

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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NICOLE JOHNS, individually and as Trustee for the  
Next-of-Kin of JOSEPH FAIRBANKS, JR., Deceased,  
Plaintiff,

Case No.: \_\_\_\_\_

v.

**COMPLAINT**

UNITED STATES OF AMERICA, UNITED STATES  
DEPARTMENT OF INTERIOR, INDIAN BUREAU  
OF AFFAIRS, BRENT PEMBERTON, JR.,  
DELWYN ENGLISH, JOSHUA GUTIERREZ, BRYANT SIEKAS,  
ANTHONY BEAULIEU, TYLER NEADEAU, SIERRAJEN ESSERT,  
JON SCHOENBORN, JIMMY FINEDAY, WILLIAM STRONG,  
BRADLEY BARRETT, CHARLES MARTIN, JUSTICE  
DESJARLAIT, DANELLE NELSON, DORIAN PRENTICE, and  
JOHN DOES 1-5,

Defendants.

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Plaintiff alleges as follows:

**I. PARTIES**

1. Plaintiff, NICOLE JOHNS, ("Plaintiff") is the mother of the deceased, Joseph Fairbanks, Jr. ("Mr. Fairbanks"), and brings this action individually and as trustee for the next-of-kin of Mr. Fairbanks, who died while in custody at the Red Lake Detention Center, a facility operated by the Red Lake Nation but under the jurisdiction and operational oversight of the Bureau of Indian Affairs, an agency of the United States of America. Plaintiff was appointed as trustee over this action by the Ninth Judicial District Court on November 9, 2022. Plaintiff is a resident of Red Lake County, MN.

2. At all times pertinent hereto, the Defendant, the UNITED STATES OF AMERICA, through its employees and agents at the Bureau of Indian Affairs, was responsible for the operation of the Red Lake Detention Center and the welfare of its detainees, including Mr. Fairbanks.
3. Red Lake Nation is a federally recognized Indian tribe with a government-to-government relationship with the United States.
4. Red Lake Detention Center is regulated by the Bureau of Indian Affairs which governs the day-to-day operations of the facility. The facility is subject to federal laws and mandates.
5. Defendants Brent Pemberton, Jr., Delwyn English, Joshua Gutierrez, Bryant Siekas, Anthony Beaulieu, Tyler Neadeau, Sierrajen Essert, Jon Schoenborn, Jimmy Fineday, William Strong, Bradley Barrett, Charles Martin, Justice Desjarlait, Danelle Nelson, Dorian Prentice, and John Does 1-5 were correctional officers, supervising correctional officers, and/or staff at Red Lake Detention Center during the time of the incident which is the subject matter of this lawsuit. The individual Defendants' deliberate indifference and negligence to Mr. Fairbanks' obvious and serious medical needs resulted in his death. Plaintiff is suing all of the named individual Defendants in their individual capacities.
6. The true names and capacities, whether individual, corporate, associate, or otherwise of DOES 1-5, inclusive are unknown to Plaintiff, who therefore sues the DOE defendants by fictitious names. These Defendants may have caused

damage to Plaintiff by their own tortious conduct, including acts or failures to act in concert with other Defendants, or vicariously. Plaintiff will amend her complaint to show their true names and capacities when they have been ascertained.

7. The Bureau of Indian Affairs operates agencies which provide law enforcement services in Indian country.
8. The Bureau of Indian Affairs is an agency of the federal government of the United States within the Department of Interior.
9. At such time and place the individual Defendants were acting within the scope of their employment under the authority of an agency of the United States of America.

## **II. JURISDICTION AND VENUE**

10. This Court has jurisdiction over this cause of action pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from conduct of federal government agents and Plaintiff has exhausted administrative remedies.
11. Plaintiff filed Federal Tort Claim Act claims (dated September 18, 2023) and submitted said claims to the Bureau of Indian Affairs, Department of the Interior (“Department of Interior”). After a review of the claim file, the Department of Interior, Office of the Solicitor, wrote in a letter dated March 12, 2024, that the government could not determine that the United States is liable under the Federal Tort Claim Act or Minnesota law in this case. The claims were denied, and the Department of Interior instructed Plaintiff to file suit in the appropriate United

States District Court if Plaintiff disagreed with the Department of Interior's denial.

Therefore, Plaintiff's claims are now ripe for adjudication.

12. This Court has jurisdiction over this action pursuant to the Federal Tort Claims

Act, 28 U.S.C. §§ 1346(b), 2671-2680, because the claims arise from actions of employees of the United States acting within the scope of their employment.

13. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1402(b) because the events giving rise to these claims occurred within this District, and Plaintiff resides in this District.

14. Venue is proper in this court because the acts alleged herein occurred within the District of Minnesota.

15. The acts which amount to the alleged causes of action will challenge any claim of lack of jurisdiction for Sovereign Immunity because Defendants conduct is alleged to have been committed in contravention of federal law.

16. In addition, the above-named Defendants acted outside of the scope of their immunity and thus, they are subject to liability.

17. Moreover, the Defendants' acts which amount to the alleged causes of action in this case is conduct that is outside the scope of the Red Lake Nation's sovereign powers.

### **III. STATEMENT OF FACTS**

18. Mr. Fairbanks was an enrolled member of the Red Lake Nation Tribe and was a resident of Red Lake, Minnesota. He was 27 years old at the time of his death on May 29, 2022, which occurred due to the gross negligence and deliberate

indifference of all Defendants herein, including the staff at the Red Lake Detention Center.

19. Mr. Fairbanks suffered from hereditary angioedema, a rare genetic condition that can cause severe swelling, pain, and if untreated, fatal complications.

20. Despite informing the detention center's staff of his condition upon his arrival on May 27, 2022, and the necessity for timely treatment with Firazyr (icatibant) injections, the individual Defendants failed to provide or ensure the provision of this necessary medical care.

21. On May 28, 2022, after experiencing intense abdominal pain, a symptom of his condition, Mr. Fairbanks received a dose of Firazyr administered by his mother, Plaintiff Nicole Johns, who was allowed access for this purpose. Plaintiff conveyed to the Red Lake Detention Center staff that the medication would not aid with her son's vomiting symptoms. She told the staff that should her son's vomiting persist, immediate medical intervention at a hospital would be necessary. Regrettably, her expertise as a mother, her familiarity with her son's condition, and her instructions were ignored. Moreover, the individual Defendant staff did not monitor Mr. Fairbanks' condition for further complications that arise in patients suffering from hereditary angioedema.

22. By the morning of May 29, 2022, Mr. Fairbanks' condition had deteriorated significantly. He was vomiting persistently, a sign of worsening hereditary angioedema. At approximately 10:21 AM, the detention center contacted Red Lake

Hospital, seeking advice for an inmate experiencing severe abdominal pain and vomiting. The hospital recommended immediate medical attention.

23. Despite the urgency conveyed by Red Lake Hospital, the detention center delayed contacting Emergency Medical Services (EMS) until 11:00 AM. By the time EMS arrived, they found Mr. Fairbanks on the floor of his cell, surrounded by vomit, in a state indicating he had been without necessary medical attention for several hours.

24. Mr. Fairbanks was transported to Red Lake Hospital, where he arrived in a critically deteriorated condition. Despite efforts to save his life, he passed away on May 29, 2022, at 12:02 PM.

25. Mr. Fairbanks died due to volume loss from prolonged vomiting and diarrhea, symptoms directly related to his hereditary angioedema. This contradicts the initial autopsy conclusion attributing his death to mixed drug toxicity, a finding that is disputed by expert medical opinion indicating that the levels of substances found in Mr. Fairbanks' system were minimal and not the cause of his death.

26. Regardless of whether Mr. Fairbanks' death resulted from his illness or drug toxicity, the fact remains that timely and adequate medical attention was not rendered. This glaring omission by the Red Lake Detention Center staff which includes the individual Defendants, led to a tragic and preventable loss of life.

27. The failure of the Red Lake Detention Center staff, which includes the individual defendants, to provide timely and appropriate medical care to Mr. Fairbanks, despite his known medical condition and the explicit instructions from medical

professionals at Red Lake Hospital, constitutes gross negligence and deliberate indifference to his medical needs and safety.

28. This deliberate indifference and negligence directly resulted in Mr. Fairbanks' unnecessary and wrongful death, causing significant emotional and financial harm to his family, including his mother, Plaintiff Nicole Johns.

### **COUNT I: NEGLIGENCE**

29. Plaintiff realleges the allegations in paragraphs 1-28 herein.

30. On May 27, 2022, despite being fully informed of Mr. Fairbanks' severe hereditary angioedema—a condition that poses life-threatening risks without immediate treatment—all Defendants including the staff at Red Lake Detention Center failed to prepare or administer the necessary Firazyr (icatibant) injections, and or transport Mr. Fairbanks to an urgent care center in a timely fashion where he could receive the emergent medical care he needed. These failures were a clear breach of the standard of care expected within the detention environment for known medical conditions.

