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13 MICHELLE-LAEL B. NORSWORTHY

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 MICHELLE-LAEL B. NORSWORTHY,

17 Plaintiff,

18 v.

19 RALPH DIAZ, JANEL ESPINOZA,  
20 MICHAEL PALLARES, IKWINDER SINGH,  
21 ROBERT MITCHELL, and ROSELLE  
22 BRANCH,

23 Defendants.

Case No. 3:20-cv-1859

**COMPLAINT FOR VIOLATION OF  
42 U.S.C. § 1983**

1 Plaintiff Michelle-Lael B. Norsworthy (“Plaintiff” or “Ms. Norsworthy”), for her  
2 Complaint against Defendants Ralph Diaz, Janel Espinoza, Michael Pallares, Ikwinder Singh,  
3 Robert Mitchell, and Roselle Branch, alleges as follows:

4 **NATURE OF THIS ACTION**

5 1. Plaintiff Michelle-Lael Bryanna Norsworthy brings this civil rights action under  
6 42 U.S.C. § 1983 for damages, injunctive and other appropriate relief based upon Defendants’  
7 deliberate indifference toward Ms. Norsworthy and their failure to provide her with medically  
8 necessary care in violation of the Eighth Amendment to the U.S. Constitution. Ms. Norsworthy is  
9 a post-operative, transgender woman, a founder of a nonprofit that provides transitional services  
10 for former transgender inmates, and a small business owner. Unfortunately, since February 18,  
11 2019, Ms. Norsworthy has also been housed at Central California Women’s Facility (“CCWF”) in  
12 Chowchilla, California by the California Department of Corrections and Rehabilitation (“CDCR”)  
13 based on a finding that she violated the conditions of her 2015 parole from CDCR.

14 2. Ms. Norsworthy brings this action because, since CDCR took her back into  
15 custody, it and the individuals named as defendants in this action have repeatedly violated Ms.  
16 Norsworthy’s civil rights. Specifically, Defendants failed to provide Ms. Norsworthy in a timely  
17 manner with pain medication, antibiotics, and hygiene products that were prescribed by her  
18 doctors. Defendants further failed to provide a private space for Ms. Norsworthy to dilate  
19 properly pursuant to her doctors’ orders, causing her pain, suffering, possibly irreversible damage  
20 to her body (including a dramatic loss of depth in her vagina), and loss of consortium with her  
21 husband. Moreover, even after Ms. Norsworthy received revision surgery on August 13, 2019 in  
22 connection with her original sex reassignment surgery (“SRS”), Defendants failed to provide  
23 sufficient post-operative medical care. These failures have caused Ms. Norsworthy extreme pain  
24 and hardship and will require that she undergo additional surgery to repair the harm caused to her  
25 body.

26 3. Ms. Norsworthy currently requires medically-necessary surgery to repair the loss  
27 of depth she experienced as a result of Defendants’ previous failures to provide her appropriate  
28 care and access to space to dilate as prescribed. This surgery was recommended by the surgeon

1 who has been treating Ms. Norsworthy to date, Thomas Satterwhite, M.D., and on December 17,  
2 2019, CDCR approved Ms. Norsworthy for consultation for the surgery. Since that time, CDCR,  
3 through the California State Attorney General's office, represented that it was searching for a  
4 surgeon to perform the surgery, eventually advising Ms. Norsworthy that the surgery would take  
5 place in November 2020. Although that news was disappointing at the time—it should not take  
6 nearly a year to have this surgery scheduled to repair the damage done by CDCR's own improper  
7 actions—that disappointment was nothing compared to the news delivered to Ms. Norsworthy on  
8 Thursday, March 12, 2020.

9 4. On March 12, 2020, Ms. Norsworthy was advised by a doctor working at CCWF,  
10 Chris Glass, Psy.D., that her paperwork had changed. Whereas the papers originally showed that  
11 the follow-on surgery had been "Approved" since at least December 2020, the word "Approved"  
12 was now crossed-out and replaced, in handwriting, with the word "denied." Dr. Glass further  
13 informed Ms. Norsworthy that she was being referred to another doctor to get a second opinion  
14 for the surgery. Dr. Glass said that this was shocking and indicated he had never seen anything  
15 like it.

16 5. The only explanation provided so far has come from the Attorney General's office,  
17 which forwarded notes from Dr. Satterwhite indicating that the surgery he recommended could  
18 either be a colon-vaginoplasty or a peritoneum-vaginoplasty, and a February 25, 2020  
19 recommendation that Defendants had procured from another doctor, Marci Bowers, M.D., that  
20 CDCR decided to consult with to second-guess Dr. Satterwhite's recommendation. CDCR  
21 originally approached Dr. Bowers in approximately November or December 2019, ostensibly  
22 about the surgery that Dr. Satterwhite had recommended. After Dr. Bowers responded that she  
23 did not perform the type of surgery that Dr. Satterwhite recommended, CDCR asked Dr. Bowers  
24 to review Ms. Norsworthy's file. They then sent Ms. Norsworthy's medical file to Dr. Bowers in  
25 Burlingame, CA. Notably, this did not include any documentation explaining why Ms.  
26 Norsworthy had lost vaginal depth or why the current surgery was needed. Dr. Bowers then  
27 wrote her recommendation on stationery with her office's Burlingame address on the top, and  
28 sent the recommendation to CDCR. Dr. Bowers admittedly did not see Ms. Norsworthy or even

1 review any pictures of the results of her previous surgery in issuing the letter. Instead, as Dr.  
2 Bowers' admitted, she conducted her review "based upon chart review, operative records, reports  
3 and office examinations 2015-2019. I have not seen this patient nor have I seen pictures of any  
4 outcomes." Dr. Bowers then questioned the quality of Dr. Satterwhite's prior work, and,  
5 apparently misapprehending the reason for the surgery and incorrectly believing it was to correct  
6 problems caused by the prior surgeries, recommended, "Prior to engaging in a qualitatively  
7 similar 3rd or 4th surgical procedure, I would recommend a second opinion with a new surgeon,  
8 if possible."

