

**SECOND AMENDED CLASS ACTION COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

PRELIMINARY STATEMENT

1. The Plaintiff brings this class action lawsuit to remedy the dangerous, grossly inadequate, and inhumane level of medical care at the Rivers Correctional Institution (“Rivers”), where the Plaintiff is serving a sentence. The system of delivering health care at Rivers has placed men at Rivers at substantial and ongoing risk of serious injury or premature death, and has caused permanent physical damage and profound mental and physical pain to Plaintiff and other persons incarcerated there.

2. Rivers is a private, for-profit correctional facility. It is owned and operated by Defendant THE GEO GROUP, INC. (“GEO”), a publicly-traded corporation. GEO houses prisoners at Rivers pursuant to a contract with Defendant the UNITED STATES OF AMERICA, through its department, the FEDERAL BUREAU OF PRISONS (“BOP”).

3. The health care system at the Rivers facility is broken. Medical professional staffing levels at Rivers are grossly inadequate. Defendants routinely refuse to provide prisoners at Rivers with treatment for their serious chronic medical conditions. When men arrive at Rivers, Defendants routinely and arbitrarily switch and discontinue drug regimens that were carefully developed and calibrated by private medical professionals and by medical professionals at other correctional institutions, without consultation with the affected patients and without regard to the negative therapeutic consequences. When prisoners’ medications are not arbitrarily discontinued, Defendants’ dysfunctional system for distributing medicine forces sick and disabled men to stand outside for hours in all weather, and sometimes requires them to choose between

receiving their drugs and eating their meals. The Rivers facility has a policy of confiscating prescribed medical devices, such as braces and orthopedic shoes, for no penological reason, even when such devices have been prescribed and provided by other correctional institutions. Defendants then fail to replace these devices, causing previously ambulatory persons to rely on wheelchairs for mobility. Rivers provides no physical therapy; its personnel simply disregard explicit instructions in prisoners' sentencing reports and medical records to provide this treatment. Serious mental health needs are ignored even when they are specifically identified in sentencing documents or other medical records. The consequences of this conduct are exacerbated because the prisoners at Rivers are older and sicker on average than the United States prison population as a whole.

4. By allowing this broken medical system to continue as detailed in this Second Amended Complaint, Defendants have permanently harmed men at Rivers; have precipitated numerous and otherwise avoidable acute medical crises; have caused men at Rivers to experience chronic and debilitating pain and suffering; and have contributed to the needless disfigurement, increased morbidity, and serious physical injury of numerous men.

5. Men incarcerated at Rivers depend upon their custodians, both federal and private, to provide Constitutionally adequate care. GEO has also specifically agreed in its contract with Defendant BOP that it will provide Plaintiff with medical services that are commensurate with community standards. Defendants' generally applicable policies, guidelines, and practices have all contributed to GEO's failure to respond adequately to prisoners' serious medical needs. Through these unlawful policies and practices,

Defendants have manifested a pervasive and deliberate indifference to the health needs of their charges. As a result, Defendants have knowingly and willfully denied Plaintiff of his rights to adequate medical care in violation of the U.S. Constitution, federal law, state law, and contract.

6. Prisoners with disabilities at Rivers suffer doubly at the hands of Defendants because in addition to being denied adequate health care, they are also subject to discrimination: they are excluded from and denied access to the programs, services, facilities, and activities at Rivers, because Defendants refuse to make reasonable accommodations. Defendants' discriminatory acts against prisoners with disabilities include their refusal to add ramps or disabled accessible bathrooms to common areas; their failure to install internal doors, which prisoners must use to move from one part of the facility to another, that can be opened by persons with disabilities; and their failure to provide adequate mental health services and treatments that are required by prisoners with disabilities.

7. Upon information and belief, the deficiencies and deprivations described above and detailed in this Complaint are the result of Defendant GEO's aggressive efforts to cut costs and boost profits. Such deficiencies and deprivations described above and detailed in this Complaint are also the result of Defendant BOP's indifference to serious medical needs of prisoners in its custody and persistent failure to ensure that GEO fulfills the federal duty it has undertaken to provide. Because the harms caused by Defendants' policies and practices will continue without the aid of the Court, Plaintiff seeks declaratory and injunctive relief.

PARTIES

A. Plaintiff

8. Plaintiff represents and is a member of a class of persons including current and future prisoners at Rivers who, during their incarceration at Rivers, are wholly dependent upon the organizations, systems, policies, practices, and institutional conditions of Defendants for their receipt of medical, dental, and mental health care.

9. Plaintiff also represents and is a member of a sub-class of the Class who are “individuals with a disability,” as that term is defined in Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, *et seq.* (the “Rehabilitation Act”), and the regulations promulgated under that statute, and who have been subjected to discrimination and excluded from and denied access to the programs, services, facilities, and activities at Rivers due to their disabilities, in violation of Section 504 of the Rehabilitation Act.

10. Plaintiff LOUIS CALLAND: Mr. Calland is a 70-year-old man incarcerated at Rivers. He has been assigned Federal Register Number 32355-007. Mr. Calland arrived at Rivers in August 2004. Mr. Calland has arthritis, degenerative bone disease, and diabetes. Since 2003, he has been reliant on a wheelchair due to the pain associated with walking. When Mr. Calland arrived at Rivers, he requested physical therapy treatment. Defendants informed him that no physical therapy services were available at the facility and that none would be provided. Mr. Calland’s condition has worsened since he arrived at Rivers and he suffers extreme pain. Despite Mr. Calland’s frail health, Defendants require him to maneuver outside and wait in the “pill line” to receive his medication every day, regardless of weather conditions. Mr. Calland is

unable to access many of the facilities at Rivers because they are not accessible to persons with physical disabilities. Traveling from the recreation area to the main area requires Mr. Calland and other prisoners with physical disabilities to surmount a large curb. Mr. Calland cannot maneuver around this obstacle in his wheelchair without assistance. Additionally, many of the common area bathrooms are not accessible to persons with physical disabilities such as Mr. Calland. The few bathrooms accessible to Mr. Calland and other prisoners with physical disabilities are not easily accessible from most common areas at Rivers, and in some instances require them to navigate a path with curbs and other obstacles. The shower facilities do not include hand-held shower heads and adequate seating in order to accommodate a person in a wheelchair. Many doors that men must use to move from one part of the facility to another are extremely difficult to open by persons with physical disabilities. This is particularly true for a man of Mr. Calland's age and condition, which has deteriorated further because he has not been given the opportunities to improve his strength through therapy. As a result of Defendants' failure to provide accessible facilities, Mr. Calland has been denied equal access to and receipt of the facilities, programs, services, and activities at Rivers. Mr. Calland has told Defendants BOP and GEO about the lack of medical services and lack of accessibility for disabled persons at Rivers that have caused his condition to worsen and resulted in undue pain and suffering, but Defendants BOP and GEO have failed to provide him with any relief.

11. As a result of Plaintiff's incarceration at Rivers, he along with the Class and the Disability Sub-Class, were and are wholly dependent on Defendants for the delivery of care to address their health care needs. Plaintiff is a victim of the systemic

failures of Defendants to provide lawfully required health care services to Rivers residents and have been injured as a result of Defendants' conduct. Plaintiff and the Disability Sub-Class also have suffered and continue to suffer injuries as a result of the Defendants' discriminatory conduct in excluding them from and denying them access to the programs, services, facilities, and activities at Rivers based on their disabilities.

