

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ALAN KRESS, BILLY FORD, ERIC)
STAGGS, TIMOTHY-PATRICK TREACY,)
RANDY CARR, on their own behalf and on)
behalf of a class of those similarly situated,)

Plaintiffs,)

Cause No. 1:08-CV-0431-DFH-WTL)

vs.)

CCA OF TENNESSEE, LLC d/b/a)
CORRECTIONS CORPORATION OF)
AMERICA, WARDEN JEFF CONWAY,)
NEIL PROBST, TIMOTHY LITTLE,)
VIRGINIA LEE, and MARION COUNTY)
SHERIFF FRANK ANDERSON,)

Defendants.)

AMENDED COMPLAINT FOR DECLARATORY AND INUNCTIVE RELIEF

I. INTRODUCTION

1. This is a class action complaint for declaratory and injunctive relief challenging as unconstitutional and illegal certain actions and inactions of CCA and Jail #2 supervisors, including the following: 1) the medical treatment and non-treatment of inmates at the Jail #2 facility managed by Defendant CCA of Tennessee, LLC d/b/a Corrections Corporation of America (hereinafter "CCA"); 2) the unsafe and inhumane conditions of the Jail #2 facility; and 3) the violation of the law in handling inmate mail; 4) failure to provide inmates with medical records upon request; 5) failure of CCA to comply with the law regarding medical privacy; 6) failure to report medical errors during patient treatment; 6) CCA's refusal to process numerous internal inmate grievances at Jail #2 or provide written responses to those grievances. Sheriff Frank Anderson is named as a Defendant in this matter for failing to oversee CCA's compliance with the

contract for privatized jail services and failing to ensure those services were provided in accordance with federal and state law.

II. JURISDICTION, VENUE AND CAUSE OF ACTION

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391.

4. Declaratory relief is authorized by 28 U.S.C. §§2201 and 2202 and by Rule 57 of the Federal Rules of Civil Procedure.

5. This action is brought, pursuant to 42 U.S.C. §1983 to redress the deprivation, under color of state law, of rights secured by the laws and constitution of the United States of America.

6. This court has jurisdiction of the supplemental state law claims pursuant to 28 U.S.C. §1367.

III. PARTIES

7. Plaintiff Alan Kress is an inmate confined in the Jail #2 facility, awaiting trial.

8. Plaintiff Billy Ford is an inmate confined in the Jail #2 facility, awaiting trial.

10. Plaintiff Timothy-Patrick Treacy is an inmate confined in the Jail #2 facility, awaiting trial.

11. Plaintiff Randy Carr is an inmate confined in the Jail #2 facility, awaiting trial.

12. Plaintiff Eric Staggs is an inmate confined in the Jail #2 facility, awaiting trial.

13. Defendant CCA is a limited liability company which has its home office in Nashville, Tennessee.

14. Defendant Jeff Conway is warden of the Jail #2 facility.

15. Defendant Timothy Little is health services administrator at the Jail #2 facility.

16. Defendant Neil Probst is the doctor who provides medical services at the Jail #2 facility.

17. Defendant Virginia Lee is a unit manager at the Jail #2 facility.

18. Defendant Sheriff Frank Anderson is the elected Sheriff of Marion County.

IV. CLASS ACTION ALLEGATIONS

19. This action is brought by the Plaintiffs on their own behalf and on behalf of a class of those similarly-situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

20. The class is defined as:

any and all persons currently confined, or who will be in the future confined, in the Jail #2 facility.

21. All requirements of Rule 23(a) are met in this cause in that:

a. The class is so numerous that joinder of all members is impractical. Jail #2 has approximately 1030 beds and is normally near capacity.

b. There are questions of law or fact common to the class: whether the medical treatment and non-treatment of inmates, the conditions of the Jail #2 facility, and CCA's refusal to process inmate complaints violate the United States Constitution and federal and state law. In addition, Sheriff Anderson's failure to monitor the contract and ensure CCA complies with the law in providing jail services is likewise a question of law and/or fact common to the class.

c. The claims of the representative Plaintiffs are typical of those of the class.

d. The representative parties will fairly and adequately protect the interests of the class.

22. Further, the requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the Defendants have acted, and refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

V. FACTS

A. GENERAL BACKGROUND

23. Plaintiffs are all inmates at the Jail #2 facility.

24. Defendant CCA manages prison and jail facilities in various states, including Indiana. In particular to this case, CCA contracts with the Marion County Sheriff to operate Jail #2, which is located at 730 E. Washington Street, Indianapolis, Indiana 46202. Defendants Conway, Probst, Little and Lee are all employed by CCA and work at the Jail #2 facility.

