communication exists at all, no chain of custody of same has been preserved, and it has been kept concealed in some unknown location outside the official court file.

133.That as a result of the actions of defendants Hurst and Soehner in communicating their false version of privileged information to defendant Corzine on or before March 4, 2011, defendant Pettit was appointed to represent plaintiff in a "hearing" that was conducted before said defendant Corzine on March 4, 2011.

134.That defendant Pettit never met with, or otherwise communicated with, her client, the plaintiff, until moments prior to proceedings which occurred on March 4, 2011.

135.The purpose of the aforementioned March 4, 2011 proceedings was to determine whether defendants Soehner, Hurst, TBMFU/TVBH and then unspecified others would be given permission to forcibly drug plaintiff with dangerous pharmaceutical products at unknown levels without plaintiff's consent.

136.That instead of attempting to represent her client, defendant Pettit consciously disregarded her obligation to make even a token effort to prepare herself or him for the proceedings of March 4, 2011 by failing and refusing to do any of the following:

a.to notify plaintiff of the pendency of the matter;

b. to make any effort to protect plaintiff from the illegal jailing order of February 24, 2011 ostensibly entered by defendant Corzine to secure his court appearance for March 4, 2011, thereby subjecting him to traumatizing events at the Ross County jail, as had already occurred in the past, including beatings, tasorings, sexual assaults, and solitary confinement;

c. to notify plaintiff of his statutory and procedural due process hearing rights, or to implement any of them, including, without limitation, each of the following rights:

> (i)the right to call his own witnesses, who could have established his capacity to make his own treatment decisions;
> (ii)the right to cross-examine witnesses against him, which would have established the absence of evidence that plaintiff lacked capacity;

(iii)the right to an independent expert evaluation, which would have established (a)plaintiff's capacity to make his own treatment decisions, (b)that forced drugging was not in his psychological or medical best interests, and (c)that there were equally effective alternatives as required by the leading case of *Steele v. Hamilton County*;
(iv)the right to effective counsel;
(v)the right to require the State to prove each of the following by clear and convincing evidence before forced drugging could be lawfully ordered: (a) lack of capacity;(b) best interests of the patient: and (c)absence of equally effective alternative treatments

d. to discuss the matter with plaintiff prior to the day of the proceedings, which failure ensured that there would not be time to obtain medical records, request an expert, or subpoena witnesses;

e. to speak with plaintiff's family members, which would have alerted her to the fact that plaintiff was capable of making his own treatment decisions;

f. to conduct any type of investigation whatsoever;

g. to formulate any trial strategy whatsoever;

h. to obtain any of plaintiff's medical or hospital records;

i.to obtain any of plaintiff's group home records, which would have revealed that it was pharmaceutical drugs taken as prescribed that led to the original criminal charge, the violence-associated propensities of which plaintiff had attempted to warn defendant Ballerene, which would have enabled defendant Pettit to object to the improper testimony of defendant Judge Corzine during the March 4, 2011 proceeding, which testimony appears to have been based on the false idea that plaintiff was not taking the drugs as prescribed in September, 2009, a notion that appears to have been utilized by defendant Corzine to justify forced drugging, though legally insufficient to have done so;

j.to speak with plaintiff's medical doctor outside the institutional setting , which would have alerted said defendant Pettit to the fact that the proposed drugging would endanger plaintiff medically and emotionally, as it in fact has done;

k. to speak with any of the State's medical doctors, on information and belief, which, had defendant Pettit done so, would have also revealed the dangers of said proposed drugs and the absence of any basis for a forced drugging order due to the non-existence of proof of any of the 3 required elements of *Steele v. Hamilton County*;

l. to request the appointment of an independent expert evaluation, including a psychologist and/or pharmacologist who could and would have determined plaintiff to be competent and capable of making his own treatment decisions, and that increasing the

dosages of psychotropic drugs as proposed would result in medical and psychological damage to plaintiff;

m. to request a transcript of the original confinement proceeding, which would have revealed to subsequent counsel that the original commitment was invalid, having been entered *without the use of any evidence at all*, much less clear and convincing evidence;

n. to research the caselaw, constitutional law, and statutory law applicable to forced drugging proceedings, which would have revealed the absence of legal authority to impose forced drugging upon the plaintiff;

o. to do even online research which would have revealed the dangers of the proposed drugs and the fact that the manufacturers of several of said drugs had already even then been convicted of criminal acts due to said manufacturers' fraudulent representations as to the safety and effectiveness of said drugs;

p. to make any effort to determine the common adverse reactions that a human being would experience from excessive dosages of any of the drugs that may have been proposed, or plaintiff's history of adverse drug reactions to any of the proposed drugs;

q. to discuss with plaintiff his reasons for opposing forced drugging, which could and would have revealed that his reasons were very rational and had legal and scientific bases, or to present evidence of his capacity and competence to accept or refuse same in the dosages defendants Soehner and Hurst proposed;

r. to investigate the numerous *completely untried* alternatives to forced drugging, including peer support, nutritional counseling, dietary changes, heavy metal chelation therapies, avoidance of allergens, trauma-informed talk therapy, and a thorough medical examination which would have revealed long-standing general medical conditions including hypothyroidism, magnesium deficiency, hypoglycemia, and traumatic brain injury, proof of the existence of any one of which would have defeated any psychiatric diagnosis used to justify proposed drugging;

s. to research either before or after the March 4, 2011 "hearing", any of the many other legal grounds that rendered the March 14, 2011forced drugging "Entry" fragment [Ex. "I"] unlawful, including without limitation, the following:

(i)the 3/14/11 forced drugging "Entry" is based on the 3/4/11 proceeding, which defendant Pettit knew full well contained no evidence that was ever marked, identified, or admitted and in which no state witnesses testified

(ii) the 3/14/11 forced drugging "Entry" fragment was and remains invalid on its face due to missing any list of supposedly authorized drugs;

(iii) the 3/14/11 forced drugging "Entry" fragment is invalid on its face due to its failure to make, and the impossibility of making, the required findings of fact

required by *Steele v. Hamilton Cty. Community Mental Health Bd.* 90 OhioSt3d 176 (2000) and *State v. Lantz*, 2011 – Ohio – 5436 (11th Dist.), i.e. (a)No finding of lack of capacity; (b)No finding of the best interests of the patient; and (c)No finding that no less intrusive treatment would be as effective;

(iv) the forced drugging provision of the "Entry" fragment of 3/14/11 is invalid on its face for denying plaintiff one of the civil rights under Ohio Rev. Code Sec. 5122.301 that he retains, even if he were a legitimately hospitalized person, i.e. the right to the presumption of competence to make his own treatment decisions and to receive adequate information before any procedure or drug is proposed;

(v) the 3/14/11 "Entry" fragment violated plaintiff's right to be free of unwanted invasive medical procedures due to infringement of plaintiff's fundamental rights under the Ohio constitution to liberty, rights of conscience, and unenumerated natural rights to privacy and body autonomy, which may not be infringed where, as here, the state fails to show a compelling state interest that overrides constitutional principles aimed at protecting individual choice.;

(vi) the facial invalidity of the 3/14/11 forced drugging "Entry" fragment on its face due to being based solely on defendant Soehner and Hurst's off-the-record "report", which is believed to consist of inadmissible statements that fail to meet the requirements of Ohio Evidence Rule 102 as interpreted by *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) and *Daubert v. Merrell Dow Pharmaceuticals, Inc.* 113 S. Ct. 2786 (1993);

(vii) the facial invalidity of the 3/14/11 forced drugging "Entry" fragment due to being totally in contravention of the only admitted evidence, which was the testimony of plaintiff, described by defendant Corzine as "pretty lucid" indicating he had rational, well-thought out reasons for opposing forced drugging because he opposed the excessive dosages defendants Soehner wanted unbridled discretion to inflict;

(viii) the facial invalidity of the 3/14/11 forced drugging "Entry" fragment due to its violation of the 8th amendment's caveats against cruel and unusual punishment, as well as state and federal criminal statutes & an international treaty prohibiting torture;

(ix) the invalidity of the 3/14/11 forced drugging "Entry" fragment due to its depriving plaintiff of his right to not be force drugged discriminatorily because of being perceived as "mentally disabled" in violation of 42 U.S.C. sec. 12132, the Americans with Disabilities Act and the Equal Protection Clause of the 14th Amendment, said right to informed consent belonging to all other citizens before being subjected to brain damaging, mild-altering drugging;

(x) the forced drugging "Entry" fragment of March 14, 2011 was entered without affording plaintiff reasonable notice or a reasonable opportunity to be heard, in

violation of his rights to substantive and procedural due process guaranteed to him by the First, Fourth, Sixth and Fourteenth Amendment constitutional rights violations that defendants Soehner, Hurst, Scherff, Pettit, and Corzine willfully and wantonly enabled, in complicity with the Ross County prosecutor's office;

(xi) the 3/14/11 forced drugging "Entry" fragment is invalid because it authorizes unlawful acts of chemical restraint contrary to Ohio Rev. Code Sec. 2903.33, which constitute even worse abuses than those denounced in *Davis v. Hubbard*, 506 F. Supp. 915, 926 (N.D. Ohio 1980), a seminal case that defendant Pettit should and could have known about had she had any training at all, or done any of her own research at all, in mental health law;

(xii) the 3/14/11 forced drugging "Entry" fragment is invalid because it authorizes already named and currently unknown state actors to take from plaintiff the choice of whether to submit to the unknown risks of the drug interactions of polypharmacy, a form of medical experimentation being forced upon plaintiff without any pretense at compliance with the Geneva Convention's Nuremburg Code, now incorporated into Title 45 Volume 46 of the Code of Federal Regulations, which apply to defendants OMHAS and TBMFU/TVBH;

(xiii) the 3/14/11 forced drugging "Entry" fragment is invalid because it purports to authorize state actions which interfere with free speech and free thought in violation of the First Amendment;

(xiv) the 3/14/11 forced drugging "Entry" fragment is invalid because it purports to authorize state actions that constitute violent, unjustified, and unreasonable seizures of his person without probable cause, outside of the police power, in violation of the Fourth Amendment;

(xv) the 3/14/11 forced drugging "Entry" fragment is invalid because it purports to authorize state actions that constitute torture within the meaning of 18 U.S. C. Sec. 2340 because such drugging is known to inflict severe mental and physical pain or suffering with the very "mind-altering substances . . .calculated to disrupt profoundly the sense or personality" that defendant's malicious, unconscionable malpractice, wantonly, willfully, and outrageously enabled to become part of said 3/14/11 "Entry".

137. Defendant Pettit flagrantly violated her duty of loyalty to the plaintiff as her client by either agreeing without his prior knowledge or consent to allow the proceedings to continue without the presence of any witnesses, or by failing to move to dismiss any claim for forced drugging due to the absence of evidence or witnesses in support thereof, and due to any and all of the grounds set forth hereinabove.

138. Defendant Pettit either failed to correctly recognize any of the legal issues, or recklessly or intentionally further violated her duty of loyalty to the plaintiff by wantonly

deciding to ignore said issues with utter, conscious disregard for the life-threatening impact her refusal to represent plaintiff would have upon him.

139. Defendant Pettit made no effort to assist plaintiff in his efforts to testify before defendant Corzine's court, thereby actively undermining his efforts to represent himself, which he was required to do because defendant Pettit consciously disregarded and abandoned all her fiduciary duties towards him.

140. Defendant Pettit made no effort to confirm or corroborate the obvious fact that plaintiff was fully capable of understanding informed consent and participating in his own treatment decisions.

141.Defendant Pettit chose to remain silent during the entire March 4, 2011 proceedings, except when she specifically attempted to betray plaintiff by agreeing to some sort of unspecified "stipulation" without plaintiff's prior knowledge or his consent, and with full knowledge of his expressed wish to not be ordered forced drugged.

142. Defendant Pettit failed to object to defendant Corzine's consideration of matters not in evidence, though knowing that such consideration was unlawful as a violation of substantive and procedural due process under the Fourteenth Amendment to the U.S. Constitution, and would be used to undermine the clearly expressed wishes of the plaintiff.

143. Defendant Pettit refused to object to defendant Corzine's consideration of matters purporting to be based on confidential patient treatment records, recklessly ignoring the fact that plaintiff did not knowingly consented to such disclosure for any purpose, much less for the purpose of justifying forced drugging.

144. Defendant Pettit was grossly and wantonly negligent at a minimum by refusing to make a record as to the unlawful use of confidential, inadmissible, off-the-record information or to advise plaintiff as to its inadmissibility.

145. Defendant Pettit refused to object to defendant Corzine's consideration of conclusory, non-fact-based written material that would have been inadmissible in any event due to violating the principles set out in the leading case of *In re Miller*, 63 Ohio St. 3d 99 (1992).

146.Defendant Pettit failed to argue the financial bias of defendants Soehner, Hurst, and TBMFU/TVBH in promoting forced drugging, which defendants Pettit and Corzine knew or should have known.

147. Defendant Pettit wholly abandoned any adversarial role or duty of loyalty to plaintiff, instead allying herself against the plaintiff and serving as a second prosecutor in the case, which unlawfully insured that there would be no adversarial weighing of facts.

148. Defendant Pettit failed to find, investigate, prepare, or present any of the needed expert testimony that would have established the unlawfulness of the proposed forced drugging.

149. Defendant Pettit refused to object to defendant Corzine's consideration of whatever confidential, off-the-record "report" defendants Hurst and Soehner may have sent him, refused to subject it to cross examination, and refused to advise plaintiff of his right to exclude it before she apparently attempted to agree to it.

150. Defendant Pettit chose to not represent plaintiff in any meaningful way whatsoever, because of well-known time and financial pressures of her own afflicting defendant Public Defenders' offices of the State of Ohio, but which conflicted with the primary obligation of said defendants Pettit, Multi-County Public Defender, and the Ohio Public Defender to provide effective, competent, or even minimally adequate representation of clients such as plaintiff.

151. Although knowing that she was not competent to represent plaintiff or any other person facing forced drugging, neither defendant Pettit nor the Multi-County Public Defender nor the Ohio Public Defender made any effort to so inform defendant Corzine as the trial judge, or to seek a continuance in any effort to become competent.

152. Defendants Pettit and Corzine participated in the perpetration of a fraud upon the plaintiff before, during, and after the March 4, 2011 proceedings and during the 30 day period following the March 14, 2011 "Entry" in which they had a clear legal duty to disclose certain facts and situations, but refused to so advise plaintiff and perpetrated a fraud upon him instead, as follows:

a.Concealment. They concealed from plaintiff the fact that he had the following rights:

i.right not to participate in the hearing at all because the court had already lost jurisdiction in 2010, ten days after the sham confinement proceeding of 1/25/10;

ii. right to meaningful notice;

iii. right to a reasonable opportunity to be heard;

iv. right to require the State to prove by clear and convincing evidence that plaintiff lacked capacity to refuse drugging, that he had the right to require the State to prove by clear and convincing evidence that forced drugging was in his best interests, *and* that there were no alternatives to forced drugging that were equally effective;

v. the right to cross-examination of the State's witnesses;

vi. the right to a forced drugging hearing that would not be a sham with a pre-arranged outcome based on the power of the hospital, TBMFU/TVBH, a belief which plaintiff expressed during the hearing and which no one present, including defendants Pettit and Corzine, denied;

vii. the right to effective counsel; and all the other associated rights set forth herein as to said forced drugging hearings.

viii. the right to appeal a forced drugging "Entry" based on proceedings that violated said rights;

b.Material Facts The aforementioned facts as to plaintiff's rights which defendants Pettit and Corzine concealed from him, were all material to plaintiff's ability to defend his future liberty, his health, and the fundamental constitutional interest he had and still has to his bodily autonomy.

c. Knowledge/conscious disregard of falsity. The legal training of defendants' Pettit and Corzine indicate they had actual or constructive knowledge that their affirmative acts of concealing the material facts as to plaintiff's rights did not constitute a correct statement of well-recognized Ohio or federal statutory or constitutional law.

d.Intent to mislead – Defendants Pettit and Corzine may be inferred to have intended the natural and probable consequences of their conduct [*People v. Kaufman*, 92 P 861 (Cal. 1907)], i.e. that plaintiff would rely on their fraudulent concealments of his rights as representing an accurate statement of the law. Defendants Pettit and Corzine were at all times aware that their concealment of material facts would probably result in physical harm to plaintiff by means of a deadly weapon, i.e. needles filled with dangerous drugs, in violation of Ohio Rev. Code Sec. 2903.11(A)(2) .

e. justifiable reliance upon the concealment - plaintiff had a right to rely on the belief that the rights defendants Pettit and Corzine did not explain to him did not exist or apply to him, such belief having been induced by the failure of said defendants, as knowledgeable and trusted legal professionals, during the January 25, 2010 proceeding, to advise him of legal rights he lacked the training to determine for himself.

f. a resulting injury proximately caused by the reliance – plaintiff relied to his detriment – having been unjustifiably confined and then force drugged, having as of the time of the within filing lost more than 3 ½ years of his life to the ravages of forced drugging, causing him past and future mental and physical suffering and irreversible medical damage– as a proximate result of defendants' acts and failures to act which induced him to believe that he had no rights.

153.That had defendant Pettit investigated the criminal histories of even one of the drug manufacturers whose wares were being proposed for injection into plaintiff's body, a minimally adequate investigation would have disclosed that

(a)Janssen Pharmaceutical or its parent company Johnson & Johnson, the manufacturer of the drug Risperdal Consta, had been ordered in March, 2009 to pay $4.4 million for false advertising about the benefits of Risperdal;

(b) that Johnson & Johnson was assessed $257.7 million in October, 2010 by a Louisiana jury for misleading claims about the safety of Risperdal, including minimizing the risk of diabetes;

(c) at the time of plaintiff's forced drugging proceeding, Johnson & Johnson was facing similar fraud charges in the case of *State of South Carolina v. Janssen Pharmaceuticals*,

2007-CP-4201438, Circuit Court for Spartanburg County, South Carolina (Spartanburg), which led to a jury finding on March 22, 2011 that the corporation had "willfully violated the South Carolina Unfair Trade Practices Act by engaging in unfair or deceptive acts" regarding Risperdal and had misled doctors about its safety and effectiveness .

154.That had defendant Pettit bothered to conduct any type of investigation herself, merely based on internet research, as to the safety of the drugs being proposed for her client, she would have known that the drug Risperdal is and was then admittedly known to cause temporary and permanent drug adverse events, particularly when it is being overdosed, including tardive dyskinesia, dystonia, tachycardia, neuroleptic malignant syndrome, diabetes, hyperlipidemia, hyperprolactinemia, galactorrhea, akathisia and mania associated with the risk of violence, and sudden cardiac death.

155. That had defendant Pettit bothered to conduct any type of investigation herself, merely based on internet research, she would have discovered that the drug interactions between Risperdal and other drugs are largely unknown and unpredictable, but generally more harmful than either drug individually.

156. That had defendant Pettit bothered to conduct any type of investigation as to her client's medical history, she would have found that the drug Risperdal had been tried with him previously and withdrawn, due to the drug having precipitated a cardiac event in 2007, a fact documented in plaintiff's Adena Hospital records from 2007.

157. Defendant Pettit neither investigated the safety nor effectiveness of any of the drugs that were being proposed to be used by force against plaintiff, nor did she investigate the criminal histories of those drug manufacturers revealed by their fraudulently marketing of said drugs.

158. Defendant Pettit made no effort to determine whether there were grounds to believe that the use of any of the drugs which may or may not have been proposed, were found to reduce violence, or whether many of them, such as the Celexa and Invega defendant Ballerene was requiring plaintiff to take, in fact *increased* reports of violence.

159. Defendant Pettit made no effort to determine whether defendant Soehner had already been committing malpractice by excessively prescribing against plaintiff, which had she done so, would have revealed that he had a history of excessive drugging and that it was reasonable to foresee that his malpractice would escalate following any semblance of encouragement provided by any proposed forced drugging order.

160.That defendant Pettit made no effort to determine whether defendants Soehner, Hurst, or TBMFU/TVBH, had ever attempted to provide accurate information to plaintiff that would have enabled him to make an informed decision, which would have revealed that no forced drugging order consistent with *Steele v. Hamilton County* could have ever been issued.

161. Had defendant Pettit conducted an investigation of the facts, she would have found that plaintiff had very logical reasons for refusing drugging at the levels being sought by defendants Soehner, Hurst, TVBH, and abetted by the policies of OMHAS.

162.Had defendant Pettit informed herself of such logical reasons for refusing forced drugging, she would have been able, as was her legal obligation, to use such information to defend plaintiff's right to the autonomy of his body.

163. Following the March 4, 2011 "hearing", defendant Pettit refused to inform plaintiff about, or even provide him with a copy of, the "Entry" fragment of March 14, 2011, which "Entry" fragment purported to memorialize the proceedings of March 4, 2011.

164. Defendant Pettit refused to consult with plaintiff about the possibility of an appeal of said March 14, 2011 forced drugging "Entry", evidently due to being so incompetent she may have been unaware that it was void on its face, or at least appealable, on the grounds of her own ineffectiveness and other rights violations which she had previously failed to advise plaintiff about and which are set forth herein.

165. Defendant Pettit further sabotaged any right plaintiff would have in the future with subsequent attorneys, to appeal from, or re-open the forced drugging "Entry" of March 14, 2011 by refusing to order up a transcript of the March 4, 2011 proceedings, thereby compounding the malpractice she and defendant Corzine had already committed by refusing to advise plaintiff regarding his appeal rights.

166. Defendant Corzine violated his clear statutory mandate under Ohio Rev. Code Sec. 2945.40(D) to order up a transcript, knowing that such failure would conceal, for at least the duration of the time for appeal, the multiple rights violations that he and defendant Pettit had perpetrated against plaintiff.

167. That plaintiff has been unable to avail himself of competent private legal representation until December, 2013, by reason of which it was not until January 30, 2014 that said attorneys were able to discover for the first time the full extent of defendants' wanton and willful malpractice, said transcript of the March 4, 2011 proceeding first having became available on January 30, 2014.

168.Said March 4, 2011 transcript reveals that defendants Pettit and Corzine had actively engaged in bad faith in acts and omissions during the March 4, 2011 proceeding which constituted the proximate and/or contributing cause of the unlawful issuance of the purported forced drugging "Entry" of March 14, 2011.

169. That the actions of defendants Pettit and Corzine have given the false appearance that plaintiff had legitimate legal counsel on March 4, 2011, by reason of which the subsequently entered March 14, 2011 forced drugging Entry, though void on its face, continued until November 3, 2014 to be used as justification for the commission of medical malpractice, assault, battery, and intentional infliction of mental distress upon plaintiff by other defendants as indicated herein.

170.That defendant Pettit knew or should have known of the dangers of the drugs that the March, 2011 proceedings facilitated, but she recklessly chose instead to *violate the expressed wishes of her client* and to participate in the violations of his statutory and constitutional rights, including his rights to be free of common law assault, battery, medical malpractice, and intentional infliction of mental distress.

171. At all relevant times, defendant Pettit had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.she undertook the fiduciary duty towards him by promising the Ross County Common Pleas Court that had appointed her, that she would enter into an attorney-client fiduciary relationship with him, thereby agreeing to provide him with effective counsel

b. she assumed an affirmative duty to act on behalf of the plaintiff by virtue of accepting him as a client, affirmatively undertaking to "represent" him, and billing the State for services for said "representation".

c. Defendant Pettit at all relevant times had actual and constructive knowledge that her failure to act competently on plaintiff's behalf could lead to harm;

d. Defendant Pettit at all relevant times had direct personal contact with plaintiff, including sufficient contact that enabled her to know that her representation violated his expressed wishes to oppose the proposed forced drugging and that there were ample legal grounds for opposing same.

e. Plaintiff was justified in relying on the apparent lawfulness and competence of the undertakings and representations, and failures to warn, in which defendant Pettit engaged, not realizing that her actions and failures to act were in derogation of plaintiff's rights.

172. Defendant Pettit had a duty to use such skill, prudence, competence and diligence as members of the legal profession who undertake the representation of persons being targeted for forced drugging, commonly possess and exercise, in providing legal services to plaintiff.

173. Defendant Pettit also had a clear legal duty to refrain from providing such legal "services" to plaintiff with a malicious purpose, in bad faith, or in a wanton or reckless manner.

174.Throughout the defendant Pettit's purported representation of plaintiff, her conduct fell well below the applicable standard of care that she owed to clients, because she acted negligently, recklessly, wantonly, willfully, with malice, with gross disregard for all professional standards, and with conscious disregard for plaintiff's rights to safety and bodily autonomy when she knew or should have known that such conscious disregard of plaintiff's rights would create a great probability of causing him substantial harm, including pain, suffering, and medical disabilities, as set forth in greater detail herein.

175.That defendant Pettit violated all of said duties to plaintiff because she was incompetent to represent clients during mental health proceedings, whether due to lack of training, bigoted attitudes towards those labeled "mentally ill" prohibited by the Americans with Disabilities act, willful and wanton ignorance of the law regarding forced drugging, and/or because of a conflict of interest with her own personal financial motives in spending as little time as possible representing any given client due to a shortage of funding to her from defendants Public Defender organizations for such representation.

176. Defendant Pettit acted negligently, recklessly, and wantonly in direct contravention of the legal and medical interests of the plaintiff, as she knew or should have known that by not opposing forced drugging, she was aiding and abetting defendants Soehner, Hurst, Corzine and the other TMBFU/TVMH and OMHAS defendants in endangering the life and health of the plaintiff.

177. That defendants Multi-County Program, Office of the Ohio Public Defender, and the Office of the Ohio Public Defender at all relevant times had actual and constructive knowledge that defendant Pettit was incompetent to represent persons in forced drugging proceedings or in appellate proceedings involving forced drugging because it neither provided her with, nor required her to have, relevant training and because it required her to maintain an excessive caseload which was admittedly and reasonably likely to lead to the legal malpractice and ineffective counsel which resulted during defendant Pettit's "representation" of plaintiff.

178.That as a direct and proximate result of the legal malpractice, incompetence, and reckless and intentional acts of defendant Pettit, and the negligent entrustment, hiring, retention and/or supervision of Pettit by the Public Defender organization defendants, defendant Corzine's active participation in defendant Pettit's malpractice and the gross, willful and wanton manner in which defendants Hurst and Soehner consciously disregarded their obligations to plaintiff as medical doctors, defendant Soehner subsequently utilized the March 14, 2011 forced drugging "Entry" fragment as a pretext to violate the standard of care he owed to plaintiff, by forcibly drugging him from April 5, 2011 until September 19, 2012, a consequence that was entirely foreseeable by defendants Pettit and Corzine.

179. That at all relevant times, defendant Corzine had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.he undertook the solemn duty under Ohio Rev. Code Sec. 3.23 towards plaintiff individually and as a member of the litigating public, and that by virtue of his oath of office he promised to "support the Constitution of the United States and the Constitution of Ohio", to "administer justice without respect to persons", and to "faithfully and impartially discharge and perform all of the duties" of a common pleas judge to the best of his "ability and understanding".

b. he assumed an affirmative duty to act towards plaintiff in implementing the rules of evidence, upholding state and federal constitutions, and enforcing plaintiff's constitutional rights by virtue of accepting the responsibilities of serving as judge in plaintiff's case, affirmatively undertaking to act lawfully and impartially, utilizing the considerable "ability and understanding" that defendant Corzine has as a legal scholar in fulfilling a legal obligation he owes all litigants and for which he is paid by the State.

c. Defendant Corzine had actual and constructive knowledge that his failure to act according to the oath of his office and without violating plaintiff's constitutional rights and in the complete absence of subject matter jurisdiction, which he lost on or about February 4, 2010, could lead to harm towards said plaintiff;

d. Defendant Corzine had direct personal contact with plaintiff, including sufficient contact that he decided to give his own unsworn testimony on March 4, 2011 as a fact witness, even as to "facts" he knew nothing about;

e. Plaintiff was justified in relying on the apparent ethical and legal obligations of defendant Corzine, his position as a judge, along with defendant Corzine's representations, and failures to warn, not realizing that said actions and failures to act were in derogation of plaintiff's rights, including his right to liberty.

