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Carlos Soler and others Similarly Situated  
at the Cumberland County Jail*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

RAYMOND LAMAR BROWN, JOHN CLARK, DESMOND RODGERS, TODD FORD, JR. AND CARLOS SOLER, individually and on behalf of others similarly situated  Plaintiffs v.  CHARLES WARREN, LOREN JOYNES, SHANE ZANES and ROBERTO ORTIZ, each individually and in his official capacity, and CUMBERLAND COUNTY NEW JERSEY  Defendants.	CIVIL ACTION  1:20-cv-7907-NLH-AMD     <b>SUPPLEMENT TO FIRST AMENDED COMPLAINT</b>
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Plaintiffs Raymond L. Brown, John Clark, Desmond Rodgers, Todd Ford, Jr., and Carlos Soler (“Plaintiffs”) individually and on behalf of the certified class (the “Class”) of similarly situated detained people in the custody of the Cumberland County Department of Corrections in the Cumberland County Jail (bring this supplemental pleading under 42 U.S.C. §§1983, 1985 and 1988 against Defendants Charles Warren, Loren Joynes, Shane Zanes, Roberto Ortiz and Cumberland County New Jersey for actions taken under color of State law in retaliation against Plaintiffs for asserting and pursuing the claims in this action, violation of Plaintiffs’ constitutionally protected rights under the First, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution and Article I of the New Jersey Constitution.

### **SUPPLEMENTAL STATEMENT OF FACTS**

1. Defendants, Loren Joynes, Shane Zanes and Roberto Ortiz (“Correctional Officer Defendants”), for all times relevant were, and remain, employed by Cumberland County and work in the Cumberland County Jail, located at 54 W. Broad Street, Bridgeton New Jersey, and at all times were acting under color of state law.

2. Defendant Charles Warren was, for all times relevant, the Warden of the Cumberland County Jail, and at all times was acting under color of state law.

Defendant Warren resigned his position as Warden on or about September 20, 2021, and the current Warden of the Cumberland County Jail is Eugene J. Caldwell, II.

3. On May 6, 2021, following ten (10) days of hearings on Plaintiffs' application for preliminary injunctive relief ("Injunction Hearing"), Defendant Warren, then Warden of the Cumberland County Jail, and Cumberland County New Jersey entered into an agreement on the record to resolve issues raised by Plaintiffs on a class basis, pursuant to the terms of a consent order to be submitted [Dkt. No. 126].

4. During the Injunction Hearing, Defendant Ortiz testified regarding his position of first floor supervisor, his responsibility for distributing cleaning supplies, and that he worked with a crew of the inmates, known as "trustees," who were paid to clean areas of the Jail. He also testified that Plaintiff John Clark had been a trustee, but that Clark was removed by Defendant Loren Joynes from his trustee position after this case was filed. Defendant Ortiz testified that he did not know if that decision by Defendant Joynes was in retaliation for Clark's active involvement in this case, but did not offer any other reason why Clark was removed from the trustee position.

5. During the Injunction Hearing, Defendant Joynes provided testimony regarding his position as the acting captain, the highest rankings custody individual

in the Cumberland County Jail. Among other things, Defendant Joynes had responsibility for designating which housing units of the Cumberland County Jail would be designated for quarantining or isolating inmates. He also had authority over the trustee cleaning crews. Defendant Joynes testified that he terminated Defendant Clark as a Trustee on order from Warden Warren.

6. Defendant Zanes testified during an October 1, 2021 hearing regarding the Cumberland County Jail's compliance with two orders (ECF Nos. 159 and 183) regarding cleaning supplies, which adopted certain of the Special Master's recommendations. Defendant Zanes is the Cumberland County Jail's training sergeant who assisted in distribution and stocking cleaning supply lockers and is responsible for informing custody staff of their obligation to complete cleaning supply logs.

7. For all times relevant, and since the Amended Complaint was filed on January 29, 2021, Plaintiffs and class representatives Todd Ford, Jr., John Clark, Carlos Soler and Desmond Rogers were housed in C-Pod unit in the Cumberland County Jail. Plaintiff and class representative Raymond Lamar Brown is and has been housed in the Dorm unit of the Jail.