25. Defendant Frank Anderson, elected Sheriff of Marion County, is responsible, pursuant to IC 36-2-13-5 and other Indiana statutes and regulations, for maintaining jail facilities throughout Marion County, including overseeing the privatized Jail #2 facility run by CCA at the Jail #2 facility.

26. Defendant Sheriff Anderson appoints a “contract monitor” who is responsible for inspecting the facility and its operations, as well as ensuring CCA provides jail services in accordance with the terms of the contract and federal and state law.

**B. FAILURE TO PROVIDE PROPER MEDICAL CARE
AND TREATMENT TO INMATES**

27. CCA is responsible providing medical care and treatment to the inmates in the Jail #2 facility.

28. Sheriff Anderson is responsible for ensuring that CCA provides the inmates of Jail #2 with proper and adequate medical care and treatment.

29. CCA failed to provide proper and adequate medical care and treatment to the Plaintiffs and the class they represent.

30. Examples of improper and inadequate medical treatment include, but are not limited to, CCA failing to provide inmates with medication, providing medication late or doubling up on medication by providing back-to-back doses, providing inmates with the wrong medication, providing inmates with expired and/or other inmate’s medication, and failing to report medication errors involving inmates as required by Indiana law.

31. Plaintiffs and the class they represent have suffered health problems as a result of not getting their medication. Some inmates have passed out, some have had seizures, while at least two inmates have recently died.

32. Plaintiffs, and the class they represent, filed complaints/grievances with the Jail #2 regarding the improper and inadequate medical treatment they received.

33. Defendant CCA and Defendant Sheriff Anderson have been on notice for some time regarding the improper and inadequate medical treatment provided to inmates at the Jail #2 facility.

34. That, in fact, a lawsuit filed by eight nurses, former employees of CCA, is pending before this court as Cause No. 1:08-CV-254-SFB-JMS. In the Complaint, the Nurses detail the same failure of CCA to provide inmates with adequate medical care and treatment that is detailed in this Complaint. Several other lawsuits are pending against CCA alleging the failure to provide proper medical care at the Jail #2 facility. In addition, this Court in 2003 addressed the failure to provide proper medical care in the Marion County jail system, holding Sheriff Anderson in contempt.¹

35. Despite the awareness of problems at the Jail #2 facility, including their knowledge of pending lawsuits and complaints, neither CCA nor Sheriff Anderson has taken steps to correct the problems.

C. UNSAFE AND INHUMANE CONDITION OF JAIL #2

36. CCA is responsible for providing a safe and humane facility for the housing of inmates at the Jail #2 facility.

37. Sheriff Anderson is responsible for ensuring that CCA provides a safe and humane facility for the housing of inmates at the Jail #2 facility.

¹ See Judge Sarah Evans Barker decision in Marion County Inmates v. Sheriff Frank Anderson, (2003), 270 F. Supp. 1034.

38. CCA has exposed Plaintiffs and the class they represent to unsafe conditions at the Jail #2 facility. These include dangers including razors left in an open wastebasket from which inmates regularly retrieve blades in order to fashion weapons, security cameras throughout the facility that do not work properly, a shortage of radios for CCA staff so as to contact someone in the event of an emergency, the escorting of inmates by untrained and unarmed individuals, such as nurses, leading to possible hostage situations. CCA staff at Jail #2 has failed to report physical altercations and other incidents between CCA employees and staff at the facility.

39. Correction officers at the facility have alerted CCA, including CCA's corporate offices in Tennessee, regarding the security problems at the Jail #2 facility. CCA failed to take any action in response to those reported problems.

40. CCA has exposed Plaintiffs and the class they represent to unsafe and inhumane conditions which include mold growing in vents and on walls and floors at Jail #2; insect infestation at the facility including the presence spiders, roaches, gnats and fruit flies; heating and air conditioning systems that do not work; and a lack of ventilation in the facility. Inmates have been provided used and tattered clothing and shoes with holes that often do not fit. In addition, rather than hire an outside contractor, CCA forced inmates to shovel raw sewage at the facility when a sewer line broke.

41. Plaintiffs and other inmates filed complaints/grievances with the Jail #2 regarding the unsafe and inhumane conditions at the Jail #2 facility.

