

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

FILED

JAN 7 2003

CLERK  
U. S. DISTRICT COURT  
MIDDLE DIST. OF ALA.

LINDA LAUBE, THERESA BARRON,  
BARBARA BUSH, LACHRONDRIA  
CROCKETT, MARJORIE EWING,  
WANDA GOODMAN, ALMA GUTIERREZ,  
LISA HEREFORD, LA'TOYA JONES,  
KATIE MOORE, TERRI NEWBY,  
BARBARA PELZER, APRIL RICE,  
KELLI WASHINGTON, and MELINDA  
WASHINGTON;

LAURA BLAND, ANGELA BOND, WENDY  
CARMICHAEL, LESLIE FILLINGIM,  
SHARON FINN, BRENDA FRAIME,  
DEBORAH FRANKS, LAURA GILBERT,  
DIANE JORDAN, VANESSA KIRKSEY,  
VICKI LITTLES, DEBORAH LOYD,  
CLORESTINE MCQUEEN, JUANITA  
MOORE, BETTY PARKER, PATRICIA  
SEGREST, CAROLYN THOMAS, NINA  
WHITTEN, and JUDY WYLY,

on behalf of themselves and  
other persons similarly situated,

Plaintiffs,

v.

MICHAEL HALEY,  
Commissioner of the Alabama  
Department of Corrections,

GLADYS DEESE,  
Warden of Julia Tutwiler  
Prison for Women,

PATRICIA HOOD,  
Acting Warden of Edwina Mitchell  
Work Release Center,

MARY CARTER,  
Warden of Birmingham  
Work Release Center,

CIVIL ACTION

No. CV-02-T-957-N

CLASS ACTION

**SECOND AMENDED COMPLAINT**

DON SIEGELMAN, )  
Governor of Alabama, )  
 )  
NAPHCARE, INC., )  
Health Care Provider for )  
Alabama Dep't. of Corrections )  
 )  
DR. FRANCIS M. HENDERSON, )  
Medical Director, NaphCare, Inc. )  
 )  
MHM CORRECTIONAL SERVICES, INC., )  
Mental Health Care Provider for )  
Alabama Dep't. of Corrections, )  
 )  
in their official capacities, )  
 )  
Defendants. )  
\_\_\_\_\_ )

## I. INTRODUCTION

1. The thirty-three named plaintiffs bring this suit on behalf of themselves and all other female prisoners in Alabama. Women prisoners in Alabama are at a substantial risk of serious injury and death due to the outrageously overcrowded and dangerous conditions in which they are forced to live at the Julia Tutwiler Prison for Women, the Edwina Mitchell Work Release Center, and the Birmingham Work Release Center.

2. Women prisoners in Alabama are packed so tightly into cells and dormitories that the extreme tension and volatility caused by lack of space results in women slashing one another with razors, fights, and other serious assaults. Security staff, vastly outnumbered by the prisoner population, do not provide security. The potential for violence is exacerbated by the lack of air circulation and unbearably hot temperatures, the

dilapidated condition of the buildings, and the lack of proper mental health treatment for mentally ill women mixed in with other prisoners in open dormitories.

3. The State of Alabama, along with NaphCare, Inc., a private for-profit company that holds the contract for plaintiffs' medical care, and MHM, a private for-profit company that holds the contract for plaintiffs' mental health care, gamble with the health and lives of women prisoners. These defendants delay or deny adequate treatment for serious medical, dental and mental health conditions, and willfully ignore warning signs of serious illness in anticipation that the women will be released from prison before they die.

4. The actions and inactions of the State and its private contractors place female prisoners at risk of permanent injury and premature death and subject prisoners to prolonged illness and preventable pain and suffering.

5. Defendants have failed to carry out their statutory and constitutional obligations to maintain and operate correctional facilities that provide for the basic safety, security and health care of women prisoners in Alabama. Plaintiffs bring this action on behalf of themselves and all others similarly situated, pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments to the United States Constitution.

## **II. JURISDICTION**

6. This action is brought pursuant to 42 U.S.C. § 1983. This Court has jurisdiction over plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343, and the United States Constitution.

7. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

## **III. VENUE**

8. The Middle District of Alabama is an appropriate venue for this action under 28 U.S.C. § 1391(b)(2) because a "substantial part of the events or omissions giving rise to the claim[s] occurred" in this district, and one or more of the defendants lives in this district.

## **IV. PARTIES**

9. Plaintiffs LINDA LAUBE, THERESA BARRON, BARBARA BUSH, LACHRONDRIA CROCKETT, MARJORIE EWING, WANDA GOODMAN, ALMA GUTIERREZ, LISA HEREFORD, LA'TOYA JONES, KATIE MOORE, TERRI NEWBY, BARBARA PELZER, APRIL RICE, KELLI WASHINGTON, and MELINDA WASHINGTON; LAURA BLAND, ANGELA BOND, WENDY CARMICHAEL, LESLIE FILLINGIM, SHARON FINN, BRENDA FRAIME, DEBORAH FRANKS, LAURA GILBERT, DIANE JORDAN, VANESSA KIRKSEY, VICKI LITTLES, DEBORAH LOYD, CLORESTINE MCQUEEN, BETTY PARKER, PATRICIA SEGREST, CAROLYN THOMAS, NINA WHITTEN, and JUDY WYLY are serving state sentences through confinement in Julia Tutwiler Prison for Women

("Tutwiler"), the Edwina Mitchell Work Release Center ("EMC" or "Edwina Mitchell"), and the Birmingham Work Release Center ("BWR" or "Birmingham"). The named plaintiffs seek to represent themselves and all other current and future women state prisoners.

10. **Plaintiff A** is currently incarcerated at Tutwiler Prison. She is 41 years old, and has been a prisoner in the Alabama Department of Corrections since 1998. Plaintiff A is approximately five feet tall and weighs around 80 pounds. She has lost approximately 20 pounds since entering prison because she has no teeth and cannot eat enough food to obtain adequate nutrition. Plaintiff A has been waiting to be provided dentures at Tutwiler for three years. She has inquired about her dentures almost every month for the past year, and the only response she has received is that they are in the mail. She has filed numerous complaints about her need for teeth because of the impact on her health of not being able to chew and digest food properly. After not receiving an adequate response to her complaints, Plaintiff A filed a grievance on December 3, 2002. She has not received any response to this grievance. At 80 pounds, she is severely underweight, lighter than 98% of American women her height.

11. Plaintiff A also suffers from severe headaches and seizures induced by a brain tumor. She requested treatment for

this condition on repeated occasions, but was not referred to the doctor by nurses at sick call screening. It took her having a seizure while the doctor was on duty for her condition to be brought to the doctor's attention. At the time the doctor saw Plaintiff A, he ordered that an MRI be done to assess her condition. No MRI has been done.

12. **Plaintiff B** is currently incarcerated at Tutwiler Prison. She is 50 years old and has been a prisoner in the Alabama Department of Corrections since 2000. Plaintiff B has three ruptured discs in her back, a torn rotator cuff, and serious problems with her knees, for which she had multiple surgeries before coming to prison. Because of these physical problems, Plaintiff B suffers chronic pain and swelling and has difficulty walking. She has filed numerous complaints about inadequate pain control and not being given a "pink slip" that excuses her from physical work due to her medical problems. She has also filed several grievances about these issues, most recently on September 15, September 20, and October 22, 2002. She is not satisfied with the resolution of these grievances. Her pain is debilitating.

13. **Plaintiff C** is currently incarcerated at Tutwiler Prison. She is 37 years old and has been a prisoner in the Alabama Department of Corrections since approximately 1998. For two years, Plaintiff C has suffered with serious, extremely

painful hemorrhoids. Despite repeated requests for treatment, the hemorrhoids were allowed to worsen for two years, causing Plaintiff C prolonged, severe pain, and making it impossible for her to sit for any period of time, or to have a bowel movement without a large dose of laxatives. She was finally taken to a specialist the first week of October 2002. The specialist informed her that the hemorrhoids had become so severe over the 2 year delay that it would require multiple surgeries to remove them. Plaintiff C underwent the first stage of the surgery during the first week of November. She has yet to be sent for her post-operative evaluation and second stage of the surgery.

14. About a week after she returned from surgery, Plaintiff C got an infection. She still experiences bleeding from her rectum. She continues to be in excruciating pain and has great difficulty with bowel movements. After an officer recently called the medical unit for help because Plaintiff C was in so much pain, a nurse accused Plaintiff C of not coming to pill call. This is not true. Plaintiff C has not missed a single pill call.

15. In November 2002, Plaintiff C filed a grievance about not being taken to a specialist for post-surgical follow-up, as the specialist had recommended. She has filed complaints and grievances about not being given laxatives or pain medication since her surgery, as prescribed by a physician. She has also

exhausted the grievance procedure about the excessive amount of time it took for her to receive surgery for such a painful and debilitating medical problem that the Department had known about for years. Her medical situation remains unresolved.

16. **Plaintiff D** is currently incarcerated at Tutwiler Prison. She is 39 years old and has been a prisoner in the Alabama Department of Corrections since May 2002. She suffers from numerous medical and mental health problems including diabetes, hypertension, and bipolar disorder. In June 2002, Plaintiff D's uterus prolapsed into her vagina, and she began passing large amounts of blood and experiencing severe cramping. She requested help for the bleeding beginning in June. In response, she was seen at midnight sick call by nurses, but the nurses did not refer her to a physician for evaluation and treatment. In late July 2002, Plaintiff D filed a complaint about not getting treatment for her bleeding. After not getting a response to her complaint, she filed a grievance in August, and received no response to this either. She bled every day from August to September and consequently became anemic.