180. On or about April 5, 2011, defendant Soehner and TBMFU/TVBH began to use the March 14, 2011 forced drugging "Entry" fragment as a pretext to violate the standard of care they owed plaintiff by forcibly drugging him with Risperdal Consta 50 mg. every two weeks, as well as by forcing other dangerous drugs, including escalating amounts of Clozaril at the same time, upon plaintiff against his will, for a psychiatric condition he did not have, resulting in much of the medical and emotional damage plaintiff was subjected to during that time, and also thereby rendering plaintiff more physically and emotionally vulnerable to the further abuses and assaults which were to come at the hands of the TBMFU/TVBH defendants and the ABH defendants.

181. At all relevant times defendants OMHAS, Baumgarten, and Hurst intentionally, knowingly, and recklessly participated in or maintained a statewide policy of promoting the use of pharmaceutical drugs, including the Ohio Medical Algorithm Project or some version thereof, which was or is a Janssen Pharmaceutical Company marketing scheme for the promotion of the drug Risperdal as a first line drug for those diagnosed with schizophrenia or schizo-affective.

182. At all relevant times said defendants OMHAS, Baumgarten, and Hurst by means of instructions to OMHAS, TBMFU/TVBH, and ABH defendants and employees, directly and indirectly encouraged and instructed them in the use of coercion, intimidation, and other psychological instigation techniques, in order to force drugs upon competent patients, including plaintiff, for the apparent purpose of engendering more billings for said drugs and related "services".

183. At all relevant times defendant Ohio Attorney General knew or should have known of the OMHAS and ABH policies of using coercion, intimidation, and force against competent patients, as evidenced by defendant Carroll's specific admission that plaintiff has at all relevant times been competent, as he admitted in an April, 2014 letter.

184. At all relevant times defendants Carroll, Cruz, and the Ohio Attorney General knew or should have known that said policy of coercion, intimidation, and force against patients was causing physical and emotional damage to said patients, including plaintiff.

185. The Office of the Ohio Attorney General received actual knowledge of the implementation of said OMHAS policy of coercion, intimidation, and force against plaintiff by the ABH defendants, through pleadings filed in Ohio Supreme Court Case No. 2014-0268 from February, 2014 through June, 2014.

186. Further information as to the implementation of said OMHAS and ABH policies of coercion, intimidation, and force, as applied against plaintiff, was communicated to defendant Cruz and the Ohio Attorney General Office of Patient Abuse and Neglect in March, 2014 when a complaint was initiated due to the abuse and neglect being perpetrated upon plaintiff by the ABH defendants.

187.That at all relevant times, defendants Cruz, Carroll, and the Ohio Attorney General, while having actual and constructive knowledge of the OMHAS and ABH policy of coercion, intimidation, and force as set forth hereinabove, have intentionally, wantonly, recklessly and with malice, refused to investigate the abuse or neglect of plaintiff as alleged herein, choosing instead to ignore their conflict of interest and *defend* said policies of coercion, intimidation, and force, which were then being implemented by the ABH defendants.

188. As a direct and proximate result of the wanton, reckless and malicious misconduct of defendants Pettit, Corzine, Soehner, and Hurst, in consciously disregarding their legal obligations to plaintiff, defendant Soehner and TBMFU/TVMH used the March 14, 2011 "Entry" fragment as a pretext to justify outrageous acts of medical malpractice against plaintiff during the time he was in their custody, from April 5, 2011, the date they first began inflicting forced drugging, until September 19, 2012 when defendants Corzine and TBMFU/TVMH transferred plaintiff to defendant ABH, such mental and physical damages and injuries to plaintiff including: 1) suffering of serious temporary and permanent physical and emotional pain, anguish and trauma, 2) incursion and expected incursion of medical expenses both past and future; 3) suffering of mental and emotional pain, trauma and anguish, 4) suffering of permanent physical injuries (enlargement of the basal ganglia of the brain, permanent brain damage and some disfigurement due to irreversible tardive dyskinesia) and 5) the expected future incursion of additional medical procedures to assess and treat the other emotional and physical damages, known and currently unknown, which he has sustained due to defendants' affirmative acts as set forth hereinabove.

189. On or about September 19, 2012, plaintiff was transported to ABH for involuntary treatment of alleged "mental illness", the false, completely non-evidence based "finding" of which appears in defendant Corzine's "Entry" of February 1, 2010 purportedly based on an unidentified, unmarked, off-the-record "report" defendant Corzine refused to allow into evidence on January 25, 2010, such "finding" then being repeated in a series of subsequent purported court orders from the Ross County, Ohio Court of Common Pleas in Case No. 09 CR-393.

190. Instead of re-examining the medical need for plaintiff to be force drugged, and without bothering or caring that the drug Risperdal Consta is not for long-term use, i.e. longer than 3 weeks, according to the FDA, the ABH defendants, including defendants Sierra and Derrico, acting through ABH's other employees, agents, and agents by estoppel, continued to use it as a pretext for further acts of reckless, wanton, and malicious malpractice as had been done by its predecessors, defendants Soehner and TBMFU/TVBH.

191. Although the attached March 14, 2011 "Entry" fragment, which contains no attachment of any kind, does not purport to *require* forced drugging nor to *require* forced drugging of any particular drug, the ABH defendants, in particular defendants Sierra, McGee, Long, Barnhart, Willard, Smith and defendants Doe have at all relevant times perversely and maliciously characterized their injection of the deadly drug Risperdal and the forcing of the oral drug Depakote as being *required* by the Ross County court, falsely referring to the Risperdal Consta it has been injecting into plaintiff's body against his will, as being "Court mandated Risperdal" throughout plaintiff's records.

192.At all relevant times, each of the defendant employee state actors and agencies, other than the Ohio Attorney General and OMHAS, had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because defendants ABH and TBMFU/TVMH and their employees, agents, and employees by estoppel:

a. assumed affirmative doctor-patient, nurse-patient, or hospital-patient duties to act on behalf of the plaintiff's best interests, to house, feed and "treat" him, by virtue of state statute, federal constitutional law, and purported court rulings from the Ross County Common Pleas Court, thereby affirmatively undertaking to provide what is normally understood as "treatment", for which drugs and "services" they billed the State.

b. had knowledge that inaction, including their gross negligence and abuse could lead to harm;

c. had direct personal contact, through their agents, employees, and employees by estoppel, with plaintiff, including by prescribing the drugs in question, forcing such drugs into his body, assaulting and battering him, and by engaging in other acts of malpractice and committing other torts against him, as are more fully set forth herein;

d. Plaintiff was justified in relying on the claimed lawfulness of undertakings of defendants ABH and TVMH, at least until December 4, 2014 when he found counsel who confirmed that said defendants were violating his rights.

193. The aforementioned 3/14/11"Entry" from Ross County contains no list of approved drugs that may be forced,

194. Said 3/14/11 "Entry" is otherwise also a nullity on its face, because of being in violation of numerous provisions of state, national, and international statute, caselaw, and constitutions, as are more fully set forth hereinabove and in the attached Memorandum of Law.

195.The absence of subject matter jurisdiction to have entered such March 14, 2011 "Entry" remains undecided in Ross County Case No. 09 CR-393, despite defendant Holzapfel's clear obligation to rule on his own jurisdiction, all of which has unduly prevented or delayed plaintiff from obtaining relief by means of appeal in that case.

196. The grounds for a reasonable belief that said forced drugging "Entry" of March, 2011 is a nullity have been communicated to the ABH defendants and their agents since at least May 31, 2013.

197. Whether or not valid, said March 14, 2011 "Entry" on its face purports to do no more than to authorize the administration of never-specified drugs *only* "if needed".

198.That plaintiff has never been specifically determined judicially to lack the legal competence or capacity to make his own treatment decisions, including the decision to refuse to submit to the drugs Risperdal, Depakote, or any other drugs at the dosages being forced by the ABH defendants.

199. Despite having no specific legal authorization to do so, defendant ABH, acting through its agents, defendants Sierra, McGee, Long, Barnhart, Smith, Willard and other ABH defendants, have been battering or authorizing others to assault plaintiff , or have been using the threat of physical force, to forcibly inject plaintiff with the toxic drug Risperdal Consta at the excessive dosage of 50 mg. every two weeks from September, 2012 until October 30, 2014, and the drug Depakote at the dosage of 500 mg. daily since August 1, 2013.

200.That one Janssen Pharmaceutical is the manufacturer of said drug Risperdal Consta, which it markets directly and/or indirectly with the assistance of defendant ABH, including by means of "educational" programs it markets also with the assistance of defendant OMHAS and by means of marketing ploys for patients, which are incorporated into what defendants ABH, TBMFU/TVMH, and OMHAS refer to, as "treatment".

201.That the drug Risperdal is commonly known to cause temporary and permanent drug adverse events including without limitation tardive dyskinesia, dystonia, akathisia, neuroleptic malignant syndrome, diabetes, hyperlipidemia, hyperprolactinemia, galactorrhea, a doubling of the risk of violence, and sudden cardiac death, facts that are or should be well-known to the ABH defendants, to the TBMFU/TVMH defendants, the OMHAS defendants, defendant Holzapfel, and defendant Coon.

202. That one Abbott Laboratories is the manufacturer of the drug Depakote, commonly known to cause temporary and permanent drug adverse events including unusual bleeding/bruising, bloating, cough, confusion, delusions, dementia, depression, malaise, nausea/vomiting, nervousness, paranoia, shakiness/ trembling, liver damage, insomnia and fatigue.

203. Defendant Sierra, while aided and abetted by the other ABH defendants, took it upon herself to begin inflicting the drug Depakote upon plaintiff for non-FDA approved uses, in August, 2013, with no prior notice to plaintiff and against his will, without first running liver scans upon the plaintiff prior to prescribing said drug, or to bother to give him any information about the drug before she ordered it inflicted without his prior knowledge or consent.

204. Said infliction of the drug Depakote has continued and been ongoing from early August, 2013 until November 3, 2014, upon which date defendant Holzapfel appears to have issued a ruling stopping, or momentarily stopping all forced drugging. [Exs J & K]

205. Defendants OAG, Carroll, Cruz, Hurst, Baumgarten, OMHAS, ABH, Sierra, Derrico, McGee, Hamill, Scott, Krason, Long, and Barnhart have at all times had actual and constructive knowledge that the Depakote manufacturer, Abbott Laboratories, has at all relevant times been known as a corporate criminal in connection with its off-label marketing of Depakote for perceived "mood" problems, in that on or about May 7, 2012 paid some $1.6 billion in fines for its illegal marketing of said drug, as set forth hereinabove at paragraph 126(j).

206. That although defendants Sierra, Derrico, McGee, ABH, and OMHAS had actual or constructive knowledge of Abbott's criminal marketing of Depakote for off-label (non-FDA approved) uses, defendant Sierra prescribed it for plaintiff off-label with the approval of the defendants McGee, ABH, and OMHAS, without prior liver testing, and ordered it forced upon the body of the plaintiff, from August, 2013 until November 3, 2014, as part of a retaliation plan defendant Sierra devised to punish plaintiff for having exercised his First Amendment rights by circulating a petition in July, 2013 complaining about an abusive nurse at ABH.

207. There is at least a moderate drug interaction known to exist between Risperdal and Depakote pertaining to inhibition of the liver enzyme CYP 2D6, thus dictating that special precaution should be exercised in prescribing the two together.

208. Defendant ABH and Sierra refused to exercise such precaution when prescribing Risperdal and Depakote together, and against the will of the plaintiff, as was done from August, 2013 to November 3, 2014, but characterized plaintiff's objections to both drugs as being based on "delusion", "lack of insight", and "paranoia".

209.That the Risperdal manufacturer Janssen and/or its parent company, Johnson and Johnson, and/or its predecessor companies such as Ortho-McNeil Janssen 1Pharmaceuticals Inc., or other affiliates, have been repeatedly determined judicially to have engaged in criminal acts by widely misrepresenting the supposed safety and effectiveness of Risperdal Consta, as indicated hereinabove, all of which the ABH, TMBFU/TVBH and OMHAS defendants knew or should have known.

210. That defendant OMHAS, acting through its medical director, defendant Hurst and its attorney, defendant Baumgarten, or by means of their independent acts, maintains now and has at all relevant times maintained a policy promoting the excessive use of coerced and forced drugging in the State's psychiatric facilities, as well as policies of re-traumatizing and pathologizing patients in OMHAS-supervised psychiatric hospitals such as ABH TBMFU/TVBH for drugs forced upon even those such as plaintiff, who have the capacity to refuse proposed drugs.

211.That said policy of coerced and forced drugging serves to financially benefit said defendants OMHAS, ABH, and TBMFU/TVBH due to the resulting increased billings for pharmaceutical products and associated "services".

212.That except for sporadic instances such as September 10, 2014, when some of the ABH defendants , including defendants McGee and Hamill, admitted to the Ross County Common Pleas Court, that one of the drugs being inflicted upon plaintiff, i.e. Risperdal, causes "Parkinsonism, Dystonia, Akathisia, Neuroleptic Malignant Syndrome, increased blood glucose levels, diabetes mellitus and hyperlipidemia" as well as "increased prolactin levels" and "galactorrhea", neither ABH nor its agents, employees, or employees by estoppel have been providing accurate information to plaintiff or to defendant Holzapfel, acting as the Ross County Common Pleas judge in Case No. 09 CR 393, regarding the risks of the drugs Risperdal or Depakote.

213. That on or about April 30, 2014, ABH defendants, including defendants Sierra, McGee, Hogan, Barnhart, and Krason, as well as defendant OMHAS through its director, Tracy Plouck, received actual notice that their actions and policies in continuing to forcibly drug plaintiff, or in enabling said forced drugging, were considered a violation of the standard of care [Ex. L]and that there was reason to believe that the Risperdal they were inflicting or encouraging others to inflict upon plaintiff was exacerbating the post-traumatic stress disorder from which they knew that plaintiff already suffered, and was further causing him serious and possibly irreversible neurological and other medical damage.

214. Despite the aforementioned April 30, 2014 warnings from Dr. Sandra Pinkham that were communicated to ABH physicians and other defendants on that date, the ABH

defendants and defendant Holzapfel persisted and continued to persist until November 3, 2014, in the infliction or threatened infliction of extreme physical and emotional abuse and serious and permanent damages upon plaintiff by injecting him or ordering him injected against his will with Risperdal Consta, and by using the threat of violence to enforce plaintiff to ingest the drug Depakote against his will.

215. That plaintiff, due to the indigence which his unlawful confinement continues to cause, could not have discovered that ABH's violation of the standard of care was being confirmed as causing him probable injury until he received the aforementioned April 30, 2014 letter from said Dr. Sandra Pinkham, whose services were being paid for by family members. [Ex. L]

216. Plaintiff's ability to discover ABH's medical malpractice was further delayed by defendant ABH's refusal to transport plaintiff to Dr. Pinkham's office for examination, by defendant Holzapfel's aiding and abetting of said refusal from December, 2013 until August, 2014, and by ABH's persistent interference in violation of the expressed wishes of the plaintiff, with most of her treatment recommendations necessary to maintain plaintiff's health, defendants McGee and Derrico continuing such conscious disregard of plaintiff's clear rights to Dr. Pinkham's services as of this writing.

217. At all relevant times, defendant ABH and/or OMHAS employees, agents, and agents by estoppel, although many were acting with malice and in bad faith, were also acting within the scope of their employment/agency/servant relationship when they failed to follow or supervise the applicable standard of medical care during their forced drugging "treatment" of the plaintiff, which "treatment" proximately resulted in, and continues to result in, physical and emotional injuries to the plaintiff.

218. As a direct and proximate result of the breach of the applicable standard of medical care by the ABH defendants, the plaintiff has: 1) suffered conscious pain and suffering both in the past (from September 19, 2012 through the present) and pain and suffering that is expected to continue into the future, 2) incurred medical expenses in the past and is expected to incur future medical expenses, 3) suffered mental and emotional suffering, trauma and anguish, 4) suffered permanent physical injuries including enlargement of the basal ganglia of the brain, permanent brain damage and some disfigurement due to some current manifestations of irreversible tardive dyskinesia, and 5) will be required to undergo additional medical procedures to assess and treat the other damages he has sustained.

219. Defendants Sierra, McGee, Long, Barnhart, Willard and Smith also acted recklessly and in bad faith but not necessarily outside the scope of their employment by committing or aiding and abetting others in the commission of acts of extreme medical and nursing malpractice and the crimes of felonious assault under Ohio Rev. Code Sec. 2903.11(A) and chemical restraint abuse under Ohio Rev. Code Sec. 2903.33((B), such acts being done knowingly, maliciously and in bad faith by means of acts not sanctioned even by the purported March 14, 2011 "Entry" fragment.

220. At all relevant times, defendants Sierra, Derrico (only since November 5, 2014) and McGee and the other ABH defendants acting through their apparent authority had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.said ABH defendants undertook a fiduciary duty towards plaintiff by purporting to act as plaintiff's physicians by prescribing or approving the prescribing of deadly drugs upon plaintiff, by creating false records including false diagnoses to justify said drugging, as part of the doctor-patient relationship which said defendants claimed to exist, thereby agreeing to provide him with adequate and ethical care that did not harm him;

b. said ABH defendants assumed an affirmative duty to act on behalf of the plaintiff by virtue of accepting him as a patient, affirmatively undertaking to "treat" him, and billing the State, or accepting a salary for "services" for said "treatment".

c. said ABH defendants at all relevant times had actual and constructive knowledge that their failure to act competently on plaintiff's behalf could lead to harm;

d. said ABH defendants at all relevant times had direct personal contact with plaintiff, including sufficient contact that enabled them to know actually or constructively that their treatment of plaintiff violated his right to informed consent, the right to not be mis-diagnosed and the mis-diagnoses used to batter him, the right to not be physically and medically harmed, the right to receive care that was not psychologically abusive, the right to a reasonable safe "treatment" environment, and the right to have the confidentiality of his private treatment records observed, most if not all of said rights being clearly specified in OAC Sec. 5122-14-11;

e. Plaintiff was justified in relying on the claimed lawfulness and competence of the ABH defendants, including their refusals to failures to warn him of the adverse effects of the drugs they were forcing upon him and concealment of said adverse effects when reported, although he has, since the December 4, 2013 filing in 09 CR 393, realized that said defendants' actions and failures to act were and are in derogation of plaintiff's rights.

221. All of the injuries and damages sustained by the plaintiff were the direct and proximate result of the recklessly negligent actions and breaches of the applicable standards of medical care facilitated by the acts and omissions of all of the defendants without any act or omission on the part of the plaintiff directly contributing thereto.

222. Plaintiff did not assume the risk of, or contribute to, his injuries.

223. Since February 21, 2014, when plaintiff's attorneys brought to the attention of defendant Holzapfel, the absence of jurisdiction to confine or force drug the plaintiff, said defendant Holzapfel has knowingly and intentionally acted outside his jurisdiction by refusing to rule on any of the grounds that dictated that he had no jurisdiction, while still continuing to enforce said void orders, thereby committing intentional torts in bad faith, as well as by acting in conscious disregard of the plaintiff's civil, constitutional, and basic

human rights, including aiding and abetting in the commissions of ABH's crimes of felonious assault and abuse, and thereby forfeiting any judicial immunity he might otherwise have had.

224. Defendant Holzapfel's unlawful acts comprised and continue to comprise, a focused campaign to deprive plaintiff of his rights under statutory and constitutional law, acts which are not part of any legitimate judicial function and beyond his legal capacity, such acts including the following:

a.ordering plaintiff jailed on several occasions during 2014, consciously disregarding defendant's actual knowledge of the abuse and tasoring that plaintiff experienced there, and even after the illegality of such acts under Ohio Rev. Code Sec. 5122.17 had been brought to his attention repeatedly by plaintiff's attorneys and even by the Ohio Supreme Court.

b. refusing to offer any justification for such acts of ordering unlawful jailing even when directed to do so by the Ohio Supreme Court in a ruling of February, 2014, although he did tell them that he had stopped such orders.

c. refusing on December 30, 2013, on February 21, 2014 and on other occasions, to allow a record to be made of official proceedings even after written demand was made for said February 21, 2013 hearing to be of record.

d. refusing to allow plaintiff to attend his own hearings of December 30, 2013 and February 21, 2014 even after written demand was made for said hearing to include plaintiff, as was his clear right under Ohio Rev. Code Sec. 2945.40(C) and due process of law.

e. refusing to allow the public to attend the hearings of December 30, 2013 and February 21, 2014, in the latter instance even after written demand was made for said hearing to be public, as was plaintiff's clear right under Ohio Rev. Code Sec. 2945.40(D).

f. making false statements to the Ohio Supreme Court regarding the existence of orders he was well aware did not exist and then accusing plaintiff's attorney of violating said non-existent orders.

g. ignoring for 8 months all of plaintiff's motions seeking an order prohibiting the ABH defendants from continuing to sabotage plaintiff's access to his own medical providers, resulting in the loss to plaintiff of the opportunity to obtain TBI screening and other services, and prolonging the ability of plaintiff's attorneys to prepare for the evidentiary proceedings that defendant Holzapfel unlawfully required.

h. ignoring for 8 months all of plaintiff's motions, including emergency motions filed in June, 2014 in which his attorneys sought an order prohibiting the ABH defendants from continuing to use the facially void March 14, 2011 forced drugging "Entry" fragment to commit acts of medical malpractice against plaintiff, even though said defendant had

actual knowledge that such malpractice constituted a felonious assault upon plaintiff, an unlawful chemical restraint, and that he was aiding and abetting in the senseless suffering of the plaintiff of which Dr. Pinkham warned and which the ABH defendants did not dispute.

i. refusing for almost 10 months to determine his own jurisdiction to enforce plaintiff's unlawful confinement , until he issued a ruling that ignored all of the plaintiff's multiple grounds indicating that the February 1, 2010 "Entry" was, is, and always has been, a nullity and proceeded to act, as he is currently, entirely without jurisdiction.

j. aiding and abetting in the false imprisonment of plaintiff without lawful privilege to do so, by ignoring all of the grounds set forth by plaintiff's pleadings and in the record showing that no evidence had ever been introduced to support the original confinement "Entry" signed by defendant Corzine.

k. aiding and abetting in the false imprisonment and forced drugging of plaintiff without lawful privilege to do so, by ignoring all of the grounds set forth by plaintiff's pleadings and in the record showing that involuntary commitment and forced drugging have both been prohibited by the clear language of Sec. 1.21 of the Ohio Constitution since its 2011 enactment.

l. interfering in plaintiff's right to participate in hearings during 2014 by ordering him chained or permitting others to do so during court appearances, thereby preventing plaintiff from taking notes during said proceedings, and while knowing that such actions of public humiliation were likely to exacerbate plaintiff's post-traumatic stress disorder and make a further mockery of due process of law.

m. scheduling letters from defendant McGee, a non-party in the 09 CR 393 case, for "hearing" while refusing to rule as to whether he had jurisdiction to conduct any sort of hearing at all, and while ignoring plaintiff's June, 2014 emergency pleas for defendant Holzapfel to require defendants ABH, McGee and others to stop battering and ordering the battering of the plaintiff.

n. scheduling a hearing as to "continued forced drugging" without having ever considered the clear absence of jurisdiction to have entered the void-on-its-face forced drugging "Entry" fragment to begin with, or any of the grounds that clearly established that said March 14, 2011 "Entry" fragment was entered without jurisdiction to do so.

o. refusing to rule on any of the plaintiff's motions demonstrating beyond any doubt that the original and only forced drugging "Entry" fragment, of March 14, 2011 was void as a matter of record, although the merits of such grounds remain unopposed to this day by the prosecution in Case No. 09 CR 393, as they were by the Ohio A.G. in Supreme Court Case No. 2014-0268.

p. choosing to enforce the forced drugging "Entry" fragment of March 14, 2011, having actual or constructive knowledge of its voidness and utter unenforceability, that it was

being used as a pretext by the ABH defendants to commit medical malpractice and fraud, and even though fully aware that such actions constituted felonious assault and abuse by chemical restraint as set forth hereinabove.

q. displaying gross partiality as to defendants McGee and ABH, non-parties in the 09 CR 393 litigation, which he demonstrated by egregious displays of illegality by (i)repeatedly scheduling its hearing requests, though not filed by the prosecutor; (ii) by repeatedly scheduling a non-party's letters without jurisdiction to do so, suspending all statutes, civil and local rules to do so; (iii) by aiding and abetting in ABH's actions in sabotaging plaintiff's access to his attorney and to his medical doctor, (iv) ignoring plaintiff's attorney's pleas for such interference to cease because defendant Holzapfel was deliberately interfering with plaintiff's right to counsel; (v) permitting ABH defendants McGee, Scott and Hamill, and Willard to violate plaintiff's rights of confidentiality of patient treatment records with impunity; and (vi) by permitting ABH defendants Scott and Hamill to testify to 3rd and 4th hand- hearsay over objection, on September 12 and 25, 2014.

r. denying without citing grounds, plaintiff's unopposed request for his clear right to a jury trial under the Ohio constitution.

s. intentionally, and in bad faith disregarding his oath of office, refusing to consider any of the grounds that rendered the original confinement "Entry" and the March 14, 2011 forced drugging "Entry" fragment void, and then acting clearly outside his jurisdiction by enforcing said "Entries" anyway;

t. acting outside his jurisdiction by means of proceedings of September 12, 15, and 25, 2014, which plaintiff was forced to participate in because the Ohio Supreme Court declined to rule on the merits of defendant Holzapfel's obvious absence of jurisdiction;

u. while again acting outside his jurisdiction, issuing two (2) nonsensical ruling of November 3, 2014 [Exs. J & K attached] which skipped the issue of his absence of jurisdiction to have ever enforced the March, 2011 force drugging "Entry", stating that forced drugging was "terminated", but which is worded in such a manner as to be almost impossible to decipher or predictably enforce;

v. while again acting outside his jurisdiction, issuing a further nonsensical ruling of November 3, 2014, requiring plaintiff to remain unlawfully imprisoned by the ABH defendants , based on clearly false and inadmissible multiple hearsay testimony by defendant Scott, who had never interviewed plaintiff and could not legitimately make any kind of diagnosis at all, or provide any admissible testimony, had there been a legitimate hearing in which to present same.

225. While plaintiff is well aware of, and intends to exercise, his right to appeal defendant Holzapfel's purported "Decisions & Orders" of November 3, 2014 and raise the absence of jurisdiction issue, such actions of defendant Holzapfel continue to constitute tortious and criminal acts committed in violation of his duty to uphold the

constitution and are clearly outside of his jurisdiction, which is *not* general, but highly limited by Ohio Rev Cod Sec. 2945.40.

226.Defendant Holzapfel's actions of November 3, 2014 serve to aid and abet defendants ABH in further acts of wrongful imprisonment, medical malpractice, psychological malpractice, nursing malpractice, assault and battery, unauthorized disclosure of confidential medical information, fraudulent falsification of records, abuse of process, and intentional infliction of mental distress, and may therefore not be legitimately considered to be judicial functions.