42. Sheriff Anderson knew or should have known of the unsafe and inhumane conditions of Jail #2 and, in fact, in 2003 was held in contempt by this Court for not adequately addressing the unsafe and inhumane conditions within the Marion County Jail system.²

² Marion County Inmates v. Sheriff Frank Anderson, (2003), 270 F.Supp.2d 1034.

43. The unsafe and inhumane conditions at the Jail #2 facility have resulted in the denial of basic human needs and the minimal civilized measures of life's necessities, thus amounting to punishment in violation of the 14th and 8th Amendments to the Constitution and a violation of the Indiana law.

D. CCA's HANDLING INMATE MAIL IN VIOLATION OF INDIANA LAW

44. Inmates have the right to receive personal and legal mail under Indiana law.

45. CCA employees have told inmates that receipt of mail is a privilege that had to be earned and could be taken away.

46. CCA has attempted to create its own mail policy, which policy contravenes 210 IAC 3-1-16, which regulates the handling of mail at county jails.

47. CCA has at times prevented Plaintiffs, and the class they represent, from sending and receiving personal mail, or delayed the sending or receiving of that mail by several days if not weeks.

48. CCA has at times prevented Plaintiffs, and the class they represent, from sending and receiving legal mail, or delayed the sending or receiving of that mail by several days if not weeks.

49. CCA's handling of inmate mail which violates Indiana law and CCA's own purported mail policy.

50. Sheriff Anderson knew or should have known that CCA could not create and enforce a mail policy that violated Indiana law. Further, Sheriff Anderson knew or should have known the CCA was violating Indiana law and CCA's own policy regarding the handling of inmate personal and legal mail and failed to take action to correct action to require CCA to comply with the law and its own policies.

E. CCA'S FAILURE TO PROVIDE MEDICAL RECORDS

51. Plaintiffs, and the class they represent, have requested their medical records.

52. CCA has refused to provide those medical records claiming inmates do not have a right to medical records while they are incarcerated.

53. The Health Insurance Portability and Accountability Act (HIPAA) and IC 16-39-1-1 require that medical records be provided upon request of the patient. Contrary to CCA's claim, there is no provision that allows CCA to deny medical records to inmates because of their incarceration.

54. Sheriff Anderson knew about or should have known about CCA's violation of federal and state law regarding providing inmates with their medical files upon request and failed to take action to require CCA to comply with that law.

F. CCA VIOLATED INMATES' PRIVACY IN VIOLATION OF HIPAA

55. During the intake process and other times, CCA conducts medical examinations of Plaintiffs, and the class they represent, in the audio and visual presence of other inmates.

56. HIPAA requires that medical examinations be done in private and that details uncovered during said intakes and other medical examinations not be revealed to other inmates.

57. Defendant Sheriff Anderson knew or should have known that CCA was violating inmates' privacy rights in contravention of HIPAA during the intakes and medical examinations, yet failed to take action to ensure CCA complied with the law.

G. FAILURE TO REPORT MEDICAL ERRORS

58. That Plaintiffs and the class they represent have been the victims of medical errors, where they were given the wrong medication, not given medication, given expired medication or other inmates' medication.

59. CCA's medical staff failed to report medical errors as required by Indiana law.

60. CCA has failed to record those medical errors and other times have ordered Jail #2 employees to alter or destroy records to conceal medical errors.

61. Sheriff Anderson knew or should have known about the failure of CCA to report medical errors as required by Indiana law and has failed to take action to require CCA to comply with Indiana law.

H. CCA'S FAILURE TO PROVIDE GRIEVANCE PROCESS TO INMATES

62. CCA is responsible for providing a grievance process in accordance with the Prison Litigation Reform Act and Indiana law.

63. Sheriff Anderson is responsible for ensuring that CCA provides that grievance process as set forth by federal and state law.

64. Rather than follow the Sheriff's grievance procedure which was created pursuant to Indiana law, CCA has attempted to create its own grievance procedures.

65. That during their incarceration, the Plaintiffs, and members of the class they represent, have attempted to lodge numerous administrative grievances.

66. CCA administrators at the Jail #2 facility, including those identified as Defendants, have often required Plaintiffs, and the class they represent, to go through a preliminary complaint stage (called an "informal") prior to filing an inmate administrative grievance, would often refuse to accept informals or grievances, would refuse to provide forms to make complaints, would "lose" informals and grievances, return informals and grievances they received, and even tear up grievances in the presence of the inmates who tried to file them.