17. In October, Plaintiff D was given a pelvic ultrasound at which time she was told she had cysts on her ovaries, an enlarged uterus, and a bladder problem. She has boils on her thighs and in her genital area that burst and leak malodorous pus and blood. In late November, Plaintiff D was finally seen by a



gynecologist at Tutwiler who told her that she had fibroid tumors on her uterus. He recommended surgery but explained that he will need to get approval from NaphCare. She has not yet heard whether her surgery has been approved.

18. **Plaintiff E** is currently incarcerated at Tutwiler Prison. She is 48 years old and has been a prisoner in the Alabama Department of Corrections since May 2001. She has a history of ovarian cancer and breast cancer. In November 2000, prior to coming to prison, Plaintiff E had surgery for breast cancer, and was scheduled to undergo chemotherapy, but did not receive chemotherapy because she was arrested and placed in jail. Her sentencing judge assured her she would receive chemotherapy treatment at Tutwiler, but she still has not received chemotherapy at Tutwiler during the past 18 months that she has been in prison.

19. Plaintiff E has had three mammograms since coming to prison. The mammogram in September 2001 showed there was an abnormality that needed immediate attention. Rather than order a biopsy, NaphCare chose to wait six months to perform another mammogram. In April 2002, after another mammogram, a specialist requested NaphCare's approval to obtain a sonogram and biopsy of Plaintiff E's breast because the mammogram showed changes suggestive of cancer. These were of special concern because of her personal history and family history of cancer. This request

was denied by NaphCare in favor of obtaining a second opinion by another physician chosen by NaphCare, who said that the abnormality might be scar tissue. She has still not had a biopsy. Plaintiff E experiences frequent pain and discharge from her breast.

20. Beginning in October 2001, Plaintiff E has filed at least five complaints about the medical staff's failure to provide proper diagnosis and follow-up of the abnormality in her breast - in particular, their refusal to biopsy her breast. When she asked in October 2001 if she could file a grievance, she was informed that there were no grievance forms and no longer a grievance procedure. This is consistent with the "Access to Health Care Services" form that she was provided during intake in May 2001, which does not make mention of any complaint or grievance procedure.

21. During her cancer surgery two years ago, all of the lymph nodes were removed from under Plaintiff E's left arm. In August 2001, the health care staff at Tutwiler ordered a pressure cuff to keep the fluid from collecting in her arm causing severe swelling and pain. The cuff has still not arrived. Plaintiff E has submitted several complaint forms about this, and the response of the medical staff, beginning in January 2002, is that NaphCare is trying to get the proper cuff and will call her into the health care unit as soon as they get it.

22. Since grievance forms have become more available (in September 2002), Plaintiff E has filed and exhausted two grievances. Most recently, she filed a complaint on October 31 and a grievance on about November 16, 2002 concerning the failure to biopsy her breast, the soreness and itching in her breast, and the failure to provide her with the pressure cuff that was ordered 16 months ago.

23. **Plaintiff F** is currently incarcerated at Tutwiler Prison. She is 48 years old and has been a prisoner in the Alabama Department of Corrections since March 2001. Plaintiff F is on dialysis because she suffers from end-stage renal disease (kidney failure). During the first year of her incarceration, Plaintiff F was taken off-site for dialysis. Beginning May 3, 2002, defendants stopped taking Plaintiff F off-site for dialysis and instead required her to perform dialysis in the dental room at Tutwiler. In August 2002, Plaintiff F's left arm became severely infected, swollen, painful, and she developed a hematoma where the needles were inserted into her arm to do dialysis. On August 3, the painful, infected wound burst open while she was in the shower and she was taken to a hospital where she required numerous stitches on her arm and a catheter was placed in her chest so that dialysis could be performed through her chest. She can no longer use her left arm for dialysis.

24. On October 7, Plaintiff F filed a grievance about the

fact that she could not get treatment for her severely infected arm until the infection burst open. In her October 7th grievance, she also complained that she has trouble getting back to health care for dialysis and does not get a proper renal diet. She is not satisfied with the resolution of her grievance.

25. **Plaintiff G** is currently incarcerated at Tutwiler Prison. She is 44 years old and has been a prisoner in the Alabama Department of Corrections since 1995. Plaintiff G was diagnosed with tumors in her uterus in approximately August 2002. Prior to her diagnosis, Plaintiff G had bled heavily over a period of two years, often for many days at a time. A doctor at Tutwiler told her several months ago that she needs a hysterectomy, and placed her on the surgical list. As far as she knows, she has not been approved to receive surgery.

26. In November 2002, Plaintiff G filed a complaint about her excessive bleeding and about not having heard anything about whether she was going to have a hysterectomy. She also complained about having signed up three times for sick call and not being seen by a doctor. Later in the month, after receiving a response to her complaint, she filed two grievances, the first of which was about not being seen by a doctor despite several requests. In her second grievance, she complained about not seeing a doctor, and stated that she had been bleeding non-stop for two months and was experiencing dizziness.

27. **Plaintiff H** is currently incarcerated at Tutwiler Prison. She is 52 years old and has been a prisoner in the Alabama Department of Corrections since July 2002. Plaintiff H has emphysema, heart problems, chronic obstructive pulmonary disease, and throat cancer in remission. Because of her respiratory condition, Plaintiff H requires oxygen supplements 24 hours per day. She lives in one of the two hospital beds in the health care unit at Tutwiler. Plaintiff H is required to use an oxygen machine she brought from home, but it needs to be serviced regularly. She also requires 6-8 aerosol breathing treatments every day, but at Tutwiler she receives only two. In October 2002, Plaintiff H filed a complaint about not receiving enough breathing treatments and not having her oxygen machine serviced, despite the fact that it is falling apart. The medical staff responded to her complaint by asking her whether her family could take her machine to be serviced. Plaintiff H filed a grievance the second week of October about her machine not being serviced. In response, the medical staff asked whether she had Medicare coverage and told her that they were waiting to hear back from the company that had previously serviced the machine.

28. Because of scarring from her throat surgery, Plaintiff H also needs to have her throat dilated every three months to keep her airway open. She has requested this procedure, but has not had it done during the five months she has been in prison.

29. **Plaintiff I** is currently incarcerated at Tutwiler Prison. She is 45 years old and has been a prisoner in the Alabama Department of Corrections since 1997. Plaintiff I has multiple cysts in her left breast, has an undiagnosed condition that causes her abdomen to swell, and problems with her colon. She has a family history of cancer, and fears that her abdominal condition and the multiple cysts in her breast have not been properly diagnosed or treated. Plaintiff I has filed numerous medical requests and medical complaints because on several occasions she did not receive the diagnostic tests or surgical procedures that physicians have ordered for her.

30. Plaintiff I has also complained about being charged the medical co-pay every time she goes back to the health care unit, even though she is requesting help with a chronic problem that is not responding to treatment. On August 30, 2002, she filed a complaint about not receiving a sonogram that had been ordered for her by the prison's physician. During the week of her visit with the physician, she had returned to the health care unit four times suffering with pain, fever, and swelling in her pelvis and abdomen. After not receiving a response to this complaint, she filed grievances on September 5 and September 8. In the September 8th grievance, she complained about not having the sonogram and about the many other tests and procedures that had been ordered for her but had not been approved or performed. She

had previously filed requests and complaints about all of these issues without adequate resolution. For example, she asked why the hysterectomy that doctors had told her she needed (in July 2001) had not been approved. She also asked why she could not get a biopsy to help diagnose the numerous masses in her breasts. The response to her grievance stated that approval for the hysterectomy was a time-consuming process when it was not an emergency situation. Plaintiff I is not satisfied with this response and is afraid that NaphCare and the Department of Corrections are waiting until it is too late to do anything for her.

31. **Plaintiff J** has been at Tutwiler Prison since December 4, 2002, when she was transferred from the Birmingham Work Release Center. She is 40 years old and has been a prisoner in the Alabama Department of Corrections since February 2002. Plaintiff J suffers from major depression. In June 2002, she was coded "seriously mentally ill" by the Department of Corrections. Prior to her incarceration in the Department of Corrections, Plaintiff J took medication to treat her psychiatric condition. However, once she was transferred to Birmingham in March 2002, she was forced to wait three months without any medication. During this time, Plaintiff J requested to see the nurse at Birmingham four times to ask about her psychiatric medication, and was finally taken to a psychiatrist at Donaldson Correctional

Facility in June.

32. The psychiatrist at Donaldson prescribed antidepressants for Plaintiff J. However, as with many other prisoners at Birmingham, Plaintiff J had to wait several weeks between refills of her prescription medication. The disruptions in her medication caused Plaintiff K's mental health to deteriorate. While at Birmingham, Plaintiff J asked the warden if she could go to the mental health center for counseling. The warden referred the issue to an assistant, and Plaintiff J was never permitted to go to the mental health center or have any other kind of mental health counseling. Plaintiff J asked for complaint forms and grievance forms while at Birmingham Work Release and was informed by several different staff members that there is no grievance procedure available at that facility. Prior to coming to Tutwiler on December 4, Plaintiff J's medication had lapsed for almost six weeks, and no medication was transferred with her to Tutwiler. Since her arrival at Tutwiler on December 4, Plaintiff J has received no medication.

33. **Plaintiff K** is currently incarcerated at Edwina Mitchell Center. She is 43 years old and has been a prisoner in the Alabama Department of Corrections since July 2001. Plaintiff K has chronic high blood pressure and a congenital defect in a blood vessel near her heart. Just before Thanksgiving of this year, Plaintiff K ran out of Atenolol, one of her heart



medications, and did not receive it for two weeks because neither security staff nor medical staff did what was necessary to ensure that she received her refill on time. This lapse in her medication occurred despite the fact that one and a half weeks before she ran out of medication, Plaintiff K had filled out a medical request indicating that she needed a refill. She has also been waiting since July 2001 for an appointment with a dentist.

