

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE

JUL 01 2007

LUTHER D. GOWNS, Clerk

Deputy Clerk

C. Alan Powell
388 Ashley Ave.
Atlanta, GA 30312

and

Tory Dunlap
957 North Ave, Apt B
Atlanta, GA 30318

and

Lee Antonio Smith
393 Landsey Drive
Atlanta, GA, 30315

and

David Evans
3214 Harris Drive
East Point, GA 30344

and

Individually, and on behalf of all others
similarly situated

Plaintiffs,

FIRST AMENDED
COMPLAINT-CLASS
ACTION

Civil Case No. 04-1100 (JOF)

1:04-CV-1100 (JOF)

v.	)
	)
Jacqueline Barrett	)
Sheriff, Fulton County,	)
State Of Georgia	)
Individually and in her	)
Official Capacity	)
	)
and	)
	)
Fulton County,	)
State of Georgia	)
141 Pryor Street, SW	)
Atlanta GA, 30303	)
	)
and	)
	)
Karen Handel	)
Chairperson,	)
Fulton County Board of	)
Commissioners	)
141 Pryor Street, SW, Suite 10044	)
Atlanta GA, 30303	)
	)
and	)
	)
Robb Pitts	)
Member,	)
Fulton County Board of	)
Commissioners	)
141 Pryor Street, SW, Suite 10044	)
Atlanta GA, 30303	)
	)
and	)
	)
Tom Lowe	)
Member,	)
Fulton County Board of	)
Commissioners	)

141 Pryor Street, SW, Suite 10044
Atlanta GA, 30303

and

Emma I. Darnell
Member,
Fulton County Board of
Commissioners
141 Pryor Street, SW, Suite 10044
Atlanta GA, 30303

and

Nancy A. Boxill
Member,
Fulton County Board of
Commissioners
141 Pryor Street, SW, Suite 10044
Atlanta GA, 30303

and

William "Bill" Edwards
Member,
Fulton County Board of
Commissioners
141 Pryor Street, SW, Suite 10044
Atlanta GA, 30303

and

City Of Atlanta,
State Of Georgia

Defendants

CLASS ACTION

FIRST AMENDED COMPLAINT FOR MONEY DAMAGES, INJUNCTIVE

Introduction

1. This is an action brought by C. Alan Powell, Tory Dunlap, Lee Antonio Smith and David Evans (the "Arrestee Strip Search Named Plaintiffs") on their own behalf individually, and on behalf of a class of individuals ("Arrestee Strip Search") who were injured by Defendants' conduct in causing them to be subjected to blanket strip searches upon their arrest and commitment to the Fulton County Jail. The term "blanket strip search" is more fully discussed later.
2. This is also an action brought by each of C. Alan Powell, Tory Dunlap, Lee Antonio Smith, and David Evans (the "Overdetention Named Plaintiffs") on his own behalf and on behalf of the class defined below who were injured, or who are being injured, or who will be injured in the future by defendants' pattern and practice of overdetaining inmates.
3. "Overdetain" means holding an inmate in Fulton County Jail custody past the inmate's "Release Date".
4. "Premature Release" means releasing an inmate from Fulton County Jail custody before the inmate's "Release Date".

5 “Release Date” for each inmate is the day on which the person is
entitled to be released by court order, or the date on which the basis for his or
her detention has otherwise expired, for example by posting bond, or by being
detained pretrial on a charge without judgment past the maximum period of
any sentence on that charge.

6. “Exit Date” for each inmate means the date on which he or she was
actually released from the custody of the Fulton County Jail.

7. The Arrestee Strip Search Named Plaintiffs bring this action against
Defendants under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C.
§1983, to enforce their rights under the Fourth and Fourteenth Amendments
for injuries suffered by them and other members of the class at the Fulton
County Jail. The Arrestee Strip Search Named Plaintiffs also base their
claims on the Constitution of the State of Georgia and the common law of the
State of Georgia.

8. The Overdetention Named Plaintiffs bring this action against
Defendants under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C.
§1983, to enforce their rights under the Fourth, Eighth, and Fourteenth
Amendments, for injuries suffered by them and other members of the class at
the Fulton County Jail. The Overdetention Named Plaintiffs also base their

claims on the Constitution of the State of Georgia and the common law of the State of Georgia.

Jurisdiction and Venue

9. This Court has jurisdiction over the Arrestee Strip Search Named Plaintiffs' and the Overdetention Named Plaintiffs' §1983 claims pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343(a)(3). This Court has supplemental jurisdiction over their state law claims under 28 U.S.C. §1367.

10. Venue is appropriate in this District and this division. Each of the claims for relief arose in this judicial district, and in this division.

Parties

11. Plaintiff C. Alan Powell is an adult who was overdettained in the Fulton County Jail and subjected to illegal strip searches.

12. Plaintiff Tory Dunlap is an adult who was overdettained in the Fulton County Jail and subjected to illegal strip searches.

13. Plaintiff Lee Antonio Smith is an adult who was overdettained in the Fulton County Jail and subjected to illegal strip searches.

14. Plaintiff David Evans is an adult who was overdettained in the Fulton County Jail and subjected to illegal strip searches.

15. Defendant Jacqueline Barrett is the Sheriff of Fulton County. She is sued in her official capacity for prospective injunctive relief. She is sued in her official capacity, and in her individual capacity, for money damages.

16. At all times described herein, Defendant Jacqueline Barrett and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill, William "Bill" Edwards was acting under color of state law.

17. Defendant Fulton County is a body corporate, with power to sue or be sued in any court. O.C.G.A. §36-1-3.

18. The Fulton County County Commissioners are Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill, William "Bill" Edwards.

19. The City of Atlanta is a municipal corporation with power to sue or be sued in any court.

FACTUAL ALLEGATIONS

Fulton County, The Fulton County Board Of Commissioners, And The Fulton County Jail

20. Defendant Fulton County is administered by the Fulton County Board of Commissioners ("Board") which consists of seven Commissioners elected by the voters of Fulton County to four-year terms.

21. The Board sets Fulton County governmental policy, and approves departmental budget requests.

22. Fulton County and its "governing authority," that is, the Board, have authority to maintain and operate facilities for the detention, incarceration or confinement of all persons subject to confinement under the laws of the state, any county resolution, or any city ordinance.

23. In 1991, Fulton County exercised its authority to build and operate an incarceration facility, and built the current Fulton County Jail on Rice Street to replace the old jail.

24. The Fulton County Jail at Rice Street ("Fulton County Jail" or sometimes the "Jail") is the primary facility used by Fulton County to house inmates in Fulton County.

25. The Fulton County Jail has a capacity of approximately 1,450 inmates. However, at its opening the County put double beds in the cells and so Fulton County Jail opened with about 2,250 inmates.

26. Currently, the jail houses about 2,900 inmates, with 400 others in two annexes.

27. Most inmates at the Fulton County Jail are either pre-trial detainees, misdemeanants serving misdemeanor sentences, or probation violators.

28. The old jail had been the subject of a 1982 class-action lawsuit (Fambro v. Fulton, 82-cv2136, JOF) challenging conditions at that facility including overcrowding and overdetentions.

29. The Board has the power to designate the person(s) to control incarceration facilities, including the Fulton County Jail.

30. The Board has designated the Sheriff of Fulton County as the person to control the County's incarceration facilities.

31. The Board, not the sheriff, has ultimate control over the Fulton County Jail.

32. Fulton County also sets the budget for the County's incarceration facilities.

33. On December 14, 1992, defendant Jacquelyn Barrett took office as the Sheriff of Fulton County, Georgia.

34. The 1982 class-action lawsuit continued to cover the Rice Street Jail until the suit was settled by the Fulton County Commission in 1994, and dismissed by this Court.

Fulton County And The Board's Control Over Jail Staff

35. The Sheriff appoints deputies and jailers subject to the supervision of the Board.

36. Classified employees are subject to the constitutionally mandated Fulton County Civil Service System.

37. The Records Room staff (people that work in the records room and process admissions and releases) are classified, administrative employees. These employees are not deputies.

38. Many Records Room staff are county employees.

39. The Fulton County Personnel Department administers the Fulton County Civil Service Act through the Personnel Board.

40. The Personnel Board is appointed by the Board of Commissioners and is the major decision-making authority within the Personnel Department.

41. The Fulton County Civil Service Act severely curtails the Fulton County Sheriff's power to hire, discipline, and fire Jail staff.

Jacqueline Barrett's Responsibilities For Inmates At The Fulton County Jail

42. Jacqueline Barrett's duties include hiring, disciplining, and firing Jail staff subject to the supervision of the Board.

