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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10
11 CHARLA CONN, administrator of the
ESTATE OF BRENDA JEAN MS. CLUSTKA,
12 and CHARLA CONN,

Case No. CV-N-05-0595-HDM-VPC

13 Plaintiffs,

MOTION FOR SUMMARY
JUDGMENT

14 vs.

15 CITY OF RENO, RPD OFFICER RYAN
ASHTON, RPD OFFICER DAVID
16 ROBERTSON,

17 Defendants.
18 _____/

19 Defendants CITY OF RENO, RYAN ASHTON and DAVID ROBERTSON, (hereinafter
20 “CITY OF RENO”), by and through their undersigned counsel, PATRICIA A. LYNCH, Reno
21 City Attorney, and JACK D. CAMPBELL, Deputy City Attorney, hereby moves this Court for
22 summary judgment to all claims made herein pursuant to FRCP 56(b). This motion is based
23 upon all pleadings and papers on file herein, the attached Memorandum of Points and
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1 Authorities, the attached Exhibits, and any additional or further evidence this Court may deem
2 just and proper.

3 Dated this 29TH day of August, 2006.

4 PATRICIA A. LYNCH
5 Reno City Attorney

6
7 By:

/s/ Jack D. Campbell
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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On March 19, 2005, the deceased, Brenda Clustka was arrested for domestic violence
4 resulting from a dispute she had with her mother at their shared residence on Elmcrest Drive in
5 Reno, Nevada. Following this arrest, Clustka spent over 30 days in the Washoe County jail
6 being released on April 22, 2005. During this incarceration, Clustka was placed on suicide
7 watch for approximately 4 hours by the jail staff on March 20, 2005 because of statements she
8 made about “not being able to make it in jail.”
9

10 While her daughter was in jail, Clustka’s mother applied for and obtained a Temporary
11 Protective Order requiring Clustka to stay away from her residence and to be supervised by the
12 Reno Police when she came to obtain her personal possessions.
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14 On April 25, 2005, the third day following her release from jail, Clustka was involved in
15 another dispute with her mother, and during this dispute, Clustka threatened to commit suicide
16 by telling her mother that she (Clustka) was “going to take all of her pills and her mother would
17 only have one daughter.” At the time of this statement, Clustka was taking a generic form of the
18 anxiety medication Xanax. At approximately 8:00 am, Clustka’s mother called 911 and reported
19 that her daughter was at the residence causing a disturbance and that she had threatened to kill
20 herself with the overdose.
21

22 Responding to this call, the Reno Police Department took Clustka into custody and
23 placed her into an ambulance to be transported to Washoe Medical Center (WMC) to be
24 evaluated for a potential Legal 2000, the procedure established by NRS 433A.150 et seq. for
25 emergency admissions into a state mental health facility for persons deemed to be mentally ill
26 and a danger to themselves or others.
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28 At approximately 9:30 am, Clustka arrived at the WMC Emergency Room and denied

1 making any suicide threats, denied ever attempting suicide, and stated that she did not want to
2 kill or hurt herself. Clustka then eloped (snuck out) from WMC and had to be relocated by Reno
3 Police and returned to WMC. Following her return at approximately 12:00 noon, Clustka was
4 examined by the Emergency Room physician and placed on a Legal 2000. At approximately
5 4:30 pm on April 25, 2005, Clustka was transferred to Northern Nevada Mental Health Institute
6 (NNMHI), the state mental health facility, for observation and treatment.
7

8 At NNMHI, Clustka was examined by the treatment team, including staff psychiatrist,
9 Dr. Richard Caplan. Clustka denied ever threatening to overdose on her medication, denied ever
10 attempting to harm or kill herself, and stated that she did not want to harm or kill herself. Under
11 the authority granted by NRS Chapter 433A, Dr. Caplan could keep Clustka for a period of 72
12 hours for observation and treatment if he felt that she suffered from a mental illness **and** was a
13 danger to herself. Notwithstanding this authority, Dr. Caplan discharged Clustka the following
14 day at approximately 9:30 am, April 26, 2005, **less than 24 hours after her admission into the**
15 **hospital.** At the time of her discharge, Clustka was diagnosed to suffer from alcohol and
16 substance abuse and was considered to be a “low risk of self harm.” In fact, Dr. Caplan was so
17 convinced that Clustka did not pose a risk of suicide that he ordered her private supply of Xanax
18 to be returned to her at the time of her discharge. As part of her discharge, Clustka promised Dr.
19 Caplan that she would not abuse her Xanax and that she would not drink alcohol while she was
20 taking her medication.
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23 Shortly after 2:00 pm of that same day, a motorist called 911 to report a woman (Clustka)
24 lying on the sidewalk by the intersection of Lander and St. Lawrence Streets in Reno. Initially,
25 Emergency Dispatch directed REMSA, Reno Fire, and Reno Police to the call. REMSA was the
26 first to arrive and shortly thereafter canceled both Reno Fire and Reno PD. Eight minutes later,
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1 REMSA called Dispatch and requested Reno PD respond for a Civil Protective Custody
2 transport.