9         6. Based on this recommendation that was prepared by someone who has admittedly  
10 not even seen Ms. Norsworthy and did not know the reason the surgery was needed, CDCR  
11 decided to revoke its earlier approval for Ms. Norsworthy's surgery and require Ms. Norsworthy to  
12 go see yet another doctor, for an invasive medical examination in the middle of the current  
13 coronavirus outbreak, for yet another medical opinion. Requiring Ms. Norsworthy to participate  
14 in such a medical examination at this point is particularly unreasonable and dangerous in light of  
15 the coronavirus outbreak, for which prisoners like Ms. Norsworthy are particularly susceptible  
16 due to crowded living conditions, lack of protections, and her own underlying medical conditions  
17 that make her more vulnerable to the epidemic. Indeed, the California Attorney General's office  
18 indicated on March 16, 2020, that it agreed with Ms. Norsworthy's decision not to go forward  
19 with the medical exam at this time in light of the coronavirus outbreak, and indicated that the visit  
20 to the new doctor would not be rescheduled until after the coronavirus situation is under control.  
21 And even then, the California Attorney General's office that, even if the new doctor also  
22 recommends the surgery that Ms. Norsworthy requires, she would then need to go through the  
23 approval process again, which would take another approximately 90 days to lead to a new  
24 approval. In other words, it could be until the end of 2020 before Ms. Norsworthy can get back to  
25 where she was in December 2019, with approval for this necessary surgery.

26         7. Enough is enough. CDCR is a repeat violator who has already been found to have  
27 violated Ms. Norsworthy's constitutional rights in prior litigation, and had to be ordered by the  
28 Court to provide her with previous medical care. As the Court knows, Ms. Norsworthy was

1 previously incarcerated by CDCR from April 15, 1987 until she was released on parole on August  
2 12, 2015. During that period, Ms. Norsworthy requested, and CDCR refused to provide,  
3 medically necessary SRS to treat her gender dysphoria. Ms. Norsworthy filed suit against the  
4 doctors and CDCR staff who denied her request, and in that case, she was granted a preliminary  
5 injunction ordering CDCR “to provide Ms. Norsworthy with access to adequate medical care,  
6 including sex reassignment surgery as promptly as possible.” *See Norsworthy v. Beard*, 87 F.  
7 Supp. 3d 1164, 1195 (N.D. Cal. 2015). The Court found that Ms. Norsworthy presented  
8 compelling evidence “suggesting that prison officials deliberately ignored her continuing  
9 symptoms of gender dysphoria and the recognized standards of care” and that “they were  
10 deliberately indifferent to the recommendations of her treating health care provider.” *Id.* at 1189.  
11 Ms. Norsworthy was released on parole four months after the preliminary injunction issued and  
12 while the appeal of that order by the underlying action’s defendants was pending, but before she  
13 was provided the court-ordered surgery.

14         8. While on parole, Ms. Norsworthy navigated the Medi-Cal insurance system to  
15 secure the previously-ordered SRS in February 2017. Due to complications from that original  
16 surgery, however, Ms. Norsworthy had to undergo three additional corrective surgeries or  
17 revisions while she was released on parole. Ms. Norsworthy was in the process of having a fourth  
18 required revision surgery scheduled when she was arrested for possessing pepper spray in a  
19 restaurant that served alcohol, where she had been distributing business cards for her personal  
20 aerial photography business after receiving her pilot’s license. After spending time in the Solano  
21 County jail, Ms. Norsworthy was returned to CDCR custody based on a finding that her presence  
22 in the restaurant and possession of the pepper spray had violated her parole.

23         9. While in CDCR’s custody, Ms. Norsworthy was provided the required, fourth  
24 revision surgery, but only after Ms. Norsworthy filed complaints and sought to have the  
25 preliminary injunction from her prior case enforced. Moreover, while Ms. Norsworthy has been  
26 incarcerated, CDCR officials have failed to provide her with the following medically necessary  
27 care: (a) sufficient accommodations to dilate; (b) painkillers, prescribed by her surgeon, to treat  
28 the excruciating pain that would be alleviated by the revision surgery; (c) antibiotics to treat

1 recurring vaginosis; (c) hygiene products, including vaginal douches as recommended by her  
2 doctor following her SRS and the subsequent revisions; and (d) now, the surgery required to  
3 repair the harm caused to her by CDCR's prior failures. These failures caused regular bouts of  
4 pain and suffering. Most critically, failure to provide sufficient dilation accommodations resulted  
5 in what might be irreparable loss of depth and function with respect to Ms. Norsworthy's vagina.  
6 Thus, Ms. Norsworthy brings this action to obtain the necessary surgery, ensure that she receives  
7 proper treatment going forward, and for damages and other relief to compensate her for the harm  
8 she has suffered and will suffer due to Defendants' actions.

### 9 **PARTIES**

10 10. Plaintiff Michelle-Lael Bryanna Norsworthy is a post-operative transgender  
11 woman, a founder of a nonprofit that provides transitional services for former transgender  
12 inmates, and a small business owner. She is a citizen of California and has been housed at CCWF  
13 since February 18, 2019, in CDCR custody. Ms. Norsworthy was previously in CDCR custody  
14 from April 15, 1987 to August 12, 2015, at which time she was released on parole. She is  
15 currently in CDCR custody for violating the conditions of her parole.

