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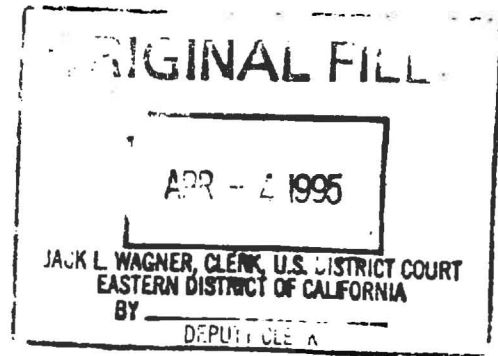
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Cagle, et al., on behalf of themselves and all other
prisoners at the Central California Women's Facility
and the California Institution for Women

[Additional Counsel Listed Following Signature Page]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARISSE SHUMATE, SHARON CAGLE,
HELEN PACHECO, RACHEL SILVAS,
MARIE NESTLE, DEBORAH BELCHER,
ROSE MUNGHIA, DEBORAH WEBSTER,
DEANNA MILLSAPS, SHELBA PETTEY,
DARLENE BRAZIL, MARILYN STITCH,
BRENDA ANGLE, LINDA EAGERTON,
CYNTHIA MARTIN, GINA JOHNSON,
NINA MYART, LISA SMITH, JANE
DOE I, JANE DOE II, BEVERLY
TUCKER, BERTHA JONES, HATTIE
DICKERSON, MARIA NASALGA, MARCIA
BUNNEY, and DELORES RICO, on behalf
of themselves and all other prisoners at the
Central California Women's Facility and
the California Institution for Women,



NO. CIV.

CIV-S-95-619 WBS PAN
COMPLAINT-CLASS ACTION

COMPLAINT-CLASS ACTION

1
2 Plaintiffs,

3 v.

4 PETE WILSON, Governor of California, in
5 his official capacity; JOSEPH SANDOVAL,
6 Secretary of the Youth and Corrections
7 Agency of the State of California, in his
8 official capacity; JAMES GOMEZ, Director
9 of the California Department of Corrections,
10 in his official capacity; KYLE S. McKINSEY,
11 Deputy Director for Health Care Services for
12 the Department of Corrections, in his official
13 capacity; NADIM KHOURY, Assistant
14 Deputy Director for Health Care Services
15 for the Department of Corrections, in his
16 official capacity; TEENA FARMON, Warden
17 of the Central California Women's Facility,
18 in her official capacity; KENNETH FOLLETT,
19 Chief Medical Officer for the Central
20 California Women's Facility, in his official
21 capacity; SUSAN POOLE, Warden of the
22 California Institution for Women, in her
23 official capacity; and GWENDOLYN
24 DENNARD, Chief Medical Officer for the
25 California Institution for Women, in her
26 official capacity,

27 Defendants.
28

CLASS ACTION COMPLAINT

On behalf of themselves and the class alleged herein, plaintiffs state the following for their complaint against defendants:

PRELIMINARY STATEMENT

1. This is a class action brought by plaintiffs on behalf of all persons who are now or in the future will be confined in the Central California Women's Facility (hereinafter CCWF) in Chowchilla, California and the California Institution for Women (hereinafter CIW) in Frontera, California.

2. Plaintiffs seek declaratory and injunctive relief for deprivations under color of state law of rights, privileges, and immunities secured by the Constitution

1 of the United States, and in particular those secured by the First, Fourth, Fifth, Eighth,
2 Ninth and Fourteenth Amendments thereof.

3 3. Plaintiffs seek relief from defendants' knowing and deliberately
4 indifferent failure to provide necessary care for serious medical needs. Defendants'
5 actions deny basic human needs, inflict needless pain and suffering, and threaten
6 plaintiffs' physical and mental well-being. Plaintiffs also seek relief from defendants'
7 failure to recognize and protect plaintiffs' right of privacy with regard to sensitive
8 medical information.

9 JURISDICTION

10 4. Plaintiffs seek to vindicate rights protected by the First, Fourth,
11 Fifth, Eighth, Ninth and Fourteenth Amendments of the United States. This Court has
12 jurisdiction of this civil action pursuant to 28 U.S.C. §§1331 and 1343(a)(3) and (4).
13 Pursuant to 28 U.S.C. §§2201 and 2202, this Court has jurisdiction to declare the rights
14 of the parties and to grant all further relief found necessary and proper.

15 VENUE

16 5. Venue is appropriate in this Court pursuant to 28 U.S.C. §1391(b),
17 because a substantial part of the events or omissions giving rise to plaintiffs' claims
18 occurred within the Eastern District of California and most of the defendants reside
19 therein.

20 PARTIES

21 A. Plaintiffs

22 6. All plaintiffs are prisoners at CCWF or CIW.

