

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

<b>LESTER DOBBEY, #R-16237,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>No. 13 C 1068</b>
<b>v.</b>	)	
	)	
<b>WILLIAM WEILDING, et al.,</b>	)	<b>Honorable Judge</b>
	)	<b>Robert M. Dow</b>
<b>Defendants.</b>	)	

**ANSWER TO PLAINTIFF’S COMPLAINT**

Now comes MICHAEL STUDER and MARCUS HARDY, by their attorney LISA MADIGAN, Attorney General of Illinois, and respond to Plaintiff’s Complaint, as follows:

1. This is a civil action brought pursuant to the Eight and Fourteenth Amendments of the United States Constitution, seek monetary, declaratory and injunctive relief under 42 U.S.C. § 1983.

To redress deprivations of Plaintiff’s Civil Rights which were precipitated by the unlawful cruel and unusual punitive acts and omissions of the Defendants, all while purporting to act under the color of law.

**ANSWER: Defendants admit that Plaintiff purports to bring this action under 42 U.S.C. §1983 for alleged violation of the Eighth and Fourteenth Amendments. Defendants admit that they acted under the color of law, but deny that they violated the Plaintiff’s constitutional rights and further deny the remaining averments contained in paragraph 1.**

**JURISDICTION AND VENUE**

2. The Court has Jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 1343 (a) (3). The declaratory and injunctive relief sought is authorized by 28 U.S.C. §§2201, 2202 and 2284.

**ANSWER: Defendants admit that the Court has jurisdiction over this matter, but Defendants deny that the Plaintiff is entitled to any relief.**

3. Venue is proper pursuant to 28 U.S.C. § 1391 (b) (z), in the United States District Court for the Northern District of Illinois, because the facts giving rise to the claims in this complaint occurred in this district.

**ANSWER: Admit.**

**PARTIES**

4. Plaintiff, LESTER DOBBEY, is an inmate in the custody of the Illinois Department of Corrections, housed at Stateville Correctional Center, register No. #R-16237, P.O. Box 112, Joliet, Illinois 60434, Will County.

**ANSWER: Admit.**

5. Defendant, WILLIAM WEILDING, was the Chief Engineer of Stateville Correctional Center, while Plaintiff was in custody there. Defendant Weilding was legally responsible for the overall institutional and housing units maintenance and sanitation.

**ANSWER: Defendants admit that Defendant Weilding was the acting Chief Engineer at Stateville Correctional Center for some period of time. Defendants deny the remaining averments contained in paragraph 5.**

6. Defendant, MICHAEL STUDER, was the Water Supply Operator of Stateville Correctional Center, while Plaintiff was in custody there. Defendant Studer, was legally responsible for the overall protection of Stateville's Water Supply, as well as, the maintenance and sanitation of the water supply.

**ANSWER: Defendants admit that Defendant Studer was the Water Operator at Stateville Correctional Center for some period of time. Defendants deny the remaining averments contained in paragraph 6.**

7. Defendant, MARCUS HARDY, was the warden of Stateville Correctional Center, while Plaintiff was in custody there. Defendant Hardy, was legally responsible for the health, safety and sanitation of inmate living conditions.

**ANSWER: Defendants admit that Defendant Hardy was the Warden at Stateville Correctional Center for some period of time. Defendants deny the remaining averments contained in paragraph 7.**

**COUNT 1- UNSANITARY BIRDS AND VERMON**

8. Stateville Correctional Center has had an extensive history of unsanitary birds and vermon within the inmates living units, as well as, in the inmates dietary/kitchen.

**ANSWER: Deny.**

9. Defendants Weilding and Hardy, both, have known of these issues and/or problems for several years without attaining comprehensive remedial measures to adequately address and subdue the unsanitary birds and vermon.

**ANSWER: Deny.**

10. Plaintiff, has on numerous occasions complained to Stateville officials regarding the wild birds living and nesting in Stateville's Bravo-House. Where the birds would be allowed to fly freely throughout the living unit dropping bird feces wherever the birds please, while simultaneously chirping and/or singing very loudly in the early morning hours. (See, Exhibit-A and B).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments regarding Plaintiff's complaints. Defendants deny the remaining allegations contained in paragraph 10.**

11. Plaintiff filed his initial complaint/grievance regarding these unsanitary birds on September 11, 2008, where Defendant Weilding, allegedly had on his ("To Do List") and/or list of repairs, where the screens and windows were supposed to be fixed to alleviate the infestation of wild birds entering into the living units. (See, Exhibit-B).