B. Defendants

12. Defendant GEO is a for-profit corporation formed and existing under the laws of the State of Florida and having its principal place of business in the State of Florida. GEO is in the business of building, owning, operating, and managing correctional, detention, mental health, and residential treatment facilities in the United States and around the world. GEO is a publicly-traded corporation and is listed on the New York Stock Exchange under ticker symbol "GEO." GEO reports that it manages a total of 53 correctional, detention and mental health facilities, with a capacity of over 63,000 beds. In 2007, GEO had revenues totaling over \$900 million and profits of over \$50 million. One of the correctional facilities built, owned, operated, and managed by GEO, pursuant to a written contract with the BOP, is Rivers. At all times relevant to this Complaint, Defendant GEO had undertaken the duty to provide Constitutionally adequate medical care owed to Plaintiffs by Defendant UNITED STATES OF AMERICA acting through the BOP.

13. Defendant the UNITED STATES OF AMERICA, pursuant to federal law, has mandated that its department, the BOP, have the responsibility for overseeing, controlling, managing, and supervising the federal prison system, including Rivers, and those persons incarcerated therein.

14. Defendant HARLEY LAPPIN is employed by the BOP as its Director. As the Director of the BOP, Defendant LAPPIN is charged with the custody and care of each Plaintiff as well as each member of the Class and Sub-Class while incarcerated at Rivers. Defendant LAPPIN is responsible for overseeing the administration of the BOP and approving all BOP policies relating to the treatment of persons under its care, including those persons incarcerated at Rivers. At all times relevant to this Complaint, Defendant LAPPIN was acting as an employee and agent of Defendant UNITED STATES OF AMERICA.

OTHER AFFECTED PERSONS

15. Mr. Michael Collins is a 43-year-old man incarcerated at Rivers. He has been assigned Federal Register Number 06276-007. Mr. Collins arrived at Rivers in February 2006. Mr. Collins was diagnosed as a diabetic prior to arriving at Rivers. In March 2006, one month after his arrival, he requested diabetic shoes when he noticed he was developing a callus on his left foot from the standard issue boots. Although the request was initially approved, the treatment was excessively delayed. At this time, Rivers medical staff diagnosed Mr. Collins with Methicillin-resistant *Staphylococcus aureus* (commonly referred to as “MRSA”), a highly contagious, drug-resistant bacterial infection, on the same foot. When Mr. Collins also requested to see a podiatrist in March 2006, he instead was directed to meet with the general practitioner at Rivers who “cut out” the callus, leaving a “hole” in the bottom of Mr. Collins’s left foot. Defendants neither treated the MRSA infection nor adequately treated the wound created when the doctor cut out the callus. The infection on Mr. Collins’s foot quickly worsened to such an extent that, two months later, when a member of the medical staff was changing the

bandage, the infection “squirted out” of a new hole that had developed in the top of his foot. Mr. Collins was unable to walk. He was transported to Roanoke-Chowan Hospital, where an orthopedist removed some dead skin while Mr. Collins was under anesthesia; he remained hospitalized for several nights and was administered intravenous antibiotics. Mr. Collins’s foot did not properly heal, however, and he endured constant pain for ten months while repeatedly requesting medical assistance. In January 2007, the Rivers general practitioner examined Mr. Collins’s foot again and removed a piece of bone from the festering wound. Two days later Mr. Collins was rushed to an orthopedist, who told Mr. Collins that his foot had deteriorated to the point that the front half of his foot required amputation. The front portion of his left foot and all of his toes on that foot were amputated shortly thereafter. When Mr. Collins returned to Rivers, Defendants refused to pay for or supply him with prosthetic shoes, causing Mr. Collins to suffer for over seven months without the medical supplies necessary for him to walk properly. He received a prosthetic insert for his shoe only after an outside medical provider offered to give it to him at no cost to Defendants. As a consequence of Defendant’s conduct, Mr. Collins endured months of intense pain and, at times, immobility. Since the amputation, Mr. Collins is unable to attend to many of the activities of daily living.

16. Mr. John Roe is a man currently incarcerated at Rivers. Before arriving at Rivers Mr. Roe had been diagnosed as suffering from depression and schizophrenia. As a result of his mental health conditions, Mr. Roe has attempted suicide on at least three occasions. When he is denied his medications, Mr. Roe’s chronic depression, paranoia, and frequent hallucinations affect his ability to concentrate and to interact with other people, resulting in limitations of major life activities including thinking, reading,

communicating with prison staff and others, following directions, and protecting himself from harm. Mr. Roe also suffers from a number of chronic, preexisting physical conditions. During his incarceration at Rivers, Mr. Roe repeatedly has sought medical and mental health care from Defendants. He has been permitted to see a mental health professional on only a handful of occasions, and his psychotropic medications have been either discontinued or replaced because, he was told in substance, “This is not the jail. You’re not in the community. This is a business.” Mr. Roe continues to be denied access to a mental health professional despite his well-documented history of mental illness. Additionally, even though non-party medical professionals had directed that Mr. Roe undergo hip replacement surgery, Rivers denied him this treatment, and instead prescribed pain medication. On several occasions during his incarceration, Mr. Roe has asked to see the prison doctor regarding his chronic physical conditions and has either been refused care or has experienced lengthy delays in receiving it due to the fact that there is only one prison doctor at Rivers. As a result of this failed system, Mr. Roe has suffered from insomnia and hallucinations, and continued to experience heightened chronic pain from his various physical conditions.

17. Mr. Keith Mathis is a 46-year-old-man who was incarcerated at Rivers from March 2006 to March 2008. He has been assigned Federal Register Number 35973-007. Mr. Mathis sought treatment for a dental cavity shortly after he arrived at Rivers. Though the Rivers dentist concluded in March 2006 that “oral surgical procedures” were required, Mr. Mathis was not treated by the dentist until May 24, 2006, by which time the tooth had worsened. The dentist refused Mr. Mathis’s request to pull the tooth and told Mr. Mathis that he would “take care of it” with a filling. The dentist applied the filling

material over the tooth without first drilling and removing the diseased tooth material. Although Mr. Mathis was unable to bite or chew normally, his request to see the dentist for a follow-up appointment was denied; he was told by a member of the medical staff that he would “just have to suffer.” Shortly thereafter, Mr. Mathis began experiencing severe pain, and a knot-like growth appeared on his neck near the infected tooth. His face and neck began to swell from infection. Mr. Mathis sought medical treatment by going directly to the infirmary, but a nurse refused him treatment and sent him back to his cell. The next day the swelling was visibly worse and began to spread up his face toward his eye. Mr. Mathis made repeated attempts to seek medical treatment from Defendants and was repeatedly denied care for another week. By July 2006, he was in constant pain and could not fully open his mouth or chew properly. During this period an open sore had also formed on the inside of Mr. Mathis’ mouth and had started oozing “green slime.” Mr. Mathis began feeling faint and was shaking and sweating. A guard took Mr. Mathis to the Rivers infirmary, where, for the first time in months of repeated pleas for medical care, Mr. Mathis was treated with antibiotics and pain medication. On July 19, 2006, Mr. Mathis was in such severe pain that he twice sought medical attention from Defendants, who had done nothing to address the swelling and abscess that they noted in their medical records. Sweating and feverish, with his face and neck swollen from an infected sore oozing green slime, and weakened from hunger, Mr. Mathis was finally transported to a local hospital later that same evening. A few hours after arriving at the hospital the swollen side of Mr. Mathis’s face “burst open.” Mr. Mathis underwent emergency surgery and spent three days in the hospital. He was told that his condition was so serious that the doctors had been forced to cut open his face to remove a raging

infection. As a direct result of Defendants' inaction and indifference, Mr. Mathis suffered excruciating pain for several months, has lost feeling on the affected side of his face, cannot fully open his mouth, cannot bite or chew properly, drools uncontrollably, and bears a permanent scar down one side of his face.

