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15
16 IN THE UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

18
19 RUBEN CEDILLO, TERRY HOUSTON,
JUSTIN WRIGHT, CRAIG ARNO, ALONZO
20 CLEAVES, JOHN GREENEMEIER, JOHN
ROUSSEL, LEONARD HUGALL, on behalf
21 of themselves and all those similarly situated,

22 Plaintiffs,

23 vs.

24 TRANSCOR AMERICA, LLC, and DOES 1
through 100,

25 Defendants.
26
27
28

FILED
APR 08 2013
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

(PR)
YGR
CV 13 1580
Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 PLAINTIFFS COME BEFORE THIS HONORABLE COURT AND ALLEGE:

2 **I. INTRODUCTION**

3 1. This is an action for money damages and declaratory relief against TRANSCOR
4 AMERICA, LLC ("TRANSCOR") and DOES 1 through 100 (persons sued herein by their
5 fictitious names) for violations of plaintiffs' constitutional rights. Plaintiffs are inmates who
6 were transported by TRANSCOR on behalf of local and/or state governments. Plaintiffs allege
7 that TRANSCOR used excessive force against them and caused them to experience the
8 unnecessary and wanton infliction of pain.

9 2. Plaintiffs allege that TRANSCOR transported them sitting up in vehicles, in full
10 restraints including handcuffs, leg irons, waist chains, black boxes and connector chains, for
11 more than 59 continuous hours (plaintiffs RUBEN CEDILLO, ALONZO CLEAVES, and
12 others similarly situated), for more than 67 continuous hours (plaintiffs JUSTIN WRIGHT,
13 JOHN GREENEMEIER, JOHN ROUSSEL and others similarly situated), and for more than 95
14 continuous hours (plaintiffs CRAIG ARNO and LEONARD HUGALL and others similarly
15 situated). Plaintiffs allege that, during the time they were on a TRANSCOR vehicle,
16 TRANSCOR did not allow them to lie down, provided them with only limited access to a toilet,
17 did not allow them to attend to personal hygiene, fed them only fast food, provided limited
18 access to fluids, and deprived them of direct access to medical staff. As a direct result of
19 TRANSCOR's policies, practices and customs, each of the named plaintiffs suffered physical as
20 well as mental injuries, as detailed herein.

21 3. Plaintiffs allege that TRANSCOR's official policies, practices, and customs
22 subjected them to cruel and unusual punishment and that TRANSCOR used excessive force
23 against them in violation of their rights, and the rights of persons similarly situated, secured by
24 the Fourth, Eighth and Fourteenth Amendments to the U.S. Constitution, and entitles plaintiffs,
25 and each of those similarly situated, to recover damages and attorneys' fees under the Federal
26 Civil Rights Act (42 U.S.C. §§ 1983, 1988).

27 4. Plaintiffs further allege that TRANSCOR violated rights guaranteed to them by
28 California law, including the Bane Civil Rights Act (California Civil Code § 52.1(b)), pursuant

1 to which plaintiffs are, and each of those persons similarly situated in the subclass of inmates
2 transported by defendants in California is, entitled to recover a minimum of \$4,000 for each
3 violation of rights secured to them by the constitution or laws of the state of California and the
4 constitution or laws of the United States and attorneys' fees (California Civil Code § 52.1(h)).

5 **II. JURISDICTION**

6 5. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth,
7 Eighth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded
8 upon 28 U.S.C. §§ 1331 and 1341(3) and (4) and the aforementioned statutory and
9 constitutional provisions.

10 6. The court has supplemental jurisdiction over plaintiffs' state claims under 28
11 U.S.C. § 1367(a).

12 7. The amount in controversy exceeds \$10,000, excluding interest and costs.

13 **III. INTRADISTRICT ASSIGNMENT**

14 8. Transactions and events at issue in this case occurred in the Northern District of
15 California. There is a basis for assignment of this case to the San Francisco Division of the
16 Court. This action concerns substantially the same parties, property, transactions and events as
17 *Schilling v. TransCor America, LLC*, 3:08-CV-00941 SI (N.D. Cal.), and it appears likely that
18 there will be an unduly burdensome duplication of labor and expense or conflicting results if
19 the cases are conducted before different Judges. Plaintiffs are informed and believe that a
20 Motion to Consider Whether Cases Should Be Related will be filed in the lower numbered case,
21 *Schilling v. TransCor America, LLC*, pursuant to Civil Local Rule 3-12.

