

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

---

**TIMOTHY GRISWOLD**, as  
Personal Representative of  
the Estate of **JOHN E. GRISWOLD**,

Case No. 22-cv-10980  
Hon. Robert J. White  
Mag. Judge Patricia T. Morris

Plaintiffs,

v.

**TRINITY HEALTH-MICHIGAN** d/b/a  
**ST. JOSEPH MERCY LIVINGSTON**,  
**EMERGENCY PHYSICIANS MEDICAL GROUP**,  
**P.C.**, **WILLIAM J. KANITZ, M.D.**, COUNTY OF  
**LIVINGSTON, MICHIGAN**, jointly and severally,

Defendants.

---

---

**LIVINGSTON DEFENDANTS' MOTION FOR RECONSIDERATION GIVEN SIXTH  
CIRCUIT RULING OVERTURNING SUMMARY JUDGMENT DECISION**

Defendant, **LIVINGSTON COUNTY**, the only remaining Livingston Defendant post-appeal, by and through the undersigned counsel, pursuant to E.D. Mich. LR 7.1(h)(2)(B), Federal Rule of Civil Procedure 54(b), and Federal Rule of Civil Procedure 60(b)(1) and (6), respectfully moves this Court to reconsider that portion of its March 10, 2025 Opinion and Order (ECF No. 109) denying summary judgment on the Estate's municipal liability claim under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and to enter judgment in favor of Livingston County on that claim. In support of this Motion, the County states:

1. On May 11, 2026, the United States Court of Appeals for the Sixth Circuit issued a published decision in this case reversing this Court's denial of qualified immunity to the remaining individual Livingston County Defendants: Sergeant Davis and Deputies Linden, Turchi, Schulte, VanVleet, Heiob, and John. [ECF No. 122, PageID.5646, 5654]

2. The panel held that the Estate failed to establish that the law was clearly established in October 2018 because Mr. Griswold's medical condition did not satisfy the objective prong of the *Farmer v. Brennan* deliberate indifference test. [ECF No. 122, PageID.5651-5654]

3. That ruling constitutes an intervening change in controlling law that eliminates the predicate constitutional violation necessary to sustain the Estate's *Monell* claim against the County. Under *City of Los Angeles v. Heller*, 475 U.S. 796 (1986), and its Sixth Circuit progeny, the County cannot be held liable under § 1983 in the absence of an underlying constitutional violation by its officers. The *Monell* claim must therefore be dismissed as originally argued. [ECF No. 53, PageID.836]

Consistent with the above, and the discussion in the attached brief, Defendant Livingston County respectfully asks that the Court reconsider its decision given this change and find that the County is entitled to dismissal.

Pursuant to LR 7.1(a), counsel for Livingston County sent an email to all counsel on June 27, 2026, explained the relief sought and the legal basis for the

motion. Upon not receiving any response from counsel for the Estate, the undersigned called his office, on July 6, 2026, in attempt to have a discussion on the issue and was told he was in trial and the staff would try to have him return the call. It has now been over 24 hours since that call and no response was received. To present this issue before the conference, Defendant now files this motion.

Respectfully submitted,

**SEWARD HENDERSON PLLC**

/s/ Kali M. L. Henderson (P76479)  
*Attorney for Defendant Livingston County*  
Royal Oak, MI 48067  
P: (248) 733-3580  
F: (248) 733-3633  
E: khenderson@sewardhenderson.com

Dated: July 7, 2026

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

**TIMOTHY GRISWOLD**, as  
Personal Representative of  
the Estate of **JOHN E. GRISWOLD**,

Case No. 22-cv-10980  
Hon. Robert J. White  
Mag. Judge Patricia T. Morris

Plaintiffs,

v.

**TRINITY HEALTH-MICHIGAN** d/b/a  
**ST. JOSEPH MERCY LIVINGSTON**,  
**EMERGENCY PHYSICIANS MEDICAL GROUP**,  
**P.C.**, **WILLIAM J. KANITZ, M.D.**, COUNTY OF  
**LIVINGSTON, MICHIGAN**, jointly and severally,

Defendants.

