

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

Case No.:

ALFREDA GUNN,

Plaintiff,

v.

MARK S. INCH, Secretary of the Florida
Department of Corrections in his official
capacity,

Defendants.

COMPLAINT FOR DAMAGES

(Jury Trial Demanded)

Plaintiff, ALFREDA GUNN, sues Defendant, MARK S. INCH, Secretary of the Florida Department of Corrections in his official capacity, demands trial by jury, and alleges:

JURISDICITON AND VENUE

1. This is an action for damages arising under *Fla. Stat.* § 768.28 alleging breach of a duty to protect the Plaintiff, a Florida state incarcerated prisoner. The Plaintiff seeks damages in excess of \$15,000 exclusive of interest and costs.
2. Pursuant to *Fla. Stat.* § 47.011, Marion County, Florida is the proper venue for this action, as it is where the actions accrued.

PARTIES

3. The Plaintiff, AFREDA GUNN, is an adult woman currently incarcerated by the Florida Department of Corrections at the Florida Women's Reception Center in Ocala, Florida, and is otherwise *sui juris*.

4. Defendant, MARK S. INCH, is the current Secretary of the Florida Department of Correction, a governmental subdivision of the State of Florida. MARK S. INCH is sued here in his official capacity and shall hereinafter be referred to as the “DOC”.

5. At all times material hereto, the DOC had a duty to protect the persons incarcerated within its prisons and jails from danger, including poisoning.

SATISFACTION OF CONDITIONS PRECEDENT

6. On March 19, 2020, notice of Plaintiff’s claim as stated herein was provided to Defendant INCH, as well as the Florida Department of Financial Services and the Clerk of the DOC, pursuant to § 768.28(6)(a) (attached hereto as **Exhibit A**).

GENERAL ALLEGATIONS

7. On January 24, 2020, the Plaintiff was a prisoner at the Lowell Correctional Institution (“Lowell CI”) in Ocala, Florida. Lowell CI is a prison within the Defendant DOC’S network of state prisons.

8. On January 24, 2020, the Plaintiff was being housed in a prison cell in the Tango Unit dorm at Lowell CI. Tango is separated into four quads.

9. At all times material hereto, the quad section of Tango Unit where the Plaintiff was assigned was under the direct supervision of Corrections Officer (“C/O”) L. Jamian.

10. On or about January 24, 2020, C/O Qualessa Williams became involved in a heated verbal dispute with the Plaintiff. At the conclusion of the argument, several correctional officers, including Sergeant (f/n/u) Louise, heard C/O Williams tell the Plaintiff, “I got something for you,” which meant some sort of retaliation. Sergeant Louise did nothing to intervene and nothing to calm C/O Williams down or correct her threatening behavior.

11. At approximately 5:15 a.m., food trays were taken to Tango Unit to be fed to the prisoners in their cells. C/O Jamian watched as C/O Williams approached the food trays and saw C/O Williams spray chlorine bleach into a drinking cup and onto the food tray. C/O Jamian did not question C/O Williams why she would be poisoning an inmate's food tray, nor did C/O Williams make any effort intervene.

12. At the time, C/O Williams was not assigned to supervise or participate in feeding the Plaintiff's quad and had no official purpose in the area.

13. Nonetheless, C/O Jamian continued to watch as C/O Williams positioned the cart carrying the food trays in front of the Plaintiff's cell in a suspicious and non-routine manner and then served the poisoned drinking cup and tray of food to the Plaintiff.

14. After receiving the tray, Plaintiff took a sip from the drinking cup before she was able to determine that her drink and food smelled like bleach.

15. Plaintiff immediately accused C/O Williams of having tried to poison her. C/O Williams remained watching for several moments and then walked away.

16. After realizing that she had ingested bleach and that C/O Williams would not render aid, Plaintiff called out to C/O Jamian, telling her what had occurred. In response, C/O Jamian told her she could not help unless it was "life or death" because shift-change was approaching. The next shift change was due to occur more than an hour later and a half later.

17. C/O Jamian did notify a supervisor; however, and an investigation ensued immediately.

18. Despite the Plaintiff informing DOC staff, including command staff, that her tongue was burning, no effort was made to provide immediate medical attention. Plaintiff was seen first by a nurse when she was transferred to another prison facility nearby.

19. At all times material hereto, C/O Jamian, Sgt. Louise, and other as yet unknown DOC correctional officers and/or staff at Lowell C.I., as the Plaintiff's jailers, had a duty to protect her from harm, and render medical aid, if necessary.

20. At all times material hereto, C/O Jamian, Sgt. Louise, and other as yet unknown DOC correctional officers and/or staff knew or should have known that C/O Williams intended to harm the Plaintiff, including but not limited to, poisoning her with a toxic chemical.

21. On or about January 24, 2020, C/O Jamian, Sgt. Louise, and other as yet unknown DOC correctional officers and/or staff breached the duty of care owed to the Plaintiff by failing to take reasonable and available efforts to prevent C/O Williams from harming the Plaintiff.

