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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**ALAMEDACOUNTYWOMEN PRISONERS
And Former Prisoners & Pregnant Prisoners,**
JACLYN MOHRBACHER, ERIN ELLIS,
DOMINIQUE JACKSON, CHRISTINA
ZEPEDA, ALEXIS WAH, AND JAMIE
JOHNSTON, KELSEY ERWIN, DENISE
ROHRBACH, SHANI JONES, ANDRANIA
YANCY, DAWN DEDRICK, JAMILA
LONGMIRE, SANDRA GRIFFIN, NATALIE
GARRIDO, JAZMINE TATE, MONICA
NUNES, ANDANNA IBE, MARCAYSHA
ALEXANDER, DIAMOND COOPER, MARY
MAPA, ROSE PEREZ, MARTINA GOMEZ,
TIKISHA UPSHAW, ANNETTE KOZLOWSKI
And JANE DOEs Nos. 1-- X
on behalf of themselves and others similarly
situated, as a Class, and Subclass,

Plaintiffs,

vs.

ALAMEDA COUNTY SHERIFF'S OFFICE,
GREGORY J. AHERN, BRETT M. KETELES,
TOM MADIGAN, T. POPE, T. RUSSELL, D.
SKOLDQVIST, LT. HATTAWAY, SGT.
CALAGARI, DEPUTY DIVINE (#512),
DEPUTY DEBRA FARMANIAN, DEPUTY

No. 3:18-cv-00050-JD

SECOND AMENDED COMPLAINT for
INJUNCTIVE RELIEF AND DAMAGES
FOR VIOLATION OF CIVIL RIGHTS
and OTHER WRONGS

Jury Trial Demanded

1 WEATHERBEE (#238), DEPUTY TANIA
2 POPE, DEPUTY WINSTEAD, DEPUTY
3 CAINE, ALAMEDA COUNTY and John &
4 Jane DOEs, Nos. 1 - 50.

5 **and,**

6 **The CALIFORNIA FORENSIC MEDICAL**
7 **GROUP**, a corporation; its Employees and Sub-
8 Contractors, and Rick & Ruth ROEs Nos. 1-50,

9 **and,**

10 **ARAMARK CORRECTIONAL SERVICES,**
11 **LLC**, a Delaware Corporation; its Employees
12 and Sub-Contractors, and Rick and Ruth ROES
13 Nos. 51-100.

14 Defendants

15 Plaintiffs JACLYN MOHRBACHER, ERIN ELLIS, and DOMINIQUE JACKSON, now
16 joined by others named within, on behalf of themselves and those they speak for and seek to
17 represent herein---along with those others now named and to be named individually as plaintiffs---for
18 themselves and others, pursuant to the Court’s discussion with Counsel at the status call on January 8,
19 2018, and as of right per R.15(a) F.R.Civ P, now submit this amended version (FAC) of their
20 previously filed Complaint, as follows:

21 **I. PRELIMINARY STATEMENT**

22 1. This Second Amended Complaint is submitted in response to the Court’s recognition
23 that the case evolved, while the Motion demanding emergency intervention was pending, as
24 plaintiffs’ ongoing investigation of maltreatment endured by pregnant women in Santa Rita has
25 revealed a broadly degraded, oppressive regime in the jail, which violates the rights of all the women
26 held there in substantial, concrete, injurious ways; the harmfulness of which to pregnant women and
27 their babies is obviously then magnified, intolerably.

28 2. Pregnant Women Prisoners at Santa Rita are held in conditions, and (mis)treated by its
custody and medical staff, in ways which are wrongful, and oppressive, wholly unjustified by any
legitimate jail purpose—indeed counterproductive to all good faith custody practice—and harmful,
injurious and threatening to the women’s health and well-being and that of their unborn children, all
to a degree which violates their fundamental rights under the Constitutions of the United States, and
California, and also fails to satisfy statutory and regulatory standards and requirements, and indeed
the jail’s own policies.

3. Sheriff’s Department practices and attitudes towards women prisoners and their needs

1 and wants, regarding medical problems, feminine hygiene, sanitation (and rodent infestation),
2 nutrition, the storage, preparation and service of food, laundry, clean-up, etc.—not to mention harsh
3 discipline and illicit punishment, stultified grievance practice, and all the other hot and cold
4 interpersonal aspects between the keepers and the kept, in the myriad processes of jail life—produce
5 a group living environment which is loud, mean, chaotic, remorseless, endlessly stressful and unsafe
6 in all ways. Pregnant prisoners suffer from a poor, meager and often unwholesome diet, which leaves
7 them—all of them—constantly hungry. There is a near-complete lack of regular exercise, and proper
8 rest, and, truly, basic respect for their singular medical and other needs. Except for being offered
9 abortion, sometimes quite urgently; and sometimes, randomly being taken to the hospital for check-
up, they basically get no help, no information, no counseling, no nothing.

10 4. That is to say that daily life in Santa Rita is toxic and dangerous to a pregnant woman
11 without a doubt; and even more so to her baby, that is elementary. Plaintiffs mean to assert fully the
12 material rights of each unborn child affected herein—including those where the life was lost under
13 defendants' mindless tyrannies—and all other cases found lurking and festering in these dismal
14 circumstances. Incredibly—in the midst of such a hot, joined-battle stage in the case, we received a
15 report this week of March 26 that a woman prisoner gave birth during her current incarceration and
16 the baby was immediately taken from her and has not been returned. Several days later this new
17 mother has been denied any opportunity even to touch her new baby —let alone hold it, feed it,
18 comfort it and comfort and console herself in the warmth of the miracle of its whole birth. It is
19 beyond any expression of outrage that defendants would employ or associate with anyone with the
20 deep cruelty, sadism, and perversity of mind and soul that would be required to carry out such a
21 monstrous act, because the mother is a prisoner. That the pretense will be that “security” or some
other supposed rule required it only makes the story more sickening.

22 5. Even in the limited amount of investigation we have managed to accomplish since the
23 inception of the case, it is beyond clear, and patent, that the county jail environment is radically
24 unsuitable, deleterious, and gravely threatening and dangerous to expectant mothers; and that the
25 situation cannot be truly remedied without establishment of calm, appropriate, separate quarters for
26 their confinement. The obvious, fundamental rights, and above all the minimum physical and health
27 needs of the altogether blameless babies in wombs—given the inevitably harsh and unforgiving
28 nature of county jail life, as shown herein and to be shown; and, more crucially here, the relentless
antagonism and heartless nastiness so frequently shown to women prisoners by so many staff

1 members, both deputies and so-called medical people—require no less.