---

**BRIEF IN SUPPORT OF**  
**LIVINGSTON DEFENDANTS' MOTION FOR RECONSIDERATION GIVEN SIXTH**  
**CIRCUIT RULING OVERTURNING SUMMARY JUDGMENT DECISION**

## TABLE OF CONTENTS

Index of Authorities .....	iii
Statement of Issues Presented.....	v
Most Controlling Authorities .....	vi
Introduction .....	1
Procedural Posture .....	1
Legal Standard .....	2
Argument.....	3
I. The Sixth Circuit's Decision is an Intervening Change in Controlling Law that Forecloses the Underlying Constitutional Violation Necessary to Support Liability Against the County.....	3
II. <i>Heller</i> Forecloses <i>Monell</i> Liability Absent an Underlying Constitutional Violation. ....	4
III. The Sixth Circuit's Objective-Prong Holding Applies Identically to the <i>Monell</i> Predicate.....	5
IV. The Causation Element of the <i>Monell</i> Claim Independently Fails.....	6
V. Rule 60(b)(1) and (6) Provide Additional Authority for Reconsideration. ....	7
Conclusion .....	7

## INDEX OF AUTHORITIES

### Cases

<i>Blackmore v. Kalamazoo County</i> , 390 F.3d 890 (6th Cir. 2004) .....	4
<i>Burwell v. City of Lansing</i> , 7 F.4th 456 (6th Cir. 2021) .....	4
<i>City of Los Angeles v. Heller</i> , 475 U.S. 796 (1986).....	5
<i>Gambrel v. Knox Cnty., Kentucky</i> , 25 F.4th 391 (6th Cir. 2022) .....	7, 8
<i>Helphenstine v. Lewis Cnty.</i> , 60 F.4th 305 (6th Cir. 2023) .....	7
<i>Kemp v. United States</i> , 596 U.S. 528 (2022).....	3, 8
<i>Robertson v. Lucas</i> , 753 F.3d 606 (6th Cir. 2014) .....	5
<i>Rodriguez v. Tenn. Laborers Health &amp; Welfare Fund</i> , 89 F. App'x 949 (6th Cir. 2004).....	2
<i>Shadrick v. Hopkins Cnty.</i> , 805 F.3d 724 (6th Cir. 2015) .....	6
<i>United States v. Moored</i> , 38 F.3d 1419 (6th Cir. 1994) .....	4
<i>Watkins v. City of Battle Creek</i> , 273 F.3d 682 (6th Cir. 2001) .....	5
<b>Rules</b>	
Fed. R. Civ. P. 60(b) .....	2

Fed. R. Civ. P. 60(b)(1).....3  
Fed. R. Civ. P. 60(b)(6).....3  
LR 7.1(h)(2)(B).....7

## STATEMENT OF ISSUES PRESENTED

Whether the Sixth Circuit's published, binding decision in *Griswold v. Trinity Health Michigan*, reversing this Court's denial of qualified immunity to the individual deputies on the ground that the Estate failed to satisfy the objective prong of the *Farmer* deliberate indifference test, constitutes an intervening change of controlling law warranting reconsideration of this Court's denial of summary judgment to Livingston County on the *Monell* failure-to-train claim, where:

- (a) a *Monell* claim cannot proceed without an underlying constitutional violation by the County's officers under *City of Los Angeles v. Heller*;
- (b) the Sixth Circuit's objective-prong holding is now binding law of the case and applies identically to the predicate violation required for *Monell* liability; and
- (c) the absence of an objectively serious medical condition recognizable to a layperson defeats the causation element of the *Monell* claim, because no training could have produced a different result where the symptoms were not objectively recognizable as a medical emergency.

Livingston County answers, “Yes.”

Plaintiff answers, “No.”

## **MOST CONTROLLING AUTHORITIES**

*Griswold v. Trinity Health Michigan*, No. 25-1271 (6th Cir. May 11, 2026)

*City of Los Angeles v. Heller*, 475 U.S. 796 (1986)

Fed. R. Civ. P. 54(b)

Fed. R. Civ. P. 60(b)(1), (6)

E.D. Mich. LR 7.1(h)(2)(B)

## **INTRODUCTION**

The Sixth Circuit's published, binding decision in this case has eliminated the foundation on which the Estate's *Monell* claim against Livingston County rests. On May 11, 2026, a unanimous panel held that the Estate could not establish a violation of clearly established law because Mr. Griswold's condition did not satisfy the objective prong of the *Farmer v. Brennan* deliberate indifference test. [ECF No. 122, PageID.5646, 5654] That ruling, rendered after this Court denied summary judgment to the County, constitutes an intervening change in controlling law that requires reconsideration of the *Monell* ruling.

The reasoning is straightforward. Under *City of Los Angeles v. Heller*, a municipality cannot be liable under § 1983 absent an underlying constitutional violation by its officers. The Sixth Circuit's objective-prong holding establishes that no such violation occurred here. Because that holding is binding on remand, and because the *Monell* claim requires the same predicate, the *Monell* claim cannot proceed.

