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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO/OAKLAND DIVISION

**ALAMEDA COUNTY MALE PRISONERS**  
And Former Prisoners, DANIEL GONZALEZ,  
et al. on behalf of themselves and others  
similarly situated, as a Class, and Subclass  
**PLAINTIFFS,**

vs.

**ALAMEDA COUNTY SHERIFF'S**  
**OFFICE, et al**

**DEFENDANTS.**

No. 3:19-cv-07423 JSC

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
PRELIMINARY INJUNCTION  
AND RELATED RELIEF**

With Supporting Documents:  
Memorandum of Points and Authorities  
and Declarations

DATE: Dec. 31, 2020

TIME: 9:30 a.m.

COURTROOM: E, 15th Floor

Hon. Jacqueline S. Corley, Presiding

**NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION AND RELATED  
RELIEF**

Please take notice that plaintiffs ALAMEDA COUNTY MALE PRISONERS And Former Prisoners, DANIEL GONZALEZ, et al. on behalf of themselves and others similarly situated, as a Class, and Subclass hereby move for a Preliminary Injunction, and submit their Notice and Motion for Provisional Relief with Memorandum. This motion will be heard on December 31, 2020 in Courtroom E, 15<sup>th</sup> Floor at 9:30 a.m., located the United States District Court, 450 Golden Gate Avenue, San Francisco, California.

Plaintiffs hereby apply to the Court for a preliminary injunction for a writ of mandate pursuant to Fed. R. Civ. P. 65 for defendants to comply with California statute, regulations and caselaw to provide all male prisoners in Alameda County's Santa Rita Jail, 85% of whom are pretrial, with sanitary, safe, edible and sufficient food to sustain health... This motion is necessary because of defendants' policies and practices has resulted in all of the male prisoners in Santa Rita Jail, being regularly denied sanitary, safe, edible due to the fact that the food is prepared in unsanitary and unsafe conditions with vermin, insects, rodents and birds residing in the kitchen and contaminating the food; where the process for washing of food trays does not meet statutory standards, food trays are not rinsed, and the inadequate tray washing process routinely leave significant food residue on the trays; where defendant Aramark packages new food into dirty trays with old food residue for service for inmate consumption; where packaged trays are improperly stored and not refrigerated; where packaged trays are excessively heated; where there is no quality control on portions or the content of trays; all resulting in contaminated food, unsafe food, food containing foreign objects, food that is spoilt, food that is inedible, insufficient food and food when eaten that causes ill health. As a result of the contaminated, unsanitary, inedible and missing food, some Male Prisoners have suffered significant weight loss, are frequently hungry, have no energy and are lethargic due to their lack of food.

It is established caselaw that Jail officials must provide prisoners with food during their confinement. The food must be adequate to maintain health. A sanitary environment is a basic health need that penal institutions must provide for all inmates, including control of vermin and insects and sanitary food handling. Unsanitary food handling states an Eighth Amendment Claim. Even temporary unsanitary conditions may result in an Eighth Amendment violation.

Defendant Aramark and Santa Rita County Jail are aware of these ongoing sanitation, unsafe food, spoilt food and inedible food issues through a prior litigation regarding women prisoners at Santa Rita Jail who raised these same issues.

1 This motion is brought on the grounds that Defendants' unlawful acts, omissions, policies, and  
 2 practices result in deprivation of male prisoners' rights to safe, sanitary, uncontaminated food, sufficient  
 3 to maintain health, access in violation of Plaintiffs' rights under the Eighth Amendment, and Fourteenth  
 4 Amendments, and the California Constitution, Article I, Section 7.

5 Therefore, Plaintiffs request that the Court issue a preliminary injunction requiring Defendants,  
 6 except in exigent circumstances, to:

- 7 1. Implement and maintain a jail kitchen that is constructed, equipped and operated in a  
 8 clean and sanitary manner and is free of animals, birds, rodents, insects and vermin;
- 9 2. All dishware and trays shall have residual food scrapped off, washed, rinsed and sanitized  
 10 per California Code and no dishware and tray shall be reused unless said dishware and  
 11 tray is free of food residue and has been washed, rinsed and sanitized;
- 12 3. Institute procedures and quality control processes to insure that all food served is edible  
 13 including:
  - 14 a. No spoiled food;
  - 15 b. No food with foreign objects – particularly non-food objects;
  - 16 c. No food which has been contaminated by animals, birds, rodents, insects and  
 17 vermin; and,
  - 18 d. All food is properly handled, refrigerated and heated, without excessive heating;
- 19 4. Quality controls are implemented to insure that trays meet portion size and has all items  
 20 called for in the menu;
- 21 5. Food production adheres to menus; and,
- 22 6. Special diet needs are met.

23 Such other and further relief as the case requires and the Court deems just and proper.

24 This Motion is based upon this Notice, the accompanying memorandum of points and authorities  
 25 in support of the motion, and the Declarations of:

- 26 1. Leanna Zamora;
- 27 2. Tikisha Upshaw;
- 28 3. Miguel Vargas;
4. Domonique Swain;
5. Diontay Shackelford
6. Lina Garcia Schmidt;

7. Eric Rivera;
8. Ebony Reeves;
9. Kajuan Paschal;
10. David Misch;
11. David Mellion;
12. Marcus Felder;
13. Lee Anderson.

### **Conclusion**

Plaintiffs make no bones about their firm belief that incarcerating human beings under these conditions is constitutionally unacceptable, and should not exist, under any circumstance, especially for pretrial detainees.

Plaintiffs will demonstrate (1) that they are likely to succeed on the merits of their claims herein; 2) that defendants' actions and practices are causing irreparable harm, and; 3) that the balance of equities and the public interest weigh heavily in favor of provisional relief in the form of requiring defendants to cease conduct, for which there is no penological reason, and which violates the basic human and constitutional rights of male prisoners.

WHEREFORE, the plaintiffs ask the Court to make the needed inquiry and take the needed steps to rescue these prisoners, from the depredations and maltreatment they suffer at defendants' hands in the ways outlined above, and they pray for such other and further relief as may be deemed just and appropriate in the premises of the case.

Dated: November 16, 2020

Respectfully submitted,

**LAW OFFICE OF YOLANDA HUANG**

/s/ Yolanda Huang  
YOLANDA HUANG

**DENNIS CUNNINGHAM**

/s/ Dennis Cunningham  
Counsels for Plaintiffs