**ANSWER: Defendants admit that Plaintiff attaches a grievance dated September 11, 2008, and responses to this grievance, as exhibit B. Defendants admit that the nature of the grievance is "Birds in Housing Unit" and Plaintiff received a response that "according to maintenance staff screens and windows are on the list to be repaired and will be as soon as they can repair them." Defendants deny the remaining averments contained in paragraph 11.**

12. The wild birds carry various communicable diseases, through the bird itself, as well as, bird feces, such as bird flu, fungi, lice, mites, parasites, spores and various toxins, all which can cause, varying, human bodily injury. (See, Exhibit-C).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 12.**

13. The large population of birds that were living in Bravo-House, where Plaintiff lived, present a disease risk. The most serious health risks arise from disease organisms that grow in the accumulations of bird droppings. (See, Exhibit-A, B and C).

**ANSWER: Defendants deny there is a large population of birds living in Bravo House. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 13.**

14. There are several fungal diseases from bird droppings, such as:
- a. Histoplasmosis: Histoplasmosis is caused by a fungus. The disease is transmitted to humans by airborne fungus spores from droppings of birds. (See, Exhibits-C).
  - b. Psittacosis: Psittacosis is a rare infectious disease that affects various birds. When bird droppings dry and become airborne people may inhale them and get sick. In humans, this bacterial disease is

characterized by: fatigue, fever, headache, rash, chills and sometimes pneumonia. (See, Exhibit-C).

- c. Allergic Alveolitus: Allergic Alveolitus can be contracted by people, by inhaling particles of bird dander in the air. (See, Exhibit-C).
- d. Avian Influenza: Avian Influenza is transmitted through coming into contact with the fecal matter of infected birds. (See, Exhibits-C).
- e. Campylobacteriosis: Campylobacteriosis is a bacterial infection that causes gastrointestinal problems. (See, Exhibit-C).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14.**

15. Plaintiff avers that he has suffered from fatigue, fever, headaches, chills and Gastrointestinal Bacterial Infections, which Plaintiff vividly expresses below in, count 7, of this complaint. (See, Exhibit-K).

**ANSWER: Defendants admit that Plaintiff makes allegations in this Complaint.**

16. Plaintiff further avers that, he has suffered annoyance, as well as, the deprivation of, peace-of-mind, where Plaintiff would experience every morning for months, birds chirping and singing in his cell and/or on the gallery while fighting over food or territory. (See, Exhibit-B).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 16.**

17. The birds would annoy and irritate Plaintiff by awakening him at 3-4 o'clock am, with their fighting, chirping and singing, which infringed upon Plaintiff's sleep and adequate restoration of his body. The excessive noise would have Plaintiff tossing and turning for hours throughout many nights. (See, Exhibit-B and D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17.**

18. Plaintiff also avers that Bravo-House has a vermon infestation that is not controlled at all, where mice roam in and out of inmates cell regularly and on a daily basis. (See, Exhibit-D).

**ANSWER: Deny.**

19. Plaintiff has had mice in his cell, where the mice have eaten his commissary bought food, which was stored properly in his personal property boxes, as well as, these mice have eaten holes in Plaintiff's state issued clothes, as well as, his commissary bought clothes. (See, Exhibits-D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 19.**

20. There are mass infestations of roaches and spiders, as well as, other bugs that are in inmates cells, where not often, bug spray is sprayed along the walls and outer perimeters of inmate cells, and not in the inmates cell per se, which does not alleviate the problem, rather, it allows the bugs to further nest and breed in a secure area of the cell for them. (See, Exhibits-D).

**ANSWER: Deny.**

21. Defendants Weilding and Hardy, are well aware of the thousands of inmates complaints that have been made regarding the birds and vermon, but have failed to correct any.

**ANSWER: Defendants admit they are aware of inmate complaints regarding birds and vermin but deny the remaining averments in paragraph 21.**

### **COUNT 2- UNBEARABLE LIGHTING**

22. Stateville's Bravo-House has approximately fifty (50) extra-large fluorescent light fixtures along the building wall and/or ceiling that brightly illuminate the building. (See, Exhibit-D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 22.**

23. These fluorescent lights remain on and fully illuminated 24 hours a day, 7 days a week, making it nearly impossible to retain proper sleep, with the excessive shine in plaintiff's face throughout the night-time. (See, Exhibit-D).

**ANSWER: Defendant admit that some lights remain on and fully illuminated 24 hours a day, 7 days a week, for safety and security of the prison. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 23.**

24. Defendant Hardy, has heard the thousands of complaints regarding the excessive shining fluorescent lights throughout the night-time, and has refused to allow a dimmer to be set in place to help alleviate the many cries of annoyance. The dimming of approximately fifty (5) fluorescent lights does not pose a threat to the safety or security of the institution, where the inmates in the living unit on the 11pm to 7am shift are all properly secured in their cells. And light still would be on.