67. CCA would only rarely provide inmates with written responses, even though written responses to grievances are required by Indiana law.

68. CCA's handling of grievances violate Indiana law and its own purported grievance process.

69. CCA does not process inmate grievances as part of a deliberate legal strategy to give its legal counsel grounds to argue for dismissal of inmate lawsuits based on their alleged failure to exhaust administrative remedies.

70. Further CCA administrators, including those named as Defendants, have financial incentives that are affected negative when inmates file grievances or are successful in the outcome of their grievances.

71. Sheriff Anderson knew or should have known that CCA was violating Indiana law by establishing and enforcing a grievance procedure which violates Indiana law and his own grievance procedures.

72. Sheriff Anderson knew or should have known that CCA was not processing inmate grievances and deliberating blocking the grievance process, and failed to take any action to force CCA to comply with the PLRA and Indiana law.

I. INCENTIVES RECEIVED BY CCA ADMINISTRATORS

73. Administrative staff at Jail #2, including Defendants Conway, receive financial incentives based on the rating of the Jail #2 facility.

74. The rating of the Jail #2 facility is based at least partially on the number of grievances filed by inmates at the facility and the outcome of those grievances, savings in the medical treatment of the inmates, the number of inmates logged in as having been seen by medical staff at the Jail #2 facility, medical errors reported, and various incident reports at the facility.

75. Defendants have financial incentives to reduce the number of grievances and provide the named Plaintiffs, and the class they represent, with substandard care. Defendant Conway and Defendant Lee have actively engaged in a concerted effort to block the grievance process. Defendants Conway, Little and Probst have all acted to provide the inmates with substandard care that is deliberately indifferent to the needs of the inmates at the Jail #2 facility.

76. Defendants have a financial incentive to cover up incidents at the Jail #2 facility and have instructed employees to alter records and other documentation so as to improve Jail #2's rating.

77. Defendants have a financial incentive to inflate numbers coming out of the medical and have, in fact, grossly inflated those numbers.

**J. FACTS SUPPORTING PUNITIVE DAMAGES AND
CANCELLATION OF JAIL #2 CONTRACT**

78. Support for those sanctions is that CCA has threatened, intimidated and disciplined Jail #2 employees, including nurses and correctional officers, who have attempted to report medication and security problems at the facility. Some of those individuals, such as nurses, are required by Indiana law to file those reports.

79. CCA has altered, concealed and even destroyed reports Jail #2 employees have made regarding problems at the facility.

80. CCA and its medical staff have failed to report medication errors and other problems at the facility as required by Indiana law.

81. That, taken collectively, CCA has engaged in a thorough and systemic effort to cover up problems at the Jail #2 facility, an effort strongly encouraged by CCA's payment of financial incentives to Warden Conway and other Jail #2 administrators. In addition, CCA has sought to deny inmates access to the courts by refusing to process administrative grievances.

82. CCA's conduct with regard to the operation of Jail #2 is befitting the harshest sanctions this Court can offer, including not only an injunction to ensure CCA complies with federal and state law, but a significant award of punitive damages and the judicial termination of the contract CCA holds with the Marion County Sheriff's Department to operate the Jail #2 facility.

83. In addition, given this Court's previous order in 2003, the Court should consider holding Sheriff Anderson in contempt if the problems at the Jail #2 facility, which are outlined in

this Complaint, are not immediately addressed and require that Sheriff Anderson pay an award of punitive damages due to the failure of his office to supervise the Jail #2 facility.

VI. LEGAL CLAIMS AGAINST CCA

COUNT ONE

**(CCA's Failure to Provide Proper and Adequate Medical Care
Violates the United States Constitution)**

84. The failure of CCA to provide proper and adequate medical care to the Jail #2 inmates violates the 14th Amendment to the United States Constitution as applied to pre-trial detainees and the 8th Amendment to the United States Constitution as applied to convicted prisoners.

COUNT TWO

**(CCA's Failure to Provide Proper and Adequate Medical Care
to Inmates Violates 210 IAC 3-1-11)**

85. The failure of Defendant CCA to provide proper and adequate medical care to the Jail #2 inmates violates the Indiana Administrative Code, in particular 201 IAC 3-1-11.

COUNT THREE

**(CCA's Failure to Provide Safe and Humane Conditions at the Jail #2 Facility
Violates the United States Constitution)**

86. The conditions of the Jail #2 facility operated by CCA violate the 14th Amendment to the United States Constitution as applied to pre-trial detainees and the 8th Amendment to the United States Constitution as applied to convicted prisoners.