18. Mr. Reon Holloway is a 26-year-old man who was incarcerated at Rivers from December 2005 to August 2007. He has been assigned Federal Register Number 36620-007. Mr. Holloway is immobilized from the waist down, experiences frequent seizures, and suffers from severe twitching and intense pain in his legs. Before arriving at Rivers, Mr. Holloway had received physical therapy for his conditions and had progressed to the point that he was able to walk with the help of a walker, leg braces, and orthopedic shoes that integrate with those braces. Mr. Holloway had also been prescribed medication for pain management and bone loss by doctors at the National Rehabilitation Hospital ("NRH"). Defendants informed Mr. Holloway upon his arrival at Rivers that no physical therapy is available at the facility, explaining that although "it would be good" for him to get therapy, "we just don't have it here." Defendants told Mr. Holloway that his orthopedic shoes were the wrong color (gray) and confiscated them for 18 months. Without orthopedic shoes, Mr. Holloway was unable to use his leg braces and walker. Defendants returned Mr. Holloway's orthopedic shoes shortly after Mr. Holloway met with attorneys investigating the medical conditions at Rivers; however, by that point, his inability to walk for 18 months, coupled with the absence of physical therapy, had weakened his legs to the point that he was no longer able to use the orthopedic devices. Newly reliant on a wheelchair, Mr. Holloway was unable to access many of the facilities at Rivers because they are not accessible to persons with disabilities. There were no

ramps at Rivers for Mr. Holloway to use. Traveling from the recreation area to the main area required Mr. Holloway and other prisoners with physical disabilities to surmount a large curb. Mr. Holloway could not maneuver around this obstacle in his wheelchair without assistance. Additionally, many of the common area bathrooms were not accessible to persons with physical disabilities such as Mr. Holloway. The few bathrooms accessible to Mr. Holloway and other prisoners with physical disabilities were not easily accessible from most common areas at Rivers, and in some instances required them to navigate a path with curbs and other obstacles that impede their trips such that they often cannot reach an accessible bathroom in time to use it. The shower facilities did not include hand-held shower heads and adequate seating in order to accommodate a person in a wheelchair. The tables in the dining hall and classroom were not designed to accommodate persons with physical disabilities; the gym lacked equipment usable by persons with physical disabilities; and many doors that men must use to move from one part of the facility to another could not be opened by persons with physical disabilities. As a result of Defendants' failure to provide truly accessible facilities, Mr. Holloway was denied equal access to and receipt of the facilities, programs, services, and activities at Rivers. In addition, Defendants refused to continue Mr. Holloway's medication regimen for bone deterioration prescribed by the NRH; they offered to replace his bone loss medication with an antacid. Defendants also confiscated the sophisticated regime of prescription pain medication that had been prescribed for Mr. Holloway's chronic leg pain at a D.C. correctional facility, offering to replace it with ibuprofen. As a consequence of Defendants' conduct, Mr. Holloway's physical condition deteriorated severely. Mr. Holloway was needlessly forced to rely on a wheelchair, lost the range of

mobility he had developed in his legs, suffered considerable pain, and was prevented from utilizing the facilities, programs, services, and activities at Rivers.

19. Mr. David Rogers is a 45-year-old man who was incarcerated at Rivers from April 2006 to June 2008. He has been assigned Federal Register Number 12648-007. A car accident in 2000 left Mr. Rogers paralyzed from the neck down, but following extensive physical therapy, he eventually regained the ability to walk with the assistance of a walker. His sentencing order states that he should have been housed in a medical facility that can accommodate his physical rehabilitation. Mr. Rogers's former doctor at Kernan Orthopedics and Rehabilitation Hospital of the University of Maryland warned Defendants that without continued physical therapy and treatment, Mr. Rogers might lose his hard-won mobility, because his legs would spasm and contract into a seated position. Nonetheless, when he arrived at Rivers, Mr. Rogers was told that no physical therapy services were available at the facility, and that none would be provided. In response to his request for physical therapy, medical staff suggested that he locate and tie a water jug to his leg and, without medical supervision or instruction, do exercises. Upon information and belief, the Rivers staff also refused to continue Mr. Rogers's medication regime, which had been developed by NRH doctors. Without physical therapy or necessary medications, Mr. Rogers' condition severely deteriorated. As a consequence, he became unable to walk or to straighten his legs past a 90-degree angle – precisely the outcome that his doctor warned of – and now must rely on a wheelchair for ambulation. He was unable to access many of the facilities at Rivers because they were not accessible to persons with physical disabilities. There were no ramps at Rivers for Mr. Rogers to use. Traveling from the recreation area to the main area required

Mr. Rogers and other prisoners with physical disabilities to surmount a large curb. Mr. Rogers could not maneuver around this obstacle in his wheelchair without assistance. Additionally, many of the common area bathrooms were not accessible to persons with physical disabilities such as Mr. Rogers. The few bathrooms accessible to Mr. Rogers and other prisoners with physical disabilities were not easily accessible from most common areas at Rivers, and in some instances required them to navigate a path with curbs and other obstacles that impeded their trips such that they often could not reach an accessible bathroom in time to use it. The shower facilities did not include hand-held shower heads and adequate seating in order to accommodate a person in a wheelchair. The tables in the dining hall and classroom were not designed to accommodate persons with physical disabilities; the gym lacked equipment usable by persons with physical disabilities; and many doors that men must use to move from one part of the facility to another could not be opened by persons with physical disabilities. As a result of Defendants' failure to provide truly accessible facilities, Mr. Rogers was denied equal access to and receipt of the facilities, programs, services, and activities at Rivers.

20. Mr. Benjamin Hamilton is a 48-year-old man who was incarcerated at Rivers from March 2003 to September 2008. He has been assigned Federal Register Number 32071-007. Mr. Hamilton arrived at Rivers in March 2003. In December 2004, Mr. Hamilton discovered a boil on his leg, and, within three days, his entire leg was swollen. A nurse told him to put a hot compress on his leg; he received no medication or other treatment. Several more boils began to appear on his leg, and by January 2005, both of his legs were covered in boils. The nursing staff told Mr. Hamilton to continue using hot compresses, but, again, he received no medication or other treatment.

