

ZACHAR LAW FIRM, P.C.
3301 East Thunderbird Road
Phoenix, Arizona 85032

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ZACHAR LAW FIRM, P.C.
3301 East Thunderbird Road
Phoenix, Arizona 85032
(602) 494-4800
Christopher J. Zachar #014711
czachar@zacharlaw.com

Attorney for the Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

VIVIAN HAAS, an adult individual,

Plaintiff,

vs.

MANAGEMENT & TRAINING
CORPORATION, a Delaware Corporation,

Defendant.

No.: CV2010-054007

COMPLAINT

(Tort: Non-Motor Vehicle;
Wrongful Death)

NOW COMES Vivian Haas, by and through counsel undersigned, and for her
Complaint against the Defendant alleges as follows:

1. Plaintiff is a resident of Jasper County, Missouri. Plaintiff Vivian Haas is the natural mother of Gary Haas, deceased.
2. Defendant Management & Training Corporation (hereinafter referred to as "MTC") is a Delaware Corporation, doing business in the State of Arizona, with CT Corporation System in Maricopa County serving as their statutory agent
3. Pursuant to a contract with the Arizona Department of Corrections (hereinafter referred to as "ADC"), Defendant operates, oversees, and maintains the Arizona State Prison - Kingman (hereinafter referred to as the "Prison"), in Mohave County, Arizona.
4. All acts and transactions alleged herein occurred in the State of Arizona.

MICHAEL K. JEANES
Clerk of the Superior Court
By Sandra Seeley, Deputy
Date 09/01/2010 Time 11:14:41
Description Amount
CASE# CV2010-054007
CIVIL NEW COMPLAINT 301.00
TOTAL AMOUNT 301.00
Receipt# 20809046

- 1 5. On or about March 22, 2004, ADC awarded a contract to Defendant MTC to
2 operate the Prison, designed and constructed for 1,100 minimum security beds and 300
3 medium security beds to house DUI inmates.
- 4 6. On or about December 13, 2007, for the first time, convicted murderers were
5 assigned to the Prison.
- 6 7. By May, 2008, Defendant MTC's contract relating to the Prison had been
7 amended to allow the Prison to maintain 2,000 beds in the Cerbat Unit and 1,400 beds in the
8 Hualapai Unit, creating a 3,400 minimum/medium security prison.
- 9 8. On or about February 23, 2010, inmate John Charles McCluskey, #074469,
10 sentenced in 2009 to serve fifteen years for attempted 2nd degree murder, aggravated assault,
11 and discharge of a firearm, was transferred to the Prison, classified as "medium custody".
- 12 9. On or about February 24, 2010, inmate Tracy Allen Province, #071253,
13 sentenced in 1993 to a life sentence for murder and robbery, originally classified to
14 maximum custody, was transferred to the Prison, classified as "medium custody".
- 15 10. On or about April 20, 2010, inmate Daniel Renwick, #164446, sentenced in
16 2002 to two consecutive twenty-two year terms for two counts of 2nd degree murder, was
17 transferred to the Prison, classified as "medium custody".
- 18 11. On July 30, 2010, inmates McCluskey, Province, and Renwick escaped from the
19 Prison by exiting through a door wedged open by a rock, climbing one improperly protected
20 fence, hiding behind an inappropriate building in "no-man's land," and cutting through the
21 wire of a second chain link fence in Zone 9.
- 22 12. On or about August 2, 2010, escapees McCluskey and Province, with the
23 assistance of an accomplice, Casslyn Mae Welch, confronted Gary Haas and Linda Haas at a
24 highway rest stop near the New Mexico/Texas border on Interstate 40.
- 25 13. Gary and Linda Haas were in or near their pickup truck towing a camping
26 trailer. McCluskey and Province pointed handguns at Gary and Linda Hass, entered the truck
27 with Gary and Linda Haas, and forced Gary Haas to drive westerly.
- 28 14. Accomplice Welch followed the Haas vehicle in yet another stolen vehicle.
15. Shortly after the escapees abducted Gary and Linda Haas, McCluskey directed
Gary Haas to exit the highway and drive to a secluded area.

1 16. McCluskey thereafter took Gary and Linda Haas into the camping trailer and
2 brutally shot them, killing each of them

3 17. The escapees and accomplice thereafter drove the Haas vehicle westbound on
4 the highway, with trailer in tow, still containing the bodies of Gary and Linda Haas.

