

Court File No. **CV-19-00613384-0000**

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

GHULAM FAQIRI as Estate Trustee on behalf of the Estate of Soleiman Faqiri, Deceased,
GHULAM FAQIRI, MARYAM FAQIRI, YUSUF FAQIRI, SOHRAB FAQIRI, PELATIN
FAQIRI and ROUSTAM FAQIRI

Plaintiffs

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO (as represented by the
MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES
and THE SUPERINTENDENT OF CENTRAL EAST CORRECTIONAL
CENTRE) and ONTARIO CORRECTIONAL SERVICES EMPLOYEES JAMES
ARNETT, JOSEPH CLIFFORD, SALLY CROCKFORD, BRENT RODGERS,
DAN SAUNDERS, JOHN DOE AND JANE DOE

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date Jan. 28/2019 Issued by Ashley Muller
Local Registrar

Address of court office: Superior Court of Justice
393 University Avenue, 10th Floor
Toronto ON M5G 1E6

TO: HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
Ministry of Community Safety and Correctional Services
25 Grosvenor Street, 18th Floor
Toronto ON M7A 1Y6

AND TO: Ministry of the Attorney General
Crown Law Office (Civil Law)
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

AND TO: James Arnett
c/o Ministry of the Attorney General
Crown Law Office (Civil Law)
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

AND TO: Joseph Clifford
c/o Ministry of the Attorney General
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AND TO: Sally Crockford
c/o Ministry of the Attorney General
Crown Law Office (Civil Law)
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AND TO: Brent Rodgers
c/o Ministry of the Attorney General
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AND TO: Dan Saunders
c/o Ministry of the Attorney General
Crown Law Office (Civil Law)
McMurtry-Scott Building
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AND TO: John Doe and Jane Doe
c/o Ministry of the Attorney General
Crown Law Office (Civil Law)
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

CLAIM

1. The Plaintiff, the Estate of Soleiman Faqiri, claims:
 - (a) general damages in the amount of \$1,000,000.00;
 - (b) further and in the alternative, compensatory damages under s. 24(1) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”) for breaches of his rights under ss. 7, 11(d), 12 and 15 of the *Charter* in the amount of \$10,000,000.00;
 - (c) further and in the alternative, a declaration under s. 24(1) of the *Charter* that his rights under ss. 7, 11(d), 12 and 15 of the *Charter* were violated;
 - (d) special damages in an amount to be determined with particulars to be provided prior to trial;
 - (e) punitive damages in the amount of \$250,000.00;
 - (f) aggravated and exemplary damages in the amount of \$250,000.00;
 - (g) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (h) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (i) the costs of this proceeding, plus all applicable taxes; and
 - (j) Such further and other relief as this Honourable Court may deem just.

2. The Plaintiffs Ghulam Faqiri, Maryam Faqiri, Yusuf Faqiri, Sohrab Faqiri, Pelatin Faqiri and Roustam Faqiri, collectively the Faqiri Family, claim:

- (a) damages pursuant to the *Family Law Act*, R.S.O. 1990, c. F. 3 in the amount of \$1,800,000;
- (b) general damages in the amount of \$500,000.00;
- (c) special damages in an amount to be determined with particulars to be provided prior to trial;
- (d) punitive damages in the amount of \$250,000.00;
- (e) aggravated and exemplary damages in the amount of \$250,000.00;
- (f) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (g) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (h) the costs of this proceeding, plus all applicable taxes; and
- (i) Such further and other relief as this Honourable Court may deem just.

BACKGROUND

3. On December 15, 2016 Soleiman Faqiri [“**Soleiman**”] died while being held in segregation at the Central East Correctional Centre in Lindsay, Ontario [the “**Central East**”].