23 7. Plaintiff Charisse Shumate is confined at CCWF. She suffers from
24 sickle cell anemia, heart problems, pulmonary hypertension and asthma. Defendants
25 have periodically delayed and interrupted her medication and have denied her a
26 medically necessary special diet. She has been denied adequate outside follow-up care
27 for her life-threatening condition. Despite her pulmonary hypertension and asthma,
28 defendants have failed to provide her with appropriate housing and treatment. In

1 addition, as a result of defendants' system requiring co-payment for medical care, she is
2 receiving inadequate medical care.

3 8. Plaintiff Sharon Cagle is confined at CCWF. She is paralyzed on
4 her left side and until recently was confined to a wheelchair as a result of seizures she
5 experienced on June 4, 1994. She was not given necessary specialist follow-up care for
6 almost two months. She has been given no instruction in dressing, hygiene, or use of
7 her wheelchair; no access to an attendant; and no occupational or physical therapy. As a
8 result of the failure to provide treatment, she may have suffered a permanent loss of
9 function. On February 22, 1995 she experienced a seizure, during which she injured her
10 foot. Her roommates attempted to summon an MTA, but no one came for
11 approximately 45 minutes. Although she was concerned that her foot was broken, she
12 was not examined by a physician until February 27, 1995.

13 9. Plaintiff Helen Pacheco is confined at CIW. She developed multiple
14 sclerosis in prison. She has been denied effective treatment for her condition, as well as
15 the special diet recommended for her. After her return from an outside hospital for a
16 lumbar puncture, she was confined in a holding cell where she was unable to lie down,
17 causing her serious and unnecessary pain. The allegations in this paragraph are made on
18 information and belief.

19 10. Plaintiff Rachel Silvas is confined at CIW. She has longstanding
20 bowel problems resulting in inability to have a bowel movement for periods of up to two
21 weeks. She has been denied medically necessary diagnostic procedures to diagnose the
22 cause of her problem.

23 11. Plaintiff Marie Nestle is sixty-eight years old and confined at CIW.
24 English is her second language. She has asthma and cardiac problems. In May 1994 she
25 was taken to the Out-Patient Housing Unit at CIW because of an attack of
26 breathlessness. She was placed in a locked room for approximately twelve hours.
27 During most of that time she was left alone, despite continuing breathing problems. She
28 was unable to get oxygen, or even the medications that would have been available to her

1 had she remained on her housing unit. She suffered extraordinary fear and anxiety from
2 being locked in a small room during her asthma attack. When staff finally evaluated her
3 condition, she required an emergency transfer to a hospital, where she was placed in
4 intensive care for approximately three days.

5 12. Plaintiff Deborah Belcher is confined at CIW. In 1992, following
6 her repeated complaints, her breast implants were finally removed and one was
7 discovered to be ruptured. She currently has significant problems with arthritis and
8 experiences numbness on her left side. As a result of her arthritis and severe sinus
9 headaches, she experiences great pain, but has been denied effective pain medication.
10 She has been denied follow-up care and diagnostic procedures recommended by outside
11 specialists, such as the follow-up care recommended by the surgeon who removed her
12 implants. The allegations in this paragraph are made on information and belief.

13 13. Plaintiff Rose Munghia was transferred to CIW in July, 1994.
14 Shortly prior to her transfer, she broke or dislocated a toe on her foot. Upon entering
15 CIW, she requested evaluation and treatment of the injury, but was told that nothing was
16 wrong. In December 1994, she filed a grievance about continuing problems with her
17 foot. She was reexamined by a physician, and her problem was finally diagnosed. She
18 has been subjected to two subsequent attempts to rebreak and set her toe. The most
19 recent attempt occurred on February 7, 1995. Although she was given crutches following
20 the surgery, she was not given training in their use, nor was she given the pain
21 medication prescribed by the outside physician. CIW refuses to transfer her to a lower
22 bunk which she needs until her foot heals. CIW medical staff have told her that her
23 bandages must be changed at the hospital that performed the surgery, but despite
24 repeated visits to sick call, she has been unable to obtain a second return appointment to
25 the outside hospital. Her foot is now hot, discolored, and itches, and she fears that an
26 infection has developed. The allegations in this paragraph are made on information and
27 belief.
28

1 14. Plaintiff Deborah Webster is confined at CIW. In December 1994
2 she had an abnormal pap smear for which she has received no treatment. She also
3 suffers from heart disease and asthma. At the end of February or beginning of March
4 1995, she experienced chest pain and difficulty breathing. She went to the infirmary but
5 was not examined by a physician for almost twenty-two hours, although she was
6 administered oxygen by a nurse. She experienced great anxiety during the period she
7 was awaiting an examination. She has experienced significant problems obtaining
8 medication renewals. The allegations in this paragraph are made on information and
9 belief.

10 15. Plaintiff Deanna Millsaps was transferred to CIW in December
11 1994. She was forced to pay for her intake physical at CIW. She suffers from seizure
12 disorder and menstrual difficulties related to polycystic ovaries. Since she arrived at
13 CIW she has been unable to obtain medication to control her menstrual problems. She
14 has also suffered significant interruptions in her seizure disorder medication. She has
15 been denied a requested pap smear unless she pays an additional fee, although she
16 already was charged for a pap smear. The allegations in this paragraph are made on
17 information and belief.