8. At all times, the activities engaged in by Plaintiffs and other inmates in the Jail in pursuit of the claims asserted in the Amended Complaint, including the actions of those acting as class representatives, providing information for use in

furtherance of this case, and offering testimony and evidence by affidavit and through live testimony in court, were constitutionally protected activities, including under the First Amendment.

9. The C-Pod housing unit is staffed on each shift by a correctional officer who sits at a desk in the common area. That officer is able to observe all common areas in the unit, as well as the entrances to cells when the door is open, and is responsible for monitoring all activities of the inmates in the common areas. The officer may enter and inspect any cell, at any time.

10. As a matter of Jail policy, each correctional officer assigned to each day and night shift conducts a search of two cells in C-Pod.

11. The purpose of these searches is to determine if the inmates have any unauthorized items in their cells, such as contraband (*e.g.*, gun or knife) or “nuisance contraband” (possession of authorized items but in excessive quantities), and if so, the correctional officers are charged to remove such items from the cell.

12. The correctional officers’ twice daily searches include, entering the cell, lifting the bed sheet and rolling up the bed mattress to observe if any items are hidden underneath, inspecting the mattress to ensure nothing is hidden inside the mattress, checking between the bunk and the wall, searching under the inmates’ beds, the windowsills and around the toilet, and flushing the toilet.

13. An inmate found to have extra blankets, towels, and the like could be charged with a minor rule infraction.

14. In the days and weeks immediately preceding May 11, 2021, each of the correctional officers' inspection reports for each of the shift cell searches in C-Pod state that no nuisance contraband was found in the cells.

15. At all times, 24 hours per day, seven days per week, every open area and common area in the Jail, including C-Pod, is under video surveillance, with the live video streaming in the Warden's office on multiple screens.

16. Because every movement of every inmate in a common area is captured on video, an inmate moving a mattress, sheets, blankets or other items through the common area and into a cell would be plainly visible on the video.

17. In addition to the correctional officer who monitors each housing unit from the desk station within the unit, every day, a lieutenant makes rounds in each housing area of the Jail, and the sergeants on duty every shift are responsible to make two rounds in each housing area per shift.

18. In fact, lieutenants and sergeants did make rounds in C-Pod during every shift between May 1, 2021 and before and May 11, 2021, and at no time did any officer report that any inmate had any contraband or identify any of the items the inmates had in their cells in plain sight as in violation of Jail rules.

19. Conditions in the cells C-Pod were unchanged between May 1, 2021 and before, and May 11, 2021.

20. On arrival at the Jail, inmates are issued one sheet, one towel, one blanket, one tee shirt and one mattress. Although an inmate having more than one of these items in the cell could be charged with a minor infraction of the Jail's rules, inmates frequently have additional items in their cells with the knowledge of the correctional officers and senior correctional officers, including Correctional Officer Defendants and the Jail Warden.

21. In fact, it is a custom and practice in the Jail, including in C-Pod, for the inmates to have additional items, including extra blankets, shirts, sheets, towels and mattresses in their cells.

22. Inmates in the Jail are responsible for cleaning their own cells, including toilets. Since the inception of the COVID-19 pandemic, inmates have also been responsible for cleaning the common areas in their housing units, including showers, tables, chairs and phone areas.

23. Correctional officers, as well as sergeants and other ranking officers, including Correctional Officer Defendants and the Warden recognize that the inmates need additional supplies, including extra towels and cleaning rags, and permit the inmates to have additional supplies in their cells.

24. Correctional officers, as well as sergeants and other ranking officers, including Correctional Officer Defendants, and the Warden recognize that the inmates use old towels, tee shirts and sheets for cleaning rags.