16 11. Upon information and belief, Defendant Ralph Diaz is a resident of California.  
17 Since his appointment by Governor Gavin Newsome on March 27, 2019, Diaz has served as  
18 Secretary of CDCR. In his position as Secretary, Beard possesses ultimate responsibility and  
19 authority regarding CDCR's operations, including the implementation of policies governing  
20 medical care.

21 12. Upon information and belief, Defendant Janel Espinoza is a resident of California.  
22 Upon information and belief, Espinoza was appointed as Warden of CCWF in July 2017 and  
23 served in that position until around September 2019. During her time as Warden of CCWF,  
24 Espinoza oversees CCWF's policies governing inmates' medical care and custodial conditions.  
25 Upon information and belief, Warden Espinoza was aware of, but did not remediate, deficiencies  
26 in the medical care provided to Ms. Norsworthy.

27 13. Upon information and belief, Defendant Michael Pallares is a resident of  
28 California. Pallares has served as Warden of CCWF since 2019. As Warden of CCWF, Pallares

1 oversees CCWF's policies governing inmates' medical care and custodial conditions. Warden  
2 Pallares was aware of, but did not remediate, deficiencies in the medical care provided to Ms.  
3 Norsworthy.

4 14. Upon information and belief, Defendant Ikwinder Singh, M.D., is a resident of  
5 California. Upon information and belief, at all relevant times, Dr. Singh was the Chief Physician  
6 and Surgeon at CCWF. Upon information and belief, Dr. Singh consulted with Ms. Norsworthy's  
7 primary care physician Dr. Branch and other of Ms. Norsworthy's medical practitioners at CCWF  
8 regarding Ms. Norsworthy's medical care. Upon information and belief, Dr. Singh also  
9 participated in decisions concerning Ms. Norsworthy's medical care, including with respect to  
10 Ms. Norsworthy's requests for surgery and decisions regarding CDCR 602 Patient/Inmate Health  
11 Care Appeals submitted by Ms. Norsworthy.

12 15. Upon information and belief, Defendant Robert Mitchell, M.D., is a resident of  
13 California. Upon information and belief, at all relevant times, Dr. Mitchell was the Chief Medical  
14 Executive of CCWF. Upon information and belief, Dr. Mitchell participated in decisions  
15 concerning Ms. Norsworthy's medical care, including with respect to Ms. Norsworthy's requests  
16 for surgery and decisions regarding CDCR 602 Patient/Inmate Health Care Appeals submitted by  
17 Ms. Norsworthy.

18 16. Upon information and belief, Defendant Roselle Branch, M.D., is a resident of  
19 California. At all relevant times, Dr. Branch served as Ms. Norsworthy's primary care physician  
20 at CCWF and was responsible for, among other things, regulating the type and dosage of  
21 medications provided to Ms. Norsworthy.

## 22 **JURISDICTION AND VENUE**

23 17. This court has jurisdiction over the claims pursuant to 42 U.S.C. §§ 1331 and  
24 1343(a)(3).

25 18. Venue is proper in the Northern District pursuant to 28 U.S.C. § 1391(b)(2)  
26 because a substantial part of the events giving rise to the claim occurred in the Northern District,  
27 including, specifically, the actions of Defendants to send Ms. Norsworthy's records to  
28 Burlingame, California, for Dr. Bowers to review Dr. Satterwhite's recommendations, and for

1 Defendants to rely on the letter Dr. Bowers generated from her Burlangame office to justify the  
2 revocation of their prior approval of Ms. Norsworthy's surgery and decision to make Ms.  
3 Norsworthy obtain a second opinion for the previously-approved surgery.

#### 4 **FACTUAL BACKGROUND**

##### 5 **I. MS. NORSWORTHY'S HISTORY OF GENDER DYSPHORIA**

6 19. Ms. Norsworthy was born in 1964 in Detroit, Michigan. While she was still an  
7 infant, her parents divorced, and she was sent to live with her grandmother. Approximately ten  
8 years later, Ms. Norsworthy's mother retook custody of her and moved the family to the West  
9 Coast, eventually settling in California. Throughout childhood and adolescence, Ms. Norsworthy  
10 never felt comfortable in the male gender assigned to her at birth. She attempted to  
11 overcompensate for feeling weak and less than a man as a result of her feminine characteristics  
12 and gender confusion by acting out aggressively, owning guns and turning to alcohol. At age  
13 sixteen, Ms. Norsworthy dropped out of high school and moved to Hollywood, California,  
14 eventually working as a police informant in her late teens and joining the military.

15 20. On December 4, 1985, Ms. Norsworthy encountered a male acquaintance at a bar  
16 in Fullerton, California. Ms. Norsworthy and this acquaintance had a contentious history due to  
17 Ms. Norsworthy's work as an informant. While both were intoxicated, an argument began in the  
18 bar and Ms. Norsworthy left the bar to go to her car. The acquaintance followed Ms. Norsworthy  
19 to the car, and Ms. Norsworthy retrieved a loaded rifle from the car. She fired a warning shot but  
20 the acquaintance reached for the gun and a struggle ensued. During the struggle, the acquaintance  
21 was shot in the neck. Ms. Norsworthy immediately attempted to administer first aid and, upon  
22 police arriving, stated "I shot my friend." The acquaintance was taken to the hospital, but died a  
23 few days later as the result of a blood clot from the gunshot wound. Ms. Norsworthy was  
24 convicted of second degree murder and sentenced to seventeen years to life. She was placed  
25 under the custody of CDCR on or about April 15, 1987.

