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January 20, 2023

The Honorable Maura Healey, Governor
Commonwealth of Massachusetts
Massachusetts State House
24 Beacon Street
Room 105
Boston, MA 02133

Re: William H. Davis, Personal Representative of the Estate of Jason Davis
Vs: Maura Healey, in her Personal Capacity for actions and omissions engaged in by her while the duly elected Governor of the Commonwealth of Massachusetts

Subject: Jason Davis case

I have represented Jason Davis and his family for approximately 30 years.

This Demand Letter[1] is a war cry from the bowels of our Democracy on behalf of Jason Davis.

On May 13, 2014 you responded to my May 10, 2014 email as follows:

> **Thanks for sending these materials along. I'm reviewing now. It's a very sad situation. It was nice meeting you in Holliston. Did anything happen with the legislation this week?** See Ex. 1 (emphasis supplied).[2]

You were serving as an Assistant Attorney General, in charge of the Civil Rights Division, when I emailed you in 2014. Your email was responsive to a detailed email from the Davis family which outlined the sordid circumstances of the Jason Davis case and asked you to stand with the Davis family, in the public domain, to support its then pending legislation. See Ex. 1. This case is manifestly one of the most grotesque, vile and obscene injustices in the history of the Commonwealth of Massachusetts.[3] A "very sad situation," as you called the Jason Davis Federal Civil Rights case in 2014, is in dire need of long sought after justice.

[1]This Demand Letter is submitted pursuant to 42 U.S.C. §1983.

[2]Twelve (12) exhibits have been contemporaneously provided and shall be referenced by their Exhibit Number, e.g. Ex. 1. Each of these exhibits are expressly incorporated herein by reference and expressly made a part hereof.

[3] See Davis v. Rennie, 264 F. 3d 86 (1st Cir. 2001); Davis v. Rennie, 997 F. Supp. 137 (D. Mass. 1998); Davis v. Rennie, 553 U.S. 1053 (2002). A month long Federal Civil Rights trial in the United States District Court for the District of Massachusetts ("Boston Federal Court", "Federal Court" or "District Court") was conducted in 1998. Judgment entered upon the jury verdict which Jason Davis won on October 30, 1998 and is now in excess of 2.5M. See Ex. 7, 8. See Ex. 19, p. 1-3 @ jasonstrongma.com. Attorney

On August 12, 1993 Jason Davis was a 28 year old (DOB: 8.10.65) acutely mentally ill and involuntarily committed inpatient housed within a locked unit at the Westborough State Hospital facility which was then operated by the Massachusetts Department of Mental health ("DMH"). He suffered from a variety of acute psychiatric disorders including Schizoaffective Disorder, Bipolar Type I, Polysubstance Abuse, Acute Depression and the like. As of August 12, 1993 he had been institutionalized for vast periods of his adult life.

One of the convicted violent felon State employees, who savagely brutalized committed mentally ill patient Jason Davis on August 12, 1993, literally tried to murder him by snapping his neck in two. This neck snapping attempt came only after this same convicted violent felon beat Jason Davis half to death while other State employees pinned him to the floor of the ward to perpetuate the beating. Blood puddles littered the ward.[4] Ex. 11, p. 11-17.

I attach some of our prior communications. See Ex. 1-5.

U.S. SENATORS EDWARD MARKEY AND ELIZABETH WARREN

Both of our sitting U.S. Senators have called for justice for Jason Davis and the payment of his entire 2.5M Federal Civil Rights judgment:

Boston Herald article – August 29, 2020
https://www.bostonherald.com/2020/08/29/father-of-jason-davis-accuses-markey-warren-of-neglecting-calls-for-justice/

SENATE PRESIDENT KAREN SPILKA

The Senate President has been a long-time supporter of the Jason Davis case. See Ex. 6. She even filed a Bill on behalf of the Davis family in 2014 which sought the full amount of the Federal Court judgment.

SENATOR PACHECO AND REPRESENTATIVE CABRAL

Senator Pacheco and Representative Cabral acted favorably on our most recent Legislative Bill (H. 4570) when it was before their Joint Committee on State Administration and Regulatory Oversight this past Winter**.** See Ex. 7. On February 18, 2022 I spoke before their committee. The video of the hearing is set forth here [9:27 – 20:38 mark]:

https://malegislature.gov/Events/Hearings/Detail/4202/Video1

General Scott Harshbarger represented the Commonwealth of Massachusetts in the Boston Federal Court case. Attorney General Thomas Reilly appealed to the United States Court of Appeals for the First Circuit ("First Circuit") and the United States Supreme Court ("Supreme Court") for the Commonwealth. The Commonwealth's Attorneys General lost in all three Federal Courts to Jason Davis. Jason Davis did not initiate any appeal or appeal any issue.

[4]The sixty (60) page letter I sent to you on 11.3.17, together with all exhibits and documents referenced therein, are expressly incorporated herein by reference and expressly made a part hereof. This letter can now be found on the homepage of the family's website. See jasonstrongma.com. This letter shall be referred to herein as "the 11.3.17 letter." The 70 exhibits set forth on said website are also expressly incorporated herein by reference and expressly made a part hereof.

H. 4570 then languished before the House Ways and Means Committee where it faltered. See Ex. 7. In total, seven legislative Bills have failed to pass within the Massachusetts Legislature.

REPRESENTATIVE ROGERS

Representative Rogers said this about the Jason Davis case: (i) "The facts are uncontested. They [Department of Mental Health] hired, failed to train and failed to supervise these workers and to allow the State to walk away is just wrong;"[5] and (ii) "In my mind the liability of the Commonwealth has always been crystal clear."[6]

SPEAKER MARIANO

The Davis family talked to the Speaker twice in the Winter of 2021 about the Jason Davis case. He seemed to embrace it and was surprised that such brutality could even take place.

THURGOOD MARSHALL

The general public is of the opinion that you are a Civil Rights and Social Justice advocate. The public record also indicates that you embrace the Federal Civil Rights leadership and teachings of Justice Thurgood Marshall. I must respectfully submit that Mr. Justice Marshall would not turn a blind eye toward the Jason Davis case or his family. None of the all-time Civil Rights greats would look away. The Commonwealth has done precisely that for 30 years. It is, per force, the Commonwealth's position that the Davis case will simply never be deserving of justice. Never. Seven failed attempts in the Massachusetts Legislature teach us that which is precisely why the Estate of Jason Davis must demand that the Governor's office act. It could never be said, with any viability, that justice is best served by ignoring the Jason Davis case and simply letting it sink into the abyss. Another trip around the Legislature for the Davis family, at this point, would be fruitless.

We were forced to embark upon our seventh attempt to obtain justice for Jason Davis in the Massachusetts Legislature in 2022 simply because Massachusetts, like all States, can kill, maim and brutalize the mentally ill without any financial accountability whatsoever even when, as here, the Commonwealth literally had blood all over its hands. See Will v. Michigan, 491 U.S. 58-71 (1989); Ex. 8. Hence, mentally ill Civil Rights victims, such as Jason Davis, must literally beg their assailants for justice. There is no mandatory remedy for it. We need one. **A legislative cure is at hand to protect the mentally ill here in the Commonwealth. It should bear Jason Davis' name.** See 11.3.17 letter @ p. 52-54. Our seventh attempt at justice this Summer was futile for reasons which still perplex us just like the other six attempts given the flush financial position of the Commonwealth and the obvious need to provide the Davis family with justice.

It is ironic to note that the Davis series of reported federal cases actually set forth some of the most profoundly important constitutional protections for the mentally ill ever articulated by the Federal Courts for our Nation. See Davis v. Rennie, 264 F. 3d 86 (1st Cir. 2001); Davis v.

[5] http://www.wcvb.com/article/family-waits-years-for-millions-after-son-beaten-at-hospital/8034736

[6] https://www.bostonglobe.com/metro/2014/03/09/jason-davis-beating-foreshadowed-joshua-messier-tragedy/JUTn1QniHkN8SCnrwqk9IK/story.html

Rennie, 997 F. Supp. 137 (D. Mass. 1998); Davis v. Rennie, 553 U.S. 1053 (2002). Though he is a national legal hero, given the substantial contributions which he made to our national constitutional landscape, Jason Davis cannot even obtain justice on his own soil. Incredible.

SALIENT FACTS – ABBREVIATED SUMMARY

My client started fighting for justice for his committed mentally ill son when he was 55. He is 85 now. The savage brutality of his son occurred on 8.12.93 at the Westborough State Hospital when a convicted violent felon State employee beat Jason Davis half to death – while other State Mental Healthcare Workers pinned him to the floor of the ward to perpetuate the beating – thereby proximately causing both physical and acute psychiatric injuries. **One of the convicted violent felons literally tried to murder Jason Davis by snapping his neck in two.** A second convicted violent felon brutalized Jason Davis on 8.12.93 in a separate incident. Blood puddles littered the ward after the attacks. (Ex., 11, p. 11-17).

