TEAM CODE: TL1

4th Surana & Surana and Ramaiah College of Law National Tort Law Moot Court Competition

Before

THE HON'BLE HIGH COURT OF BADLAPUR

(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDUS)

CHETRI & ORS.

…PLAINTIFFS

V

UNION OF INDUS & ANR.

…DEFENDANTS

(MEMORIAL for DEFENDANTS)

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TABLE OF ABBREVIATIONS

ABBREVIATIONS	EXPANSIONS
HC	High Court
§	Section
Ss.	Sections
HoL	House of Lords
CoA	Court of Appeal
QB	Queen's Bench
A	Article
u/s.	Under Section
¶	Paragraph
w.e.f.	With effect from
EDA	Epidemic Diseases Act
DMA	Disaster Management Act
CFA	Covid Recovery Facility
AIR	All India Reporter
SCC	Supreme Court Cases
UoI	Union of Indus
u/a.	Under Article
WHO	World Health Organisation
SC	Supreme Court
DPSP	Directive Principles of State Policy
NDMA	National Disaster Management Authority
GCA	General Clauses Act 1897

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THE STATEMENT OF JURISDICTION

THE PETITIONER HAS FILED THE PRESENT SUIT BEFORE THE HON'BLE HIGH COURT OF BADLAPUR, UNDER ARTICLE 226(1)[1] OF THE CONSTITUTION OF INDUS. THE RESPONDENT RESERVES THE RIGHT TO CHALLENGE THE SAME.

THIS MEMORIAL SETS FORTH THE FACTS, CONTENTIONS AND ARGUMENTS.

[1] Constitution of India A 226

THE STATEMENT OF FACTS

For the sake of convenience of this Hon'ble Court, the facts of this case are summarised herein:

Owing to the outbreak of the Covid-19 pandemic and the acute shortage of healthcare facilities, the government of UoI set up CRF to take care of those affected by Covid-19. To ensure adequate supply of necessary medical equipment, HealthONE, a company, was engaged by the government. Top researchers and virologists advised that patients recovering from COVID-19 would need oxygen support on priority as studies revealed that lungs are highly vulnerable to the virus and even mildly symptomatic cases could require oxygen support. This led some private hospitals to approach authorities ordering increased amounts of oxygen. HealthONE too approached the government placing additional orders for oxygen cylinders.

Mr. Thupden, a 50-year-old man, was very precautious against Covid-19 as he had a vulnerable state of health owing to type 2 diabetes. He contracted COVID-19 and faced difficulty in breathing with mild symptoms. Due to shortage of hospital beds, he was shifted to CRF at Badlapur. The doctors at the CRF administered Thupden with steroids and closely monitored his health. Unfortunately, there was an acute shortage of oxygen in the CRF,Badlapur in the midnight of July 7th, 2021. The hospital authorities informed the relatives of the patients that the hospital had run out of oxygen supplies and asked them to take care of it themselves. Mr. Chetri, son of Mr.Thupden, left no stone unturned to find an oxygen cylinder. To his dismay, none could be found because none of the oxygen supplies at Badlapur had the oxygen to refill the cylinders for the patients. Mr. Thupden and seven others passed away due to shortage of oxygen in 8th July, 2021. After his father's demise, Mr. Chetri was handed down a long bill of Rs. 20 lakhs by the hospital.

Mr. Chetri had to sell his entire life savings and his autorickshaw to pay up the bills. The Government, on social media stated: "no lives were lost due to shortage of oxygen".

Mr. Chetri and 7 others filed this petition in this Hon'ble Court seeking compensation alleging negligence and breach of statutory duty by HealthONE and the government respectively.

THE STATEMENT OF ISSUES

1. Whether the improper supply of oxygen by HealthOne constitutes negligence.
2. Whether the government is vicariously liable for negligence of HealthONE, if any.
3. Whether the government failed to perform its statutory duty and Constitutional duty.

THE SUMMARY OF ARGUMENTS

1. Improper supply of oxygen by HealthONE does not constitute negligence

It is submitted that though the government had engaged HealthONE for supplying medical equipment, it cannot be held liable to the petitioner as it did not owe any duty to them as it was solely working for the government. HealthONE is a mere service provider and liability(*if any*) should be fastened solely on the government.

