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8 Attorneys for COUNTY OF SAN MATEO and
CHRISTINA CORPUS

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO
11

12 A.B.O. COMIX, KENNETH ROBERTS,
ZACHARY GREENBERG, RUBEN
13 GONZALEZ-MAGALLANES, DOMINGO
AGUILAR, KEVIN PRASAD, MALTI
14 PRASAD, and WUMI OLADIPO,

15 Plaintiffs,

16 v.

17 COUNTY OF SAN MATEO and
CHRISTINA CORPUS, in her official
18 capacity as Sheriff of San Mateo County,

19 Defendants.
20

Electronically
FILED
by Superior Court of California, County of San Mateo
ON 10/13/2023
By /s/ Haley Correa
Deputy Clerk

Case No. 23-CIV-01075
Assigned for All Purposes to:
Hon. V. Raymond Swope, Dept. 23

**DEFENDANTS' SUPPLEMENTAL
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF REPLY IN SUPPORT OF
DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS**

Date: December 4, 2023
Time: 2:00 PM
Dept.: 23

Action Filed: March 9, 2023
Trial Date: None Set

22 Pursuant to Evidence Code § 452, Defendants the County of San Mateo and Christina
23 Corpus, in her official capacity as Sheriff of San Mateo County (collectively “Defendants” or the
24 “County”) hereby respectfully request that the Court take judicial notice of the materials described
25 below and attached hereto in its consideration of the moving Defendants’ Motion for Judgment on
26 the Pleadings filed herewith.

27 Courts may consider judicially noticeable matters in a motion for judgment on the
28 pleadings. *People ex rel. Harris v. Pac Anchor Transp., Inc.* (2014) 59 Cal.4th 772, 777. The

1 Court may properly take notice of “[f]acts and propositions that are of such common knowledge
2 within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute”
3 or “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate
4 and accurate determination by resort to sources of reasonably indisputable accuracy.” Evid. Code,
5 § 452(g) & (h). Accordingly, Defendants request the Court take judicial notice of the following:

6 1. **Plaintiff’s May 20, 2016 Complaint in *Fields v. Paramo*, Case No. 2:16-cv-1085**
7 **JAM AC P (E.D. Cal.):** It is well established by Evidence Code § 452(d) that “[r]ecords of (1)
8 any court of this state or (2) any court of record of the United States or of any state of the United
9 States” are judicially noticeable. Evid. Code, § 452(d)(1) & (2).) As such, this Court may
10 judicially notice the original complaint and the first amended complaint filed in the present
11 action. *See Bell v. H.F. Cox, Inc.* (2012) 209 Cal.App.4th 62, 67 fn. 2 (trial court judicially noticed
12 the original and first amended complaint after federal court granted the plaintiffs’ motion to
13 remand). Moreover, “[i]t is well accepted that when courts take judicial notice of the existence of
14 court documents, the legal effect of the results reached in orders and judgments may be
15 established.” *Linda Vista Village San Diego Homeowners Ass’n, Inc. v. Tecolote Investors, LLC*
16 (2015) 234 Cal.App.4th 166, 185. The County requests judicial notice of the inmate-plaintiff’s
17 May 20, 2016 Complaint in *Fields v. Paramo*, Case No. 2:16-cv-1085 JAM AC P (E.D. Cal.) to
18 show that the complaint included exhibits demonstrating that the jail officials denied the plaintiff’s
19 demand at issue in the case because its rules limited “health care services” to cases of “medical
20 necessity.” A true and correct copy of the inmate-plaintiff’s May 20, 2016 Complaint in *Fields v.*
21 *Paramo*, Case No. 2:16-cv-1085 JAM AC P (E.D. Cal.) is attached hereto as **Exhibit G**, with the
22 relevant portions on pages 8 and 9 highlighted for the Court’s convenience.

23 2. **Plaintiff’s March 11, 2022 Memorandum in Support of Motion for**
24 **Preliminary Injunction in *Human Rights Def. Counsel Ctr. v. Bd. of Cnty. Com’rs*, Case No.**
25 **22-cv-091-LM (D.N.H. 2022):** For the same reasons referenced in Paragraph 1, *supra*, the Court
26 may take judicial notice of the referenced motion, which was the losing brief filed by the plaintiff
27 that sought to invalidate the mail policy in *Human Rights Def. Center v. Bd. of Cnty. Com’rs*
28 (D.N.H. 2023) __ F.Supp.3d __, 2023 WL 1473863, at *8 (“*HRDC*”). The County requests

1 judicial notice of this motion to show the falsity of Plaintiffs’ representation that the mail policy at
2 issue in *HRDC* only “involved claims regarding paperback books and periodicals, not personal
3 mail.” Opp. at 14:21-21. The plaintiff’s losing brief in *HRDC* argued that the mail policy in that
4 case failed the *Turner* test because it banned “***all inmate personal mail from coming into the***
5 ***facility.***” (Emphasis added). A true and correct copy of Plaintiff’s March 11, 2022 Memorandum
6 in Support of Motion for Preliminary Injunction in *Human Rights Def. Counsel Ctr. v. Bd. of Cnty.*
7 *Com’rs*, Case No. 22-cv-091-LM (D.N.H. 2022) is attached hereto as **Exhibit H**, with the relevant
8 argument highlighted on pages 3, 4, and 5 for the Court’s convenience.

9 3. **Formal Grievances Filed by Plaintiff Zachary Greenberg Under the San**
10 **Mateo County Sheriff’s Office Inmate Grievance Procedure:** A “Court may take judicial notice
11 of [an inmate] Plaintiff’s inmate grievances related to [the] case.” *Hudson v. Pfeiffer* (E.D. Cal.
12 Dec. 17, 2021) 2021 WL 5989158, at *2-3; *accord e.g., McCollum v. Cal.* (Dec. 13, 2007) 2007
13 WL 4390616, at *3 (rejecting the inmate’s argument “that the Court cannot consider the grievance
14 forms ... relevant to exhaustion” in a pleadings motion and holding that “[t]he Court ... may take
15 judicial notice of the [grievance] forms and does so here”). Further, “[a]dditionally, or
16 alternatively, ... inmate grievances are properly considered under [the] incorporation by reference
17 [doctrine]” when “the grievances [are] referenced in [the] Plaintiff’s Complaint” or briefing,
18 particularly when they are invoked in relation to arguments addressing “the extent the grievances
19 exhausted [the] Plaintiff’s claim at issue in [the] case.” *Hudson*, 2021 WL 5989158, at *2-3. Here,
20 seeking to avoid the fact that they did not “file grievances or exhaust administrative remedies”
21 (Opp. at 10:13-19), Plaintiffs’ Opposition and Amended Complaint make the representation that
22 Mr. Greenberg filed “formal grievances protesting the mail policy” that “were never
23 acknowledged” (*id.* at 10:18-19; *see also* AC ¶ 82). For this reason, the Court can take judicial
24 notice of the twenty-nine formal grievances Mr. Greenberg filed while he was incarcerated in the
25 County’s jail. A review of these forms shows that none of these twenty-nine grievances challenged
26 the County’s mail policy and all were “acknowledged” with a detailed “Supervisor’s response”
27 printed at the bottom of the filing. True and correct copies of Mr. Greenberg’s twenty-nine formal
28 grievance forms are attached hereto as **Exhibits I-JJ**.

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4. **January 20, 2022 Denial of Plaintiff Zachary Greenberg’s Appeal of Denial of Formal Grievances:** For the same reasons referenced in Paragraph 3, *supra*, the Court may take judicial notice of the County’s Jan. 20, 2022 denial of Mr. Greenberg’s appeal of a the denial of a grievance filed by Mr. Greenberg under the inmate grievance procedure. A true and correct copy of the January 20, 2022 Denial of Plaintiff Zachary Greenberg’s Appeal of Denial of Formal Grievances is attached hereto as **Exhibit KK**.

DATED: October 13, 2023

Respectfully submitted,

BARTKO ZANKEL BUNZEL & MILLER
A Professional Law Corporation



By: _____
Chad E. DeVeaux
Attorneys for Defendants COUNTY OF SAN
MATEO and CHRISTINA CORPUS

EXHIBITS G-KK

Exhibit G

FILED

MAY 20 2016

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY Mims
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLTON FIELDS #A44713
(Name of Plaintiff)
R.J. DONOVAN CORRECTIONAL
(Address of Plaintiff)
FACILITY, 480 ALTA
ROAD, SAN DIEGO, CA 92179

216-CV-1085

(Case Number)

AC PC

COMPLAINT

vs. DANIEL PARAMO,
Warden of M.C.S.P.A. Altschuler (ALPA)

J. Lewis, deputy director, W. David Smiley
Chief Executive Officer,
C. Smith Chief Physician, Surgeon,
(Names of Defendants) SAN JUAQUIN HOSPITAL

I. Previous Lawsuits:

A. Have you brought any other lawsuits while a prisoner: Yes No

B. If your answer to A is yes, how many?: 1 Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff CARLTON FIELDS

Defendants MARGARET MIMS, FRESNO COUNTY JAIL

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

Warden Daniel Paramo is in charge of the operations of the prison. D. Smiley (AW) denied HC-602 on 2-4-2015 deliberate indifference, James Jackson Medical Doctor denied false information, therefore, first HC-602 was denied to perform "Religious/Medical Circumcision" A. Schuler (MD) rejected HC-602 on 10-28-2014 in violation of Petitioner's Constitutional Rights C. Smith MD denied petitioner's Constitutional Rights under 1st, 14th Amendment all above mentioned defendants denied violated 1st, 14th Religious and 8th Amendment.

V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

I'm requesting that the court orders San Joaquin Urologist to perform the requested Circumcision, and order the defendants to pay the plaintiff to pay in monetary relief for medical/psychological deliberate indifference and pay punitive damages of a minimum of \$5000 per defendant or what the court sees just and fair

Signed this 11 day of May, 2016.

Carsten Fuchs
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

5/11/16
(Date)

Carsten Fuchs
(Signature of Plaintiff)

VERIFICATION

(C.C.P. § 446 & 2015.5 28 U.S.C. § 1746)

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I, Carlton Fields PLAINTIFF DECLARE UNDER PENALTY OF PERJURY THAT I AM THE
IN THE ABOVE ENTITLED ACTION. I HAVE READ THE FOREGOING
DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN
KNOWLEDGE EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION AND BELIEF,
AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 11 DAY OF May AT R.J. DONOVAN CORRECTIONAL FACILITY,
SAN DIEGO, CALIFORNIA, 92179.

Carlton Fields
SIGNATURE (DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. § 1013(a) & 2015.5 U.S.C. § 1746)

I, _____ AM A RESIDENT OF R.J. DONOVAN CORRECTIONAL FACILITY, IN THE
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA. I AM OVER EIGHTEEN (18) YEARS OF AGE, AND
AM/AM NOT A PARTY OF THE ABOVE ENTITLED ACTION. MY STATE PRISON ADDRESS IS 480 ALTA
RD. R.J. DONOVAN CORRECTIONAL FACILITY, SAN DIEGO, CALIFORNIA 92179.
ON, _____, I SERVED THE FOREGOING:

SET FORTH EXACT TITLE OF DOCUMENT(S) SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY THEREOF, ENCLOSED IN A SEALED
ENVELOPE(S) WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT
BOX SO PROVIDED AT THE R.J. DONOVAN CORRECTIONAL FACILITY, SAN DIEGO, CALIFORNIA 92179.

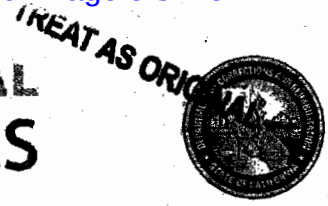
THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED AND THERE
IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE SO
ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT.

DATE 5/11/16

Carlton Fields
(DECLARANT/PRISONER)



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



Date: 10/28/2014

REJECTION NOTICE

To: FIELDS, CARLTON (AN4713)
B 009 2236001U
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

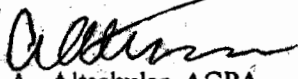
Tracking/Log #: MCSP HC 14045736

It has been determined your appeal submitted does not comply with appeal procedures established in the California Code of Regulations (CCR) Title 15, Article 8, and is being rejected and returned to you for the following reason(s):

Excessive Verbiage or Documentation: CCR, Title 15, Section 3084.6(b)(9) states, "The appeal issue is obscured by pointless verbiage or voluminous unrelated documentation such that the reviewer cannot be reasonably expected to identify the issue under appeal. In such case, the appeal shall be rejected unless the appellant is identified as requiring assistance in filing the appeal as described in subsection 3084.1(c);" Section 3084.2(b)(1) states, "Only supporting documents, as defined in subsection 3084(h), necessary to clarify the appeal shall be attached to the appeal;" and Section 3084.2(a)(2) states, "The inmate or parolee is limited to the space provided on the Inmate/Parolee Appeal form and one Inmate/Parolee Appeal Form Attachment to describe the specific issue and action requested."

You have incorrectly submitted a page of handwritten notes. If additional space is needed, please use the attached CDCR 602-A form. Please remove the additional page of handwritten notes marked with an X.

For your appeal to qualify for processing, you are advised to take the necessary corrective action provided in this notice and resubmit the appeal within 30 calendar days.


A. Altschuler, AGPA
Health Care Appeals Office
Mule Creek State Prison



Rejection Note: Be advised that you cannot appeal a rejected appeal, but should take the corrective action necessary and resubmit the appeal within the timeframes, 30 calendar days, as specified in CCR 3084.6(a) and CCR 3084.8(b).

PERMANENT APPEAL ATTACHMENT-DO NOT REMOVE

TITLE 15 Subchapter 3

INMATE ACTIVITIES

~~§~~ 3210(a)

A request for a religious service accommodation that requires a specific time, location and/or items not otherwise authorized will be referred to a Religious Review Committee for review and consideration. The RRC shall consist of chaplains / correctional Captain shall only be denied because of impact to facility safety & security.

NOTE: Authority cited Section 5058 penal code Reference: Sections

5009 and 5054, Penal code and Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 USC, 2000 et seq.

After review, no intervention at the Director's Level of Review is necessary as your medical condition has been evaluated and you are receiving treatment deemed medically necessary.

RULES AND REGULATIONS:

The rules governing these issues are: California Code of Regulations, Title 15; Inmate Medical Services Policies and Procedures; and the Department Operations Manual.

ORDER:

No changes or modifications are required by the institution.



J. Lewis, Deputy Director
Policy and Risk Management Services
California Correctional Health Care Services



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

BEAT AS ORIG



Institution Response for First Level HC Appeal

Date: 12/17/2014

To: FIELDS, CARLTON (AN4713)
B 009 2236001U
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

BIO 2223001U

Tracking/Log #: MCSP HC 14045736

Appeal Issues:

In your California Department of Corrections and Rehabilitation (CDCR) Health Care Appeal form 602-HC (CDCR 602-HC) received on 11/4/2014, you indicated:

Issue Type	Action Requested
Issue 1: Surgical Issues (Urology)	Requests to be circumcised.

You are appealing:

It is your position that you went to see the specialist, as referred by Dr. Jackson, for circumcision due to phimosis. You state you were denied by the urologist on October 1, 2014. You state you also need this done for religious purposes.

You are requesting:

You request in this appeal for an "emergency" circumcision to be done.

Evaluation/Conclusion

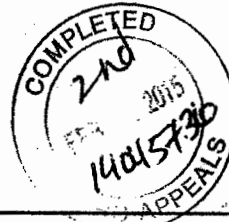
Decision:

Your appeal request is denied at the first level. During the interview with Dr. Jackson on December 11, 2014, you were allowed the opportunity to explain fully your appeal issue. You did not add any new content during your appeal interview. Your appeal, electronic Unit Health Record (eUHR) and all pertinent departmental policies and procedures were reviewed.

Response:

Your request to have this appeal processed as an emergency appeal is denied. Your appeal was reviewed in the Health Care Appeals Office upon receipt at the first level by a Registered Nurse (RN) and if it had been deemed an emergency it would have been processed as such.

During your first level interview on December 11, 2014, Dr. Jackson said you were seen by Urology on October 2, 2014, and the urologist said your distal foreskin appeared to be quite normal and pliable and you had no evidence of obstruction and there was no blockage to the penile meatus and no need for surgical intervention at this time. Dr. Jackson said you indicated no problems with urinating or infections of the foreskin and you have no pain related to the foreskin and you indicated no problems with retraction of the foreskin.



TREAT AS ORIGINAL

Your request to have this appeal processed as an emergency appeal was denied. Your appeal was reviewed in the Health Care Appeals Office upon receipt at the first level by a Registered Nurse (RN) and if it had been deemed an emergency it would have been processed as such.

During your first level interview on December 11, 2014, Dr. Jackson said you were seen by Urology on October 2, 2014, and the urologist said your distal foreskin appeared to be quite normal and pliable and you had no evidence of obstruction and there was no blockage to the penile meatus and no need for surgical intervention at this time. Dr. Jackson said you indicated no problems with urinating or infections of the foreskin and you have no pain related to the foreskin and you indicated no problems with retraction of the foreskin.

Medication, treatment, and referrals are provided on the basis of medical necessity as set forth in Title 15 and a physician's decision for medical care is based on what they determine to be medically necessary. Title 15, Section 3350(b)(1) defines Medically Necessary as "health care services that are determined by the attending physician to be reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain, and are supported by health outcome data as being effective medical care." While Title 15 allows an inmate/patient the right to refuse health care treatment and/or medication, it does not state anywhere in Title 15 that an inmate/patient can dictate what type of treatment plan he will receive.

If you are dissatisfied, CCR 3354 (c) Private Consultation; allows for private consultation at the patient's own expense. In addition to the costs of such consultations or examinations, you will also be responsible for additional fees incurred for the use of custody and transportation, as deemed necessary for safety. Please review this section for more information.

It is apparent from the review of your health care chart that your treatment here at Mule Creek State Prison (MCSP) has been appropriate and timely. This institution's health care service endeavors to provide appropriate medical care and treatment commensurate with the community health care standards.

Your name does not appear on the Equally Effective Communication to Inmates with Less than 4.0 T.A.B.E. Reading Score and Learning Disabled Memorandum, you are not listed as Developmentally Disabled under the Effective Communication Plan, nor are you hearing, speech or vision impaired under the American's with Disabilities Act (ADA) or the Armstrong Remedial Plan (ARP).