22. On or about January 24, 2020, C/O Jamian, Sgt. Louise, and other as yet unknown DOC correctional officers and/or staff breached the duty of care owed to the Plaintiff by failing to take reasonable and available efforts to prevent C/O Williams from harming the Plaintiff.

23. On or about January 24, 2020, C/O Jamian, Sgt. Louise, and other as yet unknown DOC correctional officers and/or staff breached the duty of care owed to the Plaintiff by failing to provide immediate medical care to the Plaintiff.

24. After the incident, Plaintiff asked to be allowed to call an abuse hotline and/or her family but was refused the opportunity by DOC staff.

25. As a direct and proximate result of DOC correctional officers and/or staff's breach of duty, the Plaintiff was poisoned by ingesting bleach, causing physical and emotional injury, including but not limited to, burns inside her mouth, scarring, inability to eat, fright, anxiety, pain and emotional suffering.

26. After Plaintiff was transferred to the Florida Women's Reception Center, she was threatened with retaliation by staff for having reported the incident leading to C/O Williams' arrest

and prosecution by the Marion County State Attorney's Office, causing her even more fear, anxiety, and emotional suffering.

27. Pursuant to Fla. Stat. § 768.28, the State of Florida and its agencies, such as its Department of Corrections, are liable for the negligent and wrongful acts and omissions of its employees while acting within the course and scope of their employment.

28. At all times material hereto, the DOC correctional officers and/or staff whose acts or omissions which resulted in the Plaintiff's injuries, were acting in the course and scope of their employment.

WHEREFORE, the Plaintiff, ALFREDA GUNN, demands judgment against Defendant, MARK S. INCH, Secretary of the Florida Department of Corrections in his official capacity, for all damages recoverable under Florida Law, and all other relief deemed just and right.

DEMAND FOR JURY TRIAL

As to each count and claim herein, which is so triable, the Plaintiff, ALFREDA GUNN, seeks trial by jury.

Respectfully submitted this 15th day of October 2020.

/s/ David A. Frankel
DAVID A. FRANKEL
Law Offices of David A. Frankel, P.A.
Attorneys for Plaintiff
4601 Sheridan Street, Suite 213
Hollywood, FL 33021
(954) 683-0300
David@BlueLotusLaw.com
eService@BlueLotusLaw.com
Paralegal@BlueLotusLaw.com
FLA. BAR NO. 741779

Case No. _____

UNOFFICIAL
DOCUMENT

EXHIBIT A

LAW OFFICES OF
DAVID A. FRANKEL

4601 SHERIDAN STREET, SUITE 213
HOLLYWOOD, FLORIDA 33021.

TELEPHONE: 954-683-0300
DAVID@BLUELOTUSLAW.COM

**** THIS CORRESPONDENCE IS SENT PURSUANT TO § 768.28(6)(a), FLA. STAT. ****
CERTIFIED/RETURN RECEIPT REQUESTED

March 19, 2020

Mark S. Inch
Secretary
State of Florida, Department of Corrections
501 South Calhoun Street
Tallahassee, FL 32399-2500

Agency Clerk
State of Florida, Dept. of Corrections
501 South Calhoun Street
Tallahassee, FL 32399-2500

Florida, Dept. of Financial Services
Division of Risk Management
200 East Gaines Street
Tallahassee, FL 32399-0336

Re: Our client: Alfreda J. Gunn
Date/Incident: January 24, 2020

To Whom It May Concern:

Please be advised that this the undersigned represents the above-named claimant for injuries and damages arising out of an incident that occurred on January 24, 2020.

This correspondence will serve as notice pursuant to the requirements of § 768.28(6)(a), Fla. Stat. for violation of Alfred J. Gunn's federally protected constitutional rights, as well as additional tort claims, including negligent supervision and retention for failure to protect Alfreda J. Gunn and failure to intervene.

The undisputed facts are that on or about January 24, 2020, Alfreda J. Gunn was incarcerated at a State of Florida, Department of Corrections ("DOC") facility; specifically, Lowell Correctional Institution, located at 11120 N.W. Gainesville Road, Ocala, Marion County, Florida. On January 24, 2020, Correctional Officer Qualesha Williams contaminated a food tray with a chemical compound -- namely, bleach -- before serving it to Alfreda J. Gunn. This insult upon Alfreda J. Gunn was supported and permitted by the DOC directly because the DOC and its administrators knew or should have known of its existence but failed to take appropriate measures to protect Ms. Gunn from the insult. The DOC also failed to intervene into the situation. Thus, the DOC and its administrators were recklessly indifferent to the misconduct and constituted a state-created danger, resulting in violations of rights.