43. Jacqueline Barrett's duties also include formulating, implementing, and executing policies concerning the operation of the Fulton County Jail facilities subject to the authority of the Board.

44. These duties include promulgating policies controlling the strip searches of inmates, and regulations ensuring the release of inmates on their Release Dates.

45. Jacqueline Barrett has day-to-day training, supervisory, and disciplinary authority for all operations of the Fulton County Jail subject to the supervision of the Board.

46. Jacqueline Barrett is also responsible for ensuring that each employee of the Fulton County Jail discharges his or her duties in accordance with the law, court orders, and authority designated her by the Board.

Criminal Justice Cycle And The Fulton County Jail

47. The steps in an inmate's trip through the criminal justice cycle in Fulton County are: (1) arrest; (2) commitment to the Fulton County Jail as a new commitment; (3) hearing at the Fulton County Jail in the case of felony arrests, or hearing at the courthouse in the case of misdemeanor arrests; (4) transport from the Fulton County Jail to court for subsequent court dates; and (5) return to the Fulton County Jail.

48. A suspect is arrested in Fulton County by the Fulton County Police, by the Sheriff, or by a municipal police force.

49. The Fulton County Police Department transports all arrestees directly to the Fulton County Jail, and commits them to the Fulton County Jail.

50. The Fulton County Police Department is controlled and operated by, and is subject to, the authority of the Board.

51. At any one time, approximately forty percent (40%) of the Fulton County Jail inmate population was committed by the Fulton County Police Department.

52. The City of Atlanta Police Department transports arrestees arrested on state charges directly to the Fulton County Jail, and commits them to the Fulton County Jail.

53. The Atlanta Police Department ("Atlanta PD") is a department of the City of Atlanta with an authorized strength of over 2,300 employees.

54. Every year during the past five years, officers of the Atlanta PD arrested about 30,000 persons and committed them to the Fulton County Jail.

55. Approximately seventy-five percent (75%) of the cases in the State Court of Fulton County originate in the City of Atlanta.

56. Many arrests made by the Atlanta PD charged as misdemeanors could also have been charged as municipal offenses.

57. Prior to January 1, 2003, the Atlanta PD committed all persons it arrested and charged with state offenses to a City of Atlanta detention facility instead of the Fulton County Jail.

58. Prior to January 1, 2003, the City of Atlanta detained, and assumed the responsibility for conducting the 48 hour "McLaughlin v. County of Riverside" probable cause hearings for all persons its officers arrested; even persons its officers arrested and charged with state offenses.

59. Prior to January 1, 2003, the City of Atlanta detained all persons its officers arrested, even persons its officers arrested and charged with state offenses, and conducted whatever probable cause hearing was given to such persons.

60. Prior to January 1, 2003, persons for whom probable cause was found on the state offense were bound over to Superior Court, and transferred to the Fulton County Jail unless the person was released on bond.

61. Many such arrestees were held by the City of Atlanta for several days before being transferred to the Fulton County Jail.

62. Prior to January 1, 2003, many persons arrested by the Atlanta PD and charged with state offenses had their charges reduced to a municipal offense as a result of their probable cause hearings, or after processing by City of Atlanta attorneys.

63. First Appearances for persons arrested for felons committed to the Fulton County Jail are held in the Fulton County Jail.

64. First Appearances for persons arrested for misdemeanors committed to the Fulton County Jail are held in the State or Superior Court during the week, and in the Fulton County Jail on Saturdays.

65. In-custody defendants are transported from the Fulton County Jail to the State or Superior Court for subsequent hearings such as bond hearings or status hearings.

66. All in custody defendants transported from the Fulton County Jail to a courthouse for a hearing are returned to the Fulton County Jail after their court appearances; even those entitled to release by virtue of their court appearances.

2003 Changes In City Of Atlanta Arrest And Commitment And Hearing Practices

67. During 2002, Atlanta mayor Shirley Franklin conceived a plan to order Atlanta PD officers to exercise their discretion to charge all persons who could be charged with either municipal or state offenses with state offenses.

68. During 2002, Atlanta mayor Shirley Franklin conceived a plan to order Atlanta PD officers to exercise their discretion to commit all persons it arrested and charged with state offenses to Fulton County Jail instead of an Atlanta detention facility.

69. Mayor Shirley Franklin expressly announced that the purpose of her plan was to save money for the City of Atlanta.

70. Mayor Franklin advised the City of Atlanta City Council that her plan would save the City of Atlanta about \$11.4 million in fiscal year 2003.

71. The City Council approved Mayor Franklin's plan, and her proposed budget.

72. Fulton County officials had estimated it would cost anywhere from \$8 million to \$17 million to process and house the arrestees the City of Atlanta had previously processed and housed.

73. As of January 1, 2003, the Atlanta PD began charging all persons who could be charged with either municipal offenses or state offenses with state offenses.

74. As of January 1, 2003, the City of Atlanta stopped detaining persons arrested by the Atlanta PD in Fulton County.

75. As of January 1, 2003, the Atlanta PD began committing those arrestees it arrested in Fulton County and charged with state offenses directly to the Fulton County Jail.

Records Room And Operations Of The Records Room

76. The Records Room is the unit of the Fulton County Jail that has responsibility for booking arrestees into the Fulton County Jail.

Additionally, these employees create and administer institutional files for

inmates, and keep track of inmates to ensuring their release according to their court ordered Release Dates.

77. The Records Room uses a combined system of paper files and computer databases to keep track of inmates, prepare them to be transported to court for court hearings, and process the release and commitment orders generated at the court hearings.

78. When inmates are “booked” into the Fulton County Jail, the Records Room creates, or in the case of a person who has previously been booked into the Fulton County Jail, updates a 4x6 card for each inmate showing his demographic information, his open charges, and his charge history.

79. As part of the booking process, the Records Room staff also checks criminal databases to determine if the new commitment is the subject of any other wants, holds or detainers from other jurisdictions.

80. If there are such holds, the information is noted in the inmate’s institutional files, and on the 4x6 card.

81. Whether the inmate is the subject of any other wants, holds or detainers from other jurisdictions is also available in real time on the "Mainframe" computer, available to Records Room staff and deputies.

82. The Jail and the courthouses have their own computer systems for keeping track of defendants and their court dates, and entering dispositions into the computer systems.

83. As a result, court data, release, and commitment orders issued by judges for in-custody defendants must be faxed from the courthouses to the Fulton County Jail. This information must be processed by hand for each inmate.

84. The large number of inmates in the Fulton County Jail, and the constant flow of inmates and releases, have overwhelmed the outmoded, paper-driven system for processing inmates.

85. Lack of staff and lack of training exacerbates problems caused by the systemic deficiencies in the inmate management system.

86. Chronic absenteeism of Jail staff caused by unsanitary conditions in the Jail exacerbates the problems caused by the systemic deficiencies in the inmate management system.

87. Because of problems and backlogs in the Records Room, many newly committed inmates are not actually booked into the Jail for several days after their commitment.

88. The Fulton County Jail also accepts for commitment to the Fulton County Jail arrestees brought by the Atlanta PD, and the Fulton County Police Department, to the Fulton County Jail without charging or arrest documents.

The Fulton County Jail Policy Of Strip Searching All Arrestees Booked Into
The Fulton County Jail

89. Every person booked into the Fulton County Jail is subjected to a strip search conducted without an individual determination of reasonable suspicion to justify the search, and regardless of the crime with which the person is charged.

90. The strip search process involves having the arrested person go into a large room with a group of up to thirty to forty other inmates, remove all of his clothing, and place the clothing in boxes.

91. The arrested person, along with the group, takes a shower and is then sprayed with delousing agent.

92. Each arrestee then either singly, or standing in a line with others, is visually inspected front and back by deputies.

93. The Fulton County Jail does not keep any logs or other records of any individual strip searches performed in the booking areas.

The Fulton County Jail Policy For Court Returns

94. Every weekday, about 100 to 150 in-custody defendants are transported from the Fulton County Jail to the Superior Court and the State Court for court appearances.

95. The Records Room does not run checks for wants and holds on in-custody defendants before they are transported to the courthouses for hearings.

96. The Records Room does pull the 4x6 card of each inmate who is going to a courthouse for a hearing the night before the hearing, and puts the cards aside in the Records Room.

97. The in-custody defendants are under the constant supervision of Fulton County Sheriff's deputies while in transit, and while at the courthouses.

98. While at the courthouse, in-custody defendants are not allowed to have contact with anyone apart from Fulton County Sheriff's deputies, except for visits in the lockups with attorneys. These attorney visits are subject to supervision by Fulton County Sheriff's deputies during the visits.

99. After an in-custody defendant appears before a judge, the judge issues an order directing release or further commitment. These orders are reduced to writing by the clerk.