18 16. Plaintiff Shelba Pettey is a prisoner at CIW. She has a history of
19 uterine, stomach, and esophageal cancer. As a result, she suffers from a prolapsed
20 bladder and from abdominal swelling, gas, nausea, and diarrhea. She has never received
21 a prescribed special diet for her condition. She has suffered profound weight loss and
22 has been severely anemic, due to blood loss from her digestive tract. Her prescriptions
23 for chronic medications are frequently disrupted. Although her treating physician
24 ordered an ultrasound to determine the cause of the abdominal swelling, she has not
25 received it. She suffers from severe back pain. Several years ago her wheelchair was
26 taken away, despite her continued pain when walking. She has requested a cane, but it
27 has been denied. She is unable to get her dentures repaired because she has paid for
28

1 two repairs already and cannot continue to pay \$5.00 for each repair, particularly
2 because she is charged \$5.00 for each of her medical visits.

3 17. Plaintiff Darlene Brazil is confined at CIW. The cartilage in her
4 temporomandibular (jaw) joint has deteriorated, so that it no longer protects the bones
5 from coming into direct contact. She had surgical manipulation of the jaw in 1993 that
6 provided no relief. CIW medical staff have failed to provide definitive treatment, with
7 the result that she has continuing pain and disability. Her condition interferes with
8 eating and prevents a full dental examination.

9 18. Plaintiff Marilyn Stitch is a 56 year old woman. In October 1994
10 she had a chest x-ray that showed abnormalities suggestive of tuberculosis. She was
11 given a sputum test for tuberculosis at CIW, but she was not placed in respiratory
12 isolation until after the sputum smear revealed acid-fast bacteria. In November, she was
13 diagnosed as infected with Mycobacterium avium-intracellulare, not tuberculosis. She
14 has not yet started receiving medication to treat her infection, because she has not yet
15 been referred to an ophthalmologist to clear her for treatment. She is suffering fatigue,
16 shortness of breath, and anxiety because of the delay in treatment. The allegations in
17 this paragraph are made on information and belief.

18 19. Plaintiff Brenda Angle suffered heart attacks in 1988 and 1991. She
19 also suffers from hypertension and borderline diabetes. Since her entry into CIW in
20 October, 1994, she has been attempting to obtain medication for her illnesses. Not until
21 the week of March 6, 1995, did she receive nitroglycerin tablets for her heart disease.
22 She still receives no other medication. She has been repeatedly charged for her attempts
23 to get her medications and other medical services; payment of these charges has posed a
24 hardship for her.

25 20. Plaintiff Linda Eagerton is confined at CCWF. She has experienced
26 long delays in receiving pap smear results.

27 21. Plaintiff Cynthia Martin is confined at CCWF. She requires non-
28 routine medical care for serious burns to 54% of her body. Because defendants have

1 denied her physical therapy, she is now confined to a wheelchair. The failure to provide
2 appropriate medical treatment has significantly exacerbated the amount of permanent
3 scarring she has suffered. Defendants have also denied her medically necessary
4 equipment. She has not received routine gynecological care since October 1992.

5 22. Plaintiff Gina Johnson was pregnant when she entered CCWF. She
6 was denied gynecological care for 17 days despite abnormal vaginal bleeding after her
7 delivery. After she was finally diagnosed, she required a dilation and curettage (D & C)
8 to remove a retained portion of the placenta.

9 23. Plaintiff Nina Myart is confined at CCWF. She was denied
10 necessary follow-up care consistent with discharge instructions after hernia surgery and a
11 breast biopsy, despite her numerous attempts to use the sick call system to report her
12 problems. As a result, it is likely that she will need corrective surgery.

13 24. Plaintiff Lisa Smith is confined at CCWF. While on her job
14 assignment, on January 26, 1995, she fell, cutting her nose and momentarily losing
15 consciousness. The medical technical assistant (hereafter MTA) who was called to see
16 her failed to treat her or refer her for an appropriate evaluation.

17 25. Plaintiff Jane Doe I is confined at CCWF. She is an HIV positive
18 prisoner who suffers from herpes. Defendants denied her necessary specialty care for
19 HIV disease, and failed to diagnose and treat her effectively when she had meningitis
20 until she went into a coma. Defendants have also denied her necessary medicine for her
21 herpes infection.