COUNT FOUR

**(CCA's Failure to Provide Safe and Humane Conditions at the Jail #2 Facility
Violates the Indiana Administrative Code)**

87. The unsafe and inhumane conditions of the Jail #2 facility operated by CCA violate the Indiana Administrative Code, in particular 210 IAC 3-1-7, 210 IAC 3-1-9, 210 IAC 3-1-10, 210 IAC 3-1-13.

COUNT FIVE
(CCA's Failure to Process Administrative Grievances
Violates the Prison Litigation Reform Act)

88. The refusal of CCA to process grievances at the Jail #2 facility violates the Prison Litigation Reform Act, namely 18 U.S.C. §3626.

COUNT SIX
(CCA's Failure to Process Administrative Grievances
Violates Inmates' Rights Under the Indiana Administrative Code)

89. Further, CCA's creation of its own grievance process, including the creation of an "informal" process inmates must go through prior to filing a grievance, violates, Indiana law, in particular, 210 IAC 3-1-15(h).

90. The refusal of CCA to process grievances at the Jail #2 facility, including the failure to put responses to those grievances in writing, violates Indiana law, in particular, 210 IAC 3-1-15(h) as well as CCA's own grievance process.

COUNT SEVEN
(CCA Breached Third Party Contractual Duties Owed to Inmates)

91. Defendant CCA breached duties it had under the contract it entered into with the Marion County Sheriff's Office by violating federal and state laws and the terms of that contract. The Plaintiffs, and the class they represent, are third party beneficiaries of that contract.

COUNT EIGHT
(CCA Violates Inmates' Right to Send and Receive Personal and Legal Mail)

92. By not allowing inmates at the Jail #2 facility to receive and send personal and legal mail, or delaying that mail, CCA violated 210 IAC 3-1-16. Further, CCA violated its own policies regarding the handling of mail.

COUNT NINE

(CCA Violates Duty Owed Under HIPAA and IC 16-39-1-1 to Provide Medical Records)

93. CCA breached a duty they owed under the HIPAA and IC 16-39-1-1 when they refused to provide Plaintiff and the class they represent medical records upon request.

COUNT TEN

(CCA Violation of Inmates' Privacy Rights Under HIPAA)

94. CCA violated inmates' privacy rights under HIPAA when CCA's medical staff conducted intakes and other medical examinations in the presence of other inmates.

95. Sheriff Anderson knew or should have known that the intake and medical examination process used by inmates violated their privacy rights which are protected under HIPAA.

COUNT ELEVEN

(CCA's Violation of Indiana Law By Failing to Report Medical Errors)

96. CCA's medical staff violated Indiana law when it failed to report medical errors as required by Indiana law.

COUNT TWELVE

(CCA's Financial Incentives Paid to Jail #2 Administrators Violate the Constitution)

97. CCA's payment of incentives to administrators to block the grievance process, cover up incidents at the jail and inflate numbers, and deny the inmates proper medical care, violate the 14th Amendment to the United States Constitution as applied to pre-trial detainees and the 8th Amendment to the United States Constitution as applied to convicted prisoners.

VII. LEGAL CLAIMS AGAINST SHERIFF ANDERSON

COUNT THIRTEEN

(Sheriff Anderson Failed to Supervise the Provision of Medical Care to Inmates at Jail #2)

98. Sheriff Anderson knew or should have known that CCA regularly failed to provide the inmates at the Jail #2 facility proper and adequate medical care, which failure violated the inmates' rights under the 14th Amendment and the 8th Amendment as well as violated the inmates'

rights under the Indiana Administrative Code, in particular 201 IAC 3-1-11. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy the violation of those legal provisions.

COUNT FOURTEEN
(Sheriff Anderson Failed to Ensure Safe and Humane Conditions at Jail #2)

99. Sheriff Anderson knew or should have known that the conditions of the Jail #2 facility operated by CCA violate the 14th and 8th Amendment to the Constitution, as well as the Indiana Administrative Code, including 210 IAC 3-1-7, 210 IAC 3-1-9, 210 IAC 3-1-10, 210 IAC 3-1-13. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy the violation of these administrative provisions.