2. The government cannot be made vicariously liable even if the inadequate supply of oxygen by HealthONE constituted negligence.

It is submitted that even if it constituted negligence on the part of HealthONE, the government could not be made vicariously liable because HealthONE is an independent contractor. Moroever, this is not not one of the exceptional cases where the employer can be made vicariously liable for the wrongs of the independent contractor. Furthermore, medical care is a sovereign function of the government during a contingency like the pandemic. Hence, it is in no way, vicariously liable for acts or omissions of HealthONE.

3. The government has not failed to perform its statutory duty and Constitutional duty.

It is submitted that although Covid-19 is a "disaster" within the meaning of DMA and a "dangerous epidemic disease" under the EDA, and that the government is responsible to prevent, control and mitigate Covid-19 disaster under these statutes, the Government of Indus has not failed to prevent the second wave of the pandemic. Moreover, it has done everything possible reasonably, to counter the **unforeseen** second wave. It is also submitted that since the second wave was unforeseen, oxygen need was also naturally incalculable. However, the government has taken due care and ensured all measures were taken to keep an adequate supply of oxygen when it was the need of the time for patients affected by the pandemic. It took all measures to mitigate the disaster and ensure adequate supply of oxygen. The demise of 8 lives in Badlapur CRF is not a result of any breach of statutory or constitutional duty of the government.

THE ARGUMENTS ADVANCED

1. Improper supply of oxygen by HealthONE does not constitute negligence.

It is submitted that HealthONE did not owe any duty of care to the petitioners to make it liable for negligence [**1.1**]. Secondly, the doctrine of *res ipsa loquitur* is not applicable here as it took due care [**1.2**].

1.1. HealthONE did not owe any duty of care to the petitioners.

In *Caparo Industries v. Dickman*[2], the HoL, established that **proximity** between the claimant and the defendant is an important element of proving negligence. Moreover, to deduce duty of care, all the elements have to be fulfilled. In *Goodwill v British Pregnancy Advisory Service*[3], the CoA firmly established the independent existence of **proximity** limb, and stated that the defendant cannot be liable to an indeterminate class of persons in which the claimant belongs. HealthONE was to supply medical infrastructure to the CRFs[4] and hence, by this doctrine of closeness, it does not interact with the petitioners in any way. Its dealings are with the CRFs and the government only. In *Sutradhar v NERC* and similar cases, it has been stated that where there is no prior relationship between the parties, an omission to an act cannot constitute actionable negligence[5] as

[2] *Caparo Industries PLC v Dickman* [1990] UKHL 2

[3] *Goodwill v British Pregnancy Advice Service*. [1996] 7 Med LR 129

[4] ¶ 12 moot proposition

[5] *Sutradhar v NERC* [2006] 4 All ER 490; *Glaister and Others v Appleby-In-Westmorland Town Council* [2010] PIQR P6

there is no duty of care in this regard. Hence, since there was no prior relationship with the plaintiff, and HealthONE only dealt with the government and was a mere service provider, it cannot have a duty of care towards the plaintiff.

1.2. Doctrine of *res ipsa loquitur* is not applicable against HealthONE.

It is submitted that HealthONE took all due care and did its duty and hence, cannot be liable under doctrine of *res ipsa loquitur.* In *V. Kishan Rao vs Nikhil Super Speciality Hospital,* it was held that the defendant, to repel a charge under the aforementioned doctrine, has to prove that 'he has taken care and done his duty'[6]. In *Jacob Mathew vs State Of Punjab & Anr,* the Hon'ble SC held, *"Even in civil jurisdiction, the rule of* ***res ipsa loquitur*** *is not of universal application and has to be applied with extreme care and caution to the cases of professional negligence"*[7]It also reiterated that excessive usage of the doctrine can be counter-productive.[8] HealthONE took due cognizance of the medical opinion of the top researchers and virologists who advised the need for oxygen support on priority for patients recovering from Covid-19.[9] In pursuance of this, HealthONE also approached the government for approval to place additional orders of oxygen cylinders.[10] It is

[6] *V. Kishan Rao v Nikhil Super Speciality Hospital* [2010] INSC 324

[7] *Jacob Mathew v State Of Punjab & Anr* AIR [2005] SC 3180

[8] Ibid

[9] ¶ 14 moot proposition

[10] Ibid

submitted that due to the pending approval, HealthONE could not supply adequate oxygen to places. This shows that there was no negligence *per se,* on the part of HealthONE.

