

Court of Claims of Ohio

SET 1
Separate sets 1,
2 and 3 before
filling out.

THE OHIO JUDICIAL CENTER
65 SOUTH FRONT STREET, THIRD FLOOR
COLUMBUS, OHIO 43215
(614) 387-9800

2013-00671

(1) Roy Buchanan 81
plaintiff's name age

CASE NO _____
For Court Use Only

(2) P.O. Box 59
street address

ORIGINAL

(3) Nelsonville, OH 45764
city and state zip

(4) N/A
telephone (business) area

(5) N/A
telephone (home) area

NOTE: If you move or change telephone numbers you must give the Court written notice of the new address or telephone number

FORM COMPLAINT

2013 NOV 12 PM 12:40

FILED
COURT OF CLAIMS
OF OHIO

(6) Department of Rehabilitation and Corrections, et al.
defendant state department, board, commission, etc.

(7) 770 West Broad Street
street address

(8) Columbus, OH 43215
city state zip

The defendant listed in 6 above through its agent(s)

(9) Unknown
fill in name(s) and title(s) of the agents if known, if unknown state unknown

did on or about (10) 2012 (11) _____ M.

Plaintiff is 81 years old and cannot recall the date or time. See ODRC report.

(12) Describe in ordinary language the basis of the claim (see instructions)

(1) Antecedant Happening: Hocking Correctional Facility is

a security Level 1/2 institution composed of three dormitory

areas in which inmates are housed in two-level bunk beds,

with the top bunk approximately five (5) feet from the concrete

floor. Plaintiff, at 81 years of age was assigned a top bunk.

In the middle of the night, Plaintiff lost his balance and

fell to the concrete surface suffering significant injuries.

Inmates have no input as to choice of bed assignments.

COMPUTER

COURT OF CLAIMS OF OHIO

(12) Continued

~~¶2) But for Plaintiff's placement in an upper berth, an overt act of Defendant, Plaintiff would not have suffered his injuries.~~

¶3) Defendant should have anticipated that harm would follow this wrongful act: ¶a) Inmate Health Services (IHS) guidelines mandate that, because of inherent balance problems, any inmate over the age of seventy (70) is to be restricted to lower bunks only; (b) one look at Plaintiff should have alerted that Plaintiff was over 70-years of age; (c) Defendant agents responsible for assigning and placing inmates in particular beds should be aware of placement restrictions; (d) some upper bunks are equipped, or can be equipped, with side railings designed specifically to prevent the type of accident in question; (e) no attempt was made to assign Plaintiff to a lower bunk, and upper bunk with side rails, or attach side rails to the upper bunk in which Plaintiff was placed.

¶4) ODRC is liable for all natural and probable consequences of the wrongful act of (Continued on attached pages)

causing plaintiff the following injury, damage or loss (13) Neither Inmate Health Services nor ODRC Medical Director will provide a copy of the incident report or the medical treatment report.
list each item separately

for a total claim of (14) \$ damages to be determined by this Court

The witnesses, if any, to the injury, damage or loss are (15) _____
fill in name and address

[(12) Continued]

mal-assigning Plaintiff to an upper bunk.

(5) The Defendant should and could have foreseen that harm of some kind would follow from the wrongful act. Plaintiff admits Defendant did not act criminally. Defendant's actions were contrary to ODRC rules and guidelines. The rules established by ODRC limiting inmates older than 70 years of age demonstrate Defendant did actually foresee the the accident that injured Plaintiff.

(6) Plaintiff's injuries flowed from Defendant's action naturally and proximately with no intervening factors to break the chain of causation.

(7) Defendant was negligent in their wrongful act breaching a legal duty to use due care.

(8) Defendant, who is de facto guardian of Plaintiff (an inmate), has a legal duty to use due care in bed assignments. Defendant was negligent in their failure to discharge this duty, assigning Plaintiff to an upper bunk. The result of this negligence was injury to the Plaintiff. Injury was caused in a legal sense by the Defendant's breach of duty. Plaintiff has clean hands.

(9) A reasonable prudent person would not have assigned an 81-year old man to an upper bunk.

(10) Defendant has refused to provide Plaintiff with medical records and incident reports related to this accident.

NOTE: Because the person or persons or computer or computer programmers responsible for assigning Plaintiff to an upper bunk was an is unknown, there was no individual against whom an informal complaint could be filed. In such situations, the incident report filled out and filed by the attending corrections officer combined with the appropriate IHS reports filed relating to the incident and injuries serve to fulfill any requirement to exhaust the inmate grievance procedure.

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(16) I (circle the appropriate word or phrase)/have do not have insurance coverage for the injury, damage or loss with the (17) _____

fill in company name and address and policy number

The policy has a (18) \$ _____ deductible provision. (19) I (circle the appropriate word or phrase)/have/have not/received insurance payment(s) in the amount of (20) \$ _____ as a result of the incident described above. (See instructions).

I ask the Court to grant a judgment in the amount stated in blank (14).

If the amount exceeds \$2,500.00 the Court may require that a civil rules complaint be filed.

Under the penalties of perjury and falsification, I state that I have read or had read to me the above complaint and that it is true. Further, I expressly waive, on behalf of myself and of any person who shall have any interest in this claim, all provisions of law forbidding any physician or other person who has heretofore attended or examined me, or who may hereafter attend or examine me from disclosing any knowledge or information which they thereby acquired.

(21) 
signature of plaintiff (see instructions)

BE SURE TO INCLUDE FILING FEE AND TO GIVE THE COURT WRITTEN NOTICE OF ADDRESS CHANGES
(See instructions)

NOTE: Plaintiff need not have an attorney. If plaintiff files the complaint without an attorney, plaintiff completes Blank (21). If plaintiff files through an attorney, plaintiff signs Blank (21) and the attorney signs Blank (22) and completes Blanks (23) through (25).

Pursuant to Civil Rule 11, I state I have read the above complaint; that to the best of my knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

(22) 
signature of plaintiff's attorney pro se

(23) P.O. Box 59
street address

(24) Nelsonville, OH 45764
city state zip

(25) N/A
telephone area code