COUNT FIFTEEN
(Sheriff Anderson CCA's Permitted CCA to Violate Inmates' Right to Pursue Grievances through the Administrative Process)

100. Sheriff Anderson knew or should have known that CCA had created its own grievance process in violation of Indiana law and Sheriff Anderson's own grievance procedures. In addition, Sheriff Anderson knew or should have known that CCA was failing to process inmate grievances at the Jail #2 facility, failing to provide written responses to said grievances, which failures constitute a violation of the Prison Litigation Reform Act, namely 18 U.S.C. § 3626, 210 IAC 3-1-15(h), and CCA's purported grievance process. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

COUNT SIXTEEN
(Sheriff Anderson Permitted CCA to Violate Inmates' Right to Send and Receive Personal and Legal Mail)

101. Sheriff Anderson knew or should have known that CCA had created a mail policy in that violated 210 IAC 3-1-16 and was acting in violation of Indiana law and CCA's own purported mail policies when CCA did not allow inmates to send or receive personal and legal mail, or

delayed that mail. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

COUNT SEVENTEEN
(Sheriff Anderson Permitted CCA to Violate Federal and Indiana Law Requiring CCA to Provide Inmates With Their Medical Records Upon Request)

102. Sheriff Anderson knew or should have known that CCA refused to provide inmates with their medical records upon request and that such a failure to provide those records is a violation of HIPAA and Indiana law and IC 16-39-1-1. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

COUNT EIGHTEEN
(Sheriff Anderson Permitted CCA to Violate the Privacy Rights of Inmates in Contravention of HIPAA)

1033. Sheriff Anderson knew or should have known that CCA violated inmates' privacy rights under HIPAA when CCA's medical staff conducted intakes and other medical examinations in the presence of other inmates. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

COUNT NINETEEN
(Sheriff Anderson Permitted CCA to Violate the Privacy Rights of Inmates in Contravention of Indiana Law)

104. Sheriff Anderson knew or should have known that CCA nursing staff violated the law when it failed to report medical as required by Indiana law. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

COUNT TWENTY
(CCA's Financial Incentives Paid to Jail #2 Administrators Violate the Constitution)

105. Sheriff Anderson knew or should have known that CCA's payment of incentives to Jail #2 administrators to block the grievance process, cover up incidents at the jail and inflate numbers, and deny the inmates proper medical care, violate the 14th Amendment to the United States Constitution as applied to pre-trial detainees and the 8th Amendment to the United States

Constitution as applied to convicted prisoners. Sheriff Anderson failed his duty to supervise CCA in this regard and to require that CCA take steps to remedy these violations.

VIII. PRAYER FOR RELIEF

Wherefore, the Plaintiffs, on behalf of themselves and the class they represent, request the following:

106. The Court accept jurisdiction of this case and set it for a hearing.

107. Certify this case as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure with the class as specified above, and appoint the undersigned as class counsel pursuant to Rule 23(g).

108. Enter a declaratory judgment that the actions and inactions of the Defendants described herein violate the 14th and 8th Amendments to the United States Constitution.

109. Enter a declaratory judgment that the actions and inactions of the defendants described herein violate the Indiana Administrative Code, in particular 210 IAC 3-1 et seq.

110. Enjoin the Defendants from continuing to violate federal and state law regarding the medical care and treatment of the Jail #2 inmates.

111. Enjoin the Defendants from continuing to violate federal and state law regarding the unsafe and inhumane conditions at the Jail #2 facility.

112. Enjoin the Defendants from continuing to violate federal and state law regarding the failure of CCA to process inmate administrative grievances at the Jail #2 facility, including not providing inmates with written responses to those grievances.

113. Enter an order finding CCA's conduct in this case so egregious, yet so likely to be repeated given CCA's history, as to justify judicial termination of CCA's contract to run the Jail #2 facility.

114. Order CCA to pay substantial punitive damages as permitted by law.

115. Order Sheriff Anderson to pay punitive damages as permitted by law.

116. Hold Sheriff Anderson in contempt if the issues at Jail #2 raised in this Complaint are not promptly addressed.

117. Grant counsel for the Plaintiffs and their represented class reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988 and other applicable law.

118. Award all other proper relief.

Respectfully submitted,

ROBERTS & BISHOP

/s/ Paul K. Ogden

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CERTIFICATE OF SERVICE

The undersigned affirms that on April 25, 2008, this document was served on the following:

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using the ECF system which sent notification of the filing and a link to an electronic copy of the document to all parties that participate in the ECF system. There are no parties that do not participate in the ECF system and thus no mailing is required.

/s/Paul K. Ogden
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