In February 2005, another prisoner told Mr. Hamilton that it looked like Mr. Hamilton had MRSA. The other prisoner advised Mr. Hamilton that many other men at Rivers were suffering from the same symptoms and that Mr. Hamilton should get the boils cultured in accordance with standard medical protocols. Despite numerous large, painful boils on his body and repeated requests to Defendants for medical treatment, Mr. Hamilton was not allowed to see a doctor until February 2005 -- two months after he first sought medical treatment. He was not diagnosed with MRSA until April 2005 -- four months after he first sought treatment. While Mr. Hamilton was initially put on antibiotics, which temporarily halted the symptoms, Defendants discontinued the antibiotics after five days, causing the boils to return twice more in Spring 2005 on his legs and again in Spring 2006 on his penis. When he reported the outbreak to a nurse, she responded, without examining him, that this was just a part of aging and a normal problem for older men. By Fall 2006, Mr. Hamilton had begun to develop a boil on his face. He received no treatment for any of these conditions. The boils caused great pain and permanent scarring. Mr. Hamilton has also sought medical treatment for severe and continuing pain in one knee. Without conducting any physical examination or tests, a doctor at Rivers told Mr. Hamilton that it was arthritis and suggested that he purchase some ibuprofen from Defendant GEO at the facility commissary. On another occasion Mr. Hamilton asked for an eye examination to update the prescription for his glasses, which had last been updated at the D.C. Jail prior to his arrival at Rivers. An ophthalmologist has previously diagnosed Mr. Hamilton with a type of refractive error known as presbyopia, which renders him unable to focus on objects. Mr. Hamilton has worn glasses for many years and cannot function normally without them. Without

examining Mr. Hamilton, a Rivers nurse told him that his eyesight was fine and that he did not need glasses.

21. Mr. Harold Robinson is a 51-year-old man incarcerated at Rivers from September 2006 to August 2007. He has been assigned Federal Register Number 03180-000. Mr. Robinson suffered a serious back injury in an automobile accident in 2006. Following the accident Mr. Robinson received extensive physical therapy at a local hospital, and he continued to see a physical therapist at a D.C. jail facility. This therapy helped relieve the severe pain from his back injury. When he arrived at Rivers, however, his physical therapy was halted because Rivers does not offer physical therapy, regardless of need or prescribed treatment. Mr. Robinson repeatedly requested physical therapy and was repeatedly denied any such therapy by medical staff. As a result of the discontinuation of physical therapy, he experienced a loss of mobility and severe and steadily worsening pain, for which the medical staff suggested that he take ibuprofen. A few days before Mr. Robinson was scheduled to meet with attorneys investigating the medical conditions at Rivers in January 2007, he was called to the infirmary and given Vicodin®, a strong painkiller; this medication was halted shortly after the attorneys left the facility. Despite Mr. Robinson's disability, Defendants denied Mr. Robinson's request for a chair with back support to replace his standard-issue stool; a member of the medical staff told him that he had "a snowball's chance in hell" of ever getting such a chair from the facility.

22. Mr. Charles Lewis is a 59-year-old man who was incarcerated at Rivers until March 2006. He has been assigned Federal Register Number 035334-007. Prior to being incarcerated at Rivers, Mr. Lewis had been diagnosed as suffering from Bell's

Palsy and had suffered three heart attacks and two strokes. As result of these conditions, his left side was substantially weakened and the left side of his face drooped, which altered his speech. While incarcerated in D.C. jail facilities prior to his arrival at Rivers, Mr. Lewis was evaluated by a specialist and sent to a local hospital for physical and speech therapy three times per week; was under the care of cardiology and neurology specialists; and was on a carefully calibrated, extensive medication regime. Mr. Lewis also used a physician-prescribed back brace and a knee brace. As a result of his medical care, his weakened left side became progressively stronger. As part of his sentencing, the D.C. courts took note of Mr. Lewis's medical conditions and recommended treatment. Upon his arrival at Rivers, Mr. Lewis was placed in disciplinary segregation for possessing the nitroglycerine pills prescribed to him by the D.C. Jail for his heart condition and chest pains. His physician-prescribed back brace and knee brace were confiscated and never returned or replaced. Despite the fact that Mr. Lewis arrived with refillable prescriptions for his medications, Defendants refused to provide Mr. Lewis with some of his medications, and dramatically changed others, causing Mr. Lewis to experience dizziness and disorientation. When Mr. Lewis reported these side effects, the Rivers doctor provided no medical assessment or treatment. In December 2005, the dizziness became so severe that Mr. Lewis fell and injured his head while trying to sit on a bench. When he sought medical attention for his injuries he was offered ibuprofen by a nurse. Mr. Lewis advised the doctor at Rivers that the D.C. courts had recommended special medical treatment as part of his sentencing, and that he had been provided with physical therapy while at the D.C. Jail. In response, the Rivers doctor stated that physical therapy services were not provided at Rivers. During his incarceration at Rivers, Mr.

Lewis never saw a neurologist, cardiologist, or physical therapist as he had regularly done before arriving at Rivers. As a result of the medical care that he received at Rivers, the strength that Mr. Lewis developed in his left side before he arrived at Rivers was lost. He also frequently had to skip meals and wait outdoors in a “pill line,” in all weather, in order to get his medications three times per day. Despite his multiple chronic and severe medical conditions, and despite seeking medical care on numerous occasions, Mr. Lewis was never treated by a medical specialist for his conditions while at Rivers.

23. Mr. Doe is a D.C. resident who was incarcerated at Rivers until 2008. At the time of his arrival at Rivers, Mr. Doe had previously been diagnosed as HIV positive, diabetic, hypertensive, and suffering from Hepatitis C, and had suffered from a stroke. As a result of his conditions, at the time of his arrival at Rivers Mr. Doe was being treated with a carefully calibrated medication regime prescribed by doctors at the Federal Medical Center in Rochester, Minnesota (a facility affiliated with the Mayo Clinic) and maintained by the D.C. jail facilities, including at least eight prescription medications and a special diet. Mr. Doe arrived at Rivers with a complete 30-day supply of all his medications. Defendants promptly confiscated those medications and denied Mr. Doe all medication for the first week of his incarceration at Rivers. Despite Mr. Doe’s frail health, Defendants required Mr. Doe to stand outside in the “pill line” multiple times a day to receive his medications. As a result of Defendants’ faulty system, Mr. Doe was forced on a routine basis to miss his special dietary meal so that he could obtain his medications. As a consequence, Mr. Doe lost over 15 percent of his body weight at Rivers, and suffered from such severe weakness that he was unable to participate in outdoor activities or walk normally.

24. Mr. Fowler is a 52-year-old man who was incarcerated at Rivers from November 2005 until May 2007, when he was transferred to the Federal Correctional Institution in Petersburg, Virginia. He has been assigned Federal Register Number 00472-000 and is not scheduled to be released from federal custody, at the earliest, until July 2009. At the time of his arrival at Rivers, Mr. Fowler had previously been diagnosed with and was being treated for both diabetes and high blood pressure. As a result of these conditions, Mr. Fowler was required to conduct multiple “finger prick” tests each day to monitor his blood sugar levels, take insulin pills throughout each day, and take medication daily for his high blood pressure. When he arrived at Rivers, Mr. Fowler’s diabetes and high blood pressure medications were confiscated and not returned. For several weeks, Mr. Fowler was forced to obtain insulin pills from other diabetic prisoners at Rivers to avoid hypoglycemic shock. Neither Mr. Fowler nor the prisoners who shared their insulin received proper medication. Despite repeated requests by Mr. Fowler, Defendants continue to refuse to allow daily monitoring of Mr. Fowler’s blood sugar levels, requiring him instead to submit sick call requests for the following day each time he wanted to be monitored. Defendants advised Mr. Fowler that the blood pressure medication that he had been prescribed was “too expensive.” They replaced it with an alternate medication that caused Mr. Fowler severe headaches, dizziness and swelling in his extremities. The actions of Defendants described here caused Mr. Fowler substantial pain and suffering, and increased his risk of serious and potentially life-threatening complications from his chronic conditions.