A Davis case defendant, Nicholas L. Tassone, testified that Jason Davis looked like "a fighter looks after they get out of the ring, how sometimes they get cut on their eye, and they have blood dripping down their face." When DMH staff barbarically placed Jason Davis face down on the Four Point Mechanical Restraint Table, after his savage beating, he could not breathe. He kept moving the physical position of his face in an attempt to stop drinking the blood that was pouring out of his nose and mouth and into his throat. DMH staff finally unstrapped him from the Four Point Mechanical Restraint Table after about an hour and at the behest of Civil Rights Officer Kermit Brown. He was then allowed to go to the bathroom where he vomited up blood. (Ex. 11, p. 11-17 - Trial Transcript). The sheet from the Four Point Mechanical Restraint Table was soaked with blood and there was a puddle of blood on the mattress under it. In the minutes after the attack the dried blood was scabbed like eyeliner in, under and around Jason's eyes. (Ex. 11, p. 11 -17 – Trial Transcript).

Through its landmark Federal Civil Rights opinion the First Circuit recounted the brutalization of Jason Davis via the trial testimony of hero State Police Officer Greg Plesh, Jason Davis and Defendant Nicholas Tassone:

> He recounted: 'Jason is lying down the hallway, head is away from me, feet are towards me. Staff is encircling him. And it's not what I saw, it's what I felt. I initially felt the thud through the [concrete slab] floor and then heard a thud.' Plesh said he looked up and saw Bragg punch Davis in the head four to five times. Plesh continued: I turned to [Charge Nurse] Joyce Wiegers who was on my right shoulder. When I saw Jason Davis being punched, I said, 'Did you see that? Are you going to do anything about this? Are you going to allow this to happen?.' She didn't say anything, and I really wasn't waiting at that point. Some more was occurring and at that point I decided to intervene. As the MHWs began rolling the patient onto his stomach, Bragg twisted Davis's neck to the side and Plesh climbed over the other MHWs to push Bragg away. Davis testified about the punching: 'It was over and over and over and over again. It was like it would never stop. And then I was calling for help and nobody was stopping them and they kept hitting me. I felt the blood; it was, you know, it was coming down my face.' Plesh

said that Davis's 'eyes were rolling out of his head,' that '[t]here was swelling, bruising all in his face,' and that he checked to make sure that Davis's neck had not been broken. [Defendant] Tassone said that Davis's face was cut and bloody.

Davis, 264 F. 3d, at 94. (brackets supplied).

State Police Officer Greg Plesh authored a Police Report which reads as follows:

As many as eight staff members were on top of Jason. Phillip Bragg was up by Jason's head. I observed him punch Jason Davis five or six times with extremely hard blows. I could hear every impact and instantly the patient started to bleed and swell in the area of the eyes, forehead and temple area. I moved in to stop Phillip Bragg but before I could get there he used a head twisting technique that I did have to stop. Extreme force was used, Jason's neck was being twisted to its limit. Phillip put a knee on Jason's head and with both hands was forcing Jason's head down into the floor. I moved Phillip off Jason's head and checked his neck to make sure it had not been broken. Jason calmed down as soon as his head was released. Ex. 42, p. 1-2 @ jasonstrongma.com.

State Police Officer Greg Plesh testified as follows at trial:

The head twisting technique was so severe I went around the pile of people, around Phillip Bragg, and pushed Phillip Bragg off Jason Davis' head with my shoulder and then instantly went to his Jason's neck. And at that point, I noticed that his eyes were rolling out of his head. You could see the whites of his eyes. The eyes were up to the top. He was in a, what I would call a semiconscious state. There was some bleeding on the floor. There was swelling, bruising all in his face noticeable at that time... (Ex. 12, p. 9 - Trial Transcript).

The blows to Jason Davis' head were so violent and extreme in force that State Police Officer Greg Plesh felt them through his feet while upon the concrete slab floor in the ward. Indeed, these thuds through the floor are what initially alerted him to the violent attack. (Ex. 12, p. 5, 6 – Trial Transcript).

Medical records were altered by the Charge Nurse to make it appear as if no beating had occurred in her failed attempt at a coverup. Davis, 264 F. 3d, at 94-95, 115-116. Yet still, other State Mental Healthcare Workers falsely accused hero State Police officer Greg Plesh of wrongdoing in an attempt to deflect blame. Id.

The First Circuit Court of Appeals specifically recounted the acute psychiatric injuries sustained by Jason Davis as a result of the bloody carnage:

Davis presented additional medical evidence at trial from Dr. R. Amos Zeidman, his treating psychiatrist for periods beginning in 1991. In late 1996 or early 1997, Dr. Zeidman diagnosed Davis with Post Traumatic Stress Disorder (PTSD) as a result of the physical restraint at Westborough. **He said that Davis 'was horrified' by the event because '[h]e thought he was going to die.'** Dr. Zeidman said that Davis' PTSD

> symptoms included insomnia, anxiety, panic states, flashbacks, nightmares, and an inability to concentrate. He said that Davis was having difficulty making progress in therapy because he was afraid to trust anyone and that '[t]he quality of his life has suffered terribly for this.' Here, the evidence supports a finding of significant actual and potential harm. According to Dr. Zeidman, the psychological harm Davis has suffered from the incident has seriously affected his quality of life, causing a range of PTSD symptoms, demonstrating the reasonable relationship between the injury and the amount of the award. Id., at 95, 116 (emphasis supplied).

The Charge Nurse told Jason Davis, after the beatings, that "[t]his is what you get when you act – this is what you get when you act like this" as recounted by the First Circuit. Davis, 264 F. 3d, at 94-95. After the attacks Jason Davis was placed in locked room overnight by staff and ordered not to talk about the attacks when he left that room:

> They locked – they put me into a locked room and they wouldn't let me out of the room and they said I couldn't talk to anybody. They said not to talk to anybody about it [attacks]. And I was begging them to let me out of the room because I want to, you know, smoke and stuff. And they said as long as you don't talk about it. And I walked out and saw Dean[7]. And told - I asked Dean about it and stuff, and we started to talk about it [the attacks]. This guy, I can't remember the guy's name, he said: You weren't supposed to talk about it. (Ex. 11, p. 15 – Trial Transcript) (brackets supplied).[8]

Jason Davis' life went into a downward spiral after the 8.12.93 attacks and he died at age 38 some six years after his month-long Federal District Court Civil Rights trial concluded. His father, Mr. William Davis, has continued on in his quest for justice for his son.

The gruesome circumstances of the savage beatings are more particularly set forth in the attached Written Testimony, which was submitted to the Legislature this Winter pursuant to H. 4570, in the cited reported cases and in the 11.3.17 letter. See also Ex. 7- 8. The unpaid Federal Court judgment, as noted, is in excess of 2.5M. See Ex. 7-8; Ex. 19, p. 1-3 @ jasonstrongma.com; infra.

THE PRINCIPAL AGRESSORS WERE TICKING TIMEBOMBS

Evidence introduced during the course of the month-long Federal Civil Rights trial demonstrated that the principal aggressors, Phillip Bragg and Paul Rennie, were convicted violent felons upon hire at the DMH which it knew. Court records also prove that they were released from prison only a short time before they actually began working as Mental Health Care Workers at the Westborough State Hospital in direct patient care capacities. Bragg's felony prison sentence resulted from his having shot a 16 year old boy in the eye with a gun at short range. Bragg was initially indicted on attempted murder charges but pled down to a lesser included offense. Rennie's felony prison sentence resulted from his two (2) armed robbery convictions (gun and a metal pipe).

[7] The last name of this patient has not been used to protect his medical privacy interests and has also been excised from the transcript. (Ex. 11, p. 10).

[8] Jason Davis' best friend and fellow patient was screaming at the top of lungs in a nearby room when Jason Davis was being savagely attacked. He was frightened to death by Jason's fright. (Ex. 11, p. 10).

Prior to the incident Bragg and Rennie had a number of employment related "problems" which proved that they routinely employed physical violence and abuse upon the committed mentally ill inpatients within their "care." See Ex.2, p. 1-4; Ex. 4, p. 1-6 @jasonstrongma.com.

Phillip Bragg's and Paul Rennie's employment by the DMH at the Westborough State Hospital constituted an extreme risk of harm to all mentally ill inpatients subject to their "care", including Jason Davis, given their histories of violence and the national recidivism rate of 34.6 % amongst convicted violent felons.[9] It was statically probable that they would assault Jason Davis. They did. In short, placing Phillip Bragg and Paul Rennie in direct patient care capacities was not unlike placing a fox in a henhouse. Not surprisingly, Bragg and Rennie were the principal aggressors in the two beatings of Jason Davis on August 12, 1993.

A former Commissioner of the DMH, Eileen P. Elias, expressly testified at trial that Phillip Bragg should not have been employed as a Mental Health Care Worker in 1992 (one year before the incident) given his violent tendencies.

The Commonwealth literally and figuratively had blood all over its hands from the Jason Davis incident. This incident was foreseeable, predictable and preventable. The Commonwealth hired these convicted violent felons for direct patient care – under a written hiring policy - and was liable in every sense of the word for the harms inflicted upon Jason Davis. It ran away from its liability.