227. At all relevant times, defendant Holzapfel had established a special relationship with plaintiff within the meaning of Ohio Rev. Code Sec. 2743.02(A)(3)(b) because

a.he undertook the solemn duty under Ohio Rev. Code Sec. 3.23 towards plaintiff individually and as a member of the litigating public, by virtue of his oath of office in which he promised to "support the Constitution of the United States and the Constitution of Ohio", to "administer justice without respect to persons", and to "faithfully and impartially discharge and perform all of the duties" of a common pleas judge to the best of his "ability and understanding".

b. he assumed an affirmative duty to act towards plaintiff in implementing the rules of evidence, upholding state and federal constitutions, and enforcing plaintiff's constitutional rights by virtue of accepting the responsibilities of serving as judge in plaintiff's case, affirmatively undertaking to act lawfully and impartially, utilizing in fulfilling a legal obligation for which he is paid by the State.

c. Defendant Holzapfel at all relevant times had actual and constructive knowledge that his failure to act according to the oath of his office and without violating plaintiff's constitutional rights, could lead to harm towards said plaintiff;

d. Defendant Holzapfel at all relevant times had direct personal contact with plaintiff, including sufficient contact that he was able to observe for himself that he was acting without jurisdiction to do so, that he was allowing defendant ABH to chain plaintiff in the courtroom for no reason, that he was allowing plaintiff to be excluded from his own hearing, that he was clearly unlawfully allowing the public to be excluded from hearings involving the plaintiff, and that he was ignoring plaintiff's rights to a record;

e. Plaintiff is and has been justified in relying on the apparent lawfulness and ethical and legal obligations of defendant Holzapfel, but by the beginning of 2014 began to realize that said defendant's actions in derogation of plaintiff's rights, were unlawful.

FIRST CAUSE OF ACTION

(Medical Malpractice through September 19, 2012–
gross negligence, reckless mis-diagnoses, reckless prescribing, torture, assault, battery, falsification, unlawful disclosure of confidential treatment information)

228. Plaintiff hereby re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-227 hereinabove.

229. Defendants Soehner and Ballerene as plaintiff's former treating psychiatrists and defendant Hurst as defendant Soehner's supervising chief clinical officer were required to exercise the reasonable and ordinary care, skill, and ability ordinarily exercised by other physicians in the same or similar circumstances.

230.Said defendant Ballerene failed to recognize that plaintiff suffered from extreme post-traumatic stress, long-standing hypoglycemia, hypothyroidism, and magnesium and other deficiencies, probable traumatic brain injury (TBI) caused in part by physical abuse of which she was well aware and which she could have prevented or arrested but did nothing about, along with adverse drug reactions to psychotropic drugs including Celexa and Invega, but instead of exercising ordinary care and skill, said defendant Ballerene mis-diagnosed plaintiff instead with varying forms of psychosis, and drugged him with dangerous ssri and other drugs for a depression she never attempted to deal with first in a safe, therapeutic manner.

231.Said defendants Soehner and Hurst failed to recognize that plaintiff suffered from extreme post-traumatic stress, long-standing hypoglycemia, hypothyroidism, and magnesium and other deficiencies, probable traumatic brain injury (TBI) caused in part by physical abuse defendants could have prevented or arrested but did nothing about, along with adverse drug reactions to psychotropic drugs including Celexa, Invega and Geodon, but instead of exercising ordinary care and skill, defendant Soehner, with approval of and participation by defendant Hurst, either mis-diagnosed plaintiff instead with varying forms of psychosis, or uncritically adopted some mis-diagnosis previously made by others, including defendant Ballerene.

232. From April 5, 2011 through September 19, 2012, defendants Soehner and Hurst further consciously ignored their duties to exercise reasonable and ordinary care, skill, and ability by recklessly prescribing massive doses of dangerous psychotropic drugs plaintiff did not need, such as Risperdal and Clozaril at the same time in violation of the standard of care.

233. In furtherance of their forced drugging agenda, defendants Soehner and Hurst authorized assaults and batteries to be regularly inflicted, or threatened upon the body of the plaintiff, either with the Risperdal needle directly, or by means of assault teams of TBMFU/TVBH employees to take plaintiff to the ground, pull off his pants, and inject him by force with Risperdal and other drugs which they authorized TBMFU/TVBH employees to inject for administrative convenience, evidently claiming the pretext of the "police power" of the State in non-emergency situations.

234.The failures of defendants Soehner and Hurst to exercise reasonable and ordinary care, skill and ability, as well as their reckless indifference in bad faith to their obligation to not exacerbate plaintiff's previously existing medical conditions , injuries, and his

post-trauma stress, were the direct and proximate causes of the plaintiff's injuries from April 5, 2011 through September 19, 2012, including without limitation

a. Delaying appropriate treatment efforts for pre-existing hypoglycemia, magnesium and other deficiencies, and hypothyroidism

b. Exacerbation of post-traumatic stress

c.Stigmatization & mental suffering

d.Loss of reputation & social relationships

e. Loss of years of life due to unlawful and unnecessary institutionalization

f. Unnecessary restrictions on ability to work

g. Excessive Risperdal Consta drugging, by force, resulting in

i. Acute effects of Risperdal injection

(a)Pain at injection site, and/or from being battered
(b) Trauma – feelings of shame, anger, horror, feeling of being violated
(c)Shortness of breath
(d) Stupor
(e) Orthostatic hypotension
(f) Poor balance
(g)Difficulty thinking
(h) Headache
(i) Nausea
(j) Increase in tics and twitches – especially left neck tic, and torso spasms – early signs of neurological damage
(k)Sensitive Skin
(l) Extreme irritability
(m)Feeling of horror/inner torment (akathisia)
(n)Extreme restlessness – compulsion to stay in constant motion
(o)Cardiac pain
(p) tachycardia

ii. Chronic effects & risks, increasing with time on Risperdal

(a) Sustained anxiety in anticipation of injection every other week
(b) Social aversion – loss of society with family & friends
(c) exacerbation of pre-existing hypoglycemia
(d) Inability to Sweat
(e) weight gain
(f) unusual bleeding -dental abscess & dead tooth

(g) Brain damage - cognitive deficits (global)
(h) brain shrinkage/damage to basal ganglia
(i) Heightened risks of: tardive dyskinesia, diabetes, dystonia, hyperlipidemia, fatal neuroleptic malignant syndrome, sudden cardiac death, stroke, hyperpolactinemia, galactorrhea and shortened life span – 25 years loss of life on average.

h. Excessive and accelerating forced drugging with Clozapine, while plaintiff was already on Geodon, recklessly increasing the dosage of Clozapine rapidly at the same time as the introduction of excessive levels of Risperdal during April, 2011, causing plaintiff to suffer

i.seizure type adverse reactions,
ii. drooling
iii. constipation
iv. elevated Cr proteins, with fever, known to lead to myocarditis, when defendant Soehner already knew plaintiff had mitral valve prolapse;
v. orthostatic hypotension; and
vi. increased risk of stroke.
vii. increased risk of fatal agranulocytosis

235. In furtherance of their acts of malpractice and in an effort to have no limitations based on their prescribing of said massive doses of dangerous psychotropic drugs, defendants Soehner and Hurst knowingly and with full awareness that their false statement(s) to defendant Corzine would probably induce him to issue a purported order granting their request for forced drugging without any regard for the best interests or rights of the plaintiff, and for the purpose of misleading said defendant Corzine in the performance of his ostensibly public official functions, violated their duties to plaintiff under Ohio Rev. Code Sec. 2921.13(A)(3), (A)(7) and (G) by supplying false insinuations or other statements *outside of a legitimate legal proceeding and not as sworn witnesses*, by making false statements to said defendant Corzine.

236. In furtherance of their acts of malpractice and in an effort to have no limitations based on their prescribing of said massive doses of dangerous psychotropic drugs, defendants Soehner and Hurst recklessly and in conscious disregard of plaintiff's rights, disclosed their false version of information based on confidential treatment records without plaintiff's voluntary consent to suggest he suffered from some form of mental illness so severe that he was incapable of making his own treatment decisions, in violation of their duties to plaintiff of confidentiality imposed by Ohio Rev Code Sec. 2317.02(B).

237. Defendants Soehner and Hurst have at all relevant times had actual and constructive knowledge that forced drugging constituted and still constitutes torture within the meaning of 18 U.S.C. Sec. 2340 in that their actions have caused plaintiff prolonged mental and physical harm, from April 5, 2011 through September 19, 2012, such harm having been inflicted under the color law, with the specific intent to inflict mental pain by

the administration or threatened administration of mind-altering substances calculated to disrupt profoundly the senses or personality, which said federal statute prohibits.

238. Defendants Soehner and Hurst have at all relevant times had actual and constructive knowledge that forced drugging constituted and still constitutes torture within the meaning of the official position statement of the American Psychiatric Association, and that said APA prohibits psychiatrists from participating in it or otherwise assisting or facilitating the commission of torture of any person. [APA Position Statement, May, 2006]

239. Defendants Corzine and Pettit at all relevant times had actual or constructive knowledge that such medical malpractice, assaults and batteries, and torture by defendants Soehner and Hurst was entirely foreseeable and would be fostered, aided, and abetted by the appearance of permission given by the March 14, 2011 "Entry" fragment, which was directly and proximately caused by the unlawful and fraudulent actions and failures of said defendants Corzine and Pettit during March, 2011 as set forth hereinabove.

240. As a direct and proximate result of the reckless forced treatment and torture rendered and/or approved by defendants Soehner and Hurst, with the further approval and full support of defendant TBMFU/TVBH, and previously aided and abetted by the acts, frauds and omissions of defendants Corzine and Pettit and the prior malpractice of defendant Ballerene, as set forth hereinabove, plaintiff suffered serious personal and permanent injuries for which he requests compensatory damages in a sum greater than Twenty-Five Thousand Dollars.

SECOND CAUSE OF ACTION

(Legal Malpractice – Fraud & False Imprisonment, Aiding and Abetting Assault and Battery, Torture and False Imprisonment)

241. Plaintiff hereby re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-240 hereinabove.

242. Defendants Pettit, Scherff, the Ohio Public Defender and the Multi-County Public Defender owed plaintiff a legal duty to represent him competently as alleged hereinabove arising out of the attorney client relationship assumed by defendants Pettit and Scherff towards plaintiff.

243. Defendants Pettit and Scherff breached that duty to act competently as his attorneys by affirmatively acting against plaintiff's interests in collusion with defendant Corzine and on the basis of fraudulent acts of willful concealment of the nature of the proceedings against him as set forth hereinabove.

244. Defendant Corzine, while acting clearly outside of his jurisdiction and in violation of the known rights of the plaintiff to due process of law, including the right to cross

examine witnesses against him, aided and abetted defendants Pettit and Scherff in said reckless acts of fraud and conscious disregard of the rights of the plaintiff during the proceedings of March 4, 2011 and January 25, 2010 respectively.

245. Said acts and omissions of January 25, 2010 perpetrated by defendants Scherff and Corzine further harmed plaintiff by resulting in plaintiff's being intentionally confined against his will without lawful privilege to do so, which said unlawful confinement without lawful privilege and false imprisonment continues to this day because of the deference that other defendants herein have accorded to the sham and fraudulent legal proceedings in which defendants Scherff and Corzine participated on January 25, 2010 as set forth hereinabove.

246. Said acts of defendants Pettit, Scherff, and Corzine were the proximate cause of the issuance of the aforementioned purported "Entries" which acts of the defendants taken together induced plaintiff to believe he had no right to challenge either "Entry" by appeal or otherwise, until he discovered the violation of his rights on or about December 4, 2013.

247. The resulting foreseeable medical malpractice which said "Entries" facilitated and contributed to, also resulted in the subsequent acts of torture, assaults and batteries, intentional infliction of mental distress, false imprisonment, and malicious and unlawful forced drugging of plaintiff in which the TBMFU/TVBH and ABH defendants engaged from February 1, 2010 until the present day (or in the case of forced drugging, until November 3, 2014) as stated hereinabove.

248. As a result of said acts of legal malpractice and fraud, plaintiff was victimized by medical malpractice, assaults and batteries, falsification, further intentional infliction of mental distress, false imprisonment, unlawful forced drugging, and torture resulting in the incursion of unnecessary attorney fees, legal expenses and costs of litigation in excess of $25,000 in addition to the consequent physical and mental injuries as alleged hereinabove, which are ongoing.

THIRD CAUSE OF ACTION

(Reckless, wanton Negligence – Medical Malpractice – September 19, 2012 – Present, Torture , Falsification & Intentional Infliction of Emotional Distress, Refusal to provide a safe treatment environment)

249. Plaintiff hereby re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-248 hereinabove.

250. Defendant Sierra as plaintiff's former treating psychiatrist, defendant Derrico as plaintiff's assigned psychiatrist since November 5, 2014, and defendant McGee as their supervising chief clinical officer were required at all relevant times to exercise the reasonable and ordinary care, skill, and ability ordinary exercised by other physicians in

the same or similar circumstances, and to observe the rights of the plaintiff as expressed in the Ohio Rev. Code and in particular in OAC Sec. 5122-14-11.

251. Said defendants Sierra and McGee have failed at all relevant times to recognize that the post-traumatic stress disorder which defendant Sierra diagnosed is not properly treated by the trauma that ABH has been inflicting upon him by continuing to force drug him with Risperdal and Depakote, by ABH's ongoing policy of refusing to protect him from physical attacks from patients and staff, and by its policy of punishing and retaliating against him on those occasions when he has complained, sought assistance, or attempted to exercises his First Amendment rights to free speech or to access to the courts for redress of grievances.

252. Said defendants Sierra and McGee have failed at all relevant times to recognize or treat for the long-standing hypoglycemia, hypothyroidism, and magnesium and other deficiencies from which plaintiff suffers, even though they were informed of such conditions by Dr. Pinkham and instead of exercising ordinary care and skill, defendant Sierra, with approval of defendant McGee, either mis-diagnosed plaintiff with varying forms of psychosis, or uncritically adopted the varying mis-diagnoses previously made by others without ever making any effort to rule out general medical conditions.

253. Said defendants Sierra and McGee, though they are aware that plaintiff suffers from Multiple Chemical sensitivities, for which they treat him with drugs, do nothing to remove the offending chemical agents, which are regularly sprayed throughout the closed environment inside ABH.

254.Said defendants Sierra and McGee have further consciously ignored their duties to exercise reasonable and ordinary care, skill, and ability by prescribing massive doses of dangerous psychotropic drugs such as Risperdal and Depakote to plaintiff for conditions from which they falsely claimed he suffered.

255.The failure of defendants Sierra and McGee to exercise reasonable and ordinary care, skill and ability, including their reckless indifference to their obligation to not exacerbate his previously existing medical conditions and his post-traumatic stress, is the direct and proximate cause of the plaintiff's injuries from September 19, 2012 through November 3, 2014, including without limitation:

a.Delaying appropriate treatment efforts for pre-existing hypoglycemia, magnesium and other deficiencies, and hypothyroidism

b.Exacerbation of post-traumatic stress

c.Stigmatization & mental suffering

d.Loss of reputation & social relationships

e.Loss of years of life due to unnecessary institutionalization

f.Unnecessary restrictions on ability to work

g.Excessive Risperdal Consta drugging, by force, resulting in

i. Acute effects of Risperdal injection

(a).Pain at injection site,
(b) Trauma – feelings of shame, anger, horror, feeling of being violated
(c) Shortness of breath
(d) Stupor
(e) Orthostatic hypotension
(f) Poor balance
(g)Difficulty thinking
(h) Headache
(i) Nausea
(j)Increase in tics and twitches – especially left neck tic, and torso spasms – early signs of neurological damage
(k)Sensitive Skin
(l)Extreme irritability
(m)Feeling of horror/inner torment (akathisia)
(n)Extreme restlessness – compulsion to stay in constant motion
(o)Cardiac pain
(p) tachycardia

ii. Chronic effects & risks, increasing with time on Risperdal

(a). Sustained anxiety in anticipation of injection every other week
(b) Social aversion – loss of society with family & friends
(c) exacerbation of pre-existing hypoglycemia
(d) Inability to Sweat
(e) weight gain
(f) unusual bleeding -dental abscess & dead tooth
(g) Brain damage - cognitive deficits (global)
(h) brain shrinkage/damage to basal ganglia
(i) Heightened risks of: tardive dyskinesia, diabetes, dystonia, hyperlipidemia, fatal neuroleptic malignant syndrome, sudden cardiac death, stroke, hyperpolactinemia, galactorrhea and shortened life span – 25 years loss of life on average.

256.That in furtherance of their acts of malpractice in recklessly prescribing massive doses of dangerous psychotropic drugs, defendants Sierra and McGee knowingly communicated or knowingly instructed other known and unknown ABH defendants, including defendants Scott and Hamill to communicate false statements to defendant Holzapfel, knowing that their false reports would probably cause defendant Holzapfel, then purporting to act as a public official, to continue to purport to act in an official

capacity by ignoring the unenforceability of the void March, 2011 forced drugging "Entry" fragment.

257. Defendant McGee, without witness or party privilege to do so, knowingly communicated false, unsworn statements to said defendant Holzapfel in violation of Ohio Rev. Code Sec. 2921.13(A)(3) in which he minimized the true dosage of Risperdal that ABH was inflicting and claimed that plaintiff was dangerous due to physically resisting ABH's assault teams, which included defendants Willard and Smith, which were used to batter plaintiff during May and June, 2014 when in desperation plaintiff had begun physically resisting the Risperdal injections.

258. Defendants McGee, Krason, Sierra, Long, Barnhart, Willard, Scott, and Hamill have at all relevant times knowingly falsified or aided and abetted other ABH employees and/or agents by estopped in the falsification of medical records which defendant McGee, Sierra, Scott and Hamill communicated to defendant Holzapfel without plaintiff's consent and in violation of plaintiff's confidentiality rights under Ohio Rev. Code Secs. 2317.02 and 4732.19.

259. Defendants McGee, Krason, Sierra, Long, Barnhart, Willard, Scott, and Hamill have at all relevant times knowingly falsified or aided and abetted in the falsification of said confidential medical records which defendants McGee, Sierra, Scott and Hamill, or one of them, communicated to defendant Coon without plaintiff's consent and in violation of plaintiff's confidentiality rights under Ohio Rev. Code Secs. 2317.02 and 4732.19.

260. Defendant Coon, without having ever met with plaintiff and knowing he had no permission from plaintiff do so, reviewed plaintiff's falsified, but still confidential patient "treatment" records, and with actual or constructive knowledge that his opinion would probably be used by the ABH defendants to justify forced drugging and false imprisonment, and that said letter would also probably be used for the purpose of misleading an arguably public official in performing the public official's ostensibly official function, said defendant took no steps to ascertain the facts, negligently and recklessly aided and abetted in ABH's forced drugging and false imprisonment efforts by signing a letter of September 10, 2014 in reckless disregard of its truth and its effect on the plaintiff, while knowing its probable ultimate destination.

261.Said acts of defendant Coon in signing and transmitting to said ABH defendants, the aforementioned September 10, 2014 letter resulted in the transmission of further false information of said defendant Coon to defendant Holzapfel by one of more ABH defendants, in furtherance of the ABH defendants' purpose of misleading said defendant Holzapfel in performing his ostensibly official function, contrary to Ohio Rev. Code Sec. 2921.13(A)(3).

262. ABH defendants have at all relevant times communicated said knowingly false and distorted interpretations of plaintiff's confidential treatment records to defendant Holzapfel, which have continued to mislead defendant Holzapfel in the performance of his public official functions, or at least would have misled him had defendant Holzapfel

at any time been acting in a judicial capacity, or conducting official acts, which is hereby specifically denied.

263. During July, August, and/or September, 2014 defendant Scott personally and knowingly provided her own distortion of plaintiff's already false treatment records to defendant Holzapfel, in the form of "reports" claiming plaintiff suffered from "schizoaffective disorder" and lack of "capacity", said "reports" being based entirely on her false interpretation of privileged documents that were themselves hearsay

264. Defendant Scott provided said false statements to defendant Holzapfel both in the form of falsely sworn testimony and several unsworn written "reports" prior to her sworn testimony, which "reports" were prepared without having ever interviewed plaintiff, in derogation of her fiduciary obligations to plaintiff as part of the hospital –patient relationship and her ethical obligations as a psychologist, in violation of plaintiff's confidentiality rights under Ohio Rev. Code Secs. 2317.02 and/or 4732.19 but in furtherance of defendant ABH's purpose of keeping plaintiff forcibly drugged and falsely imprisoned so as to discredit him, all in furtherance of the drugging agenda of defendants Sierra, McGee, ABH, Scott, Hamill, Krason, Hurst, Baumgarten, and OMHAS.

265. Defendant Scott willfully and fraudulently withheld information contained in plaintiff's records that corroborated the fact that plaintiff is being assaulted at ABH without protection, and that he must refuse to defend himself because of ABH's track record of labeling him "dangerous" and retaliating against him most of the times that he has ever reported such attacks.

266. Defendant Hamill knowingly provided false statements to defendant Holzapfel prior to the September, 2014 proceedings, falsely portraying himself as plaintiff's treating psychiatrist, as well as by testifing falsely and incompetently during said proceedings, claiming that plaintiff lacked "capacity" to participate in his own "treatment" because plaintiff followed the advice of his counsel by declining to participate in what Hamill decribed as a proposed "evaluation".

267. Defendant Hamill also informed defendant Holzapfel, while testifying under oath and in signed documents provided to defendant Holzapfel but not filed or made exhibits during the proceedings in 09 CR 393, that plaintiff should be forced drugged with new drugs, including injectable Abilify, although he knew or should have known that said Abilify even in its safer oral form had caused plaintiff severe adverse reactions in the past.

268. Defendant Hamill testified before defendant Holzapfel on September 12, 2014 that, besides allegedly believing plaintiff lacked capacity to give consent to drugging because plaintiff explained he was following advice of counsel, defendant admitted he also based his opinion on "rumors".

269. That in furtherance of their acts of malpractice and in an effort to have no limitations based on their prescribing of said massive doses of dangerous psychotropic drugs,

defendants Sierra and McGee and other ABH defendants recklessly and in conscious disregard of plaintiff's rights, disclosed their false version of information based on confidential treatment records without plaintiff's voluntary consent, to suggest he suffered from some form of mental illness so severe that he was incapable of making his own treatment decisions, in violation of their duties to plaintiff of confidentiality imposed by Ohio Rev Code Sec. 2317.02(B).

270. Defendant McGee deviated from the acceptable standard of medical care during the "treatment" of the plaintiff by his acts of unlawfully blocking or attempting to block plaintiff from seeking a second medical opinion from October, 2013 to the present, by refusing to exercise his duties as chief clinical officer to supervise and correct the misconduct of defendant Sierra, by refusing to supervise and correct the misconduct of defendant Derrico on November 13, 2014 on which date said defendant Derrico ordered what would have been for plaintiff an overdose of the oral drug Risperdal, by actively interfering with plaintiff's right to refuse the forced drugging, by encouraging physical assaults of plaintiff on May 15, 2014, May 29, 2014, June 12, 2014, and June 26, 2014 when plaintiff physically was resisting the Risperdal injection, and by thereafter making false and malicious statements about plaintiff to defendant Holzapfel, thereby falsely and maliciously mis-characterizing plaintiff as "dangerous" and "mentally ill" for resisting Dr. Sierra's malpractice.

271. Said acts and omissions by defendant McGee directly and proximately contributed and still contribute, to the physical and emotional injuries of the plaintiff as set forth herein.

272. Defendants McGee, Krason, Sierra, Long, Barnhart, Willard, Scott, and Hamill have at all relevant times knowingly refused to provide treatment for plaintiff's post-traumatic stress, refused to protect plaintiff from batteries, actively exacerbated said post-traumatic stress as set forth hereinabove, and have actively inflicted their own reckless malpractice, assaults, batteries, forced drugging, and false and malicious communications to defendant Holzapfel.

273. Defendants McGee, Krason, Sierra, Derrico, Long, Barnhart,Willard, Scott, and Hamill have at all relevant times had actual and constructive knowledge that their actions and refusals to act would be likely to result in serious emotional distress to the plaintiff.

274. The conduct of said McGee, Krason, Sierra, Derrico, Long, Barnhart,Willard, Scott, and Hamill was outrageous and extreme, beyond all bounds of decency and intolerable to a just society based on principles of constitutional law, particularly in light of defendants' pretensions of providing "treatment" and their false assertions of merely "following a court order", while continuing to conceal adverse drug reactions from defendant Holzapfel and making veiled threats to plaintiff of further retaliation by additional false, privileged communications to defendant Holzapfel in an effort to once again force drug the plaintiff, the latter threats having been taken in November, 2014 by defendants McGee and Derrico.

275. The conduct of said McGee, Krason, Sierra, Derrico, Long, Barnhart,Willard, Scott, and Hamill was the proximate cause of the emotional distress plaintiff incurred from September 19, 2012 to this date and which he continues to incur.

276. Plaintiff's emotional distress has constituted torture and continues to constitute the threat of torture, was and is serious, ongoing, and could last the rest of his life because the actions of the defendants threaten to use the stigma of the false "mental illness" label as a weapon that can always be wielded to keep plaintiff falsely imprisoned and forced drugged, the distress caused by such ongoing threat being of such a nature that no reasonable person should be expected to endure it.

277. Defendant Holzapfel has at all relevant times had actual or constructive knowledge that the forced drugging medical malpractice the ABH defendants have been perpetrating against plaintiff was an entirely foreseeable consequence of his own refusal for more than ten (10) months to uphold plaintiff's constitutional rights and to stop said torture, but he instead chose to foster, aid, abet, and enforce facially void rulings which he was fully aware were being perverted by ABH to its own criminal and tortuous ends

278. Defendant Hurst in his role as Chief Medical Officer of defendant OMHAS and defendant Baumgarten in his role as legal counsel for OMHAS, have been acting at all relevant times as medical and legal advisors respectively for the state psychiatric hospitals, including defendant ABH, as well as for other mental "health"-related agencies of the State of Ohio.

279.Defendant Hurst has at all relevant times promoted the false, non-scientifically based idea that what is being called "mental illness" based on symptom-only diagnostic techniques, is a "brain disease" or "chemical imbalance" for which drugs are the only or primary answer.

280. In evident pursuit of a medical-sounding theory to justify the vague legal-medical concept of "mental illness" with pharmaceuticals as the only solution, defendants Hurst and Baumgarten, distribute or allow the distribution of drug company propaganda to patients, and design and publicize training tutorials in which they promote coerced and forced drugging for defendants such as the ABH defendants, such as Sierra, McGee, and Derrico, to inflict on patients, including plaintiff.

281. Plaintiff's attorneys were only able to discover direct evidence of said policy of training OMHAS employees and agents by estoppel in coercive and force drugging techniques, in March of 2014, one such tutorial authored by defendants Hurst and Baumgarten being found online at

http://mha.ohio.gov/Portals/0/assets/Initiatives/Public-Private/Court%20Ordered%20Medication%20Processes%2010%2024%202013%20Final%20Draft2.pdf .

282. Part of the "brain disease" theory promoted by defendants OMHAS and Hurst involves falsely defining "mental illness" as incurable, with the highest hope of what is called "recovery" being defined, for example, by defendant OMHAS in the TBMFU/TVBH patient handbook as "overcoming the negative impact of a psychiatric disability despite its continued presence" [http://mha.ohio.gov/Portals/0/assets/Treatment/Hospitals/2012-tbmfu-patient-handbook-booklet.pdf][p. 11] and assuring patients, as does defendant Soehner and the TBMFU/TVBH defendants generally, that

> "It is a sad fact that people who have mental disorders on average die twenty-five years sooner than people without mental disorders." [TBMFU/TVBH Patient Handbook, p. 18]

although said defendants have ample reason to know and do in fact know that this is not a "sad fact" but a matter that is heavily in dispute in the scientific community.

283. Plaintiff's attorneys only were able to discover in early December, 2013 that said 25 year sooner life expectancy is for those "mentally ill" who are drugged, but that studies of mortality of "mentally ill" persons who are not drugged indicate similar rates of mortality as those without such diagnoses.

284. The TBM/TVBH, ABH and OMHAS defendants strongly discourage and label as "delusional" and "lacking in insight", research efforts that patients such as plaintiff have engaged in, when such research uncovers information that refutes the defendants' message of hopelessness, shortened life expectancy, and drugging as the only hallmarks of their version of "recovery".

285. In furtherance of these objectives, and for purposes of punishment, administrative convenience, or other legally improper reasons, both TBMFU/TVBH and ABH have discouraged and have banned plaintiff from internet use for about half of the time of his confinement at their respective facilities, and are currently maintaining said ban, knowing that they are interfering with plaitniff's attorney-client and doctor-patient relationships.