22 26. Plaintiff Jane Doe II is HIV-positive. She lives in Walker A, the
23 unit at CIW designated for prisoners who are HIV-positive. Her confinement in Walker
24 A automatically discloses her HIV status. She cannot move to any other housing without
25 specifically informing any prospective cellmate of her HIV status. In 1993 she tested
26 positive for tuberculosis infection. Despite her known HIV status, she was taken off
27 tuberculosis medications after she became pregnant. As a result, she developed active
28 tuberculosis. She was denied proper treatment during her pregnancy, including

1 treatment for a vaginal infection, appropriate follow-up at a high-risk pregnancy clinic,
2 evaluation of possible injuries from a fall, and provision of a special diet. During her
3 pregnancy CIW medical staff failed to diagnose or treat her lung problems, with the
4 result that her pneumonia was not diagnosed or treated until she was sent to a hospital
5 to deliver her baby. Although she bled heavily during and after delivery, she was
6 returned to CIW after one day and not given follow-up examinations for a significant
7 period of time. After her return to CIW, she was locked overnight into a cold and drafty
8 room that lacked a call button in the Out Patient Housing Unit, even though she was
9 unable to use the bathroom by herself. The allegations in this paragraph are made on
10 information and belief.

11 27. Plaintiff Beverly Tucker arrived at CCWF in November 1993 from
12 CIW. She advised medical staff that at CIW she had been prescribed heparin for long-
13 standing thrombophlebitis (blood clots) in her legs. Despite repeated attempts to get
14 treatment, she never received appropriate medication. As a result, she is now in danger
15 of developing gangrene and needs to have her foot amputated. The allegations in this
16 paragraph are made on information and belief.

17 28. Plaintiff Bertha Lyons is confined at CCWF. She suffers from
18 hypertension and severe back and hip pain and muscle spasms, but at times has been
19 denied medication for her pain, and has been denied medically necessary surgery. In
20 October 1994 she had a sonogram in which lumps were discovered in her breasts. She
21 was told that a biopsy was necessary but did not receive the biopsy until early 1995.
22 Staff confiscated her cane when she arrived at CCWF. She needs crutches or a cane to
23 walk, but is provided with neither.

24 29. Plaintiff Hattie Dickerson is confined at CCWF. She suffers from a
25 severe seizure disorder. Defendants have denied her necessary neurological follow-up
26 care for her chronic condition, and have refused to attend to her during and immediately
27 after seizures.

1 30. Plaintiff Maria Nasalga is confined at CCWF. She suffers from high
2 blood pressure. She has experienced long delays in refilling her blood pressure
3 prescriptions and has not received appropriate follow-up care for her hypertension.

4 31. Plaintiff Marcia Bunney is confined at CCWF. She suffers from
5 rheumatoid arthritis. She has experienced long delays in refilling her medication and has
6 been denied medication for several months. As a result, she has experienced
7 unnecessary pain and the possibility of further joint deterioration.

8 32. Plaintiff Delores Rico has been experiencing serious dental
9 problems since she entered CCWF, and has experienced long delays in receiving dental
10 care.

11 B. Defendants

12 33. Defendant Pete Wilson is the Governor of the State of California
13 and the Chief Executive of the state government. As such, he is obligated under state
14 law to supervise the official conduct of all executive and ministerial officers and to see
15 that all offices are filled and their duties carefully performed. Defendant Wilson has
16 control over the monies allocated to the California Department of Corrections by virtue
17 of authority to present to the legislature the Department of Corrections' annual budget
18 and his authority to veto or sign legislation appropriating funds for prison medical care.
19 Defendant Wilson has the authority to appoint and remove the subordinate defendants
20 named herein. Defendant Wilson has the ultimate state authority over the care and
21 treatment of the plaintiff class, and is responsible for the administration and operation of
22 the Department of Corrections.

23 34. Defendant Joseph Sandoval is Secretary of the Youth and
24 Corrections Agency of the State of California. As such, he is responsible for supervising
25 the operation of the California Department of Corrections.

26 35. Defendant James Gomez is the Director of the California
27 Department of Corrections. As such, he is responsible for the operation of the
28

1 California prison system, including the provision of medical care for prisoners confined
2 therein.

3 36. Defendant Kyle S. McKinsey is the Deputy Director for Health Care
4 Services for the Department of Corrections and Defendant Nadim Khoury is the
5 Assistant Deputy Director for Health Care Services for the Department of Corrections.
6 As such, they are responsible for developing and implementing a system of health care
7 addressing the serious medical needs of prisoners within the Department of Corrections.

8 37. Defendant Teena Farmon is the Warden of the CCWF. As such
9 she is responsible for the daily operation of the prison, including medical care.

10 38. Defendant Kenneth Follett is the Chief Medical Officer for the
11 CCWF. As such he has direct responsibility for providing care for serious medical needs
12 to the prisoners therein.

13 39. Defendant Susan Poole is the Warden of the CIW. As such she is
14 responsible for the daily operation of the prison, including medical care.

15 40. Defendant Gwendolyn Dennard is Chief Medical Officer for the
16 CIW. As such she has direct responsibility for providing care for serious medical needs
17 to the prisoners therein.

18 41. All defendants are sued in their official capacities. At all relevant
19 times, all defendants were acting under color of state law and pursuant to their authority
20 as officials, agents, contractors or employees of the State of California.