22 **IV. PARTIES**

23 9. Plaintiff RUBEN CEDILLO is a resident of Fresno, California, who was a
24 pretrial detainee when he was transported by defendant TRANSCOR in restraints in the
25 Northern District of California and elsewhere for more than 59 continuous hours.

26 10. Plaintiff TERRY HOUSTON is a resident of Eloy, Arizona, who was a pretrial
27 detainee when he was transported by defendant TRANSCOR in restraints in the Northern
28

1 District of California and elsewhere for more than 59 continuous hours.

2 11. Plaintiff JUSTIN WRIGHT is a resident of Tampa, Florida, who was a pretrial
3 detainee when he was transported by defendant TRANSCOR in restraints for more than 67
4 continuous hours.

5 12. Plaintiff CRAIG ARNO is a resident of Trenton, New Jersey, who was a pretrial
6 detainee when he was transported by defendant TRANSCOR in restraints for more than 95
7 continuous hours.

8 13. Plaintiff ALONZO CLEAVES is a resident of Savannah, Georgia, who was a
9 prisoner when transported by defendant TRANSCOR in restraints for more than 59 continuous
10 hours.

11 14. Plaintiff JOHN GREENMEIER is a resident of Vernon, New Jersey, who was a
12 prisoner when transported by defendant TRANSCOR in restraints for more than 67 continuous
13 hours.

14 15. Plaintiff JOHN ROUSSEL is a resident of Madison, Wisconsin, who was a
15 prisoner when transported by defendant TRANSCOR in restraints for more than 67 continuous
16 hours.

17 16. Plaintiff LEONARD HUGALL is a resident of Lake City, Florida, who was a
18 prisoner when transported by defendant TRANSCOR in restraints for more than 95 continuous
19 hours.

20 17. Defendant TRANSCOR, a wholly owned subsidiary of Corrections Corporation
21 of America ("CCA"), was at all material times referred to herein a for-profit Tennessee
22 corporation licensed to do business in California, which was in the business of transporting
23 inmates throughout the United States pursuant to contracts with local, state, and federal
24 agencies.

25 18. Plaintiffs are informed and believe and thereon allege that defendants sued
26 herein by their fictitious names, DOES 1 through 100, are agents and/or employees of
27 defendant TRANSCOR. Plaintiffs are not currently aware of the true names and identities of
28 those sued herein as DOES 1 through 100, but will amend their complaint to include such

1 persons' real names once said names are made available to them.

2 19. At all times mentioned herein, TRANSCOR and each of the defendants was
3 acting under the color of law, to wit, under color of statutes, ordinances, regulations, policies,
4 customs and usages of the United States and its States, including but not limited to the State of
5 California.

6 20. Class action plaintiffs are all those similarly situated inmates who were
7 transported by TRANSCOR its agents and/or employees, and forced to remain in the transport
8 vehicle in restraints for more than 59 continuous hours; divided into subclasses of inmates
9 transported in these conditions for more than 59 but less than 67 continuous hours, more than
10 67 but less than 95 continuous hours, and more than 95 continuous hours.

11 21. For purposes of the California Bane Act Claim, class action plaintiffs are all
12 those similarly situated inmates who were transported in the State of California by
13 TRANSCOR, its agents and/or employees, and forced to remain in the transport vehicle in
14 restraints for more than 59 continuous hours; divided into subclasses of inmates transported in
15 these conditions for more than 59 but less than 67 continuous hours, more than 67 but less than
16 95 continuous hours, and more than 95 continuous hours.

17 22. Class action plaintiffs were members of the class that was certified in *Schilling*
18 *v. TRANSCOR America, LLC*, 2010 WL 583972 (N.D. Cal.). That case tolled the statute of
19 limitations from February 14, 2006, until April 4, 2013. Thus, class action plaintiffs are
20 inmates who were transported by TRANSCOR under the circumstances alleged herein for more
21 than 59, 67, or 95 hours on or after February 18, 2006, or whose claims are otherwise timely
22 under California law.