25. From at least May 1, 2021 through May 10, 2021, inmates housed in C-Pod had extra supplies, including rags, cleaning solution, blankets, towels and cot mattresses, in plain sight in their cells, with the knowledge, assent, and express or implied permission of correctional officers staffing the unit, as well as with the knowledge, assent, and express or implied permission of senior correctional officers who regularly inspected or were in the housing unit, including Correctional Officer Defendants, and the Warden.

### **The Shakedown**

26. On the morning of May 11, 2021, just days after Defendants Warren and Cumberland County agreed to enter into the Consent Order granting Plaintiffs preliminary injunctive relief requested in their Order to Show Cause, the Correctional Officer Defendants with the knowledge, consent and involvement of Defendant Warren, planned and carried out a full “shakedown” in C-Pod.

27. During the shakedown, every cell was “tossed” by correctional officers, including the Correctional Officer Defendants, and every additional item the inmates in C-Pod had in their cells, including items that Plaintiffs had



purchased themselves from the Jail commissary, as well as cleaning rags, masks and soap, was seized.

28. During the shakedown, Defendants Joynes and Zanes each took numerous color photographs of the cells and the items taken from the cells. The photographs show that the items seized were in plain sight, obviously visible to any officer inspecting or even observing the cells through open doors, and that the items had been in the cells for some period of time.

29. At no other time has the Jail photographed or documented seized contraband possession of which would constitute at most, a minor rule infraction.

30. At 10:04 a.m. on May 11, 2021, using his personal cell phone, rather than his official use County issued cell phone, Defendant Joynes sent a text to Defendant Warren, on Warren's personal cell phone, rather than the County cell phone issued for official use. The text message included the pictures taken during the shakedown.

31. During the shakedown, a list was created of some, but not all of the contraband taken from cells. A few days later, Defendant Joynes edited the list to add the names of the inmates housed in each cell identified on the list.

32. The shakedown was not recorded in the C-Pod Log Book. Rather, the entry for the time when the shakedown occurs states only: "7:50am Call from Sgt Ortiz spraying in C pod around 8:50am toured post. 8:55 am – rec for C pod."

**Plaintiffs' Counsel Requests an Explanation for the Shakedown**

33. On May 12, 2021, Plaintiffs' counsel emailed Defendants' counsel regarding the shakedown, expressing concern that the shakedown was conducted in retaliation and requesting an explanation. Counsel indicated that if a satisfactory response was not received, that Plaintiffs would pursue the matter with the Court. The email was forwarded to Defendant Warren, who forwarded it to Defendants Joynes and Ortiz.

34. A few minutes later, Defendant Joynes sent an email in reply saying "Lol."

**Defendants' Conduct Between May 13, 2021 and the Court's May 14<sup>th</sup> Conference**


35. On May 13, 2021, Plaintiffs' counsel filed a letter asking for a Court conference concerning the shakedown.

36. Shortly thereafter, the Court scheduled a telephone conference for the following afternoon, May 14, 2021.

37. On or before May 13, 2021, Defendant Warren emailed the photographs from the shakedown to Cumberland County counsel John Carr.

38. On May 13, 2021, at 10:50 a.m. Defendant Warren texted Defendant Joynes, "I couldn't give 2 fucks about what those shot birds are complaining about."

39. On May 13, 2021, following the Court’s notice that a conference was to be held the following day, on May 14<sup>th</sup>, the following events occurred:

May 13, 6:16 pm	Counsel for Defendants forwarded the Court’s ECF notification to Defendant Warren and County Counsel Carr stating “Really need documents and a response.”
May 13, 7:25 pm	Defendant Warren forwards ECF notification to Defendant Joynes and states “FYI”
May 13, 7:46 pm	Defendant Joynes texts Defendant Zanes “Ok. Type up a report from the C Pod shakedown and put it under my door. The courts want to see our reports. They complained and said w left them without sheets”
May 13, 7:53 pm	Defendant Joynes texts Defendant Zanes “I’m gonna go in and type mine and leave.”
May 13, 7:54 pm	Defendant Zanes texts Defendant Joynes “I guess we’re really under the microscope”
May 13, 7:56 pm	Defendant Joynes texts Defendant Zanes “Yup.”
May 13, 8:05 pm	Defendant Joynes texts Defendant Zanes “Just spoke with Martinez, Kelley isn’t working tonight”
May 13, 8:06 pm	Defendant Zanes texts Defendant Joynes “Ok. I’m gona [sic] type my report at home. Sign and scan and email to you. Just writing a brief report. What time did we start”
May 13, 8:14 pm	<p>Defendant Joynes texts Defendant Zanes</p>  <p>[shrug emoji]</p>