100. The clerk does not enter the disposition into the court computer system in real time.

101. Dispositions are entered into the court computer system later in the day, or the next day.

102. The release and commitment orders are faxed to the Records Room.

103. In-custody defendants whose cases have been discharged are not given the option of being discharged from the courthouse.

104. Every in-custody defendant transported to the Superior Court or the State Court for a court event is sent back to the Fulton County Jail following his court appearance even if the judge has issued a release order. Such persons are sometimes called “court returns”.

105. The Fulton County Jail sends these court returns with release orders back to the Fulton County Jail so the Records Room can check for any other open cases with detention orders, warrants, detainers or holds before releasing them.

106. The Records Room relies on its paper records as updated by the faxed court orders. Fulton County has not implemented a county-wide computer inmate management system as it was ordered to do by this Court.

107. Court returns entitled to release are booked back into the Fulton County Jail general populations while the Records Room processes the day’s commit and release orders. Even though they are entitled to release, these court returns are not actually released until a later date.

The Cause Of The Overdetention – Detaining Persons Ordered Released To
Check For Detainers And Warrants; Collapse Of The Inmate Management
System

108. The Fulton County Jail has no effective inmate management system. The Records Room is plagued by both overdetections and premature releases. Both overdetections and premature releases are symptomatic of a non-functioning inmate management system.

109. The fact that the Fulton County Jail has no effective inmate management system has been documented by a series of reports and newspaper articles, as well as by court cases dating back many years.

110. The Fulton County Jail has recently aggravated the backlog of overdetained inmates by overreacting to a string of premature releases.

111. The Fulton County Jail's policy of returning all in-custody defendants sent to the courthouses for hearings back to the Jail for processing after their hearings, even those whose cases have been dismissed, swells the backlog of unprocessed inmates.

112. This policy and practice is a major contributing cause of the Records Room's inability to process and release individuals on their Release Dates.

113. The policy of sending court returns entitled to release back to the Jail, instead of releasing them from the courthouses, creates the court return strip search problem.

114. If the court returns entitled to release by virtue of their court appearances were released at the courthouse, they would not be booked back in and strip searched in the first place.

115. The policy of sending court returns entitled to release back to the Jail, instead of releasing them from the courthouses, exacerbates the overdetection and overcrowding problem. This policy adds persons who have already been ordered released by a judge into an already overloaded system.

116. The Fulton County Jail's policy of sending all court returns, even those whose cases have been dismissed, back to the jail for processing costs taxpayers money, swells the population of the facilities unnecessarily, and causes inmate unrest.

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The Overcrowding, Overdetentions And Premature Releases Are A
Longstanding, Pervasive And Continuing Problem Known To Defendants

117. The Fulton County Jail has a long and documented history of overcrowding, overdetaining inmates past their release dates, and prematurely releasing inmates.

118. The old jail had been the subject of a 1982 class-action lawsuit (Fambro v. Fulton, 82-cv2136, JOF) challenging conditions at that facility, including overcrowding and overdetentions.

119. Among the many deficiencies the monitor found at the old jail in 1989, three broad areas were especially outrageous: 1) overcrowding, 2) medical services, and 3) sanitation.

120. The Court ultimately had to take the drastic step of ordered wholesale releases in an attempt to solve the problems of 1) overcrowding, 2) medical services, and 3) sanitation.

121. In 1989, this Court published a decision that warned the Fulton County Commissioners that the new jail would not be sufficient to handle the present inmate population requirements of the county

because of a substantially higher population, and problems with moving persons expeditiously through the criminal justice system.

122. The 1982 class-action lawsuit continued to cover the current Rice Street Jail when that facility opened in 1991, until the suit was settled by the Fulton County Commission in 1994, and was dismissed by this Court.

123. The unconstitutional 1) overcrowding, 2) medical services, and 3) sanitation deficiencies persisted in the new facility.

124. Certain inmates of the Fulton County Jail again brought a class action against Fulton County, the Sheriff, and the Board in 1999. Foster v. Fulton County, 1:99-cv-900-MHS challenging 1) overcrowding, 2) medical services, especially medical services for HIV positive inmates, 3) overdetentions, and 4) sanitation.

125. The Court found that systemic problems lead to unnecessary incarceration and chronic jail overcrowding, which in turn adversely affected living conditions at the jail, thus increasing the risk of exposure to dangerous diseases, and interfering with the provision of adequate medical care, and thus being a major contributing moving force of the overdetentions.

126. Recent notorious examples of overdetention show the overdetention and strip search problems persist.

127. At least eight jail inmates were released by error over the past year.

128. Inmates routinely must obtain attorneys or inmate rights organizations on the outside to call the Records Room just to obtain release in accordance with their Release Dates.

129. On information and belief, at any one time up to 5-20% of the Fulton County Jail population is being held past their Release Dates.

130. The chart set forth below shows how pervasive and widespread the overdetention problem is.

131. The chart shows the court date, Release Date, and Exit Date for virtually every inmate who appeared in magistrate court first appearance hearings (9 a.m. and 1 p.m. calendars) and State Court preliminary hearing calendars during the period March 18-31, 2004 who had a disposition resulting in release (dismissal, sentence of time served, defendant allowed to sign own bond (SOB)).

Defendant	Date Booked	Court Date	Disposition	Date Released	Days Held Over
El Aten	3-18-04	3-18-04	Dismissed	3-20-04	2
Marvin Davidson	3-16-04	3-18; 3-19	Time served	3-20-04	2
Leroy Barrett	3-17-04	3-18-04	Dismissed	3-21-04	3
Corey Boatwright	3-18-04	3-18-04	Dismissed	3-21-04	3
Michelle Collins	3-18-04	3-18-04	Dismissed	3-21-04	3
Bobbie Derest	3-18-04	3-18-04	Dismissed	3-21-04	3
Malcolm Dill	3-18-04	3-18-04	Dismissed	3-25-04	7
Roberto Duarte	3-18-04	3-18-04	SOB	3-25-04	7
Carl Feguson	3-18-04	3-18-04	SOB	3-20-04	2
Jimmie Gray	3-17-04	3-18-04	Dismissed	3-23-04 (hold)	5
Zhan Holsey	3-17-04	3-18-04	Dismissed	3-20-04	2
Jerald Lawson	3-17-04	3-18-04	Dismissed	3-22-04	4
Nadine Marshall	3-18-04	3-18-04	Dismissed	3-21-04	3
Angela Morrow	3-18-04	3-18-04	Dismissed	3-21-04	3
Terry Mozley	3-18-04	3-18-04	Dismissed	3-20-04	2
Donald Springer	3-18-04	3-18-04	Dismissed	3-23-04	5
Randy Troy	3-18-04	3-18-04	SOB	3-23-04	5
Lorraine Wilkens	3-18-04	3-18-04	SOB	3-23-04	5
Harvey Boyd	3-17-04	3-18-04	Dismissed	3-21-04	3

Clarence Maxwell	3-17-04	3-18-04	Dismissed	3-22-04	4
Reginald Morton	3-16-04	3-18-04	Dismissed	3-21-04	3
Maury Ridley	3-17-04	3-18-04	Dismissed	3-21-04	3
Roger Threats	3-17-04	3-18-04	Dismissed	3-20-04	2
Chaka Zulu	3-17-04	3-18-04	Time served	3-22-04	4
William Dodson	3-18-04	3-19-04	SOB	3-20-04	1
Leo Harden	3-18-04	3-19-04	Time served	3-24-04	5
Niles Johnson	3-10-04	3-19-04	SOB	3-23-04	4
Arnold Levi	3-18-04	3-19-04	Reset for proof	3-21-04	2
Charles Lyons	3-17-04	3-19-04	Time served	3-23-04	4
Roger Thomas	3-17-04	3-19-04	SOB	3-25-04	6
Ronnie Tyler	3-17-04	3-19-04	Time served	3-29-04 (hold in Bibb Co.)	10
Larry Dean	3-19-04	3-19-04	SOB	3-25-04	6
Jasiah Gillis	3-19-04	3-19-04	Time served	3-24-04	5
Norman Gray	3-19-04	3-19-04	Time served	3-23-04	4
Randy Harris	3-19-04	3-19-04	SOB	3-23-04	4
Shirley McCullough	3-19-04	3-19-04	SOB	3-23-04	4
Dwike Leonard	3-19-04	3-19-04	SOB	3-23-04	4
Cassandra Mays	3-18-04	3-19-04	SOB	3-22-04	3
Yolanda Smith	3-18-04	3-19-04	SOB	3-22-04	3

