

**ORIGINAL  
FILED**

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NOV 27 2007

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
DEPUTY CLERK

SHIRLEY NOBLE, AND ALBERT PAYNE, §  
INDIVIDUALLY AND ON BEHALF §  
OF THE ESTATE OF §  
SCOT NOBLE PAYNE, DECEASED §  
PLAINTIFFS §

vs. §

THE GEO GROUP, INC., GEORGE ZOLEY, §  
WAYNE H. CALABRESE, MICHAEL G. §  
O'ROURKE, and JOHN BULFIN §  
DEFENDANTS §

NO. **A07CA 968LY**  
**JURY DEMANDED**

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**PLAINTIFFS' ORIGINAL COMPLAINT**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COME** Shirley Noble and Albert Payne, Individually and on Behalf of the Estate of their son, Scot Noble Payne, hereinafter called Plaintiffs, complaining of and about The Geo Group, Inc., George Zoley, Wayne H. Calabrese, Michael G. O'Rourke, and John Bulfin, hereinafter called the Geo Defendants, and for causes of action would show unto the Court the following:

I.

**PARTIES AND SERVICE**

1.1 Plaintiffs, **SHIRLEY NOBLE AND ALBERT PAYNE, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF THEIR SON, SCOT NOBLE PAYNE. SHIRLEY NOBLE AND ALBERT PAYNE**, are individual residents and citizens of Los Angeles County, California.

1.2 Defendant, **THE GEO GROUP, INC.** is a private jail company incorporated under the laws of the State of Florida. Defendant has a central regional office in Texas, within the Western District of Texas at 1583 Common Street, Suite 1111, New Braunfels, Texas 78130. The Geo Group, Inc. (GEO) may be served by serving its registered agent for service, Prentice Hall Corporation System, Inc. at 107 Brazos Street, Suite 1050, Austin, Texas 78701. The Geo Group, Inc. is a citizen of Florida.

1.3 Defendant, **GEORGE ZOLEY**, Chairman of the Board and Chief Executive Officer of GEO, can be served with process at GEO GROUP WORLD HEADQUARTERS, 621 NW 53<sup>rd</sup> Street, Suite 700, Boca Raton, Florida, 33487. Zoley is a citizen of Florida.

1.4 Defendant, **WAYNE H. CALABRESE**, President and Chief Operating Officer of GEO can be served with process at GEO GROUP WORLD HEADQUARTERS, 621 NW 53<sup>rd</sup> Street, Suite 700, Boca Raton, Florida, 33487. Calabrese is a citizen of Florida.

1.5 Defendant, **MICHAEL G. O'ROURKE**, Senior Vice President and Chief Financial Officer of GEO, can be served with the summons and complaint at GEO GROUP WORLD HEADQUARTERS, 621 NW 53<sup>rd</sup> Street, Suite 700, Boca Raton, Florida, 33487. O'Rourke is a citizen of Florida.

1.6 Defendant, **JOHN BULFIN**, Senior Vice President and General Counsel and Corporate Secretary of GEO can be served with the summons and complaint at GEO GROUP WORLD HEADQUARTERS, 621 NW 53<sup>rd</sup> Street, Suite 700, Boca Raton, Florida, 33487. Bulfin is a citizen of Florida.

## II.

### JURISDICTION

2.1 The court has jurisdiction over the lawsuit under 28 USC 1332 (a) because the Plaintiffs and the Defendants are citizens of different states and the amount in controversy far exceeds the minimum federal jurisdictional amount of \$75,000, excluding interest and costs.

2.2 The court has supplemental jurisdiction under 28 USC 1367 over Plaintiff's claims against the Geo Defendants because Plaintiff's claims are so related to the claims within the court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

## III.

### VENUE

3.1 Venue is proper in the Austin Division of the Western District of Texas because The GEO Group Inc., a corporation, does business and is subject to personal jurisdiction in Austin, Texas, and therefore "resides" within the Austin Division of the Western District of Texas. 28 U.S.C. 1391 (a) and (c). The GEO Group Inc., a corporation, also has its registered agent for service in Austin, Texas, within the Austin Division of the Western District of Texas. 28 U.S.C. 1391 (a) and (c).