**ANSWER: Deny.**

25. It is believed that Defendant Hardy, has maintained this excessive shining of the fluorescent lights as a deliberate aggravator to inmates as to inflict punishment.

**ANSWER: Deny.**

**COUNT 3**  
**UNSANITARY CELLS AND HAZARDOUS SHOWERS-FOOD CARTS & CEILING**

26. Many of the individual cells at Stateville are dirty and unsanitary, where adequate cleaning supplies are not distributed daily and/or regular basis to maintain cleanliness. (See, Exhibits-D).

**ANSWER: Deny.**

27. Dust is one of the most produced elements in any household, but the amount of dust that is produced on a day-to-day basis is overwhelming. Whereas, the amount of dust and dirt flowing from cell-to-cell, has produced dust mites. Which dust-mites then to produce by the millions. (See, Exhibit-D and E).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 27.**

28. The failure to provide adequate cleaning supplies, where the cells are dirty on the walls and floor, creates breeding grounds for dust-mites, as well as, other disease-causing micro-organisms. (See, Exhibits-D and E).

**ANSWER: Deny.**

29. When there is an attempt to supply inmates with an opportunity to wipe down their walls or mop their floors, the towels and/or rags provided are themselves universally nasty, just as well as, the mops provided, where there are twenty-nine (29) cells on a gallery and there is one mop-bucket of water for all the cells to use, without a change of water for lack of the disinfects, the same for the towel-buckets. Then after the mops are used they are not washed, rather, they are just put in a room to dry for the next usage. (See, Exhibits-D).

**ANSWER: Defendants admit that cleaning supplies are provided to inmates but deny the remaining averments contained in paragraph 29.**

30. On a daily basis, a cell-house is provided with one crate containing three (3) spray bottles and one (1) can of Ajax. This is not sufficient for the approximate one-hundred forty-five (145) individual cells housed by two (2) inmates, the inmate shower, the sergeant office, the lieutenant office, counselor office, and the major office, as well as, the main floor, all of which is in one living unit. (See, Exhibits-D).

**ANSWER: Defendant admit that cleaning supplies are provided to inmates but deny the remaining averments contained in paragraph 30.**

31. And through this supply of inadequate cleaning supplies, millions of these micro-organisms live and continue to breed, such as the dust-mites. These dust-mites, in Bravo-House, provide through the fecal substances, when inhaled or touched by skin, a list of typical symptoms, such as: (see, Exhibits-D and E.)

- a. Hay fever,
- b. Watering eyes,
- c. Runny nose,
- d. Sneezing
- e. Asthma, difficulty breathing,
- f. Infantile eczema,
- g. Itchy, red or watery eyes,
- h. Nasal congestion,
- i. Itchy nose, roof of mouth or throat,
- j. Postnasal drip,
- k. Cough,
- l. Facial pressure and pain,
- m. Frequent awakening, and
- n. Swollen, blue-colored skin under your eyes.

And poor ventilation makes symptoms worse. (See, Exhibits-D&E).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 31.**

32. Plaintiff avers that he has suffered various symptoms labeled above due to these dust-mites. (See, Exhibits-K).

**ANSWER: Defendants admit that Plaintiff makes allegations in this matter, but they deny that the allegations are true.**

33. Defendant Hardy, has been made aware, continuously, by the thousands of inmates at Stateville of the lack of cleaning supplies issued, and still has not taken any corrective measures to subdue the filthy, and unsanitary cells. (See, Exhibits-D).

**ANSWER: Deny.**

34. Defendant Hardy, has been made aware, continuously, by the thousands of inmates at Stateville of how the inmate showers in the living units are hazardous, where behind the bath tile and/or cracked and exposed bath tiles, are colonies of toxic green white and black molds. (See, Exhibits-I and F).

**ANSWER: Deny.**

35. The effect of toxic mold on any human being's health is lengthy. The most dangerous are chronic delayed reaction. And these results from almost daily exposure building up over time and can range from neurological damage to the risk of cancer from exposure to certain mold toxins in the air and water. (See, Exhibits-D and F).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 35.**

36. Again Defendant Hardy, has not attempted to seriously kill the mold growth in the inmates showers.

**ANSWER: Deny.**

37. Defendant Hardy, has been made aware, continuously, by the thousands of inmates, as well as, various Stateville staff, of how the roofing in Bravo-House is hazardous, where whenever it naturally rains, the roof leaks massively, to the pint blockades of buckets and trash cans have to be lined up to attempt to catch this water, where even then puddles of water still accumulate on the main floor of the building. (See, Exhibits-D).