THE CLIENTS WHICH THE MASSACHUSETTS ATTORNEYS GENERAL REPRESENTED AND SOME OF THE LEGAL POSITIONS WHICH THEY ASSERTED

Precisely who did Attorney General Scott Harshbarger and Attorney General Thomas Reilly represent in the Davis case and what does it say about their true motives? They represented convicted violent felon Paul Rennie (two armed robbery convictions) during the one month Davis trial in Federal Court, in the First Circuit and in the Supreme Court. See Davis v. Rennie, 264 F. 3d, at 86-116; Davis v. Rennie, 178 F. Supp. 2d 28 (D. Mass. 2002); See Ex. 4, p. 1-6; Ex. 11, p. 1; Ex. 12, p. 1 @ jasonstrongma.com. This litigation took seven years to complete. Why would any Attorney General ever represent such a person against a mentally ill inpatient who had been savagely brutalized by this person?[10] After all, State Attorneys General and Governors actually have a constitutional obligation, given their oath of office under the Constitution and the Due Process Clause of the Fourteenth Amendment, to insure that the institutionalized mentally ill are kept safe from violence against their persons by State employees. "The State has a duty to protect incarcerated prisoners and involuntarily committed mental patients from harm by a state actor." Davis, 264 F. 3d, at 98; Youngberg v. Romeo, 457 U.S. 307, 315-316, 319-320, 324 (1982). How was this obligation met when Attorneys General Harshbarger and Reilly represented Paul Rennie and several others of his ilk who had savagely brutalized Jason Davis on August 12, 1993? It was not. How can you protect the mentally ill if you protect their attackers in the Courts? You cannot.

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[9] See Recidivism of Prisoners released in 1983 (Bureau of Justice Statistics Special Report – Department of Justice).

[10] The jury found that Paul Rennie provoked Jason Davis in the Quiet Room and then employed the resulting behavior as the basis to "restrain" him through the utilization of excessive force. The jury also found that Paul Rennie helped pin Jason Davis to the floor so that fellow convicted violent felon Philip Bragg could then beat him bloody and attempt to break his neck. Davis, 264 F. 3d, at 103, 108 -111, 115-116, 86-116.

The Attorneys General expressly chose to represent and legally protect a twice convicted armed robber, who had savagely brutalized a mentally ill patient subject to the State's care, rather than to protect the mentally ill patient as the Constitution commands. They undertook this representation so that they could protect the State and its institutions even though this representation, by itself, violated the Constitution. Id. The Attorneys General made this express choice three times in three federal courts including the Supreme Court. How could those two appellate representations ever come to be after that grizzly one-month Federal Court trial showed the World precisely what Paul Rennie and all his cohorts had done to Jason Davis? "Circling the wagons" was the first and only order of business for the Attorneys General though the Constitution commanded otherwise.

Every person who these two Attorneys General represented at trial and on appeal – including all those State employees who pinned Jason Davis to the floor so he could be beaten by Phillip Bragg - were found by the Federal Court jury to have acted with ill will and evil motive.[11] In other words, these defendants evilly sought to injure and maim Jason Davis. They did just that. See Ex. 9, p. 1-16; Ex. 10, p. 1-9; Ex. 47, p. 1-28; Ex. 50, p. 1-11 @ jasonstrongma.com. See Davis, 264 F. 3d, at 86-116. Throughout the appellate process, in both the First Circuit and Supreme Court, Attorney General Thomas Reilly also represented Charge Nurse Joyce Weigers even though Scott Harshbarger had refused to do so during the month long Federal Civil Rights trial. What was it at trial that that made the Commonwealth's new Attorney General determine that justice would best be served by his representing Joyce Weigers in the First Circuit and Supreme Court?

It was Charge Nurse Joyce Weigers after all who told Jason Davis, following his beating, that "[t]his is what you get when you act – this is what you get when you act like this…" as recounted by hero State Police Officer Gregg Plesh at trial. Davis, 264 F. 3d, at 94-95, 115-116. Joyce Weigers was also actually only one of two Davis case defendants against whom the Federal Court jury awarded $500,000 in punitive damages further evidencing her acutely evil motives and bad intent toward Jason Davis. See Ex. 10, p. 9; Ex. 9 p. 14-15 @jasonstrongma.com. See Smith v. Wade, 461 U.S. 30, 56 (1982). It was proved at trial that Charge Nurse Joyce Weigers altered medical records in an attempt at covering up. Davis, 264 F. 3d, 94-95, 115-116. After her boyfriend (Phillip Bragg) was arrested for his outrageous assault upon Jason Davis – by a State Police officer who was on the scene and asked her to stop the abuse – she put a note in her nursing records that he was subject to a "disturbing and improper arrest." See Ex. 41, p. 1-2 @jasonstrongma.com; Davis, 264 F. 3d, 94-95, 115-116. Charge Nurse Joyce Weigers also observed in her nurse's notes that that the "precipitants" to Jason Davis' gruesome facial injuries were "unknown" to her though she witnessed her boyfriend beating Jason Davis firsthand. See Ex. 41, p. 1-2 @jasonstrongma.com; Davis, 264 F. 3d, 94-95, 115-116. These nurse's notes, all State Police Reports and all other records on the Davis matter existed years before the litigation even commenced in 1996. Yet Attorney General Reilly represented Charge Nurse in the First Circuit and the Supreme Court after all this trial evidence had come out? Why? There simply was no justice, in taking on Joyce Weiger's appellate cases, it was just a matter of the Commonwealth "circling the wagons," attempting to redirect blame against State institutions, trying to advance its contorted legal theories and eliminating ostensibly inconsistent contentions by private counsel

[11] "There was sufficient evidence to support the jury's finding that the appellants acted with 'evil motive' toward Davis." Davis, 264 F. 3d, at 115-116.

which could obscure the "win at any cost" mentality espoused by Attorney General Reilly and his predecessor.

These are the clients – literally criminals[12] – who Attorneys General Harshbarger and Reilly represented in the Davis case against a mentally ill inpatient who they had beaten bloody. The Attorneys General knew precisely who they were representing from the "get go" yet they forged ahead in violation of Youngberg. Upon receipt of the rather lengthy First Circuit opinion, reciting as it does one of the most sordid tales in the history of the Massachusetts Department of Mental Health, one would have thought that Attorney General Reilly would have put his sword down and done justice by the Davis family. Davis, 264 F. 86 – 116. Such was not the case. He doubled down by filing a Certiorari Petition with the Supreme Court. See Davis v. Rennie, 553 U.S. 1053 (2002). The filing of this Petition was merely a continuation of Thomas Reilly's and Scott Harshbarger's attempt to pervert the law to the detriment of the entire class of mentally ill inpatients.

The principal constitutional contention asserted by the Scott Harshbarger and Thomas Reilly in the Davis line of cases was that the United States Constitution does not obligate Doctors, Nurses, Mental Health Care Workers and other Staff to stop one of their fellow employees from savagely brutalizing a mentally ill inpatient even if they have both the time and opportunity to do so. This position was not only barbaric, immoral and unconstitutional but, if embraced, would have forever jeopardized the safety of mentally ill inpatients in this State and the entire First Circuit as well.[13] The Attorneys General sought to employ this legal position as the very basis for the courts to hold that all those client - employees of theirs who pinned Jason Davis to the floor – to perpetuate the beating - were legally blameless and that the claims against them should be dismissed. These same employees would have been provided with a perpetual constitutional license thereafter – if this legal position had been adopted by the courts – to stand idly by while fellow workers beat mentally ill inpatients bloody in their presence.[14] The District Court, First Circuit and then the Supreme

[12]It is self-evident that all Davis case defendants found civilly liable concurrently violated 18 U.S.C. §242 which is the criminal cousin of 42 U.S.C. §1983. Thus, all civil defendants – not just Philip Bragg and Paul Rennie – were criminals. Their conduct alone teaches us that as does the Davis verdict. Davis, 264 F. 3d, at 86-116. (Ex. 10, p. 1-9; Ex. 9, p. 1-16; Ex. 19, p. 1-3; Ex. 50, p. 1-11 at jasonstrongma.com). Lest we forget "[t]here was sufficient evidence to support the jury's finding that the appellants acted with 'evil motive' toward Davis." Id., at 115-116 (brackets supplied).

[13]If the First Circuit had ruled in the Attorneys' General favor it would have constituted binding legal precedent in Puerto Rico, Maine, New Hampshire, Massachusetts and Rhode Island relative to all State and federal proceedings in which the implicated constitutional issues arose. The Davis rules of law now control in these Districts.