3 Under the Civil Protective Custody (CPC) statute, NRS 458.270, when a person is found
4 in any public place under the influence of alcohol in such a condition that she is unable to
5 exercise care for her own safety, she must be placed under civil protective custody by a peace
6 officer and transported to the county jail for shelter and supervision until she is no longer under
7 the influence of alcohol. A copy of NRS 458.270 is attached as EXHIBIT "A" and incorporated
8 herein by reference.
9

10 Defendants Officers Robertson and Ashton were manning the Reno Police prisoner
11 transport vehicle on April 26, 2005, and responded to the REMSA request for CPC transport.
12 When they arrived on scene, they were met by the REMSA medics that advised them that they
13 had examined Clustka and that she was medically cleared for CPC transport to the jail. Officers
14 Robertson and Ashton then made contact with Clustka and reported that she was grossly
15 intoxicated, disoriented, and verbally abusive. A preliminary breath test indicated that Clustka
16 had a BA of 0.10 %. Concerned that she was unable to safely take care of herself, Officers
17 Robertson and Ashton decided to follow the REMSA recommendation and transport Clustka to
18 the jail for CPC. When they tried to tell Clustka what they were going to do, she became
19 agitated and started to scream at them that she wanted to be taken home. While the officers were
20 dealing with Clustka, a wants and warrants report came back with warnings about violent
21 tendencies, alcohol abuse history, drug abuse history, and mental illness. In addition, the
22 Officers were advised that a Protective Order had been issued against Clustka but had not been
23 served. Officers Robertson and Ashton decided not to serve the Protective Order on Clustka
24 because they believed that she was too intoxicated to understand what was going on.
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1 Clustka continued to scream and refuse to cooperate with the Officers, and in an effort to
2 avoid a physical confrontation with Clustka, Officer Robertson told Clustka that if she would just
3 get into the van, he would take her home. When told this, Clustka became cooperative and was
4 escorted to the back of the prisoner transport van. Because she was so intoxicated, unsteady on
5 her feet, and was cooperating, Officer Robertson decided not to handcuff Clustka, choosing
6 instead to just assist her into a seat in the van and secure her with the seat belt.
7

8 While en route to the Washoe County Jail on Parr Blvd, Clustka got out of her seat,
9 began walking around in the van, looking out the window, knocking and waiving her hand across
10 the video surveillance camera, and screaming at the Officers. Officer Ashton asked if they
11 shouldn't stop and secure Clustka back into her seat, but Officer Robertson expressed his desire
12 to just get her to the jail because they were so close. As they proceeded down Parr Blvd., they
13 were forced to stop in traffic waiting for a train that was stopped across Parr Blvd. At this time,
14 Clustka was still walking around in the back of the van, screaming, and knocking on the video
15 camera. When this did not get any response from the Officers, she sat back down in her seat,
16 grabbed a shoulder belt and lapped it across her neck, grabbed another shoulder belt in the other
17 hand and crossed it over the other belt and then stared into the video camera.
18

19 Officer Ashton immediately advised Officer Robertson that it looked like Clustka was
20 trying to choke herself. Both Officers immediately exited and went back to the prisoner area of
21 the van. When Officer Robertson opened the door, Clustka immediately started screaming at
22 him that he had lied to her. Both Robertson and Ashton entered the van, removed Clustka's
23 hands from the shoulder belts, placed her on the floor, handcuffed her hands behind her back,
24 and returned her to her seat securing her with the seat belt for the short trip to the jail. All during
25 this time, Clustka is screaming at the officers about them "beating" her. She screamed at
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1 Robertson that she wanted him to kill her, and when he didn't respond, she said: "kill me or I'll
2 kill myself."