**ANSWER: Deny.**

38. The water leaks within the ceiling are in various buildings around Stateville, where a massive amount of mold is produced as well. Roofs that leak:

- a. Bravo House,
- b. Charlie House,
- c. Delta House,
- d. Edward House,
- e. Frank House,
- f. Law Library,
- g. School Building,
- h. Clothing Room,
- i. Commissary Room,
- j. Personal Property Room,
- k. Gym Room, etc.

All which have had accidental falls by inmates and staff, and in some buildings layers upon layers of mold. (See, Exhibits-D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 38.**

39. Defendants Weilding and Hardy, both, know of these hazards throughout all these buildings, and have not made any real attempts to fix these leaks and mold problems.

**ANSWER: Deny.**

40. Defendant Hardy, has been made well aware, of the lead based-paint in inmate cells, as well as, on the building walls, which are at times exposed through scrapings of paint off the various walls, which turns into dust and airborne. (See, Exhibits-D and G).

**ANSWER: Defendants admit that at some point in time lead based-paint existed at Stateville. Defendants deny the remaining averments contained in paragraph 40.**

41. Plaintiff has lived in various cells within Stateville that has had layers of 30-35 year old paint with lead in them, and every so often the lead paint is just painted over, and over without neutralizing the lead paint substances in the old lead paint. (See, Exhibits-D and G).

**ANSWER: Defendants admit that Plaintiff has lived in various cells within Stateville and that cells have been repainted with non-lead paint at some points in time, but they are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 41.**

42. Lead exposure can occur by way of ingestion of lead dust through normal hand-to-mouth contact, during which people swallow lead dust dislodged from deteriorated paint or leaded dust. Lead causes nervous system damage, as well as, it can cause kidney damage and affects every organ system of the body. (See, Exhibits-D and G).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 42.**

43. Plaintiff avers that he has suffered kidney problems, as well as, other organ affects since his housing at Stateville which he vividly expresses below in count 7, of this complaint. (See, Exhibits-K).

**ANSWER: Defendants admit that the Plaintiff makes allegations in this Complaint, but they deny that the allegations are true.**

44. Defendant Hardy has not attempted to combat any of the lead-based paint with the removal thereof. (See, Exhibits-D).

**ANSWER: Deny.**

45. Defendant Hardy has well been made aware of the Bravo-House, inmate food-carts, being, unsanitary, where bird feces droppings lie on them, as well as, roaches and other insects live in the wood carts and the inmate food is still delivered on them, as well as, they are used for food service and then trash pick-up. (See, Exhibits-D).

**ANSWER: Deny.**

46. These food carts “are not” often cleaned with disinfects and/or bleach, and the dirt, and bird droppings build-up are like cakes in some of the carts corners. And they are still used for food service. (See, Exhibits-D).

**ANSWER: Deny.**

47. Defendant Hardy has failed and/or refused to provide sanitary food carts for inmates to receive their food on. (See, Exhibits-D).

**ANSWER: Deny.**

**COUNT 4- INADEQUATE VENTILATION**

48. The ventilation at Stateville has been inadequate and hazardous for many years, whereas Defendants Weilding and Hardy, has been made aware of. (See, Exhibits-D).

**ANSWER: Deny.**

49. The air circulating around the Bravo-House and individual cells consist of ions that are thick with dust, dirt, hair, pest and bird dander, airborne viruses, and wool fibers from state issued blankets. (See, Exhibits-D).

**ANSWER: Deny.**

50. The circulation of this type of air has been a constant assault of the Plaintiff's respiratory system, whereas, at times it makes it hard for him to breath properly and has caused various allergic and irritable reactions. (See, Exhibits-D).

**ANSWER: Deny.**

51. The vents in numerous cells are covered with steel plates preventing any air circulation, whereas Defendants Weilding and Hardy, has been aware of all these issues dealing with the air ventilation being inadequate, but has failed to make corrective measures for clean air. (See, Exhibits-D).

**ANSWER: Deny.**

**COUNT 50 INADEQUATE HEATING IN SUB-ZERO TEMPS**

52. Stateville has had a constant problem within the housing units/ Bravo-House with inadequate heating during the cold and winter months, which Defendants Weilding and Hardy, has been made aware of by the thousands of inmates complaints, where heat units remain broken, as well as, several windows that are broken and the doors that remain open for lengthy time periods. (See, Exhibits-D).

**ANSWER: Deny.**

53. During February 2011 Blizzard, Plaintiff, as well as, other inmates in Bravo-House, suffered extremely freezing temperatures, where many days and/or weeks temperatures

were either in single digit numbers and/or below-zero numbers and the heating units did not work. (See, Exhibits-D and H).

**ANSWER: Deny.**

54. These freezing sub-zero temperatures entered into the Bravo-House through several broken windows, and where the cat-walk/gun tower officers would leave windows and the cat-walk door open. Where inmates would continuously holler and scream for hours to attempt to have the officers close the windows or doors and/or both. (See, Exhibits-D).