4. Soleiman was not serving a custodial sentence and he had not been convicted of any crimes.
5. Soleiman, who had a diagnosis of schizoaffective disorder, was being temporarily housed at the Central East awaiting a medical evaluation at Ontario Shores Centre for Mental Health Sciences [**“Ontario Shores”**].
6. Soleiman died while multiple Central East correctional officers beat him.
7. James Arnett, Joseph Clifford, Sally Crockford, Brent Rodgers and Dan Saunders are correctional officers employed at the Central East at the material time and involved in the events that led to Soleiman’s death. The names and precise roles of all of the men and women involved in Soleiman’s death are unknown and unconfirmed to the plaintiffs at this time.
8. The exact number of individuals involved in Soleiman’s death is not known at this time, but it may be as high as 20 men and women.
9. After Soleiman’s death at the hands of Central East correctional officers, a criminal investigation was launched by the Kawartha Lakes Police Service [**“KLPS”**].
10. On July 11, 2017, a post-mortem report was delivered to the Faqiri Family on behalf of the Office of the Chief Coroner of Ontario [the **“Coroner’s Office”**] and the Ontario Forensic Pathology Service [the **“post-mortem report”**].
11. The post-mortem report identified approximately fifty (50) recent impact injuries to Soleiman’s body. None of these injuries was related to life saving efforts.

12. These are injuries Soleiman sustained from the Central East correctional officers on the day of his death.

13. On or about October 30, 2017, the KLPS publicly announced that it had completed its criminal investigation and had identified no grounds to support any criminal charges in respect of Soleiman's death.

14. On November 3, 2017, within days of the KLPS closing its case, the Coroner's Office commenced a Coroner's investigation into Soleiman's death.

15. At or about the same time that the Coroner's Office began its investigation, the Ministry of Community Safety and Correctional Services [the "Ministry"] began an internal investigation into Soleiman's death by way of its Correctional Services Oversight and Investigations Unit ["CSOI"].

16. The CSOI completed its investigation in or around the summer of 2018 but no details have been provided to the plaintiffs or the public.

17. On August 2, 2018, the Peterborough Examiner reported that on July 24, 2018, one deputy, two captains and one officer employed at the Central East had been "fired" in connection with Soleiman's death. The same article also reported that several other Central East employees had received 20-day suspensions following an "internal investigation".

18. On November 12, 2018, the Office of the Chief Coroner confirmed to the Faqiri Family that, in the course of its investigation, new evidence had been identified which suggested possible criminality in respect of Soleiman's death.

19. The information identified in the Coroner's investigation had apparently eluded the KLPS.

20. The plaintiffs understand that the information that eluded the KLPS was, in fact, the evidence of an eyewitness to Soleiman's death whom the police neglected to interview despite being aware of him.

21. In or around November 2018, as a result of the initiative of the Coroner's Office, the criminal investigation into Soleiman's death was re-opened.

22. The Ontario Provincial Police ["OPP"] is now conducting the investigation into Soleiman's death. The KLPS is no longer involved in the investigation.

PARTIES

23. Soleiman was a resident of Ajax, Ontario. He was born in Kabul, Afghanistan on January 1, 1986 and immigrated to Canada in July 1993. Soleiman was raised in a close and loving family with four siblings in Ajax, Ontario. At the time of his death on December 15, 2016, he was thirty years old.

24. Ghulam Faqiri is the personal representative of Soleiman for the purposes of the *Trustee Act*, R.S.O. 1990, c. T.23. Ghulam Faqiri was appointed Estate Trustee Without a Will in Soleiman's estate pursuant to a Certificate of Appointment of Estate Trustee Without a Will issued by the Ontario Superior Court of Justice on June 16, 2017.

25. Ghulam Faqiri is the father of Soleiman Faqiri and a resident of Whitby, Ontario. Ghulam enjoyed a close and loving relationship with Soleiman.

26. Maryam Faqiri is the mother of Soleiman Faqiri and a resident of Whitby, Ontario. Maryam enjoyed a close and loving relationship with Soleiman.

27. Yusuf Faqiri is the elder brother of Soleiman Faqiri and a resident of Whitby, Ontario. Yusuf enjoyed a close and loving relationship with his brother, Soleiman.

28. Sohrab Faqiri is the younger brother of Soleiman Faqiri and a resident of Whitby, Ontario. Sohrab enjoyed a close and loving relationship with his brother, Soleiman.

29. Pelatin Faqiri is the younger sister of Soleiman Faqiri, and a resident of Pickering, Ontario. Pelatin enjoyed a close and loving relationship with her brother, Soleiman.

30. Roustam Faqiri is the younger brother of Soleiman Faqiri and a resident of Whitby, Ontario. Roustam enjoyed a close and loving relationship with his brother, Soleiman.

