

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MAURA O'NEILL, as administrator)
Of the Estate of Madelyn E. Linsenmeir,)
Plaintiff,)
v.)
CITY OF SPRINGFIELD, MOISES)
ZANAZANIAN, REMINGTON MCNABB,)
SHEILA RODRIGUEZ, HAMPDEN)
COUNTY SHERIFF'S DEPARTMENT,)
And JOHN/JANE DOES NOS. 1-5,)
Defendants)

Civil Action No.: 3:20-cv-30036

DEFENDANTS' MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)

NOW comes the Defendants, City of Springfield ("Springfield"), Moises Zanazanian, Remington McNabb and Sheila Rodriguez ("Municipal Defendants") and move this Honorable Court to dismiss so much of the Complaint as is addressed to Springfield and the Municipal Defendants under Mass. R Civ. P. Rule 12(b)(6). As reasons therefore the Defendants state the following and attach a memorandum in support of this motion:

1. Count I must be dismissed as the Decedent was not in the custody of the Defendants at the time of her death.
2. The facts plead are insufficient to state a claim for any of the municipal defendants intentionally causing Ms. Linsenmeir's wrongful death in violation of MGL c. 229, section 2, and thus Count IV must be dismissed.

Wherefore the Defendants respectfully requests this Honorable Court GRANT this Motion and DISMISS the aforementioned claims the Plaintiff has set forth in the complaint.

**The Defendants,
City of Springfield, Moises Zanazanian,
Remington McNabb and Sheila Rodriguez,**

By their attorneys:

Date: May 11, 2020

By: /s/ Lisa C. deSousa

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CERTIFICATE OF SERVICE

I, the undersigned hereby certify that a true copy of the within document was this day served upon Plaintiff via the Federal District Court ECF to all parties.

SIGNED under the pains and penalties of perjury.

Dated: May 11, 2020

/s/ Lisa C. deSousa
Lisa C. deSousa, Esq.