34. On December 2, 2002, Plaintiff K attempted to file a medical complaint about severe pain in her left side and about her left knee causing her so much pain she could not sleep. She had been seen by medical staff on November 22, but had heard nothing from them. She requested a complaint form from the EMC shift office and was told by the officer there that none was available. The officer advised her to use a health services request form and write "complaint form" at the top. Plaintiff K submitted a complaint according to the officer's instructions on December 2. She did not receive a response to her complaint. On December 9, she requested a grievance form, and was told none was available, so she used a health services request form and wrote "grievance" at the top, and submitted a grievance. She received a response to her grievance on December 11th that said "wrong form" "no complaint on file," and advised her to "get new forms from Capt. Davenport." Neither Plaintiff K nor any of the other

prisoners at EMC can obtain forms from Captain Davenport, as he works at Tutwiler, not EMC.

35. **Plaintiff L** is currently incarcerated at Tutwiler Prison. She is 32 years old and has been a prisoner in the Alabama Department of Corrections since September 2002. Plaintiff L has rheumatoid arthritis and was diagnosed with a blood clotting disease called Immune Thrombocytopenia Purpura on April 22, 2002, prior to her incarceration. At the time of her diagnosis, she was very weak, was bleeding from her nose, and had blood clots and ulcers in her mouth. Her platelet count was so low that she had to have a blood transfusion and bone marrow transplant. Since she arrived at prison in September, Plaintiff L has experienced swelling and pain around her knees and legs. She has had bleeding and ulcers in her mouth and bleeding from her nose; bruising on her legs; and severe headache. She has not been approved to see a specialist for her condition, despite the fact that the prison's physician does not have any expertise in treating her disease. Plaintiff L filed a complaint on October 16 about the problems she was having with swelling in her knees and legs, which made it difficult for her to walk. She stated that she had been to health care three times and had only been given Tylenol. She also complained that the doctor had ordered x-rays, but they had not been done.

36. Plaintiff L was transferred from Tutwiler to EMC in

late October 2002 with a two-week supply of her medications. The medications ran out on November 5 and she then went without them for over seven days. This caused her severe anxiety. She wrote a grievance on November 8th explaining that she needed her medication, was feeling sick, very weak, and had small hemorrhages in her skin because her platelet count was dropping. She explained that she had blood clots on her legs and in her mouth. Plaintiff L did not receive a response until six days later. The response stated that her medications (which had run out on November 5) were sent to EMC on November 13, when they arrived from the pharmacy. She filed another complaint on November 24, but as of December 12th had not received a response. Plaintiff L has requested a grievance form so that she can file a grievance about the November 24th complaint, but has been told that no grievance forms are available.

37. **Plaintiff M** is currently incarcerated at Tutwiler Prison. She is 55 years old and has been a prisoner in the Alabama Department of Corrections since January 1998. Plaintiff N has chronic hepatitis C, hypertension, ulcers, and mental illness. She has been informed by the prison's doctor that she will never receive drug therapy for hepatitis C in prison because it is too expensive. She received tests of her liver function in October, after she spit up blood for two days and became dehydrated. Although she has requested her lab results

repeatedly from health care staff, these requests have been denied. Her platelet count drops very low, which Plaintiff N has been told indicates severe liver damage. She has also been told that she has cirrhosis of the liver.

38. Plaintiff M experiences depression, anxiety, and insomnia related to her hepatitis C. In June 2002, she began to request mental health treatment for these symptoms, and filed a complaint on September 11 2002, after not receiving the treatment she had requested. The response to her complaint, on September 12, was a list of dates when she was supposedly seen by mental health staff. Plaintiff M recalls that those were dates when mental health staff walked down the aisle of the mental health dorm and asked everyone how they were doing. She was also told she would be notified when she had an appointment to see the psychiatrist. On October 24, when she had still not seen anyone for her mental health problems, she filed a grievance. In November, after the grievance was filed, she finally saw a psychiatrist who put her on Elavil, an antidepressant medication to be used with caution in patients with liver disease. Although she is relieved to have finally seen a psychiatrist, the Elavil she was prescribed is causing serious side effects, such as fatigue, that make it difficult for her to take the medication.

39. **Plaintiff N** is currently incarcerated at Edwina Mitchell Center. She is 52 years old and has been a prisoner in

the Alabama Department of Corrections since 1996. She has been at EMC since April 30, 2002. Plaintiff O has chronic diarrhea and had an intestinal bypass many years ago. She also has hypoglycemia, hypertension, and several food allergies.

Plaintiff N suffers from mental illness and arthritis. Plaintiff N often waits several weeks to have her medications refilled after they run out, despite putting in for a refill two or three weeks before her medication lapses. In early November, she notified health care by a written request that she needed refills of Elavil, her mental health medication, and Naprosen, a medication for arthritis pain. Despite her request, she ran out of her medication on about December 2, and as of December 12, had still not received them. She submitted a complaint on the day she ran out of medication, and on December 11, submitted a grievance. The same problem has occurred at least four times since she has been at EMC, and each time she has filed a complaint and grievance during the lapse in medication.

40. The officers at EMC refuse to provide complaint forms or grievance forms upon request, so Plaintiff N makes her own.

41. **Plaintiff O** is currently incarcerated at Birmingham Work Release Center. She is 41 years old and has been a prisoner in the Alabama Department of Corrections since April 2002. Plaintiff O has been diagnosed with major affective disorder (major depression or bipolar disorder) and has been coded by

defendants as "seriously mentally ill" during this incarceration. Plaintiff O was seen by a doctor one week after she arrived at Tutwiler in April 2002 and placed on a very low dose of Prozac. Two weeks later, she was transferred to Birmingham Work Release with a 7-day supply of medication. When this ran out, she waited two weeks to receive her refill. Once at Birmingham, she had one to two week lapses nearly every time her prescription ran out.

42. Because she was sporadically on and off of her psychiatric medication, the medication was not effective and gave her intolerable side effects. She was taken to Donaldson Correctional Facility in October to see a psychiatrist, but the transport officer took her medical records instead of her mental health record, so the psychiatrist would not provide treatment. Plaintiff O has chosen to stop taking her medication because defendants will not provide it to her consistently.

43. Plaintiff O is trying to keep her work release job, and cannot afford to risk the side effects of receiving her psychiatric medication improperly. However, Plaintiff O continues to need mental health treatment. She has not been provided any mental health counseling during her eight months in prison.

44. **Plaintiff P** is currently incarcerated at Birmingham Work Release Center. She is 48 years old and has been a prisoner in the Alabama Department of Corrections since October 2001.

Plaintiff P has Type II, non-insulin dependent diabetes. She was transferred from EMC to Birmingham on October 10, 2002. At EMC and Tutwiler, she was taking Diabeta and Glucotrol for her diabetes and Zantac for her stomach. After she arrived at Birmingham on October 10, 2002, it took 10 days to receive her medication. She went to pill call repeatedly and was told by the officers distributing medication that there was nothing for her. She finally saw the nurse who found the medication in her medical jacket that had been sent over from Tutwiler.

45. Plaintiff P also has asthma. During the first week of December, she asked the nurse at Birmingham about treatment for her asthma and the nurse said there was nothing in her medical jacket about asthma. She is not receiving any treatment or evaluation for her asthma at Birmingham.

46. **Plaintiff Q** is currently incarcerated at Birmingham Work Release Center. She is 39 years old and has been a prisoner in the Alabama Department of Corrections since 1997. Plaintiff Q has Type I, insulin-dependent diabetes. She self-administers insulin twice a day. The officers at Birmingham interfere with her ability to take her insulin as prescribed for her condition. For example, in October 2002, a sergeant called prisoners to get on the van to leave for work earlier than usual, and the prisoners had not yet been called for pill call. The sergeant would not allow Plaintiff Q to take her insulin before the van

left.

47. Birmingham Work Release frequently runs out of insulin syringes, and has even run out of Plaintiff Q's insulin, forcing her to use a different type of insulin from what she is prescribed. Other prisoners are allowed to use her insulin, so she runs out of insulin before the prescription runs out. The Center usually waits until she runs out of insulin to order more, which is a very risky practice. There is no diabetic diet available to prisoners at Birmingham, and it is very difficult for diabetics to eat properly for their medical condition. While at Tutwiler, Plaintiff Q had eyeglasses ordered because her diabetes had caused her vision to blur. She has been waiting for a year to receive these glasses, and at this point may need surgery. While at Birmingham in February 2002, Plaintiff Q became sick at work and was sent back to Birmingham Work Release, where she was put in the lock-up cell without her insulin for 2-3 days before being sent back to Tutwiler.

48. Plaintiff Q recently was given a behavior citation for having a cup of water on her bed. Plaintiff Q has to keep a cup of water on her bed because her diabetes is not in control, which causes her to be very thirsty.

49. **Plaintiff R** is currently incarcerated at Tutwiler Prison. She is 39 years old and has been a prisoner in the Alabama Department of Corrections since 1992. Plaintiff R has



periodontal disease that has caused her severe pain since 1998. She began filing complaints about not being treated for her periodontal disease in 2000. Plaintiff R is housed in segregation for 6 months out of every year. While housed in segregation most recently, Plaintiff R was scheduled to see the dentist on several occasions, but security staff would not escort her to her appointments. While in segregation Plaintiff S filed a grievance stating, "I am in continual pain and have abscesses due to my periodontal disease. I am not being seen by the dentist and I need to have my teeth pulled." When she did not receive a timely response to this grievance, Plaintiff S asked security officers to escort her to healthcare due to her extreme pain. When the officers refused to take her, she was driven to pulling out one of her own teeth to relieve the pain. Two or three months after Plaintiff R pulled out her own tooth, the dentist extracted her eight abscessed top teeth. Plaintiff R's gums are raw and sore because she still has not received her dentures, although impressions were made in September of 2002.