**ANSWER: Deny.**

55. Plaintiff avers that he was issued certain basic clothing which included (2) blue pants, (2) blue shirts, as the everyday uniform attire for inmates, (0) pairs of socks, (2) t-shirts, (2) pairs of underwear, (1) cap and (1) not so thick insulated coat, (2) sheets. Plaintiff was not issued long johns/ thermal wear, because such clothing is only provided to institutional workers. (See, Exhibits-D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 55.**

56. Plaintiff further avers that the clothing issued to him was insufficient to combat blizzard/sub-zero temperatures during the February 2011 Blizzard. Plaintiff was not issued a state blanket during these times, where the Bravo-House building would feel like a deep-freezer. (See, Exhibits-D and H).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 56.**

57. To attempt to combat the February 2011 Blizzard, Plaintiff borrowed certain clothing items from his cellie and neighbors. Plaintiff had to put on (1) long john bottoms, (3) long john tops, (2) State Blue Pants, (2) T-shirts, (2) sweat pants, (2) sweat shirts, (1) state coat, (1) skull cap, and (3) bed sheets. Nevertheless, Plaintiff still remained freezing cold with slight tremors, while remaining balled-up in his bed. (See, Exhibits-D and H).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 57.**

58. Plaintiff would ask the cell-house staff for blankets and was told constantly that there were no blankets available. (See, Exhibits-D).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 58.**

59. The February 2011 blizzard/winter storm impacted almost the entire state of Illinois. Record or near record snowfall accumulations ranging from 10 to 18 inches . . . with

isolated 20 inch totals reported from various counties. The wind gust was 50 to 70 miles per hour, which created snow drifts more than 7 feet high. (See, Exhibits-H).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 59.**

60. The Governor issued a disaster declaration nearly 24 hours prior to the onset of the blizzard/storm. (See, Exhibits-H).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 60.**

61. Temperatures through February 2011 averaged 1 to 2 degrees below normal. Where the coldest stretch of weather was from the 2nd to the 4th, and the 8th to the 10th, when temperatures dipped into the single digits and below zero in many locations. And one can only imagine an all concrete and Steele building, that stands approximately (6) stories high, approximately (200) ft. long, and approximately (25-30) ft. wide, how it felt without functioning heat. It was freezing and intolerable. (See, Exhibits-D & H). (Both, night and day times.)

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 61.**

62. Plaintiff also avers that although every year during the cold and winter months there may be no blizzard but these cold conditions has remained a problem in Bravo-House for several year whereas Defendants Weilding and Hardy, has known about but failed to fix, where temperatures regularly will maintain at 40 degrees or under at times, during the months of November through February, March. (See, Exhibits-D and H).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 62.**

63. These freezing sub-zero temperatures made Plaintiff's regular daily activities impermissible, such as, studying religious materials, as well as, criminal and civil law, writing, and just simply standing up in the cell for any long period of time. Several work-orders were allegedly filed with Defendant Weilding, to have the heating units fixed, but he continuously failed to fix them.

**ANSWER: Deny.**

#### **COUNT 6- INADEQUATE/ CONTAMINATED WATER SUPPLY**

64. Stateville has had a bad history of supplying inadequate/ contaminated to its employees and inmate residents, where thousands of inmates have continuously complained of to the administration of Stateville and/or IDOC.

**ANSWER: Deny.**

65. Defendant Studer, being the water-supply operator has known of this problem for many years, before defendant Hardy, but nevertheless, they both have knowledge of the water-supply being inadequate and/or contaminated and have failed to correct these problems. (See, Exhibits –D, I AND J).

**ANSWER: Deny.**

66. The inadequate/ contaminated water supplied at Stateville is for inmates drinking, and the cooking of all foods prepared by the dietary/ kitchen. (Exhibits-D, I &J).

**ANSWER: Deny.**

67. This inadequate/ contaminated water supply, consist of excessive amounts of microbial contaminants, such as, viruses and bacteria, inorganic contaminants, such as, salts and metals, Pesticides and Herbicides, such as various water runoffs, organic chemical contaminants, including, synthetic and volatile organic chemicals which are by-products of industrial processes and petroleum productions and radioactive contaminants. (See, Exhibits-D, I and J).

**ANSWER: Deny.**

68. One specific contaminant in Stateville is radium, which, when water containing combined radium is ingested, a portion of the radium may remain in the bone. And the radiation which is given off from the radium, because of its high energy, can cause damage to the surrounding tissue. And, a dose of 5pCi/I ingested over an extended period of time may result in the development of bone cancer. (See, Exhibits-D, I and J).