[14] Massachusetts Attorneys General are actually legally required to refuse litigation representation if it "will not further the interests of the Commonwealth and the public." Clerk of Superior Court for Middlesex County v. Treasurer and Receiver General, 386 Mass. 517, 526, 437 N.E. 2d 157 (1982). The Attorneys General status as the attorneys for the Davis defendants was illegal, unconstitutional and corrupt on many different fronts including these: (i) they argued for the advancement of legal positions which would have resulted in unchecked brutality against all mentally ill inpatients housed in our State Mental Health facilities in violation of State and federal law; (ii) they attempted to advance legal positions, on behalf of a limited number of clients, which were adverse to the interests of the entire class of mentally ill persons in violation of State and federal law; (iii) they defended those who brutalized the mentally ill in the Davis case knowing full well that such brutalization had occurred given their own Disabled Persons Protection Commission's findings together with the arrest report and trial testimony of hero State Police Officer Greg Plesh; (iv) they ignored the arrest report and trial testimony of hero State Police Officer Greg Plesh and, ironically enough, attempted to discredit their own law enforcement officer at trial and on appeal; (v) they violated the strict dictate of Youngberg which required them to protect the mentally ill yet, in violation of Youngberg, they defended the State employed attackers of a mentally ill patient in the Davis case. (How can State Attorneys General possibly protect the mentally ill, as the Constitution requires under Youngberg, if they defend the State employees who savagely attack them? That is the antithesis of protection); (vi) they violated Youngberg requiring, as it does, States to insure

Court, through its denial of the Commonwealth's Certiorari Petition, summarily rejected this flawed constitutional contention.[15] The First Circuit wrote at length as to precisely why the Commonwealth's position was blatantly unconstitutional. Davis, 264 F. 3d, at 86 – 116; See also Ex. 50, p. 1-11 @ jasonstrongma.com.

What kind of State Attorneys General could ever argue for such a legal position? What does it say about them as leaders, attorneys and Attorneys General? What does it say about them as people? Famed Collegiate Basketball Coach John Wooden once said that "the true test of a man's character is what he does when no one is watching." When nobody was watching Attorneys General Harshbarger and Reilly were content to not only defend the very criminals who brutalized Jason Davis – instead of indicting them - but also make "law" which provided them with a license to engage in further brutalities while absolving them of all liability in the Davis matter. Attorneys General Harshbarger and Reilly simply wanted to "win at any cost" even if they had to make some "bad law" along the way. There was obviously no end to which the Massachusetts Attorneys General would not go to beat Jason Davis and redirect blame against the institutions of the Commonwealth.

The speciousness of this core constitutional argument by Attorneys General Harshbarger and Reilly is evidenced by the fact that reviewing Courts resorted to age old and fundamental Supreme Court precedent to summarily reject it. See Youngberg, 457 U.S., at 314-324; Deshaney, 489 U.S., 199-200; Davis, 264 F. 3d, at 97-99. The Youngberg case was decided some 11 years before the Davis incident even occurred. **Thus, these two Attorneys General not only attempted to disadvantage an entire class of our most vulnerable citizens but their unsuccessful attempt to do so was predicated upon a contorted view of the law which was entirely at odds with long standing constitutional protections for the mentally ill.** Once again, a "win at any cost" mentality. This was hardly the only alarming legal position, taken by the Massachusetts Attorneys General in the Davis case, which evidenced a "win at any cost" mentality to the detriment of the mentally ill as a class. See 11.3.17 letter (p. 1-60) @ jasonstrongma.com.

THE LEGAL RUB

The legal rub has always been that the Commonwealth does not usually pay intent based Federal Civil Rights claims but they have done just that, on a number of occasions, with and without the blessing of the Massachusetts Legislature. See M.G.L. c. 258, §§9 et seq.[16] On May 12, 2022

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that involuntarily committed mentally ill patients be kept free from physical violence upon their person by State workers; (vii) they shirked their responsibility to prosecute the very clients they defended in the Davis case; (viii) they never had any interest in obtaining justice for Jason Davis; and (ix) they violated their oaths under the Constitution to uphold it when they cast Youngberg aside.

[15] This "defense" – under the guise of "Qualified Immunity" – was essentially rewarding satanic State employee behavior with a satanic defense concocted by our Lead Law Enforcement Officer who, by the way, was constitutionally charged with administering justice and protecting the Mentally Ill. See Youngberg v. Romeo, 457 U.S. 307, 315-316, 319-320, 324 (1982); 11.3.17 letter (p. 1-60) @ jasonstrongma.com.

[16] Grossly negligent, willful, malicious, intentional and reckless conduct are all treated identically under M.G.L. c. 258, §9: this type of conduct is not indemnifiable relative to non-constitutional officers. The Governor ***is*** a constitutional officer. The Davis defendants were not.

Governor Baker, to his great credit, spearheaded the payment of 56M to 160 injured and deceased (84) soldiers at the Holyoke Soldiers Home – to compensate them and their families for their Federal Civil Rights claims – because their injuries and deaths were proximately caused by the reckless mishandling by those in charge of the Covid-19 outbreak at that that facility. Governor Baker ***himself*** filed the legislation as was his legal right:

https://www.wgbh.org/news/local-news/2022/05/12/state-settles-with-families-of-holyoke-soldiers-home-victims

A review of the 29 page Federal Civil Rights Complaint filed in this case, coupled with the 174 page investigative report generated at Governor Baker's request, leave no doubt that the Federal Civil Rights claims asserted in the Holyoke Soldiers Home Federal Court litigation were not compensable/indemnifiable under M.G.L. c. 258, §9 or any other section of that or any other Massachusetts statute. This is precisely why Governor Baker filed legislation to effect a resolution. The Davis family applauds the actions Governor Baker took to compensate the victims at the Holyoke Soldiers Home for their Federal Civil Rights claims but Jason Davis, as well, deserves equal treatment under the law.

The Commonwealth of Massachusetts agreed to pay the 160 victims at the Holyoke Soldiers Home, under the Federal Civil Rights Act, because it ***felt*** like doing so. It had no such legal obligation under the Federal Civil Rights Act and Will v. Michigan, 491 U.S. 58-71 (1989). As we know, Will, as a blanket proposition, permits States ***not to pay any claims*** seeking monetary damages under the Federal Civil Rights Act but what actually happens in practice? States pay some, but not all, Federal Civil Rights claims when the State is the real culprit. Massachusetts has done precisely this in recent years in cases other than the Holyoke Soldiers Home. The Commonwealth indemnified intent based civil rights claims in the Joshua Messier (3M) case – with no trial and no legislative bill having even been filed – and the Dennis Smith (1M) case was indemnified by the Massachusetts Legislature as outlined in the Written Testimony. See Ex. 8; Ex. 31, p. 31 @ jasonstrongma.com. In short, some of these claims get paid while others do not which itself violates the Constitution. Most usually the claims which get paid are those which garner the most publicity. ***States do not have to pay any claims under Will but Will does not prohibit States from paying some of them which they do. Caprice lives in vacuums like this.***

"Arbitrary power and the rule of the Constitution cannot both exist. They are antagonistic and incompatible forces, and one or the other must of necessity perish whenever they are brought into conflict. To borrow the words of Mr. Justice Day, 'there is no place in our constitutional system for the exercise of arbitrary power.' Garfield v. Goldsby, 211 U. S. 249, 211 U. S. 262." Jones v. SEC, 298 U.S. 1, 23-24 (1936). "The Equal Protection Clause directs that 'all persons similarly circumstanced shall be treated alike.'" Plyler v. Doe, 457 U.S. 202, 216 (1982) (citation omitted). The "'purpose of the Equal Protection Clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination…" Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000) (citation omitted). "The 'equal protection of the laws' is a more explicit safeguard of prohibited unfairness than 'due process of law,' and therefore we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process." Bolling v. Sharpe, 347 U.S. 497,499 (1954).

"Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and unequal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution." Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886). "When we consider the nature and theory of our institutions of government, the principals upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power." Id., at 369-370.

The payment by three sitting Governors of the Federal Civil Rights claims in the Dennis R. Smith, Joshua Messier and Holyoke Soldiers Home cases – while concurrently depriving the Davis Estate of the payment of its Federal Civil Rights claims – plainly and simply implements arbitrary, invidious, vexatious and intentional discrimination relative to 1 of 163 identically circumstanced claimants.[17] This constitutes governmental conduct which is "purely personal and arbitrary…" Id., at 369-370. It is the very type of conduct at which the Fourteenth Amendment directs itself through its Equal Protection and Due Process Clauses. Our Constitution manifestly does not sanction the blatant discrimination which has been and will be practiced here if you fail to act in accord with the Constitution. "The touchstone of due process is the protection of the individual against arbitrary action of the government." Dent v. West Virginia, 129 U.S. 114, 123 (1889). What could be more arbitrary than the discrimination at issue here given its crude and vexatious nature? It affronts the most basic and oldest tenets of our Constitution. See Jones v SEC, 298 U.S. 1, 23-25 (1936). The question of the day is this: will you practice this arbitrary, invidious, vexatious and intentional discrimination - in your role as Governor – against Jason Davis and his family?

The Davis case must be resolved on an equal footing with the Dennis R. Smith, Joshua Messier and Holyoke Soldiers Home cases in accord with the Fourteenth Amendment and rather crude concepts of equality. The payments of these three cases were orchestrated by three sitting Governors (Romney, Patrick and Baker) on behalf of 162 claimants. Jason Davis has a constitutional right to be included within this same group as its 163rd member.