23 V. FACTS

24 23. The inmates transported by TRANSCOR include adults and juveniles, males and
25 females, pretrial detainees, sentenced prisoners, state mental hospital inmates, and immigration
26 detainees. It is TRANSCOR's policy and practice to strip search all inmates and restrain them,
27 regardless of their security classification, in handcuffs, waist or "belly" chains, leg irons,
28 interconnects, and black boxes. Belly chains keep the inmates' handcuffs at waist level. Black

1 boxes, placed over the link between the handcuffs, restrict wrist movement. Interconnects are
2 two foot chains that chain inmates together. It is TRANSCOR's policy and practice that
3 inmates' restraints may not be removed while the inmate is in transit.

4 24. TRANSCOR's transport vehicles or "transporters" are compartmentalized into
5 steel cages. It is TRANSCOR's policy and practice that inmates will remain on the vehicle, in
6 their cages, in restraints, from the time they are picked up until the time they are dropped off.
7 TRANSCOR has no written or unwritten policy stating the maximum number of hours an
8 inmate can be transported.

9 25. Most of TRANSCOR's transport vehicles have chemical toilets on board.
10 Inmates are allowed to use the toilet only when the vehicle is stopped and they are escorted by a
11 guard. Inmates remain in their restraints during use of the toilet, including connector chains.
12 The connector chain requires that the inmate to whom an inmate is chained accompany him or
13 her to the toilet and prevents the door to the toilet from closing.

14 26. TRANSCOR has no policy promoting inmate hygiene during transport. There is
15 no running water. Prisoners are not allowed to wash, brush their teeth, shave, or change their
16 clothes.

17 27. TRANSCOR has no nutritional guidelines for prisoners. All of a prisoner's
18 meals are comprised of fast food during transport.

19 28. TRANSCOR provides onboard sleeping berths for the TRANSCOR employees
20 transporting the prisoners. TRANSCOR does not provide sleeping berths for inmates.
21 TRANSCOR tells inmates not to lie down during the time they are in the transport vehicle
22 because if they go to sleep, the inmates could fall out of the seat or be thrown forward when the
23 vehicle makes a stop, as the vehicles are not equipped with seatbelts.

24 29. On October 31, 2006, TRANSCOR picked up plaintiff RUBEN CEDILLO at
25 the Claremont Custody Center in Coalinga, California, where he had finished serving his
26 sentence, in order to transport him to the Fresno County Jail in Fresno, California, where he had
27 an outstanding warrant. The Claremont Custody Center is 58.21 miles from the Fresno County
28 Jail. Had TRANSCOR transported plaintiff directly from his pick up to his drop off location,
the trip would have taken approximately 1 hour and 10 minutes. But TRANSCOR did not

1 transport plaintiff directly and his trip took 59.20 hours. TRANSCOR transported plaintiff
2 from Coalinga to Soledad, Salinas, San Luis Obispo, Santa Barbara, Paso Robles, Coalinga,
3 San Jose, Fremont, Elk Grove, Woodland, Dixon, Richmond, Fremont, Lompoc, San Diego,
4 and El Central, picking up and dropping off other inmates, before finally delivering plaintiff to
5 the Fresno County Jail on November 3, 2006.

6 30. Throughout the trip, the restraints caused plaintiff physical and emotional pain,
7 which became progressively worse, and caused plaintiff to suffer physical injuries. It was
8 impossible for plaintiff to get comfortable. He could not stretch his legs or arms. He was not
9 allowed to lie down. Sitting up, he was only able to sleep for a short time. When he saw the
10 guards stop for showers, he requested a shower. Instead, and without warning, TRANSCOR
11 employees sprayed him with Lysol disinfectant, causing him to feel further dehumanized and
12 degraded.

13 31. On June 9, 2006, TRANSCOR picked up plaintiff TERRY HOUSTON in
14 Redding, California, where he had finished serving his sentence, in order to transport him to
15 San Luis Obispo, California, where charges had been pending but were dropped prior to his
16 transportation. San Luis Obispo is approximately 430 miles from Redding. Had TRANSCOR
17 transported plaintiff directly from his pick up to his drop off location, the trip would have taken
18 less than seven hours. But TRANSCOR did not transport plaintiff directly and his trip took
19 59.33 hours. TRANSCOR transported plaintiff up and down the State of California, including
20 within the Northern District of California, before finally delivering plaintiff to the San Luis
21 Obispo Jail on June 11, 2006.