1.2.1 Plaintiffs knew about the shortage of oxygen, this precludes them from claiming res ipsa loquitur.

In *Barkway v. South Wales Transport Co. Ltd.,*[11]CoA stated, *"proof (of the defendant) is very greatly facilitated if he can show that the event which caused the plaintiff damage happened through some cause for which no blame can attach to him, even though it cannot be specifically identified."*[12] It is submitted that there was a huge demand for oxygen supply in the country due to the rapid spread of the 2nd wave of the pandemic. Moreover, early studies and experts have revealed the need for oxygen[13] which has soured the demand even more. There was a concurrent increase in the demand for oxygen by several private hospitals too.[14] In this regard, it is inevitable that there will be a crunch in supply of oxygen, especially due to the fact that no country has unlimited resources. Moreover, the pandemic was not foreseeable [**3.1.3**]. In *Jacob Mathew vs State Of Punjab & Anr,* the SC held, *"when the charge of negligence arises out of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that point of time on which it is suggested as should have been used."* In these circumstances, it is

[11] *Barkway v South Wales Transport Co. Ltd.,* [1948] 2 All ER 460

[12] ibid, (Scott L.J)

[13] ¶ 14 moot proposition

[14] ibid

impractical to believe that plaintiffs were not aware of the general shortage of oxygen in the country and nothing was latent.

2. The government cannot be made vicariously liable even if the inadequate supply of oxygen by HealthONE constituted negligence.

It is submitted that even if it constituted negligence on the part of HealthONE, the government could not be made vicariously liable for multiple reasons- firstly, because HealthONE does not fall under the category of 'employee' and is an 'independent contractor' **[2.1]**. Secondly, the employer cannot be made liable for the wrongs of an 'independent contractor' except in certain cases, and this is not one of those exceptional cases **[2.2]**. Thirdly, even if it is considered for the sake of argument that HealthONE is an 'independent contractor' and this case falls under one of the exceptional cases to make the employer liable, the government has sovereign immunity as providing medical care is a sovereign function **[2.3]**.

2.1 HealthONE does not fall under the category of 'employee' and is an 'independent contractor'.

The test of control is a prima facie test taken into consideration in order to determine whether the individual or entity in question is an employee or an independent contractor.[15] Control is not the sole determining factor, and other factors are also significant.[16] The position as to whether the control test is always conclusive was clarified comprehensively by Lord Wright in *Montreal v*

[15] *Dharangadhara Chemical Works Ltd v State Of Saurashtra* [1957] AIR 264

[16] *Market Investigations Ltd v Minister for Social Security* [1969] 2 QB 173

Montreal Locomotive Works Ltd, where he took into consideration the complex modern industry and devised a complex test inclusive of factors like control, ownership of the tools, chance of profit, degree of financial risk and reiterated that control is not conclusive per se.[17] Applying the tests to the present case scenario, it is evident that HealthONE was hired to provide certain services to help CRF serve its purpose, and the facts do not reflect in any way the control of the government over HealthONE; rather, from what is evident, it seems like the supply of medical requirements in its entirety is taken care of by HealthONE with no interference from government's end. Hence, it is submitted that HealthONE is an independent contractor.

2.2 This is not one of the exceptional cases where the employer can be made vicariously liable for the wrongs of the independent contractor.

An employer is not liable for the torts of his independent contractor unless the employer authorises or ratifies the commission of the tort[18] or there exists negligence on the part of the employer itself, like failing to consider certain relevant factors for selection and thereby selecting a non-competent contractor. These specific cases make the employer a joint tortfeasor.[19] It is evident from the present case scenario that the government delegated the duty of supplying medical requirements to the CRF, but any negligent act like not maintaining an adequate supply of oxygen was not authorised or ratified by the government, and the government was not exercising any control over how to supply and other related aspects so this default of inadequate supply cannot be attributed

[17] *Montreal v Montreal Locomotive Works Ltd* [1944] UKPC 44

[18] *Ellis v Sheffield Gas Consumers* Co [1853] 2 El. & Bl. 767

[19] *Robinson v Beaconsfield Rural District Council* [1911] 2 Ch 188

to the government in any manner. It was entirely an outcome of wrongful conduct on the part of HealthONE.