3 After she was secured in her seat, the Officers drove the short distance to the jail and
4 advised the jail staff that they had a disoriented female for CPC. When the jail staff went to
5 remove Clustka from the prisoner transport, she continued to scream at the Officers, accused the
6 Officers of beating her, and stating that she wanted to die. Washoe County Jail staff took
7 Clustka into custody and placed her in the CPC area at approximately 3:00 pm on April 26th.
8 Neither Officer Robertson nor Officer Ashton reported the events during the transport because
9 neither Officer thought that Clustka was really trying to harm herself. Both Officers thought that
10 Clustka was just acting out because she was drunk and mad that she did not get her way by being
11 taken home.
12

13
14 After an uneventful period of detoxification, Clustka was released from CPC at
15 approximately 8:30 pm on April 26, 2005. At the time of her release, she was served with the
16 Temporary Protective Order. Nevertheless, Clustka went back to the Elmcrest residence and
17 created another disturbance. At approximately 11:30 pm, Clustka's mother called 911 again to
18 report her daughter being at the residence causing another disturbance. Reno Police responded,
19 and because Clustka again appeared grossly intoxicated, Reno Police officers placed Clustka into
20 Civil Protective Custody again and transported her back to the Washoe County Jail. Clustka was
21 refused for CPC at the jail because a preliminary breath test indicated that her blood alcohol
22 levels were below 0.08 %. Although, because Clustka appeared intoxicated beyond what the
23 PBT showed, the transporting Police officer took her to WMC's Emergency Department who re-
24 admitted her for observation. She was discharged from WMC sometime during the early
25 morning hours of April 27, 2005.
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1 At approximately 2:30 pm on the afternoon of April 27th, grossly intoxicated and in
2 violation of the TPO, Clustka showed up at her mother's Elmcrest residence and started another
3 disturbance. Clustka's mother again called 911 and requested that Clustka be arrested for
4 violating the TPO. Accordingly, Clustka was placed under arrest and transported back to
5 Washoe County Jail, this time as an inmate. Per jail intake procedures, Clustka was interviewed
6 and examined by a Registered Nurse with Prison Health Services. During this intake interview,
7 Clustka repeatedly told the nurse that she was not suicidal, had never attempted suicide, and did
8 not want to kill or harm herself. During this interview, Clustka did admit that she was taking
9 Xanax for anxiety. Consequently, the intake nurse put Clustka on Housing Unit 3, the mental
10 health unit at the jail and placed her in a red jumpsuit to indicate a high risk inmate.
11

12
13 At approximately 8:00 am on April 28th, Clustka was taken to video arraignment for the
14 current charges. Following her arraignment, Clustka appeared to be distraught and was noted to
15 be crying when she was being returned to her cell. She was found hanging from her bed sheet in
16 her cell at approximately 9:30 am that same day.

17 **STANDARD OF REVIEW**

18 Summary Judgment is to be rendered forthwith when, after an adequate period for
19 discovery, a party is unable to show a genuine issue as to a material fact of which that party will
20 bear the burden of proof at trial, so long as judgment against that party is appropriate as a matter
21 of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548, 2552, 91 L.Ed.2d 265
22 (1986).
23

24 The moving party must first make a prima facie showing that summary judgment is
25 appropriate under Rule 56. This does not require the moving party to disprove the opponent's
26 claims or defenses. Instead, this prima facie burden is discharged simply by pointing out for the
27 court an absence of evidence in support of the non-moving party's claims or defenses. The
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1 burden of going forward then shifts to the non-moving party to show, by affidavit or otherwise,
2 that a genuine issue of material fact remains for the fact finder to resolve. *Id.*

3 **STANDARD OF PROOF**

4 When the §1983 claim is based upon a jail suicide, the degree of protection accorded a
5 pretrial detainee is deliberate indifference, which is the same that an inmate receives when
6 raising an inadequate medical attention claim under the Eighth Amendment. *Payne v.*
7 *Churchich*, 161 F. 3d 1030 (7th Cir. 1998).