May 13, 8:15 pm	Defendant Joynes texts Defendant Zanes “Call Martinez, he can give you times. Make sure it’s on letterhead.”
May 13, 8:19 pm	Officer Martinez emails Defendant Joynes his and Officer Velez’s incident reports
May 13, 9:05 pm	Defendant Zanes report “created”
May 13, 9:19 pm	Defendant Zanes emails Defendant Joynes the Zanes report (dated May 12, 2021 with incorrect date of incident of May 12, 2021)
May 13, 9:20 pm	Defendant Zanes texts Defendant Joynes “Sent you the report. Let me know if there are any issues”

40. On May 14, 2021, the following events occurred:

May 14	Defendant Joynes changes date on Defendant Zanes report to May 11 and incident date to May 11. Defendant Joynes prints, but does not save, the edited report
May 14, 8:11 am	Defendant Ortiz report “created”
May 14, 8:49 am	Email from scanner@co.cumberland.nj.us to Defendant Joynes containing Defendant Joynes incident report, Defendant Ortiz incident report, Defendant Zanes incident report (with May 11 dates), Martinez and Velez reports, three photos
May 14, 8:51 am	Email from Defendant Joynes to Defendant Warren containing Defendant Joynes incident report, Defendant Ortiz incident report, Defendant Zanes incident report (with May 11 dates), Martinez and Velez reports, three photos

### **The Evidentiary Hearing**

41. On May 19, 2021, the Court commenced an evidentiary hearing into the March 11, 2021 shakedown. The hearing continued on May 20, 2021.

42. At the outset of the hearing, the Court entered a sequestration Order, sequestering all witnesses before they testified.

43. Defendant Joynes was identified as a witness. In response to the Court's inquiry, Counsel for Defendant Joynes represented that Defendant Joynes understood the sequestration Order.

### **Violation of the Sequestration Order and Evidence of Witness Intimidation**

44. Within an hour of the commencement of the hearing, Defendants Warren and Joynes began text messaging on their personal cellphones about the Plaintiffs' testimony, the testimony of Defendant Ortiz and other witnesses who were involved in the shakedown, the evidence, the Plaintiffs' attorney's areas of questioning, and rulings by the Judge. The texts also discussed suggested testimony for Defendant Joynes and potential evidence that could be used against Plaintiffs during the hearing and disciplinary actions that could be taken against the Plaintiffs.

### **Hearing Testimony Later Contradicted by Forensic Evidence**

45. On May 19, 2021, Defendant Ortiz testified that on May 11, 2021, after the shakedown he immediately wrote up his report and brought it to Defendant Joynes and signed it in front of him.

46. In fact, Defendant Ortiz did not create his report until the morning on May 14, 2021.

47. During his testimony on May 20, 2021, Defendant Joynes testified that no one had told him anything about what had occurred during the hearing on May 19<sup>th</sup>.

48. During the hearing Defendant Joynes testified that he prepared his report in the normal course. In fact, Defendant Joynes did not prepare his report dated May 11, 2021 until the morning of May 14, 2021 (when internal metadata indicates it was created, though it is possible he began drafting it on the night of May 13<sup>th</sup>. The report was then presented to the Court on May 14<sup>th</sup> and represented as having been prepared on May 11, 2021.

49. Contrary to testimony offered and representations made to the Court about the shakedown and preparation of the incident reports and memos, none of the incident reports or memos prepared by the Correctional Officer Defendants was prepared immediately following the shakedown, nor was any prepared in the normal course of Jail operations.