Tarron Tyler	3-19-04	3-19-04	SOB	3-22-04 (Marietta hold)	3
George Teasley	3-19-04	3-19-04	SOB	3-23-04	4
Marco Thomas	3-19-04	3-19-04	SOB	3-23-04	4
Timothy Williams	3-19-04	3-19-04, 3-20-04	SOB	3-24-04 (DeKalb hold)	5
Howard Arnold	2-18-04	3-19-04	Time served	3-23-04	4
Shanika Fambro	3-12-04	3-19-04	SOB	3-22-04	3
Steven Berry	3-19-04	3-20-04	SOB	3-24-04 Gwinnett hold	4
Eric Brewster	3-19-04	3-20-04	SOB	3-22-04	2
Ronald Brown	3-18-04	3-20-04	Time served	3-25-04	5
Charles Carter	3-18-04	3-20-04	Time served	3-25-04	5
Jane Doe	3-20-04	3-20-04	Time served	3-22-04	2
Roberto Duarte	3-18-04	3-18; 3-20	SOB	3-25-04	5
Leo Harden	3-18-04	3-20-04	Time served	3-24-04	4
Betty Ann Hicks	3-18-04	3-20-04	SOB	3-23-04	3
Anthony Jefferson	3-18-04	3-20-04	SOB	3-23-04	3
Mark King	3-19-04	3-20-04	SOB	3-22-04	2
Bengie Martin	3-18-04	3-18-04	Bond, wouldn't let	3-25-04	7

			him out w/o bk#		
Keair Mason	3-20-04	3-20-04	SOB	3-22-04	2
Deniera Owens	3-19-04	3-20-04	Time served	3-23-04	3
Charley Parks	3-19-04	3-20-04	SOB	3-23-04	3
Raymond Quantez	3-20-04	3-20-04	Time served	3-23-04	3
Michael Riddlebarger	3-19-04	3-20-04	Time served	3-23-04	3
Waverly Spivey	3-19-04	3-20-04	Time served	3-23-04	3
Donald Springer	3-18-04	3-18-04, 3-20-04	Dismissed	3-23-04	3
Quincy Tarver	3-20-04	3-20-04	SOB	3-23-04	3
Gary Thomas	3-19-04	3-20-04	Time served	3-23-04	3
Randy Troy	3-18-04	3-20-04	SOB	3-23-04	3
Lorraine Wilkens	3-18-04	3-18-04, 3-20-04	SOB	3-23-04	3
Heidi Hendrix	3-20-04	3-20-04	SOB	3-24-04 (DeKalb hold)	4
Bobby Adams	3-21-04	3-22-04	SOB	3-24-04	2
Marvin Allen	3-21-04	3-22-04	SOB	3-24-04	2
Petree Anderson	3-22-04	3-22-04	SOB	3-26-04	4
Keith Barnett	3-21-04	3-22-04	Dismissed	3-24-04	2
Patrick Bryant	3-20-04	3-22-04	SOB	3-24-04	2

Christopher Cobb	3-21-04	3-22-04	Dismissed	3-24-04	2
Thomas Davis	3-20-04	3-22-04	Time served	3-24-04	2
Jose Alberto Duran	3-21-04	3-22-04	SOB	3-24-04	2
Arthur Favor	3-21-04	3-22-04	SOB	3-24-04	2
Pauline Favors	3-21-04	3-22-04	SOB	3-24-04	2
Torino Hawkins	3-22-04	3-22-04	SOB	3-23-04	1
Romaldo Hernandez	3-21-04	3-22-04	SOB	3-23-04	1
Shane Humphrey	3-22-04	3-22-04	SOB	3-24-04 (Alph. hold)	2
Ahmad Jamil	3-22-04	3-22-04	Dismissed	3-24-04	2
David Lucas	3-19-04	3-22-04	SOB	3-25-04	3
Orlando Neal	3-20-04	3-22-04	Dismissed	3-25-04	3
Herman Pittman	3-20-04	3-22-04	Time served	3-24-04	2
Arrgueta Reyes	3-21-04	3-22-04	SOB	3-24-04	2
William Robinson	3-20-04	3-22-04	Time served	3-24-04	2
Dominique Roscoe	3-21-04	3-22-04	Dismissed	3-24-04	2
Gregory Shields	3-20-04	3-22-04	Time served	3-24-04	2
Wayne Teague	3-21-04	3-22-04	SOB	3-24-04	2
Thomas Toland	3-21-04	3-22-04	SOB	3-24-04	2

Michael Wallace	3-20-04	3-22-04	SOB	3-24-04	2
Willie Zachary	3-21-04	3-22-04	Dismissed	3-24-04	2
Derrick David	3-19-04	3-22-04	SOB	3-23-04	1
Norris Davis	3-20-04	3-22-04	SOB	3-24-04	2
Bernard Hill	3-20-04	3-22-04	Dismissed	3-24-04	2
Toddrick Merritt	3-19-04	3-22-04	Time served	3-24-04	2
Albert Williams	3-19-04	3-22-04	Time served	3-24-04	2
John E. Clarke	3-21-04	3-23-04	Dismissed	3-25-04	2
William Hiner	3-21-04	3-23-04	SOB	3-24-04	1
Emmanuel Mitchell	3-21-04	3-23, 3-26	Time served	3-29-04	3
Marcell Murrell	3-21-04	3-23-04	SOB	3-25-04	2
Brandon Starks	3-19-04	3-23-04	Time served	3-25-04	2
Roger Thomas	3-17-04	3-23-04	Dismissed	3-25-04	2
James Verlon	3-20-04	3-23-04	SOB	3-25-04	2
Arjuna Westbrook	3-21-04	3-23-04	Time served	3-24-04	1
John Woody	3-20-04	3-23-04	Time served	3-25-04	2
Marvin Williams	3-15-04	3-16, 3-23	Time served	3-27-04	4
Trenton Williams	3-22-04	3-23-04	Time served	3-25-04	2
Phillip Buchanan	3-23-04	3-23-04	Time served	3-25-04	2
Ann Giorgianni	3-23-04	3-23-04	SOB	3-25-04	2
Michael Gladney	3-22-04	3-23-04	Time served	3-25-04	2
Vincent Manderson	3-23-04	3-23-04	SOB	4-4-04	12

April May	3-23-04	3-23-04	SOB	3-24-04	1
Michael Mcleod	3-23-04	3-23-04	SOB	3-25-04	2
John Bentley	3-22-04	3-23-04	SOB	3-29-04	6
Warren Fletcher	3-12-04	3-23-04	Dismissed	3-25-04	2
Uzziah Hammonds	3-8-04	3-23-04	Time served	3-25-04	2
Darrell James	3-15-04	3-23-04	Time served	3-25-04	2
Gary Jones	3-8-04	3-23-04	Dismissed	3-25-04	2
Anthony Cobb	3-23-04	3-24-04	Time served	3-26-04	2
Marcus Richardson	3-21-04	3-24-04	Time served	3-26-04	2
Rachel Bailey	3-23-04	3-24-04	SOB	3-25-04	1
*Lavoid Blount	3-24-04	3-24-04	SOB	3-27-04	3
*Howard Coleman	3-24-04	3-24-04	SOB	3-28-04	4
*Walter Gay	3-23-04	3-24-04	SOB	3-28-04	4
*William Hackett	3-24-04	3-24-04	SOB	3-28-04	4
Michael Moore	3-24-04	3-24-04	Time served	3-27-04	3
Ronnie Pharr	3-24-04	3-24-04	SOB	3-27-04	3
*Ledarius Timmons	3-24-04	3-24-04	SOB	3-28-04	4
Duval Union	3-23-04	3-24-03	Time served	3-27-04	3
Travis Houston	3-25-04	3-25-04	Dismissed	3-27-04	2
Barry Johnson	3-25-04	3-25-04	SOB	3-26-04	1
Bryan Kitts	3-17-04	3-25-04	Dismissed	3-26-04	1