9 Under the deliberate indifference test for establishing Eighth Amendment liability of a
10 prison official, liability will lie only if the official knows of and disregards an **excessive risk** to
11 inmate health or safety; the official must both be aware of facts from which the inference could
12 be drawn that a substantial risk of serious harm exists, **and** he must also draw the inference. *Id.*
13 *(emphasis added)*

15 The Eighth Amendment does not apply to pretrial detainees, but as a pretrial detainee,
16 Ms. Clustka was entitled to at least the same protection against deliberate indifference to her
17 basic needs as is available to convicted prisoners under the Eighth Amendment. *Cavaliere v.*
18 *Shepard*, 321 F.3d 616 (7th Cir. 2003).

20 Under both the Eighth and Fourteenth Amendment standards, the plaintiff has the burden
21 of showing that (1) the harm to the plaintiff was objectively serious; and (2) that the official was
22 deliberately indifferent to her health or safety. *Id. at 620.*

23 A detainee establishes a §1983 claim by demonstrating that the defendants were aware of
24 a substantial risk of serious injury to the detainee but nevertheless failed to take appropriate steps
25 to protect him from a known danger. *Farmer v. Brennan*, 511 U.S. 825, 833, 114 S.Ct. 1970,
26 128 L.Ed.2d 811 (1994).

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1 **FACTUAL DISCUSSION**

2 Summary Judgment is appropriate in this case because there is no evidence to support a
3 finding that Clustka was a **substantial risk** of committing suicide at the time she was in the
4 custody of Officers Robertson and Ashton. Plaintiffs must show, through competent evidence,
5 that Clustka was a substantial risk of harming herself, that such risk was **objectively serious**, and
6 that Officers Robertson and Ashton failed to take appropriate steps to protect her. The evidence
7 presented herein will show the opposite to be true. Clustka was considered by her treating
8 psychiatrist to be at a **low risk of harming** herself at the time she was in the custody of
9 Robertson and Ashton. **The undisputed evidence is that she did not harm or attempt to harm**
10 **herself during that custody.** The evidence shows that Clustka did not present an **objectively**
11 **serious risk of self harm** while she was in Officers Robertson's and Ashton's custody. Lastly,
12 the evidence proves that Officers Robertson and Ashton took appropriate steps to protect Clustka
13 when they delivered her to the jail for CPC.
14

15 Plaintiffs have alleged that the failure of Officers Robertson and Ashton to report
16 Clustka's behavior during transport to jail staff started a chain of events that ultimately lead to
17 Clustka hanging herself in the jail 2 days after she was released from the custody initiated by
18 Officers Robertson and Ashton. There is no causal connection between the two events. The
19 evidence will show that a report of Clustka's behavior during transport for the April 26th CPC
20 would not have been available or considered by the jail intake staff when Clustka was admitted
21 to the jail as an inmate on April 27, 2005. CPC information is generally not maintained and
22 made available to the nursing staff during the intake procedure for inmates. It is undeniable that
23 this information reported or not, would not have effected how Clustka was handled by Washoe
24 County Jail staff.
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1 **Clustka was not a substantial risk of serious injury.**

2 On April 25, 2006, Clustka was taken into custody by the Reno Police Department and
3 taken to Washoe Medical Center because of family reports that Clustka had threatened to
4 overdose on her anxiety medication. When she arrived at WMC, she denied threatening suicide
5 or wanting to kill herself. Nevertheless, WMC medical staff placed Clustka on a Legal 2000 (an
6 emergency admission to the state mental health facility, Northern Nevada Mental Health
7 Institute). A copy of WMC's emergency department medical records including the Legal 2000
8 application is attached as EXHIBIT "B" and incorporated herein by reference.
9

10 On her arrival at NNMHI, Clustka denied all aspects of the reports that she had
11 threatened suicide. She specifically denied that she threatened to overdose on her Xanax
12 prescription. Notwithstanding her denials, she was admitted to NNMHI for observation and
13 treatment. During her admission, Clustka repeatedly denied that she was suicidal or had suicidal
14 thoughts. As a result, the treatment team at NNMHI determined that Clustka was a "Low Risk
15 of Harm" and not a serious threat of suicide. She was discharged at 9:30 am on the day
16 following her admission with a diagnosis of alcohol dependence and Benzodiazepine (Xanax)
17 dependence. At the time of her discharge, Clustka promised to follow up with her primary care
18 physician, attend out patient substance abuse counseling at Evergreen Counseling, and to not use
19 alcohol or drugs. A copy of the relevant admission records, progress notes, assessments,
20 discharge instructions and orders from NNMHI are attached as EXHIBIT "C" and incorporated
21 here in by reference.
22