2 6. While the effects are less severe, perhaps, and for sure innocent lives-to-be are not
3 directly affected, it is obvious that the conditions complained of herein are injuriously—and we say
4 unconstitutionally—visited upon all the women prisoners at Santa Rita as it is being operated today.
5 In the original Complaint, plaintiffs had included an assertion on behalf of all women Santa Rita
6 prisoners that they were all victims of wrongful discrimination vis-a-vis men prisoners there, with
7 respect to almost all aspects of Life in Jail: jobs, out-of-cell time, programs, family visits, the list goes
8 on. A class of all women prisoners was proposed for these claims, which we now seek to adjust, to
9 accommodate these emergent claims about the harmful conditions all women endure and the
10 remedies, legal and equitable, they may be entitled to, individually where appropriate, and as a class.
11 As to which we then alleged a Subclass of the pregnant ones.

12 7. However—and this may mean that a separate class is needed rather than a subclass—
13 plaintiffs mean specifically to include former prisoners who were pregnant, and were or may have
14 been maltreated as several of our initial plaintiffs were —with their various birth outcomes having
15 been affected by their time in Santa Rita in whatever demonstrable ways, if any—going back at least
16 three years; let’s say from January One, 2015, to now.

17 8. In contrast, the broad equitable relief—and, we believe, ongoing supervision by the
18 Court—which will be needed to stop and rectify the miserable, egregious flow of nonfeasance,
19 misfeasance and malfeasance, which denies basic rights on a wholesale basis, to a degree which
20 absolutely shocks the conscience, with which this jail is run. But it must be noted, as the Court saw,
21 that the case has expanded factually to include claims of all women, the Class, against the lousy
22 conditions the plight of pregnant women first brought to light.

23 9. So here we will adopt and re-allege the descriptions and stories and events recounted
24 by the many women who have come forward, and asked to be included, who we are also naming as
25 additional plaintiffs, whose sworn declarations recounting their experience and knowledge of events
26 and conditions in Santa Rita are already before the Court. These serve as a cumulating factual
27 predicate for the Injunction claims the actions and practices of the defendants gave rise and still give
28 rise to, as well as to possible damage actions by or for individual class or Subclass members, or either
en masse.

10. Of course, this Second Amended Complaint is made and submitted upon the Court’s
own determination that the previous vehicle wouldn’t do, and so it is doubly subject to scrutiny as

1 here proposed, and the undersigned prays for approval of this Second Amended Complaint —with
2 looks forward to the further refinement and exploration of the issues, and rules, and needs...

3 ** ** ** **

4 11. Beyond the urgent issues involving pregnancy, the plaintiffs herein (in their final
5 grouping), on behalf of themselves and all women prisoners at Santa Rita—whose injuries and
6 deprivations at the hands of defendants do not involve pregnancy, but very often do involve nasty and
7 hostile refusals to acknowledge or respond to feminine hygienic needs—now also again complain **as**
8 **a Class**, as described and asserted within, of extensive, systematic discrimination against the women
9 prisoners at Santa Rita, compared to the men. Invidious treatment of women occurs in all aspects of
10 life in the jail: jobs, food, access to bathrooms, showers, hygiene, clean clothes, fresh air and out-of-
11 cell time, education classes and activities, counseling, phone calls, family visits, and more. These
12 women also seek injunctive relief, under the First, Fourth, Fifth and Fourteenth Amendments per
13 R.65 F.R.Civ P., and the Bane Act (Cal Civil Code §52.1)—requiring a total cessation of inhumane
14 and sexually and gender-biased unequal treatment and forms of treatment of women prisoners by
15 defendants, and providing effective, outside monitoring—on behalf of themselves and **others**
16 **similarly situated, namely women prisoners currently held or to be held in the future at the**
17 **Santa Rita Jail, as a Class**, per Rule 23, F.R.Civ. P. Plaintiffs likewise seek full compliance with 15
18 CCR Titles 11 and 12; full and appropriate compliance with California Penal Code §6030, full
19 implementation of California Penal Code §3409, and implementation of Penal Code §1170.06 and
20 California Health & Safety Code §11222, particularly for the benefit of pregnant women; all to
21 ensure the proper care and treatment of women prisoners.

22 12. This Second Amended Complaint thus adds additional named plaintiffs, listed below;
23 adds as defendants ARAMARK Correction Services, LLC (“Aramark”) and its involved personnel.

24 13. As before, plaintiffs have named several high-ranking members of the defendant
25 Sheriff’s Department individually, along with a number of John and Jane Does who are guards and
26 other staff members who have been involved in the various tyrannies against women prisoners
27 complained of herein—and whose number will now include various unknown and named contractors
28 and their other employees assigned to the Santa Rita account—all of whom will or would be subject
to the injunctive orders, directions and prohibitions sought herein, as co-defendants;

14. Also named are the Sheriff’s Department and the County itself, CFMG, Inc. also, in
respondeat with respect to the State Law claims herein; and also for their unconstitutional explicit

1 and de facto polic(ies) of discrimination and systematic maltreatment—particularly of pregnant and
 2 menstruating women, within the rule of *Monell v. New York City Dept. of Social Services*, 436 US
 3 568 (1978).

4 15. Plaintiffs name ARAMARK Correctional Services, L.L.C.—and JOHN & JANE
 5 ROEs Nos. 51-100, their involved cooperators and employees—as co-defendants; where, in truth,
 6 they are third party defendants vis-a-vis the defendant Sheriff *et al*, who plaintiffs continue to charge
 7 are fully responsible for all the food-related horrors and defaults that have befallen plaintiffs, and
 8 who cannot be permitted to foist responsibility on this deep-pocket corporate behemoth, who the
 9 Sheriff is in the Meals Ready to Eat business with resulting in the sadistic denial of adequate food,
 10 service f stale, expired, old and spoiled food, food that has been contaminated by rodents and other
 11 vermin, the requirement that pregnant women and women prisoners in general are deprived of decent,
 12 fresh, nutritious and tasty food; resulting in pregnant women and women prisoners remaining hungry
 in order to encourage and require that the prisoners purchase commissary.

13 II. JURISDICTION & VENUE

14 15. The Jurisdiction of this honorable Court derives from the provisions of the First,
 15 Fourth, Fifth, Thirteenth and Fourteenth Amendments to the United State Constitution, by way of the
 16 Civil Rights Acts, 42 U.S.C. §§1981 (as to certain plaintiffs), 1983 et seq. and 1988; 28 U.S.C.
 17 §1331 (claims arising under the United States Constitution) and §1343 (claims brought to address
 18 deprivations, under color of state authority, of rights privileges, and immunities secured by the United
 States Constitution), and, by pendent jurisdiction, Secs. 52.1, and 50, of the California Civil Code.

19 Intradistrict Assignment

20 16. The claims alleged herein arose in the County of Alameda, State of California.
 21 Therefore, venue and assignment, under 28 U.S.C. § 1391(b), lies in the United States District Court
 22 for the Northern District of California, San Francisco Division or Oakland Division.

