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[Additional Counsel Listed Following Signature Page]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHARISSE SHUMATE, SHARON CAGLE, HELEN PACHECO, RACHEL SILVAS, MARIE NESTLE, 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 LYONS, HATTIE DICKERSON, MARIA NASALGA, MARCIA BUNNEY, DELORES RICO, and BLANCA MONTERROSA, on behalf of themselves and all other prisoners at the Central California Women's Facility and the California Institution for Women,

NO. CIV. S-95-619 WBS JFM

AMENDED COMPLAINT -CLASS ACTION

Plaintiffs,

v.

PETE WILSON, Governor of California, in his official capacity; RUSSELL GOULD, Director of Finance of the State of California, in his official capacity, JOSEPH SANDOVAL, Secretary of the Youth and Corrections Agency of the State of California, in his official capacity, JAMES GOMEZ, Director of the California Department of Corrections, in his official capacity, KYLE S. McKINSEY, Deputy Director for Health Care Services for the Department of Corrections, in his official capacity; NADIM KHOURY, Assistant Deputy Director for Health Care Services for the Department of Corrections, in his official capacity; TEENA FARMON, Warden of the Central California Women's Facility, in her official capacity; KENNETH FOLLETT, Medical Director at the Central California Women's Facility, in his official capacity; SUSAN POOLE, Warden of the California Institution for Women, in her official capacity; and GWENDOLYN DENNARD, Medical Director at the California Institution for Women, in her official capacity,

Defendants.

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

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

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

JURISDICTION

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

VENUE

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

PARTIES

A. Plaintiffs

6. All plaintiffs are prisoners at CCWF or CIW.

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

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

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

9. Plaintiff Helen Pacheco is confined at CIW. She developed multiple sclerosis in prison. She has been denied recommended effective treatment for her condition, as well as the special diet recommended for her.

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

11. Plaintiff Marie Nestle is sixty-eight years old and confined at CIW. English is her second language. She has asthma and cardiac problems. In May 1994 she was taken to the Out-Patient Housing Unit at CIW because of an attack of breathlessness. She was placed in a locked room for approximately twelve hours. During most of that time she was left alone, despite continuing breathing problems. She was unable to get oxygen, or even the medications that would have been available to her had she remained on her housing unit. She suffered extraordinary fear and anxiety from being locked in a small room during her asthma attack. When staff finally evaluated her

condition, she required an emergency transfer to a hospital, where she was placed in intensive care for approximately three days.

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

13. Plaintiff Deborah Webster is confined at CIW. In December 1994 she had an abnormal pap smear for which she has received no treatment. She also suffers from heart disease and asthma. At the end of February or beginning of March 1995, she experienced chest pain and difficulty breathing. She went to the infirmary but was not examined by a physician for almost twenty-two hours, although she was administered oxygen by a nurse. She experienced great anxiety during the period she was awaiting an examination. She has experienced significant problems obtaining medication renewals.

14. Plaintiff Deanna Millsaps was transferred to CIW in December 1994. She was forced to pay for her intake physical at CIW. She suffers from seizure disorder and menstrual difficulties related to polycystic ovaries. Since she arrived at CIW she has been unable to obtain medication to control her menstrual problems. She

has also suffered significant interruptions in her seizure disorder medication. She has been denied a requested pap smear unless she pays an additional fee, although she already was charged for a pap smear.

15. Plaintiff Shelba Pettey is a prisoner at CIW. She has a history of uterine, stomach, and esophageal cancer. As a result, she suffers from a prolapsed bladder and from abdominal swelling, gas, nausea, and diarrhea. She has never received a prescribed special diet for her condition. She has suffered profound weight loss and has been severely anemic, due to blood loss from her digestive tract. Her prescriptions for chronic medications are frequently disrupted. Her treating physician ordered two ultrasounds to determine the cause of the abdominal swelling. Initially, she waited three months to receive the first ultrasound. The second time she was given a pelvic ultrasound, not a stomach ultrasound. She suffers from severe back pain. Several years ago her wheelchair was taken away, despite her continued pain when walking. She has requested a cane, but it has been denied. She has been forced to work although she is grossly anemic, with a hemoglobin count of 6.5. She is unable to get her dentures repaired because she has paid for two repairs already and cannot continue to pay $5.00 for each repair, particularly because she is charged $5.00 for each of her medical visits.

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

17. Plaintiff Marilyn Stitch is a 56 year old woman. In October 1994 she had a chest x-ray that showed abnormalities suggestive of tuberculosis. She was given a sputum test for tuberculosis at CIW, but she was not placed in respiratory isolation until after the sputum smear revealed acid-fast bacteria. In November, she was diagnosed as infected with Mycobacterium avium-intracellurare, not tuberculosis.

Because the defendants failed to refer her promptly to a specialist to clear her for treatment, her treatment for the Mycobacterium avium-intracellurare infection was delayed. She suffered fatigue, shortness of breath, and anxiety because of the delay in treatment.