5 18. Shortly thereafter, while the escapees were filling the stolen truck with fuel,
6 they noticed blood leaking out of the trailer door.

7 19. The escapees and accomplice then drove to a remote location, disconnected the
8 trailer and intentionally set fire to the trailer with the bodies of Gary and Linda Haas still
9 inside.

10 20. The Haas' stolen truck was later abandoned by the escapees in Albuquerque,
11 New Mexico.

12 21. Province was captured by law enforcement on August 9, 2010, in Meeteetse,
13 Wyoming.

14 22. McCluskey and accomplice Welch were captured by law enforcement on
15 August 19, 2010, in the Apache-Sitgreaves National Forest in eastern Arizona.

16
17 **I. SUMMARY OF CLAIM**

18 23. On August 2, 2010, Gary and Linda Haas were enjoying their annual summer
19 vacation, which included traveling by truck from Oklahoma to Colorado.

20 24. Along their travel route, they stopped at an interstate highway rest area in New
21 Mexico.

22 25. Thereafter, their path tragically intersected with two convicted murderers and an
23 accomplice on the run from the Prison.

24 26. Due to the gross negligence of the Defendant, Gary and Linda Haas were
25 senselessly murdered that day, and Plaintiff Vivian Haas, was forever deprived of the
26 comfort, care, and companionship of her son, Gary Haas.

27 27. On July 30, 2010, John McCluskey, Tracy Province, and Daniel Renwick, with
28 the help of an accomplice, Casslyn Mae Welch, escaped from the Prison.

28 28. McCluskey was serving time for attempted murder.

1 29. Welch had parked a vehicle in the desert nearby to aid in their flight.

2 30. Their escape from the Prison was accomplished by slipping through a door
3 propped open by a rock, climbing over a fence, hiding behind a structure and cutting through
4 a second perimeter fence.

5 31. Almost immediately, McCluskey, Province, and Welch became separated from
6 Renwick while trying to find the Welch vehicle.

7 32. Additionally, Welch provided McCluskey and Province with firearms she had
8 acquired in anticipation of the escape.

9 33. After not being able to find the Welch car, McCluskey, Province and Welch
10 hijacked two semi-truck drivers and forced them to drive to Flagstaff, Arizona.

11 34. After arriving in Flagstaff, Arizona, McCluskey wanted to kill the two truck
12 drivers.

13 35. Province and Welch stated opinions to the contrary.

14 36. As the group consensus was to not kill the two truck drivers, their lives were
15 spared.

16 37. Upon information, the three then procured a smaller vehicle and the group
17 proceeded to drive from Arizona into New Mexico.

18 38. While in New Mexico, they stole a license plate to replace the expired one on
19 the small car they were traveling in.

20 39. The escapees then decided that they needed a larger vehicle and decided to
21 target someone driving a camper or trailer.

22 40. On the morning of August 2, 2010, McCluskey, Province, and Welch stopped at
23 a rest area on an interstate just inside the New Mexico border.

24 41. While there, they spotted Gary and Linda Haas standing near their truck and
25 trailer. They immediately decided this was the target they were seeking and waited for an
26 opening.

27 42. While Gary got back in the truck, and Linda was walking back toward the truck
28 from the camper, she was accosted at gunpoint by McCluskey and Province.

 43. McCluskey and Province overtook Linda and forced her into the cab of the
pickup at gunpoint.

- 1 44. McCluskey and Province then entered the back seat of the pickup and forced
2 Gary to begin driving. Welch followed behind in the small car the group had been traveling
3 in.
- 4 45. Gary and Linda were now trapped, on a nightmare path toward their own
5 deaths.
- 6 46. McCluskey first forced Gary to drive westbound deeper into New Mexico.
- 7 47. After a while, McCluskey ordered Gary to exit the interstate and drive off of the
8 highway to a secluded area.
- 9 48. McCluskey and Province then took Gary and Linda into the trailer and made
10 them locate the guns they were traveling with.
- 11 49. At that point, Province exited the trailer.
- 12 50. Thereafter, while Province and Welch remained outside the trailer, they heard
13 gunshots.
- 14 51. Entering the trailer, they discovered that McCluskey had brutally shot and killed
15 both Gary and Linda Haas.
- 16 52. They then fled the scene.
- 17 53. They stopped at a gasoline station in New Mexico, needing to fill the truck
18 gasoline.
- 19 54. In doing so, they noticed the blood of Gary and Linda Haas leaking from the
20 trailer.
- 21 55. They attempted to clean it up to conceal it, but could not contain all of it.
- 22 56. At that point, they knew they needed to get rid of the trailer.
- 23 57. They left the station, wherein they soon found a secluded spot.
- 24 58. They unhooked the trailer from the truck.
- 25 59. They then poured fuel into the trailer, and lit it on fire in an attempt to destroy
26 any evidence of the murders of Gary and Linda Haas.
- 27 60. They remained on the lam for several more days, and all were eventually
28 apprehended by law enforcement authorities.
61. By written confirmation, Defendant MTC has formally accepted full
responsibility.