21 CLASS ACTION ALLEGATIONS

22 42. The named plaintiffs seek to maintain this action on behalf of
23 themselves and all others similarly situated pursuant to Rules 23(a) and 23(b) of the
24 Federal Rules of Civil Procedure. They seek to represent a class of all persons who are
25 now or in the future will be confined in the CCWF or CIW. As a result of their
26 confinement in CCWF or CIW, members of the class including the named plaintiffs are
27 or will be subjected to violations of the rights to be free of cruel and unusual punishment
28 under the First, Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the

1 Constitution. The named plaintiffs represent a class of persons seeking declarative and
2 injunctive relief to eliminate defendants' actions, policies, and practices that deprive
3 them of those rights.

4 43. The CCWF has an average daily population of more than 3800
5 women. The CIW has an average daily population of more than 1800 women. As such,
6 the proposed class is so numerous that joinder of all members is impracticable.

7 44. Whether the defendants have violated the plaintiffs' right to be free
8 from cruel and unusual punishment under the Eighth and Fourteenth Amendments and
9 whether the defendants have violated the plaintiffs' right to confidentiality for sensitive
10 medical information are questions common to the claims of the entire class. The
11 defendants' policies and practices with regard to their system of medical care and the
12 confidentiality of medical information, as set forth below, also present questions of fact
13 common to the class as a whole.

14 45. The claims of the plaintiffs are typical of the claims of the class.
15 The named plaintiffs include prisoners with a range of serious medical conditions typical
16 of the class as a whole. The named plaintiffs, including those identified as HIV-positive,
17 are directly injured by the disclosure of sensitive medical information as a result of the
18 defendants' policies and practices.

19 46. Plaintiffs will fairly and adequately represent the interests of the
20 class. The plaintiffs have no interests separate from those of the class, and seek no relief
21 other than the relief sought on behalf of the class. The plaintiffs' counsel are
22 experienced in the protection and enforcement of the constitutional rights of prisoners.

23 47. The defendants have acted and refused to act on grounds generally
24 applicable to the class, therefore making appropriate final injunctive relief with respect
25 to the class as a whole.

26 FACTS GIVING RISE TO THE CAUSE OF ACTION

27 48. Ordinarily prisoners at both CCWF and CIW can obtain access to a
28 physician only through a cumbersome process.

1 49. The first step in that process is for the prisoner to be seen at sick
2 call. At CIW, sick call is available once per week per housing unit. In December 1994,
3 CCWF also reduced the availability of sick call to once per week for each housing unit.

4 50. Prisoners requesting sick call are forced to stand outside for
5 prolonged periods of time, regardless of weather conditions. Not all prisoners are
6 consistently seen at a particular sick call, because of shortages of time.

7 51. The limited availability of sick call and the use of outdoor sick call
8 lines seriously impede prisoners' access to health care.

9 52. At CCWF, and on occasion at CIW, MTAs are used to conduct sick
10 call. In addition, MTAs at CIW conduct medical rounds in housing units for women who
11 are not allowed to go to general sick call. Thus, the MTAs perform medical triage
12 functions to determine who receives examinations and care by a physician.

13 53. Prisoners requiring emergency medical care must persuade
14 correctional staff to summon an MTA, and then persuade the MTA to evaluate them for
15 emergency care.

16 54. The MTA staff are not qualified to perform the medical triaging
17 functions they are asked to perform. The minimum requirement for MTA positions is
18 approximately one year of post high school training. Triage of patients for sick call
19 and emergency access to health care appropriately requires physicians, licensed physician
20 assistants, or registered nurses who have completed specialized training in medical
21 assessment.

22 55. As a result of the use of MTAs to perform triaging for which they
23 are unqualified, prisoners with serious or potentially serious health care complaints have
24 not received access to timely medical evaluation and treatment.

25 56. For example, a correctional officer attempted to summon an MTA
26 to evaluate a prisoner at CCWF with medical complications from AIDS, including fever,
27 severe diarrhea, and edema. The prisoner was covered with oozing open sores and in
28 unremitting pain. She was unable to eat. The MTA refused to see her. Two days later,

1 an MTA again refused to evaluate her, despite the fact she had developed labored
2 breathing. Not until the following day was she even taken to the infirmary. She died
3 about three weeks later in a hospital. The allegations in this paragraph are made on
4 information and belief.

5 57. Another prisoner at CCWF was evaluated by an MTA for
6 complaints of excessive menstrual bleeding. She repeatedly requested evaluation by a
7 physician, but the MTA told her she was menopausal and refused to place her on the
8 physician's list. She was in great pain and she was passing large clots of blood. Over
9 time she grew weak and lost weight. Several months later she was taken to a physician,
10 and was thereafter sent to an outside hospital, where cancer was diagnosed.

11 58. After she returned to the facility she continued to be in great pain
12 and had difficulty eating. She suffered severe edema in her legs and she would
13 frequently lie on the ground, crying. MTAs repeatedly refused her requests to see a
14 physician. On information and belief, one MTA told her that "no one had ever died
15 from swelling." She never received adequate pain medication as her condition worsened.
16 Although she could barely walk, she was denied a wheelchair and forced to walk to the
17 dining hall. Approximately nine months after her diagnosis she died of cancer.