JURISDICTION AND VENUE

25. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, § 1343 and § 1367.

26. This Court has personal jurisdiction over each of the Defendants.

27. Venue of this action lies in the Eastern District of North Carolina pursuant to 28 U.S.C. §§ 1391 (b), (c) and (e).

STATEMENT OF FACTS

A. GEO Wins a Contract to House BOP Prisoners at Rivers

28. Pursuant to federal law, the BOP generally has the authority to designate the place of incarceration for prisoners in federal custody. The BOP uses both BOP-operated correctional facilities as well as privately-owned and -operated facilities to house prisoners in federal custody. According to the BOP's webpage, "[a]pproximately 15 percent of the Bureau's inmate population are confined in secure facilities operated primarily by private corrections companies and to a lesser extent by state and local governments, and in privately-operated community corrections centers." Ostensibly, by housing a portion of its prison population at private prisons such as Rivers, the federal government is able to reduce its expenditures for those prisoners, meet budget constraints imposed by Congress, and thereby benefit financially from contracting out services to the lowest bidder.

29. GEO is the second largest private prison operator in the United States. Approximately one-third of its business is with agencies of the U.S. government, including the BOP, U.S. Marshals Service, and U.S. Immigration and Customs Enforcement. In its corporate documents, GEO highlights the company's "long-term

customer relationships” with these federal agencies, and states that GEO “intend[s] to capitalize on our long-term relationships with governmental agencies to continue to grow our correctional, detention and mental health facilities management services and to become a preferred provider of complementary government-out-sourced services.” Through its commercial sales and marketing efforts, GEO has successfully competed for more than a dozen federal contracts from federal agencies.

30. In 1998, the BOP issued an RFP seeking a private contractor to house a portion of the 50 percent of D.C. Code felony offenders who by law must be incarcerated in private prisons. On information and belief, GEO, by its predecessor Wackenhut Corrections Corporation, submitted a response to that RFP and negotiated with the BOP over the commercial and other terms of such an agreement, including GEO’s obligations with respect to the provision of medical, dental, and mental health care. GEO’s offer was accepted, and a contract between GEO and BOP to house prisoners at Rivers (the “Rivers Contract”) was formed. A copy of the Rivers Contract is attached as Exhibit A to this Complaint in the form that it was received from federal officials, and is incorporated by reference.

31. Pursuant to the Rivers Contract, GEO has agreed, under BOP supervision and control, to house low-security, male offenders at GEO’s Rivers facility. Rivers is a private, for-profit correctional facility owned and operated by GEO. It is located at 145 Parker’s Fishery Road, Winton, N.C. 27986. The BOP has sent thousands of men to Rivers since the facility opened in 2001. Rivers currently houses approximately 1,300 persons.

B. GEO's Obligation to Provide Medical, Dental, and Mental Health Care under the Supervision and Control of the BOP

32. Individuals incarcerated at Rivers are wholly dependent on GEO and the BOP for their medical, dental, and mental health care and related services. By entering into the Rivers Contract, GEO, under BOP supervision and control, assumed responsibility for the medical treatment of persons incarcerated at the Rivers facility, and voluntarily submitted to long-term regulation and oversight by the BOP.

33. The Rivers Contract spells out in great detail the services that GEO is required to provide to and for the benefit of Rivers prisoners under the direct daily supervision and control of the BOP. The Rivers Contract requires GEO to provide "all essential health services" and to adhere to "the U.S. Constitution," and "all applicable Federal, state and local laws and regulations governing the delivery of health services". GEO also undertook to "establish the necessary quality controls to ensure all policies and procedures are designed and implemented in a manner to promote orderly and efficient delivery and management of health services to the inmate population." Among other things, the Rivers Contract also requires GEO to provide a broad range of health services, maintain adequate staffing levels, and comply with accessibility standards. The Rivers Contract also vests the BOP with the power to exercise control over GEO's personnel decisions, policies, and procedures. The BOP, in turn, is charged with monitoring and overseeing GEO's compliance with those contract obligations.

34. As acknowledged on the BOP's webpage, the "[s]taff of the Correctional Programs Division in Central Office [of BOP] provide oversight for privately-operated facilities." The BOP's Privatization Management Branch of its Correctional Programs Division has specific responsibility for oversight and monitoring of GEO's activities at

Rivers. As part of that oversight and monitoring, the BOP's Privatization Management Branch has received administrative complaints from prisoners, including Plaintiff, concerning the medical conditions at Rivers. After exhausting Rivers Correctional Institution's internal grievance process, Plaintiff submitted Regional Administrative Remedy Appeals to BOP's Privatization Management branch on the Rivers facility's treatment of his arthritis and on his inability to access parts of the Rivers facility using his wheelchair. The Privatization Management Branch's Administrative Remedy Coordinator responded to Plaintiff's Appeals in the form of a rejection notice. Through Appeals from Plaintiff and other prisoners, the BOP has received actual notice of the harms caused to prisoners in its custody by the grossly inadequate medical care and lack of accessible facilities at Rivers. Despite BOP's knowledge, the BOP continues to disregard the risks to prisoner health and safety at Rivers.

35. The Rivers Contract also provides for on-site BOP monitors at the Rivers facility, charges them with "the technical direction of the performance of all work" performed pursuant to the Rivers Contract, and requires the construction of a 2,500-square-foot office and ten parking spaces for their exclusive use. By walking the halls and having an office onsite at Rivers, the BOP monitor has first-hand knowledge of the grossly inadequate medical care and lack of accessibility for disabled prisoners at Rivers. In addition, an on-site BOP monitor participates in the prison officer "main line," which occurs daily at lunchtime weather permitting. The "main line" is part of the daily routine at BOP facilities -- including Rivers. During the daily "main line," prison staff stand together outside of the dining hall at mealtime to make themselves available for informal discussions with prisoners and to receive and address their complaints. Through

participation in the “main line” the on-site BOP monitors have actual notice of prison complaints about the medical conditions and can get visual confirmation of the lack of accessibility for disabled prisoners in the facility. Accordingly, the BOP is aware of and continues to disregard the risks and severe harm to prisoner health and safety detailed by Plaintiff in the Complaint.

36. The Rivers Contract is a fixed price contract providing for a set payment to GEO per time period, irrespective of GEO’s costs of providing the services, including health care services, required by the BOP. Thus, to the extent that GEO is able to reduce the costs of the medical, dental, and mental health services offered at Rivers, GEO’s profits are increased.

C. Defendants’ Unconstitutional and Illegal Organizations, Systems, Patterns and Practices at Rivers

37. It is well known to Defendants that the population of persons incarcerated in federal prisons suffer from the full spectrum of routine medical problems found in the general population. Those problems include acute conditions such as fractures and infections, as well as chronic diseases such as epilepsy, diabetes, tuberculosis, and HIV. It is also well known to Defendants that prisoners suffer from a higher rate of serious medical, dental, and mental health problems and conditions than does the American population as a whole. Defendants are also aware that the population at Rivers is older than typical prison populations, and suffers from a correspondingly higher incidence of health problems than the general prison population in the United States.