3.2 The individual Geo Defendants, Zoley, Calabrese, O'Rourke and Bulfin are subject to personal jurisdiction in Austin, Texas within the Austin Division of the Western District of Texas. 28 U.S.C. 1391 (a).

#### IV.

#### FACTS

4.1 Scot Noble Payne was transferred from Idaho to serve time in a privately owned and operated GEO facility called Dickens County Correctional Center (DCCC) in Spur, Texas. DCCC is completely controlled by Defendant GEO, by and through their corporate officers George Zoley, Wayne H. Calabrese, Michael G. O'Rourke, and John Bulfin. As set forth below in more detail, these corporate officers jointly execute a corporate strategy of calculated deceit and corruption in many aspects of their operation of this facility and other facilities nationwide, including making illegal payments to governmental entities in exchange for contracts and permits.

4.2 Inmates such as Scot were housed in deplorable conditions in large dormitories, in general population with serious and minor offenders thrown together. Due to inhumane conditions created by the Geo Defendants, Scot Noble Payne became depressed and suicidal. In his despair, Scot attempted to escape, and was recaptured. He was then housed in a solitary confinement cell that was an extremely cold and filthy room with mold and water standing on the floor in the cell. Scot's blanket, pillow and sheets on the bunk were filthy when he entered, and remained the same with blood, and human excrement during the entire time he was in there. The room smelled of horrible odor, and he was not allowed to change his clothes for long periods of time.

4.3 On March 4, 2007, while on suicide watch in solitary confinement, Scot Noble Payne committed suicide with a razor provided by GEO. His suicide was caused by specific breaches

of duty by GEO, which include grossly inhumane treatment, abuse, neglect, unconstitutional, illegal and malicious conditions of confinement.

4.4 After Scot's death, Idaho Health and Services Director Don Stockman, investigated Dickens County Correctional Center in Spur, Texas. In one of his reports, he stated that Dickens County Correctional Center was:

*" the worst correctional facilities I have ever visited. The physical plant is filthy, and does not provide a safe and secure setting for either inmates or staff. Custody staff appear to possess only the basic knowledge required to work in a prison setting. The administration and custody staff, from the Warden on down, project an open contempt for inmates and express little concern for the dire living conditions of the inmates. Based on verbal statements made by Warden Alford it is clear that his management style is based on verbal and physical [intimidation] of the inmates he is mandated to provide protective custodial care. It is difficult to comprehend how the contract provider, "GEO, Inc." could not be aware of the deplorable conditions that exist at DCCC or the behavior of Warden Alford and his staff. Warden Alford has created a negative prison culture that is deeply ingrained and will remain long after he no longer is the Warden. Basically, DCCC is a facility that is beyond repair or correction."*

He further stated:

*"the physical condition of the cell where the suicide occurred does not, in my opinion, comply with any standards related to inmate housing for either Segregated housing or housing for inmates on suicide watch. The physical environment of the cell would have only enhanced the inmate's depression that could have been a major contributing factor in his suicide."*

In addition, Keith Thomas, Idaho's Contract Compliance Officer, noted:

*"A doctor analyzed Mr. Payne's case and identified failures and policy violations beginning with the preseg screening. In their documentation of Mr. Payne's time on suicide watch they indicate that they violate their own policy. They specify the level of watch to require 15 minute checks on an irregular basis but have periods of 25 minutes without a check."*

4.5 As a direct and proximate result of the occurrence, Scot Noble Payne suffered severe trauma, extreme physical injuries, extreme pain and suffering, extreme disfigurement and death.

4.6 All conditions precedent have occurred or have been performed.

V.