50. **Plaintiff S** is currently incarcerated at Tutwiler Prison. She is 40 years old and has been a prisoner in the Alabama Department of Corrections since February 1999. Plaintiff T has hepatitis C, cirrhosis of the liver, and several hernias in her pelvic area. In April 2001, she began feeling sick, had difficulty with her bowels, and swelling of her abdomen, feet,

and legs. Medical staff told her it was from her sweat, standing on concrete, and eating too much salt. In July 2001, she developed a growth on her pelvic bone that continued to get larger. In January 2002, she saw the doctor at Tutwiler and told him that she was still swelling and not feeling well. By the time she saw the doctor in January, she had several growths on her pelvis. The doctor diagnosed the growths as hernias and sent her out for a cat scan on January 14. She filed a complaint about the lack of treatment for her hernia and the swelling in her legs and abdomen. The prison doctor informed her on January 18 that she had cirrhosis of the liver and that her small intestine was not functioning. He finally gave her something to help reduce the swelling. He also informed her that she would not get surgery for her hernias.

51. In about August 2002, Plaintiff S filed a complaint stating that if they had treated her hepatitis and hernias earlier maybe they could have done something to help her. She also asked if she could see an outside doctor to get a second opinion about whether she needed surgery to remove the hernias. The director of nursing responded to her complaint by explaining that because of her condition, she could not have surgery or she would bleed to death. The director of nursing also told her that she did not need to see a liver specialist about her hepatitis and cirrhosis because Dr. Henderson, NaphCare's medical director,

tells the prison doctor how to treat patients for hepatitis. Plaintiff S filed a grievance and is not satisfied with her treatment.

52. Despite the fact that she has chronic hepatitis which causes her to feel ill and fatigued, Plaintiff S is forced to sleep next to the large toilet and shower facility in Dorm 9, where it is very loud and there is constant moisture from prisoners taking showers beginning at 1:00 a.m. The large industrial fans that blow into the toilet facility stand next to her bed. Due to the constant noise, she cannot get enough sleep and has felt sick and congested for the past three months.

53. Defendant MICHAEL HALEY is Commissioner of the Alabama Department of Corrections. As Commissioner, HALEY is responsible for the daily supervision of operations at the Alabama Department of Corrections. He is the highest ranking official in the Alabama Department of Corrections. Defendant HALEY is sued in his official capacity as Commissioner of the Alabama Department of Corrections.

54. Defendant GLADYS DEESE is the Warden of Julia Tutwiler Prison for Women in Wetumpka, Alabama. As warden, defendant DEESE is responsible for the day-to-day operations of the prison. Defendant DEESE is sued in her official capacity as warden of Tutwiler Prison.

55. Defendant PATRICIA HOOD, a captain at Edwina Mitchell

Work Release Center, is the interim warden of Edwina Mitchell, located directly behind Tutwiler Prison in Wetumpka, Alabama. As warden, defendant HOOD is responsible for the day-to-day operations of the work release center. Defendant HOOD is sued in her official capacity as warden of Edwina Mitchell Work Release Center.

56. Defendant MARY CARTER is the warden of Birmingham Work Release Center. As warden, defendant CARTER is responsible for the day-to-day operations of the work release center. Defendant CARTER is sued in her official capacity as warden of Birmingham Work Release Center.

57. Defendant DONALD SIEGELMAN is the Governor of Alabama. As chief executive of the State of Alabama, defendant SIEGELMAN has authority to exercise "all functions and duties of the department [of corrections]...acting by himself or by and through such administrative divisions or such officers or employees or individuals as he may designate." Ala. Code §§ 14-1-17, 14-1-1.1. Defendant SIEGELMAN is sued in his official capacity as Governor of Alabama.

58. Defendant DR. RONALD CAVANAUGH is the treatment director for the Alabama Department of Corrections. As treatment director, defendant CAVANAUGH is responsible for plaintiffs' medical and mental health care, including monitoring and oversight of health care services that have been contracted

out to private providers.

59. Defendant NAPHCARE, INC., is a private for-profit company under contract with the Alabama Department of Corrections to provide all necessary medical and mental health services to all persons incarcerated in the Alabama Department of Corrections.

60. Defendant DR. FRANCIS M. HENDERSON is the medical director of NaphCare, Inc. As medical director, defendant HENDERSON is responsible for arranging all levels of health care, ensuring the quality and accessibility of all health care services provided to inmates, and monitoring compliance with established medical policies and procedures.

61. Defendant MHM CORRECTIONAL SERVICES, INC., is a private for-profit company selected by the State of Alabama to provide mental health services to all persons incarcerated in the Alabama Department Corrections. MHM is a subcontractor of NaphCare, and is the current provider of mental health services to plaintiffs.

62. At all times relevant to the events described herein, defendants were employed by and acted under color of law of the State of Alabama.

#### **V. CLASS ACTION ALLEGATIONS**

63. The plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The

class consists of all women who are now or will in the future be incarcerated in an Alabama Department of Corrections facility.

64. The class is so numerous that joinder of all members is impracticable. There are approximately 1,500 women prisoners in Alabama. This population changes often as prisoners are transferred into the prison system and released.

65. There are questions of law and fact common to the class. These include the nature and constitutionality of conditions, practices, policies and treatment of women prisoners in Alabama.

66. The conditions, policies, practices and treatment challenged in this action apply with equal force to the named plaintiffs and all members of the class so that the claims of the named plaintiffs are typical of those of the class.

67. The named plaintiffs will fairly and adequately represent the interests of the class. They possess the requisite personal interest in the subject matter of the lawsuit. They are represented by two law offices experienced in class-action litigation involving unconstitutional conditions in prisons and jails.

68. Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final declaratory and injunctive relief with respect to the class as a whole.

## **VI. STATEMENT OF FACTS**

### **A. Female State Prisoners in Alabama are Confined in Severely Overcrowded, Unbearably Hot, Poorly Ventilated, and Understaffed Facilities.**

69. The Alabama prison system is designed to hold no more than 718 women prisoners, distributed between the Julia Tutwiler Prison for Women and the Edwina Mitchell Work Release Center, located in Wetumpka, Alabama; and the Birmingham Work Release Center in Birmingham, Alabama. There are currently over 1,500 women prisoners in Alabama, who are incarcerated in dangerous, dilapidated, and severely overcrowded buildings unfit for human habitation.

70. All women sentenced to prison in Alabama are first sent to Julia Tutwiler Prison for intake and classification. In addition to serving as the intake and classification facility, Tutwiler Prison also serves as the women's diagnostic center and medical ward for both physical and mental illnesses. As a result, Tutwiler Prison houses all security levels from minimum to maximum, as well as women with a range of mild to severe medical needs. Most women are mixed in together in the prison's large open-bay dormitories.

71. The "intake" or "receiving" area at Tutwiler Prison is a small dormitory designed to handle approximately 20 women at a time. Due to overcrowding, the intake area consistently holds more than three times that number. Mold grows unabated on the

walls. Pipes are corroded, and sinks and shower drains are encrusted with sludge. Showerheads and toilets are inadequate and often nonfunctional. Outside exercise and other activities are not available to women in intake, who spend all day locked down and idle. Women are regularly held in the intake area for 4 weeks or more, waiting for a space to open up in the prison or work release centers. During the many days or weeks that they are held in intake, prisoners are exposed to any illnesses brought in by new prisoners who have not yet been medically screened.

72. After they are released from intake, many women remain at Tutwiler Prison for the duration of their sentence. The prison holds over 1,000 women in a 60-year old facility designed for 364 people. The unbearably hot and poorly ventilated dormitories are intensely overcrowded, with bunk-beds pushed to within 16 inches of one another. Prisoners have extremely little space to move, limited activity, and no privacy.

73. To accommodate the excessive number of women prisoners, defendants have replaced regular beds with bunk-beds in the open-bay dormitories at Tutwiler Prison, pushed bunk-beds to within inches of each other, converted areas intended for manufacturing into sleeping areas, and illegally refused to remove state prisoners from county jails.

74. Tutwiler Prison has ten dormitories. Dormitories 1-7



hold approximately 80 women each, in open-bay barracks designed for half that number. Dormitory 6 is known as the Mental Health dormitory, but not all the women in the dorm are mentally ill. Nor are all the mentally ill women in the prison placed in dorm 6; many mentally ill women in need of a supportive living environment are mixed into general population. Elderly women, women suffering from chronic or serious medical conditions, women who are confined to wheelchairs, and the pregnant women are concentrated in Dormitory 7. However, some elderly and chronic care patients are scattered throughout the prison. Dormitory 8 is the intake area described above. Dormitory 9 was the prison factory before it was converted into a dormitory to accommodate the overcrowding. Dormitory 9 holds approximately 238 women in an open-bay dormitory. Dormitory 10 is an L-shaped, corrugated metal structure separate from the main prison.

75. Two Medical Isolation Units (MIU) hold HIV-positive women who are strictly segregated from the rest of the population and denied equal access to programs, including work release. These women are not permitted into the yard or the dining hall. Their outside time is limited to a small patch of grass adjacent to the MIU, and their meals are brought to the unit. The forced idleness and lack of interaction with general population causes great stress, anger, and hopelessness among the HIV-positive women.