22 32. Throughout the trip, the restraints caused plaintiff physical and emotional pain,
23 which became progressively worse. He was not allowed to lie down. Sitting up, he was only
24 able to sleep for a short time. His handcuffs were too tight and his hands became swollen.
25 Plaintiff begged the TRANSCOR agents to loosen his cuffs but they would not do so. They
26 refused to give him bathroom breaks when he needed them. Plaintiff was not allowed to stand
27 or to stretch. His back still hurts from the lack of mobility for such a long time.

28 33. On June 4, 2006, TRANSCOR picked up plaintiff Justin M. WRIGHT, a pretrial
detainee, at the Brevard County Jail in Sharpes, Florida, in order to transport him to the

1 Chemung County Jail in Elmira, New York. The Brevard County Jail is 1141.29 miles from
2 the Chemung County Jail. Had TRANSCOR transported plaintiff directly from his pick up to
3 his drop off location, the trip would have taken approximately 18 hours and 39 minutes. But
4 TRANSCOR did not transport plaintiff directly and his trip lasted eight days. During the first
5 leg of the journey, TRANSCOR transported plaintiff for 72.75 continuous hours. TRANSCOR
6 then dropped plaintiff off at the Christian County Jail in Hopkinsville, Kentucky, picked him
7 up, and transported him for 56.60 continuous hours, before finally delivering him to Chemung
8 County Jail on June 12, 2006.

9 34. Throughout his time on the TRANSCOR vehicle, plaintiff was forced to remain
10 sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he
11 was chained to another inmate. He was told not to stand up except when he was taken to the on
12 board toilet. It was hard for plaintiff to eat or drink or go to the bathroom the way he was
13 chained. The restraints caused him physical and mental pain, which became progressively
14 worse, and caused plaintiff to suffer physical and mental injuries. He told the guards the
15 restraints were too tight more than once during his first 72.75 hours, and they did nothing. It
16 was impossible for plaintiff to get comfortable. He could not stretch his legs or arms. During
17 the days and nights on the transporter, plaintiff was unable to sleep at all. He was never given
18 the opportunity to take a shower. He sought treatment for the pain in his back when he reached
19 Elmira, and still has physical problems with his back from the experience.

20 35. On November 12, 2007, TRANSCOR picked up plaintiff CRAIG ARNO, a
21 pretrial detainee, at the Hutchinson State Jail in Dallas, Texas, in order to transport him to a
22 county detention facility in Mays Landing, New Jersey. The State Jail in Dallas is 1486.52
23 miles from Mays Landing. Had TRANSCOR transported plaintiff directly from his pick up to
24 his drop off location, the trip would have taken approximately 23 hours and 40 minutes. But
25 TRANSCOR did not transport plaintiff directly, and his trip lasted eight days. During one leg
26 of the journey, TRANSCOR transported plaintiff for 95.42 continuous hours. TRANSCOR
27 then dropped him off at a contract facility, picked him up, and transported him for 29.67
28 continuous hours before finally delivering him to the county detention facility in Mays Landing
on November 20, 2007.

1 36. Throughout his time on the TRANSCOR vehicles, plaintiff was forced to remain
2 sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he
3 was chained to another inmate. The connector chain was so short that he could not move
4 without moving the other person. Plaintiff repeatedly told the TRANSCOR officer that his
5 hands were swollen and that there was something the matter. It was difficult and extremely
6 painful for him to eat and drink. Plaintiff went days without sleep because he had no bed and
7 was chained to another person at all times. TRANSCOR's buses had poor shocks, and when
8 they hit a hole, the inmates were bounced out of their seats. Plaintiff could not urinate when he
9 wanted to. Using the toilet was difficult. Plaintiff and the other passengers waited in the
10 vehicle in their restraints when the TRANSCOR employees stopped for showers and to change
11 their clothes. Two days into the journey, the restraints caused plaintiff's hands to swell to the
12 size of softballs. His wrists were lacerated and became infected. Only then did TRANSCOR
13 authorize his handcuffs to be replaced with shackles, but on the second leg of his journey a
14 TRANSCOR agent insisted he wear handcuffs again, aggravating his injuries. Plaintiff also
15 suffered rashes on his groin, back, legs, backside and face due to the lack of proper hygiene.
16 Plaintiff had to be treated on the infection unit for a week when he reached his destination. He
17 continues to suffer pain in his wrist, elbows, knees, sides, back, hips, and he cannot get a good
18 night's sleep. He is required to take medication daily to deal with this pain. His wrists still
19 bear scars from the handcuffs.