You are advised that this issue may be submitted for a Director's Level of Review if desired.



W. David Smiley
Chief Executive Officer
Health Care Services
Mule Creek State Prison

C: C-File
Appeal File

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION/CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
NURSING ENCOUNTER FORM: INFLAMMATORY SKIN CONDITIONS/RASH Page 1
 CDCR XXXX (01/13 CZ) (Fill in the blanks and check all that apply.)
 DATE: 6/22/14 TIME: 0945 B/P: 149/65 T: 97.0 P: 84 R: 18 WT: 204 lbs. PAIN: 6-8/10
 CHIEF COMPLAINT/DATE/TIME OF ONSET: 10 mo. clo in redness & pain of foreskin & Glans penis
Xlmo. clo white "film" under foreskin & white "bumps" on Glans penis.
 Location/size of lesions: See above
 Last seen for this issue: 6/22/14
 If c/o pain: Location: Penis
 What alleviates: Penis
 F/U appointment with PCP already scheduled: Yes No
 Quality: dull sharp aching throbbing spasm
 What exacerbates: touching - pulling back foreskin

SUBJECTIVE:
 Symptoms: Dyspnea Difficulty swallowing
 Pruritis Burning Tenderness Fever
 Malaise Chills
 Cracking between fissures of hands/feet/digits
 Is the condition worse at a particular time? a.m.
 Previous episodes: 0
 What treatment was rendered: 0
 Frequent exposure to potential irritants: detergents
 dyes rubber plants weeds/bushes sun
 History of minor trauma to skin: Bite-animal
 Bite-human abrasion
 other:
 Chronic Diseases: none Problem List Reviewed
 Diseases r/t chief complaint: Asthma Hay fever
 Allergic rhinitis Urticaria Arthritis
 Family history of: Atopic dermatitis Psoriasis
 Allergies: NKDA List:
 New allergies/drug sensitivities since last visit: No Yes
 Medications: Med Recon reviewed
 Rx'd meds r/t chief complaint: 0
 Compliant with medications: Y N; if no, reason for noncompliance:

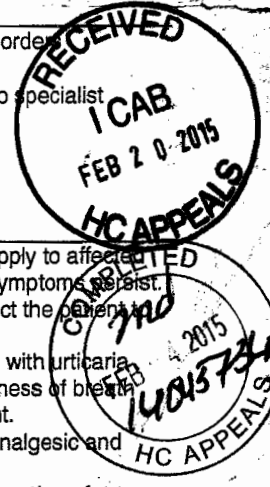
ASSESSMENT:
 Impaired skin integrity evidenced by/related to: in clo red, painful foreskin/Glans penis
 Risk of infection as evidenced by/related to:
PLAN:
 MD referral completed: NO YES, if yes:
 STAT MD Referral for history of skin trauma; lymphadenopathy, oozing skin lesions covered with a thin, light brown or honey-colored crust, or pruritic blisters filled with yellow or honey.
 Physician notified (name/time): See pg 2
 Physician responded (time): 2
 Verbal orders received from POC/PCP.
 Urgent (within 24 hours) Routine (within 14 days)

OBJECTIVE:
 Awake, alert, oriented to person, place, time
 Ventilatory Effort: Congestion SOB
 Swelling: Lips Tongue Uvula No swelling

Lung sounds:	RUL	RML	RL	LUL	LLL
Clear	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Wheezes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crackles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diminished	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Absent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

 Skin lesions: Location; size; distribution; pattern.
 Describe in Refuses exam see pg 2
 Inspect affected area(s) for:
 redness vesicles pustules drainage
 swelling excoriation from scratching weeping
 crusting fissuring pigmentation changes
 Lymph nodes: Swelling Tenderness Non-palpable
 Location:
 No abnormal findings.

Same Day Consult with PCP:
 no additional orders medication orders
 diagnostics/lab orders
 f/u appointment orders referral to specialist
 keep appt with PCP as scheduled.
TREATMENT PER RN PROTOCOL:
ECZEMA:
 Remove offending agent (describe):
 Hydrocortisone Topical Cream 1%; apply to affected area no more than 3-4 times/day while symptoms persist.
 If no improvement after 7 days, instruct the patient to return to the RN clinic for follow-up.
URTICARIA (HIVES): If the patient presents with urticaria accompanied by dyspnea, wheezing or shortness of breath see Allergic Reaction Protocol for treatment.
 Discontinue use of non-prescription analgesic and canteen purchased medication.
 Contact physician to discuss discontinuation of any other medications.
 Consult with PCP or POC for new medication orders.
 If no improvement after 3 days, schedule for follow-up with physician within 24 hours.



Registered Nurse (Print Name/Title): Robert, S. RN
 Registered Nurse Signature: [Signature]
 CDC Number, Name (Last, First, MI), Date of Birth: AN4713 Fields, Carlton 177
 Housing:
 RECEIVED DEC 31 2014 HC APPEALS
 COMPLETED DEC 17 2014 HC APPEALS
 RECEIVED NOV - 4 2014 HC APPEALS
 COMPLETED file OCT 28 2014 5736 HC APPEALS

COMPLETED OCT 24 2014 HC APPEALS
 RECEIVED OCT 14 2014 HC APPEALS

NURSING ENCOUNTER FORM: INFLAMMATORY SKIN CONDITIONS/RASH

DATE: 02/14 TIME: 0945 (continued)

PLAN (continued):

TINEA PEDIS:

- Tolnaftate Topical Cream 1%; apply to affected area BID x 4 weeks. Number of tubes issued: _____
- If condition worsens discontinue medication and notify physician.
- If no improvement after 3 weeks, instruct the patient to return to the RN clinic for follow-up.

POISON OAK:

- Take a cool shower, with soap to remove toxin.
- Make sure to wash all clothing that came in contact with the plant.
- Calamine lotion; apply to affected areas 2x/day while symptoms persist.
- Hydrocortisone Topical Cream 1%; apply to affected area while symptoms persist no more than 3-4 times/day while symptoms persist.
- Patient instructed to return to clinic if no improvement after 3 days.

DRY FLAKY SKIN:

- Recommend mild soap/OTC lotions from canteen. oz. water while symptoms persist

For all other skin conditions/rashes, refer patient to a physician on a STAT, Urgent, or Routing basis as appropriate.

EDUCATION:

- Assess patient's potential for understanding the health information to be provided.
- Provide patient education consistent with the assessment of the condition.
- Evaluate the patient's level of understanding and document the education on the encounter form or a progress note.
- Refer patient to other resources as needed. Document all referrals on the nursing protocol encounter form.
- Patient instructed in
 - Use of medications
 - Skin Care: _____
 - Keep feet clean and dry, report secondary infection: _____
- F/U if no improvement after _____ days
- Health care education forms given to patient: (specify) _____
- Resubmit a Health Care Service Request Form (CDCR 7362) if condition persists or deteriorates.
- Patient verbalized understanding of instructions
- Education deferred due to patient condition

DISPOSITION:

Time released: 0950
 Mode of Transport: ambulatory w/c cart
 Patient's Condition:
 stable/improved - return to housing unit/custody

Registered Nurse (Print Name/Title):

Robert S. RN

Registered Nurse Signature: _____

CDC Number, Name (Last, First, MI), Date of Birth

AN4713
Fields, ca
157

1. Disability Code:

- TAFE score ≤ 4.0
- DPH DPV LD
- DPS DNH
- DNS DDP

2. Accommodation:

- Additional time
- Equipment SLI
- Louder Slower
- Basic Transcribe
- Other*

3. Effective Communication:

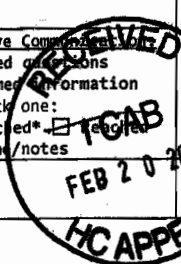
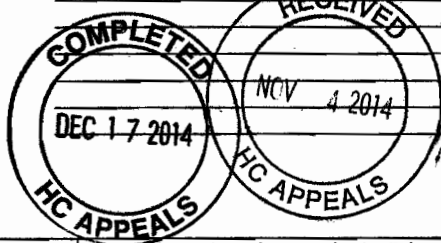
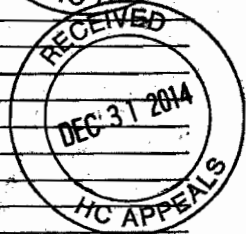
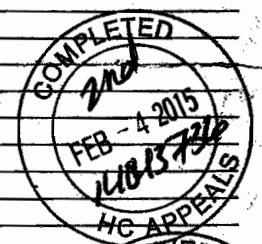
- P/I asked questions
- P/I summer information
- Please check one:
 - Not reached* Reached
- * See chron/notes

4. Comments:

Housing: _____

- unstable/requires urgent tx/eval - refer to TTA/ED
 - report given to TTA/ED RN/MD at _____
 - Referred for follow-up: Physician RN
- Specify Timeframe: Ru line 6/23 for PCP consult/exam

Additional Notes:
 IM in cam portable & female
 examining him. Requests Male
 exam. available today
 will F/U in 6/23 for PCP
 exam/consult.



Handwritten notes in the bottom left corner, oriented vertically:
3/10/16
Small
with
cost
of
creation





CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



Institution Response for Second Level HC Appeal

TREAT AS ORIGINAL

Date: 01/09/2015

To: FIELDS, CARLTON (AN4713)
B 010 2223001U
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

Tracking/Log #: MCSP HC 14045736

Appeal Issues:

In your California Department of Corrections and Rehabilitation (CDCR) Health Care Appeal form 602-HC (CDCR 602-HC) received on 12/31/2014, you indicated:

Issue Type	Action Requested
Issue 1: Surgical Issues (Urology)	Requests to be circumcised.

ISSUE:

It is your position that you went to see the specialist, as referred by Dr. Jackson, for circumcision due to phimosis. You state you were denied by the urologist on October 1, 2014. You state you also need this done for religious purposes,

You request in this appeal for an emergency circumcision to be done.

INTERVIEWED AT THE FIRST LEVEL BY: J. Jackson, Physician and Surgeon, December 11, 2014.

REGULATIONS: The rules governing this issue are:

- California Code of Regulations, Title 15, Sections
- CCR 3084.1. Right to Appeal.
- CCR 3350. Provision of Medical Care and Definitions.
- CCR 3350.1. Medical Treatment/Service Exclusions.
- CCR 3350.2. Off-Site Health Care Treatment.
- CCR 3351. Inmate Refusal Of Treatment.
- CCR 3352. Medical Authorization Review Committee.
- CCR 3354. Health Care Responsibilities and Limitations.

DECISION: The appeal is denied at the second level of review.

Mr. Fields, you were interviewed at the first level of review and at that time allowed to discuss your appeal issues. Your appeal, electronic Unit Health Record (eUHR), and all pertinent departmental policies and procedures were reviewed for this response.

EXACT AS ORIGINAL

Your name does not appear on the Equally Effective Communication to Inmates with less than 4.0 T.A.B.E. Reading Score and Learning Disabled Memorandum, you are not listed as Developmentally Disabled under the Effective Communication Plan, nor are you hearing, speech or vision impaired under the Americans with Disabilities Act or the Armstrong Remedial Plan (ARP).

You are advised that this issue may be submitted for a Second Level of Review if desired.

This appeal response was typed by Health Care Appeals Office staff.



C. Smith, MD, FACP
Chief Physician & Surgeon
Mule Creek State Prison

C: C-File
Health Care Appeal File

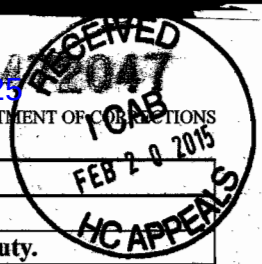


COMPLETED
HC APPEALS
14045736



RECEIVED
DEC 31 2014
HC APPEALS

HEALTH CARE SERVICES REQUEST FORM



PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

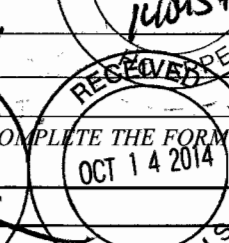
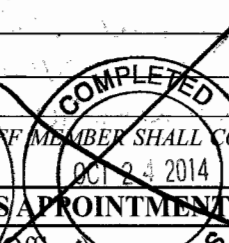
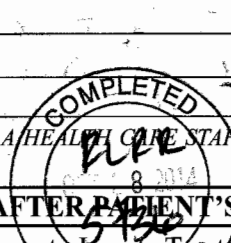
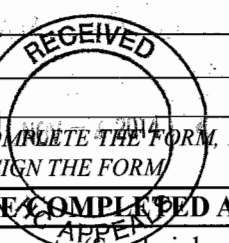
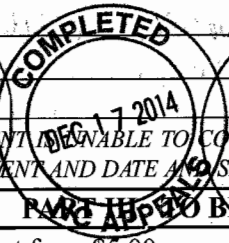
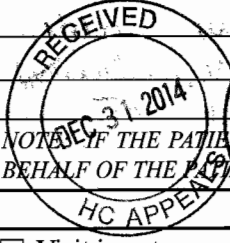
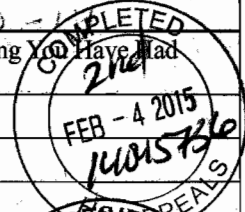
If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL MENTAL HEALTH DENTAL MEDICATION REFILL

NAME: FULLER, CATHY D. CDC NUMBER: AN4713 HOUSING: P-9-224U

PATIENT SIGNATURE: [Signature] DATE: 6-20-14

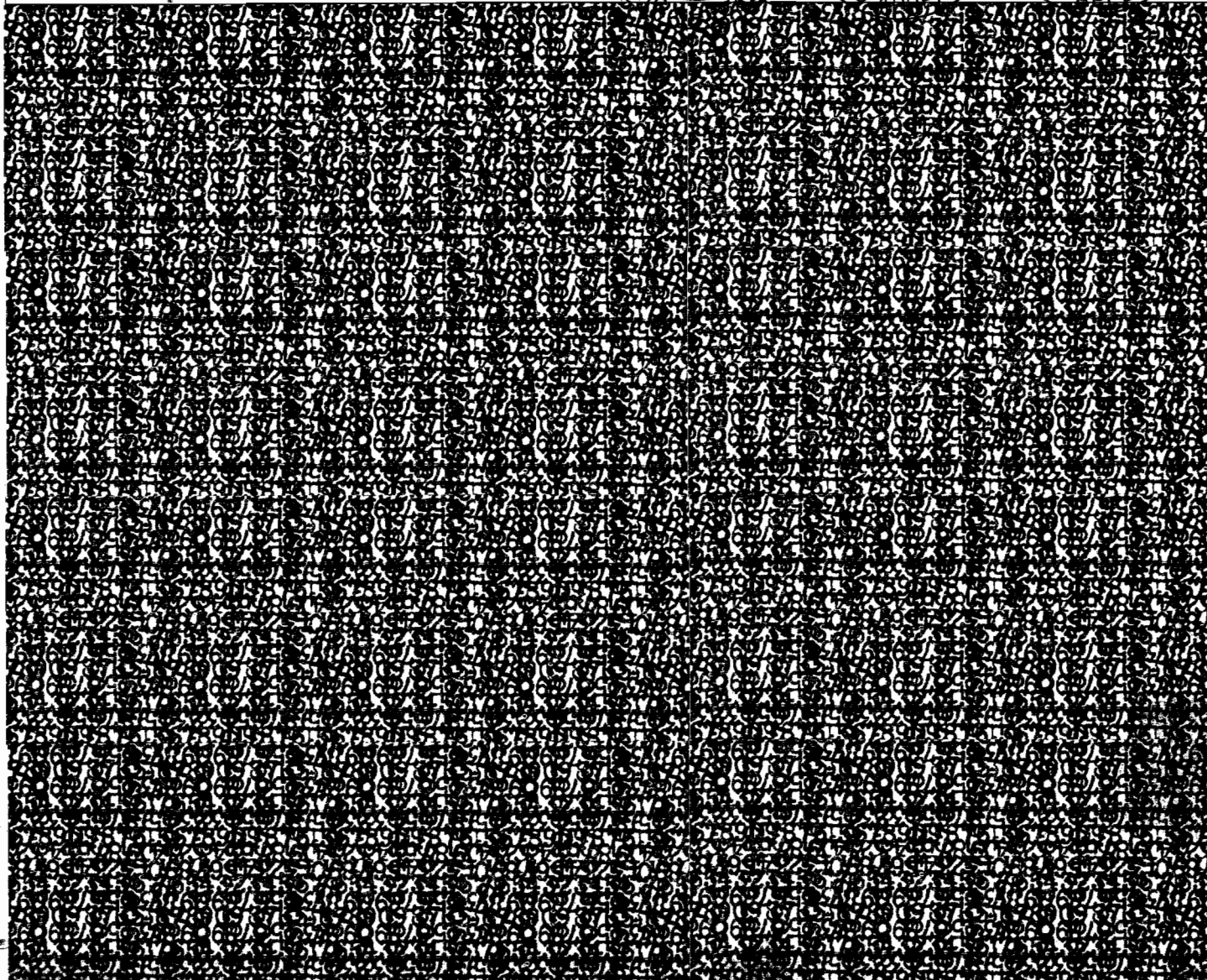
REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I have been having trouble with my back for several months.



NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM.