286. Defendant ABH, particularly defendants McGee and Scott, label as "disruptive" and complain to defendant Holzapfel about any effort of plaintiff to speak with other patients about what the scientific literature about pharmaceutical drugging actually says, falsely claiming that plaintiff advises patients to not take the drugs, an allegation ABH defendants repeated as if it were fact in a November, 2014 "treatment team" document.

287. Defendant Holzapfel has adopted ABH's labeling of plaintiff's right of dissent as "disruptive", rather than as an expression of his First Amendment rights, and continues by means of one of his November 3, 2014 "Decisions and Orders" to threaten plaintiff with the prospect that his newly acquired respite from forced drugging could be wrenched from him upon another false statement by any of the ABH defendants. [See attachment]

288. As a direct and proximate result of the reckless forced drugging initiated by defendants Soehner, Hurst, Pettit and Corzine, and then further perverted into medical malpractice and mis-diagnoses by defendants Holzapfel, Sierra, Derrico, McGee, Krason, Long, Barnhart, Smith, Willard, and Doe, said ABH defendants have been perpetuating the intentional infliction of mental distress upon plaintiff, from which plaintiff suffered serious past, present, and ongoing acute and permanent medical injuries as set forth in greater detail in paragraph 255 hereinabove, for which he requests compensatory damages in a sum greater than Twenty-Five Thousand Dollars.

FOURTH CAUSE OF ACTION

(Psychologist malpractice – reckless negligence, aiding and abetting assault & battery)

289. The plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-288 hereinabove.

290. During July, August, and September, 2014, defendant Scott participated with other ABH defendants in committing acts of gross, willful, wanton, and reckless negligence and psychologist malpractice against plaintiff by knowingly planning, designing, participating in and/or assisting in the ABH defendants' use of the following torture activities which are unequivocally and specifically condemned by the American Psychological Association in its February 22, 2008 official resolution, which absolutely prohibits: "exploitation of fears", "physical assaults", "threats of harm", and "the use of psychotropic drugs or mind-altering substances".

291. In furtherance of activities to promote the policies, practices, and financial interests of ABH and/or OMHAS, defendant Scott has engaged in a prohibited dual relationship with plaintiff by purporting to serve as his psychological evaluator while also serving the interests of the ABH and OMHAS defendants as part of her financial relationship with them.

292. Defendant Scott purported to evaluate plaintiff psychologically during July, August and/or September, 2014 without ever having met with said plaintiff except to ascertain his unwillingness to have her evaluate him, which she later falsely and maliciously characterized to defendant Holzapfel as evidence that he lacked capacity to make treatment decisions.

293. Defendant Scott at all relevant times had actual knowledge that plaintiff did not consent to her use of his confidential patient treatment records.

294. In obvious pursuit of the purposes of defendant ABH, defendant Scott prepared a false written statement that she communicated to defendant Holzapfel in the form of a "report" that she claimed to be based solely on her interpretations of out of context quotes from plaintiff's psychiatric records from unspecified periods of time years earlier, such records and quotes being attributed to unknown declarants allegedly about the plaintiff.

295. Defendant Scott subsequently gave false testimony before defendant Holzapfel on September 12, 2014 and September 25, 2014 based on confidential, false, hearsay records or based upon groundless opinions of her own.

296.Defendant Scott purported to give a diagnosis of schizo-affective disorder, which she communicated to defendant Holzapfel before and during the proceedings of September, 2014

297. Defendant Scott at all relevant times had actual or constructive knowledge that she was not competent to render any type of diagnosis for a patient she had never interviewed.

298. Defendant Scott at all relevant times also had actual or constructive knowledge that she was not competent to render any type of diagnosis of mental illness when, as a psychologist she was unqualified to rule out "general medical conditions", a matter about which she admittedly had no knowledge or expertise.

299. Defendant Scott willfully withheld from defendant Holzapfel information she had actual and constructive knowledge of, from plaintiff's records corroborating that he was not violent as evidenced by some 6 documented instances in which he refused to defend himself from physical attacks that defendant ABH of TVBH had refused to protect him from.

300. As part of her malpractice, and in order to further the unlawful goals of the ABH defendants and to give the false impression that she was not as biased as she had demonstrated herself to be, defendant Scott falsely stated under oath during said September, 2014 proceedings that she would have had to search other patient records to find evidence of the documented physical attacks upon plaintiff by other patients.

301. Defendant Scott's actions in committing acts of malpractice, including falsification of plaintiff's records, and false communications to defendant Holzapfel, prolonged plaintiff's forced drugging, batteries, torture, and false imprisonment, thereby proximately causing and contributing to plaintiff physical and emotional injuries from which plaintiff continues to suffer.

WHEREFORE plaintiff claims monetary damages against defendant Scott individually in an amount exceeding $25,000.

FIFTH CAUSE OF ACTION

(Nursing malpractice, negligence, assault, battery, intentional infliction of mental distress, failure to provide a safe treatment environment, torture)

302. The plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-301 hereinabove.

303. During the period of approximately September 19, 2012 through October 30, 2014, defendants Long, Barnhart, and the John and Jane Doe defendants committed acts of gross, willful, wanton, and reckless negligence and nursing malpractice, and aided and abetted in defendant prescriber Sierra's medical malpractice against plaintiff by assaulting, battering, and participating in torture against plaintiff by injecting him or authorizing and/or supervising the injection of the deadly drug Risperdal.

304. Defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times had the legal and professional obligation to know, and do in fact know that the drug Risperdal commonly causes tardive dyskinesia, diabetes, dystonia, hyperlipidemia, neuroleptic malignant syndrome, sudden cardiac death, stroke, hyperlactinemia, galactorrhea and shortened life span, as well as highly painful acute symptoms which they have observed in the plaintiff personally or in his chart, including muscle and facial spasms, nausea, headache, and other adverse reactions as set forth hereinabove.

305. Said defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times since August 7, 2013 had actual or constructive knowledge that defendant Sierra was not from that date forward even arguably acting within the course of her professional practice, because she was no longer plaintiff's treating psychiatrist by virtue of a letter of that date from the plaintiff terminating her, which letter is contained in plaintiff's chart.

306. Said defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times since April 30, 2014 had actual or constructive knowledge that another medical doctor, Dr. Sandra Pinkham, communicated to ABH defendants on that date to the effect that the forcible injection of the drug Risperdal at the level it was being forced, was a violation of the standard of care, was jeopardizing plaintiff's health, and was not shown to be needed.

307. At all relevant times since the grievances filed against ABH by plaintiff's family on May 31, 2013, said defendants Long, Barnhart, and the John and Jane Doe defendants have had actual or constructive knowledge that their actions in forcing the injection of Risperdal upon plaintiff was a violation of statutes prohibiting assault, battery, chemical restraint, and torture.

308. At all relevant times since the grievances filed against ABH by plaintiff's family on May 31, 2013, which was ignored by defendants Krason and OMHAS, there was reason to believe that the actions of the defendants Long, Barnhart, and the John and Jane Doe in carrying out the forced drugging of the plaintiff were unlawful because the March 14, 2011 forced drugging "Entry" was clearly void on its face, as they should have known from their OMHAS training, which does teach the *Steele* holding, indicating that forced drugging as a course of treatment was unlawful absent the 3 findings set forth earlier hereinabove and as set forth in the next paragraph.

309. At all relevant times, as part of their duties as nurses who administer or supervise others who administer psychotropic drugs, and as employees or employees by estoppel of defendants ABH and/or OMHAS, defendants Long, Barnhart, and the John and Jane Doe defendants have had the obligation to understand the basic law of forced drugging, which defendants Hurst, Baumgarten, and OMHAS do teach them, i.e. that said forced drugging is only lawful where (a) the patient lacks capacity to consent; (b) the drugging is in the patient's best interests, and (c) there are no equally effective alternatives to force drugging.

310. By simply reading said March 14, 2011 forced drugging "Entry" found in plaintiff's chart, defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times had actual and constructive knowledge that the forced drugging "Entry" of March 14, 2011 lacked any of the 3 required findings of *Steele*, at all times considered the clearly leading case.

311. Defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times had actual and constructive knowledge that plaintiff was fully competent and capable of making his own treatment decisions, including the decision to refuse drugging or to refuse it at the levels unilaterally chosen by others.

312. Defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times had actual and constructive knowledge that it is clearly unlawful in Ohio or any other state, to forcibly drug a patient was is competent and capable of making his own treatment decisions.

313. Defendants Long, Barnhart, and the John and Jane Doe defendants have at all relevant times had actual and constructive knowledge that the forced drugging of the plaintiff was not being ordered by defendant Sierra for any legitimate, lawful treatment purpose, but rather on the false, fraudulent, and unlawful basis that she was attempting to stop some future crime that she imagined plaintiff might commit if he were not drugged, and her false or delusional belief that the March 14, 2011 "Entry" fragment "mandated" the prescribing of the drug Risperdal.

314. Defendants Long, Barnhart, Krason, McGee, Sierra, and the John and Jane Doe defendants have at all relevant times had the actual and constructive knowledge that they lacked the authority as nurses, whether RN's or LPN's, to forcibly drug, or authorize others to forcibly drug plaintiff without violating OAC Sec. 4732-2-13 (D)(4) and (5).

315. At all relevant times, said defendants Long, Barnhart, Sierra, and other John and Jane Doe defendants had actual and constructive knowledge that said drugging was excessive and harmful to their patient in that plaintiff was reporting adverse reactions, including neurological tics and spasms, tachycardia, orthostatic hypotension, and other medical consequences commonly associated with over-dosing of the drug Risperdal.

316. Despite being fully aware of plaintiff's history of post traumatic stress, defendants Long, Barnhart, McGee, Krason, Sierra, and the John and Jane Doe defendants have

recklessly and in bad faith aided and abetted the actions of other ABH defendants in inflicting further acts of abuse upon plaintiff, knowingly or recklessly exacerbating such pre-existing post traumatic stress disorder, by refusing to take reasonable measures to protect him from batteries by other patients and by labeling him as "delusional" for discussing uncontroverted facts about Risperdal and Depakote, and/or by ignoring plaintiff's reports of being physically attacked.

317. Defendants Long, Barnhart, Sierra, and the John and Jane Doe defendants have at all relevant times had actual and constructive knowledge that plaintiff has been suffering serious adverse drug reactions, as well as an accumulation of moderately severe drug reactions and other medical and psychological harm, from their actions in forcing Risperdal and the Depakote upon said plaintiff from September 19, 2012 through November 4, 2014.

318. In spite of being aware of said adverse drug reactions, ABH defendants Long, Sierra, and defendants John and Jane Doe have been concealing said adverse drug reactions in plaintiff's records, by participating in the following conduct:

(a) falsely reporting in plaintiff's chart the supposed non-existence of adverse drug reactions, at times even while describing them in the next sentence;

(b) falsely characterizing the adverse reactions as bad behavior - symptomatic of mental illness- "agitation", "hostility", or other conclusory labels, which are then deemed to simply require another drug or higher dosages;

(c) falsely characterizing plaintiff's reports of adverse reactions, such as 'dyskinesia', a term put in quotations in the chart, or otherwise used to demonstrate ABH's belief that the report was an example of being "delusional" or "paranoid", thereby justifying the use of another drug;

(d) falsely characterizing the adverse reactions as a separate "medical condition" unrelated to the Risperdal- for example high cholesterol, or the "Tourette's syndrome" or "partial epilepsy" which plaintiff does not have;

(e) falsely characterizing the adverse reactions as being normal conditions, as occurred when plaintiff reported symptoms of erythromelagia and was told that "everyone's hands are bright red", or when he was told that his gums bled from not brushing his teeth enough when unusual bleeding is a known adverse reaction to Risperdal and Depakote.

(f) falsely characterizing the adverse reactions, such as repeated yeast infections, as being caused by plaintiff when in fact the persistence of such infections is an adverse drug reaction.

319. Defendants Willard, Smith, and Doe, at the direction of defendants Sierra and McGee or other ABH defendants, used excessive force in committing assaults and batteries against plaintiff on May 15, 2014, May 29, 2014, June 12, 2014, and June 26,

2014 in furtherance of the forced drugging and torture agenda of defendants ABH, Sierra and McGee, thereby wounding, battering, bruising, and traumatizing plaintiff in the process even beyond the damage defendant Long and the Doe defendants inflicted with the Risperdal needle.

320. ABH defendants Long, Barnhart, Doe, Krason, McGee, Sierra, Derrico, Willard, and Smith have at all relevant times had actual and constructive knowledge of their obligations under OAC Sec. 5122-14-11 to provide plaintiff a reasonably safe "treatment" environment.

321. Notwithstanding said legal obligations of safety, defendants Long, Barnhart, Doe, Krason, McGee, Sierra, Willard, and Smith have at all relevant times maintained an unwritten *de facto* policy of belittling, degrading, pathologizing and further traumatizing patients such as plaintiff who are harmless, while giving free rein to aggressive, assaultive patients to do as they please, including battering and violating the rights of the more peaceable patients, including plaintiff.

322. In furtherance of said *de facto* policy, defendants Doe either assault peaceable patients without cause, knowing that these actions are traumatizing to all the patients, including plaintiff who witnesses such assaults or is at the receiving end of same, or they ignore or watch as they permit one of the violent patients to have his way with the more peaceable patients.

323. Defendants Sierra and Krason made this continuing, ongoing policy very clear to plaintiff in 2012 and again in 2013 when they punished and retaliated against plaintiff with severe restrictions, including a degrading ritual of moving him from his unit in the middle of a meal, in retribution for his having attempted to avail himself of ABH's claimed grievance procedure following one of plaintiff's vain efforts obtain a safer "treatment" environment.

324. ABH defendants' refusal to provide a safe treatment environment continues to this day and includes an instance in June, 2014 where ABH employee Rosalinda [last name unknown at this point] stood and watched as plaintiff was assaulted by one Todd Hall, a patient known to be an assaultive sex offender and mass killer.

325. Other instances in which ABH defendant nursing staff refused to provide a reasonably safe environment include recklessly allowing at least one assaultive patient to enter patients' beds at night, and to urinate on plaintiff's property, including his writings, such actions having occurred during November, 2014.

326.The refusal of ABH employees to comply with OAC Sec. 5122-14-11 recklessly and in bad faith continues to threaten plaintiff's safety, quality of life, and even his life itself, without there being any recourse because there is no legitimate grievance procedure, defendants Cruz and the Ohio AG refuse to investigate, and because ABH employees assigned to supervise unit safety, such as defendant Barnhart, will not or cannot do their jobs.

327. Defendant Holzapfel has been made aware of the lack of safety issue since December, 2013 because these issues were raised in plaintiff's December 4, 2013 motions communicated to said defendant in Case No. 09 CR 393, but said defendant, while unlawfully claiming to have jurisdiction to consider matters that defendant ABH wants considered, chooses to ignore all of plaintiff's safety and human rights issues and has steadfastly refused to address any of defendant ABH's ongoing violations of his rights to safety under OAC Sec. 5122-14-11.

328. During all of the times alleged herein the plaintiff was receiving "treatment" from ABH, defendants Doe were employed by ABH and were acting within the scope of that employment.

329. Defendants State of Ohio, OMHAS, and ABH and maintain a strict but unlawful policy of forcible and coercive drugging implemented by their employees and agents, which resulted in, and which continues to result in breaches of applicable medical and nursing care resulting in physical and emotional injuries to the plaintiff.

WHEREFORE plaintiff claims monetary damages against defendants Cruz, Carroll, the Ohio Attorney General, OMHAS, ABH, McGee, Barnhart, Sierra, Krason, Long, and Doe individually and in their representative capacities, in an amount exceeding $25,000, to compensate him for the physical and emotional injuries from which plaintiff continues to suffer.

SIXTH CAUSE OF ACTION
(False Imprisonment)

330. The plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-329 above.

331. The actions of defendants Corzine and Scherff acting in concert, as set forth in greater detail hereinabove, directly and proximately caused plaintiff's unlawful confinement purportedly authorized by the "Entry" of February 1, 2010, by means of fraud, legal malpractice, and persistent violations of plaintiff's rights to due process of law under the 1st, 4th, 6th, and 14thAmendments to the U.S: Constitution to seek meaningful redress in the courts, to be free of unreasonable seizure by the government, to effective counsel and the right of cross-examination, and the previously described procedural and substantive rights to evidence, notice, and an opportunity to be heard before his fundamental liberty interests could lawfully be taken.

332.Said defendants Corzine and Scherff also willfully and maliciously, in reckless disregard of plaintiff's constitutional rights, also violated plaintiff's rights under Ohio Rev. Code Sec. 2945.40 to a full hearing as set forth in greater detail hereinabove.

333. Said defendants Corzine and Scherff violated their duties of good faith to plaintiff and instead made sure that he received no hearing and no evidence, while fraudulently misleading him that he lacked such rights.

334. As a result of the actions of Corzine and Scherff, the Court of Common Pleas of Ross County lost all jurisdiction 10 days after the January 25, 2010 proceedings, when said defendants stripped plaintiff of his rights to a full hearing consistent with the Ohio and federal constitutions and the directives of Ohio Rev. Code Sec. 2945.40.

335. Defendants Corzine and Holzapfel have at all relevant times acted fraudulently towards plaintiff as to his hearing rights, and in disregard of the loss of jurisdiction by the Ross County Court in February, 2010, thereby unlawfully and maliciously confining plaintiff in the ABH and TBMFU/TVBH facilities, or ordering others to do so, without any lawful privilege to do so.

336. Defendant Holzapfel has at all relevant times been fully aware that the February 1, 2010 confinement "Entry" has been a nullity for almost five years as of this writing, but he has chosen to ignore these facts, has tried in multiple ways to prevent plaintiff from allowing these facts to come out or to provide him relief from the unlawful confinement of which he was and is well aware, and instead chose to also ignore plaintiff's rights to substantive and procedural due process during the 2014 trial court proceedings and to act in the complete absence of his own jurisdiction in doing so.

337. Defendant Holzapfel has at all times been fully aware that jurisdiction was lost nearly 5 years ago and that there is no privilege or legal justification for his refusal to recognize that occurrence to be used to justify forcing plaintiff into new sham proceedings, as has been occurring from December, 2013 to the present time.

338. Defendant Holzapfel is fully aware that he lacks jurisdiction to enforce the 2010 purported confinement "Entry" or to pretend to issue any new such "orders" to force plaintiff to be kept confined against his will, in violation of due process of law, and without legal privilege justifying said confinement.

339. Defendants Carroll, Krason, and ABH have since February, 2014 had actual knowledge that said ABH have been intentionally confining plaintiff against his will ever since February, 2010, which unlawful confinement was and is without consent and without legal justification.

340. Instead of taking corrective measures seeking to end the wrongful imprisonment when they discovered it, defendants Carroll, Krason, and the other ABH defendants have chosen instead to try to justify it and to continue to unlawfully inflict it using false, abusive, recklessly negligent, and deceptive means as set forth hereinabove, all in conscious disregard of plaintiff's constitutional rights to due process before his liberty may be taken, and his common law right to not be imprisoned against his will when there is no legal privilege to justify the confinement.

WHEREFORE plaintiff claims monetary damages against defendants Scherff and Corzine to compensate him for the physical and emotional injuries from which plaintiff has been suffering since February, 2010, and against defendants Carroll, ABH, Krason,

and Holzapfel individually and in their representative capacities, in an amount exceeding $25,000, to compensate him for the physical and emotional injuries they caused or aided and abetted from February, 2014 due to their participation in the unlawful forced confinement and false imprisonment that they implemented and from which plaintiff continues to suffer.

SEVENTH CAUSE OF ACTION

(Refusal to protect, comply with statutory obligation to investigate abuse reports, Intentional/Reckless Infliction of Emotional Distress)

341. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-340 above.

342. At all relevant times, defendant State of Ohio has maintained through its office of the Ohio Attorney General, an office of Patient Abuse and Neglect, which is required under Ohio Rev. Code Sec. 109.86 to investigate facilities such as ABH for patient abuse and neglect alleged under Ohio Rev. Code Sec 2903.34.

343. Reports of plaintiff's abuse and neglect at ABH under Ohio Rev. Code Sec. 2903.34 were made in writing to said office of Patient Abuse and Neglect in March, 2014, defendant Cruz having taken the complaint.

344.The Ohio Attorney General's office and defendant Cruz initially took the information but then soon refused to investigate ABH or to even discuss the matter because defendant Ohio A.G. and defendant Richard Carroll have at all relevant times defended, and continue to defend, the very abuses and neglect which were the subject of the March, 2014 reports, and which are also part of the subject matter of the within Complaint.

345. The State of Ohio maintains no realistic means of reporting abuse and neglect of those such as plaintiff who are under 60 years of age, and who are being abused and neglected in the State's psychiatric facilities, such as ABH.

346. Said defendants Cruz, Carroll, the State of Ohio, and the Ohio Attorney General, have at all relevant times been fully aware, or reckless in their knowledge that their actions and their refusals to act on behalf of abused psychiatric patients would result in emotional distress to said abuse victims, including plaintiff.

347. The conduct of said defendants Cruz, Carroll, the State of Ohio, and the Ohio Attorney General in consciously choosing a policy of defending abuse instead of investigating it as is their statutory obligation is, was, and continues to be, is outrageous and extreme beyond all bounds of decency, and can be characterized as utterly intolerable in a civilized society that expects that its government will comply with legislation enacted by its elected representatives, particularly legislation aimed to defend those who have little if any other recourse.

348. The conduct of said defendants Cruz, Carroll, the State of Ohio, and the Ohio Attorney General was a contributing and proximate cause of the plaintiff's serious emotional trauma, distress, and sense of helplessness upon learning that those whose legal duty it was to protect him, intended to help his abusers instead.

349. No patient in an Ohio psychiatric facility should be expected to endure the callous disregard of law displayed towards plaintiff by the outrageous and unlawful conduct of defendants Cruz, Carroll, the State of Ohio, and the Ohio Attorney General.

WHEREFORE plaintiff claims monetary damages against defendants Cruz and the State of Ohio Office of the Ohio Attorney General in an amount in excess of $25,000.

EIGHTH CAUSE OF ACTION
(Assault)

350. Paragraphs 1-349 are incorporated herein by reference thereto as though more fully set forth *verbatim* herein.

351. Defendants Ohio A.G., Carroll, OMHAS, Pettit, Soehner, Hurst, Holzapfel, TBMFU/TVBH, ABH, Sierra, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe, acting personally or by or through their agents, servants, and/or employees, have perpetrated, supervised the perpetration of, or have given or aided and abetted in the giving of ostensible legal authority to perpetrate acts of assault against plaintiff consisting of the following:

a.Intentionally causing a harmful or offensive contact by using the threat of the use of violence to force the administration of dangerous psychotropic drugs over the specific objections of plaintiff, although defendants have at all relevant times known plaintiff to be fully competent to refuse said drugs, such threatening conduct having until November 4, 2014 caused the plaintiff, who already suffers from post-traumatic stress disorder, to suffer further trauma, anxiety and fear as the assaults were repeated every two weeks, in the case of Risperdal, and twice daily, in the case of Depakote.

b. Using the threat of forced injections to coerce plaintiff into physically submitting to drugs which he has been medically advised are damaging him.

352. Defendants OMHAS, Holzapfel, ABH, Sierra, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe acting by or through their agents, servants and/or employees have used threats of immediate physical violence to coerce plaintiff to physically submit to mentally, medically, and physically abusive forced drugging.

353.Defendants OMHAS, Holzapfel, ABH, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe acting by or through their agents, servants and/or employees continue to use the threats of further physical violence because of the very imminent risk that any one of said defendants will again fabricate an excuse to again forcibly inject the plaintiff.

354. As a result of the conduct of the defendants, by and through their agents, servants, and/or employees, plaintiff has suffered emotional anguish and fear of his body being violated again and will continue to suffer the same for an indefinite time in the future.

355. Plaintiff is in the process of beginning to taper from the drug, Risperdal, which, for the moment, defendant Holzapfel is not claiming must be forced.

356. Defendant Holzapfel's November 3, 2014 "Decisions and Orders" are crafted in such a way that defendants ABH, Sierra, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe have now been given further incentive to invent additional non-existent behaviors to attribute to plaintiff so as to justify renewed forced drugging assaults.

357. Defendant McGee told plaintiff on or about November 4, 2014 that he intends to again seek to influence defendant Holzapfel so as to be able to claim legal justification for more forced drugging.

358. Given that the ABH defendants have already begun to needle plaintiff with comments about how they expect him to "relapse" while gradually tapering from the Risperdal, as they claim to not understand that any expected withdrawal symptoms are not the equivalent of "relapse", plaintiff has legitimate concerns that said defendants Holzapfel, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe will again mis-characterize him as "delusional" or "paranoid" or "lacking insight" and leverage such claims into more forced drugging.

WHEREFORE plaintiff claims monetary damages against defendants Ohio A.G., Carroll, OMHAS, Pettit, OMHAS, Soehner, Hurst, Holzapfel, TBMFU/TVBH, ABH, Sierra, Derrico, McGee, Hamill, Scott, Krason, Long, Barnhart, Willard, Smith, and Doe, for compensatory damages in an amount exceeding $25,000, to compensate him for the physical and emotional injuries from the assaults he has suffered due to the actions and failures to act, on the part of said defendants.

NINTH CAUSE OF ACTION
(Battery)

359. Paragraphs 1-358 are incorporated herein by reference thereto as though more fully set forth.

360. Defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, acting in person or by or through their agents, servants, and/or employees, have committed acts of battery against plaintiff consisting of the following without limitation:

a. Causing a harmful or offensive contact by using actual violence to force the administration of dangerous psychotropic drugs over the specific objections of plaintiff, whom defendants have at all relevant times known to be fully competent to refuse said

drugs, thereby having caused the already traumatized plaintiff, further trauma, anxiety and fear when the assaults were repeated every two weeks, in the case of Risperdal, and twice daily, in the case of Depakote.

b. Sending in assault teams, which included defendants Willard, Smith and Doe during May and June, 2014 to physically hold. choke, beat, bruise, and batter the plaintiff in order to inject him with the drug Risperdal against his will and while he physically attempted to resist, with intentional, wanton, reckless, and/or malicious disregard of said defendants' duty of care, and in violation of state, federal and international law.

c. Facilitating or refusing to intervene when plaintiff is physically attacked by other patients in clear violation of their obligations under OAC Sec. 5122-14-11 to provide plaintiff with a safe "treatment" environment.

361. Defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, acting in person or by or through their agents, servants, and/or employees, have acted with willful, wanton, and malicious misconduct when they forcibly drugged plaintiff by injecting a needle filled with the highly toxic Risperdal into his buttocks every two weeks from September 19, 2012 through October 30, 2014.

362. As a result of the conduct of defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, by and through their agents, servants, and/or employees, plaintiff has suffered bruising, pain, and adverse drug reactions, including without limitation: injection site pain, a state of stupor, unpleasantly heightened senses, shortness of breath, tachycardia, painful muscle spasms, tics and tremors, nausea, headache, akathisia (a feeling of inner restlessness and torment), a feeling of shame, orthostatic hypotension, a feeling of cranial pressure, clenched teeth, and difficulty thinking and sustaining thought.

363. As a further result of the conduct of defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, by and through their agents, servants, and/or employees, plaintiff has suffered permanent, serious medical injuries, as has been set forth in greater detail in paragraph 255 hereinabove.

364. As a result of a conscious policy by defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, of refusal to protect plaintiff from other patients, some of whom are violent, plaintiff has suffered and continues to suffer periodic bruising, cuts, and other injuries, which he is powerless to stop because any effort to defend himself will often be characterized by said defendants as signs of "mental illness".

365. As a result of the conduct of defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, by and through their agents, servants, and/or employees, plaintiff has also suffered nightmares, emotional anguish and fear of his body being violated again, and will continue to suffer for an indefinite time in the future.

366. As a result of the conduct of defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe, by and through their agents, servants, and/or employees, plaintiff suffers from an exacerbation of his previously existing post-traumatic stress disorder, a fact of which defendants are well aware.