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

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

20. Plaintiff Cynthia Martin was confined at CCWF until May 16, 1995. She requires non-routine medical care for serious burns to 54% of her body. Because defendants have denied her physical therapy, she is now confined to a wheelchair. The failure to provide appropriate medical treatment has significantly exacerbated the amount of permanent scarring she has suffered. Defendants have also denied her medically necessary equipment. She has not received routine gynecological care since October 1992.

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

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

23. Plaintiff Lisa Smith is confined at CCWF. While on her job assignment, on January 26, 1995, she fell, cutting her nose and momentarily losing consciousness. The MTA who was called to see her failed to treat her or refer her for an appropriate evaluation.

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

25. Plaintiff Jane Doe II is HIV-positive. She lives in Walker A, the unit at CIW designated for prisoners who are HIV-positive. Her confinement in Walker A automatically discloses her HIV status. She cannot move to any other housing without specifically informing any prospective cellmate of her HIV status. In 1993 she tested positive for tuberculosis infection. Despite her known HIV status, she was taken off tuberculosis medications after she became pregnant. As a result, she developed active tuberculosis. She was denied appropriate treatment during her pregnancy, including treatment for a vaginal infection, evaluation of possible injuries from a fall, and provision of a special diet while pregnant. Although she bled heavily during and after delivery of her baby, she was returned to CIW after one day and not given follow-up examinations for a significant period of time. After her return to CIW, she was locked overnight into a cold and drafty room that lacked a call button in the Out Patient Housing Unit, even though she was unable to use the bathroom by herself.

26. Plaintiff Beverly Tucker arrived at CCWF in November 1993 from CIW. She advised medical staff that at CIW she had been prescribed heparin for long-standing thrombophlebitis (blood clots) in her legs. Despite repeated attempts to get treatment, she never received appropriate medication. As a result, she is now in danger of developing gangrene and needs to have her foot amputated.

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

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

29. Plaintiff Maria Nasalga was confined at CCWF until May 6, 1995. She suffers from high blood pressure. She has experienced long delays in refilling her blood pressure prescriptions and has not received appropriate follow-up care for her hypertension.

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

31. Plaintiff Delores Rico has been experiencing serious dental problems since she entered CCWF, and has experienced long delays in receiving dental care. She is scheduled for release on May 26, 1995.

32. Plaintiff Blanca Monterrosa is confined at CCWF. Her primary language is Spanish and her written and oral comprehension of English is very limited. She has substantial swelling in her abdominal area which causes her tremendous pain. Although she has been seen by medical personnel at CCWF, she has been unable to obtain an explanation she understands about her condition. She is extremely distraught by her pain and her lack of information about her condition.

B. Defendants

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

34. Defendant Russell Gould is the Director of Finance for the State of California. As such, he is involved with, and has control over, the budgetary process and financial decisions affecting the Department of Corrections. He is involved with many aspects of, and has control over, the expenditure of government funds on behalf of and by the Department of Corrections, including expenditures relating to the provision of medical care to prisoners.

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

36. Defendant James Gomez is the Director of the California Department of Corrections. As such, he is responsible for the operation of the California prison system, including the provision of medical care for prisoners confined therein.

37. Defendant Kyle S. McKinsey is the Deputy Director for Health Care Services for the Department of Corrections and Defendant Nadim Khoury is the Assistant Deputy Director for Health Care Services for the Department of Corrections.

As such, they are responsible for developing and implementing a system of health care addressing the serious medical needs of prisoners within the Department of Corrections.

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

39. Defendant Kenneth Follett is the medical director at the CCWF. As such he has direct responsibility for providing care for serious medical needs to the prisoners therein.

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

41. Defendant Gwendolyn Dennard is the medical director at the CIW. As such she has direct responsibility for providing care for serious medical needs to the prisoners therein.

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

CLASS ACTION ALLEGATIONS

43. The named plaintiffs seek to maintain this action on behalf of themselves and all others similarly situated pursuant to Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure. They seek to represent a class of all persons who are now or in the future will be confined in the CCWF or CIW. As a result of their confinement in CCWF or CIW, members of the class including the named plaintiffs are or will be subjected to violations of the rights to be free of cruel and unusual punishment under the First, Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the Constitution. The named plaintiffs represent a class of persons seeking declarative and injunctive relief to eliminate defendants' actions, policies, and practices that deprive them of those rights.

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

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

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

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

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

FACTS GIVING RISE TO THE CAUSE OF ACTION

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

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

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

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

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

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

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

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

57. For example, a correctional officer attempted to summon an MTA to evaluate a prisoner at CCWF with medical complications from AIDS, including fever, severe diarrhea, and edema. The prisoner was covered with oozing open sores and in unremitting pain. She was unable to eat. The MTA refused to see her. Two days later, an MTA again refused to evaluate her, despite the fact she had developed labored breathing. Not until the following day was she even taken to the infirmary. She died

about three weeks later in a hospital. The allegations in this paragraph are made on information and belief.