38. Defendants are deliberately indifferent to the serious medical needs of Plaintiff and the Class. Defendants’ indifference has produced and perpetuated a health care delivery system at Rivers that is so grossly inadequate as to violate the legal rights of

Plaintiff and the Class. The systemic failure of the Rivers health care delivery system is illustrated by the following:

a. Grossly Inadequate Access to Health Care—Defendants routinely and knowingly fail to provide prisoners with access to essential health care. Prisoners suffering from serious and even acute conditions are habitually and indiscriminately denied treatment. Prisoners have been denied care for complex, multi-symptom ailments on the arbitrary ground that the doctor will not treat more than one condition per appointment. There is a substantial backlog of requests for routine and emergency medical and dental care, resulting in frequent and dangerously lengthy delays in accessing care. Rivers medical staff routinely refuse to refer prisoners to outside health care providers, or unreasonably delay referring prisoners to outside health care providers, even in situations where the prisoner’s medical, dental, or mental health conditions far exceed the therapeutic capabilities of Defendants or their facilities, and where treatment would be a necessary component of Defendants’ obligation to provide legally mandated care. Mental health care services are wholly inadequate. Physical therapy services are not offered. Defendants fail to provide lawfully adequate chronic care. On information and belief, necessary health care has in some cases been denied based solely on a prisoner’s expected release date, even when this date is over one year away, in an effort to avoid incurring the cost of such care.

b. Grossly Insufficient Staffing, Training and Supervision—The number of qualified health care staff at Rivers is wholly inadequate to provide care to Rivers’ 1,300 residents. There is one medical doctor who treats and

supervises the care of all the prisoners at Rivers. On information and belief, this position has been filled by three different doctors in the past year, at least two of whom were not full time staff members at Rivers. There is only one part-time dentist on staff, who sees patients only irregularly. There is no physical therapist on staff or available on a contract basis for prisoners. The lone part-time psychologist attends to prisoners at Rivers on an irregular basis. The number of medical staff is grossly inadequate to meet the significant and documented medical, dental, and mental health needs of the men at Rivers. This grossly inadequate staffing is due, in part, to the fact that Defendants: (i) do not actively attempt to recruit and hire sufficient, competent medical staff; (ii) fail to train and supervise medical personnel; and (iii) are unable to retain those medical staff members who are hired. On information and belief, as a consequence of the severe staffing shortage, corrections officers with little or no health care training may serve as the gatekeepers for Plaintiff and the Class to access routine and even emergency medical care, leading to acute medical crises.

c. Failure to Provide Proper Access to Medications—Arriving prisoners' prescription medications are routinely confiscated without regard to the impact on the prisoner's health. Prisoners often have to wait a week or more before receiving substitute medications at Rivers. Determinations regarding medication regimens, and the composition of those regimens, are made based on the cost of the medications to GEO rather than the best interests of the patient. Prisoners' medications are arbitrarily changed to less expensive medications without proper follow up to assess the efficacy and side effects of the new

medications. Upon information and belief, many prisoners have been denied necessary medication altogether as a cost-saving measure for the facility. Prisoners at Rivers may only obtain certain medications by standing in the “pill line.” The pill line forms outside a window from which a nurse dispenses most medication available at the prison. The pill line window opens to an outside walkway that is open to the elements, except for a partial roof covering the walkway. Because the pill line moves very slowly, sick, disabled, and elderly prisoners must wait outdoors up to 60 to 90 minutes and sometimes longer for each dose of their needed medicines; for a person receiving three doses a day, this can add up to several hours a day waiting in the pill line to receive medication. Because of the extreme delays in distributing medication, prisoners are sometimes forced to choose between remaining in the pill line to receive their medication, or leaving the pill line to obtain food. Men who leave the pill line to obtain food have been punished for failing to take their medication. Men who have helped sick or elderly persons or persons with disabilities go to the front of the pill line have also been punished by Defendants. The pill line is a failed system for providing necessary medical care that has directly contributed to the poor health and declining condition of many prisoners at Rivers, particularly the sick and elderly.

d. Failure to Contain or Treat Infectious Diseases—Rivers has failed to respond reasonably or appropriately to outbreaks of MRSA, a highly contagious bacterial infection that is often found in prisons and other institutional settings. Defendants’ failure to respond properly to MRSA risks serious injury to

all persons at Rivers, and to the communities where Rivers personnel live and into which Rivers prisoners are released or transferred. Because MRSA is resistant to standard antibiotic treatments, health care professionals are customarily instructed to take a sample of a potential infection site and “culture” it to determine which bacterial organism caused the infection and which antibiotic treatment will be most effective. On information and belief, such cultures are seldom if ever taken at Rivers. Prisoner complaints of possible MRSA boils are often disregarded, and some prisoners have been instructed to apply hot compresses or “shower with Dial soap” to rid themselves of such boils. When antibiotics are provided, they are generally prescribed for only brief periods and without benefit of any kind of laboratory test. As a result, many prisoners have experienced chronic and persistent MRSA infections, leaving them scarred and potentially exposed to life-threatening illnesses.

39. The foregoing systemic failures and deficiencies in health care delivery at Rivers are open and notorious, and many of them (e.g., the pill line and staffing shortages) can be observed by any person at the prison, including the on-site BOP monitors. They create a substantial and ongoing risk to the health and safety of all inmates at Rivers, including Plaintiff. Nevertheless, despite the fact that both GEO and the BOP (through the BOP on-site contract monitors and Privatization Management Branch) are aware of these conditions and the risks they pose, both GEO and the BOP have disregarded the need to take immediate actions to protect Plaintiff and the Class from ongoing and future harm. Defendant GEO also has failed to meet the basic requirements of its contract with the BOP -- including adherence to the U.S. Constitution

and all applicable Federal, state, and local laws -- while Defendant BOP has failed to provide lawfully adequate oversight or supervision of GEO's conduct.

CLASS ACTION ALLEGATIONS

A. The Class

40. Plaintiff brings this action on his own behalf and, pursuant to Rules 23(a) and 23(b)(1)-(3) of the Federal Rules of Civil Procedure, on behalf of a class of persons comprised of current and future prisoners of Rivers who, during their incarceration at Rivers, are dependent upon the organizations, systems, policies, practices, and institutional conditions of Defendants for their receipt of medical, dental, and mental health care ("the Class").

41. As a result of their confinement at Rivers, members of the Class, including Plaintiff, have been and will be subjected to violations of their legal rights as described in this Complaint. Plaintiff has been injured by the unlawful and grossly inhumane level of medical care at Rivers that has resulted from Defendants' dysfunctional organizations, systems, policies, practices, and institutional conditions. Plaintiff represents the Class seeking primarily declaratory and injunctive relief to correct or eliminate the organizations, systems, policies, practices, and institutional conditions that deprive them of their rights.

42. The proposed Class is so numerous and fluid that joinder of all members is impracticable. There are currently more than 1,300 men at Rivers, each of whom depends upon Defendants to receive needed medical, dental, and mental health care while incarcerated. All members of the Class are at risk of developing serious medical conditions while at Rivers due to the grossly inadequate care provided. The size and

membership of the Class exhibits an inherent instability of composition as a consequence of prisoner transfers and releases and the incarceration of new prisoners.

43. All Class members are equally subject to the conditions described in this Complaint, and common questions of law and fact exist as to all Class members. These common questions include, but are not limited to: (a) whether Defendants provide systemically inadequate medical, mental health, and dental care to the Class members; (b) whether Defendants have been deliberately indifferent to the serious medical, mental health, and dental needs of the Class members; (c) whether Defendants have placed Class members at unreasonable risk of developing serious medical, mental health, and dental problems; (d) whether Defendants have violated Class members' rights to be free of cruel and unusual punishment under the Eighth Amendment; (e) whether Defendants provide medical, mental health, and dental care that is comparable or substantially equivalent to the care provided to other federal prisoners and the community at large; and (f) whether the inadequacies in the provision of medical, mental health, and dental care at Rivers arise from Defendants' efforts to reduce costs and to boost profits of GEO, at the expense of providing Constitutionally adequate care.