**CAUSES OF ACTION**

**Negligence / Gross Negligence**

5.1 The Geo Defendants were grossly negligent and negligent in proximately causing the suffering and death of Scot Noble Payne, and damages to his wrongful death beneficiaries. These injuries and damages were foreseeable and proximately caused by the Geo Defendants' negligent, reckless, grossly negligent and intentional disregard of legal duties of care including the following acts, omissions, and breaches which proximately caused Plaintiffs' injuries:

1. The Geo Defendants abused and neglected Scot Noble Payne.
2. The Geo Defendants negligently, recklessly, knowingly, or intentionally failed to provide a safe environment and a healthful place to live for Scot Noble Payne.
3. The Geo Defendants negligently, recklessly, knowingly, or intentionally failed to provide or maintain custodial care and services free from unreasonable risk of harm as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
4. The Geo Defendants negligently, recklessly, knowingly, or intentionally failed to use reasonable care to supervise or control the correctional officers as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
5. The Geo Defendants negligently, recklessly, knowingly or intentionally hired and retained unqualified corrections officers, inadequately trained and equipped such officers, and inadequately staffed the facility as would a reasonable jailor of ordinary prudence under the same or similar circumstances. Furthermore,

Defendants negligently failed to implement adequate safeguards to keep Scot Noble Pane free from injury.

6. The Geo Defendants negligently, recklessly, knowingly, or intentionally failed to provide adequate policies, procedures, or regulations as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
7. The Geo Defendants negligently, recklessly, knowingly, or intentionally failed to comply with existing policies, procedures, or regulations as would a reasonable jailor of ordinary prudence under the same or similar circumstances.
8. The Geo Defendants negligently, recklessly, knowingly, or intentionally entrusted Scot Noble Payne with the razor with which he committed suicide.

Each of such acts and omissions, singularly or in combination with others, constituted negligence and gross negligence that proximately caused the injuries that decedent suffered and that resulted in his death.

As a direct and proximate cause of the negligent acts and/or omissions aforementioned, decedent suffered cuts to his wrists, ankles and throat. Decedent was caused to suffer serious and permanent personal injuries, and death.

#### **Negligent Activity**

5.2 The Geo Defendants engaged in negligent activity. Each of the acts or omissions, singularly or in combination with others, constituted negligent and gross negligent activity that proximately caused the injuries that decedent suffered and that resulted in his death.

#### **Civil Conspiracy**

5.3 The Geo Defendants and other unnamed co-conspirators agreed to and did engage in civil conspiracy to knowingly or intentionally violate state and federal criminal laws. The object to be accomplished was to illegally influence public officials, and to conceal, deflect, hide or exculpate

responsible persons from all forms of personal civil or criminal liability, censure, detriment, or punishment. The object of the conspiracy was also to accomplish Geo's profit-making but illegal pattern and practice of abuse, neglect, public corruption, and cover up more specifically set forth below. This conspiracy damaged Plaintiffs by the concealment or destruction of evidence needed to determine the truth, by allowing culpable persons to avoid full responsibility, and tortuously interfering with the exercise of Plaintiffs' lawful rights. This conspiracy has caused Plaintiffs mental anguish, increased expenses and other legal injuries.

## VI.

### **PATTERN AND PRACTICE OF ABUSE, NEGLIGENCE, COVER-UP AND PUBLIC CORRUPTION**

6.1 The Geo Defendants engage in a corporate wide policy and history of illegally neglecting, manipulating, and abusing inmates to save money. This is a key profit strategy for the company, as well as a proximate cause of harm to Plaintiffs. The Geo Defendants jointly engage in efforts to illegally influence public officials. The Geo Defendants have engaged in illegal activities including:

1. Public Corruption;
2. Making illegal payments to governmental entities in exchange for contracts and permits;
3. Abuse and neglect of inmates and illegal cover-ups of wrongdoing, including obstruction of justice, destruction of evidence and lying to state investigators; and
4. Misrepresentations to state and governmental entities concerning intolerable conditions inside their facilities.

Such conduct fails to comply with the civil standards of care, violates state and federal criminal laws, and violates the agreement which GEO makes with various governmental entities.