WHEREFORE, judgment is demanded against said defendants ABH, Sierra, McGee, Long, Barnhart, Willard, Smith, and Doe in an amount in excess of $25,000.00, plus interest and costs.

TENTH CAUSE OF ACTION
(Negligent/reckless/ intentional infliction of Emotional Distress)

Count 1: As to defendants Pettit, Scherff, Corzine, Soehner, Hurst,Holzapfel, and OMHAS

367. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-366 above.

368. Defendants Scherff and Pettit went beyond completely refusing to provide legal representation to plaintiff, and perpetrated a fraud upon him by intentionally or recklessly participating in proceedings in which each knew that important liberty interests of the plaintiff, including his physical health and safety, were at stake but instead of advocating for his rights, intentionally participated in sham proceeding that outrageously and in the absence of all evidence, took away all of plaintiff's liberty while falsely portraying the proceedings as ones in which plaintiff had counsel.

369. Defendant Corzine aided and abetted defendants Scherff and Pettit in the frauds all three committed upon the plaintiff on 1/25/10 and 3/14/11 and in the aforementioned legal malpractice of defendants Scherff and Pettit, by the use of secret *ex parte* communications, by refusing to provide plaintiff with a hearing, by participating in the knowing deception of plaintiff about his rights in both "hearings", by refusing to require the prosecution to meet its burden of proof during either proceeding or to submit any evidence at all, and then refusing to fulfill his statutory mandate to order a transcript of the 1/25/10 proceedings, when he knew, intended, and/or consciously disregarded the probabilities that said frauds would result in serious emotional and physical suffering by the plaintiff, remain undiscovered for an indefinite period of time, and would cause and prolong plaintiff's suffering from the unlawful confinement, drugging, and other outrages that would be perpetrated against him in the hospitals.

370. The pro-drugging, pro-coercion, anti-dissent policies of defendant OMHAS as set forth previously hereinabove, have aided and abetted defendants Scherff, Pettit, Corzine, Holzapfel, Soehner, and Hurst in the outrageous, unlawful and extreme actions taken by them in knowingly causing serious emotional harm and trauma to the plaintiff.

371.Defendant Holzapfel since December 30, 2013 has further aided and abetted, and continues to aid and abet the prior and current actions of defendants Scherff, Pettit, Corzine, Soehner, Hurst, and OMHAS in injuring the already traumatized plaintiff by his own series of unlawful and outrageous acts described hereinabove, doing so knowingly, intentionally, and with repeated and conscious disregard for the serious emotional distress and suffering he is inflicting upon plaintiff due to the criminal acts he is facilitating and/or in reckless disregard of his actual knowledge that his actions are causing probable serious physical, medical and psychological distress to plaintiff.

372. The actions of defendants Scherff, Pettit, Corzine, Soehner, Hurst, and OMHAS have caused actual, serious mental distress and brain injury and other medical injury to the plaintiff, that said injuries have been inflicted every two weeks, with defendant Holzapfel being poised to inflict said forced drugging injuries again as indicated by the bizarrely-worded vague threats he made in his November 3, 2014 rulings. [Exs. J & K attached]

373.Defendants Scherff, Pettit, Corzine, Soehner, Hurst, and OMHAS have at all times been fully aware that their actions, omissions, and policies would render patients in the position of plaintiff, and did in fact render plaintiff specifically, especially vulnerable to said outrageous assaults and batteries, that plaintiff's reactions to said assaults, batteries, and intentional acts directed against him are reasonable, normal and expected, and would not have occurred, but for the actions of said defendants.

374. Said outrageous conduct of defendants Scherff, Pettit, Corzine, Soehner, Hurst, OMHAS, and Holzapfel is the proximate cause of the serious emotional distress, anguish, trauma, and injuries from which plaintiff suffered acutely and continues to suffer, which include without limitation serious mental distress, the reasonable fear of his body again being violated, the knowledge that defendants' actions continue to harm him through the threat of resumed forced drugging, the trauma of his current false imprisonment, the knowledge that defendants' unlawful actions will brand him forever and falsely with the stigma of "mental illness" and the abuses that accompany that label which he carries into his current unlawful confinement, all such suffering being likely to continue in the same form for an indefinite time in the future.

WHEREFORE, plaintiff prays for judgment for compensatory damages for a sum greater than $25,000.

Count II: As to defendants ABH, Sierra, Derrico, McGee, Krason, Holzapfel, OMHAS, Long, Barnhart, Scott, Hamill, Willard, Smith, and Doe

375. Plaintiff incorporates by reference all of the allegations contained in paragraph 1-374 of the Complaint as fully as if re-written verbatim herein.

376. In furtherance of its forced or coerced drugging agenda and the billings that such drugging engenders, defendants ABH, Sierra, Derrico, McGee, Krason, Long, Barnhart, Willard, Smith and Doe, with full support and encouragement from the abusive drugging

policies of defendant OMHAS, have implemented and/or continue to implement policies of mental and physical abuse of psychiatric patients such as plaintiff, including the threat of new violence, refusals to protect plaintiff from batteries by other patients, persistent mental and occasional physical abuse and other violations of OAC Sec. 5122-14-11, which unlawful policies have been ostensibly ""authorized" by defendant Holzapfel and carried out by the acts of defendants Long, Barnhart, Willard, Smith and Doe, who physically assaulted and/or battered plaintiff, labeled him as "mentally ill" for refusing the drugging, and/or disregarded their own ethical and legal obligations to report, protect plaintiff from, or at least not participate in, such abuses.

377. Defendants ABH, Sierra, Derrico, McGee, Krason, OMHAS, Scott, Hamill, Long, Barnhart, Willard, Smith and Doe have at all times acted intentionally, with malicious purpose, in bad faith, or in a wanton or reckless manner in the carrying out of defendant Sierra's prescribing and insistence on forced drugging, each having actual and constructive knowledge of the destructive consequences of his or her conduct upon the emotional well-being of the plaintiff.

378. Defendants ABH, Sierra, Derrico, McGee, Krason are fully aware that plaintiff suffers from post-traumatic stress disorder due to childhood and subsequent physical and sexual abuses in addition to the psychiatric hospital-created abuses, but refuse to provide any meaningful treatment for same.

379.Defendants ABH, Sierra, Derrico, McGee, Krason, with full OMHAS support have been imposing other punishments upon plaintiff, particularly when he asserts his First Amendment free speech and other rights, such other retaliations, most being prohibited under OAC Sec. 5122-14-11, include keeping him banned from internet access, removing him without notice to units with restricted rights as a form of retaliation, in August, 2013, and afflicting him with the new forced drug, Depakote, known to commonly cause temporary and permanent drug adverse events including unusual bleeding/bruising, bloating, cough, confusion, delusions, dementia, depression, malaise, nausea/vomiting, nervousness, paranoia, shakiness/ trembling, liver damage, insomnia and fatigue.

380. Defendants Holzapfel, ABH, Sierra, Derrico, Scott, Hamill, McGee, and Krason have been well aware at all relevant times, of plaintiff's efforts to obtain legal recourse in the courts of the State of Ohio, including the Ross County Common Pleas Court and the Ohio Supreme Court, for the purpose of ending his unlawful drugging and confinement.

381. During the pendency since December 4, 2013, of litigation in the Ross County Common Pleas court case number 09 CR 393, and the first original action in the Ohio Supreme Court in case number 2014-0268, defendants ABH, Sierra, Derrico, McGee, and Krason committed other unlawful acts that negligently or intentionally resulted in the infliction of mental distress upon the plaintiff in the following respects, without limitation:

a.Filling plaintiff's chart with out of context mis-quotes supposedly attributable to plaintiff, re-framing ABH's own abuse of plaintiff as examples of "mental illness"

instead of merely angry words or cries of pain in response to abuse, and then sending unknown quantities of such "reports" in *ex parte* communications to defendant Holzapfel for unlawful consideration off-the -record.

b. Sending plaintiff for court appearances and dental appointments with elaborate chaining so as to falsely depict him as "dangerous", resulting in plaintiff being humiliated and unable to adequately participate in such proceedings in violation of his First and Sixth Amendment rights, because of being physically restricted from being able to take notes with his hands chained to a belly chain.

c. Opening his legal mail in one instance.

d. Keeping plaintiff banned from the internet, thereby effectively interfering not only with his writing and marketing of his books and music, but also with his communications by email with his family and friends, physician and his attorneys, including efficient transmission of legal documents and corrections thereto.

e. Giving false and misleading testimony on September 12, 2014 within the meaning of Ohio Rev. Code Sec. 2921.13 with purpose to mislead defendant Holzapfel, then arguably acting as a public official, in performing at least ostensibly official functions, defendants Scott and Hamill thereby falsely depicting plaintiff as "dangerous" and/or "severely mentally ill", both in sworn false testimony, and in other statements submitted outside the September, 2014 proceedings.

f. Concealment by defendant Scott on September 12, 2014 from defendant Holzapfel of numerous documented incidents where plaintiff was attacked by other patients and did not defend himself, while falsely portraying her testimony as "fair" or "balanced".

g. Providing Scott's false and misleading testimony as to her ability to diagnose "mental illness" despite the fact that as a psychologist she is incapable of ruling out general medical conditions as is required by her own diagnostic tool, the DSM IV (TR), before such a diagnosis can legitimately be made.

h. Public disclosures by defendant McGee, Scott and Hamill between July and September, 2014, to the Ross County Common Pleas court, of their maliciously false versions of confidential treatment records, although knowing that any such disclosure violated plaintiff's rights under Ohio Rev. Code Sec. 2317.02, and Ohio Rev. Code Sec. 4732.19, due to being without the consent of the plaintiff and over his repeated objections.

i. Giving of testimony by defendant Hamill to defendant Holzapfel, which was admittedly based on "rumor", without having ever interviewed plaintiff, and because of defendant Hamill's stated belief that by following advice of counsel, plaintiff must lack capacity to consent to, or refuse ABH's drugs.

j. Giving of false and misleading testimony on September 25, 2014 by defendant Scott with purpose to mislead defendant Holzapfel, arguably acting as a public official, in performing ostensibly official functions.

k. Suborning of false testimony by ABH employee or agent by estoppel, Dr. Timothy Hogan, on September 25, 2014, in furtherance of defendants' efforts to minimize the damage the ABH defendants have reason to know they have been inflicting upon plaintiff with Risperdal Consta, by falsely stating that adverse reactions to Risperdal Consta do not occur at or near the time of its injection, such false statements made apparently to discredit plaintiff's reports of orthostatic hypotension following the Risperdal injection, although it is a relatively common adverse reaction to the drug, especially when it is being over-dosed.

l. Falsification and fraudulent altering by Scott and/or other ABH defendants or actors, of plaintiff's records, thereby concealing from the Ross County trial court during September, 2014 testimony, ABH's own diagnosis of plaintiff with PTSD, thereby diverting attention to its non-evidence-based "diagnosis" of schizo-affective disorder, in an obvious effort to support an order of forced drugging and the billings that accompany it.

m. Unlawful disclosure by defendants McGee, Hamill, Scott, Sierra and defendants Doe, of privileged, confidential treatment records by Scott throughout Scott's two days of testimony in September, 2014, and by defendant McGee when he made a public filing of a document on or about July 3,2014 in which he violated plaintiff's rights to privilege by publicly disclosing McGee's false version of a portion of plaintiff's confidential treatment records, including making a false representation of the dosage of Risperdal being inflicted upon plaintiff, representing to the court and to the public that it is at a dosage 25% less than it had always been.

n. Defendants' further exacerbation of plaintiff's pre-existing post-traumatic stress by labeling him as being on "exploitation precaution", a term defendants refuse to define, but which appears to mean that defendants deem themselves entitled to intrude on plaintiff's privacy every 15 minutes on the pretext that he might make a false accusation, despite the absence of evidence this has occurred at any time in the past 5 years.

o. Intentional omitting most of plaintiff's reports of adverse drug reactions, or labeling of them as separate disorders, as an attempt to justify additional drugs.

p. Systematic sabotage of plaintiff's efforts to engage in constructive, therapeutic activities, as by prohibiting plaintiff on or about February 8, 2014 from co-facilitating discussion and therapy groups, despite the fact that plaintiff's groups were admittedly enjoyed by other patients and far better attended than those run by ABH staff and despite defendant's college degree with a concentration in psychology and background as author of self-help books which other patients enjoy reading.

q. Forcing plaintiff to have his buttocks exposed every two weeks for purposes of forced drugging by female nurses, including defendant Long with approval of defendant Barnhart and the other ABH defendants, such injections having caused plaintiff fairly immediate adverse reactions including injection site pain, a state of stupor, unpleasantly heightened senses, shortness of breath, tachycardia, painful muscle spasms, tics and tremors, nausea, headache, akathisia (a feeling of inner restless and torment), a feeling of shame, orthostatic hypotension, a feeling of cranial pressure, clenched teeth, and difficulty thinking and sustaining thought.

r. Physically battering, holding, choking, beating, bruising, and ridiculing of plaintiff during the forced druggings of May 15, 2014, May 29, 2014, June 12, 2014, and June 26, 2014, which plaintiff physically resisted, said beatings being inflicted by defendants Smith, Willard, and Doe, who also dragged plaintiff to ABH's "quiet room", where they placed him in four point restraints, pulled down his pants so as to aid and abet defendants Long and Doe in injecting with the drug Risperdal and one or more other drugs as additional punishment and for the purpose of identifying plaintiff as "dangerous".

s. Continuing threatening conduct in that, since defendant Holzapfel announced that forced drugging had been terminated, suggesting that ABH staff would be on the look-out for any symptom they could find of "decompensation" so as to appear to justify defendants' prior bad acts, as well as said defendant McGee's stated plan to seek some new purported authority to again force drug the plaintiff.

t. Post-November 4, 2014 sabotage of some of plaintiff's efforts to avail himself of advice and support in titrating down from defendants' dangerous drugs, from plaintiff's own psychologist and medical doctor outside the OMHAS system.

u. Maintaining a pattern of stalking-type behaviors by entering the privacy of plaintiff's room without permission and refusing to leave when requested to do so, and repeatedly pressuring plaintiff to speak with defendant McGee and others even when plaintiff attempts to avoid the threats, pressures and insults that defendant McGee and other ABH actors he brings with him, inflict upon plaintiff.

v. Maintaining a strict policy of prohibiting documentation of ABH's outrageous conduct by means of videoing, photographing, or recording, including its batteries of plaintiff on May 15, 2014, May 29, 2014, June 12, 2014 and June 26, 2014, not for "privacy" reasons as claimed, but to send a message to patients, including plaintiff, that only the ABH version of reality will be documented.

w. ABH's long-standing interference with plaintiff's rights to access to his medical doctors and psychologist by prohibiting transportation to the offices of Dr. Pinkham and others and by continuing to refuse to allow plaintiff to have support, and a credible witness of his own, during ABH's abusive "treatment team" meetings.

382. ABH defendants' past and continuing conduct in threatening plaintiff and keeping him unlawfully confined, as set forth hereinabove, particularly considering the fact that

the ABH defendants' abuses are in addition to and on top of those of the same nature previously inflicted by the TBMFU/TV defendants previously, is so outrageous, so violative of all principles of the Ohio Constitution, particularly Sec. 1.21, the assault and chemical restraint statutes of the Ohio Revised Code, almost all the patient rights provisions of OAC Sec. 5122-14-11, the federal torture statute, the 1st, 4th, 6th, and 14th Amendments to the federal Constitution, international prohibitions against forced drugging as a form of torture, and the ethical bans against forced drugging published by the American Psychiatric Association and the American Psychological Association, that it may truly be considered outrageous, extreme beyond all bounds of decency, and intolerable in a civilized society.

383. Said outrageous conduct of the ABH and OMHAS defendants is the proximate cause of the serious emotional distress, anguish, trauma, and injuries from which plaintiff suffers, which include, without limitation, the reasonable fear of his body again being violated, the knowledge that defendants have no concern at all for his well-being but are still being permitted to confine him, sabotage his efforts to document their abuse, and interfere with his efforts to heal, all such suffering being likely to continue in the same form for an indefinite time in the future and is of such a persistent and ruthless nature that no reasonable person should be required to endure it.

WHEREFORE, plaintiff prays for judgment for compensatory damages for a sum greater than $25,000.

ELEVENTH CAUSE OF ACTION
(Negligent/Intentional Entrustment, Retention & Supervision)

384. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1- 383 hereinabove.

385. Defendants TBMFU/TVBH, ABH, OMHAS, Hurst and Baumgarten have been participating and in and promoting policies and trainings in which defendant hospitals and its employees, agents, and agents by estoppels, are encouraged to coerce patients to take dangerous drugs with the threat of forced drugging and longer loss of liberty.

386. Defendants TBMFU/TVBH, ABH, OMHAS, Hurst and Baumgarten, in furtherance of their efforts to promote such coercive policies, disregard the rights of patients towards whom they owe the highest fiduciary duties, utilizing said patients instead for billing purposes and actively training the remaining state defendants to utilize said patients, such as plaintiff, for the purpose of making claims for drugs and related billable "services" which plaintiff does not want, does not need, and which harm him medically and psychologically.

387. Among the techniques that said defendants TBMFU/TVBH, ABH, OMHAS train employees and agents by estoppels to use so that they will act according to the drugging agenda and against the best interests and constitutional rights of patients in general and against plaintiff in particular, are the following:

a.Promoting the distribution of drug company propaganda to patients in the guise of "treatment";

b. Consistently instructing and/or promoting and approving the diagnosing of patients with "mental diseases" which have no scientific basis and for which there is no known diagnostic test;

c. Consistently diagnosing patients with "mental diseases" which are keyed to specific drugs for which Medicare and other insurance providers pay well and without requiring undue proof of need;

d. Consistently diagnosing patients with "mental diseases", particularly schizophrenia, schizo-affective disorder, and bipolar disorders while violating the requirements of OMHAS's own diagnostic authority – the DSM IV (Tr) and the DSM V, which require that general medical conditions first be ruled out, a skill generally absent in OMHAS-affiliated psychiatrists, who little of general medicine;

e. Consistently pathologizing of normal patient behaviors and reactions to the stress of institutionalization and trauma so as to portray the already mis-diagnosed "mental diseases" as particularly "severe" and the need for drugs as therefore particularly urgent, when they know or should know that such drugs offer no beneficial long-term outcomes for said patients, and can cause the very psychiatric symptoms they were supposed to alleviate;

f. Consistently teaching OMHAS workers the use of on-the-job tactics that create patient low self-esteem, helplessness, and victim-thinking through insults, intolerance of dissent, and other abusive techniques.

WHEREFORE, plaintiff prays for judgment for compensatory damages for a sum greater than $25,000.

TWELFTH CAUSE OF ACTION
(Abuse of Process)

388. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1- 387 hereinabove.

389. The legal proceedings that resulted in plaintiff's unlawful confinement commenced on January 25, 2010 following plaintiff's entering of a plea of NGRI a few minutes earlier.

390. Although said proceedings were initiated without prior notice, without the prior filing of a prosecutorial or other motion and in disregard of pre-hearing constitutionally protected due process protections, said proceedings were, though only at the precise

instant that they began, commenced in a court with proper jurisdiction to commit, though said jurisdiction of defendant Corzine's common pleas court to act as a probate court was highly limited under Ohio Rev. Code Sec. 2945.40.

391.Said proceedings were, at the instant they commenced, initiated within the statutory period of time to commence such proceedings prescribed by Ohio Rev. Code Sec. 2945.40(B).

392. Immediately following the instant in which said proceedings were commenced on March 4, 2011, defendants Scherff and Corzine perverted said proceedings by their fraudulent acts, as has been previously set forth hereinabove, in an attempt to accomplish an ulterior purpose or purposes for which said hearing was never legislatively, judicially, or constitutionally designed.

393. During said March 4, 2011 defendants Pettit and Corzine, aided and abetted by the communications from defendants Soehner and Hurst, by then understanding that they were committing acts of fraud and otherwise as set forth hereinabove, which acts would take away the previously existing jurisdiction, perverted said March 4, 2011 proceedings in an attempt to accomplish an ulterior purpose or purposes for which said proceedings were never legislatively, judicially, or constitutionally designed.

394. From December, 2013 through to the present time, defendant Holzapfel has continued to pervert the proceedings that had commenced on January 25, 2010 by his fraudulent acts, as has been previously set forth herein, in an attempt to further said ulterior purpose or purposes for which said proceedings were never legislatively, judicially, or constitutionally designed.

395. That among the ulterior purposes which the actions of defendants Scherff, Corzine, Pettit, Soehner, Hurst, and Holzapfel appeared to have attempted to accomplish include the following:

a. shortening of judicial and attorney time dedicated to proceedings in which the evidence is typically impermissibly vague, based on multiple hearsay, based on confidential psychiatric records, and based on psychiatric theories that have no support even within the sub-specialized psychiatric literature that espouses the invalid theories propounded by the DSM's;

b. concealment, if only partial, of the fraud and constitutional rights violations that occur in such proceedings in general and during the January 25, 2010 and March 4, 2011 proceedings in particular;

c. alleviating the state's prestigious psychiatrists and psychologists from the burdens of travel, testimony and cross-examination;

d. creating and testing of procedures that conceal the general absence of evidence supporting psychiatric incarcerations;

e. the psychiatric incarceration of large numbers of individuals who will be likely to become permanent consumers of psychotropic medication, thereby increasing the abilities of defendants TBMFU/TV, ABH, and OMHAS to increase their Medicare and Medicaid billings;

396. Said actions of defendants Scherff, Corzine, Pettit, Soehner, Hurst, Holzapfel, Scott, McGee, and Hamill, aided and abetted before and after the fact by defendants Ohio Attorney General, Carroll, OMHAS, ABH, and TMBFU/TVBH, have proximately and directly caused the perversion of legal proceedings to his damage, thereby causing him physical, medical, and mental damages as set forth hereinabove.

WHEREFORE, plaintiff prays for judgment for compensatory damages for a sum greater than $25,000.

Respectfully submitted,

David L. Kastner

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REQUEST FOR SERVICE

TO THE CLERK:

Please issue service of Summons and the Complaint herein by U.S. certified mail, return receipt requested, upon each of the individuals named below at the addresses indicated:

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KELLY A. COON, D.O.,
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David L. Kastner
David L.Kastner

VERIFICATION

COUNTY OF ATHENS)

STATE OF OHIO)

I, John J. Rohrer, of lawful age, being first duly sworn upon my oath, and under penalty of perjury state that I am the plaintiff above named, that I have read the above and foregoing Verified Complaint for the Court of Claims and state that the facts contained therein as to events that happened to me are true and correct from my own personal knowledge and from having reviewed copies of documents from the court file in Ross County Case No. 09CR000393.

John J. Rohrer

SUBSCRIBED AND SWORN to before me this 20th day of November, 2014.

Shelah E. Sparks
Notary Public-State of Ohio
Comm. Expires February 13, 2016

Notary Public

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the)
Hospitalization of William S. Bigley,)
Respondent,)
William Worral, MD,)
Petitioner)
Case No. 3AN 07-1064 P/S

AFFIDAVIT OF ROBERT WHITAKER

STATE OF MASSACHUSETTS)
) ss.
SUFFOLK COUNTY)

By Robert Whitaker

I. Personal Background

1. As a journalist, I have been writing about science and medicine, in a variety of forums, for about 20 years. My relevant experience is as follows:

a) From 1989 to 1994, I was the science and medical writer for the *Albany Times Union* in Albany, New York.

b) During 1992-1993, I was a fellow in the Knight Fellowship for Science Writers at the Massachusetts Institute of Technology.

c) From 1994-1995, I was director of publications at Harvard Medical School.

d) In 1994, I co-founded a publishing company, CenterWatch, that reported on the clinical development of new drugs. I directed the company's editorial operations until late 1998, when we sold the company. I continued to write freelance articles for the *Boston Globe* and various magazines during this period.

e) Articles that I wrote on the pharmaceutical industry and psychiatry for the *Boston Globe* and *Fortune* magazine won several national awards, including the George Polk Award for medical writing in 1999, and the National Association of Science Writers award for best magazine article that same year. A series I wrote for the *Boston Globe* on problems in psychiatric research was a finalist for the Pulitzer Prize in Public Service in 1999.

f) Since 1999, I have focused on writing books. My first book, *Mad in America*, reported on our country's treatment of the mentally ill throughout its history, and explored in particular why schizophrenia patients fare so much worse in the United States and other developed countries than in the poor countries of the world. The book was picked by *Discover* magazine as one of the best science books of 2002; the American Library Association named it as one of the best histories of 2002.

2. Prior to writing *Mad in America*, I shared conventional beliefs about the nature of schizophrenia and the need for patients so diagnosed to be on antipsychotic medications for life. I had interviewed many psychiatric experts who told me that the drugs were like "insulin for diabetes" and corrected a chemical imbalance in the brain.

3. However, while writing a series for the *Boston Globe* during the summer of 1998, I came upon two studies that looked at long-term outcomes for schizophrenia patients that raised questions about this model of care. First, in 1994, Harvard researchers reported that outcomes for schizophrenia patients in the United States had declined in the past 20 years and were now no better than they had been in 1900.[1] Second, the World Health Organization twice found that schizophrenia patients in the poor countries of the world fare much better than in the U.S. and other "developed" countries, so much so that they concluded that living in a developed country was a

[1] Hegarty, J, et al. "One hundred years of schizophrenia: a meta-analysis of the outcome literature." *American Journal of Psychiatry* 151 (1994):1409-16.

"strong predictor" that a person so diagnosed would never recover.[2,3] Although the WHO didn't identify a reason for that disparity in outcomes, it did note a difference in the use of antipsychotic medications between the two groups. In the poor countries, only 16% of patients were regularly maintained on antipsychotic medications, whereas in the U.S. and other rich countries, this was the standard of care, with 61% of schizophrenia patients staying on the drugs continuously. (Exhibit 1)

4. I wrote *Mad in America*, in large part, to investigate why schizophrenia patients in the U.S. and other developed countries fare so poorly. A primary part of that task was researching the scientific literature on schizophrenia and antipsychotic drugs.

II. Overview of Research Literature on Schizophrenia and Standard Antipsychotic Medications

5. Although the public has often been told that people with schizophrenia suffer from too much "dopamine" in the brain, researchers who investigated this hypothesis during the 1970s and 1980s were unable to find evidence that people so diagnosed have, in fact, overactive dopamine systems. Within the psychiatric research community, this was widely acknowledged in the late 1980s and early 1990s. As Pierre Deniker, who was one of the founding fathers of psychopharmacology, confessed in 1990: "The dopaminergic theory of schizophrenia retains little credibility for psychiatrists."[4]

6. Since people with schizophrenia have no known "chemical imbalance" in the brain, antipsychotic drugs cannot be said to work by "balancing" brain chemistry. These drugs are not like "insulin for diabetes." They do not serve as a corrective to a known biological abnormality. Instead, Thorazine and other standard antipsychotics (also known as

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[2] Leff, J, et al. "The international pilot study of schizophrenia: five-year follow-up findings." *Psychological Medicine* 22 (1992):131-45.

[3] Jablensky, A, et al. "Schizophrenia: manifestations, incidence and course in different cultures, a World Health Organization ten-country study." *Psychological Medicine* 20, monograph supplement, (1992):1-95.

[4] Deniker, P. "The neuroleptics: a historical survey." *Acta Psychiatrica Scandinavica* 82, supplement 358 (1990):83-87.

neuroleptics) work by powerfully blocking dopamine transmission in the brain. Specifically, these drugs block 70% to 90% of a particular group of dopamine receptors known as D2 receptors. This thwarting of normal dopamine transmission is what causes the drugs to be so problematic in terms of their side effects.