18 59. At CIW, defendants use prisoners as medical vehicle attendants
19 (hereinafter MVAs). The MVAs are at times asked to provide emergency health care,
20 such as administering oxygen or cardiopulmonary resuscitation (CPR) to their fellow
21 prisoners. MVAs are not required to be trained to provide the medical services they are
22 asked to provide.

23 60. At CIW, prisoners with symptoms suggesting urgent or emergency
24 medical problems, such as chest pains or asthma attacks, are frequently placed in locked
25 rooms in the Out Patient Housing Unit. Although these rooms have call buttons, the
26 nursing staff frequently does not respond to the calls. The practice of locking patients
27 into these rooms causes these patients extraordinary anxiety. Many prisoners at CIW
28

1 fear confinement in the Out Patient Housing Unit and avoid seeking medical assistance
2 because they feel safer in their own housing unit.

3 61. The defendants have issued a sick call procedure informing
4 prisoners that they will be charged five dollars per health care visit regardless of their
5 indigency status. For many prisoners at CIW and CCWF, five dollars represents the
6 equivalent of wages for a week or more. Although defendants claim that no prisoner
7 will actually be denied medical services because she has no funds, defendants have
8 refused to so inform prisoners. In addition, the sick call procedure, as applied to
9 prisoners with limited funds, requires prisoners to choose between necessary medical
10 care visits and other necessary items such as tampons and sanitary pads or medically
11 necessary vitamin supplements. As applied, the policy places a severe barrier between
12 prisoners and the receipt of necessary medical services.

13 62. Prisoners with symptoms obviously requiring emergency attention,
14 such as dangerously elevated blood pressure, grand mal seizures, or symptoms of stroke
15 or myocardial infarction, have received substantially delayed treatment and evaluation.
16 On a number of occasions these failures have seriously jeopardized their health.

17 63. Other prisoners who urgently need referrals for evaluation of serious
18 symptoms such as complications of HIV disease, abnormal bleeding following childbirth,
19 or complications of diabetes and other chronic diseases such as potentially life-
20 threatening infections are delayed or not referred for appropriate medical services.

21 64. Admission physicals are incomplete, and do not reliably note prior
22 medical history, including current medication. Essential medication and medical
23 treatment previously prescribed are not reliably continued.

24 65. There is no reliable system for organized follow-up medical care for
25 prisoners with chronic diseases. There are no regularly scheduled chronic disease clinics,
26 treatment plans or procedures for routine follow-up care for prisoners with diseases such
27 as diabetes, seizure disorder, or HIV disease. For example, a prisoner whose diabetes
28 has not been given standard follow-up has suffered a progressive and permanent partial

1 loss of vision. A seizure patient has had her long-standing medication interrupted
2 resulting in numerous seizures.

3 66. Prisoners who require outside medical care frequently experience
4 unreasonable delays and cancelled appointments due to an unreliable patchwork system
5 for specialty referrals.

6 67. There is no system for necessary routine gynecological care. Many
7 prisoners need pap smears and mammograms.

8 68. Prisoners on medications for chronic diseases frequently have their
9 prescriptions disrupted. Prisoners have been told that they must hand in an empty
10 medication container to obtain a refill of their prescription, but refill can take several
11 days. The common disruption of prescription medications poses an unnecessary and
12 unreasonable risk to prisoners' health.

13 69. Recently defendant Dennard, apparently as a cost-cutting measure,
14 severely restricted the prescription of pain medication. As a result, a number of patients
15 at CIW, including AIDS patients close to death, have been forced to suffer unnecessary
16 pain.

17 70. Among the medications subject to interruption are anti-tuberculosis
18 medications. The interruption of anti-tuberculosis medications has the potential to result
19 in the development of multidrug-resistant tuberculosis and thus poses a risk to all
20 prisoners confined at CCWF and CIW, as well as staff and the general public.

21 71. Patients whom medical staff suspect have active tuberculosis are not
22 placed in respiratory isolation in qualified negative pressure rooms, as required under
23 Centers for Disease Control (hereinafter CDC) guidelines. At CIW, suspect cases who
24 were later confirmed to have active tuberculosis have been housed in the Out Patient
25 Housing Unit, a practice that places other prisoners at great risk. This failure to follow
26 CDC guidelines places all prisoners and staff at risk of contracting tuberculosis.

27 72. Necessary examinations and tests are frequently delayed and follow-
28 up on abnormal results is unreliable.

1 73. There is no system to provide for non-routine medical needs. For
2 example, prisoners who need specialized medical items are either provided these items
3 after unreasonable delays, or the items are never provided. These items include medical
4 supplies as common as Canadian crutches or Jobst garments, used to promote healing
5 and preservation of function in patients recovering from serious burns. Prescriptions for
6 medications not included in the formulary list are virtually unobtainable.