26 21. Since at least adolescence, Ms. Norsworthy has experienced significant distress  
27 and anxiety as a result of the discrepancy between the male sex assigned to her at birth and her  
28 own female gender identity. In the 1990s, her feelings and understandings surrounding her



1 gender began to consolidate and Ms. Norsworthy came to understand and accept that she is a  
2 transsexual woman.

3 22. In 1999, Ms. Norsworthy underwent several weeks of testing by a psychologist,  
4 Dr. Carl Viesti, at a CDCR facility. “The results of all test instruments were consistent with the  
5 profile of a transsexual” and she was diagnosed with gender identity disorder – “the only DSM-  
6 IV diagnosis available for this condition.” Subsequent to her initial diagnosis, the American  
7 Psychiatric Association published a revised version of its Diagnostic and Statistical Manual of  
8 Mental Disorders (“DSM-V”) in 2013, which replaced the “gender identity disorder” diagnosis  
9 with “gender dysphoria.” The DSM-V characterizes the diagnosis of gender dysphoria as  
10 follows: “[i]ndividuals with gender dysphoria have a marked incongruence between the gender  
11 they have been assigned to (usually at birth, referred to as natal gender) and their  
12 experienced/expressed gender.” Am. Psychiatric Ass’n, Diagnostic and Statistical Manual of  
13 Mental Disorders 453 (5th ed. 2013) (“DSM-V”). In addition to this marked incongruence,  
14 “[t]here must also be evidence of distress about this incongruence.” *Id.* Hereinafter this  
15 Complaint will generally refer to the condition as gender dysphoria even when referring to  
16 diagnoses prior to 2013.

17 23. Upon receiving this diagnosis in early 2000, it was determined that it was  
18 medically necessary for Ms. Norsworthy to receive treatment for her condition that would help to  
19 bring her body into greater conformity with her gender identity. Toward this end, Ms.  
20 Norsworthy was prescribed feminizing hormone therapy and injections of a progestin (Depo-  
21 Prevera) to accomplish chemical castration. She received these treatments beginning in January  
22 2000.

23 24. In 2012, Ms. Norsworthy’s treating psychologist, Dr. Reese, expressly prescribed  
24 SRS as medically necessary for Ms. Norsworthy, finding that “it is clear that clinical medical  
25 necessity suggest and mandate a sex change medical operation before normal mental health can  
26 be achieved for this female patient.” Dr. Reese repeatedly renewed his opinion with regard to the  
27 necessity of SRS for the following six months, at which time she was removed from his care by  
28 CDCR.

1           25. By early 2014, Ms. Norsworthy had not received the medically necessary SRS,  
2 and so she filed a lawsuit against the CDCR doctors who denied her request for the surgery. *See*  
3 *Norsworthy v. Beard*, No. 14-cv-695-JST (N.D. Cal. 2014). Ms. Norsworthy sought, and on  
4 April 2, 2015 was granted, a preliminary injunction requiring CDCR to promptly provide her with  
5 SRS. *See Norsworthy*, 87 F. Supp. 3d at 1195.

6           26. The Defendants in *Norsworthy* appealed the preliminary injunction order and,  
7 while that appeal was pending, CDCR granted Ms. Norsworthy's parole and she was released  
8 August 12, 2015. After her release, the parties entered into a settlement agreement in which  
9 CDCR agreed to give Ms. Norsworthy monetary compensation.

10          27. Upon her release, Ms. Norsworthy experienced success both personally and  
11 professionally and took pride in engaging with her community. Ms. Norsworthy attained ham  
12 radio and drone pilot's licenses and started an aerial photography business that specializes in  
13 drone photography. She also founded a nonprofit organization, Joan's House Shelter, with the  
14 goal of providing support and services to transgender women. She also married and secured a job  
15 at the University of California, San Francisco.

16          28. After being released, in February 2017 Ms. Norsworthy successfully navigated  
17 Medi-Cal and received SRS. Following the initial surgery, she underwent three follow-up  
18 surgeries or revisions to treat complications from the original surgery. Ms. Norsworthy's surgeon  
19 recommended a fourth follow-up surgery to treat complications related to the original surgery,  
20 which surgery Ms. Norsworthy anticipated undergoing in the winter or early spring of 2019.

21          29. On October 17, 2018, Ms. Norsworthy entered a bar & restaurant near her home in  
22 Suisin City, CA to distribute business cards for her new aerial photography business. Because  
23 Ms. Norsworthy had previously been physically attacked on multiple occasions and orally  
24 threatened for being a transgender woman, Ms. Norsworthy had a habit of carrying pepper spray  
25 for protection. While inside the establishment, multiple other patrons started verbally harassing  
26 Ms. Norsworthy and the pepper spray was inadvertently discharged when Ms. Norsworthy  
27 backed into a pool table. To prevent the situation from escalating, Ms. Norsworthy exited, but  
28 several patrons followed and aggressively approached her. Concerned for her safety, Ms.

1 Norsworthy sprayed her pepper spray at the ground in front of her to create some distance  
2 between herself and the hostile group. She then immediately returned home.

3 30. Local police came to the establishment and spoke to one of the patrons, who  
4 alleged that Ms. Norsworthy sprayed him in the face with the pepper spray. The patron told the  
5 police that he knew where Ms. Norsworthy lived and directed them to her home. Despite Ms.  
6 Norsworthy denying that she sprayed the patron, she was arrested and held in Solano County Jail.

7 31. At Ms. Norsworthy's preliminary hearing, the same patron testified that Ms.  
8 Norsworthy did *not* spray him in the face with pepper spray, but that the mist created by the spray  
9 irritated his eyes. Nonetheless, Ms. Norsworthy was found have violated her parole because she  
10 entered an establishment that allegedly had a primary purpose of serving alcohol and was in  
11 possession of the pepper spray. Ms. Norsworthy pleaded to a misdemeanor count in violation of  
12 Penal Code Section 22900. Ms. Norsworthy served time in Solano County Jail until she was  
13 transferred to CDCR custody and sent to the Central California Women's Facility (CCWF) in  
14 Chowchilla, California on March 25, 2019.