Gloria Miller	3-24-04	3-25-04	SOB	3-27-04	2
Bernice Render	3-25-04	3-25-04	SOB	3-27-04	2
Curtis Thorton	3-25-04	3-25-04	SOB	3-28-04	3
Larry Bostic	3-25-04	3-26-04	Dismissed	3-28-04	2
Jeffrey Cain	3-25-04	3-26-04	Time served	3-29-04	3
Benjamin Dykes	3-25-04	3-26-04	SOB	3-28-04	2
Keith Green	3-25-04	3-26-04	Time served	3-28-04	2
James Jones	3-25-04	3-26-04	SOB	3-29-04	3
Michael Netters	3-26-04	3-26-04	Time served	3-28-04	2
James Smith	3-26-04	3-26-04	Time served	3-31-04	5
Demiron Chester	3-25-04	3-26-04	SOB	4-3-04	8
Dwight Davis	3-25-04	3-26-04	SOB	3-31-04	5
Dennis Fannin	3-25-04	3-26-04	Time served	4-1-04	6
Kendrick Freeman	3-25-04	3-26-04	SOB	4-1-04	6
Lee Gamble	3-25-04	3-26-04	SOB	3-30-04	4
Mostafa Ghorbani	3-25-04	3-26-04	Time served	4-1-04	6
Phillip Quinones	3-25-04	3-26-04	Time served	4-6-04	11
Michael Gladney	3-26-04	3-27-04	Time served	3-29-04	2
Kevin Ball	3-26-04	3-27-04	SOB	3-29-04	2
Antonio Battle	3-26-04	3-27-04	SOB	3-29-04	2
John Bentley	3-22-04	3-27-04	Time served	3-29-04	2
Shakita Brew	3-26-04	3-27-04	SOB	3-29-04	2
Antonio Griffin	3-27-04	3-27-04	SOB	3-29-04	2

Catrina Hollis	3-25-04	3-27-04	Dismissed	3-29-04	2
Charlie Howard	3-27-04	3-27-04	Time served	3-29-04	2
Joseph Hunt	3-26-04	3-27-04	SOB	3-28-04	1
Shakita McLester	3-26-04	3-27-04	SOB	3-29-04	2
Richard Minor	3-25-04	3-27-04	SOB	3-29-04	2
Travis Moore	3-26-04	3-27-04	Time served	3-29-04	2
Kyle Palmer	3-26-04	3-27-04	Time served	3-29-04	2
James Sidel	3-25-04	3-27-04	SOB	3-29-04	2
Steven Taylor	3-27-04	3-27-04	SOB	3-28-04	1
Rodney Townsend	3-25-04	3-27-04	SOB	3-31-04	4
Bryan Turner	3-26-04	3-27-04	Time served	3-28-04	1
Shawn Williams	3-22-04	3-27-04	Time served	3-29-04	2
Dale Baldwin	3-28-04	3-29-04	SOB	4-1-04	3
Lawrence Caldwell	3-28-04	3-29-04	Time served	3-30-04	1
Alfred Couch	3-27-04	3-29-04	SOB	3-30-04	1
Michelle Couch	3-27-04	3-29-04	SOB	3-30-04	1
Harold Gooden	3-27-04	3-29-04	SOB	4-1-04	3
Sandeep Gupta	3-27-04	3-29-04	SOB	3-30-04	1
Curtis Harris	3-27-04	3-29-04	SOB	3-30-04	1
Verner Harris	3-27-04	3-29-04	Time served	4-1-04	3
Michael Kingcaid	3-27-04	3-29-04	SOB	3-30-04	1
Nadir Quadir	3-27-04	3-29-04	SOB	3-31-04	2

Kelvin Robinson	3-28-04	3-29-04	Time served	3-30-04	1
Lynn Ann Thompson	3-27-04	3-29-04	Dismissed	3-31-04	2
Nyroble White	3-27-04	3-29-04	Time served	4-1-04	3
Jeffrey Williams	3-27-04	3-29-04	SOB	3-31-04	2
Arbram Adams	3-27-04	3-29-04	SOB	3-31-04	2
Ronald Boutte	3-28-04	3-29-04	SOB	3-31-04	2
Howard Brown	3-27-04	3-29-04	SOB	3-31-04	2
Lucia Davis	3-27-04	3-29-04	SOB	3-31-04	2
Sidy Diallo	3-26-04	3-29-04	SOB	4-1-04	3
Ann Gilbert	3-28-04	3-29-04	Time served	3-31-04 (hold)	2
Darrell Glover	3-28-04	3-29-04	Time served	3-31-04 (hold)	2
Dotruell Jordan	3-28-04	3-29-04	SOB	3-30-04	1
Max Lipchonsky	3-28-04	3-29-04	SOB	4-1-04	3
Eric Smith	3-28-04	3-29-04	Time served	4-1-04	3
Amos Brown	3-29-04	3-30-04	Dismissed	4-1-04	2
Avery Childs	3-29-04	3-30-04	SOB	4-1-04	2
Rodrick Contrell	3-29-04	3-30-04	SOB	4-1-04	2
Demarcus Ellis	3-29-04	3-30-04	SOB	4-1-04	2
Kewonnus Harness	3-29-04	3-30-04	Time served	4-1-04	2
Lamar Jefferson	3-29-04	3-30-04	Dismissed	4-1-04	2
Mary Magnes	3-29-04	3-30-04	SOB	4-1-04	2

Frank Murrell	3-22-04	3-30-04	Time served	4-1-04	2
Brian Quinn	3-24-04	3-30-04	Dismissed	4-1-04	2
Diane Thomas	3-29-04	3-30-04	Time served	4-1-04	2
Leroy Thompson	3-29-04	3-30-04	SOB	4-1-04	2
Patricia Brumley	3-29-04	3-30-04	Time served	4-1-04	2
Terry Bailey	3-30-04	3-31-04	SOB	4-3-04	3
Wesley Cosby	3-30-04	3-31-04	Time served	4-2-04	2
Maurice Edwards	3-30-04	3-31-04	SOB	4-3-04	3
Jason Underwood	3-30-04	3-31-04	SOB	4-3-04	3
Henry Bell	3-30-04	3-31-04	SOB	4-1-04	1
Mikal Cartier	3-30-04	3-31-04	SOB	4-3-04	3
Marcene Cooper	3-30-04	3-31-04	SOB	4-1-04	1
John Daniell	3-30-04	3-31-04	SOB	4-1-03	1
Mark Hillegas	3-30-04	3-31-04	SOB	4-2-04	2

Illustrative Case

132. Overdetentions happen at practically every event in the criminal justice system from arrest to trial.

123. The problem starts when inmates are committed into the Fulton County Jail without being "booked in"; that is, fingerprinted, identified, checked for outstanding wants, holds, warrants and detainers, and entered into the computerized inmate management system.

134. For example, Plaintiff Alan Powell was arrested and committed into the Fulton County Jail early on the morning of Saturday, March 20, 2004. He was not booked in until approximately 6:00 p.m. the following day; Sunday, March 21, 2004.

135. As a result, Mr. Powell was not taken to the misdemeanor court in State Court for First Appearance, and so was not given a bond hearing.

136. Moreover, even though Mr. Powell was entitled to bail based on a schedule for minor offenses, Jail staff told him that he could not be released on bail until after he was booked.

137. Finally, on the evening of Sunday, March 21, 2004, Mr. Powell was formerly booked into the jail.

138. Along with the booking procedure came a degrading, humiliating strip search.

139. Mr. Powell, and everyone else booked into the Fulton County Jail on Sunday night (or any other night or day), was taken to a large room, told to take off all clothes, put them in a plastic box, and take a shower with the entire group in a single large room.

140. Then each man took his clothes to a counter and exchanged his own clothes for a jail jumpsuit.

141. Before picking up his jumpsuit, Mr. Powell, along with every other inmate in the process, had to stand before a guard front and center, and show his front and back sides while naked.

142. Mr. Powell's family posted his bond on Sunday, March 21, 2004.

143. However, Mr. Powell was not released. When he complained, guards threatened to "lose" his paperwork.

144. Mr. Powell was finally released on Tuesday morning, March 23, 2004.

145. The jail frequently sends recently arrested inmates to bond hearings at State Court before the inmates have been booked in.

146. As a result, the bond hearings are meaningless because the inmates cannot be either charged or bonded out since they have not yet been booked.

147. Without the paperwork generated by a booking, prosecutors lack the documentation necessary to show probable cause. Without probable cause, judges are forced to throw out cases within 48 hours.

148. On March 18, 2004, Judge Roy Roberts in State Court dismissed misdemeanor charges against 22 defendants because they were presented in his courtroom without paperwork. They had been sent to court without having been booked.

149. However, even when a judge orders inmates released at the first appearance, their release is no sure thing.

150. During the period March 18-31, 2004, approximately 135 persons presented before the magistrate for a probable cause hearing..

151. Almost every single person was overdetained for periods ranging from one day to twelve days. (see chart at ¶131).

Defendants' Knowledge Of The Collapse Of The Inmate Management System
At The Fulton County Jail

152. Defendants have known of the ineffective and chaotic condition of the Records Room inmate management system for years.

153. Moreover, jail officials have had personal knowledge of the problem for years.

154. The Fulton County Commission has also been aware of the above-described problems in the inmate management system for years.

155. In the past few years, the Fulton County commissioners have had a federal judge, a grand jury, two separate private consultants, and a rash of escapes to tell them about problems at the Fulton County Jail. These problems are such as money for more guards, money for mental health treatment, money for new facilities to handle nonviolent inmates in work-release programs, money to fix a crippled computer system, money to **streamline** the court system, money for public defenders, and money for more probation officers.