7 74. Prisoners with health problems resulting in serious restrictions in
8 function are denied medically necessary equipment, including functioning wheelchairs
9 and adjustable hospital beds. Some wheelchairs lack working brakes and are dangerous.

10 75. Medical treatment is not appropriately coordinated with mental
11 health evaluation and treatment. For example, prisoners with symptoms related to
12 physical problems are sometimes assumed to have mental problems, with the result that
13 urgent and emergency physical problems are not diagnosed. For example, a prisoner at
14 CCWF who had acute medical and psychiatric needs was confined naked in a filthy cell
15 where she ingested her own feces. She died of acute pancreatitis that went untreated until
16 she was terminally ill.

17 76. Conversely, medical complications related to mental health
18 problems are not reliably addressed. For example a prisoner at CCWF who needed
19 mental health treatment was allowed to starve to death.

20 77. The unreliable system for medication renewal and monitoring also
21 interferes with assessment of treatment of patients on psychotropic medication, who
22 require monitoring for physical side effects of these medications.

23 78. CCWF and CIW offer no physical therapy.

24 79. Prisoners at CCWF can receive medically necessary diets only by
25 living in the infirmary, where they are unreasonably denied privileges and essentially kept
26 on lockdown status. Prisoners at CIW are similarly denied medically necessary special
27 diets.
28

1 80. Prisoners who are terminally ill are denied appropriate medical
2 care, causing unnecessary pain and suffering. This lack of care is exacerbated because
3 CCWF and CIW fail to attempt to procure compassionate release of terminally ill
4 prisoners.

5 81. Prisoners with known respiratory illness do not have their
6 respiratory needs met. Defendants' failure in this regard exacerbates their respiratory
7 problems.

8 82. CCWF and CIW fail to provide necessary health care education and
9 preventive care.

10 83. Necessary dental care is substantially delayed. When prisoners do
11 receive dental treatment, they are frequently offered temporary fillings or extractions
12 rather than appropriate definitive treatment for their problems.

13 84. Numerous prisoners have attempted to no avail to file individual
14 grievances complaining to staff about inadequate medical care. Defendants have been
15 informed on numerous occasions regarding specific instances of inadequate health care.
16 Moreover, the failure of the defendants to establish an appropriate system of health care
17 presents an obvious and unnecessary risk to plaintiffs' health.

18 85. Defendants know that they are exposing prisoners to unreasonable
19 risks of death and serious injury by their failure to correct the deficiencies in the health
20 care system.

21 86. Even though defendants know that they lack a proper system for
22 medical care, they have failed to take reasonable and effective steps to establish an
23 appropriate health care system.

24 87. Defendants' failure to provide an appropriate system of health care
25 results in needless pain and suffering, the overall deterioration of plaintiffs' health, and
26 avoidable fatalities.

27 88. Defendants and their staff frequently disclose confidential medical
28 information about prisoners.

89. For example, at CIW, prisoners who are known to be HIV-positive must disclose this confidential information to potential cellmates in order to move to general population.

90. At both CCWF and CIW, it is widely known that HIV- positive women are housed in specific locations and staff disclose specific information about HIV status.

91. At CIW, there is no privacy at the pharmacy window, so that women who must pick up prescriptions can easily be overheard in conversations that necessarily disclose private medical information.

CLAIMS FOR RELIEF

92. As alleged above in paragraphs 48-91, defendants' deliberate indifference to plaintiffs' serious medical needs causes avoidable pain, mental suffering and deterioration of their health. In some cases, it has resulted in premature death.

93. Defendants' policies, practices, acts and omissions evidence and constitute deliberate indifference to the rights of prisoners and violate the Cruel and Unusual Punishments Clause of the Eighth Amendment, made applicable to the states through the Fourteenth Amendment to the United States Constitution.

94. Defendants' policies, practices, acts and omissions also violate the plaintiffs' right to privacy for confidential information guaranteed by the First, Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments.

95. As a proximate result of defendants' policies, practices, acts and omissions, plaintiffs have suffered and will continue to suffer immediate and irreparable injury including physical, psychological and emotional injury and death. Plaintiffs have no plain, adequate or complete remedy of law to address the wrongs described herein. The injunctive relief sought by plaintiffs is necessary to prevent continued and further injury.

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11

PRAYER FOR RELIEF

96. WHEREFORE, plaintiffs, individually and on behalf of all others similarly situated, request that this Court do the following:

- a. Assume jurisdiction over this action;
- b. Issue an order certifying this action to proceed as a class pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure;
- c. Issue a judgment pursuant to 28 U.S.C. §2201 and Rule 57 of the Federal Rules of Civil Procedure declaring that the policies, practices, acts and omissions complained of herein violate plaintiffs' rights as set forth in paragraphs 48-91.
- d. Issue permanent injunctive relief sufficient to rectify the unconstitutional and unlawful acts, policies, practices and conditions complained of herein;
- e. Retain jurisdiction over defendants until such time that the Court is satisfied that defendants' unlawful policies, practices, acts and omissions no longer exist and will not recur;
- f. Award plaintiffs reasonable attorneys' fees pursuant to 42 U.S.C. §1988, including costs of this action; and

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1 g. Award such other and further relief as this Court deems just
2 and proper.