31. Specifically, on May 28, 2022, when Mr. Fairbanks began experiencing intense abdominal pain indicative of an acute hereditary angioedema attack, the staff's refusal or neglect to provide subsequent necessary doses of Firazyr (icatibant), as previously administered by his mother, constituted negligence. The staff's refusal to transport Mr. Fairbanks to a hospital or urgent care center where he could receive the emergent medical care he needed was also negligence. These inactions

directly exacerbated Mr. Fairbanks' condition, leading to severe complications and ultimately his death.

32. The failure to promptly call for medical assistance on May 29, 2022, despite Mr. Fairbanks' life-threatening symptoms, underscores the staff's negligence. This delay was critical and violated the duty of care owed to Mr. Fairbanks, directly contributing to his preventable death.

33. The Red Lake Detention Center staff's, which includes the individual Defendants, failure to act according to the requisite standard of care for Mr. Fairbanks, starting from his intake and continuing through their handling of his medical emergency, constituted negligence under both the Federal Tort Claim Act and common law. This negligence was a direct and proximate cause of Mr. Fairbanks' death.

34. The United States is vicariously liable for the negligent actions of the individual Defendants.

## **COUNT II: WRONGFUL DEATH**

35. Plaintiff realleges the allegations in paragraphs 1-34 herein.

36. The staff's actions and omissions at Red Lake Detention Center, under the Bureau of Indian Affairs, a federal agency, directly led to Mr. Fairbanks' wrongful death. By ignoring the critical nature of his medical condition and the explicit instructions for immediate medical intervention provided by Red Lake Hospital, the staff showed a blatant disregard for Mr. Fairbanks' life.

37. The negligence by all Defendants manifested in the failure to monitor Mr. Fairbanks' condition, the refusal to administer necessary medication, and the fatal



delay in seeking emergency medical services directly resulted in Mr. Fairbanks' wrongful death on May 29, 2022.

**COUNT III: DELIBERATE INDIFFERENCE  
(*BIVENS* ACTION)**

38. Plaintiff realleges the allegations in paragraphs 1-37 herein.

39. The actions of all Defendants including the Red Lake Detention Center staff, in their failure to provide Mr. Fairbanks with necessary medical care despite his known, life-threatening condition, constituted deliberate indifference to his serious medical needs. This indifference violates Mr. Fairbanks' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as it disregards the basic human dignity owed to individuals detained under the authority of the United States Constitution.

40. The deliberate delay in contacting EMS, even after being advised by the Red Lake Hospital to immediately transfer Mr. Fairbanks for medical attention, further demonstrates a willful disregard for his health and safety, amounting to deliberate indifference.

**COUNT IV: FAILURE TO TRAIN AND SUPERVISE  
(*BIVENS* ACTION)**

41. Plaintiff realleges the allegations in paragraphs 1-40 herein.

42. Defendants the United States, through its agency, the Bureau of Indian Affairs, and the individual Defendants and the DOE Defendants, failed to adequately train and supervise the staff at Red Lake Detention Center to recognize and respond to

medical emergencies, particularly concerning detainees with known life-threatening conditions like Mr. Fairbanks' hereditary angioedema.

43. This failure to train and supervise is evidenced by the staff's inaction and delay in the face of Mr. Fairbanks' acute medical crisis, highlighting systemic issues within Red Lake Detention Center that contributed to the violation of Mr. Fairbanks' constitutional rights.

44. During Mr. Fairbanks period of confinement at Red Lake Detention Center, with deliberate indifference to Mr. Fairbanks, the Defendants listed above including Red Lake Nation failed to properly train correctional staff and failed to adopt policies to provide timely and appropriate care to inmates when responding to obvious and serious medical needs of inmates.

WHEREFORE, Plaintiff NICOLE JOHNS, individually and as Trustee for the Next-of-Kin of JOSEPH FAIRBANKS, JR., Deceased, prays for judgment against all Defendants as follows:

1. That this Court finds that all Defendants committed acts and omissions constituting violations of the Eighth and Fourteenth Amendments to the United States Constitution, and that Defendants were negligent;
2. As to each and every Count above, a money judgment against all Defendants for compensatory and punitive damages in an amount yet to be determined, together with costs, including reasonable attorney fees, and prejudgment interest and disbursements.
3. For such other and further relief as this Court may deem just and equitable.

**Magna Law Firm LLC**

Dated: May 21, 2024

By: /s/ Oliver E. Nelson III  
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