15 **II. MS. NORSWORTHY RECEIVED INSUFFICIENT MEDICAL CARE IN**  
16 **THE MONTHS LEADING UP TO HER MOST RECENT SURGERY.**

17 32. Promptly upon arrival at CCWF, Ms. Norsworthy requested revision surgery to  
18 correct a complication from the prior surgery and to relieve her intense, persistent pain. At that  
19 time, Ms. Norsworthy notified CDCR officials that the surgery had been already approved by her  
20 treating surgeon, Dr. Thomas Satterwhite.

21 33. On March 29, 2019 Ms. Norsworthy met with a CDCR psychologist pursuant to  
22 the Prison Rape Elimination Act. A few days later, on April 3, 2019, Ms. Norsworthy was  
23 evaluated by CDCR gynecologist Dr. Graves, an evaluation prompted by her request for revision  
24 surgery, which had already been approved by her doctor. During this appointment, Ms.  
25 Norsworthy was diagnosed with vaginosis and prescribed antibiotics. Dr. Graves noted in that  
26 appointment that Ms. Norsworthy was to douche twice weekly but had not been able to because  
27 she had not been provided with sufficient douches. CDCR has claimed that it initiated the  
28 surgical consultation process that same day, on April 3, 2019.

1           34.     Antibiotics are widely recognized as a medically necessary treatment for  
2     vaginosis. Dr. Satterwhite prescribing Ms. Norsworthy antibiotics to treat vaginosis is in line  
3     with a wide ranging and near universal sentiment shared by health care providers and researchers  
4     that antibiotics are a genuine a necessary treatment for a person suffering from vaginosis. A host  
5     of studies from leading clinics has found that while vaginosis may clear up on its own, if  
6     available a doctor should always prescribe antibiotics to treat the vaginosis.

7           35.     On April 5, 2019, a request for further revision surgery was submitted by CCWF's  
8     chief physician and surgeon. On April 9 and 16, 2019, Ms. Norsworthy met with Dr. Glass,  
9     CDCR's psychologist who specializes in treatment of transgender inmates. Dr. Glass also  
10    recognized Ms. Norsworthy's need for additional revision surgery.

11          36.     Despite two CDCR doctors recommending surgery, in addition to the doctor who  
12    previously operated on Ms. Norsworthy, Ms. Norsworthys' request for a consultation with an  
13    outside specialist was not approved by CDCR until May 10, 2019. On May 13, 2019, counsel for  
14    CDCR asserted in a joint case management statement that the request for revision surgery was  
15    still "under review at CDCR headquarters."

16          37.     In addition, in early April 2019, Ms. Norsworthy submitted two grievances  
17    (CDCR 602 Patient/Inmate Health Care Appeal) to CDCR. The first requested appropriate  
18    accommodations to dilate her vagina, which was prescribed by her doctor and necessary to ensure  
19    that wounds from her SRS and subsequent revisions heal properly. The second was a request for  
20    her to receive revision to her SRS that Dr. Satterwhite had already recommended, a decision with  
21    which the CCWF chief physician and CDCR psychologist agreed.

22          38.     For several weeks until Ms. Norsworthy filed the grievance requesting appropriate  
23    accommodations to dilate, the only space she had to dilate was in her cell, which she shared with  
24    one other woman. Ms. Norsworthy had no privacy, and these conditions were insufficient.

25          39.     Post-SRS vaginal dilation is an integral part of recovery and maintenance of Ms.  
26    Norsworthy's neovagina. Without proper post-operative dilation, Ms. Norsworthy suffered from  
27    further vaginal stenosis, a condition in which the vaginal canal becomes narrower and shorter,  
28    causing intense pain. Accordingly, Dr. Satterwhite previously directed Ms. Norsworthy to dilate

1 three times per day. Further, the only way to regain depth after vaginal stenosis is for the patient  
2 to get another surgical procedure. As a result, dilation is typically done for life following SRS as  
3 a way to maintain proper vaginal depth and avoid the excruciating pain and loss of function  
4 associated with vaginal shortening.

5 40. Indeed, in a letter written by Dr. Satterwhite dated November 7, 2018 and included  
6 in Ms. Norsworthy's medical file at CDCR, Dr. Satterwhite advised the following:

7 Michelle-Lael Norsworthy has been under my care for several  
8 years. She has undergone gender confirmation surgery  
9 (vaginoplasty), and as a crucial part of her post-operative care,  
10 patient needs to be able to dilate the vagina. Without self-dilation,  
11 the vagina will close in on itself completely, resulting in a  
12 disastrous result. To maintain the size of the vaginal canal,  
Michelle will require the use of her dilators (they come in a set of  
long plastic rods), lubrication, and privacy 3 times a day for 45  
minutes to allow herself to self-dilate.

13 Once again, it is medically necessary that she be allowed to dilate,  
14 otherwise, she can have very serious consequences.

15 41. CDCR did not schedule Ms. Norsworthy for an appointment with Dr. Satterwhite  
16 until June 10, 2019. During that appointment, Dr. Satterwhite noted that Ms. Norsworthy had  
17 not been able to dilate for *1.5 months* and only had a vaginal canal depth of 4 inches. He wrote  
18 that absent regular dilation, Ms. Norsworthy would require a deepening procedure using her  
19 colon. As discussed below, the lack of sufficient dilation accommodations would continue and  
20 later lead to a significant, possibly irreparable loss of depth. Dr. Satterwhite also diagnosed Ms.  
Norsworthy with a reoccurrence of vaginosis at that appointment.