76. There are approximately 25 single-person cells in the entire prison. These 25 cells are not sufficient to accommodate all the women who are sentenced to death; those who are actively suicidal, psychotic or otherwise suffering acute mental breakdown; those in need of acute medical care; and women who must be segregated for disciplinary or safety reasons.

77. Because there are so many more prisoners than the prison was designed to handle, many toilets and showers are completely inoperable, or have inadequate drainage so they leak and leave standing water and raw sewage on the floor of the bathrooms. The available plumbing, even when fully functional, is grossly inadequate to meet the needs of the excessively large population. Women enter their names on a sign-up sheet or wait in long lines to use the toilet, sink, or shower, causing further anger and tension among the population. Their clothes are often returned from the inadequate laundry facilities still dirty or damp and mildewed.

78. After they are medically cleared, classified and processed into the Alabama Department of Corrections, some women are transferred from Tutwiler Prison to one of the two work release centers, Edwina Mitchell Work Release or Birmingham Work Release. Women who have chronic medical problems (such as HIV) are not eligible for work release, and are forced to serve all of their time at Tutwiler Prison even if they are otherwise minimum

custody and good candidates for work release or supervised release. Prisoners who receive disciplinary reports at the work release centers are sent back to Tutwiler Prison.

79. Edwina Mitchell currently holds approximately 260 minimum security prisoners in two corrugated metal buildings on the backside of Tutwiler Prison. Because the dormitories are filled with bunk-beds, the sight-lines are blocked and the security officers cannot see what is happening from their posts. The dormitories are hot and poorly ventilated.

80. Even though Edwina Mitchell is called a work release center, over 75% of the women are in fact not on work release. These women must spend all day sitting in the alley between the two buildings. There is no shade and no grass in the alley, and women are forced to sit idly in the hot sun all day, with no work and no activities.

81. The Birmingham Work Release Center is a single building comprised of fourteen dormitories, each of which holds 22 women. The "lock-up" cell on the second floor has four beds and no air conditioning or circulation. This facility is so overcrowded and understaffed that defendants have resorted to nailing the windows shut to prevent escape. The windows have been nailed shut despite obvious danger from extreme heat, and numerous complaints by the prisoners and their families to prison officials and the health department. During the early morning hours of July 28,

2002, Claudia Booker Muller, a women with heart disease and mental illness, died in the suffocating lock-up cell, where the women had been denied ice or any other relief from the extreme heat.

82. All of the prison facilities for women become unbearably hot in the summer. Because most of the facilities are not air-conditioned, defendants attempt to circulate or cool the air using large, industrial fans. The facilities have become so overcrowded that the sheer mass of bodies makes these attempts to circulate the air nearly futile. The extreme heat and stagnant air, the noise of the fans, and the failure of the fans to adequately cool living quarters intensifies the tensions and volatility caused by overcrowding.

83. The lack of space, air, and basic essential facilities like showers and toilets increase the volatility of the prison environment, increasing the risk of fights and physical assault. Women fight for an opportunity to use an operable toilet or sink, be near a fan in the heat of the summer, or obtain drinkable water or ice.

**B. Due to Severe Overcrowding, Women Prisoners in Alabama are Denied their Basic Human Needs of Adequate Living Space, Ventilation, and Personal Safety and Security.**

84. The potential for serious violence among prisoners who are deprived of adequate living space, ventilation, personal safety and security, and other basic needs is exceptionally high.

In the three months prior to the filing of the original lawsuit on August 19, 2002, there was a significant increase in assaults and violent behavior at Tutwiler Prison. In May 2002 there were as many reported assaults at Tutwiler Prison as there were at all four maximum security men's prisons combined. In the three months after the filing of the original complaint, the number of reported assaults at Tutwiler continued to exceed those at any other maximum security prison in the state.

85. Women forced to live in impossibly crowded conditions have slashed one another with razors, stabbed, beaten, and assaulted one another in desperate attempts to establish the barest amount of personal space and to protect themselves from harm. Women throughout Tutwiler Prison suffer a substantial risk of serious physical harm from such attacks.

86. Prisoners outnumber security staff by a dangerously high number. In the past 20 years, the number of women prisoners incarcerated at Tutwiler Prison has grown from approximately 200 to 1,000, a five-fold increase. The number of security staff, by comparison, is essentially the same as it was 20 years ago. Alabama's prisoner-to-officer ratio is, by a significant margin, the worst in the country. As a result, security officers are unable to provide even minimally adequate protection, and women prisoners are at constant risk of being slashed and assaulted.

87. Security officers are often placed in charge of 75 to

100 prisoners at a time. On occasion, a single officer at Tutwiler is responsible for over 320 prisoners at a time, with the prisoners distributed among four dormitories. For most of the day, there is a single officer guarding approximately 240 prisoners in Tutwiler Prison's Dorm 9, where there have been numerous fights and assaults using razors within the past two months.

88. Due to the shortage of security staff, prison security officers are forced to work 12 and 16-hour shifts, which means they are exhausted and unable to respond to threats and assaults or carry out their other duties. Security staff working in such a stressful environment have become disrespectful and short-tempered, contributing to the overall tension in the prison. Some security officers regularly sleep during their shifts because they are working an excessive number of hours.

89. There have been numerous assaults on security staff. On July 7, 2002, an officer at Tutwiler was assaulted and seriously injured by a mentally ill prisoner in Dorm 10, where 106 prisoners are confined in a space built for 65. Prisoners had to run to the main building for help. As a result of this and similar assaults, security officers already fearful of walking into prisoner living areas have become even more reluctant to enter the open dormitories where they are impossibly outnumbered, leaving these areas largely unsupervised.

90. The insufficient number of security staff to supervise and patrol the large prison population makes it nearly impossible to conduct adequate shakedowns and searches, which allows large amounts of dangerous contraband such as knives and shanks to be hidden throughout the prison facilities.

91. When inmate-on-inmate assaults occur, it is very difficult for prisoners to get the attention of a single security officer, who then has to wait for back-up before attempting to intervene. Many security officers, out of fear for their own safety, choose to ignore fights and assaults altogether. Others wait until after the damage is done before stepping in to issue disciplinary warnings.

92. Security officers turn a blind eye to the violence and fail to respond when victims report these assaults because there is no place to put those who need to be protected or to segregate those who threaten to injure others.

93. The danger created by overcrowding is further exacerbated by the fact that the vast majority of the plaintiff class are held in open bay dormitories. Known enemies, including women who have testified against one another, are housed together in general population dormitories.

94. There are not enough protective custody cells. Prisoners who require protection are often forced into general population where there is an extremely high risk that they will

be repeatedly victimized.

95. The tension and danger caused by forcing women to live in unsupervised dormitories where bunks are stacked on top of one another and weapons are plentiful has been made even worse by the reduction and elimination of treatment, educational, and vocational programs. The lack of activities, exercise, and work for prisoners contributes to the already substantial risk of fights and assaults. For example, at Edwina Mitchell, most of the prisoners spend from 7:00 a.m. to 5:00 p.m. sitting or standing in a small outdoor area where they have nothing whatsoever to do except bake in the hot sun.

96. The lack of access to minimally adequate medical care, including mental health care, as described in the next section of this Complaint, places both the person suffering from serious illness and those around her in substantial danger of harm. Mentally ill prisoners housed in general population without proper medical treatment increase the overall tension of a dormitory when symptoms of their illness include unpredictable, disruptive, or bizarre behavior.

97. Due to lack of space and inadequate staffing, screening of inmates who have requested medical treatment takes place in the middle of the night, between about midnight and 2:00 a.m. This creates a security risk as prisoners of all different classification levels congregate for sick call after midnight,



when few officers are on duty.

98. Defendants have warned that they will place bunks in areas at Tutwiler where women visit with their families, which threatens to eliminate or drastically reduce the amount of contact women have with their children, parents, and other loved ones. Depriving women of such a fundamental source of support and hope creates an even more volatile and dangerous environment.

99. Many women who are eligible for work release are not on work release. Similarly, women who are qualified for supervised release through the Supervised Intensive Restitution (SIR) program or similar programs remain in the prison because there are not sufficient officers for those programs. As a result, women who are qualified to participate in work or other supervised release programs remain in general population at Tutwiler Prison or sitting idle at Edwina Mitchell, needlessly exacerbating the overcrowding, and hindering the progress of these women through the corrections system.

100. Prisoners at Birmingham Work Release receive arbitrary behavior citations and disciplinary reports at the whim of the warden for violating institutional rules that they did not know existed. These citations negatively affect their chances for parole and their eligibility for supervised release, thereby contributing needlessly to the overcrowding problem for women prisoners, and increasing the tension within the population.

Likewise, many women at Birmingham have been given major disciplinary sanctions for testing positive for alcohol in their urine, despite the fact that they had not consumed any alcohol whatsoever. These false tests seriously affect the length of the prisoners' sentence and their eligibility for supervised release or parole.

**C. Women Prisoners in Alabama are at Substantial Risk of Serious Injury, Permanent Organ Damage or Loss of Physical and Mental Function, Prolonged Illness, Severe Pain, and Premature Death Due to Defendants' Failure to Provide Adequate Medical and Mental Health Care.**

101. The system for providing medical and mental health treatment to women prisoners in Alabama is grossly underfunded and completely inadequate to meet the serious medical, dental and mental health needs of these prisoners. The system is characterized by long delays in proper diagnosis and treatment, dangerous lapses in necessary medication, and a severe shortage of qualified medical personnel - particularly physicians, dentists, and psychiatrists.