23 III. PARTIES

24 Plaintiffs

25 17. In this Second Amended Complaint the following additional present and former Santa
 26 Rita prisoners, pregnant and otherwise, are joining the original plaintiffs, some as members of the
 27 pregnant Subclass and all as would-be representatives of the Class as a whole. ERIN ELLIS,
 28 DOMINIQUE JACKSON, JAIME JOHNSTON are each pregnant prisoners currently in the custody
 and control of the Alameda County Sheriff's office. Each of them wishes to carry her pregnancy to

1 term and have a healthy baby, and each of them wants and demands the necessary nutrition, medical
2 and other support which that minimally requires. JACLYN MOHRBACHER and CHRISTINA
3 ZEPEDA are formerly pregnant prisoners who suffered a miscarriage due to the mistreatment
4 received at the hands of defendants, while under the custody and control of the Alameda County
5 Sheriff's Office. ALEXIS WAH, KELSEY ERWIN, DENISE ROHRBACH, SHANI JONES,
6 DAWN DEDRICK, JAMILA LONGMIRE, NATALIE GARRIDO, JAZMINE TATE, MONICA
7 NUNES, are women who were formerly imprisoned at Santa Rita jail. MARCAYSHA
8 ALEXANDER, ANDANNA IBE, ANDRANIA YANCY, SANDRA GRIFFIN, DIAMOND
9 COOPER, MARY MAPA, ROSE PEREZ, MARTINA GOMEZ, TIKISHA UPSHAW, ANNETTE
10 KOZLOWSKI are currently incarcerated prisoners in Santa Rita Jail.

11 18. All plaintiffs whether formerly incarcerated or currently incarcerated, experienced and
12 endured the repeat, rampant, and continual and mistreatment including the unequal (as compared to
13 men) treatment, that women prisoners receive include insufficient classes and work opportunities,
14 lack of clean laundry; insufficient laundry; lack of sanitation, and unhygienic conditions; insufficient
15 and lack of feminine hygiene supplies; unhygienic, frequently rodent infested, insufficient and poor
16 quality food; denial of First Amendment rights by being denied the right to speak during meals upon
17 pain of punishment and being told where to sit; enduring the arbitrary infliction of punishment
18 depending on the mood or often whim of the sheriff's deputy on duty; lack of adequate mental health
19 care; denial of regular outdoor recreation opportunity; and denial of POD time.

20 19. In addition, JAMILA LONGMIRE, experienced an egregious lack of medical care in
21 Santa Rita Jail when she fell off a bunk and fractured her back, was made to sleep on a mat on the
22 floor of her pod and was not given medical care for weeks after the fall.

23 20. ANDANNA IBE, currently incarcerated in Santa Rita, gave birth while incarcerated in
24 November 2017 at Highland Hospital, was unable to call any family or friends to be present during
25 labor, had to endure labor while being viewed by two deputies, including male deputies.
26 Immediately following the delivery of her child, was forced to be chained and shackled to her
27 hospital bed, spread-eagle with two male guards in her hospital room minutes after giving birth. Her
28 baby was taken away without being given the opportunity to even touch her baby. She was denied
the use of a breast pump. Her only contact with her baby has been one or two photos.

21. MARCAYSHA ALEXANDER is currently incarcerated at Santa Rita and is post
partem. She has been forced to her breast milk she pumps because the jail will not allow her breast

1 milk to get to her baby outside, additionally she was served food containing mouse feces.

2 **Defendants**

3 22. Defendant ALAMEDA COUNTY SHERIFF'S OFFICE is a "public entity" within the
4 definition of Cal. Govt. Code § 811.2; Defendant GREGORY J. AHERN is the Sheriff of Alameda
5 County. As such, he has caused, created, authorized, condoned, ratified, approved or knowingly
6 acquiesced in the illegal, unconstitutional, and inhumane conditions, actions, policies, customs and
7 practices that prevail at Alameda County jails, as described below. He has, therefore, wholly or in
8 part, directly and proximately caused, and will continue in the future to cause, the injuries and
9 violations of rights set forth below. Defendant Ahern is sued in his official capacity only.

10 23. Defendant BRETT M. KETELES is the Assistant Sheriff for Alameda County in
11 charge of the Detentions and Corrections Unit and defendant TOM MADIGAN is the commander in
12 charge of the Detentions and Corrections Unit which includes the two Alameda County jails, Glen
13 Dyer and Santa Rita, and was so in charge of Santa Rita Jail on December 26, 2016. Defendants
14 BRETT KETELES, TOM MADIGAN, and T. RUSSELL as employees of the Sheriff's Office and as
15 the detention and corrections commander for the Sheriff's Office, held command and policymaking
16 positions. They, along with Defendant Ahern, participated in the planning, supervision, and the
17 execution of the manner in which plaintiffs and class members are incarcerated in the Alameda
18 county jail facilities and ACSO's conduct complained of herein. Defendants BRETT KETELES,
19 TOM MADIGAN, and T. RUSSELL caused, created, authorized, condoned, ratified, approved or
20 knowingly acquiesced in the illegal, unconstitutional, and inhumane conditions, actions, policies,
21 customs and practices that prevail at Alameda County jails, particularly as to the treatment of women
22 as described below.

23 24. Defendant D. SKOLDQVIST was and is the Watch Commander for Santa Rita Jail.
24 Defendants D. SKOLDQVIST, T. RUSSELL, LT. HATTAWAY and SGT. CALIGARI, were the
25 responsible officers for Santa Rita Jail. Defendants, D. SKOLDQVIST, T. RUSSELL, LT.
26 HATTAWAY, SGT. CALIGARI at all times relevant herein, are and were employees of the Sheriff
27 who held supervisory, command and/or policy-making positions, and who participated in the
28 authorization, planning, supervision, and the execution of the sheriff's conduct complained of herein.

29 25. At all times relevant herein, the individual Defendants AHERN, KETELES,
30 MADIGAN and RUSSELL were officers and employees acting under the color of law, under color of
31 their official authority and in the scope of their employment as Command and Supervisory Personnel

1 of the Alameda County Sheriff's Office. Additionally, upon information and belief, one or more of
2 these Defendants failed, with deliberate indifference to plaintiffs' and class members' rights, to
3 adequately train and supervise ACSO sheriff's deputies and staff who were involved in violating the
4 rights of the plaintiffs and class members. All of the above individual defendants are sued in their
5 individual and official capacities.

6 26. At all times relevant herein, all of the above individual Defendants Deputies DIVINE,
7 DEBRA FARMANIAN, CAINE, TANIA POPE, DEPUTY 'A', and DEPUTY "S", were officers
8 and employees were acting under the color of law, under color of authority and in the scope of their
9 employment with the Alameda County Sheriff's Office, and were the guards and deputies on duty at
10 Santa Rita Jail with direct control over plaintiffs and members of the class.