1 62. In an August 13, 2010 letter to the Arizona Department of Corrections,
2 Defendant MTC admitted its responsibility for the escapes.

3 63. A review of the lax procedures and incompetent management of the facility
4 make it clear that circumstances surrounding the escapes were shocking and egregious.

5 64. McCluskey, Province, and Renwick were violent offenders.

6 65. Province was a convicted murderer, who had already been incarcerated for 17
7 years.

8 66. Renwick was a convicted murderer who had already been incarcerated for 8
9 years.

10 67. McCluskey was serving a 15 year sentence for attempted murder.

11 68. Remarkably, they were able to successfully escape the MTC-managed Prison in
12 Kingman less than nine (9) months after entering it.

13 69. The negligent and reckless management procedures in the Prison security now
14 known are disturbing and numerous, and will be fully proven at trial.

15 70. Every factor that could contribute to a prisoner being able to escape was
16 present.

17 71. The alarm system didn't work.

18 72. False alarms occurred so often that the guards ignored them.

19 73. The perimeter fencing was substandard.

20 74. Patrols of the perimeter were scattershot at best.

21 75. Intrusions by outsiders near the fence perimeters were common.

22 76. Procedures for shift changes along the perimeter were so loose that the
23 perimeter was often unmanned for 15 minutes or more at a time.

24 77. Light poles around the edge of the prison routinely had burned out lights.

25 78. Staff members were insufficiently trained to respond to alarm malfunctions.

26 79. Staff members were insufficiently trained in the tracking and pursuit of
27 escapees.

28 80. All of these shortcomings and others led to the escapes, and the violent and
pointless murders of Gary and Linda Haas.

81. The deaths of Gary and Linda Haas were completely preventable.

1 82. After admitting liability to the State of Arizona, Defendant MTC has undertaken
2 to revamp all their procedures and to make tangible changes to the physical plant at the
3 prison.

4 83. Tragically, these remedial efforts will be too late to be of any use to Vivian
5 Haas.

6 COUNT I

7 (Negligence v. Defendant)

8 84. Plaintiff re-alleges and incorporates herein all facts and allegations stated in
9 paragraphs 1 through 83.

10 85. Defendant MTC had duties to protect the general public from dangerous,
11 convicted felons.

12 86. Defendant MTC had duties to protect the general public in employing proper
13 incarceration policies and procedures to assure that violent offenders stayed locked up and
14 away from the general public.

15 87. Defendant MTC knew or in the exercise of reasonable care should have known
16 that a failure to fulfill the aforementioned duties could have dangerous and deadly
17 consequences for members of the general public.

18 88. The consequences of Defendant MTC's failure to employ adequate prison
19 policies and procedures, and/or adhere to its own policies and procedures were entirely and
20 completely foreseeable to Defendant.

21 89. In failing to establish adequate policies and procedures, Defendant MTC
22 breached duties owed to the general public, and to Plaintiff Vivian Haas.

23 90. In failing to implement adequate policies and procedures, Defendant MTC
24 breached duties owed to the general public, and to Plaintiff Vivian Haas.

25 91. In failing to train, instruct and/or monitor its employees properly regarding the
26 policies and procedures, Defendant MTC breached duties owed to the general public, and to
27 Plaintiff Vivian Haas.

28 92. In failing to enforce its policies and procedures, Defendant MTC breached
duties owed to the general public, and to Plaintiff Vivian Haas.

1 93. As a direct and proximate result of the negligence of Defendant MTC,
2 Plaintiff's son, Gary Haas, was murdered.

3
4 WHEREFORE, Plaintiff seeks Judgment against the Defendants as follows:

- 5 A. For Plaintiff's special damages, in amounts sufficient to satisfy the jurisdictional
6 requirement of the this court, and in amounts to be proven at trial;
7 B. For Plaintiff's general damages, in amounts to be proven at trial;
8 C. For Plaintiff's reasonable costs incurred herein; and
9 D. For such other and further relief as the court deems just and proper.

