

# § 1983 Medical Deliberate Indifference Claims in the Prison Context

Adam I. Rodd, Esq.

MEDICAL DELIBERATE INDIFFERENCE CLAIMS IN THE  
JAIL/CORRECTIONAL FACILITY CONTEXT

Prepared by: Adam L. Rodd, Drake Loeb PLLC

- I. Introduction – prevalence of prison/inmate claims of inadequate medical care
- II. 42 U.S.C. Section 1983 overview
  - (A) Private entities performing medical services in municipal jail facilities can be considered “State actors” under Section 1983. Cruz v. Corizon Health, Inc. 2016 WL 4535040 (S.D.N.Y. 2016).
  - (B) Section 1983 does not itself create substantive rights. Sykes v. James, 13 F.3d 515 (2<sup>nd</sup> Cir. 1993)
  - (C) Constitutional provisions providing substantive rights to medical care in the jail context: 5<sup>th</sup> Amendment, 8<sup>th</sup> Amendment and 14<sup>th</sup> Amendment
  - (D) Status of inmate determines which Constitutional Amendment applies
- III. Deliberate Indifference Claim – Contains Objective and Subjective Requirements – Spavone v. New York State Department of Corrections, 719 F.3d 127 (2nd Cir. 2013)
  - (A) Objective Element
    - (1) Underlying condition or deprivation must be “sufficiently serious.” Saluddin v. Goord, 467 F.3d 263 (2<sup>nd</sup> Cir. 2006)
    - (2) Factors and Criteria for determining “sufficiently serious” condition. Chance v. Armstrong, 143 F.3d 698, 702 (2d Cir. 1998); Brock v. Wright, 315 F.3d 158, 162 (2d Cir. 2003); Hudson v. McMillian, 503 U.S. 1 (1992)
    - (3) Examples of Actionable Conditions: Brock v. Wright, 315 F.3d 158 (2nd Cir. 2003); Chance v. Armstrong, 143 F.3d 698 (2nd Cir. 1998); Hemmings v. Gorczyk, 134 F.3d 104, 106–07 (2d Cir.1998); Hathaway v. Coughlin, 37 F.3d 63, 64–65, 67 (2d Cir.1994)
    - (4) Examples of Non-Actionable Conditions: Sonds v. St. Barnabas Hosp. Corr. Health Servs., 151 F. Supp. 2d 303 (S.D.N.Y. 2001); Johnson v. Schiff, No. 17-CV-8000 (KMK), 2019 WL 4688542, at \*13 (S.D.N.Y. Sept. 26, 2019); Goodwin v. Kennedy, No. 13-CV-1774, 2015 WL 1040663 at \*12 (E.D.N.Y. Mar. 10, 2015); Holmes v. City of New York, No. 17-CV-3874, 2018 WL 4211311, at \*7 (S.D.N.Y. Sept. 4, 2018)

(5) Seriousness of underlying condition not dispositive: Smith v. Carpenter, 316 F.3d 178, 186 (2d Cir. 2003).

(B) Subjective Element

(1) General Criteria: Saluhuddin v. Goord, 467 F.3d 262 (2<sup>nd</sup> Cir. 2006)

(2) Differences under 8<sup>th</sup> v. 14<sup>th</sup> Amendments: Darnell v. Pineiro, 849 F.3d 17 (2<sup>nd</sup> Cir. 2017)

IV. Exhaustion of Administrative Remedies – Prisoner Litigation Reform Act 42 U.S.C. Section 1997e(a)