156. Recently, Defendant Jacqueline Barrett released a statement terming continuing problems at the crowded and understaffed jail a "state of emergency."

Defendant Jacqueline Barrett's Failure To Take Meaningful, Sustained
Corrective Action

157. Defendant Jacqueline Barrett has acquiesced in the Records Room's chaotic procedures leading to the overdetention and strip search problems by failing to take any meaningful, sustained corrective action.

158. The Fulton County Jail is understaffed. Only about 650 guards watch over 2,900 inmates.

159. Fulton County has refused to provide adequate funding to the Fulton County Jail.

160. Last year, the Fulton County Commission reduced the Jail's funding by \$3,000,000.

161. Jacqueline Barrett never sent inmates to other county jails as she was authorized to do under Georgia law.

Arrestee Strip Searches Performed By The Fulton County Jail

162. On March 21, 2004, Plaintiff Alan Powell was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

163. On February 6, 2003, Plaintiff Tory Dunlap was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons

164. On December 20, 2003, Plaintiff Lee Antonio Smith was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

165. On August 22, 2003, Plaintiff David Evans was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

Class Action Allegations

“Arrestee Strip Search Class” -- Class Action Allegations

166. The Arrestee Strip Search Named Plaintiffs bring this action under Rules 23(a), 23(b) (2), and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) on a charge other than a charge of drugs, weapon or felony violence; (iii) was subjected to a blanket strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband.

167. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because the Fulton County Jail has a policy, and engages in a pattern and practice of conduct that has uniformly affected all members of the class. Injunctive relief against Defendant to enjoin the practice will benefit each and every Arrestee Strip Search Named Plaintiff and class member.

168. The class is entitled to injunctive relief of terminating the above-

described policy and practice of subjecting arrestees to blanket strip searches without any individualized finding of reasonable suspicion, or probable cause that he or she was concealing drugs, weapons or other contraband.

169. Certification of a class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate in that common questions of law and fact predominate over any individual questions. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

170. Regarding the Arrestee Strip Search Named Plaintiffs and members of the class, there are no individual questions on the issue of liability. Every arrestee committed into the Fulton County Jail is subjected to the blanket strip searches. None of the staff of the Fulton County Jail keeps records of these searches. Therefore, Defendant cannot show that any of the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating such individualized suspicion, such people would, by definition, not be members of the class.

171. Among the questions of law and fact common to the class are:

- a. whether Defendant Jacqueline Barrett instituted a policy, or acquiesced in a custom and practice of subjecting arrestees

committed to the Fulton County Jail pending presentment to blanket strip searches without an individualized determination that the arrestees were in possession of drugs, weapons or other contraband;

b. whether such policy or practice, if found to exist, violates the Fourth Amendment;

c. whether Defendant Jacqueline Barrett was deliberately indifferent to the rights of such arrestees;

d. whether the Arrestee Strip Search Named Plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages;

e. whether the Arrestee Strip Search Named Plaintiffs and the members of the class and future members are entitled to equitable relief and, if so, what is the nature of that relief; and

f. whether determination of damages suffered by a statistically representative sample of the class provides the basis for determination of all class members' damages except those who

opt out.

g. Whether Defendant Jacqueline Barrett is entitled to qualified immunity on the §1983 claims; and

h. Whether Defendant Jacqueline Barrett is entitled to governmental immunity on the state law claims.

172. The class is so numerous that joinder of all members is impracticable. The exact number of class members is unknown to plaintiffs at this time. However, every week at least 100 persons meeting the Arrestee Strip Search Class class definition are committed into the Fulton County Jail pending presentment. All are subject to the illegal searches. Thus, this class well exceeds 10,000 members.

173. Defendant Jacqueline Barrett and the Fulton County Jail have within their records the names and addresses of all current and past class members. This information is maintained in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks, and other paper records maintained by the Fulton County Jail.

174. The Arrestee Strip Search Named Plaintiffs' claims are typical of the

claims of the other members of the class because the Arrestee Strip Search Named Plaintiffs, and all other members of the class, were injured by exactly the same means; that is, by the blanket strip searches.

175. The Arrestee Strip Search Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

176. The Arrestee Strip Search Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

177. The Arrestee Strip Search Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. The class action is superior to any other available means to resolve the issues raised on behalf of the Fourth Amendment Class. The class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class. Damages can be determined on a class-wide basis using a damages matrix set by a jury, or by trying the damages of a statistically valid sample of the class to a jury and extrapolating those damages to the class as

a whole.

178. Class treatment will be superior because liability can be determined on a class-wide basis. Damages can also be determined on a class-wide basis through use of statistical sampling.

Plaintiff C. Alan Powell's Overdetention By The Fulton County Jail

179. On or about Saturday, March 20, 2004, Plaintiff C. Alan Powell was detained in the Fulton County Jail.

180. Plaintiff Alan Powell's Release Date was about March 21, 2004, when he made bond.

181. Plaintiff Alan Powell's Exit Date was March 23, 2004.

182. Plaintiff Alan Powell was overdetrained for three days at the Fulton County Jail.

183. The moving force behind Plaintiff Alan Powell's overdetrention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

184. Plaintiff Alan Powell suffered loss of employment opportunities, anxiety, loss of freedom and other damages as a result of the over detention.

Tory Dunlap's Overdetention By The Fulton County Jail

185. On or about Friday, February 13, 2002, Plaintiff Tory Dunlap was committed to the Fulton County Jail.

186. Plaintiff Tory Dunlap's Release Date was March 31, 2003.

187. Plaintiff Tory Dunlap's Exit Date was April 4, 2003.

188. Plaintiff Tory Dunlap was overdetained for four days at the Fulton County Jail.

189. The moving force behind Plaintiff Tory Dunlap's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

190. Plaintiff Tory Dunlap suffered loss of employment opportunities, anxiety, loss of freedom and other damages as a result of the overdetention.

Plaintiff Lee Antonio Smith's Overdetention By The Fulton County Jail

191. On or about Thursday night, May 9, 2002, Plaintiff Lee Antonio Smith was committed to the Fulton County Jail.

192. Plaintiff Lee Antonio Smith's Release Date was December 22, 2003.

193. Plaintiff Lee Antonio Smith's Exit Date was December 25, 2003.

194. Plaintiff Lee Antonio Smith was overdetained for three days at the Fulton County Jail.

195. The moving force behind Plaintiff Lee Antonio Smith's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

196. Plaintiff Lee Antonio Smith suffered anxiety, loss of freedom and other damages as a result of the overdetention.

David Evans' Overdetention By The Fulton County Jail

197. Plaintiff David Evans's Release Date from the Fulton County Jail was December 4, 2003.

198. Plaintiff David Evans' Exit Date was December 14, 2003.

199. Plaintiff David Evans was overdettained for ten days at the Fulton County Jail.

200. The moving force behind Plaintiff David Evans' overdettention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

"Overdettention Class" – Class Action Allegations

201. The Overdettention Named Plaintiffs bring this action under Rules 23(a), 23(b) (2), and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of: (a) each person who has been, is, or who will be incarcerated in any Fulton County Jail facility in the two years preceding the filing of this action up to and until the date this case is terminated; and (b) who was not released or, in the future, will not be released by midnight on the date on which the person is entitled to be released by court order, posting bail, or the date on which the basis for his or her detention has otherwise expired.

202. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because Defendant Jacqueline Barrett implemented a policy, or engages in a pattern and practice of conduct that has uniformly affected all

members of the class. Injunctive relief against Defendant Jacqueline Barrett will benefit each and every Overdetention Named Plaintiff and class member.

203. The class is entitled to injunctive relief of terminating the above described policy and practice of overdetections.

204. Certification of a class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate in that common questions of law and fact predominate over any individual questions. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

205. Regarding the Overdetention Named Plaintiffs and members of the class, there are no individual questions on the issue of liability other than whether an individual has been overdetained. The answer to that question can be determined by ministerial inspection of the Jail's records.