44. The organizations, systems, policies, practices, and institutional conditions that form the basis of this Complaint as to the Class are common to all members of the Class, and the relief sought will apply to all of them. Each member of the Class has a common interest in preventing the recurrence of the wrongful conduct described herein.

45. Plaintiff's claims are typical of the claims of the Class. Plaintiff and the Class he represents have been directly injured by Defendants' prison-wide unconstitutional and unlawful organizations, systems, policies, practices, and institutional

conditions with respect to health care at Rivers, as demonstrated by the detailed accounts provided by Plaintiff and other prisoners provided above. Plaintiff advances legal and factual theories similar to those offered by other Class members, including the description of the grossly inadequate access to health care, grossly insufficient medical staffing, lack of proper access to medication, and lack of protocols to contain or treat infectious diseases, which affects all Class members similarly and results in unconstitutional and negligent medical care and a breach of the Rivers Contract, claims that are common to Plaintiff and Class members.

46. Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff has no interests separate from the Class, and seeks no relief in this action other than the relief sought on behalf of the Class. Plaintiff's counsel are experienced in the protection and enforcement of the legal rights of prisoners.

47. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and varying adjudications that would establish incompatible standards of conduct for the Defendants.

48. The prosecution of separate actions by individual members of the Class would create a risk of adjudications with respect to individual members that would, as a practical matter, substantially impair the ability of other members to protect their interests.

49. Defendants have acted or refused to act on grounds generally applicable to the Class, making appropriate injunctive and declaratory relief with respect to the Class as a whole. Moreover, Defendants' actions described herein may be viewed as part of a

consistent pattern of activity that has been established under a regulatory scheme that is common to all members of the Class.

50. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to any other available method for the fair and efficient adjudication of the controversy presented here.

B. The Disability Sub-Class

51. Plaintiff brings a claim under Section 504 of the Rehabilitation Act on behalf of himself and, pursuant to Rules 23(a) and 23(b)(1)-(3) of the Federal Rules of Civil Procedure, on behalf of all prisoners who have been denied access to the programs, services, facilities, and activities at Rivers because of Defendants' failures to diagnose, monitor, treat and/or accommodate their serious medical conditions, in violation of Section 504 of the Rehabilitation Act ("the Sub-Class"). As a result of their confinement at Rivers, members of the Sub-Class, including Plaintiff, have been, are, and will be subjected to violations of their legal rights as described in this Complaint. Plaintiff represents a class of qualified persons seeking declaratory and injunctive relief to correct or eliminate Defendants' organizations, systems, policies, practices, and institutional conditions that deprive them of their rights under Section 504 of the Rehabilitation Act.

52. Plaintiff's action meets the requirements for certification as a sub-class pursuant to Fed. R. Civ. P. 23(c)(4).

53. Upon information and belief, a substantial percentage of the men at Rivers suffer from severe impairments that substantially limit one or more major life activities. Each of these persons is a "qualified individual with a disability" under Section 504 of

the Rehabilitation Act, as amended, and is represented by Plaintiff. Like the Class, the proposed Sub-Class is so numerous and fluid that joinder of all members is impracticable.

54. All Sub-Class members are equally subject to the conditions described in this Complaint, and common questions of law and fact exist as to all Sub-Class members. These common questions include, but are not limited to: (a) whether Defendants systemically exclude Sub-Class members from access to, participation in, and the benefits of, any program, service, facility, or activity at Rivers solely by reason of their disabilities; (b) whether Defendants systematically deny access to, participation in, and the benefits of, any part of Rivers or its programs, services, facilities, or activities to Sub-Class members solely by reason of their disabilities; (c) whether Defendants have subjected Sub-Class members to discrimination solely by reason of their disabilities; and (d) whether Defendants have violated Section 504 of the Rehabilitation Act.

55. The organizations, systems, policies, practices, and institutional conditions that form the factual basis of the Rehabilitation Act claim are common to all members of the Sub-Class, and the relief sought will apply to all of them. Each member of the Sub-Class has a common interest in preventing the recurrence of the wrongful conduct described herein.

56. Plaintiff's claims are typical of the claims of the Sub-Class. Plaintiff is suffering from serious mental and/or physical impairments typical of the Sub-Class as a whole. Plaintiff and the Sub-Class he represents have been directly and similarly injured by Defendants' prison-wide unlawful organizations, systems, policies, practices, and institutional conditions with respect to health care at Rivers, as demonstrated by the

detailed account provided by Plaintiff and the detailed accounts of other prisoners provided above.

57. Plaintiff will fairly and adequately represent the interests of the Sub-Class. Plaintiff has no interests separate from the Sub-Class, and seeks no relief in this action other than the relief sought on behalf of the Sub-Class and the Class. Plaintiff's counsel are experienced in the protection and enforcement of the legal rights of prisoners.

58. The prosecution of separate actions by individual members of the Sub-Class would create a risk of inconsistent and varying adjudications that would establish incompatible standards of conduct for the Defendants.

59. The prosecution of separate actions by individual members of the Sub-Class would create a risk of adjudications with respect to individual members that would, as a practical matter, substantially impair the ability of other members to protect their interests.

60. Defendants have acted or refused to act on grounds generally applicable to the Sub-Class, making appropriate injunctive and declaratory relief with respect to the Sub-Class as a whole. Moreover, Defendants' actions described herein may be viewed as part of a consistent pattern of activity that has been established under a regulatory scheme that is common to all members of the Sub-Class.

61. The questions of law and fact common to the members of the Sub-Class predominate over any questions affecting only individual members, and a class action is superior to any other available method for the fair and efficient adjudication of the controversy presented here.

CLAIMS FOR RELIEF

First Claim for Relief

(Constitutional Violations—All Defendants)

62. Plaintiff realleges and incorporates by reference all facts set forth in the previous paragraphs of this Complaint.

63. Both Defendants GEO and the BOP know of and have disregarded the substantial risk of serious harm to Plaintiff's health and safety that is created by the open and notorious health care delivery failures at Rivers.

64. Defendants' deliberate indifference to Plaintiff's serious medical, dental, and mental health needs has caused and continues to cause avoidable pain, mental suffering, and deterioration of Plaintiff's health. In some instances, Defendants conduct has resulted in serious physical injury, and, upon information and belief, premature death.

65. Defendants' organizations, systems, policies, procedures, practices, acts, and omissions all evidence and constitute cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution.

66. Defendants' organizations, systems, policies, procedures, practices, acts, and omissions place Plaintiff and Class members at unreasonable, continuing, and foreseeable risk of developing or exacerbating serious medical, dental, and mental health problems, and of suffering needless pain, injury, and premature death.

67. As a proximate result of Defendants' organizations, systems, policies, procedures, practices, acts, and omissions, Plaintiff and the Class have suffered and will continue to suffer immediate and irreparable injury, including physical, psychological and emotional injury, and the risk of premature death.

68. Because they have undertaken the government's Constitutional duty to provide adequate medical care to prisoners in their custody, Defendants GEO and BOP were and continue to be government actors with respect to all of the actions and omissions complained of herein.