PART II: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office)



12-10-1977

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

RECEIVED
75283
CAB
DEPARTMENT OF CORRECTIONS
FEB 20 2015
HC APPEALS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL MENTAL HEALTH DENTAL MEDICATION REFILL

NAME: Fields, Carlton CDC NUMBER: AN4713 HOUSING: P-4-204 U

PATIENT SIGNATURE: *Carlton Fields* DATE: 8-9-14

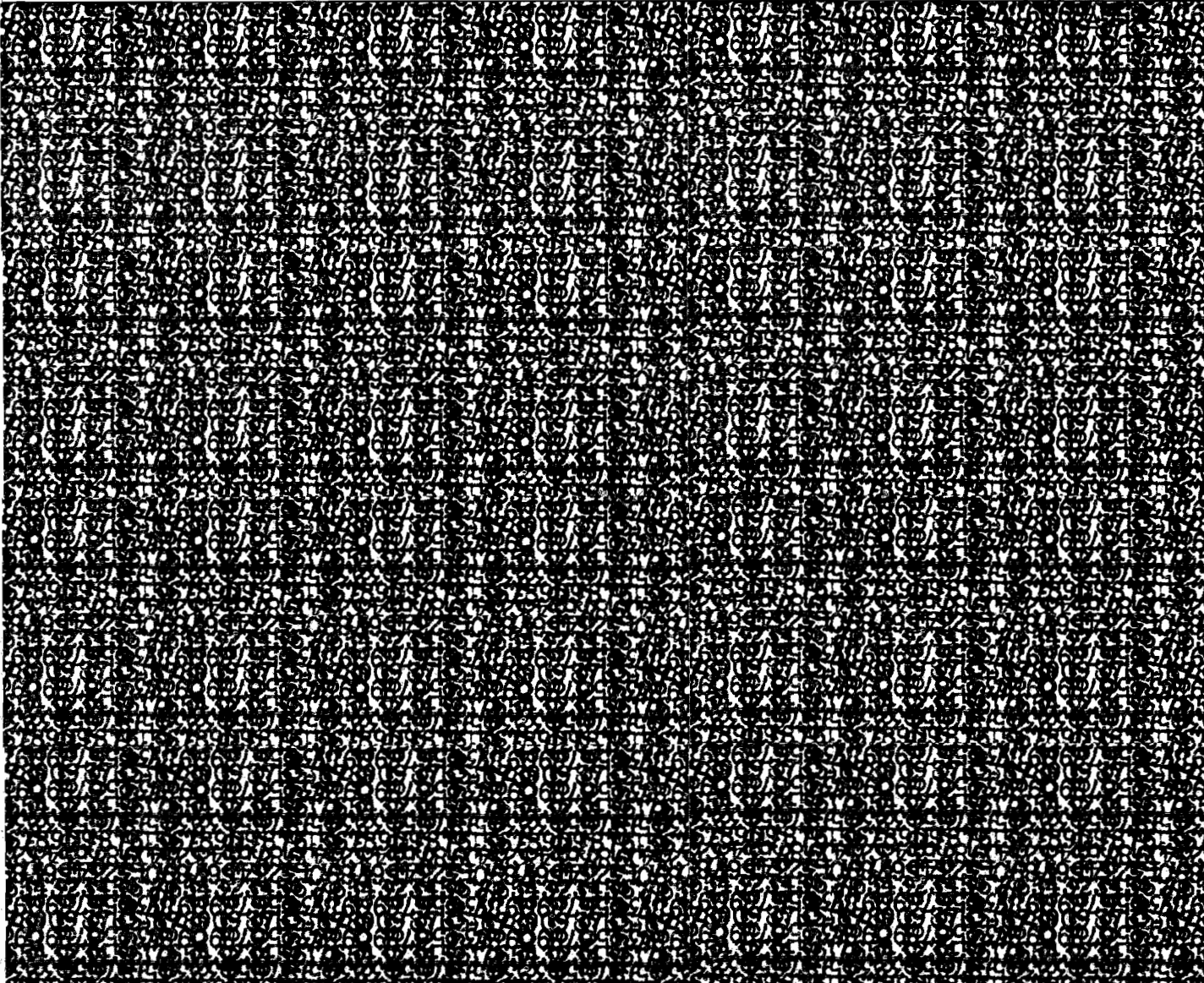
REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long The Problem) I HAVE WHITE BUNNY'S AND A PAIN IN THE

OF MY PINS THAT ARE IN MY HANDS AND FEET ALSO VERY PAINFUL

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

Visit is not exempt from copayment. (Send pink copy to Inmate Trust Office.)



HEALTH CARE SERVICES REQUEST FORM

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL MENTAL HEALTH DENTAL MEDICATION REFILL

NAME: CARLTON FIELDS CDC NUMBER: AN4413 HOUSING: C-15-170

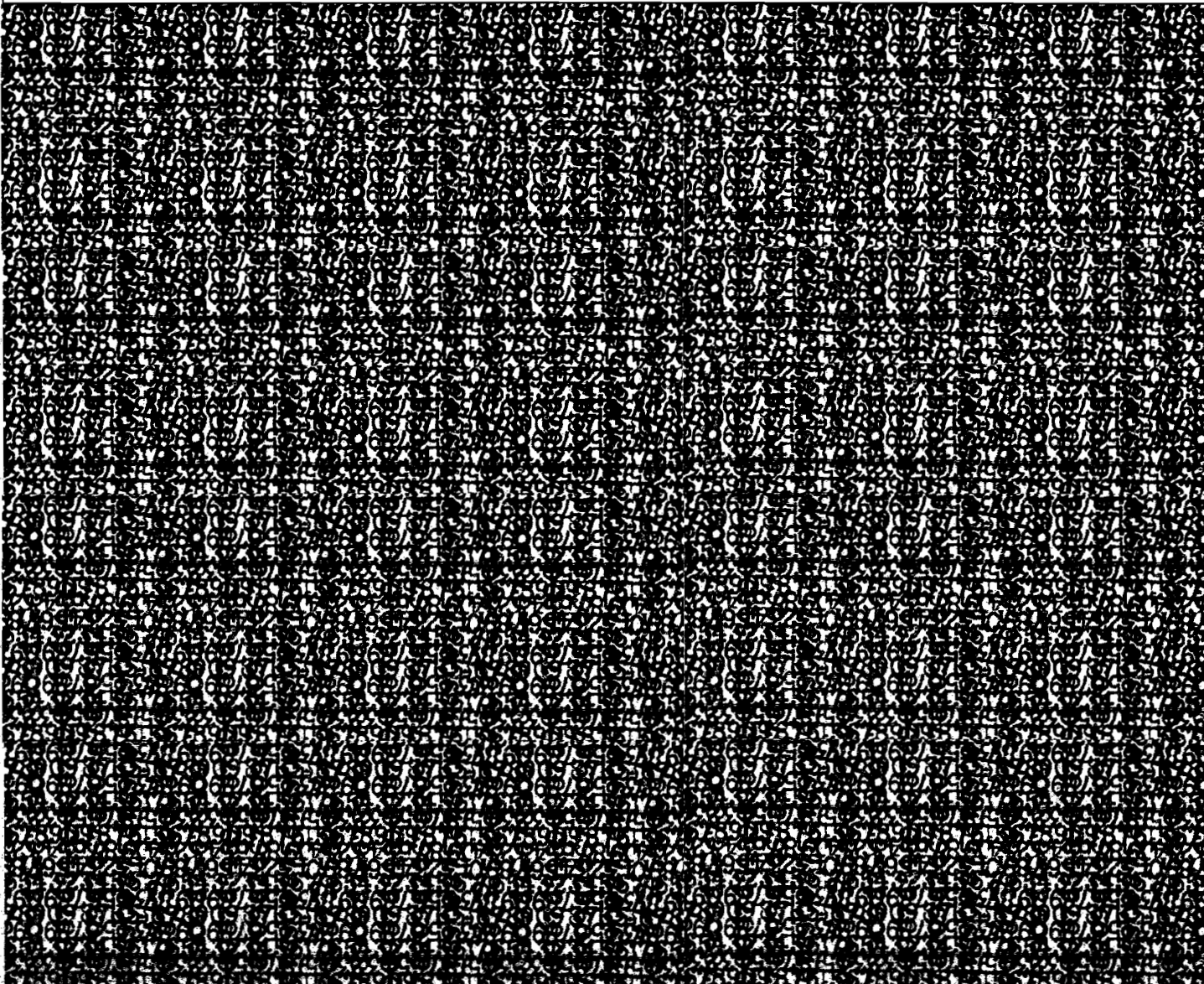
PATIENT SIGNATURE: Carlton Fields DATE: 10-28-15

REASON YOU ARE REQUESTING HEALTH CARE SERVICES: (Describe Your Health Problem And How Long You Have Had The Problem) All upper partials are broken. I need them repaired, please Thank you.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)



IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
	MCSPTK	14045736	
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): Fields Carlton	CDC Number: AN4713	Unit/Cell Number: B009 22360014	Assignment:
--	------------------------------	---	-------------

A. Continuation of CDCR 602, Section A only (Explain your issue):

According to my belief in "The Holy Bible" only the need to adhere to the rules of the Old Testament Law - I need to be "circumcized" Genesis 17:10 "This is my covenant, which you shall keep between me and your decendants after you. Every male child among you shall be circumcised in the flesh of your foreskin and it shall be a sign of covenant between me and you. In reading this it causes great Psychological stress and embarissment and disgrace and shame to know that I am an uncircumcised male.

Inmate/Parolee Signature:

Carlton Fields

Date Submitted:

10:29-17

B. Continuation of CDCR 602, Section B only (Action requested):

RECEIVED
I CAB
FEB 20 2015
HC APPEALS

RECEIVED
FEB 4 2015
HC APPEALS

RECEIVED
DEC 31 2014
HC APPEALS

COMPLETED
FEB 4 2015
HC APPEALS

COMPLETED
DEC 17 2014
HC APPEALS

RECEIVED
NOV 4 2014
HC APPEALS

RECEIVED
APR 15 2015
complete

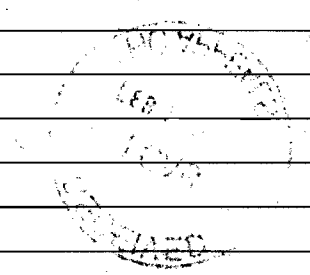
F USE ONLY

Inmate/Parolee Signature:

Date Submitted:

D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response):

I Am dissatisfied at this level of Review. As the record reflects, it causes me daily discomfort around the tip of the penis, severe itching; also the "jewish" tank which I practice; mandates male circumcision.



Inmate/Parolee Signature:

Carlton Fuchs

Date Submitted:

12-19-14

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature:

Date Submitted:

HEALTH CARE SERVICES REQUEST FORM

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL MENTAL HEALTH DENTAL MEDICATION REFILL

NAME: **FIELDS, C** CDC NUMBER: **AN4113** HOUSING: **B-6-104**

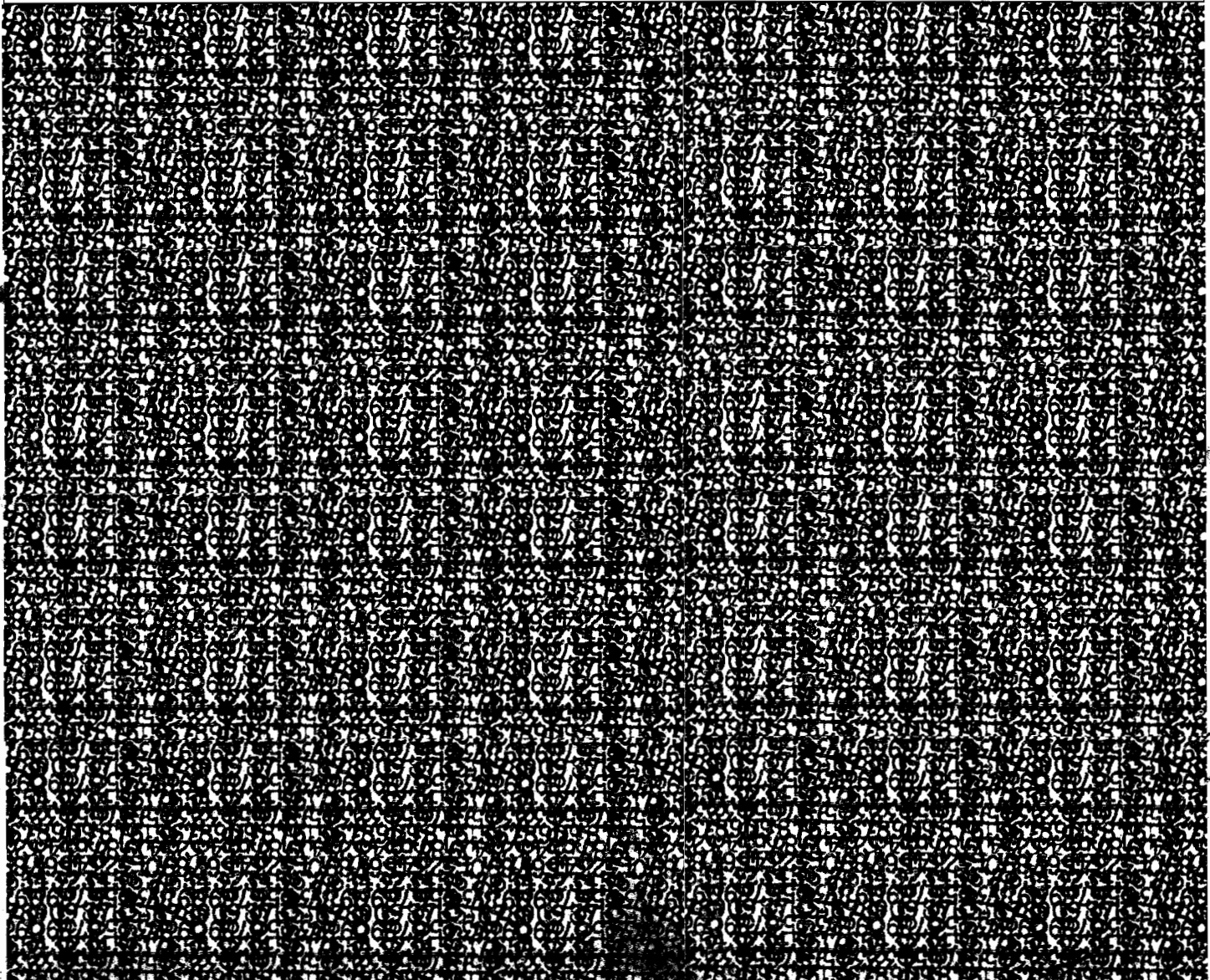
PATIENT SIGNATURE: *Carlton Field* DATE: **5-9-16**

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) **CHRONIC PAIN & BURNING IN ALL FORESKIN
HARD TO RETRACT AND KEEP CLEAN ITCHING
DISCOLORATION WHITE BUMPS**

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)



16 Location of the incident:
SAN JUAQUIN HOSPITAL

17 Describe the specific damage or injury:
 Forcing painful foreskin to retract causing further pain. Denial of recommended "circumcision" despite documented painful "phemosis".

18 Explain the circumstances that led to the damage or injury:
 Suffered From long term "phemosis" due to uncircumcized penis. Doctor recommended "circumcision" urologist denied it.

19 Explain why you believe the state is responsible for the damage or injury:
 DUE TO CALIFORNIA Code of Regulations, Prison is responsible for treatment of undue pain to prisoner.

20 Does the claim involve a state vehicle? Yes No
 If YES, provide the vehicle license number, if known:

Auto Insurance Information

21

Name of Insurance Carrier: **N/A**

Mailing Address: _____ City: _____ State: _____ Zip: _____

Policy Number: _____ Tel: _____

Are you the registered owner of the vehicle? Yes No

If NO, state name of owner: _____

Has a claim been filed with your insurance carrier, or will it be filed? Yes No

Have you received any payment for this damage or injury? Yes No

If yes, what amount did you receive? _____

Amount of deductible, if any: _____

Claimant's Drivers License Number: _____ Vehicle License Number: _____

Make of Vehicle: _____ Model: _____ Year: _____

Vehicle ID Number: _____

Notice and Signature

22 I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).

Carlton Fields **7-21-15**

Signature of Claimant or Representative Date

23 Mail the original and two copies of this form and all attachments with the \$25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 3035, Sacramento, CA, 95812-3035. Forms can also be delivered to the Victim Compensation and Government Claims Board, 400 R St., 5th flr, Sacramento.

For State Agency Use Only

24

Name of State Agency _____ Fund or Budget Act Appropriation No. _____

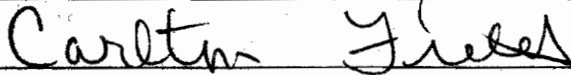
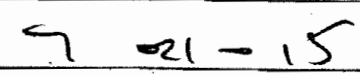
Name of Agency Budget Officer or Representative _____ Title _____

Signature _____ Date _____

Monthly Income and Expenses

9	My gross monthly pay is: \$	10	My income changes each month: <input type="checkbox"/> Yes <input type="checkbox"/> No					
11	Number of persons living in my home:		12	Other money I get each month				
	Name	Age	Relationship	Monthly Income	Source:			
	A			\$	A	\$		
	B			\$	B	\$		
	C			\$	C	\$		
	D			\$	D	\$		
	E			\$	E	\$		
	F			\$	F	\$		
15	My total gross monthly household income:			\$ 0.00	13	Total other money: \$ 0.00		
16	My payroll deductions are:			14	My monthly income: \$ 0.00			
	A	\$	E	\$				
	B	\$	F	\$				
	C	\$	G	\$				
	D	\$	H	\$				
			17	My total payroll deduction amount is:		\$ 0.00		
18	My monthly take home pay is \$ 0.00		19	My net monthly income: \$ 0.00				
20	I own or have interest in the following property:							
	A	Cash	\$	C	Cars, other vehicles, and boats (List make and year)			
	B	Checking and savings (List banks):		Property	Value	Loan Balance		
		1)	\$	1)	\$	\$		
		2)	\$	2)	\$	\$		
		3)	\$	3)	\$	\$		
		4)	\$	D	Real estate (List addresses)			
				1)	\$	\$		
				2)	\$	\$		
21	My monthly expenses are:							
	A	Rent or house payment	\$	J	Installment payments (specify)			
	B	Food and household supplies	\$		1)	\$		
	C	Utilities and telephone	\$		2)	\$		
	D	Clothing	\$		3)	\$		
	E	Laundry and cleaning	\$		Total installment payments: \$ 0.00			
	F	Medical and dental	\$	K	Wage assignment or withholdings \$			
	G	Insurance	\$	L	Spousal or child support \$			
	H	School, child care	\$	M	Other:			
	I	Transportation and auto expenses	\$		1)	\$		
					2)	\$		
					Total other expenses: \$ 0.00			
					Total monthly expenses: \$ 0.00			
22								
23	I have attached other information that supports this application on a separate sheet.				<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No

Signature Section

24	I declare under penalty of perjury under the laws of the state of California that the information on this form and all the attachments is true and correct.		
			
	Signature of Claimant		Date

State of California

(Request for Permission to Proceed In Forma Pauperis)
 California Victim Compensation and Government Claims Board
 P.O. Box 3035
 Sacramento, CA 95812-3035

For Office Use Only

Claim No.:

1-800-955-0045 • www.governmentclaims.ca.gov

I request a fee waiver so that I do not have to pay the \$25 fee to file a government claim with the Victim Compensation and Government Claims Board. I cannot pay any part of the fee.