## **PROCEDURAL POSTURE**

On March 10, 2025, this Court issued its Opinion and Order granting in part and denying in part the Livingston County Defendants' motion for summary judgment. [ECF No. 109] The Court denied qualified immunity to Sergeant Davis and Deputies Linden, Turchi, Schulte, VanVleet, Heiob, and John, and denied

summary judgment to Livingston County on the Estate's *Monell* failure-to-train claim. The Court denied the County's subsequent motion for reconsideration on March 31, 2025. [ECF No. 114]

The individual defendants filed an interlocutory appeal. On May 11, 2026, the Sixth Circuit issued a published opinion reversing the denial of qualified immunity to all remaining individual Livingston defendants. [ECF No. 122] The Sixth Circuit did not reach the County's *Monell* claim because that claim was not within the scope of the interlocutory appeal because it was not ripe for appeal. The County now seeks reconsideration of the *Monell* ruling in light of the Sixth Circuit's decision.

### **LEGAL STANDARD**

A district court may revise an interlocutory order at any time before final judgment under Federal Rule of Civil Procedure 54(b) and federal common law. *Rodriguez v. Tenn. Laborers Health & Welfare Fund*, 89 F. App'x 949, 959 (6th Cir. 2004).

Local Rule 7.1(h)(2)(B) permits reconsideration of a non-final order where "[a]n intervening change in controlling law warrants a different outcome." An intervening published decision of the Sixth Circuit directly addressing the issues in the case is a paradigm example of such a change.

Federal Rule of Civil Procedure 60(b) provides additional grounds for relief. Fed. R. Civ. P. 60(b). Subsection (b)(1) authorizes relief from a court's legal mistake,

including errors of law subsequently identified by a higher court. *Kemp v. United States*, 596 U.S. 528, 533-34 (2022) (holding that "mistake" in Rule 60(b)(1) encompasses legal errors); Fed. R. Civ. P. 60(b)(1). Subsection (b)(6) provides a catchall for "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6).

## **ARGUMENT**

### **I. THE SIXTH CIRCUIT'S DECISION IS AN INTERVENING CHANGE IN CONTROLLING LAW THAT FORECLOSES THE UNDERLYING CONSTITUTIONAL VIOLATION NECESSARY TO SUPPORT LIABILITY AGAINST THE COUNTY.**

The Sixth Circuit's decision is the clearest possible example of an intervening change in controlling law. The panel issued a published opinion analyzing the precise constitutional question at the heart of this case and holding, as a matter of law, that the Estate cannot establish a violation of clearly established rights. [ECF No. 122, PageID.5651-5654]

The panel resolved the case on the clearly-established prong, but its analysis proceeded entirely through the objective component of the deliberate indifference test. [ECF No. 122, PageID.5651-5654] The panel held that Mr. Griswold did not manifest other indicia [besides vomiting] that would have alerted jail officials that he had a serious need for medical attention." [ECF No. 122, PageID.5652] The court distinguished both *Blackmore v. Kalamazoo County*, 390 F.3d 890, 896 (6th Cir. 2004), and *Burwell v. City of Lansing*, 7 F.4th 456 (6th Cir. 2021), the two cases on which this Court relied. [ECF No. 122, PageID.5652-5653] As the panel explained,

"[b]eyond the single incident of vomiting, to the viewer of the video, Griswold would appear to be sleeping or attempting to sleep on an uncomfortable prison floor." [ECF No. 122, PageID.5653]

This holding constitutes binding law of the case on remand. *See United States v. Moored*, 38 F.3d 1419, 1421 (6th Cir. 1994). The Sixth Circuit's determination on the objective component is dispositive of the predicate constitutional question, which is identical for both qualified immunity purposes and *Monell* purposes.

## **II. HELLER FORECLOSES MONELL LIABILITY ABSENT AN UNDERLYING CONSTITUTIONAL VIOLATION.**

The Supreme Court held in *City of Los Angeles v. Heller*, 475 U.S. 796 (1986), that a municipality cannot be held liable under § 1983 where its officers have not committed an underlying constitutional violation. The Court explained that "neither *Monell*...nor any other of our cases authorizes the award of damages against a municipal corporation based on the actions of one of its officers when in fact the jury has concluded that the officer inflicted no constitutional harm." *Id.* at 799 (citation omitted).

The Sixth Circuit has consistently applied *Heller* to require dismissal of *Monell* claims where the underlying constitutional violation has not been established. *Robertson v. Lucas*, 753 F.3d 606, 622 (6th Cir. 2014) ("There can be no liability under *Monell* without an underlying constitutional violation."); *Watkins v. City of Battle Creek*, 273 F.3d 682, 687 (6th Cir. 2001) ("If no constitutional

violation by the individual defendants is established, the municipal defendants cannot be held liable under § 1983.").

The *Heller* bar applies with full force here. The Estate's *Monell* theory rests on a single alleged constitutional violation by the individual deputies: their failure to recognize and respond to Mr. Griswold's medical condition. [See ECF No. 109, PageID.4836-4837 (describing the Estate's reliance on a "single violation" theory under *Shadrick v. Hopkins Cnty.*, 805 F.3d 724 (6th Cir. 2015)] The Sixth Circuit has now held that the Estate cannot establish that violation. The predicate has collapsed, and with it the *Monell* claim.

