

2015 DEC 30 AM 10:49

IN THE COURT OF CLAIMS OF OHIO

CHRISTOPHER BELL,

Plaintiffs,

vs.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant.

Case No. 2015-00287

Magistrate Robert Van Schoyck

**PRE-TRIAL STATEMENT OF PLAINTIFF CHRISTOPHER BELL**

This matter is set for Trial on February 11, 2016, at 10:00 a.m. at the Toledo Correctional Institution.

**I. STATEMENT OF THE FACTS:**

**First Cause of Action**

1.) At all times mentioned in this First Cause of Action, Plaintiff was an inmate incarcerated at the Richland Correctional Institution under the direct control of the Defendant, Ohio Department of Rehabilitation and Correction. Plaintiff is now incarcerated at the Toledo Correctional Institution.

2.) On or about the 12th day of May, 2014, Plaintiff held a bottom bunk and bottom range restriction issued by the medical department, but was placed in a top bunk assignment over his protest to correctional officers in the segregation unit. Plaintiff advised staff, including a captain and a correctional officer, that he had a bottom bunk/bottom range restriction at that time, but he was not moved to another bunk and as a result, Plaintiff fell from the top bunk, injuring his head, neck, knee, and back.

3.) On May 12, 2014, Plaintiff fell from the top bunk, injuring his back, neck, knee, and back, as a result of failing to honor the restriction after repeated notices of the restriction.

4.) Plaintiff, as a result of Defendant's negligence, received the injuries described herein which caused him severe pain, emotional distress, and anxiety, and required medical care now and in the future. Plaintiff's injuries are permanent and progressive in nature and that such injuries aggravated existing medical conditions.

**Second Cause of Action**

5.) At all times mentioned in this Second Cause of Action, Plaintiff was transferred to and was incarcerated in the Toledo Correctional Institution, in Toledo, Ohio, under the direct control and supervision of the Defendant Ohio Department of Rehabilitation and Correction, and incorporates paragraphs 1 through 4 of the First Cause of Action as if fully recopied herein.

6.) On July 1, 2014, Plaintiff held a bottom bunk/bottom range restriction, in effect on that day and in spite of Plaintiff pointing this restriction out to Defendants, he was housed on the second range. The Defendants ignored his restriction and placed him on the second range and Plaintiff fell trying to climb down the steps, injuring his head, neck, back, knee, and body. As a direct and proximate result of such negligence, Plaintiff fell as he went down the stairs, seriously injuring his head, neck, back, knee, and body.

7.) As a result of Defendant's negligence described herein, Plaintiff suffered the injuries described herein and such injuries resulted in medical care, extreme pain and emotional distress and are permanent and progressive in nature, as well as aggravating previous injuries, all of which will require further care and treatment, pain and emotional distress.

**Third Cause of Action**

8.) At all times mentioned in this, Plaintiff's Third Cause of Action, and on September 10, 2014, Plaintiff was incarcerated in the Toledo Correctional Institution, in

Toledo, Ohio, under the direct control and supervision of the Defendant Ohio Department of Rehabilitation and Correction, and incorporates paragraphs 1 through 4 of the First Cause of Action and paragraphs 5 through 7 of the Second Cause of Action as if fully recopied herein.

9.) On September 10, 2014, while incarcerated in the Toledo Correctional Institution, Plaintiff held a valid bottom bunk restriction and a bottom range restriction and when he was placed in cell H D 4 North 4, which is a top range cell assignment, even though he notified Defendants of his restriction, including the Medical Unit who assured him it would be taken care of. In spite of this assurance, Plaintiff was not moved to a bottom range nor was he provided with his life saving medications, including two inhalers, Albuterol and Qvar. Defendants brought Plaintiff out of his top range cell assignment without assistance, and his knee and back gave out while trying to climb down the stairs. Plaintiff fell all the way down the stairs, injuring his head, neck, arms, back, and legs, causing severe bleeding, possible concussion, severe pain, and emotional distress, all of which required medical care.

10.) As a result of Defendant's negligence described herein, such injuries resulted in medical care, extreme pain and emotional distress, and are permanent and progressive in nature, as well as aggravating previous injuries, all of which will require further care and treatment, pain and emotional distress.

**Fourth Cause of Action**

11.) At all times mentioned in this, Plaintiff's Fourth Cause of Action, and on September 23, 2014, Plaintiff was incarcerated in the Toledo Correctional Institution, in Toledo, Ohio, under the direct control and supervision of the Defendant Ohio Department of Rehabilitation and Correction, and incorporates paragraphs 1 through 4 of the First Cause of Action, paragraphs 5 through 7 of the Second Cause of Action, and paragraphs 8 through

10 of the Third Cause of Action, as if fully recopied herein.

12.) On September 23, 2014, while incarcerated in the Toledo Correctional Institution, Plaintiff held a valid bottom range restriction and when he was placed back in H D 4 North 4, on September 10, 2014, even after the September 10, 2014 hospitalization, and even though he notified Defendant of his restriction, including the Medical Unit and the Institutional Inspector, who assured Plaintiff it would be taken care of. In spite of their assurance, Plaintiff was not moved to a bottom range and as a result, while trying to climb down the stairs, his knee gave way and he fell down the stairs, seriously injuring his head, causing severe bleeding, possible concussion, and severe pain and emotional distress, all of which required medical care.