In some cases, the employer can be made liable for the independent contractor's default even when there was no authorisation or wrongful conduct on the part of the employer, but this liability does not arise vicariously rather, it is because of the 'non-delegable duty' that the employer itself owed to the claimant.[20] The government engaged HealthONE to ensure the supply of medical requirements to CRF[21], i.e., the duty that the government owed to the claimants was merely to hire a competent independent contractor to carry out this work, which the government properly did. HealthONE was to take care of whether the adequate supply was maintained or not, and it defaulted, thereby making it entirely liable. Hence, the government did not owe any 'non-delegable duty' to the claimants and, therefore, it is submitted that the government cannot be made vicariously liable.

2.3 The government has sovereign immunity as providing medical care in times of pandemic is a sovereign function, so the very question of whether HealthONE is an 'independent contractor' or not is irrelevant.

The state has sovereign protection from liability when a default has been committed to carrying out the primary and inalienable functions of a constitutional government, such as administration of justice, maintenance of law and order and regulation of criminal acts.[22] In the present case

[20] J. A. Jolowicz, Percy Henry Winfield and W.V.H. Rogers *Winfield and Jolowicz on Tort* (20th edn, Sweet & Maxwell 2009)

[21] ¶12. moot proposition

[22] *N.Nagendra Rao & Co v State Of A.P* [1994] AIR 2663.

scenario, where the country is dwindling and suffering from COVID-19, health care is of primary concern—considering that this disastrous event is taking place at a large scale all over the country, it needs to be dealt with at a level higher than the individual level, and that is why CRF was set up in the first place. This precarious pandemic situation makes 'providing medical care' a sovereign function of the state because 'medical care' is of primary concern in such times (by following the rationale given in the *Nagendra Rao Judgment*). Therefore, it is submitted that the government has sovereign immunity from liability arising from HealthONE's default (if any).

3. The government has not failed to perform its statutory duty and Constitutional duty.

3.1. The government of UoI is not liable for breach of duty (*if any*) under the DMA and EDA.

It is submitted that the government is not liable for breach of duty bestowed by the DMA and EDA. Moreover, DMA and EDA do not have a scheme for actions for breach of statutory duty(**3.1.1**). The government has not failed to ensure adequate supply of oxygen (**3.1.2**). The outbreak of the 2nd wave of Covid-19 was unforeseen (**3.1.3**). No proceedings can lie against the government under DMA and EDA (**3.1.4**).

3.1.1 DMA does not envisage a scheme for private action against the government.

It is submitted that neither of the statutes have a structure facilitating private action against the government for any tortious actions. In *Lonrho Ltd v Shell Petroleum Co Ltd,* Lord Diplock laid down, *"if the Act was intended for the* ***general benefit of the community*** *rather than for the granting of individual rights then it will not usually be possible to use the Act to bring an action in tort."*[23] Claims for damages arise only when statutory duty is "very limited" and "specific" as

[23] *Lonrho Ltd v Shell Petroleum Co Ltd (No. 2)* [1982] AC 173, at 189

opposed to "general administrative functions" imposed on public bodies and involving exercise of administrative discretion.[24] It is submitted that the DMA and EDA only bestows a duty on the government powers merely for a general benefit of the "community affected by disaster"[25] and thus only a ***general social legislation***. Therefore, this Act does not grant individual right of action against the government by the petitioners.[26] Hence, it is submitted that duty is "imposed for the public benefit and that the breach of it(*if any*) is a public, not a private wrong."[27]

3.1.1.1. DMA does not prescribe private action against the government unconditionally.

In *Issa v Hackney*[28], it was held that when a statute already puts forth a list of actions in civil liability, it would not be proper for the Courts to add the list of enforcement actions with civil liability. This is because, the nature of such a statute demonstrates that the Parliament must have thought long and hard about the actual implementation of the statute practically. Chapter X of DMA already puts forth an elaborate list of "Offences and Penalties" which shows that the intention of the Parliament was to restrict the actions to those clauses only. Commentaries have also subscribed to this view, *"If the statute does provide some other means of enforcing the duty*

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[24] Dr Avtar Singh and Dr Harpreet Kaur: *Introduction to the Law of Torts and Consumer Protection* (4th ed, Universal Law Publishing Co)