102. The Alabama Department of Corrections is charged by both state and federal law with providing adequate medical and mental health care to the prisoners in the State's custody. In order to carry out this legal obligation, on March 1, 2001, the Commissioner of the Alabama Department of Corrections, with the approval of the Governor, entered into a contract with NaphCare, Inc., a private for-profit corporation, to provide "all

reasonable and necessary medical, dental, and mental healthcare to Inmates" in the Alabama Department of Corrections.

103. NaphCare was chosen from among four private medical vendors who had submitted bids for the contract, and was the lowest bidder. The original bids ranged from \$38 million to \$46 million per year. At these original bid levels, Alabama would have ranked 50th out of the 50 states in health care costs per prisoner. Yet, all of these bids were rejected because the state finance director decided that the State could not afford them. The state defendants then hired negotiators to work the cost of the contract down to \$29.5 million, carving off one quarter to one-third the price of the contract based on the original competitive bid.

104. Alabama spends remarkably less per prisoner on medical care than any other state in the nation. By comparison, Georgia and North Carolina spends more than twice as much as Alabama per prisoner, and Tennessee and South Carolina spend approximately 75% more than Alabama per prisoner.

105. Because the contract for health care services is severely underfunded, decisions to provide diagnosis and treatment for serious conditions are made primarily on the basis of cost rather than the medical needs of patients. Serious medical problems are largely ignored until they present an emergency, such as uncontrolled bleeding, seizures, or strokes,

that defendants consider to be sufficiently life-threatening to warrant transport to a hospital. Until prisoners' medical conditions reach this level of immediate danger, the Alabama Department of Corrections' medical provider makes a calculation that it is more cost-effective to delay or deny treatment than provide it. The medical providers engage in little or no quality improvement or quality management activity. Such activity would identify systemic problems and require the development and implementation of solutions fix these problems.

106. The contract for health services incorporates the reactive, crisis management, episodic approach to treatment. For example, the contract states: "It is understood that Contractor shall not be required to treat Pre-Existing Conditions, which would not cause, in the judgment of the physician, *definite harm* to the Inmate's well being if the Inmate was not treated." Pre-existing conditions are "those medical or dental conditions existing prior to the transfer of an Inmate to the physical custody of the DOC." By its very terms, the contract encourages the medical staff to delay treatment inappropriately.

107. To be able to turn a profit on such a severely underfunded contract, NaphCare opts for short-term, band-aid treatment to prisoners whose medical conditions require surgery or referrals to outside specialists for evaluation. This allows defendants to avoid the expense of treatment with the hope that

medical treatment and its cost can be delayed until after the prisoner's release. This calculated approach to medical treatment places prisoners' lives in severe danger, causes unnecessary pain and suffering, and exacerbates serious medical conditions. In many cases it places prisoners at risk of permanent injury, organ damage, and premature death.

108. Many women have experienced excessive delays obtaining necessary surgical procedures such as hysterectomies or surgeries to remove tumors. Still others cannot obtain necessary diagnostic testing because defendants will not pay for it even when a specialist has determined that such testing is medically necessary, such as to evaluate kidney function or possibly cancerous growths.

109. Women who must be seen by a specialist - and indeed who have been referred to a specialist by a physician - often have their treatment denied or delayed because of expense. Referrals are often delayed and sometimes denied completely to save the expense. Even when a prisoner finally sees a specialist, defendants often refuse to allow the specialist to provide necessary testing, evaluation or treatment. NaphCare often refuses to approve procedures for conditions that its central office does not consider immediately life-threatening, even when it is obvious that the condition is deteriorating and the patient is in distress.

110. In addition to this policy of strategic delay, medical defendants avoid medical costs by remaining willfully ignorant of serious medical needs.

111. The willful ignorance of defendants is made possible by a system where, at every stage, women are discouraged from seeking appropriate medical care and treatment.

112. Prisoners only obtain access to a physician through a process called sick call, where prisoners wait in line to be screened by a nurse who then determines whether referral to a higher level provider is necessary. At Tutwiler, sick call takes place in the middle of the night, usually starting around 1:00 a.m. Because the prisoners are called for breakfast at 4:00 a.m., holding sick call at this unusual hour force women in need of medical assessment to choose between medical screening by a nurse or a night of sleep. Sick call at Edwina Mitchell and Birmingham Work Release is available only twice a week.

113. Each sick call visit costs the inmate \$3, regardless of whether meaningful assessment takes place or treatment is initiated. This fee deters prisoners with legitimate medical problems from seeking medical attention. For prisoners with limited funds, this fee requires prisoners to choose between necessary medical visits and other necessary items. Nurses performing sick call are poorly trained to carry out medical assessments and make proper referrals.

114. Prisoners are told by medical staff that they must go to nurse sick call at Tutwiler three times for the same condition before they will be referred to a physician, a "policy" designed to discourage women from seeking proper diagnosis and treatment.

115. Frequently, women sign up for sick call because they did not receive the follow-up treatment that was ordered for them during the previous time they were seen at sick call for the same condition. In such cases, the "co-pay" serves as a punishment for women who are diligent about requesting appropriate follow-up.

116. Defendants further maintain their willful ignorance of serious medical needs by delaying necessary tests and follow-up on abnormal test results. Prisoners are rarely informed of the results of medical tests, even when they are abnormal, so they do not know if they should seek follow-up so that they can receive appropriate care.

117. There is no system for necessary routine gynecological care. Women prisoners in Alabama do not receive annual pelvic exams or pap smears. Even women who are considered high risk for cancer do not receive timely and regular pap smears, nor are women at risk for other types of cancer properly screened and evaluated for treatment. Women with ovarian or uterine cysts and fibroids have experienced serious delays in obtaining adequate diagnosis and treatment, despite chronic bleeding, until the

condition is considered sufficiently "life-threatening." Yet, defendants do not determine that a condition is life-threatening until there is an emergency, because they refuse to provide timely evaluation and diagnosis.

118. Medical records are disorganized and lack critical documentation. During prisoners' sick call visits, nurses and medical providers often do not have with them the information necessary to make appropriate medical decisions because paperwork has been lost, has not been filed, or tests that were supposed to have been ordered have not been done. Orders and notes from outside medical specialists frequently are missing from medical records, so the recommendations of these specialists are not considered by the prison medical providers in making treatment decisions. Medical records that should be transferred with prisoners from one facility are sometimes lost or are missing important information. The poorly maintained medical records cause unnecessarily delays and uninformed treatment decisions.

#### **Chronic Medical Conditions**

119. Prisoners with chronic conditions such as asthma, diabetes, seizure disorders, HIV, hepatitis C, kidney disease and hypertension are not properly identified, consistently followed-up and appropriately treated. Defendants' treatment of these chronic conditions falls far below the standards of care that are well established and widely accepted by the medical community for



the treatment of chronic illnesses. The result is that these conditions are not adequately controlled, and the prisoners are at substantial risk of serious medical incidents such as seizures, strokes, heart attacks, and death.

120. Prisoners do not receive appropriate follow-up or evaluation to identify and prevent common complications of chronic illnesses. The failure to properly identify, treat and monitor these conditions exacerbates common and often painful symptoms, and increases medical complications such as end organ damage.

121. For example, women with diabetes in the Alabama Department of Corrections are not able to check their blood sugar at appropriate intervals so that insulin doses or diet and exercise can be adjusted to achieve and maintain a safe insulin level and to prevent hypoglycemia or hyperglycemia and other complications of diabetes. Diabetics in the women's prisons also do not receive medically appropriate diabetic diets.

122. Those prisoners who are considered "chronic care" are not charged the \$3 co-pay for medical visits related to their chronic conditions. Many chronically ill inmates are removed from the "chronic care" list so they can be charged each time they request to see a nurse, even for symptoms of their illness or for requesting to have their blood pressure or blood sugar taken.

123. Prisoners with asthma, chronic obstructive pulmonary disease, and other chronic respiratory problems are not evaluated at appropriate intervals (such as by assessment of peak expiratory flow), so that their illness can be properly monitored and controlled to prevent exacerbation of symptoms. To make matters worse, many women prisoners with asthma are not permitted to keep an inhaler on their person. In the event of severe exacerbation of their asthma, these patients are usually not "treated" until long after their asthma attack has subsided.

124. Prisoners with seizure disorders are not properly monitored or treated, despite the fact that conditions in prison increase the number of seizures they experience. In some cases, this is because defendants abruptly change patients' seizure medication without evaluating the effectiveness of the new medication or whether the new medication is causing intolerable side effects.

125. Defendants do not provide women prisoners in Alabama screening, evaluation, or treatment for hepatitis C, a chronic and life-threatening disease for which there is available treatment. Women prisoners with this illness deteriorate and many of them develop cirrhosis and other permanent and serious irreversible complications without appropriate vaccines, counseling, and medical intervention.

126. Prisoners who experience loss of hearing or vision are

not properly evaluated. Prisoners experience significant delays obtaining hearing aids or eyeglasses even when these devices are medically necessary. The inability to see or hear in the dangerous living environment of prison is both a medical and safety problem for these women. Similarly, because the prison has only three wheelchairs, women with long-term medical conditions that require them to use wheelchairs to move within the prison must share their wheelchairs with women who need them in an emergency.

127. Defendants do not provide adequate pain management for women in chronic and acute pain.

#### **Medication**

128. Prisoners on medication, including medication for chronic illnesses like heart disease and seizures, frequently have their prescriptions disrupted or changed to a less expensive medication without proper follow-up to determine if the new medication is effective or to evaluate side effects.

129. Women prisoners frequently experience dangerous lapses in receiving their prescribed medications. Discontinuity in medication occurs both at intake and when prisoners are transferred from one facility to another. Women who are transferred among the women's facilities often wait two to three weeks before receiving their medication at the new facility. Women at Edwina Mitchell and BWR frequently wait two to six weeks

to receive refills of their prescriptions. These gaps in medication have serious consequences for women with serious medical conditions such as heart disease, diabetes, and seizure disorders.