Claimant Information

1 **FIELDS** **CARLTON** 2 Tel: **N/A**
 Last name First Name MI

3 Claim Number (if known):

Employment Information

4 My occupation: **N/A INCARCERATED**
 My employer:

Employer's Mailing Address City State Zip

My spouse's or partner's employer:

Employer's Mailing Address City State Zip

5 If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance, enter your inmate identification number below and skip to step 23.

Inmate Identification Number: **AN4413**

Financial Information

6 I am receiving financial assistance from one or more of the following programs. Yes No

If no, proceed to step 7. If yes, check all that apply, then skip to step 24.

- SSI and SSP: Supplemental Security Income and State Supplemental Payments Programs
- CalWORKS: California Work Opportunity and Responsibility to Kids Act
- Food Stamps
- County Relief, General Relief (GR), or General Assistance (GA)

7 Number in my household and my gross monthly household income, if it is the following amount or less:

Number		Monthly family income	Number		Monthly family income
<input type="checkbox"/> A	1	\$969.79	<input type="checkbox"/> F	6	\$2,626.04
<input type="checkbox"/> B	2	\$1,301.04	<input type="checkbox"/> G	7	\$2,957.29
<input type="checkbox"/> C	3	\$1,632.29	<input type="checkbox"/> H	8	\$3,288.54
<input type="checkbox"/> D	4	\$1,963.54	<input type="checkbox"/> I	There are more than 8 people in my family	
<input type="checkbox"/> E	5	\$2,294.79	Add \$331.25 for each additional person.		
			Number: <input type="text"/> Total Income: <input type="text"/>		

If you checked a box in step 7 A through I, complete steps 9 through 15. Then skip to step 24.

8 My income is not enough to pay for the common necessities of life for me and the people in my family, and also pay the filing fee. Yes No

If yes, fill in steps 9 through 24.

Exhibit H

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Human Rights Defense Center,

Plaintiff,

v.

Board of County Commissioners for
Strafford County, *et al.*,

Defendants.

Case No.:

Plaintiff's Memorandum in Support of Motion for Preliminary Injunction

Plaintiff, Human Rights Defense Center (“HRDC”), moves for a preliminary injunction under Federal Rule of Civil Procedure 65, to enjoin the Board of County Commissioners for Strafford County, New Hampshire (“Strafford County”); the County Administrator, Raymond F. Bower (“Bower”); the Strafford County Department of Corrections Superintendent, Christopher Brackett (“Brackett”); and Does 1–10 (collectively, “Defendants”) from unconstitutionally censoring HRDC’s publications and correspondence and denying due process to challenge such decisions.

To remedy these constitutional violations, HRDC requests that this Court enter a preliminary injunction: (1) prohibiting Defendants from illegally censoring HRDC’s publications and correspondence sent to incarcerated persons in the Strafford County House of Corrections (“Jail”), and (2) requiring that Defendants provide HRDC with adequate notice of the reasons for any rejections of its mailings and an opportunity to be heard before such rejections take place.

STATEMENT OF FACTS

A. HRDC sent publications and correspondence to incarcerated persons at the Jail as part of its core mission.

HRDC is a 501(c)(3) nonprofit charitable organization incorporated in the state of Washington with principal offices in Lake Worth, Florida. *See* Ex. 1, Declaration of Paul Wright in Support of Motion for Injunctive Relief (“Wright Decl.”) ¶ 2. For more than 30 years, HRDC has focused its mission on public education, advocacy, and outreach on behalf of incarcerated persons whose rights have been infringed. *Id.* In furtherance of its mission, HRDC mails outreach materials to individuals held in prisons and jails across the United States. *Id.* ¶ 10. The primary aim is to communicate about legal developments related to the protection of one’s health and personal safety while incarcerated. Reading materials also help detainees be productive, avoid conflict, and prepare for release back into society. *Id.* ¶ 14.

Since its creation in 1990, HRDC has mailed its publications to prisoners and law librarians in more than 3,000 correctional facilities across all 50 states, including facilities in New Hampshire like FCI Berlin, the Hillsborough County House of Corrections, the Secure Psychiatric Unit, and the NH State Prison for Men. *Id.* ¶ 12.

HRDC publishes *Prison Legal News* (“PLN”), a 72-page magazine of news and analysis about the rights of the incarcerated. *Id.* ¶ 4. HRDC also publishes *Criminal Legal News* (“CLN”), a 56-page magazine focused on criminal justice-related issues. *Id.* ¶ 5. The monthly magazines give prisoners in-depth coverage of judicial decisions and recent events in a way possible only through a print publication. To have value, it is essential that the magazines be delivered in a timely manner. *Id.* ¶ 6.

HRDC also publishes and distributes soft-cover books, like *The Habeas Citebook: Ineffective Assistance of Counsel* (“*THC*”), which explains federal habeas corpus litigation based on ineffective assistance of counsel. HRDC also publishes the *Prisoners’ Guerilla Handbook: A Guide to Correspondence Programs in the United States and Canada* (“*PGH*”), which provides information on enrolling in educational programs. And HRDC is the sole national distributor of *Protecting Your Health and Safety* (“*PYHS*”), which describes prisoners’ rights and legal remedies. *Id.* at ¶ 7.

Since 2017, HRDC has mailed items to prisoners at the Jail several times to determine how Defendants apply their policies to publishers. Wright Decl. ¶¶ 20-25. HRDC’s outreach followed the Jail’s announcement of a new mail policy on or about June 12, 2017. *Id.* ¶ 20. Defendants published, on the Jail’s webpage, a copy of a letter from Defendant Brackett explaining the policy:

NOTICE:

To: Members of the Public
From: The Strafford County Department of Correction
Date: June 12, 2017
Re: Returned Mail

You have received this returned letter due to a recent change in policy at the Strafford County Department of Corrections. After careful consideration, the Department of Corrections will no longer accept incoming personal inmate mail.

This change in policy is effective immediately and has been implemented to increase the safety and security of all inmates and staff at this facility.

You can still correspond with those incarcerated via electronic messaging (email). You can learn more about this service at: www.connectnetwork.com

Those families that send money orders to the facility through mail must address the envelope to:

Strafford County Commissary
266 County Farm Road
Dover, NH 03820

We apologize for any inconvenience these changes may cause for you and your family.

Sincerely,
Christopher Brackett
Superintendent

Id. ¶ 18. When Defendants announced the policy change, they claimed that the Jail would place incoming prisoner mail inside an envelope and return it to the sender with instructions on how to communicate with the prisoner electronically.¹

At a Strafford County public meeting that followed implementation of the new mail policies, Defendant Brackett claimed that the mail restrictions were needed to prevent contraband from entering the jail through personal mail, following three non-fatal drug overdoses on June 6, 2017.² Defendants, however, had been planning the policy change for months before the June 6, 2017 overdoses, as part of the Jail's introduction of GTL tablets.³ Defendant Strafford County later claimed that the new

¹ Brian Early, *Jail ceases incoming personal mail for inmates*, Foster's Daily Democrat, June 12, 2017, <https://www.fosters.com/story/news/2017/06/13/jail-ceases-incoming-personal-mail-for-inmates/20605924007/>.

² *Id.*; see also Strafford County Commissioners Public Hearing and Meeting Minutes for Thursday, June 29, 2017, ¶ 9, https://co.strafford.nh.us/images/UploadedFiles/Commisioners/Commissioners_Meeting_Minutes_2017.pdf.

³ Early, *supra* note 1; Jason Moon, *After Multiple Inmate Overdoses, Strafford County Jail Bans Incoming Mail*, New Hampshire Public Radio, June 13, 2017, <https://www.nhpr.org/nh-news/2017-06-13/after-multiple-inmate-overdoses->

mail restrictions succeeded in ending the contraband problem: “We took several bold moves in our battle to stop illegal drugs from coming into the House of Corrections (HOC) through the mail in 2018. Early in the year, we stopped all inmate personal mail from coming into the facility by substituting corrections style, limited, e-mail correspondence.”⁴ The claim, in Defendant Strafford County’s 2018 Annual Report, did not acknowledge that Jail staff were a source of illegal drugs inside the Jail, nor that Jail staff had been prosecuted for such criminal conduct.

During the June 29, 2017, public meeting when Defendants announced the new mail policy, Defendant Brackett

responded to a question stating that it is not reasonable to believe that any measures we take will eliminate the potential of something like this happening again. We are working to prevent any and all contraband from entering the facility, but as soon as we develop a new method to discover it, a new method of getting it in is developed.⁵

Upon information and belief, Defendants adopted the mail policy changes with knowledge of a pending lawsuit against the New Hampshire Department of Corrections over its mail policies. Defendant Brackett told Strafford County at the

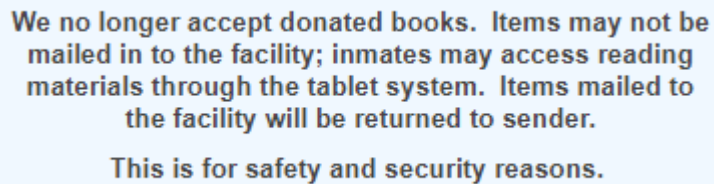
[strafford-county-jail-bans-incoming-mail#stream/0](#); *see also* Strafford County Commissioners Public Meeting Minutes for Wednesday, June 15, 2016, ¶ 2, https://co.strafford.nh.us/images/UploadedFiles/Commisioners/Commissioners_Meeting_Minutes_2016.pdf.

⁴ Strafford County 2018 Annual Report, at 5, https://www.co.strafford.nh.us/images/UploadedFiles/Commisioners/County_Annual_Report_2018.pdf.

⁵ Strafford County Commissioners Public Hearing and Meeting Minutes for Thursday, June 29, 2017, *supra* note 2.

June 29, 2017 public meeting that the new policies sufficiently protected prisoners' rights.⁶ There was no discussion of the impact of the policy changes on publishers' rights.⁷

The Jail's website no longer displays the notice of the 2017 mail policy change. Wright Decl. ¶ 18. The Jail's homepage displays the following small notice:⁸



We no longer accept donated books. Items may not be mailed in to the facility; inmates may access reading materials through the tablet system. Items mailed to the facility will be returned to sender. This is for safety and security reasons.

On a page for frequently asked questions, the Jail's website states: "We do not accept any mail for inmates without prior approval[.]"⁹ The Jail's web site does not explain what policies currently apply to publishers sending books and magazines to prisoners.

Before the 2017 policy's introduction, prisoners at the Jail had attempted to subscribe to *Prison Legal News* and ordered books. Wright Decl. ¶ 17. Those attempts were not always successful. *Id.* Some items mailed to the Jail were returned without explanation. *Id.* And HRDC received reports from prisoners that other items failed to reach them. *Id.*

Shortly after the mail restrictions were implemented in 2017, prisoners contacted

⁶ Strafford County Commissioners Public Hearing and Meeting Minutes for Thursday, June 29, 2017, *supra* note 2.

⁷ *Id.*

⁸ Viewed 2/14/2022 at <https://www.co.strafford.nh.us/jail-home-page>.

⁹ Viewed 2/14/2022 at <https://www.co.strafford.nh.us/frequently-asked-questions>.

HRDC to report that the Jail had banned all incoming mail and to seek HRDC's legal assistance. *See* Wright Decl. ¶ 19. HRDC tried to ascertain how the announced policies would be applied to publishers. *Id.* ¶¶ 20-25. The Jail's mail-restriction policy has been unevenly applied. The Jail returned a few items using the U.S.P.S. return to sender service. The items were not marked in any way that would indicate why the Jail had returned them. In some cases, the returned items had been mailed to prisoners who were no longer in custody; in others, the prisoner was still in custody on the date HRDC received the returned items. Prisoners reported that the Jail rejected many of HRDC's mailings, but HRDC does not know the precise total or the Jail's reasons for any rejections for in-custody prisoners, due to the Jail's policy and practice of not notifying publishers about such rejections.

Between June and October 2017, HRDC mailed outreach to 31 prisoners. Wright Decl. ¶ 20. HRDC mailed each (1) an issue of *PLN*, (2) a copy of *THC*, (3) a copy of *Clement v. California*, 364 F.3d 1148 (9th Cir. 2004), and (4) a brochure. *Id.* Each item was individually addressed and separately mailed. *Id.* HRDC gave these prisoners free nine-month subscriptions to *PLN*, mailing them monthly issues and subscription-related correspondence. *Id.* ¶ 21. HRDC also mailed each inmate a follow-up letter asking them to confirm whether they received the other materials. *Id.* ¶ 20.

In 2019, HRDC again attempted to ascertain how the Jail was treating publisher mail. HRDC separately mailed to three prisoners (1) a copy of *THC*, (2) a copy of *PYHS*, (3) a sample of *PLN*; (4) a sample of *CLN*; (5) a court ruling; and, (6) a

brochure. *Id.* ¶ 22. Each item was individually addressed and separately mailed. *Id.* HRDC also gave each prisoner a complimentary nine-month subscription to *PLN* and six-month subscription to *CLN*. *Id.* ¶ 23. Pursuant to the subscriptions, HRDC mailed magazines monthly and some subscription-related correspondence. *Id.* After HRDC mailed follow-up letters in April 2019 to confirm receipt of the materials, one of them contacted HRDC and indicated that Jail staff had held the magazines and books pending a decision about whether to give them to the prisoner. *Id.* ¶ 24.

In 2020, after receiving more complaints about the mail policy, HRDC tried again to ascertain how the Jail's mail policies were being applied to publishers. *Id.* ¶ 25. In November 2020 HRDC mailed five prisoners: (1) *PYHS*; (2) *PGH*; (3) a *PLN* sample; (4) a *CLN* sample; (5) a court ruling; and (6) a brochure. *Id.* Each item was mailed separately and addressed to an individual prisoner. *Id.* HRDC also gave the five prisoners subscriptions to *PLN* (nine months) and *CLN* (six months) and mailed correspondence related to the subscriptions. *Id.* All ten books were returned to HRDC through the return to sender service. *Id.* ¶ 26. All of the intended recipients were in the Jail's custody at that time. *Id.* Defendants failed to provide HRDC any notice or opportunity to appeal these censorship decisions. *Id.* None of the other November mailings were returned to HRDC. *Id.* HRDC sent follow-up letters. *Id.* One prisoner responded, stating that he had not received any of the mailings. *Id.*¹⁰ On the back of

¹⁰ This letter, Exhibit B to the Wright Declaration, is partially redacted because it contains personal, medical information. The part of Exhibit B that supports our arguments is unredacted.

one of the pages of the prisoner's letter was written, apparently in a different hand, "approved spiritual books for [the prisoner]." *Id.*

B. Defendants' unconstitutional mail policies and practices caused the Jail to deny prisoners HRDC's publications and correspondence.

Defendants maintain a policy or practice of denying HRDC's publications and correspondence to prisoners. There is no legitimate penological interest justifying such censorship. Without the ability to mail prisoners these items, HRDC has no way to exercise its right to communicate with incarcerated persons in the Jail.

Defendants censored and otherwise refused to allow incarcerated persons in the Jail to receive at least 39 items of mail, 19 since August 2018. These include 12 issues of *PLN*, one issue of *CLN*, 2 copies of *THC*, 5 copies of *PYHS*, 5 copies of *PGH*, 6 informational brochures, 7 court rulings, and an outreach follow-up letter. *Id.* ¶ 29. Most of these were returned to HRDC through the U.S. Postal Service's return to sender service. None were marked to explain why the Jail had rejected them or how HRDC could appeal the rejection. The addressees of the mailings included in these tallies were all in custody. *Id.* ¶ 30. Upon information and belief, the Jail has censored many other HRDC magazines that were not returned. Since 2017, HRDC has mailed prisoners at the Jail over 300 magazines, with over 100 mailed within the past three years. *Id.* ¶ 28. In addition to the issues returned in 2017, Plaintiff received letters from prisoners saying the Jail had censored other HRDC magazines. *Id.* Grievance paperwork sent to HRDC in June 2021 suggests a de facto ban is in place. *Id.* ¶ 27.¹¹

¹¹ The letter containing this grievance paperwork, Exhibit C to the Wright Declaration, is partially redacted because it contains privileged information. The

In denying the grievance, Jail staff wrote that the prisoner's *PLN* subscription was unapproved and that "official policy states no newspapers, magazines, or outside mail." *Id.* (emphasis in original).¹²

Because HRDC will continue to communicate through its publications with persons confined in the Jail, *id.* ¶ 36, Defendants' policies and practices will cause irreparable harm by violating HRDC's free speech rights.

LEGAL STANDARD

A court may issue a preliminary injunction on notice to the adverse party. Fed. R. Civ. P. 65. In considering a motion for a preliminary injunction, a court analyzes four factors: (1) the likelihood of success on the merits; (2) the potential for irreparable harm absent the injunction; (3) that the burden the injunction would impose on defendants would be less than the burden on plaintiffs of denying the injunction; and (4) that the injunction would be in the public interest. *Sindicato Puertorriqueño de Trabajadores v. Fortuño*, 699 F.3d 1, 10 (1st Cir. 2012).

ARGUMENT

HRDC moves the Court to enter a preliminary injunction prohibiting Defendants from continuing to violate Plaintiff's constitutional rights to free speech and due process. The Court should grant HRDC's motion because: (1) HRDC is likely to succeed on the merits; (2) HRDC is currently suffering and will continue to suffer

part of Exhibit C that supports our arguments is unredacted.

¹² In the course of related litigation, Defendant Brackett submitted a sworn declaration in which he claimed that the Jail allowed prisoners to receive newspapers and magazines. Ex. 2, Declaration of Christopher Brackett.

irreparable harm in the absence of preliminary relief; (3) the balance of equities weighs in HRDC's favor; and (4) an injunction is in the public interest.