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

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

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

61. At CIW, prisoners with symptoms suggesting urgent or emergency medical problems, such as chest pains or asthma attacks, are frequently placed in locked rooms in the Out Patient Housing Unit. Although these rooms have call buttons, the nursing staff frequently does not respond to the calls. The practice of locking patients into these rooms causes these patients extraordinary anxiety. Many prisoners at CIW fear confinement in the Out Patient Housing Unit and avoid seeking medical assistance because they feel safer in their own housing unit.

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

63. On February 28, 1995, the California Department of Corrections (DOC) issued a Notice of Change of Director's Rules. In connection with those Rules, the DOC issued an Administrative Bulletin on March 14, 1995, which established the Medical Standards of Care Program. The promulgation of the regulations proposed in the Director's Rules and Administrative Bulletin will have potentially life-threatening consequences for prisoners at CIW and CCWF.

64. The proposed regulations contemplate that the DOC will provide only those health care services that are determined to be "medically necessary" to "protect life, prevent significant illness or disability or alleviate severe pain." Patients with conditions that are not "readily amenable to treatment" will not be treated, including patients suffering from "widely spreading cancer." Patients with conditions that improve without treatment will be denied treatment, even for conditions such as viral hepatitis and mononucleosis. In addition, the regulations provide that physician may give "services and pain relief to terminally ill persons" if the patients elect to forego other types of care. Active treatment intended to prolong life is specifically excluded in such cases. While there are some provisions to allow staff to obtain permission to treat patients' additional health needs, that process is cumbersome and time consuming.

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

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

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

68. There is no reliable system for organized follow-up medical care for prisoners with chronic diseases. There are no regularly scheduled chronic disease clinics, treatment plans or procedures for routine follow-up care for prisoners with diseases such as diabetes, seizure disorder, or HIV disease. For example, a prisoner whose diabetes has not been given standard follow-up has suffered a progressive and permanent partial loss of vision. A seizure patient has had her long-standing medication interrupted resulting in numerous seizures.

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

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

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

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

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

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

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

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

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

78. Medical treatment is not appropriately coordinated with mental health evaluation and treatment. For example, prisoners with symptoms related to physical problems are sometimes assumed to have mental problems, with the result that

urgent and emergency physical problems are not diagnosed. For example, a prisoner at CCWF who had acute medical and psychiatric needs was confined naked in a filthy cell where she ingested her own feces. She died of acute pancreatis that went untreated until she was terminally ill.

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

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

81. CCWF and CIW offer no physical therapy.

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

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

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

85. CCWF and CIW fail to provide necessary health care education and preventive care.

86. There is no system to assure that patients monolingual in Spanish have necessary medical information provided in their language. Very little medical information is available to patients who are primarily or exclusively Spanish-speaking.

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

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

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

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

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

92. Defendants and their staff frequently disclose confidential medical information about prisoners.

93. 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.

94. 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.

95. 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

96. 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.

97. 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.

98. 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.

99. 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.

PRAYER FOR RELIEF

100. 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

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

Dated: May 25, 1995

RESPECTFULLY SUBMITTED,

NATIONAL PRISON PROJECT
HELLER EHRMAN WHITE & McAULIFFE
LEGAL SERVICES FOR PRISONERS WITH CHILDREN
CATHERINE CAMPBELL, ESQ.

By: Dale A. Rice
Dale A. Rice

Attorneys for Plaintiffs Charisse Shumate, Sharon Cagle, Helen Pacheco, Rachel Silvas, Marie Nestle, Rose Munghia, Deborah Webster, Deanna Millsaps, Shelba Pettey, Darlene Brazil, Marilyn Stitch, Brenda Angle, Linda Eagerton, Cynthia Martin, Gina Johnson, Nine Myart, Lisa Smith, Jane Doe I, Jane Doe II, Beverly Tucker, Bertha Lyons, Hattie Dickerson, Maria Nasalga, Marcia Bunney, Delores Rico and Blanca Monterrosa, on behalf of themselves and all other prisoners at the Central California Women's Facility and the California Institution for Women

ADDITIONAL COUNSEL FOR PLAINTIFFS IDENTIFIED ON ATTACHED LISTING

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I, Ann Lemke, declare as follows:

I am employed with the law firm of HELLER, EHRMAN, WHITE & McAULIFFE, whose address is 333 Bush Street, San Francisco, California 94104-2878. I am readily familiar with the business practices of this office for service of filings by hand; I am over the age of eighteen years and not a party to this action.

On May 25, 1995, I caused the following to be served by hand:

AMENDED COMPLAINT - CLASS ACTION

on the below parties in this action by placing true copies thereof in sealed envelopes, addressed as shown, for service by hand pursuant to the ordinary business practice of this office which is that a messenger service is contacted and instructed to make service on the same day in the ordinary course of business:

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

Executed at San Francisco, California on May 25, 1995.

Ann Lemke