8. Psychiatry's belief in the necessity of using the drugs on a continual basis stems from two types of studies.

a) First, research by the NIMH has shown that the drugs are more effective than placebo in curbing psychotic symptoms over the short term (six weeks).[5]

b) Second, researchers have found that if patients abruptly quit taking antipsychotic medications, they are at high risk of relapsing. [6]

9. Although the studies cited above provide a rationale for continual drug use, there is a long line of evidence in the research literature, one that is not generally known by the public or even by most psychiatrists, that shows that these drugs, over time, produce these results:

a) They increase the likelihood that a person will become chronically ill.
b) They cause a host of debilitating side effects.
c) They lead to early death.

III. Evidence Revealing Increased Chronicity of Psychotic Symptoms

10. In the early 1960s, the NIMH conducted a six-week study of 344 patients at nine hospitals that documented the efficacy of antipsychotics in knocking down psychosis

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[5] Cole, J, et al. "Phenothiazine treatment in acute schizophrenia." *Archives of General Psychiatry* 10 (1964):246-61.
[6] Gilbert, P, et al. "Neuroleptic withdrawal in schizophrenic patients." *Archives of General Psychiatry* 52 (1995):173-188.

over a short term. (See footnote five, above). The drug-treated patients fared better than the placebo patients over the short term. However, when the NIMH investigators followed up on the patients one year later, they found, much to their surprise, that it was the drug-treated patients who were more likely to have relapsed/ This was the first evidence of a paradox: Drugs that were effective in curbing psychosis over the short term were making patients more likely to become psychotic over the long term.[7]

11. In the 1970s, the NIMH conducted three studies that compared antipsychotic treatment with "environmental" care that minimized use of the drugs. In each instance, patients treated without drugs did better over the long term than those treated in a conventional manner.[8, 9, 10] Those findings led NIMH scientist William Carpenter to conclude that "antipsychotic medication may make some schizophrenic patients more vulnerable to future relapse than would be the case in the natural course of the illness."

12. In the 1970s, two physicians at McGill University, Guy Chouinard and Barry Jones, offered a biological explanation for why this is so. The brain responds to neuroleptics and their blocking of dopamine receptors as though they are a pathological insult. To compensate, dopaminergic brain cells increase the density of their D2 receptors by 40% or more. The brain is now "supersensitive" to dopamine, and as a result, the person has become more *biologically* vulnerable to psychosis than he or she would be naturally. The two Canadian researchers wrote: "Neuroleptics can produce a dopamine supersensitivity that leads to both dyskinetic and psychotic symptoms. An implication is that the tendency

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[7] Schooler, N, et al. "One year after discharge: community adjustment of schizophrenic patients." *American Journal of Psychiatry* 123 (1967):986-95.

[8] Rappaport, M, et al. "Are there schizophrenics for whom drugs may be unnecessary or contraindicated?" *Int Pharmacopsychiatry* 13 (1978):100-11.

[9] Carpenter, W, et al. "The treatment of acute schizophrenia without drugs." *American Journal of Psychiatry* 134 (1977):14-20.

[10] Bola J, et al. "Treatment of acute psychosis without neuroleptics: two-year outcomes from the Soteria project." *Journal of Nervous Mental Disease* 191 (2003):219-29.

toward psychotic relapse in a patient who had developed such a supersensitivity is determined by more than just the normal course of the illness. [11]

13. MRI-imaging studies have powerfully confirmed this hypothesis. During the 1990s, several research teams reported that antipsychotic drugs cause atrophy of the cerebral cortex and an enlargement of the basal ganglia.[12, 13, 14] In 1998, investigators at the University of Pennsylvania reported that the drug-induced enlargement of the basal ganglia is "associated with greater severity of both negative and positive symptoms." In other words, they found that the drugs cause morphological changes in the brain that are associated with a worsening of the very symptoms the drugs are supposed to alleviate.[15]

IV. Research Showing that Recovery Rates are Higher for Non-Medicated Patients than for Medicated Patients.

14. The studies cited above show that the drugs increase the chronicity of psychotic symptoms over the long term. There are also now a number of studies documenting that long-term recovery rates are much higher for patients off antipsychotic medications. Specifically:

a) In 1994, Courtenay Harding at Boston University reported on the long-term outcomes of 82 chronic schizophrenics discharged from Vermont State Hospital in the late 1950s. She found that one-third of this cohort had recovered

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[11] Chouinard, G, et al. "Neuroleptic-induced supersensitivity psychosis." *American Journal of Psychiatry* 135 (1978):1409-10. Also see Chouinard, G, et al. "Neuroleptic-induced supersensitivity psychosis: clinical and pharmacologic characteristics." *American Journal of Psychiatry* 137(1980):16-20.

[12] Gur, R, et al. "A follow-up magnetic resonance imaging study of schizophrenia." *Archives of General Psychiatry* 55 (1998):142-152.

[13] Chakos M, et al. "Increase in caudate nuclei volumes of first-episode schizophrenic patients taking antipsychotic drugs." *American Journal of Psychiatry* 151 (1994):1430-6.

[14] Madsen A, et al. "Neuroleptics in progressive structural brain abnormalities in psychiatric illness." *The Lancet* 352 (1998): 784-5.

[15] Gur, R, et al. "Subcortical MRI volumes in neuroleptic-naive and treated patients with schizophrenia." *American Journal of Psychiatry* 155 (1998):1711-17.

completely, and that all who did shared one characteristic: They had all stopped taking antipsychotic medication. The notion that schizophrenics needed to stay on antipsychotics all their lives was a "myth," Harding said.[16, 17, 18]

b) In the World Health Organization studies, 63% of patients in the poor countries had good outcomes, and only one-third became chronically ill. In the U.S. countries and other developed countries, only 37% of patients had good outcomes, and the remaining patients did not fare so well. In the undeveloped countries, only 16% of patients were regularly maintained on antipsychotics, versus 61% of patients in the developed countries.

c) In response to this body of literature, physicians in Switzerland, Sweden and Finland have developed programs that involve minimizing use of antipsychotic drugs, and they are reporting much better results than what we see in the United States.[19, 20, 21, 22] In particular, Jaako Seikkula recently reported that five years after initial diagnosis, 82% of his psychotic patients are symptom-free, 86% have returned to their jobs or to school, and only 14% of his patients are on antipsychotic medications.[23]

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[16] Harding, C. "The Vermont longitudinal study of persons with severe mental illness," *American Journal of Psychiatry* 144 (1987):727-34.

[17] Harding, C. "Empirical correction of seven myths about schizophrenia with implications for treatment." *Acta Psychiatrica Scandinavica* 90, suppl. 384 (1994):140-6.

[18] McGuire, P. "New hope for people with schizophrenia," *APA Monitor* 31 (February 2000).

[19] Ciompi, L, et al. "The pilot project Soteria Berne." *British Journal of Psychiatry* 161, supplement 18 (1992):145-53.

[20] Cullberg J. "Integrating psychosocial therapy and low dose medical treatment in a total material of first-episode psychotic patients compared to treatment as usual." *Medical Archives* 53 (199):167-70.

[21] Cullberg J. "One-year outcome in first episode psychosis patients in the Swedish Parachute Project. *Acta Psychiatrica Scandinavica* 106 (2002):276-85.

[22] Lehtinen V, et al. "Two-year outcome in first-episode psychosis according to an integrated model. *European Psychiatry* 15 (2000):312-320.

[23] Seikkula J, et al. Five-year experience of first-episode nonaffective psychosis in open-dialogue approach. *Psychotherapy Research* 16/2 (2006): 214-228.

d) This spring, researchers at the University of Illinois Medical School reported on the long-term outcomes of schizophrenia patients in the Chicago area since 1990. They found that 40% of those who refused to take their antipsychotic medications were recovered at five-year and 15-year followup exams, versus five percent of the medicated patients.[24]

V. Harmful Side Effects from Antipsychotic Medications

15. In addition to making patients chronically ill, standard antipsychotics cause a wide range of debilitating side effects. Specifically:

a) Tardive dyskinesia. The most visible sign of tardive dyskinesia is a rhythmic movement of the tongue, which is the result of permanent damage to the basal ganglia, which controls motor movement. People suffering from tardive dyskinesia may have trouble walking, sitting still, eating, and speaking. In addition, people with tardive dyskinesia show accelerated cognitive decline. NIMH researcher George Crane said that tardive dyskinesia resembles "in every respect known neurological diseases, such as Huntington's disease, dystonia musculorum deformans, and postencephalitic brain damage."[25] Tardive dyskinesia appears in five percent of patients treated with standard neuroleptics in one year, with the percentage so afflicted increasing an additional five percent with each additional year of exposure.

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[24] Harrow M, et al. "Factors involved in outcome and recovery in schizophrenia patients not on antipsychotic medications." *Journal of Nervous and Mental Disease* 195 (2007): 406-414.

[25] Crane, G. "Clinical psychopharmacology in its 20th year," *Science* 181 (1973):124-128. Also see American Psychiatric Association, *Tardive Dyskinesia: A Task Force Report* (1992).

b) Akathisia. This is an inner restlessness and anxiety that many patients describe as the worst sort of torment. This side effect has been linked to assaultive, murderous behavior.[26, 27, 28, 29, 30]

c) Emotional impairment. Many patients describe feeling like "zombies" on the drugs. In 1979, UCLA psychiatrist Theodore van Putten reported that most patients on antipsychotics were spending their lives in "virtual solitude, either staring vacantly at television, or wandering aimlessly around the neighborhood, sometimes stopping for a nap on a lawn or a park bench . . . they are bland, passive, lack initiative, have blunted affect, make short, laconic replies to direct questions, and do not volunteer symptoms . . . there is a lack not only of interaction and initiative, but of any activity whatsoever.[31] The quality of life on conventional neuroleptics, researchers agreed, is "very poor." [32]

d) Cognitive impairment. Various studies have found that neuroleptics reduce one's capacity to learn and retain information. As Duke University scientist Richard Keefe said in 1999, these drugs may "actually prevent adequate learning effects and worsen motor skills, memory function, and executive abilities, such as problem solving and performance assessment."[33]

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[26] Shear, K et al. "Suicide associated with akathisia and deport fluphenazine treatment," *Journal of Clinical Psychopharmacology* 3 (1982):235-6.
[27] Van Putten, T. "Behavioral toxicity of antipsychotic drugs." *Journal of Clinical Psychiatry* 48 (1987):13-19.
[28] Van Putten, T. "The many faces of akathisia," *Comprehensive Psychiatry* 16 91975):43-46.
[29] Herrera, J. "High-potency neuroleptics and violence in schizophrenia," *Journal of Nervous and Mental Disease* 176 (1988):558-561.
[30] Galynker, I. "Akathisia as violence." *Journal of Clinical Psychiatry* 58 (1997):16-24.
[31] Van Putten, T. "The board and care home." *Hospital and Community Psychiatry* 30 (1979):461-464.
[32] Weiden P. "Atypical antipsychotic drugs and long-term outcome in schizophrenia." *Journal of Clinical Psychiatry* 57, supplement 11 (1996):53-60.
[33] Keefe, R. "Do novel antipsychotics improve cognition?" *Psychiatric Annals* 29 (1999):623-629.

d) Other side effects of standard neuroleptics include an increased incidence of blindness, fatal blood clots, arrhythmia, heat stroke, swollen breasts, leaking breasts, obesity, sexual dysfunction, skin rashes and seizures, and early death.[34, 35, 36] Schizophrenia patients now commit suicide at 20 times the rate they did prior to the use of neuroleptics.[37]

VI. The Research Literature on Atypical Antipsychotics

16. The conventional wisdom today is that the "atypical" antipsychotics that have been brought to market—Risperdal, Zyprexa, and Seroquel, to name three—are much better and safer than Haldol, Thorazine and the other older drugs. However, it is now clear that the new drugs have no such advantage, and there is even evidence suggesting that they are worse than the old ones.

17. Risperdal, which is manufactured by Janssen, was approved in 1994. Although it was hailed in the press as a "breakthrough "medication, the FDA, in its review of the clinical trial data, concluded that there was no evidence that this drug was better or safer than Haldol (haloperidol.) The FDA told Janssen: "We would consider any advertisement or promotion labeling for RISPERDAL false, misleading, or lacking fair balance under section 501 (a) and 502 (n) of the ACT if there is presentation of data that conveys the impression that risperidone is superior to haloperidol or any other marketed antipsychotic drug product with regard to safety or effectiveness."[38]

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[34] Arana, G. "An overview of side effects caused by typical antipsychotics." *Journal of Clinical Psychiatry* 61, supplement 8 (2000):5-13.

[35] Waddington, J. "Mortality in schizophrenia." *British Journal of Psychiatry* 173 (1998):325-329.

[36] Joukamaa, M, et al. Schizophrenia, neuroleptic medication and mortality. *British Journal of Psychiatry* 188 (2006):122-127.

[37] Healy, D et al. "Lifetime suicide rates in treated schizophrenia." *British Journal of Psychiatry* 188 (2006):223-228.

[38] FDA approval letter from Robert Temple to Janssen Research Foundation, December 21, 1993.

18. After Risperdal (risperidone) was approved, physicians who weren't funded by Janssen were able were able to conduct independent studies of the drug. They concluded that risperidone, in comparison to Haldol, caused a higher incidence of Parkinsonian symptoms; that it was more likely to stir akathisia; and that many patients had to quit taking the drug because it didn't knock down their psychotic symptoms.[39, 40, 41, 42, 43] Jeffrey Mattes, director of the Psychopharmacology Research Association, concluded in 1997: "It is possible, based on the available studies, that risperidone is not as effective as standard neuroleptics for typical positive symptoms."[44] Letters also poured into medical journals linking risperidone to neuroleptic malignant syndrome, tardive dyskinesia, tardive dystonia, liver toxicity, mania, and an unusual disorder of the mouth called "rabbit syndrome."

19. Zyprexa, which is manufactured by Eli Lilly, was approved by the FDA in 1996. This drug, the public was told, worked in a more "comprehensive" manner than either risperidone or haloperidol, and was much "safer and more effective" than the standard neuroleptics. However, the FDA, in its review of the trial data for Zyprexa, noted that Eli Lilly had designed its studies in ways that were "biased against haloperidol." In fact, 20 of the 2500 patients treated with Zyprexa in the trials died. Twenty-two percent of the Zyprexa patients suffered a "serious" adverse event, compared to 18 percent of the Haldol patients. There was also evidence that Zyprexa caused some sort of metabolic dysfunction, as patients gained nearly a pound per week. Other problems that showed up in Zyprexa patients included Parkinsonian symptoms, akathisia, dystonia, hypotension,

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[39] Rosebush, P. "Neurologic side effects in neuroleptic-naïve patients treated with haloperidol or risperidone." *Neurology* 52 (1999):782-785.

[40] Knable, M. "Extrapyramidal side effects with risperidone and haloperidol at comparable D2 receptor levels." *Psychiatry Research: Neuroimaging Section* 75 (1997):91-101.

[41] Sweeney, J. "Adverse effects of risperidone on eye movement activity." *Neuropsychopharmacology* 16 (1997):217-228.

[42] Carter, C. "Risperidone use in a teaching hospital during its first year after market approval." *Psychopharmacology Bulletin* 31 (1995):719-725.

[43] Binder, R. "A naturalistic study of clinical use of risperidone." *Psychiatric Services* 49 (1998):524-6.

[44] Mattes, J. "Risperidone: How good is the evidence for efficacy?" *Schizophrenia Bulletin* 23 (1997):155-161.

constipation, tachycardia, seizures, liver abnormalities, white blood cell disorders, and diabetic complications. Moreover, two-thirds of the Zyprexa patients were unable to complete the trials either because the drugs didn't work or because of intolerable side effects.[45]

20. There is now increasing recognition in scientific circles that the atypical antipsychotics are no better than the old drugs, and may in fact be worse. Specifically:

a) In 2000, a team of English researchers led by John Geddes at the University of Oxford reviewed results from 52 studies, involving 12,649 patients. They concluded: "There is no clear evidence that atypicals are more effective or are better tolerated than conventional antipsychotics." The English researchers noted that Janssen, Eli Lilly and other manufacturers of atypicals had used various ruses in their clinical trials to make their new drugs look better than the old ones. In particular, the drug companies had used "excessive doses of the comparator drug."[46]

b) In 2005, a National Institute of Mental Health study found that that were "no significant differences" between the old drugs and the atypicals in terms of their efficacy or how well patients tolerated them. Seventy-five percent of the 1432 patients in the study were unable to stay on antipsychotics owing to the drugs' "inefficacy or intolerable side effects," or for other reasons.[47]

c) In 2007, a study by the British government found that schizophrenia patients had better "quality of life" on the old drugs than on the new ones.[48] This finding was

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[45] See Whitaker, R. *Mad in America*. New York: Perseus Press (2002):279-281.
[46] Geddes, J. "Atypical antipsychotics in the treatment of schizophrenia." *British Medical Journal* 321 (2000):1371-76.
[47] Lieberman, J, et al. "Effectiveness of antipsychotic drugs in patients with schizophrenia." *New England Journal of Medicine* 353 (2005):1209-1233.
[48] Davies, L, et al. "Cost-effectiveness of first- v. second-generation antipsychotic drugs." *The British Journal of Psychiatry* 191 (2007):14-22.

quite startling given that researchers had previously determined that patients medicated with the old drugs had a "very poor" quality of life.

20. There is also growing evidence that the atypicals may be exacerbating the problem of early death. Although the atypicals may not clamp down on dopamine transmission quite as powerfully as the old standard neuroleptics, they also block a number of other neurotransmitter systems, most notably serotonin and glutamate. As a result, they may cause a broader range of physical ailments, with diabetes and metabolic dysfunction particularly common for patients treated with Zyprexa. In a 2003 study of Irish patients, 25 of 72 patients (35%) died over a period of 7.5 years, leading the researchers to conclude that the risk of death for schizophrenics had "doubled" since the introduction of the atypical antipsychotics.[49]

VII. Conclusion

21. In summary, the research literature reveals the following:

a) Antipsychotics increase the likelihood that a person will become chronically ill.

b) Long-term recovery rates are much higher for unmedicated patients than for those who are maintained on antipsychotic drugs.

c) Antipsychotics cause a host of debilitating physical, emotional and cognitive side effects, and lead to early death.

[49] Morgan, M, et al. "Prospective analysis of premature morbidity in schizophrenia in relation to health service engagement." *Psychiatry Research* 117 (2003):127-35.

d) The new "atypical" antipsychotics are not better than the old ones in terms of their safety and tolerability, and quality of life may even be worse on the new drugs than on the old ones.

DATED this 4 day of September, 2007, in Cambridge, Massachusetts.

Robert B. Whitaker
Robert Whitaker

SUBSCRIBED AND SWORN TO before me this 4th day of September, 2007.

Notary Public in and for Massachusetts
My Commission Expires: August 6, 2013

TENZIN DEMAY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
August 6, 2013

State of Alaska)
)ss
Third Judicial District)

I, James B. Gottstein, hereby swear that this reproduction of Affidavit of Robert Whitaker, to which this is appended, is a true, correct and complete photocopy of the original filed in Case No. 3AN 07-1064PR, Superior Court, Third Judicial District, State of Alaska.

Dated: 10/16/2012

James B. Gottstein

SUBSCRIBED AND SWORN TO before me this 16th day of October, 2012.

Lisa E. Smith
Notary Public in and for Alaska
My Commission expires: 4/23/2015

LISA E. SMITH
My Commission Expires
NOTARY PUBLIC
STATE OF ALASKA

phrenia or whether they constitute a separate earlier disorder is not clear.

An increased risk of Schizophrenia has been found in association with prenatal and childhood factors (e.g., prenatal exposure to flu, prenatal exposure to famine, obstetric complications, central nervous system infection in early childhood).

Associated laboratory findings. No laboratory findings have been identified that are diagnostic of Schizophrenia. However, a variety of measures from neuroimaging, neuropsychological, and neurophysiological studies have shown differences between groups of individuals with Schizophrenia and appropriately matched control subjects. In the structural neuroimaging literature, the most widely studied and most consistently replicated finding continues to be enlargement of the lateral ventricles. Many studies have also demonstrated decreased brain tissue as evidenced by widened cortical sulci and decreased volumes of gray and white matter. However, there is ongoing controversy as to whether the apparent decrease in brain tissue is a focal as opposed to a more diffuse process. When examined by region, the temporal lobe has most consistently been found to be decreased in volume, while the frontal lobe is implicated less often. Within the temporal lobe, there is evidence of focal abnormalities, with medial temporal structures (hippocampus, amygdala, and entorhinal cortex), as well as the superior temporal gyrus and planum temporale, most consistently found to be smaller in volume. Decreased thalamic volume has also been observed in both individuals with Schizophrenia and their unaffected first-degree relatives, but fewer studies have looked at this. Another finding that has been consistently replicated is that of increased basal ganglia size, but there is increasing evidence that this may be an epiphenomenon of treatment with typical neuroleptic medication. An increased incidence of large cavum septum pellucidi has also been demonstrated in individuals with Schizophrenia. This may have important pathophysiological implications, because it is suggestive of an early (i.e., prenatal) midline developmental brain abnormality, at least in a subgroup of individuals with Schizophrenia.

In terms of functional brain imaging studies, hypofrontality (i.e., a relative decrease in cerebral blood flow, metabolism, or some other proxy for neural activity) continues to be the most consistently replicated finding. However, there is increasing recognition that functional abnormalities are unlikely to be limited to any one brain region, and most of the more recent studies suggest more widespread abnormalities involving cortical-subcortical circuitry.

Neuropsychological deficits are a consistent finding in groups of individuals with Schizophrenia. Deficits are evident across a range of cognitive abilities, including memory, psychomotor abilities, attention, and difficulty in changing response set. In addition to the presence of these deficits among chronically ill individuals with Schizophrenia, there is increasing evidence that many of these deficits are found among individuals during their first psychotic episode and prior to treatment with antipsychotic medication, in individuals with Schizophrenia who are in clinical remission, as well as in unaffected first-degree relatives. For these reasons, some of the neuropsychological deficits are thought to reflect more fundamental features of the illness and, perhaps, to reveal vulnerability factors for Schizophrenia. These deficits are clinically meaningful in that they are related to the degree of difficulty that some

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Mental Disorders Due to a General Medical Condition

A Mental Disorder Due to a General Medical Condition is characterized by the presence of mental symptoms that are judged to be the direct physiological consequence of a general medical condition. The term *general medical condition* refers to conditions that are coded on Axis III and that are listed outside the "Mental Disorders" chapter of ICD. (See Appendix G for a condensed list of these conditions.) As discussed in the "Introduction" to this manual, maintaining the distinction between mental disorders and general medical conditions does not imply that there are fundamental differences in their conceptualization, that mental disorders are unrelated to physical or biological factors or processes, or that general medical conditions are unrelated to behavioral or psychosocial factors or processes. The purpose of distinguishing general medical conditions from mental disorders is to encourage thoroughness in evaluation and to provide a shorthand term to enhance communication among health care providers. However, in clinical practice, it is expected that more specific terminology will be used to identify the specific condition involved.

In DSM-III-R, the Mental Disorders Due to a General Medical Condition and the Substance-Induced Disorders were called "organic" disorders and were listed together in a single section. This differentiation of "organic" mental disorders as a separate class implied that "nonorganic" or "functional" mental disorders were somehow unrelated to physical or biological factors or processes. DSM-IV eliminates the term *organic* and distinguishes those mental disorders that are due to a general medical condition from those that are substance induced and those that have no specified etiology. The term *primary mental disorder* is used as a shorthand to indicate those mental disorders that are not due to a general medical condition and that are not substance induced.

Text and criteria for three of these disorders (i.e., **Catatonic Disorder Due to a General Medical Condition, Personality Change Due to a General Medical Condition,** and **Mental Disorder Not Otherwise Specified Due to a General Medical Condition**) are included in this section. The text and criteria for the conditions listed below are placed in other sections of the manual with disorders with which they share phenomenology. The manual has been organized in this fashion to alert clinicians to consider these disorders in making a differential diagnosis.

293.0 Delirium Due to a General Medical Condition Text and criteria are included in the "Delirium, Dementia, and Amnestic and Other Cognitive Disorders" sec-

nia; brief psychotic disorder; delusional disorder; other specified or unspecified schizophrenia spectrum and other psychotic disorder; schizotypal, schizoid, or paranoid personality disorders; autism spectrum disorder; disorders presenting in childhood with disorganized speech; attention-deficit/hyperactivity disorder; obsessive-compulsive disorder; posttraumatic stress disorder; and traumatic brain injury.

Since the diagnostic criteria for schizophreniform disorder and schizophrenia differ primarily in duration of illness, the discussion of the differential diagnosis of schizophrenia also applies to schizophreniform disorder.

Brief psychotic disorder. Schizophreniform disorder differs in duration from brief psychotic disorder, which has a duration of less than 1 month.

Schizophrenia

Diagnostic Criteria **295.90** (F20.9)

A. Two (or more) of the following, each present for a significant portion of time during a 1-month period (or less if successfully treated). At least one of these must be (1), (2), or (3):
   1. Delusions.
   2. Hallucinations.
   3. Disorganized speech (e.g., frequent derailment or incoherence).
   4. Grossly disorganized or catatonic behavior.
   5. Negative symptoms (i.e., diminished emotional expression or avolition).

B. For a significant portion of the time since the onset of the disturbance, level of functioning in one or more major areas, such as work, interpersonal relations, or self-care, is markedly below the level achieved prior to the onset (or when the onset is in childhood or adolescence, there is failure to achieve expected level of interpersonal, academic, or occupational functioning).

C. Continuous signs of the disturbance persist for at least 6 months. This 6-month period must include at least 1 month of symptoms (or less if successfully treated) that meet Criterion A (i.e., active-phase symptoms) and may include periods of prodromal or residual symptoms. During these prodromal or residual periods, the signs of the disturbance may be manifested by only negative symptoms or by two or more symptoms listed in Criterion A present in an attenuated form (e.g., odd beliefs, unusual perceptual experiences).

D. Schizoaffective disorder and depressive or bipolar disorder with psychotic features have been ruled out because either 1) no major depressive or manic episodes have occurred concurrently with the active-phase symptoms, or 2) if mood episodes have occurred during active-phase symptoms, they have been present for a minority of the total duration of the active and residual periods of the illness.

E. The disturbance is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition.

F. If there is a history of autism spectrum disorder or a communication disorder of childhood onset, the additional diagnosis of schizophrenia is made only if prominent delusions or hallucinations, in addition to the other required symptoms of schizophrenia, are also present for at least 1 month (or less if successfully treated).

Specify if:

The following course specifiers are only to be used after a 1-year duration of the disorder and if they are not in contradiction to the diagnostic course criteria.

STUDIES OF PSYCHOTROPIC DRUGS - BIBLIOGRAPHY

1.Wunderink. L. et al. "Recovery in Remitted First Episode Psychosis at 7 Years of Follow up of an Early Dose Reduction/Discontinuation or Maintenance Treatment Strategy:" *JAMA Psychiatry,* July 3, (2013) [http://archpsyc.jamanetwork.com/article.aspx?articleid=1707650]. The study found the following results from two groups, the "DR group" which had reduced or discontinued their anti-psychotic medications and the "MT" group, which maintained its levels of such psychotropic medications, at 7 year follow up,

> "The DR patients experienced twice the recovery rate of the MT patients (40.4% vs 17.6%)."

2.Harrow, M. & Jobe, T.H., "Do all schizophrenia patients need antipsychotic treatment continuously throughout their lifetime? A 20-year longitudinal study." Psychol Med. (2012) Oct;42(10):2145-55. *See* abstract at http://www.ncbi.nlm.nih.gov/pubmed/22340278] "Starting at the 4.5-year follow-ups and continuing thereafter, schizophrenic patients not on antipsychotics for prolonged periods were significantly less likely to be psychotic and experienced more periods of recovery; they also had more favorable risk and protective factors. Schizophrenic patients off antipsychotics for prolonged periods did not relapse more frequently."

3.Ho, B.C., et al. "Long-term antipsychotic treatment and brain volumes: A longitudinal study of first-episode schizophrenia." *Arch Gen Psych, 68:2* (2011). Risperdal and other neuroleptics were found to cause brain shrinkage.