11 **Medical services defendants**

12 27. CFMG and its various employees and sub-contractors, are apparently retained by the
13 County to provide medical services to Santa Rita prisoners on behalf of the defendant Sheriff's
14 Department; and the County defendants apparently believe, and assert, that, in making a contract with
15 CFMG for that purpose, the Department and its defendant minions shed and shifted and absolved
16 themselves of any responsibility or liability for timely and effective delivery of such services to
17 prisoners in their custody. Needless to say, plaintiffs disagree absolutely that the County defendants
18 are to any degree 'off the hook,' or insulated from legal responsibility for provision of proper care to
19 prisoners in their custody by virtue of such a third-party arrangement. Rather, the newly-added
20 medical personnel---unknown individuals named herein as RICK & RUTH ROEs Nos. 1-50---and
21 their employer are jointly and severally liable to plaintiffs and the Subclass, with the County
22 defendants, for the failures and deficiencies in the care and attention provided to pregnant prisoners.

23 **Food services defendants**

24 28. Aramark Correction Services, LLC, has self-identified as the entity with whom the
25 primary defendant, Alameda County Sheriff's Office, and the County of Alameda, contracts with to
26 provide MRE or meals ready to eat for the prisoners under the Sheriff's custody and control as well
27 as a profit business center in preparing these MREs for sale and distribution to other jail and custodial
28 facilities. The County defendants apparently believe, and assert, that, in making a contract with
Aramark for that purpose, the Department and its defendant minions shed and shifted and absolved
themselves of any responsibility or liability for timely and effective delivery of such services to
prisoners in their custody. Needless to say, plaintiffs disagree absolutely that the County defendants

1 are to any degree 'off the hook,' or insulated from legal responsibility for provision of proper
2 nutrition to prisoners in their custody nor for the maintenance of sanitary and healthy food
3 preparation facilities by virtue of such a third-party arrangement. Rather, the newly-added MRE
4 preparation staff---unknown individuals named herein as RICK & RUTH ROEs Nos. 51-100---and
5 their employer are jointly and severally liable to plaintiffs and the Subclass, with the County
6 defendants, for the failures and deficiencies in the food preparation and the actual nutrition and food
7 provided to pregnant prisoners and other prisoners.

8 29. Plaintiffs are informed and believe and therefore allege that each of said defendants
9 DOES 1 through 50, are and/or were agents or employees of Defendants COUNTY OF ALAMEDA
10 and ALAMEDA COUNTY SHERIFF'S OFFICE and acted within the scope of that agency or
11 employment or under color of state law. The same is true with respect to the relations between
12 defendant CFMG and its practitioners and other employees assigned to the Santa Rita account, ROEs
13 1-50, and their involvement in the matters at issue herein; and Aramark and its staff and other
14 employees assigned to the Santa Rita account, ROEs 51-100 and their involvement in the matters at
15 issue herein; DOEs 1-50 and ROEs 1-100 are defendants who caused, and are responsible for, the
16 below-described unlawful conduct and resulting injuries by, among other things, personally
17 participating in the unlawful conduct or acting jointly or conspiring with or aiding and abetting others
18 who did so; by authorizing, acquiescing in or setting in motion policies, plans or actions that led to
19 the unlawful conduct; by failing to take action to prevent the unlawful conduct; by failing and
20 refusing with deliberate indifference to plaintiffs' rights to initiate and maintain adequate training and
21 supervision; and by ratifying the unlawful conduct that occurred by agents and officers under their
22 direction and control, including failing to take remedial or disciplinary action. Plaintiffs allege that
23 DOEs 1-50 and ROEs 1-100 proximately caused said incidents, injuries, violation of constitutional
24 and legal rights, and damages by reason of their negligence, breach of duty, negligent supervision,
25 management or control, or by reason of other personal, vicarious or imputed negligence, fault, or
26 breach of duty, whether severally or jointly, or whether based upon agency, employment, or control
27 or upon any other act or omission.

28 30. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as
DOE 1-50 and ROE 1-100 and therefore sue said defendants by such fictitious names. Plaintiff will
amend this FAC further to supply true names and capacities when the same are ascertained and will

1 seek leave to amend further facts involving them are ascertained. DOEs 1-50 are sued in their
2 individual and official capacities.

3 **IV. EMERGENCY RELIEF**

4 31. As previously recounted, prisoner-plaintiffs ERIN ELLIS and DOMINIQUE
5 JACKSON remain in dire straits in the Santa Rita Jail, continuously, both being more than four
6 months pregnant and in substantial discomfort, with intermittent bleeding, and suffering health
7 complications. Plaintiff JACKSON has a pre-existing cardiac condition, is pregnant with twins, and
8 the physician who was treating her prior to her incarceration declared that her pregnancy is “high
9 risk.” Both women have been explicitly and pointedly denied and refused assistance or
10 accommodation for their condition by defendants, including but not limited to meaningful attention
11 from a doctor or other qualified practitioner, adequate and sufficient nutrition. Instead, they are
12 repeatedly advised they should agree to abortion, or defendants disregard these plaintiffs’ requests for
13 medical and nutritional assistance.

14 32. Instead, defendants have repeatedly demanded that plaintiffs agree to have an
15 abortion, accused plaintiffs of being drug addicts, and refused all other recognition and assistance for
16 each plaintiff’s delicate condition. Other pregnant women—including those who miscarried—have
17 similarly been scorned, branded and mistreated in the jail in recent times—under a regime marked by
18 a striking and most distasteful animosity towards women prisoners---and particularly those thought,
19 rightly or wrongly, to have addiction issues, and studied, often openly scornful, indifference to their
20 serious medical and hygienic needs.

21 33. These women now seek extraordinary relief from this Court on an emergency basis, in
22 circumstances where all the plaintiff-prisoners are acutely aware that three pregnant women have
23 recently miscarried in the jail or just after getting out, after being denied medical assistance; and a
24 third was left in labor, screaming all night, in a solitary confinement cell. Thus, all plaintiffs must
25 legitimately fear that they will be ignored and left to languish without help, even if beginning to
26 miscarry, unless this Court intervenes with Order(s) sufficient to guarantee protection of their health
27 and well-being, and that of her unborn child.

28 34. Plaintiffs therefore seek a comprehensive remedy, by decree involving big oversight,
discussed further below, which will ensure that they and all pregnant women prisoners who come
into defendants’ custody receive all needed accommodation—including decent, nourishing food,
warm clothing and blankets, proper rest, fresh air and exercise, etc, as well as timely medical

1 attention and monitoring, doctor and hospital visits, and pre-natal counseling along with, where
2 needed, addiction services—from defendant Sheriff’s and CFMG staff members while they are in
3 custody.

4 **V. STATEMENT OF FACTS**

5 35. The “mission statement” for the defendant Alameda County Sheriff’s Department
6 states that the Department will provide “Humane treatment to those in our custody, while
7 demonstrating: Ability to enforce the law fairly; Commitment to professionalism; Service to the
8 community with integrity and trust; and, Obligation to duty with honor and pride.” But the facts
9 show that women prisoners are not treated humanely, and the law is not fairly applied. Women
10 receive unfair and discriminatory treatment on a routine basis, including being short changed on
11 access to education and work, and;

12 36. Greater limitations than male prisoners to clean laundry, feminine hygiene products,
13 the ability to converse with others, and even the freedom to choose where to sit during meals.