I. HRDC is Likely to Succeed on the Merits of Its Claims.

A. First Amendment Claim

A publisher's right to send publications and other correspondence to incarcerated persons is clearly established. "[T]here is no question that publishers who wish to communicate with those who . . . willingly seek their point of view have a legitimate First Amendment interest in access to prisoners." *Thornburgh v. Abbott*, 490 U.S. 401, 408 (1989); *see also Prison Legal News v. Cook*, 238 F.3d 1145, 1149 (9th Cir. 2001); *Jacklovich v. Simmons*, 392 F.3d 420, 433 (10th Cir. 2004). Prison walls do not bar those who seek to "exercis[e] their own constitutional rights by reaching out to those on the 'inside.'" *Thornburgh*, 490 U.S. at 407 (citations omitted). HRDC's speech covers topics of great public concern and therefore "occupies the highest rung of the h[ie]rarchy of First Amendment values[.]" *Connick v. Myers*, 461 U.S. 138, 145 (1983) (internal quotation marks and citations omitted); *see also Pell v. Procunier*, 417 U.S. 817, 830 n.7, 94 S.Ct. 2800, 2808 n.7 (1974) ("[T]he conditions in this Nation's prisons are a matter that is both newsworthy and of great public importance.").

To withstand First Amendment scrutiny, a prison policy must be "reasonably related to legitimate penological interests" under the four *Turner* factors. *Turner v. Safley*, 482 U.S. 78, 89–91 (1987). The first factor a court considers in determining the validity of a prison regulation is whether there is "a valid, rational connection between the prison regulation and the legitimate governmental interest put forward

to justify it.” *Turner*, 482 U.S. at 89 (internal quotation marks and citation omitted). Under this prong, “the ‘logical connection between the regulation and the asserted goal’ must not be ‘so remote as to render the policy arbitrary or irrational,’ and the governmental objective must be both ‘legitimate and neutral.’” *Frost v. Symington*, 197 F.3d 348, 354 (9th Cir. 1999) (quoting *Turner*, 482 U.S. at 89–90). That is, “*Turner* requires prison authorities to show more than a formalistic logical connection between a regulation and a penological objective.” *Beard v. Banks*, 548 U.S. 521, 535 (2006). In other words, while respectful of correctional officials’ expertise, *Turner*’s “reasonableness standard is not toothless.” *Id.* at 548 (Stevens, J., dissenting) (internal quotation marks omitted) (quoting *Thornburgh*, 490 U.S. at 414). Rather, “[i]n order to warrant deference, prison officials *must present credible evidence* to support their stated penological goals.” *Berheide v. Suthers*, 286 F.3d 1179, 1189 (10th Cir. 2002) (emphasis in original) (citations omitted); *see also Whitney v. Brown*, 882 F.2d 1068, 1074 (6th Cir. 1989) (“[P]rison officials do not set constitutional standards by fiat.”).

Defendants’ policy of censoring publications fails to advance any legitimate penological objective, rendering it irrational and arbitrary. On its face, the Jail’s publication policy would not prevent HRDC’s books or magazines from reaching its intended recipients. Defendants have claimed that prisoners are permitted to receive publications mailed directly from a publisher, subject to screening for contraband. *See Larkin v. Brackett*, No. 19-cv-102-LM, 2020 U.S. Dist. LEXIS 35600, at *12-13

(D.N.H. Jan. 13, 2020).¹³ But Jail staff reject HRDC books and magazines. Defendants’ rationale for this censorship remains unknown. While Defendants introduced electronic mail to combat contraband, applying that policy to HRDC’s publications is irrational, because those publications have not created security problems in the thousands of facilities where they have been delivered. Wright Decl. ¶ 13; *see also Bell v. Wolfish*, 441 U.S. 520, 549 (1979) (noting warden’s testimony that “there is relatively little risk that material received directly from a publisher or book club would contain contraband”); *Human Rights Def. Ctr. v. Sw. Va. Reg’l Jail Auth.*, No. 1:18CV00013, 2018 U.S. Dist. LEXIS 110610, at *15 (W.D. Va. July 3, 2018) (“[I]tems sent directly from publishers are unlikely to contain drugs . . .”). In fact, Defendants’ censorship of HRDC’s publications and correspondence hampers the important penological objective of rehabilitating incarcerated persons. *See McKune v. Lile*, 536 U.S. 24, 36 (2002); *Procunier v. Martinez*, 416 U.S. 396, 412–13 (1974), *overruled on other grounds by Thornburgh*, 490 U.S. 401.

The second *Turner* factor concerns whether there exist alternative means to exercising the constitutional right in question. The absence of alternatives may be evidence of an unreasonable prison regulation. *Beard*, 548 U.S. at 532 (citing *Overton*

¹³ The magistrate judge concluded Larkin had not demonstrated a likelihood he would prevail on his challenge to the Jail’s publication restrictions or that such restrictions would cause irreparable harm because he had not subscribed to any print periodicals and Jail staff testified credibly that publications were allowed to prisoners. *Larkin*, 2020 U.S. Dist. LEXIS 35600, at *15-17, R&R approved and adopted by Order, 2020 U.S. Dist. LEXIS 34920 (D.N.H., Feb. 27, 2020). The court also held that Larkin lacked standing to litigate any claims that might be raised by those who send mail to the Jail. *Id.* at 28-29.

v. Bazzetta, 539 U.S. 126, 135 (2003)). Defendants provide HRDC no alternative means of communicating information to persons incarcerated in the Jail. HRDC cannot effectively communicate its written speech to incarcerated persons by telephone or in-person visits with prisoners in each of the over 5,000 prisons and jail in America. Wright Decl. ¶ 48. HRDC's message can be conveyed effectively only through print publications. *See Morrison v. Hall*, 261 F.3d 896, 904 (9th Cir. 2001) (avenues for prisoners to obtain general information "should not be considered a substitute for reading newspapers and magazines"). Defendants leave HRDC without a practical way to provide timely, in-depth coverage to its intended audience.

The third *Turner* factor is the effect an accommodation of the constitutional right in question will have on incarcerated persons, prison staff, and on prison resource allocation. *Turner*, 482 U.S. at 90. In this context, the Supreme Court has said that "the policies followed at other well-run institutions [are] relevant to a determination of the need for a particular type of restriction." *Martinez*, 416 U.S. at 414 n.14. In other words, the fact that other institutions are effectively able to accommodate the constitutional right in question indicates that a particular restriction is unnecessary.

Since its founding in 1990, HRDC has sent its materials to thousands of incarcerated persons nationwide. HRDC is unaware of its publications creating a security problem in any county, state, or federal detention facility, including other county jails in New Hampshire. Wright Decl. ¶ 13. This is strong evidence that the third *Turner* factor favors HRDC, and an arbitrary barrier to HRDC's communications irrationally interferes with core protected speech.

The final *Turner* factor is whether the regulation in question is an exaggerated response to prison concerns. *Turner*, 482 U.S. at 90. Here, “the existence of obvious, easy alternatives may be evidence that the regulation is not reasonable” *Id.* When a court finds a restriction on an incarcerated person’s rights is an “exaggerated response” to prison concerns, the restriction cannot stand. *Id.* at 97–99.

That thousands of correctional facilities nationwide allow prisoners to receive HRDC mailings each month without experiencing security or other penological problems demonstrates the availability of ready alternatives to bans on HRDC’s publications and correspondence. *See, e.g., Hrdlicka v. Reniff*, 631 F.3d 1044, 1055 (9th Cir. 2011); *Morrison*, 261 F.3d at 905. Distribution of HRDC’s mailings in these other facilities demonstrates that the censorship policy and practice at the Jail is both unnecessary and unreasonable—in the words of the Court, it is an “exaggerated response” to perceived prison concerns and cannot stand. *Turner*, 482 U.S. at 91.

The above analysis demonstrates that each of the *Turner* factors weighs in Plaintiff’s favor. Therefore, Defendants’ mail policy is an illegal intrusion on HRDC’s First Amendment rights, and Plaintiff is likely to succeed on this claim.

B. Due Process Claim

The Due Process Clause requires a correctional institution, each time it censors an incoming publication, to provide both the incarcerated person and the sender with notice and an opportunity to challenge the censorship to a person not involved in the initial censorship decision. *See, e.g., Starr v. Knierman*, 474 F. App’x 785, 786 (1st Cir. 2012) (per curiam); *Jacklovich*, 392 F.3d at 433; *Cook*, 238 F.3d at 1152-53;

Montcalm Publ'g Corp. v. Beck, 80 F.3d 105, 109 (4th Cir. 1996); *Martin v. Kelley*, 803 F.2d 236, 243–44 (6th Cir. 1986). Providing notice and an opportunity to be heard allows publishers to investigate and challenge First Amendment violations. *See Montcalm*, 80 F.3d at 108–09. If correctional facilities are allowed to simply throw away items that they choose not to deliver, it is impossible for publishers and incarcerated persons to know what materials are not being delivered or challenge the refusals. *See id.* at 109.

Other correctional facilities in New Hampshire provide due process to publishers and incarcerated persons when refusing to deliver publications and other correspondence. *See Thornburgh*, 490 U.S. at 406, 419 (upholding Federal Bureau of Prisons regulations); *Starr*, 474 F. App'x at 786 (discussing due process rights afforded by N.H. Code Admin. R. Cor. 301.05 and N.H. Department of Corrections Policy and Procedure Directive 5.26).

Although Defendants are constitutionally mandated to afford due process to publishers when censoring prisoner mail, they have plainly failed to do so. Even for the mailings that Defendants returned to HRDC, there was no notice of the reason for doing so and no opportunity to challenge the rejections. Wright Decl. ¶¶ 28, 30–31. Those mailings were returned through the U.S. Postal Service's return to sender service in the same manner as mail directed to someone no longer in custody, or simply misaddressed.¹⁴ *Id.* ¶ 31. None of the returned mail bore any markings

¹⁴ *Cf. Larkin*, 2020 U.S. Dist. LEXIS 35600, at *3 (“Supt. Brackett testified that, when

indicating the reason for its rejection. *Id.* ¶ 30. Moreover, none of the returned items contained any notice that the rejection could be appealed. *Id.* HRDC is also aware of other instances of censorship for which it received no notice, raising questions about similar items sent during same time period. *Id.* ¶ 28.

In sum, Defendants failed to provide notice of why HRDC's mail was rejected and failed to allow HRDC to appeal its rejection decisions. Thus, Defendants have violated HRDC's due process rights under the Fourteenth Amendment. *Cf. Starr*, 474 F. App'x at 787 (concluding that New Hampshire prisoner failed to show that he wasn't afforded adequate due process); *Novosel v. Wrenn*, No. 10-cv-165-PB, 2011 U.S. Dist. LEXIS 39174, at *26 (D.N.H. Feb. 16, 2011), R&R approved by Order, 2011 U.S. Dist. LEXIS 39174 (D.N.H. July 1, 2011).

II. Defendants' Constitutional Violations Are Causing HRDC to Suffer Irreparable Harm.

It is well established that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Sindicato*, 699 F.3d at 10-11 (brackets in original) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *see also Asociacion de Educacion Privada de P.R., Inc. v. Garcia-Padilla*, 490 F.3d 1, 21 (1st Cir. 2007). One rationale behind this holding is that “chilled free speech and invasions of privacy, because of their intangible nature, [can] not be

such letters and cards are received in the SCDOC mailroom, officers return those letters and cards unopened to the sender, with a marking on the outside of the envelope that states, ‘Return to Sender. Personal Mail No Longer Allowed.’”). Brackett also testified that the Jail initially returned personal mail inside a larger envelope containing a statement explaining the new policy. *Id.* at *8-9. HRDC's experience contradicts this testimony.

compensated for by money damages.” *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006) (citation omitted); *see also Legend Night Club v. Miller*, 637 F.3d 291, 302 (4th Cir. 2011) (“[M]onetary damages are inadequate to compensate for the loss of First Amendment freedoms.” (citation omitted)). Accordingly, courts have repeatedly found irreparable harm based on the denial of First Amendment rights in correctional settings. *See, e.g., Prison Legal News v. Lehman*, 397 F.3d 692, 699–700 (9th Cir. 2005) (affirming grant of permanent injunction of prison ban on non-subscription bulk mail and catalogs requested by incarcerated person); *Jones v. Caruso*, 569 F.3d 258, 277–78 (6th Cir. 2009) (affirming grant of preliminary injunction against prison mail policy).

The irreparable harm suffered by HRDC is concrete, severe, and ongoing. Defendants will continue to censor HRDC’s publications and correspondence without due process, thwarting HRDC’s speech on government policies, the rights of incarcerated persons, jail conditions, and the criminal justice system. Presumably, other publishers have been or will be censored in the same way. Accordingly, HRDC will continue to suffer irreparable harm without a preliminary injunction.

III. The Balance of Equities Weighs in HRDC’s Favor.

Here, any potential injuries to Defendants are minimal and speculative. No great cost or expenditure of time is required to change the current policies to allow HRDC to deliver its mail to incarcerated persons and afford constitutionally mandated due process; indeed, this is the very process that is used at the Federal Bureau of Prisons and by the majority of jails and prisons across the country. Their experience

demonstrates that there would be no substantial harm to Defendants if they were enjoined from enforcing the mail policy now in effect.

In contrast, as noted above, the irreparable harm suffered by HRDC is concrete, severe, and ongoing. The law plainly requires Defendants to distribute publications to prisoners when mailed directly from publishers like HRDC, and it also requires that they provide due process of law to those whose speech they decide to censor. Accordingly, the balance of equities tips in HRDC's favor given the irreparable harm suffered by HRDC in the absence of a preliminary injunction, and the minimal effort necessary to vindicate its rights under the First and Fourteenth Amendments.

IV. A Preliminary Injunction Serves the Public Interest.

When deciding whether to issue an injunction, “courts of equity should pay particular regard for the public consequences.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 24 (2008) (quoting *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1944)). As set forth above, there are substantial constitutional violations at issue here, and as such, the public interest would be best served by the issuance of a preliminary injunction. *See Christian Legal Soc’y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006) (“[I]njunctive relief protecting First Amendment freedoms are always in the public interest.” (citations omitted)).

It is also in the public interest to allow incarcerated persons access to reading materials, which enable detainees to engage in productive activity rather than sitting idle, thus helping to avoid conflicts and incidents of violence in jails. Wright Decl. ¶ 14. In addition, reading allows incarcerated persons to keep their minds sharp,

helping them prepare to become productive citizens when released back into society.

V. The Bond Requirement Should Be Waived.

Under Federal Rule of Civil Procedure 65(c), district courts have discretion to determine the amount of the bond accompanying a preliminary injunction, and this includes the authority to set no bond or only a nominal bond. The First Circuit has recognized three factors relevant to the determination of whether such a bond is appropriate: (1) in non-commercial cases, “the possible loss to the enjoined party together with the hardship that a bond requirement would impose on the applicant”; (2) “in order not to restrict a federal right unduly, the impact that a bond requirement would have on enforcement of the right”; and (3) the likelihood of success on the merits. *Crowley v. Local No. 82*, 679 F.2d 978, 1000 (1st Cir. 1982), *rev’d on other grounds*, 467 U.S. 526, 551 (1984).

Several factors here warrant waiver of the bond requirement. The “harm” to Defendants if enjoined—*i.e.*, being forced to employ a constitutionally-permitted mail policy—is minimal and non-monetary, if it exists at all. Moreover, HRDC is a small nonprofit organization with a staff of approximately sixteen employees and does not have financial resources to post anything more than a nominal bond. Wright Decl. ¶ 49. Waiver of the bond requirement is also warranted here because Plaintiff is alleging violation of its fundamental rights under the Constitution, seeks to vindicate the public interest, and is likely to succeed on the merits.

CONCLUSION

As set forth above, HRDC is likely to succeed on the merits of its constitutional

claims. HRDC is suffering and will continue to suffer irreparable harm to its First and Fourteenth Amendment rights that far outweigh any possible harm to Defendants from the issuance of an injunction. HRDC lacks any adequate remedy at law to address the ongoing violations of its constitutional rights. Finally, the public interest favors the protection of HRDC's constitutional rights. For these reasons, HRDC respectfully requests that this Court grant its motion for preliminary injunctive relief, waive the bond requirement, and enjoin the Defendants from censoring HRDC's magazines and informational brochures from the Jail during the pendency of this litigation.

Dated: March 11, 2022

Respectfully submitted,

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**Pro hac vice* applications to be filed.

Exhibit I

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 01-11-2022
 Time 1000
 Facility MSCC - TANK - 1
 Deputy GORKHAHL #246

To: (Shift Sergeant) Loubal

Date 01/10/21

From: (Inmate's Name) Zachary Greenberg

Id# 234307

Cell 1A4 2

Grievance (Please be specific: time, date, etc.) On 11/29/21, a C/O "Janakos" working the desk at 1 Bay at 5:19pm, deliberately discarded an appeal to a grievance originally submitted on 11/11/21, re: incidents of physical harassment from a triage RN "Eric", as well as an incident on 10/1/21 at McGuire facility where a C/O "Galvin" physically assaulted me while I was cuffed hands and ankles, standing stationary waiting to be escorted away from Zoom Court, shoving me from behind on my left side. C/O Gorkahl; was also present during the incident. I filed the appeal addressed to Lt. Young with Janakos over a month ago on 11/29/21 (copy retained), have yet to receive a response within the 2 week period outlined on the back of facility grievance forms, and there are no copies attached to my file at the desk. I had also reported the assault by Galvin on 11/24/21 verbally to Lt. Badolla and Sgt. Odell at which point Badolla refused to investigate the incident and told me I "probably deserved it". At all levels, jail staff have mishandled the investigation of the incident.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

I have attached responses dated 10/21/21, 11/17/21 & 12/25/21 from various sergeants and medical staff. Please limit each grievance to a single, specific incident/complaint as it easier to track. I did not locate a response from any lieutenant, so you may want to rewrite that one.

Signature: Sgt. Loubal 207 Date: 1/11/22

Exhibit J

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only

Date 01-11-2022
Time 1430
Facility MSCC TANK-7
Deputy GORKHALI #246

To: (Shift Sergeant) Loubal

Date 01/11/21

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1A12

Grievance (Please be specific: time, date, etc.) On 10/01/21 at around ~12:30pm at Mcguire Correctional facility, a C/O "Galvin" physically assaulted me by shoving me while standing chained at ankle and wrist, stationary and silent waiting to be escorted back from zoom court. Galvin shoved me from behind with his right shoulder, making contact with my left side, remaining in contact for several seconds until I moved away a step to avoid further shove. A C/O Gorkhali was present and facing me when the shove occurred. I originally reported this incident on 11/24/21 verbally to a Lt Bodolla and Sgt Odell during a visit to the pod, as well as an a grievance/appeal submitted on 11/29/21, which a C/O Janicos discarded to prevent further investigation.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Because the grievance involves an allegation of excessive force, the incident is being investigated in accordance with our Internal Affairs policy and has been assigned the tracking number of 22-CC-002. You'll be notified of the findings upon completion of the investigation.