20 37. On August 31, 2007, TRANSCOR picked up plaintiff ALONZO CLEAVES, a
21 sentenced prisoner, at the Clark County Jail in Las Vegas, Nevada, in order to transport him to
22 the Estill Federal Correctional Institution in Estill, South Carolina. The Clark County Jail is
23 approximately 2200 miles from FCI Estill. Had TRANSCOR transported plaintiff directly
24 from his pick up to his drop off location, the trip would have taken approximately 34 hours.
25 But TRANSCOR did not transport plaintiff directly, and his trip lasted five days. TRANSCOR
26 transported plaintiff for 45 continuous hours, housed him for five days, then transported him for
27 64.68 continuous hours before finally delivering him to FCI Estill on September 10, 2007.

28 38. Throughout his time on the TRANSCOR vehicle, plaintiff was forced to remain
sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he

1 was chained to another inmate. He was told not to stand up except when he was taken to the on
2 board toilet. It was hard for plaintiff to eat or drink or go to the bathroom the way he was
3 chained. The restraints caused him physical and mental pain, which became progressively
4 worse, and caused plaintiff to suffer physical and mental injuries.

5 39. On September 14, 2006, TRANSCOR picked up plaintiff JOHN
6 GREENEMEIER, a sentenced prisoner, at a detention facility in Arizona, in order to transport
7 him to a county detention facility in New Jersey, on behalf of state and local law enforcement
8 agencies. The detention facility in Arizona is approximately 2400 miles from the facility in
9 New Jersey. Had TRANSCOR transported plaintiff directly from his pick up to his drop off
10 location, the trip would have taken approximately 37 hours. But TRANSCOR did not
11 transport plaintiff directly, and his trip lasted 13 days. During his journey, TRANSCOR
12 transported plaintiff for 40.68 hours, housed him for four days, transported him for 67.78
13 continuous hours, housed him for four days, then transported him for 27.40 hours before finally
14 delivering him to the county detention facility in New Jersey on September 27, 2006.

15 40. Throughout his time on the TRANSCOR vehicle, plaintiff was forced to remain
16 sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he
17 was chained to another inmate. He was told not to stand up except when he was taken to the on
18 board toilet. It was hard for plaintiff to eat or drink or go to the bathroom the way he was
19 chained. The restraints caused him physical and mental pain, which became progressively
20 worse, and caused plaintiff to suffer physical and mental injuries.

21 41. On March 17, 2007, TRANSCOR picked up plaintiff JOHN ROUSSEL, a
22 sentenced prisoner, at the North Central Correctional Facility in Rockwell City, Iowa, in order
23 to transport him to the Dane County Jail in Madison, Wisconsin, on behalf of state and/or local
24 law enforcement agencies. The North Central Correctional Facility is approximately 307 miles
25 from the Dane County Jail. Had TRANSCOR transported plaintiff directly from his pick up to
26 his drop off location, the trip would have taken approximately 5 hours. But TRANSCOR did
27 not transport plaintiff directly, and his trip lasted more than seven days. During his journey,
28 TRANSCOR transported plaintiff for 26.58 continuous hours, housed him for three days, then
transported him for 71.83 continuous hours before finally delivering him to the Dane County

1 Jail on March 24, 2007.

2 42. Throughout his time on the TRANSCOR vehicle, plaintiff was forced to remain
3 sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he
4 was chained to another inmate. He was told not to stand up except when he was taken to the on
5 board toilet. It was hard for plaintiff to eat or drink or go to the bathroom the way he was
6 chained. The restraints caused him physical and mental pain, which became progressively
7 worse, and caused plaintiff to suffer physical and mental injuries.