14 37. The Santa Rita jail is one of two jails in Alameda County, located in the remote
15 eastern reaches, near Dublin. The other jail is in downtown Oakland. Women are held only at Santa
16 Rita. On information and belief, there are approximately 250 women held there at any given time, of
17 whom, on average, about ten are pregnant. Most of these women prisoners are pre-trial detainees
18 unable to afford bail, but quite a number are also serving time, mostly for probation violations. In the
19 course of a year, roughly 150 pregnant women will have been under the custody and control of the
20 Alameda County Sheriff’s Office at Santa Rita for some period of time.

21 38. The Sheriff’s Department has a contract with the California Forensic Medical Group,
22 CFMG, to provide necessary medical care and services to prisoners at Santa Rita, under which
23 CFMG apparently assigns various practitioners and other personnel who work at the jail, and others
24 who visit intermittently for various purposes. CFMG is said to set the procedures and protocols by
25 which prisoners receive (or don’t receive) medical attention and care, including the supervision and
26 management of the “infirmary” and the Undersigned have been advised that the Sheriff’s Department
27 regards CFMG as wholly and solely responsible for dealing with any and all medical problems that
28 Santa Rita prisoners may have, including pregnancies.

39. The Sheriff’s Department has a contract with the Aramark Correctional Services,
LLC, to produce over 15,000 meals a day, on the premises at Santa Rita Jail. These meals are used to
feed the prisoners, including plaintiffs and class members, incarcerated at Santa Rita Jail, as well as

1 to provide a revenue stream through sales of MRE to other county jails in the area. On information
2 and belief, the Undersigned asserts on information and belief that the Sheriff's Department and
3 Aramark are jointly responsible for the operation, management and maintenance of the food
4 production, inasmuch as the Sheriff provides the prison labor, at no cost, to staff and work in the food
5 preparation, and deputies provide security and oversight along side Aramark employees.

6 **A. Maltreatment of Pregnant Women Prisoners**

7 40. In point of fact, the practice of CFMG practitioners and other personnel in monitoring
8 and attending to the progress of pregnancies amount women at Santa Rita, and the level of concern or
9 engagement in the project of such care, is simply dismal.

10 41. Pursuant to 15 CCR §1210(b) the Sheriff is required to have each pregnant inmate
11 examined by an Obstetrical Physician or Obstetrical Nurse Practitioner, and to develop an
12 individualized "treatment plan." To plaintiffs' knowledge, no plan of care is or has been since
13 longtime developed for each pregnant prisoner, and the "care" provided ignores altogether the
14 harmful and detrimental consequences to mother and fetus of the unnecessarily and unjustifiably
15 punitive and stress-inducing regimens for women prisoners at Santa Rita. These include madly
16 frequent, all pervasive strip searches and body cavity searches, a profligate, also unjustified use of
17 solitary confinement, routine and regular disregard of pregnant women prisoners' requests for
18 medical assistance, and the general practice of scorn and harassment of pregnant women prisoners by
19 both CFMG and Sheriff's Department personnel.

20 42. None of the plaintiffs or anyone they know of have been given or told of any treatment
21 plan. Women who complain of not feeling well or ask to see a doctor are often harshly accused of
22 using illegal drugs---particularly by Defendant DIVINE, a Sheriff's deputy---and often punished in
23 Solitary Confinement, or by baseless, wholly unjustified, unconstitutional strip searches or body
24 cavity searches, or by being put outside in the cold for hours on end without warm clothes or
25 blankets. When plaintiffs request that a urine test be administered to disprove the false accusations
26 levied against them by defendants, defendants refuse, and insist instead on the invasive, humiliating
27 and often injurious strip and body cavity searches.

28 43. Further, rather than provide and implement plans of care for plaintiffs as required by
Regulation, defendants have instituted a program of constant monitoring of pregnant women's vital
signs, consisting of recording blood pressure and pulse at least three times a day. As part of this
"program," some plaintiffs are awakened between midnight and 4:00 a.m., every night---

1 notwithstanding pregnant woman's well-known, vital need to get adequate rest---in order for vital
2 signs to be taken and recorded.

3 44. Due to the lack of care plans and refusal to provide for the medical needs of the
4 women, women who have been abusing opioids are generally forced to enter immediately into
5 withdrawal without use of medical intervention. Defendant Sheriff and Jail's conduct violate
6 California Health & Safety Code §11222. These women are not provided "medical aid as necessary
7 to ease any symptoms of withdrawal from the use of controlled substances" as required but placed
8 into the general housing unit and subjected to immediate withdrawal. Since pregnant women are
9 assigned the lower bunk, they, not infrequently share bunks with prisoners in the throes of opioid
10 withdrawal which can involve vomiting and loss of bowel and urinary tract control. Pregnant women
11 then are at the down-stream reception of these human wastes. There are no chairs in the Units. The
12 only place for pregnant women to sit or lie down is on their bunks. When these human wastes infest
13 their bunks, pregnant women have no place to go, and must weight for the convenience of sheriff's
14 deputies to respond with cleaning supplies and fresh linens and blankets. Nonetheless, these
15 prisoners in withdrawal are not provided any assistance and withdrawal can be ongoing for hours, if
16 not days.

17 45. The Defendant Sheriff and Jail are unconcerned about the welfare and safety of their
18 prisoners, and think only in rigid, institutional frameworks of punishment, coercion and control.
19 Showers have no shower curtains, and water gets on the bathroom floor. The bathroom floor has no
20 drain and the floors are wet, slippery and dangerous. Prisoners, to remedy these problems, fashion
21 shower curtains out of plastic bags, and place towels on the floor. Defendant Sheriff in their frequent
22 raids and shakedowns of the housing units, have deemed these shower curtains illegal and routinely
23 rip these shower curtains off and take them away. As a result of these raids, there have been not
24 infrequent slips and falls, including slips and falls of pregnant women, who have no means to access
25 the toilets except to traverse these wet, slippery floors.

26 46. Plaintiffs receive an extra ration of eight (8) ounces of milk, but otherwise get no
27 additional fresh fruits, vegetables or other good protein nutrition, and certainly no balanced diet.
28 Meat products served at the jail are widely regarded, including by plaintiff, as unfit for human
consumption. Pregnant prisoners are fed a peanut butter and jelly sandwich, with perhaps a cookie or
an apple, and their extra cup of milk, for lunch and snack. Dinner is beans, boiled vegetables and
pasta, with some bread. In one striking element of the daily routine, coldly illustrating the essentially

1 anti-human character of the Santa Rita regime, breakfast is served at 3:30 a.m. each day. Many
2 women and these and other pregnant women in particular don't have the energy to get up and eat at
3 that hour or are unwilling to trade their rest for the crappy repast they know awaits them. In short,
4 the diet provided is grossly inadequate for the basic nutritional needs of a pregnant woman and her
developing child.