[25] Disaster Management Act 2005, § 24 and § 34

[26] See e.g. *X (minors) v. Bedfordshire County Council,* [1995] 3 All ER 353

[27] *Cutler v. Wandsworth Stadium Ltd.,* [1949] 1 All ER 544, p. 548 *per Lord Simonds*

[28] *Issa and another v Hackney London Borough Council* [1997] 1 All ER 999.

that will normally indicate that the statutory right was intended to be enforceable by those means and not by private right of action."[29] Moreover, it is submitted that although s.55 and s.56 envisages action against any department of the Government[30], or an officer of the Government[31], s,59 bars any such proceedings or suit unless prior sanction is taken from the Central/State government.[32] It is therefore submitted that since the petitioners have not taken any such sanction from the government, the suit is not maintainable in this regard.

3.1.2. The Government took all measures to ensure adequate supply of oxygen.

It is submitted that the Government of UoI had taken all steps possible reasonably under the given dire circumstances, to ensure adequate supply of oxygen. It was pragmatic enough to acknowledge the severe shortage of medical infrastructure during the first wave of Covid-19 and therefore, engaged HealthONE for ensuring adequate supply of medical equipment.[33] Moreover, the Government also took due care to set up the CRFs to provide medical care to those affected with Covid-19.[34] It is submitted that the court should not take a microscopic view about the care taken by the UoI because, the unprecedented nature of the pandemic imposes a "positive, and potentially

[29] Ratanlal & Dhirajlal : *The Law of Torts* (28th ed, LexisNexis)

[30] Disaster Management Act 2005, §.55

[31] ibid, s.56

[32] Ibid, s 59

[33] ¶ 12 moot proposition

[34] ¶ 11 moot proposition

very expensive, obligations upon the state"[35] which should be looked into with a reasonable perspective, keeping in mind the circumstances of the situation and the large population of Indus.[36]

3.1.2.1. There was no inordinate delay for supply of oxygen on part of the government.

The government, it is submitted, has not inordinately delayed the supply of demands for oxygen. The whole country was in need of oxygen, and oxygen supply was also limited. In this situation, it was impossible for the government to cater to every individual's needs. No State or country can have unlimited resources to spend on any of its projects. That is why it only announces the financial reliefs/packages to the extent it is feasible. The courts should not interfere with any opinion formed by the Government if it is based on the relevant facts and circumstances or based on expert advice. In *Federation of Railway Officers Association v. Union of India,* it is observed that on matters affecting policy and requiring technical expertise the court would leave the matter for decision of those who are qualified to address the issues.[37]

3.1.3. The 2nd wave of the pandemic was unforeseen.

It is submitted that the 2nd wave of the pandemic was not foreseeable. The government was successfully able to halt the first wave and the Health Minister also announced that the first wave had come to an end.[38] It was therefore essential to relax the restrictions for recovering the economy

[35] Human Rights in Healthcare – Indian Perspective [2011] 2 MLJ 80

[36] ¶ 22 moot proposition

[37] *Federation of Railway Officers Association v Union of India* [2003] 4 SCC 289 ; *Dhampur Sugar (Kashipur) Ltd. v State of Uttaranchal* [2007] 8 SCC 418

[38] ¶ 13 moot proposition

which was hit by the pandemic.[39] It is the public themselves who are responsible for the surge in the 2nd wave as they lowered their precautions against Covid-19.[40] It is not possible pragmatically for the government to control each and every step of the public especially, in a country with such a large population. Moreover, the government took reasonable steps under the provisions of the DMA and organised awareness camps with advertisements to raise awareness among the public. It also established vaccination camps for the elderly citizens of Indus.

3.1.4. No proceedings can lie against the government under DMA and EDA.

3.1.4.1. The government of UoI is not liable under the EDA.

It is submitted that the government of UoI has no duty to the petitioners or any citizen whatsoever. This is because, the powers of the Central Government are limited to taking "measures and prescribe(*ing*) regulations for the inspection of any ship or vessel leaving or arriving at any port in"[41] the country. The other powers of taking special measures for mitigation of "dangerous epidemic diseases" lies solely with the State Government.[42] It is therefore submitted that the facts of this case are not relevant to the powers of the Central Government under the EDA.

