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Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RODGER R. ANSTETT; STANLEY W.
BILINSKI; MICHAEL J. CATES;
KYLE A. GRAY; WALLACE H.
GUIDO; WILLIAM M. KENNEDY; STEVE M.
SACRE; TERRY J. STALEY; SCOTT L.
TEAGUE; LONNIE R. WOOLHISER; and
JERRY J. WRENN, all present or former
inmates of Oregon correctional institutions,

Plaintiffs

vs.

STATE OF OREGON by and through the
OREGON DEPARTMENT OF CORRECTIONS,
(ODOC); et seq.

Defendants.

Civil No. CV01-1619BR

MOTION FOR PERMANENT
INJUNCTION

Hearing Requested: 4 days

Comes now Plaintiff class and sub-class, as defined by Order of this court 12/19/02, by
and through class counsel, moves the court for a Permanent Injunction pursuant to Fed. R. Civ.

1 P. 65 and L.R. 65. Plaintiff class support this motion with the Memorandum of Law and
2 referenced exhibits and declarations, the entire court record of the case and the attached Affidavit
3 of Michelle Burrows. Pursuant to Fed. R. Civ. P. 65 B Plaintiffs move this court to advance the
4 trial of the action on the merits to be consolidated with the hearing on Plaintiffs' application
5 herein. Fed. R. Civ. P. 65B. Plaintiff requests a hearing on the records and estimates the time for
6 hearing to require four judicial days.

7 The representative plaintiffs, by and through class counsel, now move, pursuant to Fed. R.
8 Civ. P. 65 and L. R. 65, for the issuance of a preliminary injunction and orders finding, declaring
9 and ordering the following:

10 (1) **Findings** that HCV infection constitutes a "serious medical condition";

11 (2) **Findings** that chronic HCV infection constitutes a "disability";

12 (3) **Findings** that the present ODOC HCV treatment policies, informal and formal, for the
13 diagnosis, treatment, monitoring and evaluation of HCV infection in inmates constitutes a pattern
14 of inadequate medical care and demonstrates a system-wide deprivation which is deliberately
15 indifferent to the protected constitutional rights of the inmate class and constitutes cruel and
16 unusual punishment in violation of the 8th Amendment to the United States Constitution;

17 (4) **Findings** that ODOC presently unlawfully discriminates against prisoners with a
18 disability, chronic HCV, for non-medical reasons, primarily monetary, in violation of the
19 Americans with Disabilities Act;

20 (5) **Finding** that ODOC presently unlawfully discriminates against prisoners with a
21 disability, chronic HCV, in accessing public programs/services, based on the individual's alcohol
22 and drug addiction in violation of the Americans with Disabilities Act;

23 (6) **Ordering** that Defendants immediately cease utilizing all versions of the ODOC's
24 HCV written policies and guidelines, TLC Policies as applied to HCV evaluation and treatment

1 together with all versions of the ODOC grievance procedures as applied to the diagnoses,
2 treatment and evaluation of all HCV infected prisoners;

3 (7) **Ordering** that Defendants immediately cease reliance on any informal or unwritten
4 policies, procedures, guidelines or recommendations which have been used or required prior to
5 treatment, testing, evaluating or treating HCV infected inmates and specifically those listed in
6 Section VI herein.

7 (8) **Ordering** that Defendants immediately suspend any and all requirements that inmates
8 with serious medical needs including without limitation HCV infection be required to follow the
9 existing grievance procedures. *See, Ex.3.*

10 (9) **Ordering** that Defendants immediately develop legally and medically acceptable
11 policies and guidelines for the diagnosis and treatment of HCV, which shall include the proposals
12 set out in attached *Ex. 1 and 2*;

13 (10) **Ordering** the immediate complete evaluation of all HCV infected ODOC prisoners as
14 set forth in *Ex.1 and 2*;

15 (11) **Ordering** that during the pendency of the development of new HCV policies and
16 guidelines, ODOC practitioners shall refer all inmates who request testing and treatment to
17 community based experts immediately for testing to confirm the presence of HCV and to properly
18 evaluate the seriousness of the present infection and to immediately thereafter refer all patients for
19 review by experts in HCV to be evaluated in accord with independent medical judgment
20 irrespective of any and all ODOC HCV treatment policies, written or otherwise and
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2 further ODOC shall follow the recommendations for treatment, evaluation and testing for each
3 inmate reviewed by the outside expert.

4 Dated this 20th day of February 2004

5 Respectfully submitted,

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7
8 /s/ Michelle R. Burrows
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