### **III. THE SIXTH CIRCUIT'S OBJECTIVE-PRONG HOLDING APPLIES IDENTICALLY TO THE *MONELL* PREDICATE.**

The Estate may attempt to argue that the Sixth Circuit's ruling is limited to qualified immunity and does not control the predicate question for *Monell* liability. That argument fails because it demonstrates why Plaintiff cannot satisfy the constitutional predicate for the County. As this Court held, Plaintiff must demonstrate “a single violation of federal rights, accompanied by a showing that the County has failed to train its employees to handle recurring situations presenting an obvious potential for a constitutional violation.” [ECF No. 109, PageID.4836] Plaintiff cannot show this “single violation” as required.

Moreover, the Court’s ruling that no law clearly established that this situation would have notified the jail employees that they needed to act, then no law could

have informed the County that they needed to train employees to meet such a circumstance. This means that there is no “proof that ‘the violation of a clearly established right was a known or obvious consequence of the lack of training or supervision.’” [ECF No. 109, PageID.4837-4838 (*citing Gambrel v. Knox Cty.*, 25 F.4th 391, 408 (6th Cir. 2022))] Since Plaintiff cannot satisfy these core elements under the law now established, the County should be dismissed from the case.

**IV. THE CAUSATION ELEMENT OF THE *MONELL* CLAIM INDEPENDENTLY FAILS.**

Even if the Sixth Circuit's decision did not entirely foreclose the *Monell* predicate, the panel's reasoning independently defeats the causation element of the claim. A *Monell* failure-to-train claim requires proof that "the inadequacy was closely related to or actually caused the injury." *Helphenstine v. Lewis Cnty.*, 60 F.4th 305, 323 (6th Cir. 2023). This requires both factual and proximate causation. *Gambrel v. Knox Cnty., Kentucky*, 25 F.4th 391, 408 (6th Cir. 2022).

The Sixth Circuit held that Mr. Griswold's condition was not objectively recognizable as a medical emergency to a layperson. [ECF No. 122, PageID.5652-5653] If the symptoms were not objectively recognizable, then no amount of training could have caused a different outcome. The Estate cannot show that "proper training would have prevented" deliberate indifference, *Gambrel*, 25 F.4th at 409, when the Sixth Circuit has held as a matter of law that there were no objectively obvious

indicia of a medical emergency to which the deputies could have been trained to respond.

The proximate causation analysis fails for the same reason. A municipality cannot "reasonably foresee" that an employee's wrongful act would follow from inadequate training, *id.*, when no objectively recognizable signs of medical distress existed to which the training would apply.

**V. RULE 60(B)(1) AND (6) PROVIDE ADDITIONAL AUTHORITY FOR RECONSIDERATION.**

Although LR 7.1(h)(2)(B) and Rule 54(b) provide the most direct vehicles for the relief requested, Rule 60(b) supplies additional authority. Under *Kemp v. United States*, 596 U.S. 528, 533-34 (2022), the term "mistake" in Rule 60(b)(1) includes legal errors. The Sixth Circuit's reversal establishes that the prior denial of summary judgment rested on legal conclusions the Court of Appeals has now rejected, including the conclusion that *Burwell* provided fair notice to the individual deputies and that the objective prong was satisfied as a matter of law.

In the alternative, Rule 60(b)(6) authorizes relief in

**CONCLUSION**

The Sixth Circuit's decision in this case constitutes an intervening change in controlling law that eliminates the predicate constitutional violation required to sustain the Estate's *Monell* claim against Livingston County. Under *Heller* and its Sixth Circuit progeny, the *Monell* claim cannot proceed without that predicate. For

the reasons stated above, Livingston County respectfully requests that the Court grant reconsideration, vacate the portion of the March 10, 2025 Opinion and Order denying summary judgment to Livingston County on the *Monell* claim, and enter judgment in favor of Livingston County dismissing all remaining claims with prejudice.

Respectfully submitted,

**SEWARD HENDERSON PLLC**

/s/ Kali M. L. Henderson (P76479)  
*Attorney for Defendant Livingston County*  
Royal Oak, MI 48067  
P: (248) 733-3580  
F: (248) 733-3633  
E: khenderson@sewardhenderson.com

Dated: July 7, 2026

**PROOF OF SERVICE**

I hereby certify that on **Tuesday, July 7, 2026**, I electronically filed the foregoing document with the Clerk of the court using the ECF system, which will send notification to the following: ***All Parties and Attorneys of Record.***

/s/ Morgan Meniffee

**SEWARD HENDERSON PLLC**  
210 East 3rd Street, Suite 212  
Royal Oak, MI 48067