10
11 **COUNT II**

12 **(Gross Negligence/Recklessness v. Defendant)**

13 94. Plaintiff re-alleges and incorporates herein all facts and allegations stated in
14 paragraphs 1 through 93.

15 95. The manner in which Defendant MTC managed the Prison, particularly in light
16 of its responsibilities for the control and custody of convicted murderers and violent felons,
17 demonstrated a reckless disregard for the safety of others.

18 96. Defendant MTC recklessly breached its duties of care as follows:

- 19 a) By failing to maintain and follow adequate procedures for shift relief,
20 resulting in the Prison's perimeter being unmanned for extended periods
21 of time;
22 b) By failing to train its employees on proper response to alarm procedures
23 and/or training or allowing employees to disregard the alarms when
24 activated;
25 c) By failing to train its employees to properly and promptly detect perimeter
26 tracks;
27 d) By failing to take necessary action to remedy a seriously malfunctioning
28 alarm system that recorded 89 zone alarms on July 30, 2010, resulting in
Prison staff being desensitized to alarm activations due to the exceedingly
high number of false alarm activations;

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- e) By failing to properly restrict and monitor pedestrian and vehicular traffic in close proximity to the perimeter;
- f) By failing to properly train employees and assure employee proficiency with weapons;
- g) By failing to replace burned out light fixtures on perimeter light poles resulting in inadequate perimeter lighting;
- h) By failing to insure a proper method of counting inmates, which resulted in significant time delays;
- i) By failing to maintain an adequate Emergency Response Plan;
- j) By inadequately maintaining a K9 adoption program, resulting in a facility with inadequate fencing, unlocked doors, and inmate access to equipment such as was used in the escape of July 30, 2010;
- k) By failing to adequately train employees regarding the alarms, and by failing to train employees regarding the clearance of alarms, resulting in delays of 20 and 23 minutes for two (2) separate Zone 9 alarms at or about the time of the escape;
- l) By failing to effectively respond to alarms and conduct an emergency inmate count to confirm the absence of three (3) inmates until more than one hour after the escape;
- m) By failing to promptly and effectively notify Mohave County and State of Arizona law enforcement of the escape thereby preventing immediate response and search for the escapees.

97. It was reasonably foreseeable that medium security inmates previously convicted of murder and attempted murder would be considered armed and dangerous, presenting a clear and present danger to the public at large if allowed to escape the Prison.

98. Through its egregious failure to meet its duty of care to the general public, Defendant MTC acted to serve its own interests while having reason to know, and consciously disregarded a substantial risk that its conduct might significantly injure the rights of others, for which Plaintiff Vivian Haas is entitled to punitive damages.

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99. Through its egregious failure to meet its duty of care to the general public, Defendant MTC consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to others, for which Plaintiff Vivian Haas is entitled to punitive damages.

100. As a direct and proximate result of Defendant MTC's recklessness, Gary Haas was abducted by the Prison escapees and brutally murdered.

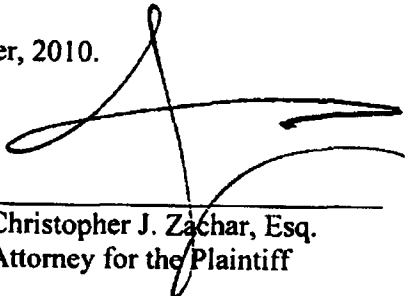
101. As the surviving parent of Gary Haas, Vivian Haas is entitled to bring this action for wrongful death pursuant to A.R.S § 12-612.

102. As a direct and proximate result of Defendant's negligence which resulted in the death of her son, Plaintiff Vivian Haas has suffered severe and extreme emotional distress and the loss of care, companionship, support and services of her son, Gary Haas.

WHEREFORE, Plaintiff seeks Judgment against the Defendants as follows:

- A. For Plaintiff's special damages, in amounts sufficient to satisfy the jurisdictional requirement of the this court, and in amounts to be proven at trial;
- B. For Plaintiff's general damages, in amounts to be proven at trial;
- C. For punitive damages, to deter Defendant and others similarly situated from a like course of conduct in the future;
- D. Plaintiff's reasonable costs incurred herein; and
- E. For such other and further relief as the court deems just and proper.

DATED this 1st day of September, 2010.



Christopher J. Zachar, Esq.
Attorney for the Plaintiff