**ANSWER: Defendants deny that the water at Stateville is contaminated with radium. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 68.**

69. Another contaminant in Stateville is Alpha Emitters, which are erosions of natural deposits and is also a cancerous element. (See, Exhibits-D, I and J).

**ANSWER: Defendants deny that the water at Stateville is contaminated by alpha emitters. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 69.**

70. Stateville does not have a cross-connection control program approved by the Illinois Environmental Protection Agency. And Defendant Studer, does not assure that all the backflow devices are tested on an annual basis, as Defendant Hardy, does not assure testing either. (Exhibit-I).

**ANSWER: Deny.**

71. Stateville supply water, contaminated with exceeding levels of lead and copper and unisolated softener (TPO4), which produced stagnant and contaminated water entering the distribution. (See, Exhibit-I).

**ANSWER: Deny.**

72. Defendants Studer and Hardy knew that Stateville had a supply which had a water softener which was not being used. In which, the stagnant water and/or the unused filter media inside the softener allowed harmful bacteria breeding and distribution to Plaintiff, as well as, Bravo-House inmates. (See, Exhibits-I) (Defendants have failed to fix the problem.)

**ANSWER: Deny.**

73. These same bacteria and contaminants are utilized by the Stateville dietary in the preparation of foods and drinks, which are consumed on a daily basis by Plaintiff, as well as, all the other inmates. These bacteria and contaminants have caused Plaintiff to suffer various ailments, where since Plaintiff's arrival at Stateville in the year of 2007 to the present, Plaintiff's health has gradually deteriorated, which Plaintiff vividly expresses below in, Count 7, of this complaint. (See, Exhibits-D, I J and K).

**ANSWER: Deny.**

#### **COUNT 7- PLAINTIFF'S HEALTH DETERIORATES**

74. In March of 2007, Plaintiff was transferred from Menard Correctional Center to Stateville Correctional Center, for unrelated matters, where Plaintiff was a healthy young man upon his arrival at Stateville. (See, Exhibits-K).

**ANSWER: Defendants admit that Plaintiff was transferred from Menard Correctional Center to Stateville Correctional Center in March of 2007 but are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 74.**

75. After approximately, one year and a half, at Stateville Plaintiff began to experience gastrointestinal problems, where he maintained abdominal pains for multiple years, blood in his stool, as well as, intestinal bacterial infections. (See, Exhibits-K).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 75.**

76. After approximately, four years here at Stateville, Plaintiff began to have gastrointestinal, as well as, kidney problems, where the kidney complications went ongoing for approximately one and a half years. (See, Exhibits-K).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 76.**

77. After approximately, five and one-half years at Stateville, Plaintiff now suffers from liver problems. (See, Exhibits-K).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 77.**

78. Plaintiff was initially admitted to the Illinois Department of Corrections in October 2002, which he first came to Stateville for intake, whereas he was housed in a condemned H-House Building, for approximately two (2) weeks, then transferred to Menard. (See, Exhibits-K).

**ANSWER: Defendants admit that Plaintiff was initially admitted to the Illinois Department of Corrections in October 2002, that he first came to Stateville for intake, that Plaintiff was housed in H-House, and that he was later transferred to Menard on October 10, 2002. Defendants deny the remaining averments contained in paragraph 78.**

79. Plaintiff was healthy while living at Menard for the several years there. (See, Exhibits-K).

**ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 79.**

80. Plaintiff went on a writ to court, from Menard in December 2004, where Plaintiff was transferred to Stateville's writ/segregation unit ("F-House"), where he was placed in a condemned cell F #324. The circuit court of Cook County remanded Plaintiff to cook county jail, February 10, 2005 where Plaintiff remained up to August 2005. Plaintiff still was considered healthy. (See, Exhibits-K).

**ANSWER: Defendants admit that Plaintiff was placed in the writ section of F-House in or around December 2004, that Plaintiff was remanded to Cook County on February 10, 2005, and returned to Stateville on August 30, 2005. Defendants deny that cell F324 has ever been condemned. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 80.**

81. In August 2005, Plaintiff was sent back to Stateville's ("NRC") Northern Receiving Center, for about one week, then Plaintiff was sent back to Stateville's ("F-House"), where he remained to March 21, 2007 where Plaintiff still was considered healthy. (See, Exhibits-K).

**ANSWER: Defendants admit that Plaintiff was housed at the NRC from August 30, 2005, through September 6, 2005, and was then transferred to Stateville, but Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 81.**

82. From March 2007 to present, Plaintiff's health aggressively deteriorates on a day-to-day basis. And although he receives treatments, whether adequate or inadequate, for his ailments, he is no longer considered the healthy young man since being housed at Stateville.