March 19, 2020
Page Two

Because of the foregoing, we are hereby making a claim against the Florida, Department of Corrections for payment of all damages sustained by our client, including punitive damages, and attorney's fees. If you believe that the State of Florida, Department of Corrections does not have tort responsibility in the above-captioned incident, please advise the undersigned immediately in the form of a written denial. Otherwise, we shall expect the State of Florida, Department of Corrections to promptly begin good faith negotiations for the fair settlement of this claim. The Claimant, through the undersigned attorney, maintains copies of reports and documents which support Claimant's allegations. Further, such materials can be made available upon request to assist you in evaluating this claim.

Pursuant to § 768.28(6)(a), please see the following:

- a. Claimant: Alfreda J. Gunn.
- b. Date of Birth: 04/29/1994.
- c. Social Security Number: [REDACTED]
- d. Place of Birth: Tallahassee, Florida.

There does exist adjudicated penalties (no fines, fees, Victim Restitution Fund, and other judgments) in excess of \$200.00 owed by the Claimant to the State, its agencies, officers, or subdivisions.

If we have failed to comply with § 768.28(6)(a), Fla. Stat. in any manner whatsoever, please advise accordingly by return mail specifying how we have failed.

Govern yourselves accordingly.

Very truly yours,

LAW OFFICES OF DAVID A. FRANKEL, P.A.

/s/ David A. Frankel

David A. Frankel

DAF:lls

Gun

PS Form 3800, April 2015 PSN 750-0-000-9047 See Reverse for Instructions

City, State, ZIP+4[®]

Street and Apt. No., or PO Box No.

Sent to Dept. of Fin. Svcs

Total Postage and Fees 6.90

Postage

Postmark Here

Certified Mail Fee

Extra Services & Fees (check box, add fees as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

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Total Postage and Fees 6.90

PS Form 3800, April 2015 PSN 750-0-000-9047 See Reverse for Instructions

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PS Form 3800, April 2015 PSN 750-0-000-9047 See Reverse for Instructions

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Street and Apt. No., or PO Box No.

Sent to Agency Clerk, DOC

Total Postage and Fees 6.90

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Return Receipt (hardcopy) \$

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PS Form 3800, April 2015 PSN 750-0-000-9047 See Reverse for Instructions

City, State, ZIP+4[®]

Street and Apt. No., or PO Box No.

Sent to Mark Inch, Secy, DOC

Total Postage and Fees 6.90

Postage

Postmark Here

Certified Mail Fee

Extra Services & Fees (check box, add fees as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

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Postage \$

Total Postage and Fees 6.90

PS Form 3800, April 2015 PSN 750-0-000-9047 See Reverse for Instructions

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USPS
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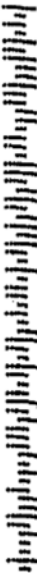


9590 9403 0907 5223 7137 76

United States
Postal Service

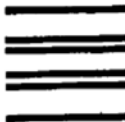
• Sender: Please print your name, address, and ZIP+4® in this box®

David A. Frankel, Esq.
4601 Sheridan St., #213
Hollywood, FL 33021



Gunn

First-Class Mail
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USPS TRACKING#

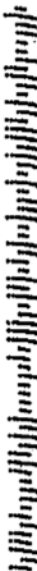


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Gunn

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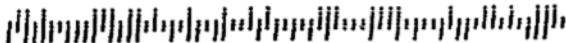
9590 9403 0907 5223 7137 52

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Hollywood, FL 33021

Gunn



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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Agency Clerk
State of Fla., Dept. of
Corrections
501 S. Calhoun St.
Tallahassee, FL 32399

9590 9403 0907 5223 7137 69

2. Article Number (Transfer from service label)

7018 0680 0000 0037 3416

PS Form 3811, July 2015 PSN 7530-02-000-9053

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Mark S. Inch, Sec'y
State of Fla., Dept.
of Corrections
501 S. Calhoun St.
Tallahassee, FL 32399

9590 9403 0907 5223 7137 76

2. Article Number (Transfer from service label)

7018 0680 0000 0037 3423

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent Addressee
- B. Received by (Printed Name) Agent Addressee
- C. Date of Delivery
- D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: Yes No

MAR 25 AM 11:45
CENTRAL OFFICE

- 3. Service Type
 - Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent Addressee
- B. Received by (Printed Name) Agent Addressee
- C. Date of Delivery
- D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: Yes No

MAR 25 AM 11:45
CENTRAL OFFICE

- 3. Service Type
 - Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent Addressee
- B. Received by (Printed Name) Agent Addressee
- C. Date of Delivery
- D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: Yes No

Received by: Sarah Blocker
DEPT OF CORRECTIONS

- 3. Service Type
 - Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Fla. Dept. of Fin'l Svcs
Div. of Risk Mgt.
200 E. Gaines St.
Tallahassee, FL 32399



9590 9403 0907 5223 7137 52

2. Article Number (Transfer from service label)

7018 0680 0000 0037 3409

PS Form 3811, July 2015 PSN 7530-02-000-9053