Signature: Sgt. Loubal

Date: 1/25/22

Exhibit K

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 01/12/21
 Time 0715
 Facility MCC
 Deputy ANAGAN

To: (Shift Sergeant)

Date 01/12/21

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 23

Grievance (Please be specific: time, date, etc.)

I am filing this grievance at my attorney's suggestion to document the unsafe housing situation I was given upon arrival at Maple Street facility. On Monday January 4th I was transported from Maguire to Maple Street after being told I was going to a "cleaner, better, new facility" that I would like. At Maple I was immediately housed at 1 Bay in Cell 16 with a psychotic, meth addicted, sex offender, who was off his medication. The cell was dark, filthy, with no windows. My cell mate told me every person who is housed with him immediately moves, and his family members don't want him to know their addresses. He is constantly talking to voices in his head, depriving me of sleep, and making me feel unsafe (e.g. staring at me laughing while I use the toilet). I immediately ask to change cells for fear for my safety. Over 3 days, I ask 3 different deputies, each told me there are no open cells, until Wednesday morning around 8am, when I say I want to file a complaint, and am moved to Cell 23, which I find has been open since Monday when I arrived.

Inmate's Signature:



Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Sir, I UNDERSTAND THAT YOU
 HAVE BEEN REHOUSED TO CELL 23.
 YOUR ISSUE HAS OBVIOUSLY BEEN RESOLVED.

Signature:



Date: 1/12/21

Exhibit L

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
- Classification
- Medical
- Food Service

Received: Staff Only

Date 1-12-22
 Time 2016
 Facility RSCC
 Deputy Romero #206

To: (Shift Sergeant) Lopez

Date 01/12/21

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1A1T 2

Grievance (Please be specific: time, date, etc.) At approximately ~ 7:50pm C/O Romero interrupted my visit (a scheduled family visit) telling me to hang up at the kiosk because of Covid. At the same time, he was letting out multiple tanks for medicine at the same time, and had just let out another tank (tank 4) for phone calls during our rec (tank 2). Romero reasoned erroneously that I could not be out on a scheduled family visit during another tanks rec because "crossing tanks" was not allowed due to Covid, though he saw no issue crossing tanks during our rec, or during pill call, which was going on during my visit. My scheduled family visits are protected by law, and deputies / C/Os such as Romero do not have the authority to deny me them. After Romero demanded that I hang up, I requested to speak to a Sgt. multiple times. Romero refused to call a Sgt to the pod at that time.

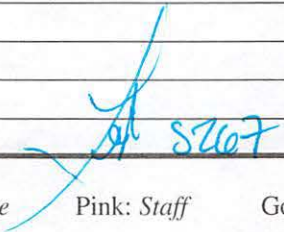
Inmate's Signature:



Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: DUE TO THE CURRENT SURGE IN COVID CASES THROUGHOUT THE FACILITY, THE SHERIFFS OFFICE HAS TEMPORARILY CANCELLED VISITS.

Signature:



Date:

1/13/22

Exhibit M

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 01-14-2022
 Time 1205 HOURS
 Facility MSEC 1MT.
 Deputy GORIKHALI #246

To: (Shift Sergeant) GIYER: SGT. LOPEZ / MOORE

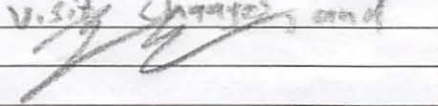
Date 01/14/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1A+ 2

Grievance (Please be specific: time, date, etc.) On 01/13/22 at ~6pm Count officer Romero at 1mt violated federal and State laws by denying myself and other inmates on the pod video visitation rights for scheduled family visits. I requested his shift Sgt's presence multiple times, and he refused. I informed him that he is violating the law and will be subject to lawsuit, and he laughed, saying "I promise you I don't care". He prevented me from completing my family visit the night before 7:30-8pm as well, citing covid orders from Sgt. Lopez as well as the facility captain. On both 01/13 and 01/12, he then proceeded to violate covid orders by allowing tanks and walkers to cross in the day room between 7-10pm. After my complaint and request for Sgt's presence, Romero then retaliated by terminating my rec early, shutting down my phone call with my loved one at ~9:25pm, denying me tablet use for completing my missed visits and filing a false/retaliatory write-up to deactivate my account, preventing me from completing scheduled visits on 01/14/22. Romero, Sgt's Lopez, Carr, and the facility Captain are in violation of Fed/State law for failing to report updates to the State Corrections board within 3 days of Covid visitation changes, and allowing retaliation against inmates.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: DUE TO THE RECENT SURGE IN COVID CASES THROUGHOUT THE FACILITY, THE SHERIFF'S OFFICE DECIDED TO ~~TEMPORARILY~~ TEMPORARILY CANCEL VISITS. DURING THE DAY IN QUESTION, YOU WERE ON A VISIT AND ASKED TO TERMINATE BASED ON THE TEMPORARY DIRECTIVE. WHILE REVIEWING YOUR VISIT LOG, I DISCOVERED THAT YOU HAD ALREADY HAD TWO SCHEDULED VISITS AS WELL AS A NUMBER OF ON DEMAND VISITS SATISFYING TITLE 15

Signature:  S267

Date: 1/20/22

Exhibit N

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 01-15-2022
 Time 1200 HOURS
 Facility MSCC, TANK-2
 Deputy GORKHALI #246

To: (Shift Sergeant) Gillett

Date 01/14/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1A-2

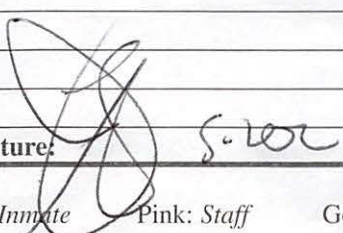
Grievance (Please be specific: time, date, etc.) On 01/14/22 at ~6pm Count
C/O Romero retaliated against me with targeted Civil
harassment in violation of federal and state laws by
refusing to allow me to attend my scheduled family visit
set for 7:30pm and refusing to call his Sgt (Lopez) to
address my grievances for the third day in a row. Romero and
a C/O Olivares deliberately disabled my account login
the morning of 01/14/22 after I filed grievance on 01/13
and 01/12. C/O Romero, Sgt Lopez, Sgt Carr, and the
Facility Captain breaking the law by denying inmates protected
family visits. On 01/14/22 at ~7pm Romero and Shift
Sgt Lopez began allowing inmates on the pod to resume
scheduled video visits. Romero targeted me w/ retaliation
by refusing to call class to activate my account or allow me
out for my ~7:30pm scheduled family visit when I requested
to be let out for my visit via the intercom, and threatened
to write me up for asking. Regardless of disciplinary action,
even if I was locked down (which I was not), Romero, Lopez,
and Olivares cannot violate my right to attend family visits.
Romero and Lopez again refused to speak to me ~12:55am 01/15/22
over the intercom C/O the abuse.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: RECEIVED 3-23-22

I RECEIVED THIS GRIEVANCE 2 MONTHS AFTER THE WRITING OF IT.
I SEE YOUR TABLE PROCEEDINGS ARE CURRENT AND THE GRIEVANCE
HAS RESOLVED.

Signature: 

Date: 3-23-22

Exhibit O

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 2/11/22
 Time 1600
 Facility MSCC
 Deputy RATTINI

To: (Shift Sergeant) Louba


Date 02/11/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1A-2

Grievance (Please be specific: time, date, etc.) On Friday February 4th between 8am-9am after being escorted to zoom court, and while being prepared for transport to McGuire for an in person court appearance, a C/O "Copeland" and a Sgt. (last name starting with "Will." unable to see badge) deliberately cuffed my wrists and ankles in a manner that caused pain and discomfort. My right wrist was cuffed w/ my arm/hand inverted, facing backwards, such that I could not rotate it with my thumb facing forward without pain/discomfort, and cuffs were tightened on both wrists/ankles to the point of cutting off circulation and making walking painful. When I requested that my right wrist be cuffed properly, Copeland responded, "we thought you wanted it that way". The Sgt. then escorted me to court via transport to McGuire, where I again requested to him and another classification officer to adjust the cuffs. The Sgt. refused several times while walking me to court, citing it was b/c I had "beef w/ Copeland". After being before the judge, the Sgt. finally agreed to adjust the ankle cuffs. He then escorted me to and listened in on a sealed court hearing, then escorted me back to holding on 4th floor where he openly discussed the contents of the sealed hearing in front of officers "Barrigan" and "Robinson".

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

This grievance has been forwarded to our Internal Affairs/Professional Standards Bureau as a Citizen Complaint. You will be notified of the results of that investigation in accordance with the Citizen Complaint Policy

Signature: LOUBA

Date: 2/21/22

Exhibit P

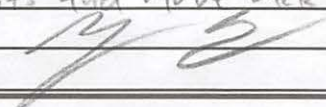
San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 2/25/23
 Time 00:52
 Facility MJCC
 Deputy 418

To: (Shift Sergeant) Sgt. Wallace Date 02/24/23

From: (Inmate's Name) Zachary Greenberg Id# 1234307 Cell 1B9

Grievance (Please be specific: time, date, etc.) On 02/09/23 Wednesday a Sgt. Wallace Classification Robinson, and Pod 40 Ketting moved me from a pod where I was actively programming (1 Mt) and receiving work shift detail regularly, following another inmate having punched me in the jaw, injuring my jaw and my tooth. I was additionally punished with a write up, that shut off all means of correspondence (Phone, Messages) including my kiosk and tablet scheduled video visitation for family contact, violating my visitation rights under Title 15 as well as Title 15 Sec 1083 limiting punishment longer than 72 hrs (my visitation was shut off for 4 days, and tablet messaging for 10 days); and 1083 prohibition on cruel and unusual punishment (also 8th amendment, 1st amendment - free association, 5th and 14th amendment due process protections under U.S. Constitution). I was not given a copy of the write up until it was already in effect on 2/11, and was denied a hearing (the punishment for alleged minor violations lasting > 72 hrs, indicative of a major violation). I am listed as victim on the write up, was standing still when inmate Zoroca furter assaulted me, did not swing or push back, yet I was punished, including move to a sequestered housing unit (1 Bay) where I am denied classes (violating 162930.7), classification Robinson, Lab Castro, and Gillispie ignore all requests 2/11-2/14 to restore visits and move back to appropriate programming pod at Mt. Still... **Inmate's Signature:** 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: IF GREENBERG, YOUR PART IN THE ALTERCATION IS DOCUMENTED IN THE REPORT WHERE IT STATES YOU DISRESPECT YOUR FELLOW IP'S. BEING THIS WAS HANDLED AS A MINOR VIOLATION AND NOT A MAJOR, YOU ARE NOT ENTITLED TO A HEARING. YOUR PHONE PRIVILEGE WAS TAKEN AWAY FOR 3 DAYS (72 HOURS). YOUR TABLET AND ON DEMAND VISITS WERE TAKEN AWAY FOR 7 DAYS, BUT YOU WERE STILL ENTITLED TO IN PERSON VISITS.

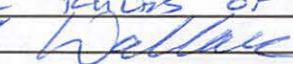
YOUR MOVEMENT TO ANOTHER HOUSING UNIT WAS FOR YOUR SAFETY AND THE SAFETY AND SECURITY OF THE FACILITY, AND NOT AS A PUNISHMENT. ONCE YOU PROVE YOU CAN FOLLOW THE RULES OF THE FACILITY AND BE COURTEOUS TO YOUR FELLOW IP'S, YOU MAY BE ABLE TO MOVE BACK TO A HOUSING UNIT TO PROGRAM. PLEASE FOLLOW ALL JAIL RULES OF THE FACILITY TO PREVENT FURTHER DISCIPLINE. **Signature:**  **Date:** 2/25/23

Exhibit Q

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 3/12/22
 Time 1208
 Facility m SCC
 Deputy Arnold 434

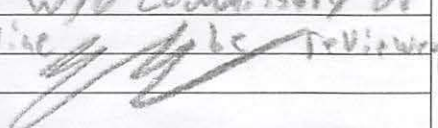
To: (Shift Sergeant) Classification

Date 03/12/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1B18

Grievance (Please be specific: time, date, etc.) On 03/10/22, Thursday Business
as I was leaving the Pod (1 Bay) to attend a Zoom
Court appearance, a Sgt (Richardson) stopped me and
told me that I can not bring/carry the fiction/novel I
was carrying to court (Zoom appearance only). I explained briefly
that staff have allowed me and other inmates to bring reading materials
to holding tanks while waiting for Zoom ~~appearances~~ court for the
past year, then extended to hand him the book as he
approached and ordered me to give it to him. The exchange
took approx. ~3 seconds, and was non-argumentative, or
hostile, from my behavior. I then proceeded to holding out
side of Zoom court, where Sgt. Richardson shortly after
scolded me from holding to tell me that bringing the book was
not courteous to staff, though it has never been an issue and
there are no specific rules in the jail rule book, i.e. reading
materials in holding. I sat quietly and listened. Later after
attending court via Zoom, ~11am-12pm a C/O Tanalco
issued me a write-up with excessive/unnecessary discipline: 1
day lock down, 3 days phone revoked, 10 days w/o commissary or
tablet use. I am requesting the excessive discipline
and overturned, as it is unnecessary. **Inmate's Signature:** 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

INMATE GREENBERG,

YOUR rendition of our interaction is inaccurate. I had
to ask you and then order you to hand over your book
THREE TIMES. THIS DEFIANCE IS UNACCEPTABLE. YOU SHOULD
ONLY HAVE TO BE DIRECTED TO DO SOMETHING ONCE.

THE RULE OF NOT TAKING ITEMS TO COURT (OTHER THAN LEGAL
DOCUMENTS) HAS BEEN IN PLACE FOR AT LEAST 20 YEARS.
I ENFORCE ALL RULES VIOLATIONS I OBSERVE.

THE IDEA OF DISCIPLINE IS TO CORRECT BAD BEHAVIOR, I'M SURE
AFTER COMPLETING YOUR DISCIPLINE, YOU WILL MAKE BETTER
DECISIONS IN THE FUTURE WHEN FOLLOWING STAFF DIRECTION.

THIS IS JUST BUSINESS TO ME. I HOPE TO HAVE A GOOD RELATIONSHIP WITH YOU
IN THE NEAR FUTURE.

Signature: Sgt. Richardson 

Date: 3/14/22

Exhibit R

U506

San Mateo County Jail Facilities Inmate Grievance Form

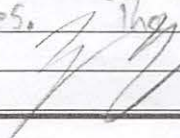
- Routing: Staff Only
- Administration
 - Classification
 - Medical
 - Food Service
 - Other

Received: Staff Only
 Date 3/22/22
 Time 1350
 Facility MSCC
 Deputy Arnold

To: (Shift Sergeant) Bafon Date 03/22/22

From: (Inmate's Name) Zachary Greenberg Id# 1734307 Cell B18

Grievance (Please be specific: time, date, etc.) Maple St Medical Staff
 refuse to prescribe sufficient pain medication to treat chronic nerve pain in my back, which has now spread to pain, tingling and muscle weakness in upper and lower limbs, as well as neck. The pain is severe while sitting, standing, laying down, and is causing trouble sleeping. During a clinic visit - 8-9am on Monday 03/21/22 NP Kioko denied daytime muscle relaxer (the one effective medication that decreases my nerve pain) citing custody's desire not to give meds that can cause drowsiness, instead offering day time tylenol, which is ineffective, and a small dose of muscle relaxer at night. After the pain continued to increase on 03/21 during the day, I made requests to pill call nursing staff to receive daytime muscle relaxer. At morning pill call upon on 03/22 Tuesday, I was told I was scheduled to begin receiving day time muscle relaxer at 11am pill call that day. At that point pain and numbness/weakness had increased and spread to my limbs. At 11am pill call, nursing staff said I can only receive muscle relaxer at night. Pod deputy called the clinic, and same response was given, citing drowsiness issues. They muscle relaxer does not cause drowsiness for me.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Our records indicate that you were seen by the medical provider regarding this issue on 3/21/22 + 4/4/22. Medication(s) were ordered to address your medical issue.

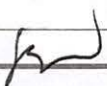
Signature:  **Date:** 4/4/22

Exhibit S

San Mateo County Jail Facilities Inmate Grievance Form

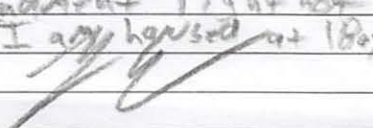
Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 4/15/22
 Time 1448
 Facility MSCC
 Deputy ARNOLD

To: (Shift Sergeant) Lt. Checchov **Date** 04/08/22

From: (Inmate's Name) Zachary Greenberg **Id#** 1234307 **Cell** 1818

Grievance (Please be specific: time, date, etc.) I have been denied in person family visitation, a federal civil right under Title 15, for the past 16 months as an inmate in San Mateo County Jail at Maple Street Facility. During that period of time, in person family visits have been available to inmates at Maguire facility, including "The Whole" - 3 - West, the most severe disciplinary pod in the county jail. Classification (Admin Olivares and Officer Robinson) have effectively allowed Program Services Nicole P. to dictate which inmates are allowed in person family visits by denying specific groups of inmates classes and telling them they cannot have visitation w/o classes. Family in person visits are not a privilege, but a right and a requirement for inmates under federal law (Title 15). Program services Nicole P. and Classification targeting specific vulnerable groups of inmates in protective custody housed at Pod 1 Bay, such as disabled, LGBTQ, mentally ill, and inmates under safety threat in other pods, by denying them a federal civil right to visitation w/o disciplinary reasoning effectively violates federal law under title 15 and violates 8th amendment right not to be subject to cruel and unusual punishment. I am housed at 1801 for security and P.S. inmates requests 10 minutes

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: DOES NOT APPEAR TO MEET EXCEPTION REQUIREMENTS, TO BYPASS SHIFT SUPERVISOR. RETURN TO SHIFT SUPERVISOR FOR FOLLOW-UP. L121

4/11/22

PER TITLE 15 SECTION 10602, THE FACILITY IS REQUIRED TO ALLOW 2-30 MINUTE VISITS PER WEEK. TITLE 15 DOES NOT REQUIRE THESE VISITS BE IN PERSON. DUE TO THIS YOUR ISSUE IS NOT GRIEVABLE. PER ADMIN CLASS YOU ARE HOUSED APPROPRIATELY.