3 Dated: April 4, 1995

RESPECTFULLY SUBMITTED,

NATIONAL PRISON PROJECT

6 By: Elizabeth Alexander
7 Elizabeth Alexander

8 HELLER EHRMAN WHITE & McAULIFFE

10 By: Charles N. Freiberg
11 Charles N. Freiberg

12 LEGAL SERVICES FOR PRISONERS
13 WITH CHILDREN

14 By: Ellen M. Barry
15 Ellen M. Barry

16 Attorneys for Plaintiffs Charisse Shumate,
17 Sharon Cagle, Helen Pacheco, Rachel Silvas,
18 Marie Nestle, Deborah Belcher, Rose Munghia,
19 Deborah Webster, Deanna Millsaps, Shelba
20 Pettey, Darlene Brazil, Marilyn Stitch, Brenda
21 Angle, Linda Eagerton, Cynthia Martin, Gina
22 Johnson, Nine Myart, Lisa Smith, Jane Doe I,
23 Jane Doe II, Beverly Tucker, Bertha Jones,
24 Hattie Dickerson, Maria Nasalga, Marcia
25 Bunney and Delores Rico, on behalf of
26 themselves and all other prisoners at the
27 Central California Women's Facility and the
28 California Institution for Women

ADDITIONAL COUNSEL FOR PLAINTIFFS
IDENTIFIED ON ATTACHED LISTING

1 **SHUMATE, et al. v. WILSON, et al.**
2 **ADDITIONAL COUNSEL FOR PLAINTIFFS**

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6 Foundation of Northern California
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United States District Court

EASTERN

DISTRICT OF

CALIFORNIA

CHARISSE SHUMATE, SHARON CAGLE,
et al., on behalf of themselves and
all other prisoners at the Central
California Women's Facility and the
California Institution of Women

SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

PETE WILSON, Governor of California
in his official capacity, et al.

CIV-S-95-619 WBS PAN

TO: (Name and Address of Defendant)

Governor Pete Wilson
Office of the Governor
State Capitol
Sacramento, CA 95814

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Elizabeth Alexander
National Prison Project
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

Charles N. Freiberg
Dale A. Rice
Heller, Ehnman, White
& McAuliffe
333 Bush Street
San Francisco, CA 94104

Ellen Barry
Legal Services for Prisoners
with Children
474 Valencia Street
Suite 230
San Francisco, CA 94103

an answer to the complaint which is herewith served upon you, within 20 days after service of
this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint.

JACK L. WAGNER

CLERK

APR - 4 1995

DATE

T. RAY

BY DEPUTY CLERK

United States District Court

EASTERN

DISTRICT OF

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CHARISSE SHUMATE, SHARON CAGLE,
et al., on behalf of themselves and
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California Women's Facility and the
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SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

PETE WILSON, Governor of California
in his official capacity, et al.

TO: (Name and Address of Defendant)

James Gomez, Director
California Department of Corrections
1515 S Street, Suite 351
Sacramento, CA 95814

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Elizabeth Alexander
National Prison Project
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

Charles N. Freiberg
Dale A. Rice
Heller, Ehrman, White
& McAuliffe
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San Francisco, CA 94104

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JACK L. WAGNER

APR - 4

CLERK

DATE

FRAY

BY DEPUTY CLERK

United States District Court

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CHARISSE SHUMATE, SHARON CAGLE,
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SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

PETE WILSON, Governor of California
in his official capacity, et al.

CIV-S-95-619 WBS PAN

TO: (Name and Address of Defendant)

Kyle S. McKinsey
Deputy Director, Health Care Services
Division
770 L Street, Suite 1200
P.O. Box 942883
Sacramento, CA 94283-0001

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Elizabeth Alexander
National Prison Project
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

Charles N. Freiberg
Dale A. Rice
Heller, Ehrman, White
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JACK L. WAGNER

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W. RA7

BY DEPUTY CLERK

United States District Court

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SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER:

PETE WILSON, Governor of California
in his official capacity, et al.

CIV-S-95-619 WBS PAN

TO: (Name and Address of Defendant)

Teena Farmon, Warden
Central California Womens Facility
23370 Road 22
P.O. Box 1501
Chowchilla, CA 93610

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Elizabeth Alexander
National Prison Project
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

Charles N. Freiberg
Dale A. Rice
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SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

PETE WILSON, Governor of California
in his official capacity, et al.

CIV-S-95-619 WBS PAN

TO: (Name and Address of Defendant)

Gwendolyn Dennard
Chief Medical Officer
California Institute for Women
16756 Chino-Corona Road
P.O. Box 6000
Corona, CA 91719

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Elizabeth Alexander
National Prison Project
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

Charles N. Freiberg
Dale A. Rice
Heller, Ehrman, White
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