5 47. When the pregnant women report to the staff that they are hungry, the response is that
6 they should purchase food from the commissary. The commissary food is overpriced, high in
7 sodium, additives and preservatives, and low on nutritional value. Many of these women are from
8 low income families, and the Sheriff uses every transactional chain to pad his budget. Family
9 members must travel to Santa Rita and personally deposit cash into their loved ones' commissary.
10 Use of the electronic deposits results in up to a 10% of higher surcharge. Many of these commissary
11 foods are dried and would normally be rehydrated with boiling or very hot water. Hot water is
12 available to the women only during POD time. And POD time is frequently denied based upon the
13 whims or the ill-humor of the sheriff's deputies, sometimes for days. When denied POD time, the
14 only means of hydrating food is through the bathroom spigot, which warm produces warm water and
hydrates packaged food so that is neither tasty, nor palatable.

15 48. Many of these women are desperate for food, and yet still refuse to eat the food
16 provided by defendants. This is due to the obvious rampant rodent infestation in the kitchen, and
17 regular reports by the kitchen workers of unsanitary conditions. There have been reports of rodents
18 cooked into the beans. Prisoners have been served meals with live rodents in the food bag or on the
19 tray. Prisoners have received meals with rodent feces in the meals. Prisoners frequently receive
20 meals with clear indications that rodents have partaken of the food before its arrival. Prisoners report
21 sightings of rodents exiting food carts as food carts arrive at the housing units and exiting
22 refrigerators holding trays of food in the Housing Unit.

23 49. As a result of defendant's apparently programmatic, ingrained habits of maltreatment,
24 and vindictiveness, on the part of individual deputies---especially where women have or have had
25 addiction problems---pregnant women have suffered termination of pregnancy either through
26 miscarriage, or the fetus losing viability. Plaintiff CHRISTINA ZEPEDA, who was in custody from
27 August through November 2017, and as a result of defendants' described maltreatment, began
28 bleeding so badly she was rushed by ambulance to the hospital, where she had a miscarriage. And
plaintiffs are informed and believe that another woman, Paramdeep Kaur who was pregnant and in

1 custody at Santa Rita this past fall, also suffered a miscarriage. And Plaintiff JACLYN
2 MOHRBACHER, who at the initiation of this action was pregnant, but due to the brutal treatment of
3 defendants, including denial of medical care, repeated abusive confinement in solitary, with repeated
4 strip and body cavity searches, suffered a miscarriage in the interim. The Defendant Deputies instead
5 of calling for medical assistance, allowed Plaintiff MOHRBACHER to continue bleeding; treating
6 her in such a heartless manner as demonstrated by their refusal to provide her with menstrual pads but
7 forced her for many hours to bleed all over her clothing, while continually falsely accusing her of
8 misusing drugs.

9 50. Also, this past July, in keeping with Santa Rita's routine of punishment and abuse for
10 pregnant prisoners as already recounted, a woman was placed into solitary confinement after she
11 complained of cramps and pain, Then, despite the mandate for half-hour checks on her condition, all
12 the deputies and medical personnel ignored her, throughout the night. The woman was experiencing
13 labor pains, and she began screaming; her screams went on for hours, and of course were agony for
14 the other women prisoners to hear echoing throughout the night; and no deputy, or CFMG person,
15 checked on her welfare before morning; by when this woman, known as Candace Steele had
16 delivered her baby, alone. She reported that the umbilical cord was wound around the baby's neck
17 when it emerged, and that she had to poke her finger down its throat---acting on instinct---to get it
18 started breathing. Defendants have asserted that---where such a person, and, implicitly, such an event
19 apparently occurred---it was because Candace was medically examined and said to be experiencing
20 false labor---the Braxton-Hicks syndrome---but have failed to justify their wrongful seclusion of
21 Candace in solitary confinement, the failure to make regular checks on her welfare, actions to muffle
22 her screaming and patent refusal to summon medical aid.

23 51. This practice of solitary confinement, while labeled differently, results in the same
24 confinement, being placed in a small cell, with only a bed and toilet, isolated from others, and having
25 very limited human contact, often up to 23 hours a day of isolation. This is the same condition when
26 pregnant women are placed in the "infirmary". The infirmary alleged is wholly subject to the control
27 and regulation of defendant CFMG. The conditions in the infirmary are often even harsher as
28 pregnant women are denied beds and forced to sleep on a thin pad on the floor, and the rooms are
kept dark so that the only light comes in from the glass in the doorway, so dark that it is not even
possible to read or pick out mouse fecal matter served in meal trays.

52. In sum, from the accounts of these women, and more who continue to connect and add

1 their voices---and notwithstanding disclaimers by the County defendants, or CFMG defendants
2 hiding behind obscure provisions of a contract---it is clear there are gross deficiencies in the
3 accommodation of pregnant women prisoners at Santa Rita, which have caused and continue to cause
4 great injury to numerous women (e.g., the wrongful death of stillborn children), and deprivation of
5 fundamental rights in the form of widespread, indeed systemic Deliberate Indifference to Serious
6 Medical Needs these women obviously have, and gross denial of Due Process, especially for the
7 unborn, and will go on causing and risking such injuries, losses and deprivations if nothing is done.

7 **B. Discrimination Against Women in General**

8 53. Furthermore, Defendants' abuse and mistreatment of women prisoners is part and
9 parcel of the discrimination and unequal treatment meted out to women prisoners as compared to
10 male prisoners. Women prisoners are denied the educational classes and opportunities available to
11 male prisoners; denied the access to outdoor (fresh air) or yard time and yard space available to male
12 prisoners. Defendants impose greater repression and restrictions, including being prohibited from
13 talking during meals, so that one prisoner cannot offer extra unwanted food to another, or one cannot
14 ask for another's unwanted food. Women prisoners cannot exchange information nor share support
15 regarding defendants' programmatic abuse during the one period of time they are together. Women
16 prisoners have greater restrictions than male prisoners, including being told where to sit during meals.
17 Women prisoners are strip searched and subjected to body cavity searches for little or no good
18 reason---except to maintain domination---with greater frequency and regularity than male prisoners.

19 54. Grievance Procedures. In order to commence grievance procedures, prisoners are
20 required to request a grievance form from a Sheriff's deputy. The Sheriff's deputy, per defendant
21 Sheriff's policy 16.03 "shall" provide the prisoner with a grievance form. However, these deputies
22 frequently fail or refuse to provide the grievance forms, either informing the women prisoner that she
23 should not grieve the issue, that the issue is not grievable, or to simply grossly delay and then fail to
24 provide the forms requested. While the procedure prescribes that the prisoner is provided a pink
25 carbon of the completed form with a grievance number, at times the pink carbon is not provided to
26 the prisoner. And while the Jail's "Grievance Unit" is required to store all grievances filed and
27 address the grievances, clearly that is not the case.