23 The undisputed medical evidence is that on the morning of April 26, 2005, just 5 hours
24 before her contact with Officers Robertson and Ashton, Clustka was determined to be a **low risk**
25 **of harm** by her treating doctor. She did not present the required **objectively serious** risk of
26 harm required to keep her in the mental hospital under a Legal 2000.
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1 Attached as EXHIBIT “D” and incorporated herein by reference are relevant portions of
2 the deposition transcript of Jeffery Caplan, M.D., Clustka’s treating psychiatrist. Dr. Caplan
3 testified that he would not have discharged Clustka if he believed that she was an extreme risk of
4 self harm. He also testified that he had no information that would cause him to believe that
5 Clustka became an extreme risk of harm after her discharge. *EXHIBIT D, pgs. 103 – 104.*

6
7 **Officers Robertson and Ashton took the appropriate steps to protect Clustka.**

8 Dr. Caplan testified that the only safety risk Clustka had at the time of her discharge was
9 her “using substances.” *EXHIBIT D, pg. 105.* He stated that the proper steps to address this
10 safety concern was to put Clustka in an environment where she could not use either alcohol or
11 her Xanax. *EXHIBIT D, pg. 106.* Dr. Caplan also testified that if Clustka was later found
12 sleeping on a sidewalk, grossly intoxicated with a BA of 0.10%, she could not be returned to
13 NNMHI until after she was detoxed, and that having Clustka detoxed at the CPC facility at the
14 jail would be the appropriate way to insure her safety. *EXHIBIT D, pgs. 150 – 152.*

16 These undisputed facts prove that at the time Officers Robertson and Ashton placed
17 Clustka into Civil Protective Custody, she was not a substantial risk of harm and that her only
18 safety need was to be separated from the drugs and alcohol that she was abusing. Placing her on
19 CPC and placing her into the custody of the jail medical staff appropriately protected her from
20 those safety risks. This conclusion is further solidified by the undisputed fact that Clustka did
21 not attempt to harm herself at any time during the CPC initiated by Officers Robertson and
22 Ashton. Nor did she attempt to harm herself following her release from that custody. It wasn’t
23 until after she had been placed on another CPC, seen again by the doctors at the emergency
24 room, released from the hospital, arrested, processed by the medical staff at the jail, housed for a
25 day, and finally after her arraignment did Clustka commit suicide.

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1 **Jail nursing staff would not consider CPC information during prisoner intake**
2 **interviews.**

3 Gail Singletary, Health Services Administrator for Prison Health Services (PHS) at the
4 Washoe County Jail, testified that if someone came to the facility on a CPC and the transporting
5 officer alerted the medical staff that the person had made a suicidal gesture, the nursing staff
6 would not be able to see if that person had previous history in the jail, had been on a suicide
7 watch, or had other issues in the past. In fact, Singletary admitted that PHS is not supposed to
8 maintain a strong paper trail on CPC individuals. Attached as EXHIBIT “E” are relevant
9 portions of Gail Singletary’s deposition and incorporated herein by reference. *See: EXHIBIT E,*
10 *pgs. 48-49.*

11
12 Singletary stated that if the PHS nursing staff had been advised that Clustka “tried to
13 choke herself” on the CPC transport on April 26th, such information would not be available to the
14 nursing staff doing Clustka’s intake interview on April 27, 2005. Furthermore, Singletary
15 testified that the intake nurse would likely not have known that Clustka was at the jail on a CPC
16 the day before. Singletary testified that unless the same nurse handled the CPC and the prisoner
17 intake interview, “there would really be no way for them to know that (report of trying to choke
18 herself)”. *EXHIBIT E, pgs. 54-55.* It is undisputed that the nurse that performed the intake of
19 Clustka on April 27th was not the nurse on duty during Clustka’s two CPCs on April 26th.
20 Consequently, it is undisputed that during her intake on April 27th, the nurse did not know, and
21 Clustka did not admit, that she had been at the jail for CPC, **twice**, the day before.