**ANSWER: Defendants admit that Plaintiff receives medical treatments. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 82.**

83. Stateville will never admit to any wrongdoing no matter what type of evidence that is produced against them, or even those inadequate or hazardous things that they know of. Stateville will still try to find a way to manipulate facts, to steal state money, and for its employees to do less as possible work, while receiving "full pay-checks" and "unnecessary-overtime pay-checks". Stateville's administration is master manipulators and deceives the public.

**ANSWER: Deny.**

**COUNT 8- INMATE LIVING UNITS HAZARDOUS AND UNSAFE FOR HUMAN OCCUPANCY**

84. Defendants Weilding and Hardy, known for years that various buildings of Stateville has been hazardous, including, but not limited to, the inmate living units which are unsafe for human occupancy. (See, Exhibits-L and M).

**ANSWER: Deny.**

85. The inmate living units (Bravo, Charlie, Delta and Edward) continuously poses a substantial risk of imminent personal injury and/or death of Plaintiff, as well as, all the other inmates who live in these units. (See, Exhibits-L and M).

**ANSWER: Deny.**

86. The living units known as, "Bravo-House, Charlie House, Delta House and Edward House," consist of only one individual building, yet, separated and/or divided into four (4) inmate living units. (See, Exhibits-L and M).

**ANSWER: Admit.**

87. The "Bravo, Charlie, Delta, Edward-Building" is unsafe for human occupancy where the building poses a substantial risk of a complete collapse and/or a partial collapse of the overall building's structure. Still Defendants Weilding and Hardy fails to correct great pose of danger. (See, Exhibits-L and M).

**ANSWER: Deny.**

88. Plaintiff is currently housed in Bravo House, which is unsafe for human occupancy due to the substantial risk of complete and/or partial collapse of the existing unsafe conditions of the building. (See, Exhibits-L and M).

**ANSWER: Defendants admit that Plaintiff is currently house in Bravo House but deny the remaining averments contained in paragraph 88.**

89. The structure of the Bravo, Charlie, Delta and Edward-building consists of a brick building which is supported by and surrounded by “sixty-four” (64) support columns”, and is founded with a cement mixture, which establishes the “foundation slab”. The support columns are over five stories high, which connects approximately from the foundation slab and/or the main floor up to the building’s roof. (See, Exhibits-L and M).

**ANSWER: Defendants admit that the building containing the Bravo, Charlie, Delta and Edward cell houses partially consists of brick, but Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 89.**

90. All sixty-four (64) support columns are visibly noticeable, in plain sight, as having deteriorating bricks with crack (multiple) from the foundational slab and/or main floor extending all the way up to the roof which is over 5 stories high, which threatens to “crumble and/or break-away” from its intended structure, placing Plaintiff, as well as, other inmates and staff at a great substantial risk of imminent personal injury and/or death on a daily basis. (See, Exhibits-L and M).

**ANSWER: Deny.**

91. Not only are all sixty-four (64) support columns cracked from the bottom to the top, but “the wall of bricks” between various support columns are also cracked with deteriorating bricks and/or stones which crumbles and break-away where it can, in plain view, be seen with approximately one (1) inch gaps and/or spaces with no filler and/or cement. (See, Exhibits-L and M).

**ANSWER: Deny.**

92. By the inmate living units (“Bravo, Charlie, Delta, and Edward House”) being founded on a deteriorating foundation, which has cracks in the support columns and the main floors it has caused the “entire building’s structure” to “shift-off” and “lean slightly,” posing a substantial risk of imminent personal injury or death. And, Defendants Weilding and Hardy have known this but failed to correct these issues.

**ANSWER: Deny.**

93. Several other structures around Stateville also have deteriorating foundations and walls that also need to be fixed.

**ANSWER: Deny.**

94. Plaintiff filed a grievance to his counselor-Karen Rabideau, on September 11, 2008 where she responded on September 24, 2008. This is the first step in exhaustion. (See, Exhibit-B).

**ANSWER: Admit.**

95. Plaintiff appealed his, 9-11-08 grievance to grievance officer Margaret Thompson, who responded on September 29, 2008. Warden Terry L. McCann also responded on September 30, 2008. This is the Second Step in Exhaustion. (See, Exhibit-B).

**ANSWER: Admit.**

96. Plaintiff appealed his 9-11-08 grievance, to ARB-Chairperson- Jackie Miller, who responded on February 13, 2009. Director- Roger E. Walker Jr. responded on March 23, 2009. This is the third and final step in exhaustion. (See, Exhibit-B).

**ANSWER: Admit.**

97. On February 25, 2011, Plaintiff filed a grievance to his counselor Cleo Johnson, who responded on March 3, 2011. This is the first step in exhaustion. (See, Exhibit-J).