31. The defendant, Her Majesty the Queen in right of Ontario, is the entity against which proceedings against the Crown in right of the Province of Ontario shall be brought, pursuant to section 9 of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27.

32. The Ministry of Community Safety and Correctional Services (Ontario), is responsible for supervision of the detention and release of inmates as well as establishing, maintaining and operating correctional institutions and providing programs and facilities designed to assist in the rehabilitation of inmates pursuant to section 5 of the *Ministry of Correctional Services Act*, R. S. O. 1990, c. M.22 [the "*Act*"].

33. The Superintendent of the Central East was, at all material times, responsible for the administration of the Central East including receiving persons into the institution as well as the custody and supervision of each person while in custody. The Superintendent of the Central East is designated by the Minister pursuant to section 20(1) of the *Act*, and as such was a servant of the Crown at all material times.

34. At this time, the plaintiffs are not yet aware of the identities of all of the correctional officers involved in these events. However, it is understood that all correctional officers who encountered Soleiman at the Central East were, at all material times, employees of the Central East and as such were servants of the Crown. The identities of the exact correctional officers involved are uniquely within the knowledge of the defendants. The correctional officers who were in fact involved in Soleiman's death have direct knowledge of the events leading to Soleiman's death.

35. Her Majesty the Queen in right of Ontario is vicariously liable and responsible under section 5 of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27 for all such acts, omissions and breaches of rights as alleged herein, including the acts and omissions of the Superintendent of the Central East and the individual correctional officers involved in the events leading to Soleiman's death.

FACTS

36. On December 4, 2016, Soleiman was apprehended by the Durham Regional Police Service while undergoing a schizophrenic episode. He was held that night at the Durham police station.

37. On December 5, 2016, Soleiman was brought before a Justice of the Peace for a bail hearing at the Ontario Court of Justice in Oshawa. He was remanded to the Central East that same day.

38. On December 6, 2016, Soleiman was placed in a segregation unit, Range 2, within the Central East.

39. On December 6, 2016, Soleiman was brought before a Justice of the Peace for a further bail hearing. His matter was put over to December 9, 2016.

40. On December 9, 2016, Soleiman was unable to participate in the return of his matter due to his deteriorating mental state in the Central East.

41. From on or about December 6 to December 12, 2016, various members of the Faqiri Family attended at, and communicated with, employees at the Central East urging staff to be mindful of Soleiman's medical needs as someone who suffers from schizoaffective disorder. In an effort to ensure that Central East staff was aware of and understood Soleiman's illness, members of the Faqiri Family brought Soleiman's medical and prescription history to the attention of Central East staff.

42. On December 12, 2016, Soleiman appeared via video link for a further bail hearing. Upon hearing from medical staff at the Central East and Soleiman's brother, Yusuf Faqiri, the presiding Justice of the Peace ordered that Soleiman be remanded for a medical evaluation at Ontario Shores.

43. Soleiman was never transferred to Ontario Shores. He was returned to his segregation cell in the Central East.

44. On December 15, 2016, correctional officers removed Soleiman from his cell on Range 2 in order to transfer him to Range 8. Soleiman was permitted to shower in the course of this transfer.

45. At approximately 3:00 p.m. on December 15, 2016, Soleiman was in the course of being peacefully transferred by approximately six (6) Central East correctional officers.

46. As Soleiman approached his new cell on Range 8, the guards began to apply force to him.

47. It is unclear what transpired to trigger the use of force.
48. It is anticipated that at least one witness will testify that a guard whispered something in Soleiman's ear which caused him to become tense.
49. During the transfer, one or more of the correctional officers accompanying Soleiman struck him and sprayed pepper-spray directly in his face.
50. At the time the correctional officers pepper-sprayed him, Soleiman was handcuffed and defenceless.
51. The correctional officers directed Soleiman into his new cell on Range 8, whereupon they repeatedly hit, kicked, punched, and stomped on Soleiman. They also pepper-sprayed him at least one more time directly in the face and mouth.
52. After pepper-spraying him a second time, the correctional officers placed a "spit hood" over his head, thereby ensuring that the pepper spray could not be cleared from Soleiman's eyes, nose, and airway.
53. During the beating, the guards restrained Soleiman's legs.
54. At some point during the beating in the cell, correctional officers bashed Soleiman's head against the frame of the bed in the cell causing a laceration to his forehead. It is unclear if this occurred before or after they put the spit hood on him.
55. Throughout the attack, Central East correctional officers repeatedly kicked and struck Soleiman while he was restrained and lying face down on the floor of the cell.