69. By virtue of his employment by the United States government, Defendant LAPPIN was and continues to be a government actor acting in his official capacity with respect to all his actions and omissions complained of herein.

70. Because Defendants GEO and the BOP know that Plaintiff and all other prisoners at Rivers live under conditions creating an unreasonable risk of future harm, but have not responded reasonably to this situation, Plaintiff seeks a preliminary and permanent injunction compelling Defendants to implement organizations, systems, policies, procedures, and practices for the delivery of constitutionally adequate medical, dental, and mental health care.

Second Claim for Relief

(Violations of the Rehabilitation Act—Defendants BOP and GEO)

71. Plaintiff realleges and incorporates by reference all facts set forth in the previous paragraphs of this Complaint.

72. Plaintiff, and each member of the Sub-Class, is a “qualified individual[s] with a disability” under Section 504 of the Rehabilitation Act, as amended.

73. The Rehabilitation Act, as amended, and its regulations, prohibit recipients of federal funding and any program or activity conducted by any executive agency of the United States from discriminating against people with disabilities. The Rehabilitation Act, 29 U.S.C. § 794(a), provides, in pertinent part: “[n]o otherwise qualified individual

with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency”

74. Defendant GEO operates a “program or activity conducted by an Executive Agency,” as the BOP is an executive agency of the United States government that procured Defendant GEO to perform prison services on its behalf at Rivers.

75. Defendants BOP and GEO make the Plaintiff’s and the Sub-Class’ access to, equal participation in, and receipt of the benefits of, the programs and activities identified above unduly burdensome solely by reason of their disabilities, in violation of the Rehabilitation Act, as amended, and its regulations.

76. Defendants BOP and GEO subject Plaintiff and the Sub-Class to discrimination solely by reason of their disabilities.

77. As a result of Defendants BOP’s and GEO’s organizations, systems, policies, practices, and institutional conditions, Plaintiff and all members of the Sub-Class have been and continue to be excluded from a variety of programs, services, facilities, and activities at Rivers, including but not limited to, substance abuse programs, educational programs, vocational programs, recreation activities, dining hall and other meals, yard time, visitation, discipline, telephone, emergency procedures and other programs and activities for which they are otherwise qualified. Defendants BOP and GEO provide these programs, services, facilities, and activities to individuals without disabilities under their custody and control, thereby subjecting Plaintiff and the Sub-Class to discrimination in violation of the Rehabilitation Act, as amended, and its regulations.

78. By engaging in the conduct described above, Defendants BOP and GEO have been either intentionally discriminating against Plaintiff and the Sub-Class, or have been deliberately indifferent to the strong likelihood that their organizations, systems, policies, procedures, and practices would result in violations of federally protected rights.

79. These violations of the Rehabilitation Act by Defendants establish a claim for declaratory and injunctive relief against Defendants BOP and GEO pursuant to Section 505 of the Rehabilitation Act.

Third Claim For Relief

(Negligence—Defendant GEO)

80. Plaintiff realleges and incorporates by reference all facts set forth in the previous paragraphs of this Complaint.

81. Because of the custodial relationship between GEO and the Rivers prisoners, persons incarcerated at Rivers were and are entirely dependent on GEO for medical care. As a consequence of the custodial relationship, and by virtue of GEO's explicit contractual duty to provide medical care to inmates that is commensurate with the well-established standards of care in the community, within the broader correctional industry, and under federal law, GEO has a duty to provide reasonable medical care and treatment to the men at Rivers.

82. Through its organizations, systems, policies, practices, institutional conditions, acts, and omissions, GEO has systematically deprived the men at Rivers of adequate medical, dental and mental health care, all in breach of its duty of care to those persons. GEO's acts and omissions constitute a breach of the standard of care owed by a reasonably prudent person in similar circumstances. Defendants GEO's breaches include

(a) the failure to provide access to health care services; (b) the failure to hire, train, supervise and maintain an adequate level of qualified health care staff at Rivers; (c) the failure to establish an adequate and reasonable method for distributing medication; and (d) the failure to contain or treat infectious diseases.

83. As a proximate result of Defendant GEO's acts and omissions in breach of GEO's duty of care, Plaintiff and the Class have suffered and will continue to suffer immediate and irreparable injury, including physical, psychological and emotional injury, and heightened risk of premature death. GEO's negligent conduct has been and will continue to be a substantial factor in bringing about such harms, and a person of ordinary prudence could have reasonably foreseen that such harms would result.

Fourth Claim for Relief

(Third-party beneficiary—Defendant GEO)

84. Plaintiff realleges and incorporates by reference all facts set forth in the previous paragraphs of this Complaint.

85. GEO and the BOP entered into the Rivers Contract with the intention of conferring a direct benefit on Plaintiff, the Class, and the Sub-Class, namely, the provision of adequate medical, dental, and mental health care.

86. GEO has breached and continues to breach its express and implied contractual obligations to Plaintiff, the Class, and the Sub-Class by failing to provide adequate health care.

87. As a direct result of GEO's material breaches, Plaintiff, the Class, and the Sub-Class, as the intended beneficiaries of the Rivers Contract, have suffered and continue to suffer physical and mental pain and injury.

88. The Plaintiff, the Class, and the Sub-Class have performed any and all conditions precedent to the bringing of this action, or such conditions have been waived or excused by action of GEO.

89. Because GEO's breach is continuing in nature, and because the harm caused by this breach is irreparable, Plaintiff, the Class, and the Sub-Class are entitled to injunctive relief requiring GEO to perform its obligations to provide adequate health care under the Rivers Contract.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, the Class and the Sub-Class request that this Court grant them the following relief:

- a. Declare that this suit is maintainable as a class action pursuant to Federal Rules of Civil Procedure 23(a), and 23(b)(1) – (3) as to the Class and the Sub-Class;
- b. Appoint the undersigned as class counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;
- c. Adjudge and declare that the organizations, systems, policies, practices, and conditions described above violate the rights of Plaintiff and the Class, and the Sub-Class under the Eighth Amendment to the United States Constitution;
- d. Adjudge and declare that the organizations, systems, policies, practices, and conditions described above violate the rights of Plaintiff and the Sub-Class, under Section 504 of the Rehabilitation Act, as amended;

e. Adjudge and declare that the organizations, systems, policies, practices, and conditions constitute actionable negligence;

f. Adjudge and declare that the organizations, systems, policies, practices, and conditions breach a contractual duty owed to Plaintiff, the Class and the Sub-Class;

g. Preliminarily and permanently enjoin Defendants, their agents, employees and all persons acting in concert with them, from subjecting the Plaintiff and any member of the Class or Sub-Class to the organizations, systems, policies, practices, and institutional conditions that have caused and continue to cause the delivery of constitutionally inadequate and unlawful medical, dental, and mental health services at Rivers;

h. Award Plaintiff the costs of this suit, including reasonable attorneys' fees incurred herein;

i. Retain jurisdiction of this matter until Defendants demonstrate that they have fully complied with the orders of this Court, and that there is a reasonable assurance that Defendants will continue to comply in the future absent continuing jurisdiction; and

j. Award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury.

Respectfully submitted,

December 9, 2009

s/ Neil A. Riemann

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of December, 2009, filed the foregoing using CM/ECF, which will serve all required parties by sending a Notice of Electronic Filing to all counsel of record.

/s/ Neil A. Riemann
Neil A. Riemann