8 43. On October 11, 2007, TRANSCOR picked up plaintiff LEONARD HUGALL, a
9 sentenced prisoner, in Ocala, Florida, in order to transport him to a county detention facility in
10 Michigan, on behalf of state and local law enforcement agencies. Ocala, Florida, is
11 approximately 1170 miles from the facility in Michigan. Had TRANSCOR transported
12 plaintiff directly from his pick up to his drop off location, the trip would have taken
13 approximately 18 and one half hours. But TRANSCOR did not transport plaintiff directly, and
14 his trip lasted four days. TRANSCOR transported plaintiff for 95.50 continuous hours before
15 finally delivering him to the county detention facility in Michigan on October 15, 2007.

16 44. Throughout his time on the TRANSCOR vehicle, plaintiff was forced to remain
17 sitting up and was restrained in handcuffs, leg shackles, a waist chain, and a black box, and he
18 was chained to another inmate. He was told not to stand up except when he was taken to the on
19 board toilet. It was hard for plaintiff to eat or drink or go to the bathroom the way he was
20 chained. The restraints caused him physical and mental pain, which became progressively
21 worse, and caused plaintiff to suffer physical and mental injuries.

22 45. There was no penological necessity for Defendant TRANSCOR to transport
23 inmates in these inhumane conditions. Had TRANSCOR transported inmates reasonably
24 directly from their pick up to their drop off locations they would have arrived in significantly
25 less time. Moreover, TRANSCOR contracts with numerous detention facilities, and there are
26 others as well that are available to house TRANSCOR inmates overnight and provide them
27 with the opportunity to stretch, free of restraints, to lie down, and to attend to personal hygiene.

28 46. As a result of TRANSCOR's policies, practices, or customs described herein,
plaintiffs, and all those similarly situated, have suffered physical, mental, and emotional

1 injuries, invasion of privacy, and violation of federal and state statutory and constitutional
2 rights. Plaintiffs, and all those similarly situated, are entitled to recover damages according to
3 proof, including exemplary damages.

4 VI. CLASS CLAIMS

5 47. Defendant TRANSCOR AMERICA, LLC, used excessive force against
6 plaintiffs and deprived plaintiffs, and all those similarly situated, of the minimal civilized
7 measure of life's necessities, including sleep, exercise, hygiene and medical care. Class action
8 plaintiffs are inmates transported by Defendant TRANSCOR on or after February 14, 2006,
9 who were forced to remain in a TRANSCOR vehicle for more than 59 continuous hours. The
10 class is divided into subclasses of inmates subjected to these conditions for more than 59 but
11 less than 67 continuous hours (represented by plaintiffs Ruben Cedillo and Alonzo Cleaves),
12 more than 67 but less than 95 continuous hours (represented by plaintiffs Justin Wright, John
13 Greenemeier, and John Roussel), and more than 95 continuous hours (represented by plaintiffs
14 Craig Arno and Justin Hugall).

15 48. The class is also defined to include subclasses of inmates who were transported
16 within the State of California by TRANSCOR AMERICA, LLC, its agents and/or employees,
17 and were forced to remain in the transport van for more than 59, 67, and 95 hours, whose
18 claims are timely under California law, including the tolling provisions of California Code of
19 Civil Procedure sections 352 and 352.1.

20 49. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the members of
21 the class are so numerous that joinder of all members is impractical. Plaintiffs do not know the
22 exact number of class members. Plaintiffs are informed and believe, and thereupon allege, that
23 there are approximately 4900 persons in the proposed class.

24 50. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiffs are
25 informed and believe, and thereupon allege, that there are many facts common to the class
26 including but not limited to: (a) whether defendants have a policy, practice, or custom of
27 transporting inmates in restraints for more than 59, 67, and 95 hours at a time; (b) whether
28 defendants have a policy, practice or custom of depriving inmates of sleep; (c) whether

1 defendants have a policy, practice or custom of depriving inmates of adequate hygiene; (d)
2 whether defendants have a policy, practice or custom of depriving inmates of adequate exercise;
3 and (e) whether defendants have a policy, practice or custom of depriving inmates of adequate
4 medical care.