4. Dr. Joanna Moncrieff, *The Myth of the Chemical Cure*, Palgrave MacMillan, (2007) [http://www.theguardian.com/commentisfree/2008/mar/02/mythoftheantipsychotic] The book is described as an exhaustive research analysis of psychotropic drugs, including Risperidone and includes Dr. Moncrieff's conclusion that psychotropic drugs are ineffective, cause brain damage, and 'almost triple a person's risk of dying prematurely.'

5.Saha, S. "A Systematic Review of Mortality in Schizophrenia: Is the Differential Mortality Gap Worsening Over Time?" *Arch Gen Psychiatry.* (2007);64(10):1123-113 [http://www.medpagetoday.com/upload/2007/10/8/1123.pdf] Meta analysis concluded that the mortality gap existing between the health of people with schizophrenia diagnoses and that of the general community since the widespread use of atypical [aka second-generation] antispsychotics

> "has worsened in recent decades. In light of the potential for second-generation antipsychotic medications to further adversely influence mortality rates in the decades to come, optimizing the general health of people with schizophrenia warrants urgent attention."

6.Joukamma, et al. "Schiziophrenia, neuroleptic medication and mortality". *British Journal of Psychiatry* DOI: (2006), 188:122-127. [http://bjp.rcpsych.org/content/188/2/122.full.pdf] In a 17 year Finnish study, it was found

that "[a]combination of neuroleptic drugs seems to increase the risk of mortality", concluding that "There is an urgent need to ascertain whether the high mortality in schizophrenia is attributable to the disorder itself or the antipsychotic medication."

7.Healy, D. Lifetime suicide rates in treated schizophrenia.. D. *British Journal of Psychiatry* 188 (2006):223-228. This study found a 20-fold increase in the suicide rate for people diagnosed with and treated for schizophrenia in the modern era.

8.Lieberman, et al."Effectiveness of Antipsychotic Drugs in Patients with Chronic Schizophrenia", *New England Journal of Medicine* (2005) 353:1209-23). The findings show that four atypical antipsychotics, including Risperdal, provide few, if any, benefits compared to old neuroleptics.

9.Wallaschofski, Henri, "Hyperprolactinemia in Patients on Antipsychotic Drugs Causes ADP-Stimulated Platelet Activation That Might Explain the Increased Risk for Venous Thromboembolism:Pilot Study" J./Clin.Psychopharmacol.(2003) 23:479-483 [http://psychrights.org/research/Digest/NLPs/BloodClots/HyperprolactinemiaNeurolepticsAndThromboembolism-Wallaschofski2003.pdf] Hyperprolactinemia, also associated with gynecomastia, may be the yet unknown acquired risk factor in patients on antipsychotic drugs explaining the increased risk for venous thromboembolism in these patients.

10.Morgan, et al. "Prospective analysis of premature mortality in schizophrenia in relation to health service engagement: a 7.5-year study within an epidemiologically complete, homogeneous population in rural Ireland" (2003) Feb 15;117(2):127-35, *Psychiatry Res.* [http://www.ncbi.nlm.nih.gov/pubmed/12606015] the Irish study found that the

> "risk for death in schizophrenia was doubled on a background of enduring engagement in psychiatric care with increasing provision of community-based services and introduction of second-generation antipsychotics." [emphasis supplied]

11. Appleby, L. "Sudden unexplained death in psychiatric in-patients" *British J/ Psychiatry* 176 (2000):405-406. Neuroleptics may cause sudden death by inducing cardiac arrhythmias and QT prolongation.

12.Gur, "Subcortical MRI Volumes in Neuroleptic-Naive and Treated Patients With Schizophrenia" ,*Am J Psychiatry* (1998);155:1711-1717. [http://ajp.psychiatryonline.org/article.aspx?articleid=173172] MRI studies show that neuroleptics appear to cause hypertrophy of the caudate, putamen, and thalamus, with the increase being "associated with greater severity of both negative and positive symptoms" of schizophrenia.

13.Tsai, "Markers of Glutamatergic Neurotransmission and Oxidative Stress Associated with Tardive Dyskinesia", *Am.J/Psychiatry*, 155:9, 1207-1213, September, (1998). Harvard researchers conclude that "oxidative stress" may be the process by which neuroleptics cause neuronal damage in the brain.

14.Ballesteros, J. "Tardive dyskinesia associated with higher mortality in psychiatric patients". *Br J/Psychiatry* 173 (1998):325-329. Over a 10-year period, 39 out of 88 patient on antipsychotic drugs died. Reduced survival was associated with the administration of two or more neuroleptics at the same time, and time since withdrawal of antipsychotics (patients maintained on antipsychotics became burdened with chronic physical illness, so much so that it replaced the "psychiatric disorder as the primary focus of medical care.") The final pathway to early death was global medical decline and death from respiratory illness.

15.Weiden, "Cost of relapse in schizopohrenia", (1995) Schizophr Bull. 1995;21(3):419-29." *See* abstract at http://www.ncbi.nlm.nih.gov/pubmed/7481573. "Real-world" relapse rates for schizophrenia patients treated with neuroleptics said to be above 80% in the two years following hospital discharge, which is much higher than in the pre-neuroleptic era.

16.Harding, C.M. "Empirical Correction of Seven Myths About Schizophrenia with Implications for Treatment" *ACTA Psyciatrica Scandinava*, (1994):90 (suppl):140-146. Among the myths debunked include "once a schizophrenic always a schizophrenic", the article stating that

> "Recent worldwide studies have . . . consistently found that half to two thirds of patients significantly improved or recovered, including some cohorts of very chronic cases. The universal criteria for recovery have been defined as no current signs and symptoms of any mental illness, no current medications, working, relating well to family and friends, integrated into the community, and behaving in such a way as to not being able to detect having ever been hospitalized for any kind of psychiatric problems."

17.Hegerty, J. "One Hundred Years of Schizophrenia", *Amer J/ Psychiatry* 151 (1994):1409-1416. Full article at http://psychrights.org/research/Digest/Chronicity/100years.pdf Harvard Medical School researchers reported that outcomes for schizophrenia patients in the U.S. had declined since the 1970s, to the point that they were no better than they had been in 1900. Although the researchers did not blame antipsychotics for the poor outcomes, it is notable that this decline occurred during a period when American psychiatrists began telling the public that people diagnosed with schizophrenia had to stay on the drugs for life. I.e., the decline coincided with the adoption of a paradigm of care that emphasized lifelong drug therapy.

18.Keshavan, M.S. "Changes in caudate volume with neuroleptic treatment" *Lancet.* (1994) Nov 19;344(8934):1434. Neuroleptics were found to cause an increase in the volume of caudate region in the brain, which is a sign of brain damage

19.Jablensky, A. "Schizophrenia: manifestations, incidence and courses in different cultures. A World Health Organization ten-country study," *Psychological Medicine*, Suppl. 20 (1992), 1-95 (WHO II) Study confirmed WHO I's findings, concluding that "being in a developed country was a strong predictor of not attaining a complete remission."

20.Leff, J. "The International Pilot Study of Schizophrenia: five year follow-up findings."

Psychological Medicine, 22 (1992), 131-145 conducted by the World Health Organization (WHO). The WHO I study compared outcomes between patients with schizophrenia in developed and poor countries and found that patients in the poor countries, where neuroleptic use was uncommon,

> "had a considerably better course and outcome than [patients] in developed countries. This remained true whether clinical outcomes, social outcomes, or a combination of the two was considered."

21.Schulte, J. "Homicide and suicide associated with akathisia and haloperidol", (1985) *Amer J/ Forensic Psychiatry*, Vol 6(2), 3-7. [http://psycnet.apa.org/psycinfo/1986-12582-001]Neuroleptic-induced akathisia is linked to suicide and to violent homicides.

22.Chouinard, G. "Neuroleptic-induced supersensitivity psychosis." *Amer. J./ Psychiatry*, 135 (1978) 1409-1410. This study found that the "tendency toward psychotic relapse" is caused by the neuroleptic medication itself and that this and other deleterious effects could be permanent.

23.Bockoven, J.S. "Comparison of Two Five-Year Follow-Up Studies: 1947 to 1952 and 1967 to 1972." *Amer. J./Psychiatry*, 132 (1975), 796-801. This Comparison Study "unexpectedly" found that "psychotropic drugs did not appear indispensable and the data suggests neuroleptics prolong social dependency."

24.Prien, R. "Relapse in Chronic Schizophrenics Following Abrupt Withdrawal of Tranquilizing Medication," *Br. J./Psychiatry*, 115, (1968), 679-686. This National Institute of Mental Health study found relapse rates rose in direct relation to neuroleptic dosage - the higher the dosage patients were on before the drugs were withdrawn, the greater the relapse rates.

25.Epstein, L. "An Approach to the Effect of Ataraxic Drugs on Hospital Release Rates," *Amer. J./Psychiatry* 119, pp. 36-47 (1962). This Release Rates Study found that "drug treated patients tend to have longer periods of hospitalization."

Transcript

COURT OF COMMON PLEAS

IN THE COURT OF COMMON PLEAS

2014 FEB 20 PM 12: 52

ROSS COUNTY, OHIO

FILED
ROSS COUNTY COMMON PLEAS
CLERK OF COURTS
TY D. HINTON

STATE OF OHIO,

PLAINTIFF,

-VS-

JOHN J. ROHRER,

DEFENDANT.

CASE NO. 09 CR 393

JUDGE CORZINE

HEARING ON STIPULATION OF REPORTS/WAIVER OF JURY TRIAL/TRIAL TO COURT

* * * * * * * * * *

COUNSEL FOR STATE:

RICHARD CLAGG
ASSISTANT ROSS COUNTY
PROSECUTING ATTORNEY
72 NORTH PAINT ST.
CHILLICOTHE, OH 45601

COUNSEL FOR DEFENDANT:

JOHN SCHERFF
OHIO PUBLIC DEFENDER
14 SOUTH PAINT ST.
CHILLICOTHE, OH 45601

A TRUE COPY
2/20/14 TB

REPORTER: TAMMY COTTRILL

THE COURT: NEXT MATTER BEFORE THE COURT IS CASE NUMBER 09 CR 393, STATE OF OHIO V. JOHN J. ROHRER. THE RECORD SHOULD REFLECT DEFENDANT IS PRESENT WITH HIS ATTORNEY JOHN SCHERFF WHO IS STANDING FOR ATTORNEY DANIEL SILCOTT WHO IS ON VACATION. STATE OF OHIO IS REPRESENTED BY ASSISTANT ROSS COUNTY PROSECUTING ATTORNEY RICHARD CLAGG.

FIRST MATTER WE NEED TO TAKE UP IS THE ISSUE OF THE DEFENDANT'S COMPETENCY TO STAND TRIAL. THE COURT HAS RECEIVED A REPORT CONCERNING THAT ISSUE FROM BOB STINSON, BOARD CERTIFIED FORENSIC PSYCHOLOGIST.

COUNSEL, ARE YOU WILLING TO STIPULATE TO DR. STINSON'S REPORT CONCERNING THE DEFENDANT'S COMPETENCY TO STAND TRIAL?

CLAGG: YES YOUR HONOR.

SCHERFF: YES YOUR HONOR.

THE COURT: VERY WELL. BASED UPON THAT REPORT THERE BEING NO OTHER ARGUMENT OR EVIDENCE TO PRESENT...AM I CORRECT COUNSEL?

CLAGG: THAT IS CORRECT.

SCHERFF: CORRECT.

THE COURT: THE COURT FINDS THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL. THE COURT FINDS THAT HE DOES UNDERSTAND THE NATURE AND OBJECTIVES OF THE PROCEEDINGS AGAINST HIM AND HAS THE ABILITY TO ASSIST IN

HIS OWN DEFENSE.

WE ARE NOW READY FOR TRIAL IN THIS MATTER. THE COURT, MR. ROHRER, UNDERSTANDS THAT YOU WISH TO GIVE UP YOUR RIGHT TO TRIAL BY JURY, AND SO I'M GOING TO ASK YOU SOME QUESTION AT THIS POINT IN TIME.

IS YOUR FULL NAME JOHN J. ROHRER?

ROHRER: YES IT IS.

THE COURT: MR. ROHRER, HOW OLD ARE YOU?

ROHRER: 29 YEARS OLD.

THE COURT: HOW FAR DID YOU GET IN SCHOOL?

ROHRER: I HAVE A ASSOCIATES DEGREE. I WAS A PSYCHOLOGY MAJOR IN COLLEGE, BUT I DROPPED OUT, AND I REALIZED THAT I HAD ENOUGH CREDITS TO GET AN ASSOCIATES DEGREE, AND SO I DID THAT.

THE COURT: OKAY. ARE YOU A CITIZEN OF THIS COUNTRY?

ROHRER: YES.

THE COURT: AND I TAKE IT YOU CAN READ AND WRITE, AND THAT ENGLISH IS THE LANGUAGE THAT YOU NORMALLY USE?

ROHRER: YES.

THE COURT: MR. ROHRER, I'M AWARE OF YOUR MENTAL CONDITION. DO YOU TAKE MEDICATION?

ROHRER: YES.

THE COURT: WHAT MEDICATION DO YOU TAKE?

ROHRER: INVEGA, CELEXA, BUSPAR, NEURONTIN, AND ONE...I DON'T KNOW WHAT IT'S CALLED FOR BI-POLAR.

THE COURT: WHEN WAS THE LAST TIME THAT YOU TOOK YOUR MEDICATION?

ROHRER: THIS MORNING.

THE COURT: OKAY. DO YOU FEEL LIKE YOU ARE ABLE TO MAKE DECISIONS TODAY?

ROHRER: YES YOUR HONOR.

THE COURT: DO YOU FEEL LIKE YOU'RE CLEAR HEADED?

ROHRER: REASONABLY SO.

THE COURT: OKAY. HAVE YOU UNDERSTOOD EVERYTHING THAT WE HAVE TALKED ABOUT SO FAR?

ROHRER: YES.

THE COURT: OKAY. MR. ROHRER, UNDER THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF OHIO, YOU HAVE THE RIGHT TO A TRIAL BY JURY. IN THIS CASE THAT WOULD BE TWELVE PEOPLE. EACH OF THOSE TWELVE PEOPLE WOULD HAVE TO AGREE, IN OTHER WORDS, THE VERDICT WOULD HAVE TO BE UNANIMOUS THAT THE STATE HAD PROVED ALL THE ELEMENTS OF THE CHARGE AGAINST YOU BEYOND A REASONABLE DOUBT BEFORE YOU CAN BE CONVICTED OF THAT CHARGE AGAINST YOU. YOU HAVE THE RIGHT TO WAIVE OR GIVE UP YOUR RIGHT TO TRIAL BY JURY AND HAVE THIS MATTER PROCEED BY TRIAL TO COURT, IF IT'S TRIED, THAT WOULD BE TO ME. IF IT IS TRIED TO ME, I WOULD HAVE TO DECIDE WHETHER THE STATE HAD PROVED BEYOND A REASONABLE DOUBT ALL THE ESSENTIAL ELEMENTS OF THE CHARGE AGAINST YOU BEFORE YOU COULD BE

FOUND GUILTY OF THAT CHARGE.

DO YOU UNDERSTAND THAT?

ROHRER: YES YOUR HONOR.

THE COURT: YOU ALSO UNDERSTAND THE CHARGE AGAINST YOU, FELONIOUS ASSAULT, IS A FELONY OF THE SECOND DEGREE. YOU COULD GO TO PRISON FOR EITHER TWO, THREE, FOUR, FIVE, SIX, SEVEN, OR EIGHT YEARS, AND OR BE FINED UP TO $15,000.00. YOU COULD HAVE TO PAY RESTITUTION, COURT COSTS, AND ONCE YOU GOT OUT OF PRISON, BE SUBJECT TO MANDATORY THREE YEARS OF SUPERVISION BY THE ADULT PAROLE AUTHORITY.

DO YOU UNDERSTAND ALL OF THAT?

ROHRER: YES.

THE COURT: HAVE YOU HAD AN OPPORTUNITY TO DISCUSS WITH MR. SCHERFF, GIVING UP YOUR RIGHT TO TRIAL BY JURY AND TO BE TRIED BY A JUDGE?

ROHRER: YES YOUR HONOR.

THE COURT: IS IT YOUR DESIRE TO VOLUNTARY WAIVE AND RELINQUISH YOUR RIGHT TO GIVE YOUR RIGHT TO TRIAL BY JURY AND TO BE TRIED BY ME.

ROHRER: IT IS.

THE COURT: MR. SCHERFF, COULD YOU PLEASE HAVE MR. ROHRER EXECUTE THE JURY WAIVE PLEASE IN OPEN COURT.

VERY WELL, THE DEFENDANT HAVING EXECUTED THE WRITTEN WAIVER OF JURY IN OPEN COURT. THE COURT FINDS THAT DEFENDANT HAS VOLUNTARILY, INTELLIGENTLY

KNOWINGLY WAIVED HIS RIGHT TO TRIAL BY JURY. THE WAIVER HAS NOW BEEN FILED WITH THE COURT. WE ARE NOW READY TO PROCEED TO TRIAL IN THIS MATTER.

I UNDERSTAND THAT THERE WILL BE SOME STIPULATIONS COUNSEL?

CLAGG: YES, THAT IS CORRECT YOUR HONOR. THE PARTIES ARE GOING TO SUBMIT AN EXHIBIT MARKED AS JOINT EXHIBIT A. THIS IS A POLICE REPORT FROM THE CHILLICOTHE POLICE DEPARTMENT, DATED ON OR ABOUT SEPTEMBER 1, 2009, PREPARED BY OFFICER DANNY COOK OF THE POLICE DEPARTMENT. THE PARTIES WILL STIPULATE TO THE ADMISSION OF THAT EXHIBIT AND STIPULATE TO THE FACTS THAT ARE SET OUT IN OFFICER COOK'S REPORT AS BEING THE FACTS OF THIS PARTICULAR CASE.

THE COURT: ARE WE ALSO STIPULATING TO DR. STINSON'S REPORT ON THE DEFENDANT'S MENTAL CONDITION AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE?

CLAGG: YES YOUR HONOR, THAT IS CORRECT. I BELIEVE ULTIMATELY WE WILL ALSO BE STIPULATING TO A REPORT BY DR. ESHBAUGH.

THE COURT: NOT YET. NOT YET. IT'S IRRELEVANT FOR PURPOSES OF THIS PROCEEDING.

CLAGG: I THOUGHT THAT WOULD BE THE CASE BUT I WANTED TO MAKE SURE THAT IT WAS COVERED.

THE COURT: OKAY. THAT CORRECTLY STATE THE STIPULATIONS FOR THE TRIAL?

SCHERFF: IT DOES YOUR HONOR, YES.

THE COURT: WILL THERE BE ANY FURTHER EVIDENCE OR ARGUMENT?

CLAGG: NO, I DON'T BELIEVE SO YOUR HONOR.

SCHERFF: NO YOUR HONOR.

THE COURT: COULD I SEE THE REPORT PLEASE. VERY WELL. THE COURT FINDS THAT HAVING REVIEWED JOINT EXHIBIT A, THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT ON OR ABOUT THE FIRST DAY OF SEPTEMBER, 2009 IN ROSS COUNTY, THAT THE DEFENDANT JOHN ROHRER, DID KNOWINGLY CAUSE PHYSICAL HARM TO ANOTHER BY MEANS OF A DEADLY WEAPON.

THE COURT FURTHER FINDS REVIEWING THE REPORT OF DR. STINSON THAT THE DEFENSE HAS PROVED BY PREPONDERANCE OF THE EVIDENCE THAT AT THE TIME OF THE OFFENSE THAT AS A RESULT OF SEVERE MENTAL DISEASE OR DEFECT MR. ROHRER DID NOT KNOW THE WRONGFULNESS OF HIS ACTS.

THEREFORE THE COURT FINDS MR. ROHRER TO BE NOT GUILTY BY REASON OF INSANITY.

BY AGREEMENT OF COUNSEL, WE ARE NOW READY TO PROCEED WITH THE HEARING PROVIDED FOR BY OHIO REVISED CODE SECTION 2945.40 (B).

MR. ROHRER, YOU HAVE THE RIGHT TO COUNSEL AND MR. SCHERFF WILL BE REPRESENTING YOU, THE RIGHT TO HAVE INDEPENDENT EXPERT EVALUATION PROVIDED AT NO COSTS TO

YOU, THE RIGHT TO SUBPOENA WITNESSES AND DOCUMENTS, THE RIGHT TO TESTIFY ON YOUR OWN BEHALF, AND YOU CANNOT BE FORCED TO TESTIFY, AND THE RIGHT TO HAVE COPIES OF ANY RELEVANT, MEDICAL, OR MENTAL HEALTH DOCUMENT IN THE CUSTODY OF THE STATE. YOU HAVE THE RIGHT TO LOOK AT THAT.

MY UNDERSTANDING WILL BE THAT THE PARTIES ARE WILLING TO STIPULATE TO THE REPORT OF DR. ESHBAUGH THAT WAS ACTUALLY PREPARED ON 12/13/09. MR. SCHERFF, YOU WOULD PROBABLY LIKE A COPY OF THAT TO LOOK OVER BEFORE WE.....MR. CLAGG, HERE'S A COPY. WHY DON'T WE TAKE A COUPLE OF MINUTES SO YOU GUYS CAN LOOK THAT OVER. WE'LL STAND IN RECESS.

THE COURT: WE ARE BACK ON RECORD. ARE WE WILLING TO STIPULATE TO THAT?

CLAGG: YES YOUR HONOR.

SCHERFF: YES YOUR HONOR.

THE COURT: ANY OTHER EVIDENCE OR TESTIMONY OR ARGUMENT TO BE OFFERED WITH REGARDS TO THE 2945.40 HEARING?

CLAGG: NO YOUR HONOR.

SCHERFF: NO THANK YOU YOUR HONOR.

THE COURT: VERY WELL. THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE BASED UPON THE STIPULATED REPORT OF DR. ESHBAUGH THAT THE DEFENDANT IS A MENTALLY ILL PERSON

SUBJECT TO HOSPITALIZATION BY COURT ORDER, AND IT IS THE ORDER OF THE COURT THAT THE DEFENDANT IS COMMITTED TO THE TIMOTHY MORITZ CENTER, I THINK IT'S GOING TO BE CRIMINAL END RATHER THAN THE CIVIL END BECAUSE HIS RECOMMENDATION WAS BASED ON WHAT WOULD HAPPEN BECAUSE OF THE DEFENDANT'S COMMITMENT IN 06 CR 217 WAS EXPIRING, THIS WILL BE A NEW COMMITMENT IN 09 CR 393.

THE COURT FINDS THIS IS THE LEAST RESTRICTIVE COMMITMENT ALTERNATIVE AVAILABLE THAT IS CONSISTENT WITH PUBLIC SAFETY AND THE WELFARE OF THE DEFENDANT AND GIVING PREFERENCE TO PROTECTING PUBLIC SAFETY. THE FACILITY WILL MAKE THE REPORTS CALLED FOR BY 2945.40. THE FIRST ONE IS DUE IN SIX MONTHS.

JOHN, I TOLD YOU IF YOU DIDN'T TAKE YOUR MEDICINE BAD THINGS WOULD HAPPEN TO YOU. WHAT HAPPENED, YOU DIDN'T TAKE YOUR MEDICINE, BAD THINGS HAPPENED TO YOU AND TO SOMEBODY ELSE.

JOHN, YOU HAVE TO STAY ON YOUR MEDICINE. YOU'RE NICE YOUNG MAN WHEN YOU ARE TAKING YOUR MEDICINE. YOU'RE BEHAVIOR IS GOOD, YOU'RE FINE. IT'S WHEN YOU DECIDE YOU DON'T HAVE TO TAKE YOUR MEDICINE, THINGS LIKE THIS HAPPEN AND AS A RESULT SOMEBODY GOT HURT, AND GOT HURT PRETTY BADLY. YOU KNOW IT'S ONE THING IF YOU HURT YOURSELF, IT'S ANOTHER THING WHEN YOU'RE HURTING OTHER PEOPLE.

JOHN. I KNOW YOU DON'T LIKE TO TAKE YOUR MEDICINE.

BUT YOU HAVE TO REALIZE THAT THAT'S PART OF THE ILLNESS THAT YOU HAVE, AND THE ONLY WAY TO CONTROL IT IS TO TAKE YOUR MEDS, SO PLEASE DO THAT.

ROHRER: I HAVE THAT INSIGHT AS WELL.

THE COURT: OKAY.

ROHRER: I KNOW ABOUT IT.

THE COURT: ANYTHING FURTHER...WE'LL GET YOU BACK UP THERE AS QUICKLY AS WE CAN JOHN. ANYTHING FURTHER?

CLAGG: NO YOUR HONOR.

SCHERFF: NO YOUR HONOR.

THE COURT: WE'RE IN RECESS.

AND THESE WERE ALL THE PROCEEDINGS AS HAD AND REPORTED IN THIS CASE ON THIS DATE.

STATE OF OHIO

COUNTY OF ROSS:

I, ROBIN BUSKIRK, COURT REPORTER FOR THE COMMON PLEAS COURT, COURTROOM NUMBER 1, ROSS COUTY, OHIO, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF STIPULATION TO REPORTS/WAIVER OF JURY TRIAL/TRIAL TO COURT HEARING IN THE MATTER OF STATE OF OHIO VS. JOHN J. ROHRER, CASE NUMBER 09 CR 393, ON JANUARY 25, 2010, TO THE BEST OF MY KNOWLEDGE AND BELIEF HELD BEFORE THE HONORABLE WILLIAM J. CORZINE.

GIVEN UNDER MY HAND THIS 20TH DAY OF FEBRUARY, 2014.

ROBIN BUSKIRK
COURT REPORTER

NOTARIAL SEAL
STATE OF OHIO

ROBIN BUSKIRK
Notary Public, State of Ohio
My Commission Expires
November 17, 2017

bgj 1/29/10

FILED
FEB 1 2010
WITH THE JUDGE OF
THE ROSS COUNTY
COMMON PLEAS COURT

IN THE COURT OF COMMON PLEAS

ROSS COUNTY, OHIO

STATE OF OHIO
Plaintiff

Case No. 09 CR 393

VS

JOHN J ROHRER
Defendant

Entry

* * * * * * *

This case came on for hearing on the 25th day of January, 2010 on the issue of the defendant's competency to stand trial. The defendant was present and was represented for purposes of this hearing by attorney, John Scherff, attorney, Daniel Silcott, Mr. Rohrer's court appointed counsel being on vacation. Assistant Ross County Prosecuting Attorney, Richard Clagg appeared on behalf of the State of Ohio.

The parties stipulated to the report of Bob Stinson, Psy. D., a board certified forensic psychologist, on the issue of the defendant's competency to stand trial. No other evidence, testimony or argument were offered.

Based upon Dr. Stinson's report, the court finds that the defendant currently is able to understand the nature and the objective of the proceedings against him and to assist in his own defense and is therefore competent to stand trial.

The defendant then in writing and in open court and after his having an opportunity to consult with his attorney and being explained his rights to trial by jury

under the Ohio and U.S. Constitutions, waived his right to trial by jury and agreed to proceed with a trial to court.

At the trial to court the parties stipulated to the police report on the incident of September 1, 2009, labeled joint exhibit A. The parties also stipulated to the report of Bob Stinson, Psy.D., a board certified forensic psychologist as to the defendant's mental condition at the time of the commission of the alleged offense. No other evidence, testimony or argument were offered. Based upon the stipulated matters, the court finds the state has proved beyond a reasonable doubt that on or about September 1, 2009, in Ross County, Ohio, the defendant John J. Rohrer, did knowingly cause physical harm to Warren Stevens by means of a deadly weapon.

The court further finds that the defense has proven by a preponderance of the evidence that at the time of the commission of the offense, the defendant did not know as a result of a severe mental disease, the wrongfulness of his acts.