When the Commonwealth's Executives arbitrarily and whimsically cast Jason Davis aside, while literally paying hundreds of other Federal Civil Rights claims, it violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution.

GOVERNMENTAL SUPERVISORY OFFICIALS CANNOT DO WRONG UNLESS THEY FIRST HAVE A CHANCE TO DO RIGHT

The instant correspondence connotes a constitutional Demand Letter forwarded pursuant to the dictate of 42 U.S.C. §1983 and, more specifically, Medina v. Rivera-Berdecia, Slip. Op. at p. 17 - 19 (1st Cir. 9.17.14) (Docket No. 12-2492). The First Circuit Court of Appeals has held that a

[17] Governor Patrick's orchestration of the Messier case settlement was well publicized by the local press in 2014 (Ex. 31, p. 1-36; Ex. 27, p. 1-27 @jasonstrong.com), as was Governor Romney's orchestration of the payment in the Dennis R. Smith case (Ex. 31, p. 31 @jasonstrong.com) and Governor Baker's recent orchestration of the payment in the Holyoke Soldiers Home case. See media link above. The record is all too clear relative to these three distinct orchestrations by three sitting Massachusetts Governors.

constitutional demand letter is a mandatory prerequisite[18] to the commencement of certain Federal Civil Rights claims and that it may be entered into evidence during trial. Simply stated, the First Circuit has held that supervisory level public officials cannot be held to have done wrong unless they are first given a chance to do right:

> Under 42 U.S.C. § 1983, '[p]ublic officials may be held liable . . . for a constitutional violation ...if a plaintiff can establish that his or her constitutional injury resulted from the direct acts or omissions of the official, or from indirect conduct that amounts to condonation or tacit authorization.' " Ocasio-Hernández, 640 F.3d at 16 (internal quotation marks omitted). **To that end, '[a]n important factor in making the determination of liability is whether the official was put on some kind of notice of the alleged violations, for one cannot make a 'deliberate' or 'conscious' choice to act or not to act unless confronted with a problem that requires the taking of affirmative steps.'** Rodríguez-García v. Miranda-Marín, 610 F.3d 756, 768 (1st Cir. 2010) (quoting Lipsett v. Univ. of P.R., 864 F.2d 881, 902 (1st Cir. 1988) (quoting Pembaur v. City of Cincinnati, 475 U.S. 469, 483-84 (1986)). 'Once an official is so notified, either actually or constructively, it is reasonable to infer that the failure to take such steps, as well as the actual taking of them constitutes a choice 'from among various alternatives.' Lipsett, 864 F.2d at 902 (quoting Pembaur, 475 U.S. at 483).

Medina v. Rivera-Berdecia, Slip. Op. at p. 17 -19 (1st Cir. 9.17.14) (Docket No. No. 12-2492).

This Demand Letter sets forth the "problem which requires the taking of affirmative steps." Id.

THE ROLE OF GOVERNOR PATRICK AND ATTORNEYS GENERAL HARSHBARGER, REILLY, COAKLEY AND HEALEY IN THE DAVIS LINE OF CASES

It is respectfully submitted that the Massachusetts Attorney General's Office played a very disturbing role – indeed a criminally corrupt role[19] – in the Jason Davis case from its very inception as outlined, with great exactitude and specificity, in the sixty (60) page letter sent to you on 11.3.17 and herein. You never responded to this letter. Your role in that process was also very disturbing as detailed in this and the 11.3.17 letters. While your Division, Attorney General Coakley and Governor Patrick were busy insuring that an identically situated victim (Joshua Messier) would obtain justice in the case brought by his family you concurrently embarked on a course of conduct designed to insure that Jason Davis would never obtain justice. All the while you professed to be a Civil Rights leader - the head of the Civil Rights Division at the Massachusetts Attorney

[18] It is a certainly a prerequisite if the complaining party, as here, seeks to litigate the post incident conduct of those alleged to have engaged in civil rights deprivations next following their receipt of a Constitutional Demand Letter such as the instant one.

[19] 42 U.S.C. §1983 has a criminal cousin (18 U.S.C. §242). The discussion above alone dictates that the Massachusetts Attorneys General violated 18 U.S.C. §242 for myriad reasons. See also the 11.3.17 letter. These violations are actually codified in reported federal opinions and in court filings made by the Massachusetts Attorneys General.

General's Office and a person who outwardly touted herself to be a Civil Rights leader - while paying lip service to the Davis family through your 5.13.14 "very sad situation" email.[20]

A fake embrace if there ever was one and even it was followed up by nine years of dead silence which continues to this day.[21] How many great Civil Rights leaders run away from a great Civil Rights cause? None. You could have stood up for Jason Davis in 2014, 2015 and any time since but, instead, you choose to turn a blind eye and a deaf ear to his plight while advancing the baseless causes of your former boss, Attorney General Coakley, and Governor Patrick both of whom were bent on insuring that Jason Davis would never obtain justice. The Legislative Record is all too clear. Legitimate Civil Rights leaders speak truth to the power brokers in their own party when they do wrong. You did not.

The Legislative Record teaches us that Governor Patrick – during the same time period when the Davis family approached you to help them seek justice – combed through a 36B State budget to veto legislation which would have paid but a small fraction ($500,000) of the Davis judgment to the Davis family. The Massachusetts Senate (39-0) and House (152-0) unanimously overrode Governor Patrick's veto to try to provide Jason Davis with this small measure of justice but even it was not funded by the Patrick Administration. See Ex. 25, p. 6, 7, 17, 24, 29; Ex. 19, p. 1-3 @ jasonstrongma.com. The pure, unadulterated evil[22] inherent in Governor Patrick's veto is proved by the veto itself. The attendant circumstances, regarding this veto, accentuate the level of evil practiced by Governor Patrick in this regard.[23]

Attorney General Coakley was also fast at work, relative to her own evil and corrupt tactics concerning the Davis case, in the Spring of 2014. On the very day that the Messier Settlement was announced by the Massachusetts media (March 26, 2014)[24] I forwarded an email to her, on behalf of the Davis family, which reads as follows:

Dear Attorney General Coakley:

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[20] You used the words "Civil Rights" at least ten times, by my count, on 5.10.14 when you gave a speech at the Holliston Democratic Town Committee Breakfast. I informed you of this fact, via email, on May 13, 2014.

[21] I also sent three communications to you in the Fall of 2022 which you ignored. See Ex. 3-5.

[22] The Davis Estate does not use the word "evil" here as hyperbole but it is instead utilized to depict a certain level of culpability under the Federal Civil Rights laws. It is actually a term of art in Civil Rights circles. See 42 U.S.C. §1983; Smith v. Wade, 461 U.S. 30, 56 (1983).

[23] The Governor's veto statement was as follows; "I am vetoing this item because state law [M.G.L. c. 258, §9] prohibits indemnifying employees under these circumstances." See Ex. 25, p. 17 (brackets supplied) @ jasonstrongma.com. Governor Patrick was though, as noted, in the process of indemnifying the Messier family for an identical legal claim when he vetoed the legislative bill filed by the Davis family allegedly because it violated State law. See Ex. 25 p. 13, 17; Ex. 32, p. 1-11 @jasonstrongma.com. This veto statement alone would have prevented him from indemnifying the Messier family in any form or fashion. It is also shocking to note that Governor Patrick vetoed the Davis legislation notwithstanding the fact that he ***specifically advised*** the Davis family on June 20, 2008 to file it as the methodology to sidestep the very authority (M.G.L. c. 258, §9) which Governor Patrick then employed on July 11, 2014 to veto its legislation. See Ex. 25, p. 17, 6; Ex. 16, p. 1-2; Ex. 31, p. 1-3; Ex. 19, p. 1-3 @ jasonstrongma.com. The recited circumstances constitute yet additional evil conduct undertaken by Governor Patrick against Jason Davis.

[24] https://www.wbur.org/news/2014/03/26/messier-settlement

> I read with great interest today's article in *The Boston Globe* by Michael Rezendes regarding the settlement in the Joshua Messier case. As you know, the Davis v. Rennie case mirrors the tragedy that occurred in the Joshua Messier case. Jason Davis obtained a judgment in 1998 from the Federal District Court here in Boston which now stands at nearly $2.1M which judgment was upheld by the First Circuit Court of Appeals in 2001 and then the U.S. Supreme Court in 2002 through its denial of certiorari. We humbly expect and would respectfully request, given the swift resolution by your office of the Messier case, that you immediately move to pay the judgment on the State's behalf in the Davis v. Rennie case. I would like to meet with you as soon as possible to discuss specifically how this matter could be resolved in the short term. I sincerely appreciate your attention to this matter.

See Ex. 23, p. 1-8; Ex. 27, p. 1-20 @ jasonstrongma.com.