## VII.

### RESPONDEAT SUPERIOR AND JOINT AND SEVERAL LIABILITY

7.1 At all times whenever an act of a vice-principal, employee, agent, and/or servant of the Geo Defendants performed some act in relation to this lawsuit, such individual was performing acts within the scope and course of his/her employment with the Geo Defendants. The Geo Defendants are legally responsible for the misconduct of those vice-principals, employees, agents and servants under the doctrine of *respondeat superior* and joint and several liability.

7.2 The Geo Defendants are liable for their acts, as well as acts of their vice-principals, agents, servants, and employees under the doctrine of *respondeat superior*. Such agents, servants, and employees had a right and duty to control the perpetrators and are liable for their conduct.

7.3 The Geo Defendants are also liable for the acts of their employees because (1) Defendants authorized the doing and the manner of the act; (2) the agents were unfit and Defendants acted with malice in employing or retaining them; (3) the agent was employed in a managerial capacity and was acting in the scope of employment; or (4) the employer or a manager of the employer ratified or approved the act.

7.4 As a result of the ongoing corporate wide strategy and of abuse, neglect, public corruption and cover up, which is orchestrated by The Geo Defendants, The Geo Defendants, their agents, servants, and employees were engaged in a joint enterprise or partnership. Individual Defendants

are accordingly personally vicariously liable.

7.5 Vicarious liability also arises from Defendants' practice of failing to enforce rules and procedures designed to protect inmates. Each of such acts omissions, singularly or in combination with others, proximately caused the injuries that decedent suffered and that resulted in his death.

7.6 The Geo Defendants are liable jointly as a result of their participatory assistance, and encouragement of the wrongful conduct that caused Plaintiffs' injuries.

### VIII.

#### WRONGFUL DEATH AND SURVIVAL CLAIMS

8.1 Plaintiffs and surviving heirs at law are as follows: Shirley Noble and Albert Payne are the parents of Scot Noble Payne, hereinafter called "the decedent." Scot Noble Payne was not married and had no children at the time of his death. Plaintiffs bring this wrongful death and survival action pursuant to TEX. CIV. PRAC. & REM. CODE, 71.001 et. seq. and 71.021, respectively, because of injuries suffered by the decedent resulting in decedent's wrongful death based upon the facts and legal theories more fully set out above. Plaintiffs sue in all capacities in which they are entitled to recover.

8.2 Decedent was injured as a result of Defendant's negligence described more fully above. As a result of said occurrence, the decedent suffered bodily injuries resulting in the decedent's death.

8.3 At the time of the decedent's wrongful death, the decedent was survived by his parents, Shirley Noble and Albert Payne, the people entitled to recover damages in this action.

8.4 Shirley Noble and Albert Payne, Plaintiffs, are the decedent's parents, and are the personal representatives of decedent's estate. Plaintiffs seek damages for the conscious pain and suffering and mental anguish that the decedent suffered prior to death and for the reasonable and necessary expenses which were reasonably incurred because of such wrongful death. Plaintiffs also bring individual claims for the personal injuries suffered by them. Plaintiffs seek damages within the jurisdictional limits of the court.

## **IX.**

### **EXEMPLARY DAMAGES**

9.1 Defendants have specific intent to cause substantial injury to Plaintiffs or are substantially certain such injury will occur. Alternatively, Defendants engaged in conduct which, when viewed objectively from their standpoint at the time of occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and of which the Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others, including Scot Noble Payne and his parents. The Geo Defendants caused Plaintiffs serious harm, including the death of Scot Noble Payne.

9.2 The Geo Defendants are liable for their own criminal acts and the criminal acts of their employees because Defendants authorized the doing and the manner of the act; the employees were unfit and Defendants acted with malice in employing or retaining the employees, the employees were employed in a managerial capacity and were acting in the scope of employment; or Defendants or a manager of Defendants ratified or approved the act(s).

**X.**

**DAMAGES FOR PLAINTIFF, THE ESTATE OF SCOT NOBLE PAYNE**

10.1 During his lifetime, decedent was industrious and energetic. He gave advice, counsel, comfort, care and protection to his parents. In all reasonable probability, he would have continued to provide for and support his family for the remainder of their lives. As a direct and proximate result of the occurrence made the basis of this lawsuit, Scot Noble Payne was caused to suffer great physical and emotional injury, and death.