130. The problem with gaps in medication affects mental health patients as well. Lapses in mental health medication have serious physical and psychological side effects for the patients and make it impossible for the patients to reach and maintain a consistent therapeutic level of the medication.

131. Prisoners at Tutwiler obtain their medication at "Pill call." Earlier this year, pill call was reduced from four times a day to three times, and then recently to only twice a day. Because patients must ingest their medication while in pill line, it has become nearly impossible for a patient who needs to take medication at prescribed intervals to do so correctly. The improper dosing that results reduces or eliminates the therapeutic effect of the medication or causes dangerous levels of the medication to accumulate in the person's body.

132. The pill call line at Tutwiler is so long that prisoners can wait up to an hour or more to receive their medication. Those who are too weak or sick to stand for that long do not receive their medication. In the medication administration records for prisoners who miss the pill line for any reason, it is noted that these prisoners "refused" their

medication, and nothing further is done to determine why the prisoner was not able to come to pill call.

133. Defendants fail to check blood levels of medication such as lithium and dilantin that require routine monitoring to ensure that the medication is within a safe and therapeutic range. As a result, prisoners are at risk of reaching toxic levels of such medications without detection.

#### **Dental Care**

134. Necessary dental care is substantially delayed or denied to prisoners, causing severe pain and permanent damage to people with dental problems. There is so little access to a dentist that prisoners must usually wait in line to see a dentist on five or more occasions before they are actually seen. During the weeks or months that they are waiting for dental treatment, women develop abscesses and other serious and painful conditions.

135. Some prisoners, desperate for dental care and in extreme pain have resorted to pulling out their own teeth to alleviate the pain.

136. Many prisoners for whom dentures are medically necessary are still waiting for dentures that were ordered for them months or years ago. Some of these prisoners had waited more than a year to have the dentures ordered in the first place. These women cannot eat properly, a problem that creates or exacerbates other medical problems.

**Mental Health Care**

137. The mental health staffing for women prisoners is grossly inadequate for the number of prisoners who require treatment for serious mental health conditions.

138. Prisoners at Tutwiler and EMC who seek treatment for serious mental illness experience excessively long delays before they are evaluated and treated by a psychiatrist. Some prisoners have never been seen by a psychiatrist, despite numerous requests for treatment.

139. Women are not properly screened and referred for mental health conditions at intake. Most mentally ill prisoners are taken off of the medications that they were on prior to incarceration in the Department of Corrections, and placed on less expensive and often less effective medication or are taken off medication entirely. This occurs without proper monitoring of either the side effects of the new medication or symptoms of the underlying mental illness.

140. Prisoners who engage in self-harm, such as cutting their own skin, are punished for this behavior but do not receive proper evaluation and treatment. Self-injurious behavior, including self-mutilation and suicide attempts, are treated primarily as a security rather than a medical problem, placing this vulnerable population at risk of repeated episodes of self-harm and mental decompensation.

141. Prisoners at Birmingham Work Release who suffer from psychiatric illness receive no mental health counseling or programs, and see a psychiatrist at Donaldson Correctional Facility once or twice a year at best.

**D. Severe Overcrowding, Understaffing of Security Personnel, and Grossly Inadequate Facilities Further Compromise the Severely Deficient Medical Care Available to Women Prisoners in Alabama.**

142. The physical facilities for treating women incarcerated in the Alabama Department of Corrections are terribly inadequate to meet the medical needs of these prisoners. The physical limitations and lack of security staff make the problems with medical care described above even worse.

143. There is no patient ward for women who are sick in Alabama's prisons. What had been the patient ward at Tutwiler has been converted to a segregation unit for HIV-positive women. There are at most seven infirmary beds for the more than 1,500 female prisoners in Alabama, and this includes up to four beds in the hallway of the health care unit at Tutwiler, two beds in a room in the health care unit, and one bed in the respiratory isolation room. These few infirmary beds must accommodate both extended care and short term acute care needs of all the women prisoners in Alabama. As a result, many pregnant, sick, and frail women who require closer observation are left in large dormitories where their conditions deteriorate and it is

extremely difficult to access care.

144. Prisoners returning to Tutwiler from the hospital do not receive appropriate post-surgical care because there is no place in the health care unit to put them. Most women who are recuperating from surgery must do so in the large open dormitories where they have greater exposure to infection and injury.

145. There are two dental chairs in a crowded room at Tutwiler for the dental treatment of all the women incarcerated in the Department of Corrections. One of the chairs doubles as a dialysis chair, and there is currently one dialysis patient at Tutwiler. This space is wholly insufficient to meet the dental needs of over 1,500 people. The delays to receiving dental care are so long that some women resort to pulling out their own teeth.

146. At Tutwiler there are two clinic tables for evaluating and treating over 1,200 women incarcerated at Tutwiler and Edwina Mitchell. There are no medical facilities, medical equipment, or medical staff located at Edwina Mitchell, so all care and treatment, except brief encounters twice a week with a nurse, must occur at Tutwiler.

147. There are no medical facilities, medical equipment, or medical staff located at Birmingham Work Release for the women incarcerated there. Instead, most of these prisoners are



dependent upon the security staff to transport them to one of the men's correctional facilities (Donaldson or St. Clair) for necessary treatment. Appointments at the men's facilities are repeatedly cancelled and necessary treatment delayed. There is no gynecologist at the men's facilities to provide necessary examination and treatment for the women incarcerated at Birmingham. Women from BWR who require more extensive evaluation or treatment are sent back to Tutwiler, despite the minimal resources or space available there.

148. Those work release prisoners at Birmingham and Edwina Mitchell with \$300 or more on their books must obtain treatment off-site at their own expense. These prisoners pay the full cost of their treatment, but do not have a choice about where or when the treatment is provided, and frequently cannot afford necessary follow-up visits or diagnostic testing.

149. There is not sufficient emergency medical equipment at any of the women's facilities, and the equipment that does exist is not properly maintained. For example, in September 2002, none of the facilities has a defibrillator. This means that an inmate who goes into sudden death will have no option, besides basic life support or CPR, until outside help arrives. This places prisoners at unnecessary risk.

150. There are inadequate facilities for mentally ill women prisoners in Alabama who are in need of treatment and a

supportive living environment. Women who are in mental health crisis or actively suicidal are placed in the "green room" at Tutwiler Prison, a unit containing 4 single-cells and 1 two-person cell. One of the single-cells does not have sufficient line of sight from the hallway to serve as a crisis cell, and sometimes up to three of the "green room" cells are occupied by HIV-positive women serving time for disciplinary violations. Because the green room cells are barren and extremely uncomfortable, security officers and medical personnel are able to discourage women from seeking necessary mental health care by threatening to place them in the green room.

151. Many inmates are too mentally ill to be housed in an open dormitory. Yet, many women suffering from mental illness remain in general population at Tutwiler or Edwina Mitchell without proper mental health treatment, a situation that is dangerous to both the mentally ill prisoner and the prisoners around her. Many of the recent assaults with razors were carried out by mentally ill women forced to live in large general population open-bay dormitories without adequate mental health treatment.

152. Some mental health patients at Tutwiler Prison are placed in Dorm 6, an open-bay dormitory where mentally ill women are concentrated. Despite being labeled the "mental health dorm," Dorm 6 has little mental health counseling and very

limited mental health programming. The prisoners in Dorm 6, a mix of both mentally ill and non-mentally ill women, are usually left alone in the dormitory, with no security officer inside the dorm. Prisoners who are "disruptive" in Dorm 6 are often placed in other dormitories, because there is no residential mental health program where their needs can be met.

153. Due to the chronic overcrowding and understaffing at Tutwiler, medical staff do not enter living units to assess emergency situations or provide emergency treatment to prisoners. This seriously delays the response time to emergencies in the prison, as prisoners and officers attempt to carry the sick or injured prisoner to the health care unit.

154. The extremely high levels of psychological stress and chronic sleep deprivation caused by the dangerous and overcrowded conditions at the prison lower prisoners' threshold for illness and exacerbate symptoms of chronic diseases such as seizure disorders, hypertension, and mental illness.

155. Due to overcrowding, some prisoners, including those who are very ill, are forced to live in bunks within a few feet of the toilets and showers, especially in Dorm 9 at Tutwiler. The women in these bunks, including those with chronic illnesses such as hepatitis C, are exposed to incessant noise, odors, and moisture from the toilet facility.

156. The extremely crowded living areas in the women's

prisons in Alabama, with women sleeping only one or two feet apart, also facilitates the transmission of infectious disease, especially airborne diseases such as tuberculosis and skin infections such as staphylococcus. A significant number of prisoners at all of the women's prison facilities have suffered with painful boils on their skin, particularly on their legs and buttocks. These boils, which are approximately two inches in diameter are frequently accompanied by nausea and fever. The descriptions of these infections provided by several women are suggestive of staphylococcus and/or spider bites, but none of the women has been provided a diagnosis. Inadequate hygiene, laundry, and overcrowded conditions facilitate transmission of this and other infections. Treatment for these painful boils in many instances has been delayed or denied, and there has been little or no effort to identify and eliminate the cause of these infections.

157. At all of the women's prison facilities in Alabama, the severe shortage of security staff impedes prisoners' access to treatment for acute and chronic medical and mental health problems. For example, there are not enough security staff to provide the necessary transport for prisoners who need to be treated or receive diagnostic testing off-site, so appointments are frequently cancelled. Nor are the understaffed security personnel adequately trained to respond to medical or mental

health emergencies or to facilitate prisoners' access to health care when necessary.