Attorney General Coakley not only refused to meet with the Davis family - after having initially said that the matter was under review by her office – but then actually specifically informed Massachusetts legislators, in the Spring of 2014, that she was desirous of ***defeating*** any legislation which would have resulted in any payment being made to the Davis family.[25] See Ex. 23, p. 1-8 @ jasonstrongma.com. Intermediaries (Assistant Attorney General Edward Bedrosian amongst them) in her office made her position known to legislators as recounted to me by a State Representative (Carolyn Dykema) and a Massachusetts Lobbyist both of whom had personally talked with this intermediary about this precise issue. This intermediary actually thwarted my ability to even meet with Attorney General Coakley obviously with her acquiescence. Ex. 23, p. 1-8 @ jasonstrongma.com. What type of person, much less Attorney General, would seek to defeat the Davis legislation? Why would any Attorney General ever take this tact especially when she was literally in the midst of insuring that another family's intent based civil rights claims - in an identical legal context - were going to be indemnified? This position runs counter to justice in all its myriad forms. In 2012 Attorney General Coakley authored an "Op Ed" in the Boston Herald titled "Society Must Stand Up for the Mentally Ill." Attorney General Coakley's conduct was pure, unadulterated evil. Why did she fail to **"Stand Up"** for Jason Davis after the Davis family specifically asked her to do so and why did she seek to hurt his cause?

It was the "Blue Wall." This was precisely why Attorney General Coakley was so steadfast in her resolve to defeat the Davis legislation even while concurrently working feverishly to insure that the Messier Federal Civil Rights claims would be indemnified.[26] Attorneys General Scott Harshbarger and Thomas Reilly litigated the Davis case for seven years (1996-2002). They spent an enormous amount of the taxpayer's time and money to do so. They played "cat and mouse"

[25] During this same time period – on 5.13.14 – you asked the Davis family if "anything" was "happen[ing] with the legislation this week." Ex. 1 (brackets supplied). You knew full well that Attorney General Coakley wanted that legislation to be defeated. Indeed, the law charged you with such knowledge. Your "interest" in the Davis case was indeed a fake embrace by somebody who was actually adverse to the cause as proved by your subsequent actions.

[26] Attorney General Coakley certainly could not have been pursuing "justice" while seeking to defeat the Davis family legislation. There was nothing "just" about this endeavor.

with Jason Davis and his family over payment[27] and withdrew from the litigation on the very day that they lost in the Supreme Court so the Attorney General's office would not have to wrangle with Davis' lawyers over judgments, payments and the like. Davis, 178 F. Supp. 2d, at 28-29; See Ex. 12; 11.3.17 letter @ jasonstrongma.com. The Attorneys General were clearly not adverse to making some "bad law" along the way either; as long as they could beat Jason Davis. See supra; 11.3.17 letter. They were steadfast in their resolve that Jason Davis was never going to get any justice in his case. Their actions and the empirical data cited herein and in the 11.3.17 letter make this all too clear.

It was Jason Davis and his pesky lawyers, after all, who refused that morally depraved offer of $500,000[28] made by Attorney General Harshbarger and then went on to defeat the Massachusetts' Attorneys General in a one-month federal trial and in two federal appeals obtaining a judgment which now stands at 2.5M; five times the amount of the depraved mediation offer. Truth be told, the Davis case was a great source of embarrassment and humiliation for the Attorneys General of this State which obviously colored their conduct toward Jason Davis, his family and his lawyers. Davis and Goliath. How often is a State Attorney General's Petition for Certiorari, which he files in the Supreme Court relative to a number of constitutional issues, denied? The Attorneys General simply could not "shake" Jason Davis even with their bottomless pit of money, unlimited legal resources and their corrupt shenanigans. The reported opinion from the First Circuit also cites an array of legal errors by the Massachusetts Attorney General's Office to pour even more salt on the Commonwealth's open and self-inflicted wound. The Office of the Attorney General has always had great disdain for the Davis case. You are part of that disdain as your actions prove. Instead of using the Davis case as a teaching tool – a great volume of mental health corrective safety measures were proposed on pages 52-54 in the 11.3.17 letter you likely never read – the Office of the Attorney General has sought to inflict pain, torment and suffering upon the Davis family since 1996 while insuring that perpetual injustice would always be inflicted upon it. To date, it has been. You have been a big part of this process. Indeed, the most "important" part.

You followed in the footsteps of your predecessors (Attorneys General Harshbarger, Reilly and Coakley) and Governor Patrick who "led" the way in regard to the Davis case. When you became

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[27] On the date of the of the initial pretrial conference in the Davis case, which was held in the "old" Federal Courthouse in Boston, Massachusetts in May of 1998, an assistant Attorney General, Richard H. Spicer, Esquire, approached two of Davis' lawyers (Christopher M. Perry and Brendan J. Perry) in a hallway abutting the courtroom where the pretrial conference was scheduled to be held. Richard H. Spicer then informed the Attorneys Perry that Attorney General Scott Harshbarger "had a message for you (Christopher M. Perry)." The message was as follows: "Mr. Perry, Scott [Harshbarger] wanted me to tell you that he will pay the entire jury verdict if you win but that he will never have to pay you because you will never win." (brackets supplied). I told Mr. Spicer I would hold the Attorney General to his word. The 2.5M judgment remains unpaid. See also 11.3.17 letter (p. 1-60). There were a lot more "cat and mouse" games played with payment issues by the Attorneys General. Id.

[28] Prior to trial in the Davis case informal mediation was conducted before Senior District Judge A. David Mazzone in Boston Federal Court. Attorney General Harshbarger offered Five Hundred Thousand ($500,000) Dollars at mediation, in complete settlement of the case, with the caveat that Jason Davis receive absolutely nothing. His proportionate share, Attorney General Harshbarger then argued, would be remitted back to Commonwealth as payment for "back rent" for his having been an inpatient at the Department of Mental Health for so many years. Jason Davis and his lawyers adamantly rejected this offer of settlement which they deemed to be morally reprehensible. They expressed this sentiment to Attorney General Harshbarger and Senior District Judge Mazzone during mediation. Judge Mazzone informed Attorney General Harshbarger, before mediation concluded, that Jason Davis was going to "ring the bell" at trial. He did.

Attorney General in 2015 you defended the evil positions of both Governor Patrick and Attorney General Coakley in the Courts all the while trying to insure that Jason Davis would never obtain justice. This new Davis suit – which you defended against in your new role as Attorney General – was simple: since Joshua Messier was paid by the Commonwealth the Davis family simply argued that they too had a right to be paid because the two cases were legally identical in terms of indemnification issues. See M.G.L. c. 258, §9. ***You were having none of it; but it was a still "very sad situation" right? I guess it was not "sad enough" for you to do the right thing or anything except to make sure that the Davis family never got justice.*** What situation did you confront: (i) you had two Democratic power brokers (Attorney General Martha Coakley and former Governor Deval Patrick) who were dead set against Jason Davis receiving one red cent from the Commonwealth of Massachusetts; (ii) neither of them were in office when you took over as Attorney General; and (iii) both of them had just jointly orchestrated the payment in an identical type of legal case (Joshua Messier case). If you followed their lead – depriving Jason Davis of any chance at justice – it would require you to be a hypocrite and talk out of two sides of your mouth. It would also require you to run away from the Jason Davis Federal Civil Rights forever. This is the path you chose because you because you could not speak truth to power. You yielded to power even when you knew it was wrong to do so. **How did you go from it's a "very sad situation" and asking about the Davis family legislation to doing anything in your power to insure that the Davis family would never get justice?**

On February 9, 2015 I wrote you a heartfelt letter imploring you to do the right thing. See Ex. 2, p. 1-6. You then had long standing knowledge about the barbaric treatment to which Jason Davis and his family had been subjected for more than 22 years. See Ex. 1; Ex. 49, p. 1-77 @ jasonstrongma.com.[29] A portion of this letter reads as follows:

> Although technically I guess we are "adversaries" we need not be. We were not in May, 2014. **The Davis case actually presents a series of law and order issues around morality, equality and fair handed justice.** The Davis family has suffered long enough at the hand of the State. It should suffer no longer. I would respectfully request that you, I and Mr. Davis meet in the short term to resolve the Davis case on a footing equal with and in the same manner that the Messier case was resolved. I seek only to save Jason's Father and family from further torment, heartache and trauma of the type and kind which they have endured for the last 22 years. I hope you, Mr. Davis and I can meet in the ensuing days to bring to a conclusion a horrific event that terrifies the Davis family to this day. I invite you to read the entire letter which Mr. Davis remitted to the Massachusetts State Senate on June 20, 2014. It is heart wrenching.I look forward to meeting with you. I respectfully submit that the taxpayers' money should not, once again, be deployed to deprive Jason Davis' family of the long overdue justice to which it is so richly entitled. (emphasis in original).

See Ex. 2, p. 4.

[29] The Complaint filed in this new litigation was 77 pages long, it had a 43 page fact pattern and it incorporated 26 exhibits themselves totaling 249 additional pages. This Complaint cited actual evidence – it was not mere allegations as is usually the case – as it put the entire World on notice concerning precisely how evil the conduct was which was practiced by Governor Patrick and Attorney General Coakley upon Jason Davis.