5 51. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiffs are
6 informed and believe, and thereupon allege, that there are many questions of law common to
7 the class including but are not limited to: (a) whether transporting inmates in metal cages,
8 restrained with handcuffs, shackles, a waist chain, and a connector chain for more than 59, 67,
9 or 95 continuous hours violates the Fourth, Eighth, and Fourteenth Amendments; (b) whether
10 depriving inmates of sleep for more than 59, 67, or 95 continuous hours violates the Fourth,
11 Eighth, and Fourteenth Amendments; (c) whether restricting inmates' access to a toilet and
12 sanitation for more than 59, 67, or 95 continuous hours violates the Fourth, Eighth, and
13 Fourteenth Amendments; (d) whether depriving inmates of movement free of restraints for
14 more than 59, 67, or 95 continuous hours violates the Fourth, Eighth, and Fourteenth
15 Amendments; (e) whether failing to have plaintiffs' restraints checked by a trained medical
16 professional for more than 59, 67, or 95 continuous hours violates the Fourth, Eighth, and
17 Fourteenth Amendments; and (f) whether a combination of these conditions imposed for more
18 than 59, 67, or 95 continuous hours violates the Fourth, Eighth, and Fourteenth Amendments.

19 52. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the claims of
20 the representative plaintiffs are typical of the class. Representative plaintiffs have the same
21 interests and suffered the same type of injuries as all of the class members. Plaintiffs' claims
22 arose because of defendants' official policy, practice, or custom of subjecting inmates to
23 unlawful conditions of confinement, excessive force, and cruel and unusual punishment.
24 Plaintiffs' claims are based upon the same legal theories as the claims of the class members.
25 Each class member suffered actual damages as a result of being transported under the
26 conditions imposed by TRANSCOR.

27 53. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
28 representative plaintiffs will fairly and adequately protect the class interests. Plaintiffs'

1 interests are consistent with and not antagonistic to the interests of the class.

2 54. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(A),
3 prosecutions of separate actions by individual members of the class would create a risk that
4 inconsistent or varying adjudications with respect to individual members of the class would
5 establish incompatible standards of conduct for the parties opposing the class.

6 55. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(B),
7 prosecutions of separate actions by individual members of the class would create a risk of
8 inconsistent adjudications with respect to individual members of the class which would, as a
9 practical matter, substantially impair or impede the interests of the other members of the class
10 to protect their interests.

11 56. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(2), plaintiffs
12 are informed and believe, and thereupon allege, that defendants have acted on grounds
13 generally applicable to the class, thereby making appropriate the final injunctive or declaratory
14 relief with respect to the class as a whole.

15 57. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this class
16 action is superior to other available methods for the fair and equitable adjudication of the
17 controversy between the parties. Plaintiffs are informed and believe, and thereupon allege, that
18 the interests of members of the class in individually controlling the prosecution of a separate
19 action is low, in that most class members would be unable individually to prosecute any action
20 at all. Plaintiffs are informed and believe, and thereupon allege, that the amounts at stake for
21 individuals are so small that separate suits would be impracticable. Plaintiffs are informed and
22 believe, and thereupon allege, that most members of the class will not be able to find counsel to
23 represent them. Plaintiffs are informed and believe, and thereupon allege, that it is desirable to
24 concentrate all litigation in one forum because it will promote judicial efficiency to resolve the
25 common questions of law and fact in one forum, rather than in multiple courts.

26 58. Plaintiffs are informed and believe, and thereupon allege, that the identities of
27 the class members may be ascertained from records maintained by defendant TRANSCOR.
28 Plaintiffs are informed and believe, and thereupon allege, that records maintained by defendants

1 reflect the identity of each person who was subjected to transportation, the time and location of
2 pick up, the time and location of drop off, and the duration of time each inmate remained in a
3 TRANSCOR vehicle. Plaintiffs are informed and believe, and thereupon allege, that all of the
4 foregoing information is contained in defendants' records and that the information necessary to
5 identify the class members, by last known addresses, is readily available from said records.