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[39] Ibid

[40] Ibid

[41] Epidemic Diseases Act § 2A

[42] ibid, § 2

3.1.4.2. No proceedings lie against the government under DMA.

It is submitted that under s.73 of DMA, no suit shall lie against the Central government "*in respect of any work done or purported to have been done or intended to be done in good faith*"[43] The GCA,1897 defines 'good faith' thus,"*a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not*".[44] . "Good faith" contemplates an honest effort to ascertain the facts upon which exercise of the power must rest.[45] It is submitted that the good faith of the government is clear from the fact that the government acknowledged the veracity of the pandemic and engaged HealthONE at the right time, it did so in good faith. It has also organised awareness camps and vaccine centres for elderly people.[46] Since, the acts of the government are all done in good faith and in furtherance of welfare of the people in these unprecedented times, the government is immune from all legal proceedings against it under the aforementioned section of the DMA.

3.2. Damage to the petitioners' is not direct, substantially a result of Government's carelessness (*if any*).

It is submitted that even if for the sake of argument, it is accepted that the government was careless, etc, it is clear that there was no proximate link between the injury to the petitioners and carelessness of the government. In *Lonrho Ltd v Shell,* Lord Diplock laid down that where the statute creates a

[43] Disaster Management Act 2005, § 73

[44] General Clauses Act 1897, § 3(22)

[45] RA Nelson: *Indian Penal Code* (12th ed, Lexis Nexis Butterworth India)

[46] ¶ 14, moot proposition

public right and an individual member of the public suffers damage which is 'particular, direct and substantial damage other and diff erent from that which is common to the rest of the public'[47]. Here, it is admitted that the damage is substantial but the damage, it is submitted is not unique from the rest of the public. There are casualties in a war, if for every victim of war, the government is held liable, then there will be nothing left in the coffers to run the country. Thus, was pointed by the Supreme Court of the US, in *Metropolis Theatre Co. v. Chicago*[48] "The problems of Government are practical ones and may justify, if they do not require, rough accommodation, illogical, if may be, and unscientific. But even such criticism should not be hastily expressed. What is the best is not always discernible; the wisdom of any choice may be disputed or condemned. Mere errors of Government are not subject to our judicial review. It is only its palpably arbitrary exercises which can be declared void". Here, as already submitted **(3.1.2; 3.1.3; 3.1.4.2**), the acts of the government were done in good faith and not arbitrary in any way.

3.3. The word "shall" used in *s.12 of DMA* should be discretionary.

It is submitted that the word "shall" in s.12 should be read as discretionary and not mandatory. The reliefs offered by the Central government are taken after considering the pros and cons of various factors in the larger public interest and the economy of the country. It is submitted that as observed and held by this Court in the case of *Arun Kumar Agrawal v. Union of India,* that the matters relating to economic issues, have always an element of trial and error and it is bona fide and with best intentions, such decisions cannot be questioned as arbitrary, capricious or illegal.[49]

[47] *Caparo Industries PLC v Dickman* [1990] UKHL 2

[48] *Metropolis Theatre Co. v Chicago*, 57 L Ed 730: 228 US 61 [1913]

[49] *Arun Kumar Agrawal v. Union of India* [2013] 7 SCC 1

If it is considered mandatory, then it would mean the entire economy of the country shall have to be divested and used in and through the banking sector leaving all other areas untouched and even at the cost of the national economy and the stability of the banking sector. It is submitted that this could never have been the intention of the legislature.[50] Hence, it is not mandatory for the government to award ex-gratia compensation under s.12 of DMA.

[50] *See, Pradip Kumar Maity v. Chinmoy Kumar Bhunia* [2013] 11 SCC 122 [6]*; Chinnamarkathian v. Ayyavoo* [1982] 1 SCC 159 [25] - [28]

THE PRAYER

Wherefore in the light of the issues raised, arguments advanced and authorities cited, it is humbly prayed that this honourable court may be pleased to declare that

I.

The improper supply of oxygen by HealthONE does not constitute negligence.

II.

The government cannot be made vicariously liable even if the inadequate supply of oxygen by HealthONE constituted negligence.

III.

The government has not failed to perform its statutory duty and Constitutional duty.

AND / OR,

Pass any order, direction or relief that this Honourable Court may deem fit in the interests of justice, equity and good conscience.

All of which is humbly prayed,

Sd/-

Counsels for the Defandant