THANK YOU,

Signature: Fava 299 **Date:** 4-14-22

Exhibit T

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 5/7/2021

Time 1603

Facility mSCC

Deputy ARNOLD

To: (Shift Sergeant)

Date 05/02/21

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 23 1 BAY

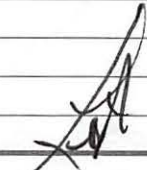
Grievance (Please be specific: time, date, etc.)

Deputy Echano has been targeting me with civil harassment since approximately 04/18/21, Sunday, ~6:30pm when I asked for a grievance and to speak with a staff sergeant due to ongoing targeted civil harassment from his partner, day time deputy Watson. At that time, Echano refused to give me a grievance form and/or call the sergeant. Deputy Echano has continued to retaliate, refusing to work me on shifts I worked regularly previous to me asking to grieve against Watson for harassment. He additionally targets me by refusing to let me out for pill call at my regular night time medication times (~8pm), as he did on Sunday 04/25/21, 04/27/21, (Thursday), Friday April 30 at ~8pm, and again on Sunday 05/02/21, at ~7:50pm, when I requested that he please stop skipping my night time pill call, and he responded w/ further retaliation, saying "you wanted to be on my radar, I've got you on my radar", and locking me down for asking not be denied medication that I need to breath at night. Each time he has been on shift and skipped my medication or tried to skip it by ignoring me over the intercom, my cellmate (Chris Hockett) has been present to witness, and I have confided with the nurses on shift that that is in fact my regular med time. Hockett was also present on 04/27/21 ~8pm when Echano refused to sign grievance against Watson. I have spoken w/ my attorney re: the repeated attempts to deny me meds, as well as targeted civil harassment, and I am prepared to file civil if it continues.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: Deputy Echano brought to my attention that you were upset you weren't let out for pill call. He showed me the nurses list which did not have your name as one of the inmates to receive pills/medication. This was confirmed w/ the nurse that it was an oversight on their part. You were allowed to meet w/ the nurse + receive your medication. Not being selected to work is not grievable. Prior to requesting a grievance you must allow for the pod deputy to remedy the issue.

Signature: 

8267

Date: 5/7/21

Exhibit U

#U540

San Mateo County Jail Facilities Inmate Grievance Form

- Routing: Staff Only
- Administration Other
 - Classification
 - Medical
 - Food Service

Received: Staff Only
 Date 6/4/22
 Time 1653
 Facility MSCC
 Deputy ARNOLD

To: (Shift Sergeant) Hoffman

Date 06/04/22

From: (Inmate's Name) Zachary Greenberg

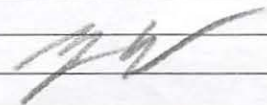
Id# 1234307

Cell 1B3

Grievance (Please be specific: time, date, etc.)

I was referred to staff Psychiatry M.D. by FMH "Raquel" near ~3 months ago to have an appointment via clinic to discuss my continuing anxiety medication (atargx) with the Psychiatry Physician. I have yet to be seen at the clinic as of 06/04/22, and my medication has not been continued though chronic anxiety persists. I have demanded FMH staff once a week during pod visits at 1 bay for the past month, wherein they decline to speak w/ me, or say they will check on it. I also reminded the Psychiatry M.D. during a visit w/ M.D. Healtst several weeks ago, at which time he informed me it should take a week to be seen.

Inmate's Signature:



Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Mr. Greenberg,

FMH met with you on 6/13/2022 and offered anxiety coping skills.

Psych MD will review your chart and follow-up accordingly.

Signature: [Signature] FMH

Date: 7/6/22

Exhibit V

#U542

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

Administration Other

Classification _____

Medical _____

Food Service _____

Received: Staff Only

Date 6/5/22

Time 1721

Facility MSCC

Deputy Armas

To: (Shift Sergeant) Currie

Date 06/05/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1B24

Grievance (Please be specific: time, date, etc.)

On 06/04/22, Saturday and 06/05/22, Sunday I requested during all am and pm pill call visits to the pool at 1 Bay (6am, 11am, 4pm, - 3pm) to be allowed anti-bacterial ointment and astringent for a chronic infection in my left foot. During both 6am pill call visits, I was told the 11am nurse would provide it) and during both 11am and 4pm, 6pm visits, I was told I could not have the medication to treat my infection b/c I did not have an order and told to fill out a request. I have been filling out weekly requests for this medication for more than a month w/o the order being filled. The result being that the infection on my foot has not healed, and has gotten worse over a period of 3 months. I am requesting ongoing order for antibacterial ointment, astringent, sterile swabs, and bandaids, (all simple medications for treating infection) so the wound can heal.

Inmate's Signature:




Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Our records indicate that you were seen by the medical provider on 6/30, 6/22, 6/15 to address this issue.

Once the doctor orders these items (Antibiotic ointment & foot soaker) we will give them to you.

Thank you for your patience.

Signature: 

Date: 7/13/22

Exhibit W

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 6/22/22
 Time 1452
 Facility MSSC
 Deputy Arnold

To: (Shift Sergeant) Gillet Date 06/22/22

From: (Inmate's Name) Zachary Greenberg Id# 1234307 Cell 1V3

Grievance (Please be specific: time, date, etc.)
 In May and February pod staff at 1 Bay were informed by classification that I am to be housed alone. As of June 1 upon rehousing from 4 cell back to 1 Bay I was subsequently housed with a cell mate (cell 2 1 Bay). I am requesting clarification i.e. my housing classification and if a change was made to my classification, why was the change made.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: You are classified as house alone.

Signature: 

S-COR

Date: 7-19-22

Exhibit X

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

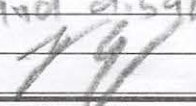
Received: Staff Only

Date 6-27-22
 Time 0338
 Facility MSCC
 Deputy NGUYEN

To: (Shift Sergeant) Chaghouri, Appeal to **Date** 06/24/22

From: (Inmate's Name) Zachary Greenberg **Id#** 1234307 **Cell** 1B3

Grievance (Please be specific: time, date, etc.) This grievance is in regard to denial of medical accommodations prescribed by physicians at Maple St. Clinic, with a L/O Bernson attempting to deny me that accommodation on 06/23/22, then issuing an invalid write up in retaliation for requesting a grievance. I am also requesting appeal and overturn of said write up. On 06/23/22 Thursday between 9-11pm I requested over the intercom to L/O Bernson to fill a pink medical tub I am prescribed by medical to treat an ongoing infection in my foot, soaking it w/ hot water and an astringent solution 3 times daily. Bernson refused to allow me to go fill the tub, so I requested he call medical to confirm the order. He refused, so I requested again he call medical. After calling medical and being told I am prescribed to treat the infection, he informed me I was correct, but still would not allow me to fill the medical tub, while allowing others out of their cells. I was then forced to ask another inmate to fill the tub via a funnel. After seeing that an inmate helped me fill it, -10:40pm Bernson opens my door to feign an offer to fill it, then hands me a grievance I requested. On 06/24/22, I found my kiosk login disabled. At no point was I informed/advised or handed a w/up, and disabling my visit on 8pm 06/24 violates Title 15.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

THIS ISSUE HAS BEEN RESOLVED.


Signature:  **Date:** 6-27-22

Exhibit Y

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 6-27-22

Time 0338

Facility M SCL

Deputy NGUYEN

To: (Shift Sergeant) Chaghouri

Date 06/25/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1B3

Grievance (Please be specific: time, date, etc.)

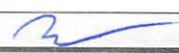
On 06/25/22 Saturday, I was denied again scheduled family visitation at 8pm, a fundamental right outlined in Title 15 law, as well as PC 4032 law, both which require 2 30 min free family visits provided to inmates per week. I was denied family visitation scheduled the previous night 06/24/22 Friday at 8pm without any write-up, after day shift notified classification that my kiosk login for visits was locked. Class. Khoury at that time did not make an attempt to correct the restriction approved by Sgt. Chaghouri, and requested by C/O Benson who issued a tablet restriction write up to take effect 06/25 the following day. Similarly on 06/25, I notified day shift and night shift my login was still disabled, and requested Sgt. Chaghouri and Class's presence. Tablet restriction, even on a valid write-up, cannot include family visitation restriction under Title 15, which specifies specific minor violations can allow this. Looking my visits at the clock on 06/24 before the tablet restriction took effect shows clear intent to violate my right to visitation.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

THIS ISSUE HAS BEEN RESOLVED.

Signature: 

Date: 6-27-22

Exhibit Z

U435 MM

San Mateo County Jail Facilities Inmate Grievance Form

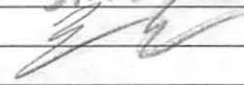
Routing: Staff Only
 Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only
 Date 09/20/2021
 Time 1610
 Facility MSCC
 Deputy JAVAKOS

To: (Shift Sergeant) Leubal Date 09/20/21

From: (Inmate's Name) Zachary Greenberg Id# 1234307 Cell 3, 1 Valley

Grievance (Please be specific: time, date, etc.) The Maple facility Medical Staff have treated me with negligent, medical neglect during a period where I am suffering ongoing, progressively worse GI complications, including abdominal hernia, and Prolapse. I requested to speak w/ detition ("Denise") via medical request form over a month ago, ~~Denise~~ Denise has visited the pod where I am housed multiple times since, and I have still not been seen as my GI issues continue. Since my original request, I have developed abdominal hernia, Prolapse, and constant pain, nausea, issues completing bowel movements. The hernia protruding from my abdomen, was confirmed in clinic on Tuesday 09/14/21 by NP "Nioko", who failed to palpate the region of hernia/severe pain. I again requested to the NP to see the detition at that time, and she confirmed that my request was on file. I was told to return to my pod w/o order for medical imaging or further eval. On 09/15/21 at 11am pill call I alerted the nurse that the pain/protrusion was getting worse. I had alerted the night deputy "Michel" the night before detition court, and was told I was asking for "special treatment". As of Friday 09/17/21 my request to be seen again in clinic/and by detition were still being ignored by the triage nurse on the pod. At 4pm after asking dept Nunez again due to pain/nausea, I was sent to clinic where Nioko said I need ultrasound, and I again request diet. 09/19/21 I request via form again. 09/20/21 in Am I request again. At 3pm Denise visits pod again and ignores my request to be seen.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: Our records indicate the following: On 9/14, 9/17, 9/23, 9/24 = you were seen by the medical provider regarding your GI issues. Your issues were addressed.

Mr. Greenberg, There isn't any need to provide fruit & vegetables (extra) because food provided is 35g fiber each day. I am giving you the handouts again - sent them on 9-15 according to documentation. You are also provided a prescription of fiber caps. Make sure you drink 8- brown tumblers of fluid daily & ↑ physical activity. Also, there isn't a diagnosis of hiatal hernia.


Signature:  Date: 9-29-21
 Date: 9/29/21

Exhibit AA

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 10/18/21
 Time 1715
 Facility m SCC
 Deputy ARNOLD

To: (Shift Sergeant) LOUBAL **Date** 10/18/21

From: (Inmate's Name) Zachary Greenberg **Id#** 1234307 **Cell** 18

Grievance (Please be specific: time, date, etc.) On Friday 10/8 at ~9:30 pm I was abruptly moved from 1 Valley to a non-programming pod (1 Bay). In the middle of a family visit, without any valid disciplinary reasoning by C/o Michael, and classification (Corey & Gillispie), effectively preventing me from continuing program classes I had been completing for 10 months. I asked Michel, Corey, and Gillispie for reasoning multiple times and they refused to give reasoning, and forced me to go to house at 1 Bay w/o blankets where I slept on bare mattress until early in the morning after multiple ignored requests for blankets w/ on shift C/o Echano. At 1 Valley, I had been in contact w/ classification (Lal, Castro) since 9/27, 10/3 regarding concerns about an inmate who issued threats to me and others in the pod, after arriving in tank 3 on 9/23. On 10/3 in between 8pm-10pm I informed C/o Michel of my concerns at his desk s/e my request earlier in the day to talk to classification after an inmate repeatedly threatened me, calling me a "fucking Jew", telling me I would get "killed", and who physically jumped into my bunk and put hands on me. Michel appeared red faced, slurring, and appeared to have been drinking. He asked me not to make tanks to not create more work for him. On 10/4 at ~3p I spoke w/ class. Castro, and he ignored my concerns as "made up". Threats continued on 10/6 w/ so requested C/o Nunez move me to tank 7. On 10/7, 10/8 am Count inmate "Angel" complains to move me b/c I snore. Another inmate "Don" calls me a "snitch" for complaining of threats in tank 3. I was effectively punished for expressing concern, and snoring.

Inmate's Signature: [Signature]

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: MR. GREENBERG - I SPoke TO YOU IN PERSON REGARDING THE REASON FOR REWARDING TO 1 BAY - I FOLLOWED UP WITH THAT AND PROVIDED THE ANSWER ON THE TABLET (REF # 9958595). THE MATTER IS CLOSED REGARDING YOUR WORKS. PLEASE CONTACT PROGRAM SERVICES FOR ALTERNATE STUDY OPTIONS, WHICH WAS ALSO DISCUSSED IN PERSON. FOR ISSUES WITH INDIVIDUAL STAFF MEMBERS, PLEASE SUBMIT REQUESTS/GRIEVANCES ON AN INDIVIDUAL BASIS.

Signature: [Signature] **Date:** 10-21-21

Exhibit BB

1M3

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 10/31/2022
 Time 0140
 Facility MCC
 Deputy KETTERING

To: (Shift Sergeant) Sgt. Gross **Date** 10/24/22

From: (Inmate's Name) Zachary Greenberg **Id#** 1234307 **Cell** 1M3

Grievance (Please be specific: time, date, etc.) On 04/30/22 I was transported from 1 Bay Pad at Maple St. Facility of San Mateo County Jail by Van, escorted by Officers "Patino" and "Gonzalez" to Sutter Peninsula Hospital in Burlingame, where I was scheduled via Maple St. Correctional Clinic to undergo MRI scans for ongoing chronic nerve pain in my back/spine/neck/legs, that had been getting progressively worse. An Officer "Meyers" was on duty at 1 Bay where I was originally told I would be leaving the pad to go to the clinic appointment upstairs at Maple. Escorted off the pad by an officer "Whitted" to processing, where I was improperly shackled wrists and ankles for the medical appointment, and told I would be being transported to San Antonio General. Upon arrival to Peninsula-Mills Hospital, I was removed from the van by officers "Patino" and "Gonzalez" and led via wheelchair into the hospital waiting room, still improperly shackled wrists and ankles. While in the waiting room around 1-2pm Officers "Patino" & "Rodriguez" took a medical form for Pre-Scan Protocol from a receptionist and began improperly filling out a form requesting certain PHI, including my medical history of seizures and symptoms / reason for scan. The officers then stated that they were going to put me in the MRI.

Inmate's Signature: [Signature]

Note: Upon signing this form take GOLD copy. It contains the grievance procedures. In Metal Cuffs...

Supervisor's response:

Mr. Greenberg,

I reviewed your grievance and your displeasure with deputies' attempts to maintain security of their prisoner is noted.

Thank you.

Signature: Gross #5900 **Date:** 11/3/22

Exhibit CC

San Mateo County Jail Facilities Inmate Grievance Form

Routing: **Staff Only**
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: **Staff Only**
 Date 10/29/2022
 Time 0113
 Facility MSCC
 Deputy KETTERIN


To: (Shift Sergeant) CLAYTON SWINNEY

Date 10/24/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307 Cell 1M3

Grievance (Please be specific: time, date, etc.) On Thursday, Feb 10th, 2022, at ~2am I was escorted out of my pod from 1 Mt, out to a space adjacent to the control desk on level 1 of the Maple Street facility of San Mateo County jail in Redwood City Ca. I was led to a laptop where I was scheduled to have a confidential / privileged meeting with my attorney and P.I. via Zoom. A C/O "Carpenter" under the direction of a Sgt. Richardson, stated he would position the laptop screen so that he could surveil the confidential meeting. When I stated, and my atty. Peter Arian confirmed, that this was against the law, and asked to speak to a Sgt., a Sgt. Richardson appeared to tell my atty. (Arian) that this was his order to surveil / watch our confidential meeting, and he did not care if the officer could, for example, see slides or exhibits in the meeting. My atty. promptly opted to end the meeting due to the surveillance. This was a clear violation of PC 636 (b), PC 2601, and my right to confidential atty. meetings.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Your attorney was advised of our need to ensure the safety and security of the facility AND CHOSE TO MEET YOU IN PERSON. AS you already know, you cannot grieve things almost nine months later. In fact, AS IT APPEARS you were recently written up and did not like the result of the write up, that you are retaliating against staff. THIS will NOT be tolerated.

*** NO MERIT ***

Signature: C. L. Swinney
Chris J. L13

Date: 10/30/22

White: Administration

Yellow: Response to Inmate

Pink: Staff

Gold: To Inmate

Exhibit DD

1M3

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 10/31/2022
 Time 0140
 Facility MSCC
 Deputy LETTERING

To: (Shift Sergeant) ~~_____~~ Sgt. Gross Date 10/24/22

From: (Inmate's Name) Zachary Greenberg Id# 1234307 Cell 1M3

Grievance (Please be specific: time, date, etc.) This is a continued grievance from 10/24/22
pg 1. After the officers stated their intent to place me in the MRI Scanner in Metal Cuffs, realizing my safety and life were at risk, I quickly objected stating serious safety risks that would result from being placed in an MRI scanner with metal restraints, and flagged down the receptionist to insist that the ordering physician and head of MRI operations explain that metal is strictly forbidden in an MRI Magnet room. After the physicians/MRI operator arrived to inform them that they cannot bring any metal whatsoever into the magnet room, the officers Putino and Gonzalez continued to insist that they would "hold" me in the scanner physically while shackled with metal cuffs, and insisted it was ok because it was ordered by their Sgts. for "safety and security". After 30 min - an hour of being told that would not be allowed, the officers finally agreed. I was then led to use the restroom 1st, by officer Putino, who made me use the toilet still shackled wrists and ankles. When brought to the scanner, Putino uncuffed me, and placed hand pressure on my shoulder/spine despite my pleas due to my nerve pain. This behavior is clear violation of P6675, cruel and unusual punishment, and an attempt by ordering Sgt's Richardson/Fisher to injure/kill.
 Inmate's Signature: [Signature]

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Mr. Greenberg,

I reviewed your grievance and your displeasure with the deputies' attempts to maintain security of their prisoner is noted.