10.2 As a direct and proximate result of the occurrence made the basis of this lawsuit, Scot Noble Payne incurred the following damages:

1. Physical pain and suffering in the past;
2. Mental anguish in the past;
3. Physical impairment and disfigurement in the past;
4. Loss of earning and lost earning capacity in the past and future; and
5. Death.

**XI.**

**DAMAGES FOR PLAINTIFFS, SHIRLEY NOBLE AND ALBERT PAYNE**

11.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs, Shirley Noble and Albert Payne, have incurred the following damages:

1. Mental anguish, grief and sorrow in the past;
2. Mental anguish, grief and sorrow in the future;

3. Loss of Consortium in the past, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love.
4. Loss of Consortium in the future, including damages to the parent-child relationship, including loss of affection, assistance, emotional support, comfort, solace, companionship, protection, services, and love.

## XII.

### REQUEST FOR INJUNCTIVE RELIEF

12.1 Plaintiffs request that the court enter a preliminary injunction against the Geo Defendants.

12.2 GEO has shown a callous disregard for truth and a frivolous attitude towards Geo's obligations to run safe facilities and preserve evidence. Geo's pattern and practice to downplay, minimize and cover up its abuse and neglect has caused irreparable harm in the past. Geo makes millions by failing to provide these essential services and its insurers save millions when Geo's abuse and neglect is successfully covered up.

12.3 Plaintiffs request that the Geo Defendants be ordered to preserve and produce all relevant evidence and that Geo be restrained from tampering with or destroying evidence, and obstructing justice.

12.4 Plaintiffs request this Court to ban Geo and its insurers from doing business in the United States as a result of their pattern and practice of abuse, neglect, and cover up, because their actions have caused and will continue to cause irreparable harm to American citizens and foreign citizens being detained in the U. S. in Geo-run facilities.

**XIII.**

**JURY DEMAND**

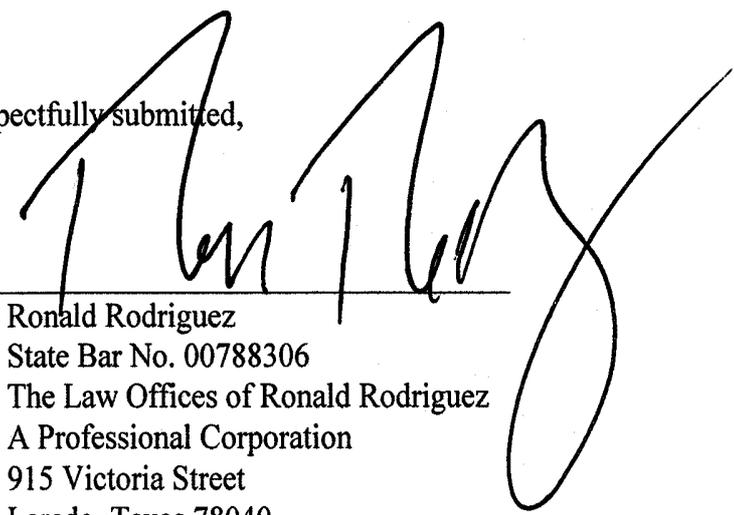
13.1 Plaintiffs demand a trial by jury.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiffs, respectfully pray that the Geo Defendants be cited to appear and answer herein, that a preliminary injunction be issued, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against the Geo Defendants for all damages caused to Plaintiffs by the Geo Defendants, general, special and exemplary damages; that the preliminary injunction be made permanent; pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Signed this 26<sup>th</sup> day of November, 2007.

Respectfully submitted,

By: 

Ronald Rodriguez  
State Bar No. 00788306  
The Law Offices of Ronald Rodriguez  
A Professional Corporation  
915 Victoria Street  
Laredo, Texas 78040  
Tel.: (956) 796-1000  
Fax: (956) 796-1002  
E-mail: ronlaw@bizlaredo.rr.com