158. Prisoners confined in the segregation units at Tutwiler are required to have at least one officer escort them to the health care unit. This is often not possible because of staffing shortages, which interferes with access of these prisoners to sick call.

159. The lack of adequate security staff also affects the ability of mental health counselors to conduct their rounds in the open dormitories at Tutwiler, and the crowded conditions make private conversations impossible. It is unlikely that any seriously mentally ill patient can receive proper mental health treatment in such conditions.

160. At Birmingham, the shortage of officers seriously interferes with prisoners' access to medical and mental health care. Officers at Birmingham hand out medication to prisoners at regularly scheduled pill calls. The pill calls are often delayed or cancelled because the officers have too many other responsibilities. Moreover, officers at Birmingham do not have medical training, nor are they qualified to dispense medication.

161. Women with less than \$300 on their books at Birmingham Work Release receive their medical care at Donaldson Correctional Facility, a maximum security men's prison which is over an hour away from BWR. Appointments for women at Donaldson Correctional

Facility are frequently cancelled because there is not enough staff at the work release center to transport the prisoners to their appointments.

162. Officers are required to check on prisoners who are confined in the lock-up cell on the second floor of Birmingham to monitor the health and safety of the prisoners kept there. Due to understaffing at BWR, officers, overwhelmed by other tasks, do not make regular rounds to the lock-up cell, placing these women at serious risk if they have urgent medical needs. Claudia Muller, a 55-year old woman with heart problems died in the exceedingly hot lock-up cell at Birmingham Work Release during the early morning of July 28, 2002, after screaming for help for days. Defendants knew she had serious heart problems and she had been identified on June 17 as having serious mental illness, but she was not provided all of her prescribed medication while in lock-up, and not monitored properly by overworked security staff.

**E. Defendants Have Acted and Continue to Act with Deliberate Indifference to the Substantial Risk of Serious Injury and Death to Which Plaintiffs and Other Class Members Are Exposed.**

163. For many years, defendants have known about and failed to take the necessary steps to abate the rapidly worsening conditions challenged in this lawsuit, and their deliberate indifference to these conditions has resulted in the crisis that now threatens the basic health and safety of named plaintiffs and

all members of the plaintiff class. Defendants are aware of the serious harm that results from confining people in severely overcrowded facilities, but they have done little other than blame one another or their predecessors for the current disastrous situation.

164. Defendants have responded to attempts by prisoners and their families to report dangerous prison conditions by retaliating or threatening to retaliate against the prisoners for exposing the problems. For example, at Birmingham Work Release, the warden and other officials threaten to send prisoners back to Tutwiler if they contact the health department to complain about the conditions there. Likewise, the officials threaten to cut off air conditioning or to deny prisoners ice if they report problems at the facility. At Edwina Mitchell, prisoners are told that communicating with officials from the Department of Corrections will result in disciplinary action.

165. This Court has repeatedly found that overcrowding inevitably causes and exacerbates other impermissible prison conditions. This Court has explicitly and on multiple occasions ordered defendants to remedy the overcrowding that has been endemic in Alabama's prison system for the past 30 years.

166. Rather than take responsibility for the overcrowding, defendants and their predecessors have allowed overcrowding to worsen steadily. Most notably, defendants have intentionally

allowed prisoners to languish in county jails in an attempt to shift responsibility for these prisoners' custody from the state to the counties. Defendants have failed to expand the number of work release centers available for the increasing number of women prisoners who qualify for work release. Defendants have failed to expand the SIR program to accommodate the increasing number of women prisoners eligible for SIR placements.

167. Where defendants have responded to the violence caused by overcrowding, the response has been wholly unreasonable. Aggressive intervention by Correctional Emergency Response Team officers who yell and curse at the women is untimely, ineffectual, and intended only to intimidate and terrorize. Rather than prevent further violence, the response of defendants has only heightened the tension and makes the prisons even more dangerous.

168. The problems with prison medical care in Alabama, including medical care for women prisoners, are long-standing and apparent to any knowledgeable observer. Alabama has tried for years to get away with spending far less than any other state in the country on medical care, and state officials have willfully ignored the inevitable consequences of their gross underfunding and lack of oversight of private contractors: a system that denies prisoners treatment for serious medical conditions and places them at substantial risk of harm. State defendants have



not provided adequate oversight or monitoring of the performance of their private medical contractors, as they must do to fulfill their constitutional obligation to provide adequate treatment to female prisoners in the custody of the State. State defendants have not enforced any minimum standards or expectations on their contractors nor required the contractors to actually perform adequate quality improvement or quality management to ensure that prisoners have access to necessary medical and mental health treatment.

169. When state defendants have been made aware of problems by letters and complaints from lawyers or others advocating on behalf of prisoners, or by prisoners and their families, defendants have not taken steps to fix the systemic problems that virtually guarantee inadequate treatment for prisoners. The state defendants' willful ignorance of problems, failure to provide adequate oversight of their private contractors, and refusal to address problems that do come to their attention demonstrates deliberate indifference to the serious medical needs of the plaintiff class.

170. State defendants also know that there is not enough space in the health care unit or mental health units at Tutwiler to provide minimally adequate medical, dental and mental health treatment and to provide long-term care for women who need it, and that there is not enough security staff to facilitate access

to adequate health care. In fact, Warden Deese has requested space for a patient ward and more clinic space at Tutwiler and these requests have not been approved.

171. The medical contractors' refusal to properly diagnose presented symptoms, failure to properly monitor and treat known illnesses, failure to engage in adequate quality management or improvement, and pattern of delaying and denying treatment that is considered too costly demonstrates deliberate indifference to the serious medical needs of women prisoners in Alabama. The medical contractors know that there is a substantial risk of serious harm to prisoners who do not receive timely medication, diagnosis, and prescribed treatment for chronic and acute illnesses; and failure to respond reasonably to those risks on an individual or systemic basis. In addition to the obviousness of this risk of harm, especially to medical professionals, the medical contractors have been made aware of the risk of harm by the numerous formal and informal complaints and grievances about health care by prisoners, their families, and their lawyers.

## **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

172. There are no administrative remedies within the Alabama Department of Corrections for named plaintiffs and other members of the plaintiff class to exhaust with regard to any of the underlying problems leading to the unconstitutionally unsafe conditions at each of the women's facilities such as

understaffing, overcrowding, and lack of programs; or to the denial of basic human needs such as adequate ventilation and living space.

173. Plaintiffs with medical grievances have exhausted the grievance procedure provided by NaphCare, Inc., to the extent that it has been available to them.

174. The fourteen named plaintiffs added in this Second Amended Complaint who are currently confined at Tutwiler, have exhausted the grievance procedure as set forth by NaphCare, Inc. Each of them has filed a NaphCare complaint form concerning her medical concerns. Upon receiving an inadequate response or no response at all to their complaints, these prisoners have filed a grievance.

175. Three of the named plaintiffs added in this Second Amended Complaint - Carolyn Thomas, Laura Gilbert and Vanessa Kirksey - are currently confined at Birmingham Work Release, where no grievance procedure is available, as Warden Mary Carter testified in a deposition on September 12, 2002.

176. Two of the named plaintiffs added in this Second Amended Complaint - Deborah Loyd and Judy Wyly - are currently confined at the Edwina Mitchell Center, where they do not have access to complaint forms or grievance forms upon request. One prisoner who attempted to create her own form was told to obtain a proper form from Captain Davenport. Captain Davenport is an

officer who does not work at EMC, and to whom the prisoners at EMC do not have access.

177. Complaints that address the conduct of correctional officers who obstruct prisoners' access to medical care or that address any aspect of the space wherein medical treatment is provided are not considered by defendants to be "medical complaints" and therefore cannot be exhausted.

## **VII. CAUSES OF ACTION**

178. Defendants' deliberate indifference to the substantial risk of serious physical violence to which women prisoners in Alabama are exposed, as described in paragraphs 1-2 and 72-86, violates plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

179. Defendants' deliberate indifference to the denial of plaintiffs' basic human needs, including living space, ventilation, and personal safety and security, as described in paragraphs 1-2, and 87-103, violates plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

180. Defendants' deliberate indifference to the serious medical needs of women prisoners, as described in paragraphs 3-4, 8-55 and 104-174, violates plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully pray that this Court:

181. Grant plaintiffs a full trial and discovery in this matter;

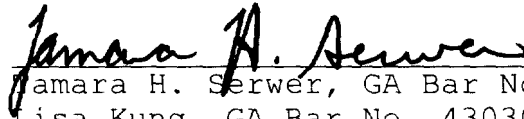
182. Adjudge and declare that the acts and omissions of the defendants with regard to the class members violate the Eighth and Fourteenth Amendments to the United States Constitution;

183. Order defendants to comply with the Constitution and enjoin defendants from subjecting plaintiffs to cruel and unusual punishment;

184. Award plaintiffs the costs of this lawsuit and reasonable attorney's fees; and

185. Order such additional relief as the Court may deem just and proper.

Respectfully submitted this 18th day of December, 2002,



Tamara H. Serwer, GA Bar No. 617053

Lisa Kung, GA Bar No. 430302

Marion D. Chartoff, AL Bar No. CHA074

Stephen B. Bright, GA Bar No. 082075

SOUTHERN CENTER FOR HUMAN RIGHTS

83 Poplar Street, N.W.

Atlanta, Georgia 30303-2122

Telephone: (404) 688-1202

Facsimile: (404) 688-9440



John A. Russell, III, AL Bar No. RUS008

202 Broad Street

Aliceville, Alabama 35442

Telephone: (205) 373-8714

Facsimile: (205) 373-8894

Attorneys for Plaintiffs