Thank you.

Signature: Gross # 530 Date: 11/3/22

Exhibit EE

San Mateo County Jail Facilities Inmate Grievance Form

Routing: **Staff Only**
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: **Staff Only**
 Date 10/29/2022
 Time 0114
 Facility MSC
 Deputy KETERDAK

To: (Shift Sergeant) Clayton SWINNEY Date 10/28/22

From: (Inmate's Name) Zachary Greener Id# 1234307 Cell 1M3

Grievance (Please be specific: time, date, etc.) Staff at Maple St. Facility,
"Rahimi" and "Sgt. Richardson" Violated my Title 15 rights,
Under sections 1062 (a) (d), 1082 (c), 1081 (a) (b) 1, 2, 3,
Violated my constitutional rights under the 8th Amendment,
and PC 673 / Title 15 1083 forbidding cruel and unusual
Punishment on 10/27/22, Thursday, continuing through Friday
10/28/22, as well as PC 147, oppressive behavior by
an officer, and PC 2652. At 3:08 pm on 10/27/22 the
officers filed a retaliatory Writeup based on a false narrative
after I requested a grievance form from Rahimi and a Judge ordered
Sgt. Richardson excluded from a sealed In Camera hearing he
attempted to attend the previous day on 10/26/22. Richardson has
been the subject of several prior complaints. The officers retaliated
by failing to serve me w/ the pending report (1081), imposing punishment
indicative of a major violation (loss of phone 3days, tablet/kiosk
2 weeks) or "repetitive minor" punishment under 1081(b) lasting
more than 24 hrs, requiring a hearing. Richardson also attempted
to prevent me from having family visitation by disabling kiosk
login on 10/26/22, ~4pm before the write up discipline was to take
effect on 10/29/22, and Rahimi additionally shut off my visit on
10/27/22. Continue on attached... Inmate's Signature:

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:
you CANNOT submit grievances for others. you may assist
OTHERS, but not submit on their behalf.
you were given minor discipline for minor jail rule
violations. If you don't like those results, stop violating
jail rules.
Please file your civil complaints through the proper channels.
many of your statements in these documents (grievance/attachments)
are simply not true; therefore, I will again advise you to
follow our rules. In addition, moving forward staff will not
accept attachments AND you cannot attempt to DISRUPT THE
EXISTING Grievance procedure.
 * NO RETALIATION *
 Signature: C.C. Swinney Date: 10/30/22

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 10/25/2022
 Time 0114
 Facility MJCC
 Deputy KETTERING

To: (Shift Sergeant) Clayton

Date 10/28/22

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell

Grievance (Please be specific: time, date, etc.)

This grievance is continued from attached filed on same date. The fact that the officers intentionally tried to prevent both of my family visits this week, and attempted to do so w/o notifying me, tried to take effect before the period of discipline specified in report shows intent to violate my rights to visitation under Title 15 1062, inget cruel and unusual punishment violating 1083 / PC 273 / 8th Amend., and shows oppressive behavior by an officer (PC 147). These imposed disciplines do not match the alleged minor violation (1052) limiting correspondence more than 72 hrs - 1083 (h) via tablet (also violating constitutional right to a law library, only provided by the facility via tablet for surveillance). The allegation of 8 min late return is false, as Rahini did not announce time, and shorted our rec (2.5 hrs vs. 3hrs for previous group). The retaliation comes after I requested \$32.5 funds for civil complaints via tablet, and the same day prior to the w/up I informed Rahini of my intent to file complaint on him for targeting our tank (3) / M+ with cruel punishment - denying work details, denying rec etc. to a disability tank (1052). The same day Rahini retaliated against inmate "Jones" tank 3 by cuffing him for filing civil complaint on him, then threatening our hole tank to anyone who files.

Inmate's Signature:

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

SEE ATTACHED

Signature:

C. L. Spinney
Chris J. Clark

Date: 10/30/22

White: Administration

Yellow: Response to Inmate

Pink: Staff

Gold: To Inmate

Zachary Greenberg
id# 1234307

To Sgt. Clayton

Attachment To Grievance 10/28/22

This grievance attachment documents the pattern of criminal, cruel and unusual punishment, and oppressive behavior by both officers Rahimi and Richardson at the Maple St. Jail.

- On 10/7/22, Friday in 1MnT Pod Rahimi punished our tank and the whole pod for an inmate (Sandoval) who is wheel chair bound w/ a Catheter, and deprived of shower by medical for 3 days. After I asked that he be allowed a shower ~3PM Rahimi declares a lockdown. Same punishment the following day on 10/8/22 ~12PM after Sandoval suffered incontinence, and inmates in tank 3 made to clean up feces. Rahimi punished Sandoval again on 10/21/22 for incontinence by moving him to a disciplinary Pod (Bay) where he is deprived of medical assistance and programming.

Title 15 1057

- On 05/18/22, 03/10/22, e.g. Sgt. Richardson violated my rights in a similar fashion, alleging minor violations, denying hearing, and imposing severe punishment. Lasting < 24 hrs

Zachary Greenberg To Sgt. Clayton
ID # 1234507

Attachment to Grievance 10/25/22

- On 01/24/22, I filed a grievance regarding retaliation by a group of officers including Richardson, who filed a false allegation of a Major Violation on 07/05/21, denied me a hearing and did not inform me or serve me with the write-up issued by a L/O Watson, Rahim. I discarded the complaint I gave to him on 01/24/22. My attorney subpoenaed my Sail Files and this grievance is nowhere to be found therein.

(Please Copy)

Exhibit FF

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: Staff Only
 Date 11/6/2021
 Time 0722
 Facility MSCC
 Deputy BAWST

1 DAY

To: (Shift Sergeant) Loubat SGT. CHAGHOUTZI #293 Date 11/06/21

From: (Inmate's Name) Zachary Greenberg Id# 1234307 Cell 4

Grievance (Please be specific: time, date, etc.) L/O Tannenbaum and other deputies at the Maple St Facility deliberately place inmates under conditions that induce sleep deprivation. On 11/05/21 between 6PM-7pm during count, he instructed inmates not to dim bright flood lights that are kept on in cells overhead by refusing to let inmates use paper or sheets as drapes/covers to allow proper sleeping conditions. He has done this every shift he has worked for the past 9 months at 1 Bay. On 1 occasion I asked to speak to his shift Sgt (Lopez) after the entire pod requested grievance forms due to Tannenbaum targeting inmates w/ harassment, denying inmates (i.e. the whole pod) rec time for hygiene/family calls, and forcing inmates to undergo sleep deprivation. Sgt. Lopez informed me that the flood lights being kept on all night at Maple is a mechanical error, and maintenance would have to look into it, as the lights should shut off fully as they do at night at McGuire Facility. Mechanically, I know that the flood lights (referred to as "night lights") can actually shut off as they have been for select tanks (e.g. tank 3 at Valley). Tannenbaum has already been removed from other pods for misconduct (1 Meta), and continues to target inmates like myself with false/frivolous write-ups, as he did on 11/05 ~ 8PM, for filling a cup of water on my way back to my cell during Pill call.

Inmate's Signature: [Signature]

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

MR. GREENBERG, AS PART OF CORRECTIONAL OFFICER TANNENBAUM'S DUTIES IS TO ENFORCE JAIL RULES. JAIL RULE # 39 PROHIBITS COVERING IN A CELL. THIS GRIEVANCE IS DENIED AND YOU'LL SERVE YOUR 23-HOUR LOCK DOWN. I HAVE ATTACHED A COPY OF THE JAIL RULES.

Signature: SGT. G. CHAGHOUTZI #293 Date: 11/06/21

Exhibit GG

San Mateo County Jail Facilities Inmate Grievance Form

Routing: **Staff Only**
 Administration Other
 Classification _____
 Medical _____
 Food Service _____

Received: **Staff Only**
 Date 11/7/22
 Time 9:22
 Facility MSCC
 Deputy KETTERING

To: (Shift Sergeant) ~~LT. Clayton~~ LT. SWINNEY

Date 11/06/22

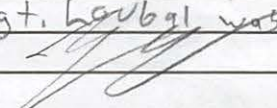
From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell 1M3

Grievance (Please be specific: time, date, etc.)

This is a grievance appeal to a response given on 10/30/22 by a Sgt. "Swinney" to a grievance submitted on 10/28/22, regarding an invalid/retributory write-up issued on 10/27/22, that violated my Title 15 rights and California/U.S. Constitutional rights. Swinney, in his response, refers to the alleged violation and discipline as "Minor", however the discipline issued by a Sgt. Richardson violated my rights under Title 15 1081, 1062, 1083 because it included: 1.) restricting my visitation completely, 2.) restricting all of my correspondence (messaging, phone call, video visits), for more than 72 hours, 3.) and denying me a notice/copy of the report with such charges pending and a hearing with an officer other than himself. I am still unable to send messages, or have proper video visitation as of today, over a week later, the report prescribes this punishment to last for another week. As I detailed in my original grievance, Richardson has repeatedly targeted me with such violations under Title 15 issuing absurd punishments for weeks, completely cutting off my correspondence with family, and without notice/review/hearing. Swinney also notes that I had attachments (lined paper) which are discarded from the copy on my file. That is, a portion of my grievance, a legal document, have been removed from my file. I would also like to point out that Richardson was not even the Pod housing Sgt. in charge when the write-up was issued. Sgt. Leubagl was on the Pod as the acting Sgt. See attached.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

You cannot appeal an appeal.

Stop abusing the grievance process.

Lieutenant C. L. Swinney

Signature: Chris J. 413

Date: 11/11/22

Exhibit HH

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
- Classification
- Medical
- Food Service

Received: Staff Only

Date 11/7/22
 Time 01:22
 Facility msc
 Deputy KETERING

To: (Shift Sergeant) LT. CLAYTON LT. SWINNEY **Date** 11/06/22

From: (Inmate's Name) Zachary Greenberg **Id#** 1234307 **Cell** 1M3

Grievance (Please be specific: time, date, etc.) This is a grievance appeal continued from response given on 10/30/22. I will also note that on the day of 10/27/22, a facial detection feature that had been turned off for over a year because it does not properly detect people with dark skin tone (i.e., my girlfriend), was turned back on for my video visitation account by Sgt. Richardson. This is a form of facial discrimination and harassment. I have not been able to have proper video visits, because for the majority of the visit I cannot see my girlfriend's face (e.g., 10/27, 10/29, 11/02, 11/5). Under PC 4032, video visits must be audio-visual. Note that for the report issued, this cruel and unusual punishment is not detailed as discipline. Also note that Richardson restricted my commissary (I did not receive food items for delivery via package on 11/03/22). Classification Robinson, and officer Rahimi confirmed on 11/03 and 11/4 that this should not be the case, because it is not even prescribed in the report, though Richardson ordered the restriction... Richardson was, as I detailed in my grievance and attachments, retaliating after on 10/26/22, he was trying to attend a sealed In Camera hearing where I stated I wanted him removed due to prior complaints against him, some of which he removed from my jail file (subpoenaed copy) to protect himself. These are blatant violations of my 1st, 9th, 5th, 14th amendment rights to free associations, due process, equal protection, and freedom from cruel punishment. Please undo/return ASAP **Inmate's Signature:**

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:
SEE FIRST RESPONSE

Signature: [Signature] **Date:** 11/11/22

Exhibit II

1 B 04 A

0445

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

- Administration Other
- Classification
- Medical
- Food Service

Received: Staff Only

Date 11/11/21
 Time 1717
 Facility MSCC
 Deputy ARNOLD

To: (Shift Sergeant) Loubal

Date 11/11/21

From: (Inmate's Name) Zachary Greenberg

Id# 1234307

Cell Bay 4

Grievance (Please be specific: time, date, etc.)

On Monday November 8 between 8-9pm I was called out of my cell to see the triage nurse (Male, tattoo covering left forearm). Upon approaching the triage nurse, he pulled out my medical request, began mocking the pronunciation of my last name, then asked why I wanted to be seen. I explained I was requesting clinic visit for suspected ear infection. He approached my right side, jerked my head backwards aggressively with one hand, then began pulling the top of my ear up roughly, stretching it enough to cause physical discomfort and pain. This is the second time this nurse has displayed hostility and aggression towards me during triage this time elevating to physical display of abuse, exploiting a medical examination to deliberately harass me and cause physical pain and discomfort. After the nurse did this I backed away, said that he please now rough handle me during exam, and requested a grievance, returning to my cell. The physical aggression this nurse used towards me is not medically justifiable, and it is unacceptable to have medical staff physically harass inmates. Prior incidence of harassment and aggression occurred on 02/09/21 at ~10:30am after the same nurse (identifying himself only as "Eric", entered my cell (23) and began berating me after I suffered a fainting ~~panic~~ attack and seizure.

Inmate's Signature: 

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Rn staff follow a strict procedure when doing an assessment.

The Rn would have to hold/touch your ^{EAR} ~~year~~ pull up, back, or forward to straighten the ear canal and have a good visual (after inserting the tip of the otoscope). In order to perform a good assessment a lighted instrument (otoscope) would have to be used in order to achieve this purpose.

Thank you for your patience.

Signature: 

Date: 11/17/21

Exhibit JJ

TEAM 2

San Mateo County Jail Facilities Inmate Grievance Form

- Routing: Staff Only
- Administration Other
 - Classification
 - Medical
 - Food Service

Received: Staff Only
 Date 12-11-21
 Time 1341
 Facility MISC
 Deputy R. SARATOS #234

To: (Shift Sergeant) Gillet, Sgt. C/MAG, 1001 Date 12/11/21

From: (Inmate's Name) Zachary Greenburg Id# 1234307 Cell 1 Bay Cell 4

Grievance (Please be specific: time, date, etc.) Inmate worker "Garibay" (cell 6)
Continuously harasses me and issues threats during my family visits to disrupt my visits and intimidate with threats of violence. On 12/9/21 at between 7:30am - 8am during my family visit he and another inmate "Henry" (cell 32) approached me at visit booth #4 issuing threats to jump me, Henry first saying "Hey Greenberg, I see you out of your cell bitch, I'm going to beat your ass". Garibay then said, "If you jump him, I'm jumping him" I then told them to leave me alone. Henry continued making racist remarks toward my father on before saying, "Your bitch looks imbread". Garibay has continued to harass and make threats during my visits, along with other inmates he associates with, since I entered the pod in early October (see earlier grievance from harassment/threats on 10/10). This pattern has continued on a weekly basis, often w/ Garibay pacing back and forth near my visit, muttering threats, hitting the booth, or yelling after my visit to disrupt as he did again on 12/11 during visits w/ 9am and 12pm. Garibay made more threats the night before standing at cell 32 speaking to "Henry" on 12/10 between 9pm-11pm, saying "Yeah we'll get him" pointing at my cell. Garibay often threatens, extorts, or assaults inmates on the pod as a worker w/ protection from shift C/O's.

Inmate's Signature:

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response: MR. GREENBURG - I HAVE FORWARDED YOU TO SGT. C/MAG, 1001, AS HE IS THE HOUSING SERGEANT, WHO'S TEAM WAS WORKING ON 12/9/21 @ 1930 HOURS.
AF S-202 12-16-21

I HAVE REVIEWED VIDEO SURVEILLANCE FOOTAGE & LISTENED TO PHONE CALLS DURING THE TIME YOU INDICATED THESE INCIDENTS OCCURRED AND I HAVE NOT SEEN ANY CONFRONTATIONS BETWEEN YOU & GARIBAY OR HENRY TO SUPPORT YOUR ALLEGATIONS. REGARDLESS, YOU HAVE BEEN REHOUSED TO 1 MOUNTAIN AND NO LONGER ON 1-BAY.

THIS GRIEVANCE IS CLOSED - UNFOUNDED

Signature:

Date: 12-25-2021

Exhibit KK



SHERIFF'S OFFICE

A TRADITION OF SERVICE SINCE 1856

CARLOS G. BOLANOS, SHERIFF
MARK C. ROBBINS, UNDERSHERIFF

DATE: January 20, 2022
TO: Zachary Greenburg #1234307
FROM: Lt W. Young
SUBJECT: Grievance Appeal MSCC 22-GA-002

Sgt Loubal investigated your grievance with medical and he found no basis for your allegation. I also reviewed the video, because every allegation of "physical assault" or "harassment" by staff is taken very seriously. What I saw on video was completely different from your allegation. I agreed with Sgt Loubal your grievance had no merit.

On January 11, 2022, you wrote a grievance appeal suggesting that CO Janakos discarded your grievance to prevent an investigation. This allegation is not true because we have copies of your grievances and the responses.

This matter is closed.

A handwritten signature in blue ink, appearing to read "Lt W. Young".

Lt Young #L120

1 **PROOF OF SERVICE**

2 I, Maggie M. Lopez, hereby certify that on this 13th day of October, 2023, a copy of the foregoing

3
4 **DEFENDANTS’ SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE IN
5 SUPPORT OF REPLY IN SUPPORT OF DEFENDANTS’ MOTION FOR
6 JUDGMENT ON THE PLEADINGS**

7 was served via email, on the following:

8 CARA GAGLIANO (SBN 308639) Attorneys for Plaintiffs
9 AARON MACKEY (SBN 286647)
10 2 MUKUND RATHI
11 ELECTRONIC FRONTIER FOUNDATION
12 815 Eddy Street
13 San Francisco, CA 94109
14 Tel.: (415) 436-9333
15 Email: cara@eff.org
16 amackey@eff.org

17 STEPHANIE KRENT (SBN 5535414) MARIA DEL PILAR GONZALEZ
18 ALEX ABDO MORALES (SBN 308550)
19 SCOTT WILKENS (SBN 226259) SHUBHRA SHIVPURI (SBN 295543)
20 JENNIFER JONES (SBN 6040760) SOCIAL JUSTICE LEGAL FOUNDATION
21 MAYZE TEITLER (SBN 6013692) 523 West 6th Street, Suite 450
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23 AT COLUMBIA UNIVERSITY Tel.: (213) 973-4063
24 475 Riverside Drive, Suite 302 Fax: (213) 973-4063
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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address mlopez@bzbm.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 13, 2023, at San Francisco, California.

Maggie M. Lopez