21 42. As of July 4, 2019, CDCR had purported to accept the grievance seeking  
22 accommodations to dilate by providing Ms. Norsworthy a room in the central kitchen at 7 a.m.,  
23 and space in the primary health clinic at lunchtime. Practically speaking, however, these  
24 accommodations were unsatisfactory.

25 43. At the central kitchen in the morning, there was generally only one officer on site,  
26 and that officer was responsible for handing out medicine to the many women who have  
27 prescriptions. For Ms. Norsworthy to dilate, that officer had to leave the medicine line,  
28 accompany Ms. Norsworthy to the dilation room, wait outside for her to dilate (which sometimes

1 took up to 45 minutes), and then return to the medicine line. Meanwhile, the dozens of women or  
2 more who needed to pick up medicine had to wait for the officer to return. It was Ms.  
3 Norsworthy's experience that the officer running the line demanded that Ms. Norsworthy wait  
4 until the medicine has been handed out before allowing Ms. Norsworthy to dilate, but Ms.  
5 Norsworthy was unable to wait because she had to be at her job at 7:30 a.m. As a result, Ms.  
6 Norsworthy frequently had no practical ability to dilate in the morning.

7 44. CDCR's offer to use the primary health clinic was no better. While Ms.  
8 Norsworthy had access to a room at the clinic to dilate at lunchtime, she did not have priority to  
9 that room, because it was located in the emergency room, and Ms. Norsworthy therefore had to  
10 wait for all other patients to be seen. On some days, this took hours. Other days, she was not  
11 able to use the room at all.

12 45. After Ms. Norsworthy's return to CDCR custody, she also struggled to receive the  
13 medications that were prescribed by her doctors. First, because of the pain caused by her last  
14 SRS revision, Dr. Satterwhite had prescribed Ms. Norsworthy with gabapentin, to address pain  
15 and blood pressure issues. Upon her arrival at CDCR, however, she was not allowed to have  
16 gabapentin because it was not on the CDCR formulary for pain. Instead, the CDCR doctor  
17 prescribed tegretol, a seizure medication that was completely unrelated to Ms. Norsworthy's  
18 needs. Ms. Norsworthy did not need medication for seizures, and the tegretol did not alleviate her  
19 pain. After that failed attempt, CDCR gave Ms. Norsworthy ibuprofen, an over the counter drug,  
20 for her pain symptoms. This was a far cry from the prescription pain medication (gabapentin)  
21 that she needed. To achieve a similar affect, Ms. Norsworthy resorted to taking as much as one  
22 *bottle* of ibuprofen every two days.

23 46. Ms. Norsworthy was denied douches to clean her wound, which was required by  
24 Dr. Satterwhite and her CDCR gynecologist Dr. Graves. During Ms. Norsworthy's first meeting  
25 with Dr. Graves in early April 2019 while in CDCR custody, Dr. Graves prescribed a one-year  
26 supply of douches. Ms. Norsworthy received the douches for the first couple of weeks in  
27 custody, but CDCR abruptly stopped providing them in approximately mid-May 2019. Ms.  
28 Norsworthy confirmed with Dr. Graves that the prescription had been sent to the pharmacy and

1 the pharmacy was sending the douches, but Ms. Norsworthy did not receive them for more than a  
2 month. As a result, Ms. Norsworthy has suffered from recurring bacterial vaginosis. She  
3 received one round of antibiotics to treat the infection in early April, but because she could not  
4 properly clean her SRS wound, the infection returned by early June 2019. She then had another  
5 appointment with Dr. Graves, who immediately diagnosed the vaginosis infection and prescribed  
6 another round of antibiotics.

7 **III. DEFENDANTS CONTINUED TO BE DELIBERATELY INDIFFERENT**  
8 **TO MS. NORSWORTHY'S MEDICAL NEEDS FOLLOWING HER**  
9 **SURGERY.**

10 47. On August 13, 2019, Ms. Norsworthy finally received further revision surgery,  
11 performed by Dr. Satterwhite. However, Defendants failed to provide Ms. Norsworthy with  
12 adequate post-operative care as directed by Dr. Satterwhite and CDCR's own physicians.

13 48. For example, Dr. Satterwhite directed that Ms. Norsworthy be allowed to shower  
14 as frequently as needed following her surgery, in order to keep the surgical site clean. But during  
15 the first several days after Ms. Norsworthy's return to CCWF on August 16, CDCR staff only  
16 permitted her to shower at most once per day.

17 49. In addition, per Dr. Satterwhite's orders, Ms. Norsworthy was to douche daily for  
18 the first two weeks following surgery, and twice per week thereafter. However, Ms. Norsworthy  
19 received only two douches *total* until after a follow-up appointment with Dr. Graves on August  
20 29, when Dr. Graves ordered that sufficient douches be provided.

21 50. Defendants also failed to provide Ms. Norsworthy with all prescribed pain  
22 medications as directed by her surgeon. Specifically, Ms. Norsworthy was not consistently  
23 provided with the correct dosage of gabapentin or opioids recommended by Dr. Satterwhite.  
24 CDCR's failure to provide sufficient pain medication affected Ms. Norsworthy so severely that in  
25 the weeks following the surgery, she had difficulty controlling her bladder.