The court therefore finds the defendant not guilty by reason of insanity.

By agreement of the counsel, the matter then proceeded for hearing pursuant to Ohio Revised Code Section 2945.40. The court explained to the defendant his rights as set forth in Ohio Revised Code Section 2945.40(C). Counsel for the state and the defense stipulated to the report of Dennis M. Eshbaugh Ph. D, clinical and forensic psychologist. No other testimony, evidence or argument were offered. Based upon that report, the court finds that it has shown by clear and convincing evidence that the defendant is a mentally ill person who is subject to hospitalization by court order. The court finds that the least restrictive commitment alternative available that is consistent with public safety and the welfare of the defendant giving preference to protecting public

safety is committed to the criminal wing of the Timothy B. Moritz Forensic Center and it is the order of the court that the defendant shall be committed to that facility. Such facility shall make the reports to the court required by Ohio Revised Code Section 2945.40(1), with the first report to be made after the initial six (6) months of treatment and thereafter every two years after the initial report is made.

All until further order of the court.

ENTER: 1-29-10

WILLIAM J. CORZINE
JUDGE, COMMON PLEAS COURT
ROSS COUNTY, OHIO

The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail, and to note service on the Docket.

Judge

MARCH 4, 2011, STATE OF OHIO V. JOHN ROHRER, HEARING TO FORCE MEDICATIONS

THE COURT: NEXT MATTER BEFORE THE COURT IS STATE OF OHIO V. JOHN ROHRER, CASE NUMBER 09 CR 393. MR. ROHRER IS PRESENT WITH HIS ATTORNEY SUSAN PETTIT. STATE IS PRESENT AND REPRESENTED BY ASSISTANT ROSS COUNTY PROSECUTING ATTORNEY RICHARD CLAGG.

THIS MATTER IS ON FOR HEARING ON THE APPLICATION OF TWIN VALLEY BEHAVIORAL HEALTHCARE ON ORDER FROM THIS COURT FOR COURT APPROVAL FOR MEDICAL TREATMENT AND ADMINISTRATION OF MEDICATION AND LAB WORK. THE COURT HAS BEEN PRESENTED A REPORT FROM DR. DAVID SANTER, THE ATTENDING PSYCHIATRIST FOR MR. ROHRER, AND ESSENTIALLY PROVIDES THE COURT A LIST OF MEDICATIONS THAT WISH TO BE ADMINISTERED TO MR. ROHRER TO TREAT HIS MENTAL ILLNESS.

THE COURT: MR. CLAGG, DOES STATE HAVE ANYTHING WITH REGARDS TO THIS MATTER?

CLAGG: NO YOUR HONOR, I BELIEVE THE INTENTION IS FOR THE STATE TO SIMPLY STIPULATE TO THE CONTENTS OF THE REPORT. I BELIEVE THAT IS GOING TO BE THE SITUATION IN THIS CASE.

THE COURT: MS. PETTIT, ANYTHING ON MR. ROHRER'S BEHALF?

PETTIT: COULD I HAVE JUST ONE MOMENT?

THE COURT: SURE.

PETTIT: JUDGE, WE WILL STIPULATE TO THE REPORT. MR. ROHRER WOULD LIKE AN OPPORTUNITY TO TELL THE COURT HIS FEELINGS ABOUT THE MEDICATIONS.

THE COURT: SURE.

ROHRER: WELL I GUESS I JUST WANTED TO SAY THAT I SHARE THE DOCTOR'S GOAL IN ZERO PSYCHOSIS AND ZERO DELUSION, BUT HE DOESN'T SEEM TO HAVE REGARD FOR THE SIDE EFFECTS OF THE MEDICATIONS AND OR EITHER THAT HE THINKS THAT....HE DOESN'T TALK TO ME MUCH....I'M GUESSING WILDLY HERE....EITHER THAT OR HE THINKS THAT I NEED THIS MUCH MEDICATION, BUT I SLEEP ON THIS MEDICATION, OR THESE MEDICATIONS TWELVE TO FOURTEEN HOURS A DAY, AND WHEN I AM AWAKE I'M VERY, VERY TIRED, IT'S TORTUROUS, AND I JUST WANT HIM TO WORK WITH ME ON IT, AND HE WOULDN'T WORK WITH ME ON IT, AND WHEN CHRISTMAS ROLLED AROUND HE SAID IF I DIDN'T TAKE THEM HE WAS GOING TO GET A FORCE MED ORDER, AND I THOUGHT THAT HE SAID... I WASN'T SURE HE WAS ALREADY GOING TO GET IT OR WHETHER I HAD TO DO SOMETHING, BUT I JUST WANTED TO HAVE A GOOD DAY AND A GOOD CHRISTMAS DAY, AND SO I STOPPED TAKING THE MEDICATION ON THAT DAY, AND THEN I HAD...I FIGURED IT WAS ALL DOWN HILL FROM THERE...I WAS GOING TO HAVE TO DEAL WITH THE COURT AND HAVING A COURT ORDER AND EVERYTHING AND IT WAS JUST A MATTER OF TIME, SO I STOPPED TAKING IT AGAIN AND....IT'S NOT....I

JUST WANT TO SAY THAT I DON'T NEED THIS MUCH MEDICATION AND HE JUST REMAINS OBTUSE TO IT TO THE FACT THAT I KNOW IT...I NEED A MILD DOSE OF ANTIPSYCHOTIC AND HE INSISTS ON A MODERATE DOSE, AND IN FACT IN ADDITION TO THAT A LESS THAN MILD DOSE OF ANOTHER ANTIPSYCHOTIC....THAT IN ADDITION TO THE ANTIANXIETY MEDICATION THAT I AM ON IT REALLY DEPRESSES MY SYSTEM, AND AS I HAVE SAID...I DON'T WANT TO BE REDUNDANT, BUT IT'S HARD TO FUNCTION , AND I FELT THAT I JUST NEEDED TO TAKE TIME TO....MY REASONS FOR BEING OFF THE MEDICATIONS HAVE CHANGED WITH TIME....I KNOW I'M RUNNING ON AND ON, I JUST WANT THE DOCTOR TO WORK WITH ME, AND HE DOESN'T SEEM TO WANT TO BRING THAT TO THE TABLE, AND I DON'T KNOW I'M KIND OF FRUSTRATED WITH THE IDEA THAT IT'S GOING TO GO BACK TO THE WAY IT'S BEEN...THAT NOW I'LL HAVE TO GET A SHOT IF I REFUSE THE MEDS, AND IF I REFUSE THEM IT'S FOR A GOOD REASON IN MY VIEW, AND IT TAKES AWHILE TO GET THEM OUT OF YOUR SYSTEM....AND WHEN I START TO GET PSYCHOSIS I START RIGHT BACK ON THEM BECAUSE I DON'T WANT PSYCHOSIS SO I END UP TAKING LIKE ONE DOSE EVERY THREE DAYS OR SO AND DO FINE AND DON'T HAVE PSYCHOSIS , SO I'M SURE THIS IS THE BIGGEST....THIS IS TWIN VALLEY WE'RE DEALING WITH, SO IT'S NOT LIKE I'M GOING TO HAVE A CHANCE...A SNOW BALL'S CHANCE IN HELL OF CHANGING THE COURT'S DECISION ON THIS MATTER, BUT I JUST WANTED TO STATE MY VIEW AND TRY TO GET YOU TO SEE MY HUMANITY I GUESS.

THE COURT: JOHN, I APPRECIATE WHAT YOU TOLD ME, AND I UNDERSTAND, AND I UNDERSTAND SOMETHING OF THE SIDE EFFECTS OF THE PSYCHOTICS. ON THE OTHER HAND I WANT YOU TO THINK ABOUT THIS. YOU APPEAR PRETTY LUCID TODAY, BUT YOU HAVE TO UNDERSTAND YOU HAVE A MENTAL ILLNESS AND THAT MAY BE SKEWING YOUR PERSPECTIVE. VERY TIME WHEN YOU GET OFF THESE MEDS, LIKE I TOLD YOU WHEN YOU'VE BEEN HERE, STAY ON THE MEDS AND WE WON'T HAVE A PROBLEM. YOUR JUDGMENT ABOUT TAKING YOUR MEDS, AT TIMES IS FLAWED. THAT'S WHAT HAS GOTTEN YOU IN COURT. THE FIRST TIME RELATIVELY MINOR, YOU WERE IN A HOUSE YOU SHOULDN'T HAVE BEEN IN---

ROHRER: I WAS NOT ON MEDS THEN.

THE COURT: RELATIVELY MINOR THOUGH. THE SECOND TIME, THE ONE YOU ARE IN ON NOW, REAL SERIOUS. REAL SERIOUS. YOU'VE GOT A SKEWED PERSPECTIVE. YOU'VE GOT A SKEWED PERSPECTIVE ABOUT YOUR OWN....ALL OF US ARE HORRIBLE JUDGES ABOUT OUR OWN....WHETHER WE'RE MENTALLY ILL OR NOT. ALL OF US ARE VESTED WITH CERTAIN DEGREE OF OUR OWN OUTLOOKS AND NOT VERY GOOD JUDGES SOMETIMES OF WHAT WE OUGHT OR OUGHT NOT TO BE DOING. IT TAKES SOMEBODY WHO IS OBJECTIVE TO STEP OUTSIDE AND SAY WAIT A SECOND. SO I REALLY DON'T FEEL LIKE GIVEN YOUR HISTORY I DON'T HAVE MUCH CHOICE IN THIS MATTER BECAUSE IF AT LEAST I KNOW THAT YOU TAKE THE MEDS THERE'S A REAL GOOD CHANCE THAT NOBODY GETS HURT, AND I KNOW YOU

CAN'T GUARANTEE ME THAT IF IT'S LEFT TO YOUR JUDGMENT THAT SOMEBODY'S NOT GOING TO GET HURT.

ROHRER: I CAN'T GUARANTEE ANYTHING ANYMORE BUT I DID LEARN THE LESSON OF THAT INCIDENT IT WOULDN'T HAVE HAPPENED AGAIN REGARDLESS OF WHAT HAPPENED LEGALLY BECAUSE I CARE ABOUT PEOPLE, AND I REALIZED PRETTY SOON AFTER THAT THE THINKING ERRORS THAT GOT ME INTO THAT MESS AND IT WAS JUST A PERFECT STORM AND I KNOW THAT IT WOULDN'T HAPPEN AGAIN BUT I HEARD WHAT YOU SAID AND I'M NOT GOING TO CHANGE YOUR VIEW AND WE CAN JUST WRAP IT UP I GUESS.

THE COURT: OKAY, WELL I AM GOING TO GRANT THE DOCTOR'S REQUEST. THAT DOESN'T MEAN YOU SHOULDN'T STOP TALKING TO YOUR DOCTOR.

ROHRER: IT KIND OF FORCES ME TO AS MY ONLY RECOURSE.

THE COURT: AND HE IS THE ULTIMATELY THAT'S GOING TO, AND THE STAFF THERE THAT ARE GOING TO SEE YOU A LOT MORE THAN I DO HOPEFULLY, BECAUSE IF YOU COME BACK TO SEE ME IT'S NOT A GOOD THING JOHN.

ROHRER: ALRIGHT.

THE COURT: SO HOPEFULLY YOU'RE GOING TO BE DEALING WITH THE STAFF AND YOU CAN SHOW THEM BY YOUR BEHAVIOR AND YOUR ACTIONS YOU CAN DO THIS WITH LESS MEDICATION, BUT FOR

STATE OF OHIO

COUNTY OF ROSS:

I, ROBIN BUSKIRK, COURT REPORTER FOR THE COMMON PLEAS COURT, COURTROOM NUMBER 1, ROSS COUNTY, OHIO, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF HEARING TO FORCE MEDICATIONS, IN THE MATTER OF STATE OF OHIO VS. JOHN ROHRER, CASE NUMBER 09 CR 393, ON MARCH 4, 2011, TO THE BEST OF MY KNOWLEDGE AND BELIEF HELD BEFORE THE HONORABLE WILLIAM J. CORZINE.

GIVEN UNDER MY HAND THIS 29TH DAY OF JANUARY, 2014.

ROBIN BUSKIRK
COURT REPORTER

rb: 3-4-11

IN THE COURT OF COMMON PLEAS, ROSS COUNTY, OHIO

STATE OF OHIO,

PLAINTIFF, CASE NO. 09 CR 393

-VS- JUDGE CORZINE

JOHN J. ROHRER, ENTRY

DEFENDANT.

* * * * * *

This cause came on for hearing on the 4th day of March, 2011 on the request filed by Twin Valley Behavioral Health Care seeking an order of this court to approve proposed medical treatment for Mr. Rohrer which would include administration of medication and lab work. The defendant was present with his attorney Susan Pettit. The State of Ohio was represented by Assistant Ross County Prosecuting Attorney Richard Clagg. The parties stipulated to the report of Mark Hurst, M.D., Chief Clinical Officer and David F. Soehner, M.D., Mr. Rohrer's treating psychiatrist. The court finds that Mr. Rohrer remains a mentally ill person, subject to hospitalization, the least restrictive treatment alternative remains commitment to the facility. The court further finds that the least restrictive treatment alternative for Mr. Rohrer is administration of the medication set forth in attachment A to the application authorized for psychotropic medications. The court therefore approves the application for medical treatment and administration of medication and lab work including forced administration of psychotropic medications if needed as set forth in attachment A of the application to authorize. All until further order of the court. Costs waived.

ENTRY: 3/10/11

The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail, and to note service on the Docket.

WILLIAM J. CORZINE
JUDGE, COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

Judge

Exhibit I

IN THE COURT OF COMMON PLEAS OF ROSS COUNTY, OHIO

STATE OF OHIO, * Judge HOLZAPFEL

Plaintiff,

Case No. 09CR000393

-vs- *

DECISION &ORDER

JOHN J. ROHRER,

Defendant. *

This matter came before the court upon the various motions of defendant John J.Rohrer to terminate the forced medication order previously issued from this court. Present were assistant prosecuting attorney Jeffrey Marks, the defendant and defendant's attorney James Dye. The hearing was held over a period of three days, September 12, 2014, September 15, 2014 and September 25, 2014.

The defendant presented several witnesses on this issue. The defendant also testified on his own behalf.

Defendant presented testimony about his mental capacity as it relates to his ability to participate in decisions regarding his medications.

The witnesses testified that defendant, at least while on the currently administered medications, has the capacity to give informed consent to medication. In the case of Steele v. Hamilton Cty. Community Mental Health Bd., 90Ohio St. 3d 176 (2000), the Supreme Court of Ohio held in syllabus #1 that:

> When an involuntarily committed mentally ill patient poses an imminent threat of harm to himself/herself or others, the state's interest in protecting its citizens outweighs the patient's interest in refusing antipsychotic medication. Authority for invoking the state's interest flows from the police power of the state.

Further, in syllabus #2, the court held it was a medical determination whether a mentally ill patient poses an immediate threat of harm to self or others whether that would warrant administration of antipsychotic drugs. Additionally, in syllabus #4 the court held that a mentally ill patient who does not pose a threat of harm may still be treated with antipsychotic medication

involuntarily if the patient lacks capacity to give consent. The court further held syllabus #5 that it is a judicial, rather than a medical, determination if a mentally ill patient lacks capacity.

Under Steele,, there are two ways in which patient may be forced to take antipsychotic medication. The first permits a physician to order medication "when the physician determines that "(1) the patient presents an imminent danger of harm to himself/herself or others" and "(3) the medication to be administered is medically appropriate for the patient." The other is by a court order when the court finds, by clear and convincing evidence that:

> (1) the patient does not have the capacity to give or withhold informed consent regarding his/her treatment, (2) it is in the patient's best interest to take the medication, *i.e.*, the benefits of the medication outweigh the side effects, and (3) no less intrusive treatment will be as effective in treating the mental illness.

From the testimony presented on behalf of the defendant and defendant's own testimony the court finds, although the defendant is a mentally ill person subject hospitalization, has the mental capacity to participate in his medical treatment. However defendant cannot refuse treatment deemed advisable by his treating physician. The defendant showed an understanding of his illness and of the treatment necessary for the illness. As long as the defendant shows this understanding he has the right to participate if his participation does not affect his mental illness adversely.

It is therefore ordered that the forced drugging order previously issued by this court is terminated.

LEONARD HOLZAPFEL, JUDGE
Sitting by Assignment

The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail and to note service on the Docket.

Judge

IN THE COURT OF COMMON PLEAS OF ROSS COUNTY, OHIO

STATE OF OHIO, * Judge HOLZAPFEL

Plaintiff,

Case No. 09CR000393

-vs- *

DECISION & ORDER

JOHN J. ROHRER,

Defendant.

This matter came before the court upon the biannual review of defendant John. J. Rohrer's status as an NGRI commitment to the Appalachian Behavioral Health System (ABH).

The court held an oral hearing upon the request of ABH for the continued commitment of the defendant. Present were assistant prosecuting attorney Jeffrey Marks, the defendant and defendant's attorney James Dye. The hearing was held over a period of three days, September 12, 2014, September 15, 2014 and September 25, 2014.

Plaintiff State of Ohio presented witnesses as to the continued commitment request of ABH for the defendant.

Plaintiff's first witness was Dr. Jean Scott. Dr. Scott is a psychologist employed by ABH. Dr. Scott testified she reviewed the records and reports of defendant's treatment providers and reports in his medical records and forensic files. Dr. Scott also requested an interview with the defendant, who refuse requests and would not talk with Dr. Scott.

Dr. Scott testified the defendant has schizoaffective disorder, a mental illness, and that diagnosis remains. Dr. Scott further testified that in her opinion the defendant remains mentally ill subject to hospitalization.

Defendant presented the testimony of Dr. Gregory Jansen, PhD. Dr. Janssen is a clinical psychologist who conducted an evaluation of the defendant's capacity to give informed consent to medication. During his testimony he concurred that defendant is a mentally ill person subject to hospitalization and that his current placement at ABH is an appropriate placement.

Additionally, the parties presented evidence of the strained relationship between ABH and the defendant. This strain in the relationship appears to the court to be a result of defendant's perception of the "forced drugging order" which this court will address by separate entry. Plaintiff presented testimony of the disruptive behavior of the defendant, some of which defendant admits. Defendant and the witnesses on his behalf testified these actions of defendant relate to the "forced drugging order" and that if defendant was able to participate in his medical treatment his behavior would improve.

Based upon the foregoing the court finds by clear and convincing evidence that defendant John J. Rohrer is a mentally ill person subject to hospitalization and that the least restrictive environment at this time is Appalachian Behavioral Health. This finding of least restrictive environment is based on expected improvement of defendant's behavior with staff and other patients. ABH is not the least restrictive placement if defendant's behavior continues to be disruptive.

The Court hereby Orders, based upon the foregoing, that defendant John J. Rohrer is a mentally ill person subject to hospitalization and that the least restrictive environment is Appalachian behavioral health.

LEONARD HOLZAPFEL, JUDGE
Sitting by ~~Assignment~~

The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail and to note service on the Docket.

Judge

Dr. Sandra Pinkham
2170 Riverside Drive
Columbus, Ohio 43221

April 30, 2014

Dear John and Katherine:

Since my October, 2013 affidavit filed with the Ross County Common Pleas court, I have now had a chance to review 2007 Adena Medical Center records, Twin Valley records including MAR's, and the ABH records provided, along with ABH's MAR's, and ABH blood test results. I have also reviewed DNA testing and filled in missing parts of John's medical history by report from John and his mother.

Beyond what I said in my October, 2013 affidavit about the apparent deterioration in John's medical condition during the time he had been at ABH at that point, I now have increasing concerns as to the Risperdal Consta 50 mg ABH is force injecting him with every two weeks. ABH's own medical records from the past year alone, show that John continues to suffer acute adverse reactions with each injection. After each injection: eye, neck and torso twitching, muscle tremors, agitation/irritability, shortness of breath, headache, somnolence, insomnia, fatigue, light-headedness, nausea, uncontrollable tremors, feeling dull –difficulty thinking and remembering, difficulty concentrating, headache, frequent yeast infections, at times a brief hallucination immediately post -injection, dizziness, and depression for several days afterwards. The records also show ongoing cough, extra pyramidal symptoms, tachycardia, orthostatic hypotension, nasopharyngitis, anxiety, indigestion, constipation, and gynecomastia since at least 2009. I understand that John becomes discouraged from even reporting these adverse events because there is either no response, or the reporting of the adverse event is used to justify another label of mental illness and the promotion of another drug to mask the adverse reaction.

John's adverse reactions to Risperdal go back a long way, as I learned when reviewing the Adena Hospital records from March, 2007. He had an adverse reaction to his very first oral dose of Risperda. He complained of nasal stuffiness and mind racing. On the fifth day of treatment he complained of chest pain and an Echocardiogram showed mitral valve prolapse. Mitral valve prolapse is associated with vitamin C, magnesium deficiency, and carnitine deficiency.

Magnesium deficiency by itself can cause agitation, anxiety, confusion, hallucinations, hypotension, insomnia, irritability, muscle tremor, restlessness, sensitivity to noise, and inability to concentrate. These are all symptoms that John has been reported as having, and are side effects of the Risperdal and

other medications that have been given to him. The toxicity of both the Risperdal and the Depakote ABH forced on him in 2013, can also be expected to further deplete any nutritional reserves of magnesium. John reports that the tics and spasms slowly dissipate at the end of the two week period post-injection but that more recently those effects linger throughout the full two week period, that new ones develop, and that they are becoming more uncontrollable.

April 5, 2011 Twin Valley started Risperdal Consta 50 mg IM every 2 weeks. He was simultaneously started on clozapine and he was still on Geodon. John had a severely toxic reaction very soon afterwards. His potassium was low on 4-5-11, a sign of magnesium deficiency. He also had a glucose of 69 which is indicative of mild hypoglycemia. His eosinophils were 0.4 indicative of allergy. He had been on Risperdal 1 mg twice a day for a few weeks at this time. The next week his blood was more inflammatory and eosinophils were 0.5, a common response to drug allergy, with his blood sugar even lower: 64. On 4-27-2011 the eosinophils were 0.7 and blood glucose was 60, even worse. His CR-protein was 2.4. On 5-4-11 he was dehydrated, his eosinophils were 0.9, glucose 58 potassium 3.7 TSH 4.3, and CR-protein 73.3. Finally, the weekly escalating doses of Clozapine he had been on were stopped and some of these problems improved but eosinophilia persisted. On 6-3-11 he was started on loratidine for rash. He remains on this anti-allergy medication and he no longer has eosinophilia but that does not mean he is no longer having an adverse reaction to Risperdal.

Apart from failing to inform themselves of his history by obtaining full records, ABH is failing to check for conditions that they have every reason to know are a problem. On 9-4-12 while at Twin Valley John's triglycerides were 300 – a very elevated level. He had multiple episodes of low blood sugar. His thyroid level showed subclinical hypothyroidism. Yet, since his transfer to ABH none of these levels have been checked. There has been no cholesterol HDL, triglyceride and fasting blood sugar or Hg A 1c or thyroid tests since he left Twin Valley. At one point John is erroneously reported to be NKDA (no known drug allergies), although he has a penicillin allergy. He certainly has a severe allergy to clozapine, adverse reactions to Seroquel and Geodon and most likely a drug allergy to Risperdal.

John reports immediate adverse reactions to the Risperdal injection, significantly worsening this month. Adverse reactions from the April 3, 2014 injection continued in severity only until about day 4, but after the April 17, 2014 injection, the adverse reactions, including akathisia have continued into the 6th day post-injection. I know none of us want to see him injected again this Thursday – the 1st of May.

Risperdal is not meant to be used long-term. The Food and Drug Administration recommends that there should be periodic attempts to withdraw

the drug because of the risks associated with its long term use. Risperdal is known to cause tardive dyskinesia, which John is already experiencing symptoms of and which significantly disables him for several days following the injection. The longer the treatment the greater the risk of irreversible effects. John reports that the Risperdal-induced tics and spasms slowly dissipate at the end of the two week period post-injection but that more recently those effects linger throughout the full two week period.

ABH continues to force John to be on it, using as justification that is a court ordered forced medication. From my review of the records, this is not the case. He was diagnosed as treatment resistant psychosis and Twin Valley was given permission to use IM injections of Geodon and Ativan if he refused po medications. He was changed from po Risperdal to IM Risperdal consta on April 5, 2011. He is no longer actively psychotic. He is not violent. There is no need for an IM medication that is extremely expensive.

I am more convinced than ever that Risperdal Consta is harming John with little if any compensating benefit – at least not at current levels. Given the absence of anything in the ABH records showing John is now actively psychotic, and my own observations that he is quite knowledgeable and certainly capable of giving informed consent, the continued dosing of Risperdal at this level is inexcusable. I suspect that John's love of learning and writing has somehow given someone in the two hospitals, the idea that he had a feeling of superiority, which may have led to the diagnosis of narcissistic personality disorder. I have seen nothing in the medical records from either Twin Valley or Appalachian Behavioral Healthcare that would cause me to believe that John was at any time during his confinement at either of those facilities, a danger to himself or others. I have noted some 5 separate instances in the records, where he was physically attacked, but where in each case he chose to not defend himself.

On admission to Twin Valley 11-24-09 John was on Buspar, Celexa, Neurontin and 6 mg Invega (which is equivalent to the Risperdal consta 50 mg every 2 weeks). It is unclear what medications he was on at the time of September 1, 2009 incident in the group home because the medication records from 2008 through 2009 were destroyed in 2013. John recalls also having taken Lexapro at the group home during the 2008-2009 time period. This medication is associated with violent behavior, as well. Hypoglycemia, itself, to which John is prone, is a side effect of many medications. John was placed on Seroquel for a month in Sept. 2010 and then withdrawn from it because of adverse effects.

The incident of 2009 at the group home also appears to have occurred during a time that John's magnesium was particularly low. Immediately prior to that incident, John reports that he had been vomiting which depletes magnesium. He had just been dealt a fairly severe head injury, for which he was

never examined or treated. Although John has a history of multiple head injuries no TBI screening was done. He has taken the State of Ohio's screening test [https://tbitac.norc.org/download/OH%20--%20TBIScreening.pdf], yielding results that show a need for further screening. By mis-diagnosing TBI as mental illness one can exacerbate symptoms by the use of anti-psychotic medication. I recommend that Katherine arrange to have further screening done by a neuropsychologist.

Despite the many occasions on record where John has been attacked and not defended himself, ABH asserts that tapering his medication is not an option because of a risk for violence. Hypoglycemia and magnesium deficiency are the likely causes of aggression in the past. John's mindfulness practice and self-care are more responsible for his stability than medication at this point. He has been on high doses of Risperdal or invega for 5 years. Agitation has occurred during this long time on drug administration but it is not occurring now. He is needs to be treated with the oral medication and, with his participation gradually tapered to prevent worsening tardive dyskinesia. This does not have to be done in an in-patient setting. .

It is the standard of care to gradually withdraw medication, especially when the patient is suffering from side effects that are directly attributable to the medication. The excuse that there was a "court order" for Risperdal Consta is a misunderstanding. Evidently Twin Valley thought he had a treatment resistant schizophrenia in 2010 and wanted a court order allowing the doctors there to be able to use Geodon and Ativan IM if he refused po medications. A decision to use Risperdone Consta came later. That was a decision made by the doctors at Twin Valley at the same time they tried a disastrous experiment with escalating doses of clozapine that really put his life in danger. I can find no justification for ABH to adhere rigidly to this old protocol when he is not actively psychotic. Moreover, I see no reason for him to remain in a hospital. He needs to be discharged to out-patient care with physicians who will work with him.

At the very least John should immediately be taken off Risperdal Consta and begin taking the 2 mg. oral form twice daily. He should be allowed input into the proper schedule for titrating down to a dose that does not cause side effects. Close attention needs to be given to prevent worsening tardive dyskinesia. I need to see him in my office to assess what other interventions would benefit him.

Sincerely,

Sandra M. Pinkham, M.D.

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