50. Each of the incident reports and memos was created by the Correctional Officer Defendants at the request of Defendant Warren only after the shakedown incident was reported by Plaintiffs to the Court, and the Court scheduled a hearing.

**SUPPLEMENTAL FIRST COUNT**  
**42 §U.S.C. 1983**  
**(Unlawful Retaliation in Violation of Plaintiffs’**  
**First Amendment Rights)**

51. Plaintiffs repeat and reallege paragraphs 1-50 of the within Supplement to the Amended Complaint as if set forth fully at length herein.

52. 42 U.S.C. §1983 makes it unlawful for any person acting under color of state law to deprive any individual of “any rights, privileges, or immunities secured by the Constitution and laws....”

53. Plaintiffs’ allegations herein are in further support of the First Amended Complaint and the causes of action asserted therein arising under 42 U.S.C. §1983.

54. Defendant Warren, and Correctional Officer Defendants Joynes, Zanes and Ortiz conspired and coordinated the C-Pod shakedown in retaliation against Plaintiffs for their active participation in this lawsuit, including for their work as class representatives, and the success Plaintiffs achieved.

55. Correctional Officer Defendants Joynes, Zanes and Ortiz carried out the C-Pod shakedown in retaliation against Plaintiffs for their active participation

in this lawsuit, including for their work as class representatives, and the success Plaintiffs achieved.

56. The C-Pod shakedown was conducted with the intent to intimidate Plaintiffs and all member of the Class and to chill their continuing involvement in pursuit of the class claims asserted in the Amended Complaint and the exercise of their constitutional rights.

57. Defendants' conduct as alleged herein was taken under color of state law and is in violation of 42 U.S.C. §1983 and in violation of the First, Fifth and Fourteenth Amendment rights of Plaintiffs and all members of the Class.

58. As a consequence of Defendants' conduct as aforesaid, Plaintiffs and all members of the Class have been harmed and have suffered irreparable injury.

**SUPPLEMENTAL SECOND COUNT**  
**42 §U.S.C. 1985**  
**(Unlawful Conspiracy to Intimidate Plaintiffs from Participating and**  
**Testifying in this Action)**

59. Plaintiffs repeat and reallege paragraphs 1-58 of the within Supplement to the Amended Complaint as if set forth fully at length herein.

60. 42 U.S.C. §1985 makes it unlawful for any person acting under color of state law to conspire to “deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injure



such party or witness in his person or property on account of his having so attended or testified....”

61. Defendant Warren, and Correctional Officer Defendants Joynes, Zanes and Ortiz conspired and coordinated the shakedown to intimidate and threaten Plaintiffs and members of the Class for their past and continuing participation in furtherance of the rights asserted in this case.

62. Defendant Warren, and Correctional Officer Defendants Joynes, Zanes and Ortiz conspired and coordinated the preparation of the incident reports and memos concerning the shakedown, including their format and content, concerning the reasons why, and circumstances under which, the shakedown occurred.

63. Defendant Warren and the Correctional Officer Defendants, at all times acting color of state law, conspired and directed the retaliatory actions, and together with Defendant Cumberland County, knew of the violations of Plaintiffs’ constitutional rights, failed to take any action to prevent such violations, and engaged in efforts to cover-up those violations.

64. Defendants’ conduct as alleged herein is in violation of 42 U.S.C. §1985 and in violation of Plaintiffs’ First, Fifth and Fourteenth Amendment rights.

65. As a consequence of Defendants’ conduct as aforesaid, Plaintiffs have been harmed and have suffered irreparable injury.

Wherefore, Plaintiffs, individually and on behalf of the class certified by this Court, demand judgment against Defendants as to all counts, declaring and adjudging Defendants to be in violation of 42 U.S.C. §§1983 and 1985 and in violation of Plaintiffs' First, Fifth and Fourteenth Amendment rights, awarding preliminary and permanent injunctive relief, attorney's fees and costs pursuant to 42 U.S.C. §1988, and such other and further relief as the Court deems proper and just.

Dated: March 4, 2022

/s/ Karen A. Confoy  
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