26 51. During Ms. Norsworthy's follow-up appointment with Dr. Satterwhite on  
27 September 16, 2019, Dr. Satterwhite observed that the depth of Ms. Norsworthy's vagina was  
28 "quite limited." He further recommended "eval[uation] and treatment with Dr. Maurice Garcia in  
Cedars Sinai for colovaginoplasty procedure to reconstitute depth." Dr. Satterwhite noted that

1 Ms. Norsworthy's vaginal canal depth was only 5 centimeters, or approximately 2 inches—about  
2 *half the depth Ms. Norsworthy had only three months earlier.* As a result of her lost vaginal  
3 depth, Ms. Norsworthy can now no longer engage in meaningful sexual relations with her  
4 husband, who was visiting Ms. Norsworthy regularly until the current coronavirus outbreak  
5 prevented visitations.

6 52. On December 17, 2019, CDCR approved Ms. Norsworthy for consultation for the  
7 surgery. A few weeks later, Dr. Satterwhite revised his initial recommendation, and indicated on  
8 January 13, 2020 that the surgery could be either a “colon-vaginoplasty or peritoneum-  
9 vaginoplasty.” Throughout the winter, and until March 12, 2020, CDCR, through the California  
10 State Attorney General's office, represented that it was searching for a surgeon to perform the  
11 surgery, even advising Ms. Norsworthy that the surgery would take place in November 2020.  
12 Although that news was disappointing at the time—it should not take nearly a year to have this  
13 surgery scheduled to repair the damage done by CDCR's own improper actions—at least Ms.  
14 Norsworthy understood that relief would eventually be coming.

15 53. That all changed on March 12, 2020, when Ms. Norsworthy was advised by a  
16 doctor working at CCWF, Dr. Chris Glass, Psy.D., that her paperwork had changed. Whereas the  
17 papers originally showed that the follow-on surgery had been “Approved” since at least  
18 December 2020, Dr. Glass advised her that the word “Approved” was now crossed-out and  
19 replaced, in handwriting, with the word “denied.” Dr. Glass further informed Ms. Norsworthy  
20 that she was being referred another doctor to get a second opinion for the surgery. Dr. Glass said  
21 that this was shocking and indicated he had never seen anything like it.

22 54. The only explanation provided so far has come from the Attorney General's office,  
23 which forwarded notes from Dr. Satterwhite indicating that the surgery he recommended could  
24 either be a colon-vaginoplasty or a peritoneum-vaginoplasty, and a February 25, 2020  
25 recommendation that Defendants had procured from another doctor, Dr. Marci Bowers, M.D.,  
26 that CDCR decided to consult with to second-guess Dr. Satterwhite's recommendation. CDCR  
27 originally approached Dr. Bowers in approximately November or December 2019, ostensibly  
28 about the surgery that Dr. Satterwhite had recommended. After Dr. Bowers responded that she



1 did not perform the type of surgery that Dr. Satterwhite recommended, CDCR asked Dr. Bowers  
2 to review Ms. Norsworthy's file. They then sent Ms. Norsworthy's medical file to Dr. Bowers in  
3 Burlingame, CA. Notably, this did not include any documentation explaining why Ms.  
4 Norsworthy had lost vaginal depth or why the current surgery was needed. Dr. Bowers then  
5 wrote her recommendation on stationary with her office's Burlingame address on the top, and  
6 sent the recommendation to CDCR.

7 55. Dr. Bowers admittedly did not see Ms. Norsworthy or even review any pictures of  
8 the results of her previous surgery in issuing the letter. Instead, as Dr. Bowers' admitted, she  
9 conducted her review "based upon chart review, operative records, reports and office  
10 examinations 2015-2019. I have not seen this patient nor have I seen pictures of any outcomes."  
11 Dr. Bowers then questioned the quality of Dr. Satterwhite's prior work, and, apparently  
12 misapprehending the reason for the surgery and incorrectly believing it was to correct problems  
13 caused by the prior surgeries, recommended, "Prior to engaging in a qualitatively similar 3rd or  
14 4th surgical procedure, I would recommend a second opinion with a new surgeon, if possible."

15 56. Based on this recommendation that was prepared by someone who has admittedly  
16 not even seen Ms. Norsworthy with respect to the surgery and did not know the reason the  
17 surgery was needed, CDCR decided to revoke its earlier approval for Ms. Norsworthy's surgery  
18 and require Ms. Norsworthy to go see a third doctor, for an invasive medical examination in the  
19 middle of the current coronavirus outbreak, for yet another medical opinion. Requiring Ms.  
20 Norsworthy to participate in such a medical examination at this point is particularly unreasonable  
21 and dangerous in light of the coronavirus outbreak, for which prisoners like Ms. Norsworthy are  
22 particularly susceptible due to crowded living conditions, lack of protections, and her own  
23 underlying medical conditions that make her more vulnerable to the epidemic. Indeed, the  
24 California Attorney General's office indicated on March 16, 2020, that it agreed with Ms.  
25 Norsworthy's decision not to go forward with the medical exam at this time in light of the  
26 coronavirus outbreak, and indicated that the visit to the new doctor would not be rescheduled  
27 until after the coronavirus situation is under control. And even then, the California Attorney  
28 General's office that, even if the new doctor also recommends the surgery that Ms. Norsworthy

1 requires, she would then need to go through the approval process again, which would take another  
2 approximately 90 days to lead to a new approval. In other words, it could be until the end of  
3 2020 before Ms. Norsworthy can get back to where she was in December 2019, with approval for  
4 this necessary surgery.

5 57. In sum, CDCR and the defendants have failed to provide Ms. Norsworthy with  
6 medically necessary medicine, hygiene products, dilation accommodations, and surgery. This  
7 deliberate indifference violated Ms. Norsworthy's constitutional rights and caused severe,  
8 possibly irreparable harm.