13.) Plaintiff, as a result of Defendant's negligence, received the injuries described herein which caused him severe pain, emotional distress, and anxiety, and required medical care now and in the future. Plaintiff's injuries are permanent and progressive in nature and that such injuries aggravated existing medical conditions.

**Fifth Cause of Action**

14.) At all times mentioned in this, Plaintiff's Fifth Cause of Action, and on September 24, 2014, Plaintiff was incarcerated in the Toledo Correctional Institution, in Toledo, Ohio, under the direct control and supervision of the Defendant Ohio Department of Rehabilitation and Correction, and incorporates paragraphs 1 through 4 of the First Cause of Action, paragraphs 5 through 7 of the Second Cause of Action, paragraphs 8 through 10 of the Third Cause of Action, and paragraphs 11 through 13 of the Fourth Cause of Action, as if fully recopied herein.

15.) On September 24, 2014, while incarcerated in the Toledo Correctional Institution, Plaintiff held a valid bottom bunk restriction and when he was placed in

A3/North Cell 21, he was assigned to a top bunk, even though he notified the Defendants of his restriction, including the Medical Unit who assured him it would be taken care of. In spite of this assurance, Plaintiff was not moved to a bottom bunk, and while trying to maneuver to and from the top bunk, his knee gave way and he fell, seriously injuring his head, causing severe bleeding, possible concussion, and severe pain and emotional distress, all of which required medical care.

15.) Plaintiff will continue to require medical treatment, suffering pain, anxiety and emotional distress, such injuries having aggravated previous injuries, all of which are permanent and progressive in nature.

## **II. ISSUES:**

- 1) Whether the Defendant owed a duty of care to Plaintiff;
- 2) Whether the Defendant breached its duty of care to the Plaintiff;
- 3) Whether the Defendant had prior notice of Plaintiff's history of disabilities;
- 4) Whether the Defendant is responsible for Plaintiff's care and treatment while housed in the institutions;
- 5) Whether the Defendant responded to Plaintiff's medical complaints;
- 6) Whether Defendant responded appropriately to Plaintiff's requests to be moved according to his medical conditions and orders;
- 7) What the reasons are for Defendant's staff to not follow the orders of the Medical Director and restrictions;
- 8) Whether Plaintiff was initially placed in a bottom bunk and range as a result of his pre-existing medical conditions;
- 9) Whether Defendant's medical staff was properly trained and licensed;
- 10) Whether the employees of Defendant acted with the knowledge that injury to

Plaintiff was either possible or likely;

11) Whether other employees of Defendant were made aware of the likelihood for injury to Plaintiff;

12) Whether Plaintiff's injuries were a direct result of being placed in the top bunk and/or top range; and

13) The severity and permanency of injuries suffered by Plaintiff due to the incident.

**III. EXHIBITS:**

A) Plaintiff's prison records and medical records;

B) Photographs of Plaintiff's injuries, if any;

C) All block logs, block post orders, institution records regarding Plaintiff's medical orders, correspondence, incident reports, any and all memorandum concerning the incident in question, kites sent by Plaintiff to the institution and all policy and procedure manuals;

D) All accident/incident reports pertaining to Plaintiff;

E) Interviews by medical staff;

F) Medical restrictions; and

G) All documents produced in discovery.

**IV. POTENTIAL WITNESSES:**

A) Christopher Bell, Plaintiff, Toledo Correctional Institution;

B) C.O. Andrew Shields, Toledo Correctional Institution;

C) C.O. Cody Wrightmier, Toledo Correctional Institution;

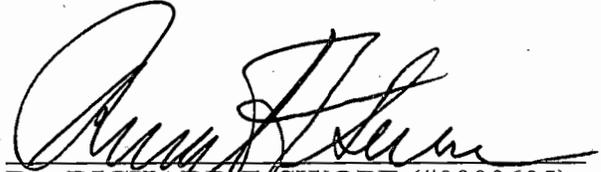
D) Captain Mark Green, Toledo Correctional Institution;

E) C.O. Herbert Brugh, Toledo Correctional Institution;

F) C.O. Ramon Hamilton, Toledo Correctional Institution;

- G) C.O. Kevin Scott, Toledo Correctional Institution;
- H) Lt. Copley; and
- I) All witnesses called by Defendant as upon cross-examination.

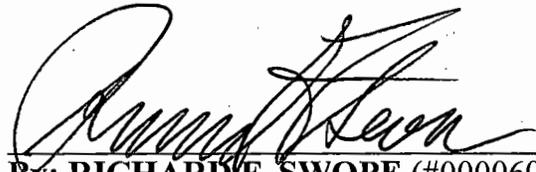
Plaintiff reserves the right to supplement the information provided in the Pre-Trial Statement.



By: **RICHARD F. SWOPE** (#0000605)  
Swope and Swope - Attorneys at Law  
6480 East Main Street, Suite 102  
Reynoldsburg, Ohio 43068  
Telephone: (614) 866-1492  
Telefax: (614) 864-5553  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Pretrial Statement was served upon Jeanna V. Jacobus and Stacy Hannan, Assistant Attorneys General, 150 East Gay Street, 18th Floor, Columbus, Ohio 43215-3130, by regular U.S. mail, postage prepaid, on the 28<sup>th</sup> day of December, 2015.



By: **RICHARD F. SWOPE** (#0000605)  
Swope and Swope - Attorneys at Law  
Attorneys for Plaintiff