206. Among the questions of law and fact common to the class are:

- a) whether the Constitution provides a bright line, maximum length of time measured in hours beyond which Defendant cannot hold a person before releasing that person from jail after a judge has ordered his release or he has posted bail, or the basis

for his detention has otherwise expired:

- b) whether Defendants have exceeded that maximum for each class member;
- c) whether there is a pattern and practice of the Fulton County Jail of holding inmates past their Release Dates;
- d) whether Defendant Jacqueline Barrett has been deliberately indifferent to the pattern and practice of the Fulton County Jail of holding inmates past their Release Dates;
- e) whether Defendants' acts as alleged herein violate the Constitution of the United States by holding detainees and inmates past their release dates;
- f) whether such policy, if found to exist, violates the Fourth and/or Fourteenth Amendments;
- g) whether Jacqueline Barrett was deliberately indifferent to the rights of inmates and detainees in the custody of the Fulton County Jail;

- h) whether the Overdetention Named Plaintiffs and the members of the Overdetention Class have sustained damages and, if so, the proper measure of such damages;
- i) whether determination of damages suffered by a statistically representative sample of the class provides the basis for determination of all class members' damages except those who opt out;
- j) whether Defendant Jacqueline Barrett is entitled to qualified immunity on the section 1983 claims; and
- k) whether Defendant Jacqueline Barrett is entitled to governmental immunity on the state law claims.

207. The class is so numerous that joinder of all members is impracticable. The exact number of class members is unknown to plaintiffs at this time. However, every week at least 100 persons meeting the Overdetention Class definition are released from the Fulton County Jail. Thus, this class well exceeds 10,000 members.

208. Defendant Jacqueline Barrett and the Fulton County Jail have within

their records the names and addresses of all current and past class members. This information is maintained in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks, and other paper records maintained by the Fulton County Jail.

209. The Overdetention Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Overdetention Named Plaintiffs and all other members of the class were injured by exactly the same means; that is, by the systemic collapse of the inmate management system, and the practice of returning in-custody defendants entitled to release by virtue of their court appearances from the courthouses to the Fulton County Jail to check for wants, holds and detainers.

210. The Overdetention Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

211. The Overdetention Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

212. The Overdetention Named Plaintiffs know of no difficulty that will be

encountered in the management of this litigation that would preclude its maintenance as a class action. The class action is superior to any other available means to resolve the issues raised on behalf of the Fourth Amendment Class. The class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class, and damages can be determined on a class wide basis using a damages matrix set by a jury or by trying the damages of a statistically valid sample of the class to a jury, and extrapolating those damages to the class as a whole.

213. Class treatment will be superior because liability can be determined on a class-wide basis. Damages can also be determined on a class-wide basis through use of statistical sampling.

SUBSTANTIVE ALLEGATIONS

CLAIMS OF ARRESTEE STRIP SEARCH NAMED PLAINTIFFS

Count 1

Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendant Jacqueline Barrett

214. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

215. Upon being booked into the Fulton County Jail, each of the Arrestee Strip Search Named Plaintiffs, and every other Arrestee Strip Search Class member, was subjected to a strip search without an individual determination that the search would reveal weapons, drugs or other contraband.

216. Subjecting an arrestee arrested on a non-drug, non-weapon non-violent felony offense to a strip search, without an individual determination that the search would reveal weapons, drugs or other contraband, violates his or her Fourth Amendment and Fourteenth Amendment Rights.

217. Defendant Jacqueline Barrett knew that the Arrestee Strip Search Named Plaintiffs and other class members would be subjected to these

searches in the Fulton County Jail, and acquiesced in the searches.

218. Defendant's actions, and failures to act as described above, directly and proximately and affirmatively were the moving forces behind the violations of the Arrestee Strip Search Named Plaintiffs, and the class members' Fourth and Fourteenth Amendment Rights.

219. Defendant caused the unreasonable strip searches of the Arrestee Strip Search Named Plaintiffs and all other class members by deliberate indifference to the risk of constitutional injury by maintaining and/or acquiescing in a policy and practice and custom of strip searching arrestees.

220. Defendant is therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Arrestee Strip Search Named Plaintiffs and all other class members caused by their conduct.

Count 2

Negligent Training And Negligent Supervision And Failure To Implement Policies Claims Against Defendant Jacqueline Barrett

221. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

222. Defendant Jacqueline Barrett entrusted certain duties including, but not limited to, searching all arrestees booked into the Fulton County Jail to certain Jail employees.

223. Therefore, Defendant Jacqueline Barrett had a duty to exercise reasonable care in training, supervising and disciplining such employees in exercising their duties.

224. The need for such training was and is obvious from the nature of the responsibilities entrusted to such jail employees.

225. Defendant Jacqueline Barrett deliberately failed to implement and enforce procedures employees needed to ensure the constitutional searches of inmates.

226. The problems at the jail described above, and the various reports in the media, should have made it obvious to Defendant Jacqueline Barrett that the training employees under her supervision and control were receiving was inadequate, that the policies in place were inadequate, and that, as a direct and proximate result of these inadequacies, the inmates under her supervision would suffer injury.

227. Defendant Jacqueline Barrett negligently trained and supervised, or negligently failed to train and supervise such employees in their duties; failed to implement policies and, as a result, such employees were incompetent to perform their duties.

228. This negligent training; negligent failure to train; failure to supervise, and failure to implement policies by Defendant Jacqueline Barrett resulted in the unconstitutional strip searches of the Arrestee Strip Search Named Plaintiffs and the other members of the putative class.

229. As a result of said negligence of Defendant Jacqueline Barrett, Arrestee Strip Search Named Plaintiffs suffered injuries described in the preceding paragraphs of this First Amended Complaint.

Count 3

Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendant Fulton County And Each Of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards

230. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

231. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom

Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail.

232. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

233. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

234. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately train the sheriff and her staff.

235. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards were deliberately indifferent to the rights of the Arrestee Strip Search Class members to be free from illegal strip searches.

236. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards'

deliberate indifference to the rights of the Arrestee Strip Search Class members to be free from illegal strip searches was the motivating factor of their injuries described above.

Count 4

Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendant City Of Atlanta

237. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

238. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

239. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

240. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

241. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this First Amended Complaint.

242. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail had a custom and policy of subjecting all new commitments to blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process both before and during the class period.

243. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

244. The City of Atlanta, acting through its mayor and council, began directing its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

245. The City of Atlanta, acting through its mayor and council, knew that Defendant Fulton County and the Board and the Fulton County Sheriff were

deliberately indifferent to the rights of the Arrestee Strip Search Named Plaintiffs and the Arrestee Strip Search Class class members to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process.

246. The City of Atlanta's deliberate indifference to the rights of the Arrestee Strip Search Named Plaintiffs and the Arrestee Strip Search Class class to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process was the moving force behind their injuries.

247. Defendant City of Atlanta is therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Arrestee Strip Search Named Plaintiffs and all other class members caused by its conduct described herein and is jointly and severally liable with all other defendants for injuries caused by their conduct described herein.

CLAIMS OF OVERDETENTION NAMED PLAINTIFFS

Count 5

Section 1983 Claims Of Overdetention Named Plaintiffs Against Defendant Jacqueline Barrett

248. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

249. Defendant Jacqueline Barrett was, at all times relevant herein, the supervisor of the Jail employees charged with ensuring the release on their Release Dates of all inmates in the custody of the Fulton County Jail.

250. Defendant Jacqueline Barrett deliberately failed to train, monitor and discipline such employees.

251. Defendant Jacqueline Barrett deliberately failed to implement and enforce procedures employees needed to ensure the timely release of inmates.

252. Defendant Jacqueline Barrett had both actual and constructive knowledge that such employees were engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to The Overdetention Named Plaintiffs and other members of the class.

253. Defendant Jacqueline Barrett engaged in a pattern of continued inaction in the face of employees' documented widespread abuse of the Fourth, Eighth and Fourteenth Amendment rights of the Overdetention Named Plaintiffs and the other members of the class by failing to ensure their release on their Release Dates.

254. Defendants' actions, and failures to act as described above, directly, proximately, and affirmatively caused the violations of the Fourth, Eighth and Fourteenth Amendment rights of the Overdetention Named Plaintiffs' and the other members of the class.

255. The deprivations to the Fourth, Eighth and Fourteenth Amendment rights of the Overdetention Named Plaintiffs and the other members of the class were committed by Defendant Jacqueline Barrett while she was acting under color of state law, and was acting pursuant to the policy, custom and practice of Fulton County Jail.

256. Defendant Jacqueline Barrett's actions, and failures to act, as described above, directly and proximately caused injury described above to the Overdetention Named Plaintiffs' and the other members of the class.

Count 6

Negligent Training And Negligent Supervision And Failure To Implement Policies Claims Of Overdetention Named Plaintiffs Against Defendant Jacqueline Barrett

257. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

258. Defendant Jacqueline Barrett entrusted certain duties including, but

not limited to, ensuring the release on their Release Dates of all inmates in Fulton County Jail custody to certain Jail employees.

259. Therefore, Defendant Jacqueline Barrett had a duty to exercise reasonable care in training, supervising, and disciplining such employees in exercising their duties.