28 55. This abuse and mistreatment also directly involves violations of existing jail policies
and procedures, California statutes and California regulations. Despite repeated complaints and even
prior lawsuits, defendants and each of them failure and refusal to comply with policies and

1 procedures, California statutes and California regulations, even after notification of resulting injuries
2 and harms, indicates callous and wanton and deliberate disregard for the safety, health and well being
3 of the women prisoners under their control, and clearly shows programmatic mistreatment and abuse
4 of women prisoners compared to men.

5 VI. CLASS CLAIM

6 56. Within the meaning of Rule 23, F.R.Civ. P., the Class of women prisoners, and
7 particularly the Subclass of pregnant prisoners, are both numerous and indeterminate, as women
8 come into and leave the Jail, so that joinder of all the claims already in view is clearly impracticable.
9 (R. 23(a)(1). In any given year, there are as many as 150 pregnant women in defendants' custody for
10 some period of time. Joinder is inherently impractical because the number of unnamed, future class
11 members who will be pregnant while in defendants' custody is unknown and unknowable, and, given
12 the transient nature of the plaintiff population and the temporal limitations of pregnancy, their
13 identities will vary. Proposed class members are highly unlikely to file individual suits on their own
14 behalf given the practical, legal, monetary, and fear-based barriers that impede their access to counsel
15 to challenge defendants' abusive, coercive and punitive regime---not to mention defendants' active
16 measures preventing proposed class members from communicating amongst themselves and with
17 legal counsel.

18 57. There are numerous common issues of both law and fact (R. 23(a)(2)), including but
19 not limited to the factual occurrence, *vel non*, of: i) defendants' programmatic coercion for abortions,
20 ii) abuse and mistreatment of pregnant prisoners which threaten the viability of fetuses and often
21 terminate pregnancies, iii) prohibiting class members from communicating amongst themselves and
22 with legal counsel, iv) failure to develop statutorily required care plans, v) discrimination against
23 women in access to services, classes, ability to work, rights and privileges, and, vi) failure to comply
24 with state laws and regulations on meeting the needs of women's reproductive and menstrual needs.
25 Legal questions, regarding, e.g, the applicability of the various state statutes mentioned above, the
26 Constitutional standards to be applied in assessing the plaintiffs' claims, and the like, will plainly be
27 the same with respect to all individual class members.

28 58. The claims of the named plaintiffs are typical of the claims of members of the Plaintiff
Class, (R.23(a)(3)), and of members of the Subclass in particular, where all the pregnant women
prisoners, past, present and to come, complain in the same terms of the ill effects of defendants'
nonfeasance and maltreatment, and failure to follow the law. The fact that different individuals

1 suffered or may suffer different degrees of injury---obviously only certain ones suffered miscarriage,
2 for example---is not a bar to certification, particularly where, as here, the defendants have “acted or
3 refused to act on grounds generally applicable to the Class, thereby making appropriate final
4 injunctive relief;” per Section (b)(2) of the Rule. The underlying injuries flowing from practice and
5 policy are common to all pregnant women at Santa Rita to some serious, health-threatening degree, as
6 we have shown and will show.

6 59. The named plaintiffs will---and are able to---fairly and adequately protect the interests
7 of the Plaintiff Subclass, per Sub.(a)(4) of the Rule. The named plaintiffs have no interest at odds in
8 any way with those of the Subclass, and each has affirmed to counsel her desire and willingness to
9 pursue the matter on behalf of the other women who will come into Santa Rita with child. The
10 attorneys representing the named plaintiffs are experienced civil rights practitioners, well able to
11 prosecute and carry on substantial federal constitutional litigation such as this, and with access to
12 additional help which is even now being assembled for the larger work. The Undersigned represent
13 to the Court their determination to see this matter through---both as to the urgent immediate
14 pregnancy issues and the County defendants’ broader gender/sex discrimination practices against
15 women---and, by the way, we hereby respectfully request that we be designated by the Court as
16 counsel for the Class of present and future women prisoners at Santa Rita, and the Subclass of those
17 among them who are pregnant.

17 60. From the pleadings, and particularly the many sworn affidavits submitted with
18 plaintiffs’ pending renewed injunction motion, it is clear the defendants acted and now act and will
19 act “on grounds generally applicable to” the Subclass, in any case, thereby “making final injunctive
20 relief appropriate” to the class as a whole. The Plaintiff Class may therefore be properly certified
21 under R.23(b)(2). Certainly, also it is patent that both factual and legal questions common to the
22 Subclass predominate here over individual concerns, so certification is also proper under Section
23 (b)(3).

24 61. In sum, plaintiffs are entitled to have the Subclass of pregnant prisoners certified *pro*
25 *tanto* at the very least, or otherwise separately from the main class alleged herein, so that the
26 proceedings regarding emergency relief for all pregnant women who are in or may come into Santa
27 Rita can go forward without hindrance; and work on the claims of the Class as a Whole can abide
28 further attention from the parties and the Court in the near future.

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VII. PLAINTIFFS' CLAIMS

FIRST CLAIM FOR RELIEF

**Violation of the Fifth and Fourteenth Amendments – Substantive Due Process
(42 U.S.C. § 1983)**

62. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 61 of this Complaint. These facts constitute violations of plaintiffs and class members rights to substantive due process guaranteed pursuant to the Fifth and Fourteenth amendment of the United States Constitution.

SECOND CLAIM FOR RELIEF

**Unreasonable Denial of Necessary Medical Care to Pre-Trial Detainees
Violation of the Fourth and Fourteenth Amendments
(42 U.S.C. § 1983)**

63. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 62 of this Complaint. These facts constitute unreasonable denial of necessary medical care to pretrial detainees, including pregnant prisoners in violation of the Fourth and Fourteenth Amendments of the United States Constitution.

THIRD CAUSE OF ACTION

**Deliberate Indifference
Violations of the 8th and 14th Amendments**

64. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 63 of this Complaint. These facts constitute deliberate indifference to the serious medical care need of State and local Prisoners in violation of the Eighth and Fourteen Amendments of the United States Constitution.

FOURTH CAUSE OF ACTION

**Discriminatory Treatment of Pregnant Women
Violation of the Fifth and Fourteenth Amendments**

65. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 64 of this Complaint. These facts constitute discriminatory treatment of pregnant women in violation of the Fifth and Fourteenth Amendments.

FIFTH CAUSE OF ACTION

**Discriminatory Treatment of Women in Jails
Violation of the Fifth and Fourteenth Amendments**

1 66. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 65 of this
2 Complaint. These facts constitute discriminatory treatment of pregnant women in violation of the
3 Fifth and Fourteenth Amendments.

4 FIFTH CAUSE OF ACTION

5 **Cruel and Unusual Punishment**
6 **Violation of the Fourth, Eighth and Fourteenth Amendments**

7 67. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 66 of this
8 Complaint. These facts constitute cruel and unusual punishment of pretrial detainees and prisoners in
9 violation of the Fourth, Eighth and Fourteenth Amendments.