56. While Soleiman was prone on the ground, restrained at both the ankles and the wrists, and struggling to breathe because of the pepper spray, one of the correctional officers, whose name and rank are unknown at this time, positioned himself with his knee pressing down on the back of Soleiman's neck.

57. At or very soon thereafter, Soleiman stopped moving, stopped breathing, and became vital signs absent. Soleiman never woke up again.

58. At some point after Soleiman had stopped breathing and had become vital signs absent, an unknown correctional officer called a "Code Blue", leading to numerous additional officers arriving at the cell within a short period of time. The identities of all of these witness officers are unknown and unconfirmed at this time.

59. All events occurring outside of the cell have been captured on the Central East's surveillance video system. The video has never been released publicly.

60. Soleiman was pronounced dead in the cell by 3:45 p.m. on December 15, 2016.

61. The results of the post-mortem report were finalized on June 15, 2017 and delivered to the Faqiri Family approximately one month later.

62. The post-mortem report shows that Soleiman received numerous injuries, including a bruised laceration on his forehead, and several internal and external bruises including internal bruises of the upper and lower extremities, posterior shoulders, posterior head and neck and left back.

63. The post-mortem report shows that Soleiman suffered hemorrhages of the lower strap muscles of the neck, numerous abrasions on the body and ligature marks around the ankles and wrists.

64. The post-mortem report indicates that the above injuries were caused by blunt impact trauma.

65. The post-mortem report states that Soleiman was involved in a physical struggle with probable emotional agitation and pain prior to his death.

66. Neither the forensic pathologist who performed the autopsy on Soleiman's body nor the investigating Coroner who prepared the post-mortem report were advised that a correctional officer had placed his knee on the back of Soleiman's neck in the moments before he stopped breathing.

67. This information is understood to have eluded the KLPS because the investigating detectives failed to interview a key eyewitness.

68. Despite not knowing this information, the possibility of an asphyxia mechanism of death was not excluded from the post-mortem report.

69. On October 30, 2017, KLPS announced that its investigation into Soleiman's death was complete and that there were no grounds to lay criminal charges against anyone who was involved with Soleiman prior to his death.

70. The KLPS refused requests from the plaintiffs for an explanation of what its investigation had found or failed to find.

71. Approximately one year later, in or around October 2018, the Faqiri Family learned that the KLPS closed its investigation despite knowing that a key eyewitness had not yet had an opportunity to provide a statement.

72. The same witness is anticipated to testify that he saw the correctional officer kneel on the back of Soleiman's neck.

73. The CSOI began its investigation after the KLPS concluded its investigation. The exact date has not been confirmed to the plaintiffs or the public.

74. It is unknown if the eyewitness whom the KLPS ignored was given an opportunity to provide a statement to the CSOI.

75. Although the findings of the CSOI are unknown to both the plaintiffs and the public, in August 2018, the Peterborough Examiner reported that a deputy, two captains and one officer at the Central East had been fired and several other Central East employees had received 20-day suspensions following an internal investigation into Soleiman's death.

76. The substance and findings of any and all internal investigations remain solely within the knowledge of the defendants and the Ministry via the CSOI.

LIABILITY

Breaches of Soleiman's *Charter* Rights

77. The actions of the defendants as particularized herein breached Soleiman's rights under ss. 7, 11(d), 12 and 15 of the *Charter*.

78. The actions of the defendants particularized above, and in particular, the inappropriate use of segregation as a means of managing Soleiman's mental illness and the excessive use of force that ultimately caused Soleiman's death caused or constituted violations of Soleiman's rights under s. 7 of the *Charter* not to be deprived of life, liberty and security of the person except in accordance with the principles of fundamental justice.