**ANSWER: Admit.**

98. Plaintiff appealed his 2-25-2011 grievance to grievance officer Anna McBee, who received the grievance on March 11, 2011 then responded to the grievance on April 4, 2012. Warden Marcus Hardy responded on April 13, 2012. This is the second step in exhaustion. (See, Exhibit-J).

**ANSWER: Admit.**

99. Although Plaintiff appeal his 2-25-2011 grievance to the administrative review board which is pending and the third and final step in exhaustion, when grievance officer Anna McBee held the grievance over one year remedies became unavailable. (See, Exhibit-J).

**ANSWER: Deny.**

100. On March 10, 2011 Plaintiff filed a grievance to his counselor Cleo Johnson who responded on March 17, 2011. This is the first step in exhaustion. (See, exhibit-D).

**ANSWER: Admit.**

101. On August 29, 2011 grievance officer Anna McBee responded to Plaintiff's 3-10-11 grievance. Warden Marcus Hardy responded on August 30, 2011. This is the second step in exhaustion. (See, Exhibit-I).

**ANSWER: Defendants admit that on August 29, 2011, grievance officer Anna McBee responded to Plaintiff's March 10, 2011 grievance and that this is the second step in exhaustion. Defendants deny the remaining averment contained in paragraph 101.**

102. On December 22, 2011 ARB-Chairperson Jackie Miller responded to Plaintiff's 3-10-11 grievance. Director S.A. Godinez, responded on January 3, 2012. This is the third and final step in exhaustions. (See, Exhibit-D).

**ANSWER: Defendants admit that on December 22, 2011, ARB Chairperson Jackie Miller responded to Plaintiff's March 10, 2011 grievance and this is the third and final step in exhaustion. Defendants deny the remaining averment contained in paragraph 102.**

### **VIOLATIONS OF PLAINTIFF'S CONSTITUTIONAL RIGHTS**

103. Plaintiff realleges and incorporates by reference paragraphs 1 thru 96, of this complaint.

**ANSWER: Defendants restate and re-plead their answers to all of the preceding paragraphs as is fully set forth here.**

104. Plaintiff has rights protected under the 8th and 14th amendments to the United States Constitution. These rights include the right to be free from cruel and unusual punishment, due process and equal protection of laws.

**ANSWER: Defendants admit that Plaintiff has the constitutional rights provided for and defined by law, but Defendants deny that any of the Plaintiff's rights have been violated.**

105. Plaintiff has exercised his constitutional protected rights to be free from cruel and unusual punishment, due process and equal protection of laws, by the filing of this law suit.

**ANSWER: Deny.**

106. As outlined above, Plaintiff has clearly exhausted his administrative remedies by filing his grievances through the prison's internal grievance procedure, as well as, the department's grievance procedure.

**ANSWER: Admit.**

107. Defendant, WILLIAM WEILDING, Chief Engineer of Stateville, acting under the color of law, violated the Plaintiff's Eight and Fourteenth Amendment protected rights to be free from cruel and unusual punishment, when Defendant Weilding acted deliberately indifferent to the Stateville prison conditions that are inadequate and hazardous to inmates/Plaintiff's health.

**ANSWER: Deny.**

108. Defendant, MICHAEL STUDER, Water-Supply Operator of Stateville acting under the color of law violated the Plaintiff's Eight and Fourteenth Amendment protected rights to be free from cruel and unusual punishment, when Defendant Studer acted deliberately indifferent to the Stateville prison conditions that are inadequate and hazardous to inmates/Plaintiff's health.

**ANSWER: Deny.**

109. Defendant, MARCUS HARDY, Chief Administrative Officer and Warden of Stateville, acting under the color of law, violated the Plaintiff's Eight and Fourteenth Amendment protected rights to be free from cruel and unusual punishment, when Defendant Hardy, acted deliberately indifferent to the Stateville Prison conditions that are inadequate and hazardous to inmates/Plaintiff's health.

**ANSWER: Deny.**

110. These prison officials have violated their duty and responsibility of protecting inmates/Plaintiff from these inadequate and hazardous prison conditions.

**ANSWER: Deny.**

111. These Defendants possesses actual knowledge of inadequate and hazardous conditions and has impeded the preventable measures of harm.

**ANSWER: Deny.**

112. These Defendants possess the power to correct all the inadequate and hazardous prison conditions that the Plaintiff has alleged in this complaint, at any given time with a posture of due diligence when evaluating job descriptions.

**ANSWER: Deny.**

**JURY DEMAND**

Defendants demand a trial by jury on all issues herein triable.

LISA MADIGAN  
Attorney General of Illinois

Respectfully submitted,

/s/ Kevin Lovellette  
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