10 SIXTH CAUSE OF ACTION

11 **Violation of the First and Fourteenth Amendments**

12 68. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 67 of this
13 Complaint. These facts constitute interference, suppression and denial of Plaintiffs and class
14 members rights to free speech, including the right to protest conditions, protected under the First and
15 Fourteenth Amendments.

16 SEVENTH CAUSE OF ACTION

17 **Bane Act**
18 **(Cal. Civ. Code § 52.1(b); Cal. Gov. Code §§ 815.2(a) & 820(a))**

19 69. Plaintiff realleges and incorporates the allegations of the preceding paragraphs 1 to 68
20 of this Claim.

21 70. Defendants' above-described conduct constituted interference, and attempted
22 interference, by threats, intimidation and coercion, with plaintiffs' peaceable exercise and
23 enjoyment of rights secured by the Constitution and laws of the United States and the State of
24 California, in violation of California Civil Code §52.1. Defendants County of Alameda, Alameda
25 County Sheriff's Office, Gregory Ahern,, Does 1-50, acting under color of state law and as policy-
26 making authorities, maintained policies, customs, or practices permitting or deliberately indifferent
27 to, or failed to maintain policies, customs, or practices when it was obvious that they were needed to
28 prevent the violations of plaintiffs and class members First, Fourth, Fifth, Eighth and Fourteen
Amendment rights protected by the U.S. Constitution and art. I, § 7 of the California Constitution.

71. Defendants COUNTY OF ALAMEDA and ALAMEDA COUNTY SHERIFF'S OFFICE are indirectly and vicariously liable, through the principles of respondeat superior, for

1 injuries proximately caused by acts or omissions of their employees acting within the scope of their
2 employment.

3 72. As a direct and proximate result of Defendants ALAMEDA COUNTY SHERIFF'S
4 OFFICE, GREGORY J. AHERN, BRETT M. KETELES, TOM MADIGAN, T. POPE, T.
5 RUSSELL, D. SKOLDQVIST, LT. HATTAWAY, SGT. CALAGARI, DEPUTY DIVINE (#512),
6 DEPUTY DEBRA FARMANIAN, DEPUTY WEATHERBEE (#238), DEPUTY TANIA POPE,
7 DEPUTY WINSTEAD, DEPUTY CAINE, ALAMEDA COUNTY and John & Jane DOEs, Nos. 1
8 – 50 actions and inactions, Plaintiffs suffered injuries entitling them to receive compensatory
9 damages against said defendants.

10 EIGHTH CAUSE OF ACTION

11 Negligence

12 73. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 72 of this
13 Complaint, to the extent relevant, as if fully set forth in this Claim.

14 74. Defendants have a duty of care to plaintiffs and class members to ensure that
15 defendants did not cause unnecessary or unjustified harm to plaintiffs, and a duty of care to hire,
16 train, supervise and discipline Jail employees so as to not cause harm to plaintiff and class members
17 and to prevent violations of their constitutional, statutory and common law rights.

18 75. The above-described acts and omissions of defendants breached the duty of care
19 defendants owed to plaintiffs and class members

20 VIII. PRAYER FOR RELIEF

21 WHEREFORE, Plaintiffs respectfully request the Court to:

- 22 1. Certify the Class of women prisoners at Santa Rita under Rule 23, F.R. Civ P., and also
23 the Subclass of women prisoners who are pregnant, and permit the named plaintiffs and
24 their counsel to represent the Class and Subclass and to proceed accordingly. In the
25 alternative, hold certification of the broad class in abeyance pending further development of
26 the grounds for it, but recognize the Subclass for all purposes connected with its plea(s) for
27 equitable relief herein.
- 28 2. Make findings of fact reflecting the general and specific failings and inadequacies of both
groups of defendants' approaches to and practice in the care of pregnant prisoners, the
pattern and practice of defendants' non-feasance and maltreatment of pregnant prisoners,

1 and defendants' violations of statutory, regulatory and constitutional requirements in
2 dealing with pregnant prisoners.

- 3 3. Initiate a serious effort, perhaps with a Rule to Show Cause, to bring about defendants'
4 early compliance with the community treatment program law Penal Code §1170., and/or
5 any other feasible and available means and steps to get and keep pregnant women out of the
6 Santa Rita jail.
- 7 4. In the event a ready process for getting and keeping plaintiffs out of the jail is not readily
8 found, and to the extent and for the time any pregnant women are ordered held in the
9 Sheriff's custody, enter a preliminary and permanent Injunction which will,

10 **A. Prohibit defendants from:**

- 11 a. coercion or pressure on pregnant prisoners to consent to a preterm termination of
12 their pregnancy;
- 13 b. placing pregnant prisoners in solitary confinement, and/or ordering them to submit
14 to multiple strip searches and body cavity searches without first utilizing less punitive
15 and intrusive means including urine tests and having objectively reasonable grounds
16 to suspect them of hiding contraband;
- 17 c. placing pregnant prisoners outdoors without adequate outerwear, and clothing;
- 18 d. holding pregnant prisoners outdoors against their will for any length of time, or
19 keeping the heat down in residential units, and the bright lights on all night;
- 20 e. punishing or threatening to punish women prisoners for exercising their right to free
21 speech during meals or during 'pod time';
- 22 f. touching or searching plaintiff's food unless defendants' hands are covered in clean,
23 and new sanitary gloves;
- 24 g. coerce or pressure or attempt to persuade pregnant prisoners to agree to abortions;
- 25 h. intervening or interfering with attorney client communications

26 **And,**

27 **B. Affirmatively Order and direct defendants to:**

- 28 a. Fully comply with all applicable state statutes and regulations, and develop a
legitimate individual treatment plan for each pregnant prisoner, *and carry it out
completely!*
- b. Fully comply with all applicable state statutes and regulations for a sufficient,

1 balanced, nutritious diet approved by a doctor;

2 c. Fully comply with state law on provision of appropriate and sufficient materials for
3 each woman prisoner “necessary for (1) personal hygiene with regard to her menstrual
4 cycle and reproductive system” (Penal Code §3409) during the entire duration of her
5 incarceration under the custody of defendants;

6 d. No less than the minimum outdoor exercise prescribed by state regulations;

7 e. Permit confidential legal contact visits between plaintiffs, class members and their
8 attorneys;

9 5. Enter a preliminary and permanent injunction on behalf of the broad Class of women
10 prisoners which will counter and remedy the County defendants’ broader
11 unconstitutional practice(s) of discrimination against women in general, compared to
12 men, as complained of and to be shown further;

13 6. Award compensatory and punitive damages to individual plaintiffs against defendants in
14 amounts to be determined at trial;

15 7. Award costs and fees for this action, including attorneys’ fees;

16 8. Grant such other and further relief as this Court deems appropriate.

17 LAW OFFICE OF YOLANDA HUANG

18 /s/ Yolanda Huang

19 YOLANDA HUANG

20 DENNIS CUNNINGHAM

21 /s/ Dennis Cunningham

22 DENNIS CUNNINGHAM