79. Those actions also deprived Soleiman of his right to a fair trial protected under ss. 7 and 11(d) of the *Charter*.

80. The correctional officers' use of excessive force, which ultimately caused Soleiman's death, also violated Soleiman's rights under s. 12 of the *Charter* not to be subjected to any cruel or unusual treatment or punishment.

81. As an individual with a serious mental illness, Soleiman was subjected to differential treatment at the Central East that negatively impacted his mental health and contributed to his death, violating his rights under s. 15(1) of the *Charter* to the equal protection and benefit of the law without discrimination based on mental disability.

82. The use of segregation in Soleiman's case was an arbitrary deprivation of his residual liberty interests without lawful justification. The conduct of the Crown that exacerbated Soleiman's mental illness and the actions of the Crown servants who ultimately caused Soleiman's death would shock the conscience of the community and outrage standards of decency.

83. These wrongful actions of the defendants in breach of the *Charter* were not prescribed by any law.

84. As a foreseeable result of the defendants' breaches of Soleiman's *Charter* rights, the plaintiffs have suffered damages, as further particularized below.

Battery

85. The correctional officers who escorted Soleiman to his cell and proceeded to subject him to a physical attack far exceeded the scope of force that they were permitted to use in the course of their duties as correctional officers.

86. Although the identities of the correctional officers who applied force to Soleiman are not yet known, there is no dispute that a number of correctional officer defendants made direct physical contact with Soleiman on December 15, 2016.

87. Evidence of the excessive amount of force used is reflected in, *inter alia*, the findings of the post-mortem report.

88. The amount of force used against Soleiman exceeded the force necessary in the circumstances and was beyond contact required in the circumstances to subdue or restrain Soleiman.

89. The force used against Soleiman amounted to intentional infliction of physical harm.

90. The actions of the correctional officers were demeaning and caused extensive physical harm, pain and suffering to Soleiman, as set out in the facts above and as confirmed in the post-mortem report.

91. The defendants used unreasonable and excessive force against Soleiman that was beyond the scope of force permitted by statute. The excessive nature of the force used by the defendants is

evidenced by the nature and extent of the injuries suffered by Soleiman and the ultimate result of his death.

Negligence

92. The defendants owed a duty of care to all of the plaintiffs to take reasonable care with respect to Soleiman's health and safety while he was in the Central East.

93. Soleiman's death was caused by the actions and inactions of the defendants.

94. The plaintiffs plead that Soleiman's mental illness was exacerbated as a result of the defendants' negligent actions towards him throughout his incarceration.

95. Soleiman's ultimate death was directly related to the negligent actions of the defendants who used excessive and inappropriate force against him.

96. Soleiman's death was a consequence that the defendants knew or ought to have known would occur as a result of their negligent conduct towards him.

97. The defendants were aware that Soleiman's circumstances were not responsive to his mental health needs and failed to meet their duty of care in respect of his health and safety while in custody.

98. Instead of being attentive to Soleiman's mental health needs while incarcerated, the defendants knowingly or recklessly exacerbated his mental illness which the defendants knew or ought to have known would increase the likelihood of harm.

99. The defendants' negligence both created circumstances in which a use of force was more likely to occur and ultimately caused Soleiman's death as a result of the use of force that did occur.

100. The defendants' negligent conduct towards Soleiman includes *inter alia*:

- (a) failing to effectively provide opportunities for mental health treatment and assessment;
- (b) failing to effectively seek alternatives to segregation;
- (c) failing to transfer Soleiman to a mental health facility; and
- (d) acting with reckless disregard for Soleiman's life by using excessive force against him that ultimately resulted in his death.

Abuse of Public Office

101. The Superintendent of the Central East and the individual correctional officers involved in the events leading to Soleiman's death are all holders of public office who exercised power over Soleiman as public officers.

102. As set out above, these individuals knowingly and deliberately breached their legal obligations towards Soleiman.

103. These Crown servants engaged in deliberate and unlawful conduct in their capacity as public officers by:

- (a) failing to provide access to proper treatment for mental illness;
- (b) using administrative segregation improperly to manage mental illness; and
- (c) using excessive force beyond any force necessary in the circumstances.

104. The plaintiffs plead that the Crown servants were aware or recklessly indifferent to the fact that their actions were likely to injure the plaintiffs and that, by improperly exercising their power over Soleiman, did in fact cause damage to all of the plaintiffs.