260. The need for such training was obvious from the nature of the responsibilities entrusted to Jail employees.

261. Defendant Jacqueline Barrett deliberately failed to implement and enforce procedures employees needed to ensure the timely release of inmates.

262. The problems at the jail described above, and the various reports in the media, should have made it obvious to Defendant Jacqueline Barrett that the training employees under her supervision and control were receiving was inadequate, that the policies in place were inadequate, and that, as a direct and proximate result, the inmates under her supervision would suffer injury.

263. Defendant Jacqueline Barrett negligently trained and supervised, or negligently failed to train and supervise, such employees in their duties. She further failed to implement policies and, as a result, such employees were

incompetent to perform their duties

264. This negligent training, and negligent failure to train and supervise, and failure to implement policies by Defendant Jacqueline Barrett resulted in the complete breakdown in the inmate management system of the Fulton County Jail. These failures have caused the overdetection of The Overdetection Named Plaintiffs and the other members of the putative class.

265. As a result of said negligence of Defendant Jacqueline Barrett, The Overdetection Named Plaintiffs suffered injuries described in the preceding paragraphs of this First Amended Complaint.

Count 7

Section 1983 Claims Of Overdetection Named Plaintiffs Against Defendant Fulton County And Each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards

266. The Overdetection Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

267. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail.

268. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

269. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

270. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately train the sheriff and her staff.

271. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards were deliberately indifferent to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class members to be released by midnight of their Release Dates.

272. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards' deliberate indifference to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class to be released by midnight of their Release

Dates the motivating factor of their injuries described above.

Count 8

Section 1983 Claims Of Overdetention Named Plaintiffs Against Defendant City Of Atlanta

273. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this First Amended Complaint.

274. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

275. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

276. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

277. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this

First Amended Complaint.

278. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail had a custom of overdetaining inmates before and during the class period.

279. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

280. The City of Atlanta, acting through its mayor and council, began directing its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

281. The City of Atlanta, acting through its mayor and council, knew that the Fulton Defendant Fulton County and the Board were deliberately indifferent to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class members to be released by midnight of their Release Dates.

282. The City of Atlanta's deliberate indifference to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class to be released by midnight of their Release Dates was the moving force of their injuries described above.

283. Defendant City of Atlanta is therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Overdetention Named Plaintiffs and the Overdetention Class class members caused by its conduct.

IRREPARABLE INJURY AND INJUNCTIVE RELIEF

284. Defendants are overdetaining, or contributing to the overdetention of members of the plaintiff class, and unreasonably subjecting, or causing the subjection of members of the Arrestee Strip Search Class to strip searches which irreparably harm them, even if they are later able to recover compensatory damages.

285. Defendants' conduct and/or participation in overdetaining members of the plaintiff class, and performing illegal strip searches of the Arrestee Strip Search Class, has irreparably harmed them. This conduct will continue to irreparably harm members of the proposed plaintiff Overdetention Class and

Arrestee Strip Search Class, thus making declaratory and injunctive relief necessary.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court grant the following relief:

- 1) grant a jury trial on all claims so triable;
- 2) declare that, with respect to the Arrestee Strip Search Class, this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) and certify the Arrestee Strip Search Named Plaintiffs as the proper representative of the class consisting of each person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) on a charge other than a charge of drugs, weapon or felony violence; (iii) was subjected to a blanket strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband.
- 3) declare that, with respect to the Overdetention Class, this action may

be maintained as a class action pursuant to Federal Rule of Civil Procedure 23(a), 23(b) (2), and 23(b)(3) and certify the Overdetention Named Plaintiffs as the proper representative of the Overdetention Class consisting of class consisting of: (a) each person who has been, is, or will be incarcerated in any Fulton County Jail facility in the two years preceding the filing of this action up to and until the date this case is terminated; and (b) who was not released, or, in the future, will not be released by midnight on the date on which the person is entitled to be released by court order, posting bail, or the date on which the basis for his or her detention has otherwise expired.

- 4) Name William Claiborne, Dan DeWoskin, Charles Pekar, J.P. Claiborne, and Lynn Cunningham as class counsel for all classes.
- 5) preliminarily and permanently enjoin defendants from pursuing the course of conduct complained of herein;
- 6) preliminarily and permanently enjoin defendants from pursuing settlement directly with any member of the putative Arrestee Strip Search Class or the Overdetention Class described herein unless that person is represented by counsel;
- 7) award all Plaintiffs and class members compensatory and consequential damages in an amount to be determined;

- 8) appoint an independent monitor to supervise the Fulton County Jail "dress out" area to ensure that all new commitments are not strip searched or subjected to a visual body cavity search without an individualized finding of reasonable suspicion;
- 9) appoint an independent monitor to supervise the Records Room to ensure that all inmates are released on or before their Release Dates;
- 10) award Plaintiffs' attorneys' fees and costs incurred in bringing this action under 42 U.S.C. §1988; and
- 11) grant such other relief as this Court deems just and proper.

////////

Respectfully submitted,



William Claiborne

Georgia Bar # 126360

Counsel for the Arrestee Strip Search Class
and the Overdetention Named Plaintiffs and
Court Return Strip Search Named Plaintiff
717 D Street, NW

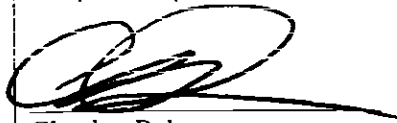
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fax 202/824-0745

Respectfully submitted,



Charles Pekor

Georgia Bar # **570601**

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Suite 1060

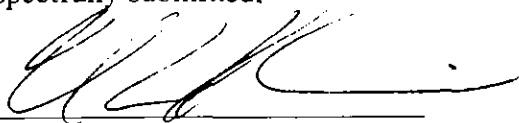
Atlanta, GA 30303

Phone 404-221-8887

Phone 404-230-9171

Fax 404-221-8884

Respectfully submitted,



Dan DeWoskin

Georgia Bar # 220-327

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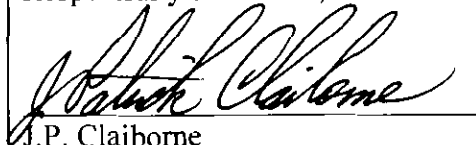
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Respectfully submitted,



J.P. Claiborne

Georgia Bar # 126337

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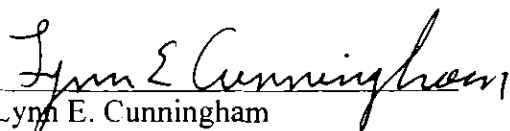
Ste 1206

Augusta, GA 30901

Phone 706-722-8224

Fax 706-722-8236

Respectfully submitted,



Lynn E. Cunningham

Admitted pro hac vice

Professor of Clinical Law

The George Washington University
Law School

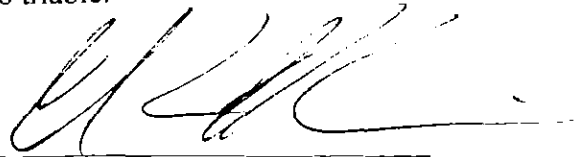
2000 G Street, N.W.

Washington, DC 20052

Phone: 202/994-7659

JURY DEMAND

Plaintiffs demand a jury of six as to all claims so triable.



Dan DeWoskin
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

C. Alan Powell, et al.

and

Individually, and on behalf of all others
similarly situated

Plaintiffs,

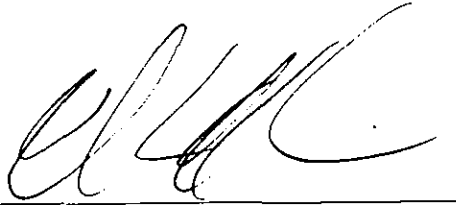
v.

Jacqueline Barrett, et al.

Defendants

CERTIFICATE OF COMPLIANCE

I, Daniel DeWoskin, do hereby certify that the foregoing document has been prepared in 13-point Century Schoolbook font and complies with LR 5dB.



Dan DeWoskin
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

C. Alan Powell, et al.

and

Individually, and on behalf of all others
similarly situated

Plaintiffs,

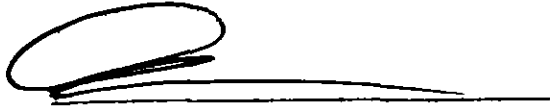
v.

Jacqueline Barrett, et al.

Defendants

CERTIFICATE OF SERVICE

I, Charles B. Pekar, do hereby certify that Plaintiffs have caused service of this first amended complaint on Defendant Jacqueline Barrett by attaching a copy to the original complaint and summons and effecting service per FRCP 4 and Plaintiffs will cause service of this first amended complaint on all other Defendants per FRCP 4.


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