9 58. Over her almost one year in CDCR custody, Ms. Norsworthy has raised concerns  
10 about her medical care with CDCR/CCWF management, including CCWF Wardens Espinoza  
11 and Pallares; Associate Director Amy Miller, CDCR physicians Dr. Singh (Chief Medical  
12 Officer), Dr. Neumann (Chief of Psychiatry), Dr. Mitchell (Chief Medical Executive), Dr.  
13 Sammons (psychologist), Dr. Buzzini (psychologist), Dr. Glass (psychologist), Dr. Graves  
14 (gynecologist), Dr. Branch (primary care physician), Mr. Mallory, and staff member Captain  
15 Chenoa Dill (healthcare team captain), but to little avail.

16 **COUNT ONE**

17 VIOLATION OF 42 U.S.C. § 1983 BASED UPON  
18 DEPRIVATION OF EIGHTH AMENDMENT RIGHTS RESULTING  
19 FROM FAILURE TO PROVIDE MEDICALLY NECESSARY CARE

20 59. Ms. Norsworthy repeats and realleges the allegations of Paragraphs 1 through 44  
21 as if fully set forth herein.

22 60. In 2017, Ms. Norsworthy underwent sexual reassignment surgery to treat her  
23 gender dysphoria. Since then, she has received four additional revision surgeries to treat  
24 complications from the original surgery.

25 61. Ms. Norsworthy had met with numerous CDCR doctors, as well as an outside  
26 doctor, who all recommended that Ms. Norsworthy promptly receive SRS revision.

27 62. Ms. Norsworthy's outside surgeon Dr. Satterwhite prescribed strong pain  
28 medication, antibiotics, and regular dilation for Ms. Norsworthy. CDCR doctors, specifically Dr.  
Graves and Dr. Glass, agreed with Dr. Satterwhite's directives.

1           63.     Contrary to her doctors' orders, Ms. Norsworthy did not receive gabapentin, or an  
2     equivalent pain reliever, from the time she entered CDCR custody in March 2019 until months  
3     afterwards. Ms. Norsworthy had notified CDCR staff that she was in pain and that it hurt to even  
4     walk around the yard because the prison clothes rubbed against her genitals. In return, she was  
5     merely provided with over-the-counter ibuprofen and a drug to treat seizures.

6           64.     Additionally, Ms. Norsworthy did not receive her allotment of douches prescribed  
7     by both her outside surgeon and CDCR's gynecologist. The pharmacy was notified of this  
8     request, but Ms. Norsworthy did not receive the douches for a period of roughly two months. As  
9     a result, she was not able to adequately clean her genitals and her surgery wound, and she had a  
10    recurring infection.

11          65.     Finally, based upon Ms. Norsworthy's grievance and her doctor's orders,  
12    Defendants were aware of Ms. Norsworthy's need to dilate regularly. However, in spite of that  
13    knowledge, Defendants did not provide Ms. Norsworthy a proper, adequate, or private place to  
14    dilate. Dilation is a medical necessity after SRS and SRS revision surgeries.

15          66.     Each Defendant—acting in his/her official capacity and under color of state law—  
16    was and remains deliberately indifferent to Ms. Norsworthy's medical need for pain medication,  
17    antibiotics, and hygiene products, as well as Ms. Norsworthy's medical need to regularly dilate.  
18    Each Defendant knew of Ms. Norsworthy's serious medical needs, disregarded Ms. Norsworthy's  
19    needs, and failed to take any reasonable measures to address Ms. Norsworthy's continued pain  
20    and suffering resulting from her medical needs. The deliberate indifference of each Defendant is  
21    further demonstrated by Defendants' unreasonable actions contrary to the recommendations of  
22    multiple health care professionals with sufficient training and/or experience in the treatment of  
23    gender dysphoria, and by Defendants' disregard for providing pain management medications,  
24    antibiotics, and hygiene products, which were prescribed to Ms. Norsworthy by her doctors.

25          67.     Defendants' denial of sufficient accommodations to dilate, denial of pain  
26    medication despite having a prescription for that medicine, denial of hygiene products, including  
27    douches, to clean her surgery wound, and failure to treat the resulting vaginosis infection  
28

1 unreasonably and recklessly caused irreparable harm to Ms. Norsworthy, including severe anxiety  
2 and physical pain which Ms. Norsworthy experiences on a daily basis.

3 68. Defendants, by acting deliberately indifferent to Ms. Norsworthy's need for her  
4 pain medication, antibiotics, and hygiene products to manage complications from her prior  
5 surgeries related to SRS, deprived Ms. Norsworthy of her right to medically necessary treatment  
6 guaranteed by the Eighth Amendment of the U.S. Constitution.

7 **PRAYER FOR RELIEF**

8 69. Enter injunctive relief enjoining Defendants from interfering with the discretion of  
9 the mental health and other medical professionals involved in Ms. Norsworthy's care;

10 70. Enter injunctive relief enjoining Defendants to provide Ms. Norsworthy with  
11 adequate medical care, accommodations to dilate, necessary surgery, medical care and any other  
12 medication which is or has been prescribed by a doctor or other healthcare professional;

13 71. Award punitive and compensatory damages for the costs of maintaining potential  
14 future medical complications that are likely to arise due to Defendants indifference to Ms.  
15 Norsworthy's sever medical conditions, failure to treat vaginosis, and failure to provide medical  
16 care and prescribed medication to manage Ms. Norsworthy's severe pain pursuant to 42 U.S.C. §  
17 1983;

18 72. Award reasonable attorneys' fees and costs to Ms. Norsworthy pursuant to  
19 42 U.S.C. § 1988; and

20 73. Other relief the Court finds appropriate in the interests of justice.

21 Dated: March 16, 2020

MORGAN, LEWIS & BOCKIUS LLP

22  
23 By /s/ Christopher Banks

24  
25 Attorneys for Plaintiff  
MICHELLE-LAEL B. NORSWORTHY