False Imprisonment

105. The plaintiffs plead that Soleiman's confinement in administrative segregation without appropriate justification constituted false imprisonment.

106. At the time of his death, Faqiri had not been convicted of any crime. He had evident mental health issues and should not have been placed in administrative segregation as a method of managing his illness.

107. Rather than prioritizing his access to appropriate mental health facilities, the defendants chose to manage his illness by isolating him in segregation – a practice that is and was at the time known to the defendants to exacerbate mental illness.

108. The plaintiffs plead that this oppressive and arbitrary action by servants of the Crown justifies a finding of liability against the defendants.

Breach of Fiduciary Duty

109. The defendants owed a fiduciary duty to Soleiman to ensure his health and safety while in the custody of the Ontario Correctional Services ["OCS"].

110. While in the custody of the OCS, the defendants were in a position to unilaterally exercise power over Soleiman.

111. By virtue of their position of control, the defendants were in a position to control Soleiman's access to mental health services.

112. The defendants accordingly owed a duty to Soleiman to appropriately attend to his mental health needs while in custody and to ensure that his placement and continued housing in segregation was in compliance with the law.

113. The defendants breached the fiduciary duties owed to Soleiman throughout his incarceration at the Central East.

114. This breach directly caused damage to the plaintiffs.

115. The plaintiffs plead that the defendants breached the fiduciary duties owed to Soleiman by:

- (a) failing to attend to his mental health needs;
- (b) placing him in segregation;
- (c) failing to effectively pursue alternatives to segregation;
- (d) failing to provide appropriate access to mental health treatment; and
- (e) physically assaulting Soleiman and ultimately causing his death.

Intentional infliction of mental suffering and psychiatric damage

116. The flagrant and egregious actions of the defendants in their treatment of Soleiman caused Soleiman significant mental distress and resulted in the exacerbation of his mental illness while incarcerated.

117. The defendants' actions, including placing Soleiman in segregation and providing insufficient access to treatment, were even more egregious as the defendants held a special position of authority over Soleiman and were responsible for his health and safety while held in the Central East.

118. The defendants were also aware that their reprehensible conduct towards Faqiri was likely to cause harm and anguish to the Faqiri Family.

Damages

119. The Faqiri Family plaintiffs plead and rely upon the relevant portions of the *Family Law Act*, R.S.O. 1990, c. F.3.

120. Each of the Faqiri Family member plaintiffs enjoyed a close and loving relationship with Soleiman during his lifetime and has suffered the loss of his guidance, care and companionship as a result of his death. The family members have also suffered specific pecuniary losses as a result of Soleiman's death, including, without limitation, in relation to his funeral expenses and legal expenses incurred making applications to access information relating to Soleiman's death.

121. The Faqiri Family plaintiffs have suffered and continue to suffer physical and psychological impacts as a direct result of the defendants' conduct, the full particulars of which will be provided prior to trial.

122. The damages suffered by the plaintiffs are all a reasonably foreseeable result of the actions of the defendants and the defendants knew or ought to have known that these damages would result from their wrongful conduct.

123. The plaintiffs plead that the conduct of the plaintiffs described in this claim is high-handed and shocking and the plaintiffs are thereby entitled to aggravated and/or punitive damages.

124. Damages are necessary to vindicate and compensate the plaintiffs' *Charter* rights and to deter the wrongful conduct of the defendants.

125. The plaintiffs plead and rely upon the provisions of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27, and the amendments thereto.

126. The plaintiffs plead and rely upon the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and the amendments thereto.

127. The plaintiffs plead and rely upon the provisions of the *Family Law Act*, R.S.O. 1990, c. F. 3, and the amendments thereto.

128. The plaintiffs plead and rely upon the provisions of the *Ministry of Correctional Services Act*, R. S. O. 1990, c. M.22, and the amendments thereto.

129. The plaintiffs plead and rely upon the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, c 11.

130. The plaintiffs propose that this action be tried in Toronto.

January 28, 2019

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GHULAM FAQIRI et al.

and HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO et al.

Plaintiffs

Defendants

Court File No.

Cv-19-00613 384-0050

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

STATEMENT OF CLAIM

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