6 59. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), class
7 members must be furnished with the best notice practicable under the circumstances, including
8 individual notice to all members who can be identified through reasonable effort. Plaintiffs
9 contemplate that individual notice will be given to class members at their last known address by
10 first class mail. Plaintiffs contemplate that the notice will inform class members of the
11 following:

- 12 i. The pendency of the class action and the issues common to the class;
- 13 ii. The nature of the action;
- 14 iii. Their right to "opt out" of the action within a given time, in which
15 event they will not be bound by a decision rendered in the class action;
- 16 iv. Their right, if they do not "opt out," to be represented by their own
17 counsel and to enter an appearance in the case; otherwise they will be
18 represented by the named class plaintiffs and their counsel; and
- 19 v. Their right, if they do not "opt out," to share in any recovery in favor of
20 the class, and conversely to be bound by any judgment on the common
21 issues adverse to the class.

22 **VII. CAUSES OF ACTION**

23 **FIRST CLAIM FOR RELIEF**

24 (Violation Of The Fourth, Eighth And Fourteenth Amendments To The U.S.
25 Constitution On Behalf Of Plaintiffs And All Persons Similarly Situated
26 Against All Defendants And Each Of Them)

27 60. Plaintiffs hereby incorporate herein the preceding paragraphs of this complaint,
28 to the extent relevant, as if fully set forth.

61. Defendants' policies, practices, or customs regarding the transportation of inmates violated the rights of plaintiffs, and each of those similarly situated, under the Fourth, Eighth and Fourteenth Amendments, to be free from unlawful conditions of confinement, the use of excessive force, and cruel and unusual punishment, and violated the rights of plaintiffs, and each of those similarly situated, under the Fourteenth Amendment, to due process and privacy, and directly and proximately damaged plaintiffs, and each of those similarly situated, as herein alleged, entitling plaintiffs, and each of those similarly situated, to recover damages for said constitutional violations pursuant to 42 U.S.C. § 1983.

WHEREFORE, plaintiffs, on behalf of themselves and on behalf of each of those similarly situated, pray for relief as hereunder appears.

SECOND CLAIM FOR RELIEF

(Violation Of The California State Bane Civil Rights Act, Civil Code Section 52.1, On Behalf Of Plaintiffs And All Persons Similarly Situated Against All Defendants And Each Of Them)

62. Plaintiffs hereby incorporate herein the preceding paragraphs of this complaint, to the extent relevant, as if fully set forth.

63. Defendants, and each of them, have interfered by threats, intimidation, or coercion with plaintiff's rights, and the rights of all those similarly situated, secured by the Constitution of the United States and the rights secured by the Constitution of California.

64. Plaintiffs, and each of the persons plaintiffs seek to represent, were harmed by defendants' interference with their aforementioned constitutional and statutory rights.

65. By using threats, intimidation and coercion to interfere with the aforementioned constitutional and statutory rights of plaintiffs, and each of the persons plaintiffs seek to represent, defendants, and each of them, have violated California Civil Code § 52.1.

66. Defendants' violations of California Civil Code § 52.1 make them liable to each plaintiff for damages up to a maximum of three times the amount of each plaintiff's actual damages, but in no event less than four thousand dollars (\$4,000), together with any attorney's fees and costs that may be determined by the court.

1 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those similarly
2 situated, pray for relief as hereunder appears.

3 **VIII. PRAYER FOR RELIEF**

4 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those similarly
5 situated, seek judgment as follows:

- 6 a. For declaratory and injunctive relief declaring illegal and enjoining,
7 preliminarily and permanently, defendants' policy, practice, or custom of
8 transporting pretrial detainees and prisoners under the conditions described
9 herein;
- 10 b. Certification of the action as a class action;
- 11 c. For compensatory, general, and special damages for each representative plaintiff
12 and for each member of the class of plaintiffs, as against all defendants;
- 13 d. Exemplary damages as against each of the defendants in an amount sufficient to
14 deter and to make an example of those defendants;
- 15 e. Attorneys' fees and costs under 42 U.S.C. § 1988, and California Civil Code §§
16 52 et seq.; and,
- 17 f. The cost of this suit and such other relief as the court finds just and proper.

18 **IX. DEMAND FOR A JURY TRIAL**

19 Pursuant to Federal Rules of Civil Procedure 38(b), a jury trial is hereby demanded.

20 DATED: April 8, 2013

21 Respectfully submitted,

22
23 By: _____

24 Andrew C. Schwartz
25 CASPER, MEADOWS, SCHWARTZ & COOK
26 Attorneys for Plaintiffs
27
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