22 Singletary testified that a report that Clustka “tried to choke herself” would have
23 provided a “heads up” for the intake nurse, **but**:

24 **The statement alone is not enough to make an absolute**
25 **determination.** You would look at the person, what are they
26 saying now, what is their previous behavior, how recent was the
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1 previous suicidal statement and /or gesture, what type of history do
2 they have along the mental health guidelines, how were they
3 presenting. **They would take into account the fact that perhaps
she was intoxicated on one day and not the next**, so there's a
4 variety of variables that all go into creating this picture.

5 *EXHIBIT E, pgs. 55 -56, emphasis added.*

6 The undisputed fact is that Clustka repeatedly denied that she had ever attempted suicide
7 or that she wanted to commit suicide when she was interviewed by the medical personnel,
8 including the PHS intake nurse. Copies of Clustka's PHS Initial Medical Screening for April 27,
9 2005, are attached as EXHIBIT "F" and incorporated herein by reference. Plaintiffs claim that
10 Clustka would have been handled differently had her behavior on April 26, 2005 been reported is
11 pure speculation and contradicted by the evidence.

12 **LEGAL DISCUSSION**

13 Deliberate indifference entails something more than negligence, but it is satisfied by
14 something less than acts or omissions for the very purpose of causing harm or with knowledge
15 that harm will result. Thus it is the equivalent of acting recklessly. *Farmer v. Brennan*, 511 U.S.
16 at 835.

17 There is no evidence that Officers Robertson and Ashton acted recklessly. The evidence
18 clearly shows that they acted appropriately to address Clustka's safety needs. She presented a
19 risk to herself because of her intoxication from alcohol and drugs. Placing her on CPC and
20 delivering her to the medical staff at the jail appropriately prevented her from abusing any more
21 substances and committed her to the care of trained medical personnel.

22 There is no evidence that Officers Robertson and Ashton drew the required inference that
23 Clustka was a substantial risk of serious harm to herself. *Farmer v. Brennan*, 511 U.S. at 837.
24 The undisputed evidence is that both Officers Robertson and Ashton viewed Clustka's behavior
25 as nothing more than the acting out of an angry, intoxicated person. Without a showing of facts
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1 from which the inference could be drawn that a substantial risk of serious harm existed, **and** that
2 Robertson and Ashton drew that inference, no liability may lie. *Id.*

3 **CONCLUSION**

4 Summary Judgment is proper in this matter. The undisputed facts show there is no
5 material issue for trial. The Defendants are due qualified immunity for these claims because
6 there is no showing that Clustka presented a substantial risk of serious harm when she was in
7 Defendant's custody. There is no evidence that a substantial risk of suicide was objectively
8 serious and subjectively ignored by the Defendants. There is no evidence that Defendants drew
9 the necessary inference that a substantial risk of serious harm existed at the time they delivered
10 Clustka to the jail. Furthermore, there is no evidence that Defendants did not believe that any
11 safety needs Clustka might have had would not be appropriately addressed by the staff at the jail.
12 Lastly, there is no credible evidence that what happened on April 26, 2005 had any relevance or
13 bearing on Clustka's actions of committing suicide on April 28, 2005.
14

15
16 Therefore, Defendants City of Reno, RPD Officers Ryan Ashton and David Robertson
17 respectfully move this Court for summary judgment on their behalf to all claims.

18 RESPECTFULLY SUBMITTED.

19 Dated this 29TH day of August, 2006.

20
21 PATRICIA A. LYNCH
22 Reno City Attorney

23 By:

24 /s/ Jack D. Campbell
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the RENO CITY ATTORNEY'S OFFICE, and that on this date, I am serving the foregoing document(s) on the party(s) set forth below by:

- Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.
- Via Federal Court Electronic Filing
- Personal delivery.
- Facsimile (FAX).
- Federal Express or other overnight delivery.
- Reno/Carson Messenger Service.

addressed as follows:

Terri Keyser-Cooper
Law Office of Terri Keyser-Cooper
100 N. Arlington Avenue, #10F
Reno, Nevada 89501

Diane K. Vaillancourt
Law Office of Diane K. Vaillancourt
849 Almar Avenue, Suite C403
Santa Cruz, California 95060

DATED this 29th day of August, 2006.

/s/

Em

Tamme Sutton
Tamme Sutton
Employee of the Reno City Attorney