You refused to respond to the letter or meet with the family. Moreover, when the First Circuit requested the parties to attend a settlement conference in this new case – a standard request in all First Circuit appeals – you steadfastly refused. I actually received a call from one of the clerks relative to your refusal inquiring if I knew why you were refusing to attend. I informed him I had no clue. No settlement conference was conducted because of your refusal to attend it. Win at any cost.

What is alarming about the Davis v. Patrick case is that you put forth a series of defenses which can only be described as acutely frivolous, insubstantial, illegal, unconstitutional, vexatious, morally reprehensible and unjust a matter of fact and law. See Davis v. Patrick, 802 F. 3d 128 (1st Cir. 2015); Ex. 10, p. 1-15. There was never a shred of viability as to any one of them. When sunlight is shined upon the record it shows just how scurrilous your defenses actually were. All one really need to do is to examine the Petition for Rehearing in Banc for it alone tells the whole legal story. See Ex. 10, p. 1-15. I would actually invite 100 of our Nation's foremost constitutional scholars to review the very limited District Court and First Circuit record in the Davis v. Patrick case. See First Circuit Docket No. 14-2306, District Court Docket No. 1:14-cv-13427-WGY and Davis v. Patrick, 802 F. 3d 128 (1st Cir. 2015). Each of these constitutional scholars could only conclude that: (i) your defenses were frivolous, insubstantial, illegal, unconstitutional, vexatious and unjust as a matter of fact and law; (ii) all orders and rulings by the District Court, adverse to the Davis Estate, were legally incorrect and had no viable legal predicate; and (ii) all orders and rulings by the First Circuit, adverse to the Davis Estate, were legally incorrect and had no viable legal predicate. The First Circuit opinion actually includes an array of rulings which no Court in the history of our Nation has ever made or will likely ever make again. See Ex. 10, p. 1-15. This opinion is illogical, irrational and affronts bedrock principles of our Constitution and our Federal Rules of Civil Procedure. The rulings in this case were travesties of justice. They pose no obstacle to instituting litigation here.[30]

It is sad when a sitting State Attorney General has to resort to frivolous legal defenses to best the family of a battered mentally ill patient in its then twenty-two year quest for justice. Why would you not honor our request for a meeting and help us obtain justice in 2015? You had the power, just as Attorney General Coakley had this same power to help the Messier family in 2014, to provide justice for the Davis family.[31] That's what she did for them. Why did you lay silent? Legitimate Civil Rights Leaders confront powers brokers in their own party when they do wrong.

[30] The Davis v. Patrick, 802 F. 3d 128 (1st Cir. 2015) case will be of no legal concern to the Davis Estate should there be a need to file District Court litigation against you because it simply is grossly erroneous in every relevant respect. The Petition for Rehearing in Banc and the Appellant's Opening and Reply briefs easily prove as much. See Ex. 10, p. 1-15. The Petition for Rehearing in Banc will be used from the "get go" in any District Court litigation to stave off any of your specious defenses from being asserted again. One of the most troubling aspects of the First Circuit appellate process was that the court refused to admit into the record or even consider the most damning piece of evidence in the litigation from the Commonwealth's perspective. See Ex. 10, p. 7. The "Motion to Supplement Record" was never even ruled upon by the First Circuit. See Ex. 10, p. 7. This evidence arose during the course of the appeal and did not exist in the trial court. Id. To suggest that you, in your capacity as the Attorney General, illegally and unconstitutionally talked out of two sides of your legal mouth in the context of this proposed evidence in the 2015 First Circuit appeal, is an acute understatement. See Ex. 10, p. 1-15. The fact laden and fact specific nature of the Davis v. Patrick opinion renders it wholly useless here and it has actually been entirely undercut by the settlement effected in the Holyoke Soldier's Home litigation by Governor Baker. Your participation alone in the Holyoke Soldiers Home matter scuttles all defenses – frivolous or otherwise – which you asserted in the Davis v. Patrick case. In any event, the Davis family would like to move past all these legal nuances – all of which favor it – in its attempt to obtain justice for Jason Davis after a 30 year Civil Rights struggle.

[31] https://www.wbur.org/news/2014/03/26/messier-settlement

Governor Patrick did wrong. Attorney General Coakley did wrong. You confronted neither of them because you could not speak truth to power. Thurgood Marshall would have spoken truth to power. He would not have turned away from Jason Davis like you did. You did not stand up for Jason. You stood up for the "Blue Wall" and your fellow Democratic power brokers.

Joshua Messier would be alive today if the Commonwealth of Massachusetts had simply taken corrective action on the heels of the initial Davis series of reported cases and rules of law it implemented. See Davis v. Rennie, 264 F. 3d 86 (1st Cir. 2001); Davis v. Rennie, 997 F. Supp. 137 (D. Mass. 1998); Davis v. Rennie, 553 U.S. 1053 (2002). The Commonwealth, after all, was the ***lawyer*** in this series of cases so it had first-hand knowledge concerning all mental health related safety measures to which this vast litigation record spoke. In 2009 Joshua Messier, like Jason Davis in 1993, was a victim of physical and Four Point Mechanical Restraints which not only went horribly awry but which were performed by ill trained, ill qualified and ill tempered employees who thought "punishment" was part of the restraint process which it can never be. See Youngberg. The Davis series of reported cases was, in and of itself, legal notice of numerous DMH atrocities and flawed constitutionally policies – including restraint qualifications, restraint practices and restraint training - as were the 200 or so exhibits introduced at trial in 1998, the 1998 verdict, the 1999 judgments and the 2001 First Circuit opinion. The 1998 trial exhibits themselves proved a wave of historical violence at the DMH of the most grotesque and barbaric nature imaginable.[32] It was this same violence that injured Jason Davis and killed Joshua Messier. These flawed restraint polices also injured Jason Davis and killed Joshua Messier.

The sad truth of the matter is this: the Commonwealth has much more than just blood on its hands from Jason Davis. The Commonwealth cost Joshua Messier his life. If the Commonwealth had not been so fixated on depriving Jason Davis of justice – and looked inward after his month-long trial in 1998 focused as it was on acutely flawed restraint practices – Joshua Messier would be alive today. **That is a fact.** In 2008, before Joshua Messier's 2009 homicide,[33] I offered my pro bono services to Governor Patrick in an attempt to keep the mentally ill safe but, like my 2017 proposal to you, it was rejected. See 11.3.17 letter, p. 52-54; Ex. 15, p. 4; Ex. 16, p. 1@ jasonstrongma.com. I wish corrective measures had been implemented in 2008 and in 2017 when I called for them. The mentally ill would have greatly benefited from these.

You are the single most "important" reason that Jason Davis never obtained justice. You should have stood up for him in 2014 when the Davis family asked you to stand publicly with them and support its then pending legislation. You refused to do so because your boss and then former boss, Attorney General Coakley, and Governor Patrick were adamant that the legislation be rejected even as you paid lip service to the Davis family. You knew they were wrong but you looked away. You are now free as Governor to stand up for Jason Davis because you need not satiate the desires

[32] The Davis case trial exhibits, which are still part of the record in the District Court, First Circuit and Supreme Court, prove the documented commission of the very worst types of crimes against mentally ill inpatients at the Westborough State Hospital including Rape, Torture, Indecent Sexual Assault and Battery, Criminal Battery, Criminal Assault, Physical Violence, Physical Abuse, Neglect, Threats, Emotional Abuse, Intimidation, "Swastika Branding" and Verbal Abuse by staff.

[33] Joshua Messier's death certificate lists homicide as the cause of death. See Ex. 17. p. 1; 18, p. 1-11@ jasonstrongma.com.

of any other power broker. You are the ultimate power broker in the Commonwealth at this point. Your nine-year silence on the Davis case should give way to justice seeking actions. Dr. King once said, **"In the End, we will remember not the words of our enemies, but the silence of our friends."** When will your silence end regarding Jason Davis?

In 2008 the Huffington Post published an article about the Jason Davis case titled "Corruption in Massachusetts.[34] It was not wrong. See 11.3.17 letter. The Commonwealth can no longer turn its head away from the vile corruption which has plagued the DMH and Executive Branch relative to the Davis case and mental health issues in general. I would ask you again to read the 11.3.17 letter. The issues raised in it and this letter cannot, once again, be met with cowardice and silence. It is long past time to act as men and women should act when confronted with issues of this gravity.

DEMANDS OF THE ESTATE OF JASON DAVIS

Gubernatorial and Senate committees should be immediately convened to investigate the corruption identified in the 11.3.17 letter. This corruption was criminal in nature and is in dire need of investigation. Applicable criminal prosecutions should be instituted through a Special Prosecutor. The Commonwealth should also forthwith create the Mental Health Commission requested through the 11.3.17 letter and implement the reforms called for in it as well. If such actions are not taken then more mentally ill inpatients will be injured, maimed and killed.

President Lincoln stated in his address at the Lyceum that "towering genius disdains a beaten path. It seeks regions hitherto unexplored." It is time to explore the unexplored region of justice for Jason Davis and the mentally ill in this Commonwealth. To date, the Commonwealth has lacked the integrity, honor and courage to do so. President Lincoln also said that the "highest calling of any citizen is to serve as a juror." It is time that the Commonwealth stopped disrespecting the Federal Court jury verdict returned by the eight federal jurors who sat on the Davis case for one month in the Fall of 1998. The Unites States has taught us precisely how important the Davis case is to our national constitutional landscape.[35] The Commonwealth should now embrace what the Nation has long known.

I would relish the chance to obtain justice for my 85 year old client, Mr. William Davis, who has fought so hard for his son Jason since August 12, 1993. Jason Davis has a long overdue right to sit at the table of justice. His Father does too. In his 2014 letter to the Massachusetts Senate Mr. Davis made these observations about his son:

> The trial was agonizing for my son Jason. He was suicidal throughout it as expressed by him to family members and his lawyer as well. His suicidality and suicidal ideations actually limited his ability to even attend his own trial. He was also suicidal throughout the four year period during which the Commonwealth filed appeals in the Federal Court of Appeals and the United States Supreme Court. My son Jason made moderate gains,

[34] https://www.huffpost.com/entry/corruption-in-massachusetts_b_5a5853c4e4b00b4ea8d0837c

[35] Indeed, Shepard's Citator service informs us, as of today, that 187 Courts from around the Nation have cited the Davis First Circuit opinion in their reported opinions and that another 121 legal commentators have cited this opinion in their literature. The First Circuit opinion in Davis is, without question, a landmark Federal Civil Rights decision.

> in improving the quality of his life through regimented therapy, in the years prior to 1993. After the incident his life went into a downward spiral and he died six years after his trial at age 38. His Mother died soon thereafter. My son was actually a hero. Although plagued by mental illness and suicidal ideations, he endured a four week trial and two federal appeals in route to making historic constitutional law which now protects all mentally ill throughout our Nation. He should be treated like a hero and not the criminals who both attacked him and were then subsequently protected by the Commonwealth's Attorney General in a host of legal proceedings. I know that money will never bring back my son nor will it fully compensate our family for the torment visited upon him on August 12, 1993. However, what I do know is that the payment of the judgment in my son's Federal Civil Rights case will finally mark a place in time where the Commonwealth admits that it was both wrong and not above law. It will also cement the proposition that the historic laws Jason made will be neither in vain nor unappreciated by the very government which subjected him to the torment which he suffered on August 12, 1993 and thereafter. Improvement, after all, only comes through full accountability. I respectfully submit that Governments should be characterized by integrity and honor which, to date, have been absent here.

See Ex. 9.

The oddities and incongruities around the Davis case are too innumerable to list here. When do two sitting U.S. Senators call for justice for a Civil Rights victim – as they did here – and then stand down and lay silent in the face of their own calls for justice? When does a State stand down and lay silent in the face of their two sitting U.S. Senators calling for justice? Is that not contrary to what we would expect in a civilized society? It is readily apparent that Senator Markey was only looking for votes in his 9.1.20 U.S. Senate election when he called for justice on 8.29.20 for Jason Davis. His silence since 8.29.20 proves as much. It is ironic that the Boston Herald article accused Senator Markey of looking away from the plights of Civil Rights victims. He did precisely that to Jason Davis as did Senator Warren given their collective silence since 8.29.20. You looked away too as your blind eyes, deaf ears and failure to speak truth to power teaches us. You were not alone as the dry, clear, objective and empirical record dictates. See 11.3.17 letter (p. 1-60) @ jasonstrongma.com.

Would you like to know another acute oddity? Four Democratic State Attorneys General (Harshbarger, Reilly, Coakley and Healey) and one Democratic Governor (Governor Patrick) have all despised the cause of Jason Davis and done everything in their power to make sure he never gets justice. Incredibly, each of these Four Attorneys General were constitutionally charged with administering justice and protecting the mentally ill. Likewise, each of them presided over a Civil Rights Division in their capacities as Attorneys General. Governor Patrick, for his part, was a former Federal Civil Rights lawyer for the NAACP who, at one point, argued a Federal Civil Rights case before the Supreme Court. He was also the head of President Clinton's Civil Rights Division in the United States Department of justice where he oversaw 250 Civil Rights lawyers.[36]

[36] His initial speech at the Department of Justice, on April 21, 1994, bears exacting scrutiny here. See 11.13.17 letter at p. 57-58.

Five Civil Rights lawyers. A grotesque and egregious Civil Rights atrocity is laid before each of them. What are the odds that not one of them actually steps forward and helps the family? Five NBA players are in your backyard playing basketball and not ***one*** of them can hit even ***one*** shot? How is that statistically even possible? Not one of these "Big Five" Democratic power brokers does even one thing to help Jason Davis? All of them actually try to hurt his cause? How is ***that*** even statistically possible? **How could this uniformity of conduct occur in the absence of concerted action? How could each of them hate this cause so much?** Could we not expect at least one of these "Civil Rights Leaders" to step forward and do the right thing? Sadly, for Jason Davis, he could not find a warm human heart in the bunch. The "Big Five" all clearly violated the Constitution but, much more importantly, they violated the central creeds which govern how truly good people walk through life. Why did the "Big Five" practice all this hate against such a poor innocent soul like Jason Davis?

The answer is all too clear. It was the "Blue Wall." It was the Democratic power brokers. It was the embarrassment and humiliation of Goliath's sound defeat at the hands of Davis. The Democratic power brokers were also simply too weak, cowardly and corrupt to call out their fellow Democratic power brokers when they did wrong. It was all of this. These wrongs went from the Westborough State Hospital to the U.S. Senate offices of Edward Markey and Elizabeth Warren. So many power brokers in between these two points who looked away. The Westborough State Hospital was nothing less than a State sponsored house of horrors which had the clear blessing of the Massachusetts Democratic power brokers.

The "problem which requires the taking of affirmative steps" is the unconstitutional inequality to which Jason Davis has been subjected. Medina v. Rivera-Berdecia, Slip. Op. at p. 17 -19 (1st Cir. 9.17.14) (Docket No. 12-2492). The Davis Estate is demanding that you, as the Commonwealth's Governor, rectify this inequality since you are, at this moment, aware of its existence and since you have the legal power, like Governors Romney, Patrick and Baker before you, to fix it. If litigation ensues it will be premised, in terms of the applicable statute of limitations, upon your actions, omissions and conduct from this point forward though the record will clearly be colored by your prior conduct as Assistant Attorney General (Civil Rights Division Head) and Attorney General of the Commonwealth of Massachusetts.

The Estate of Jason Davis makes the following demands upon you in your capacity as the Governor of the Commonwealth of Massachusetts:

A. Read the June 20, 2014 letter from Mr. Davis (Ex. 9) to the Massachusetts Senate because it states the case better than anybody ever could;

B. Apologize, on behalf of the Commonwealth, to the Davis family and admit that what the Commonwealth did to Jason Davis was wrong;[37]

C. Inform the general public that Jason Davis is entitled to both justice and the payment of the entire judgment entered in his Boston Federal Court case;

[37] President Clinton's Tuskegee Experiment apology is the gold standard relative to governmental apologies for malicious conduct.

D. Stand with them, in the public eye, and demand justice for Jason Davis by, inter alia, outlining the course of his case and the injustices perpetuated upon him by both the Commonwealth of Massachusetts and its employees;

E. Remit payment to the Estate of Jason Davis in the amount of **$2,542,282** as of 1.20.23 with a per diem of **$139.40** running from 1.21.23 to the date on which payment is made to the Estate by the Commonwealth;

F. File legislation which would provide compensation directly from the Commonwealth of Massachusetts to voluntarily and involuntarily committed inpatients, at Massachusetts Mental Health facilities, who have been physically abused, mentally abused, emotionally abused or otherwise mistreated at the hands of staff, third party providers or any other persons; and

G. Implement the remedial legislation proposed by the Davis family on pages 52-54 of the 11.3.17 letter.

In accord with cited and additional controlling legal principles, this letter is remitted preliminary to a contemplated legal proceeding which will be filed should an expeditious resolution not be at hand. If I do not hear from you within thirty (30) days of the above date, I will understand that you will continue to look away from the plight of Jason Davis unless confronted with a legal proceeding.

It is hoped that the Commonwealth will finally remit justice to the family of Jason Davis after failing to do so for 30 years. It is, as you say, a "very sad case." It is also hoped that you too end your nine year silence on the Davis case and do what ought to be done in a civilized society.

It is respectfully submitted that enough really is enough.

Sincerely

BRENDAN J. PERRY & ASSOCIATES, P.C.

By:*/s/ Christopher M. Perry*
Christopher M. Perry

CMP/pmc
Enclosures – (Exhibits 1-10)
Cc: Mr. William H. Davis
1200 Pine Street
Scranton, PA 18510

Service – Letter & 10 Exhibits (Massachusetts Constable)
Service – Certified Mail Return Receipt Requested No. 7019 1640 0002 3264 3484
Service – FedEx Tracking No. 8165 9592 3695