UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RICHARD JONES, **Plaintiff,** **v.** **DISTRICT OF COLUMBIA,** **Defendant.**	**Civil Action No. 16-2405 (CKK)**

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF DEFENDANT DISTRICT OF COLUMBIA'S
MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

INTRODUCTION

Plaintiff—a former Department of Corrections (DOC) inmate who was released by the District of Columbia (the District) hours after the receipt of a court order—brings this lawsuit alleging that he was overdetained and unlawfully subjected to a strip search. But plaintiff was released on the day he was ordered released, within hours of his court hearing; he was not overdetained.

FACTS[1]

Plaintiff Richard Jones, a DOC inmate at the D.C. Jail, attended a hearing at the federal courthouse on December 7, 2015, during which DOC was ordered to release him. First Am. Compl. ¶¶ 128-29 [12]. Following the hearing, plaintiff was transported from the courthouse to D.C. Jail to await the completion of his release processing by DOC. *Id*. When plaintiff arrived at the D.C. Jail, following his hearing, he was subject to a strip search and visual body cavity search before admission to the general population. *Id*. at ¶ 137. Within "several hours" of his return to D.C. Jail plaintiff was released. *Id*. at ¶ 132. He "pleads in the alternative" that he was held for more than five hours before being released. *Id*. at ¶ 133.

Plaintiff filed this lawsuit against the District alleging that he was unconstitutionally overdetained and strip searched, and that he suffered a false arrest and invasion of privacy in violation of District of Columbia common law. *Id*. at ¶¶ 147-77.

[1] The District does not dispute the allegations of the Complaint solely for purposes of this motion. However, the District reserves the right to dispute the allegations for all other purposes.

ARGUMENT

I. Standard of Review

"A Rule 12(b)(6) motion tests the legal sufficiency of a complaint[.]" *Browning v. Clinton*, 292 F.3d 235, 242 (D.C. Cir. 2002). To survive, a complaint "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Court should not accept facts unsupported by allegations in the complaint or the plaintiff's legal conclusions. *Id*. "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id*.

II. Plaintiff's *Monell* Claim Alleging Overdetention Should Be Dismissed.

A. Plaintiff's Detention for "Hours" While His Release Paperwork Was Processed Was Not Unconstitutional.

Plaintiff's hours-long release processing was not a violation of his constitutional rights. In his Complaint, plaintiff alleges this delay violated his rights under the Fourth, Fifth, and Eighth Amendments. Not so.

1. Plaintiff Fails to State a Claim Sufficient to Establish a Fourth Amendment Violation.

The "several hours" it took for DOC to process plaintiff's release does not meet the standard for overdentention. But, even if it did, this Court has held that an overdetention does not constitute a Fourth Amendment violation. *See Barnes v. District of Columbia*, 793 F. Supp. 2d 260, 273-74 (2011). The Fourth Amendment protects the "right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV. As the Court pointed out in *Barnes*, the plaintiff must show his overdetention constituted a seizure of his person to establish a violation of the Fourth Amendment. *Id*. at 274.

Like the plaintiffs in *Barnes*, plaintiff was already in the custody of DOC when he was ordered released. *Id*. As a result, his freedom of movement had already been terminated. *Id*. The alleged overdetention did not constitute a seizure under the Fourth Amendment. *Id*.

2. Plaintiff Fails to State a Claim Sufficient to Establish a Fifth Amendment Procedural or Substantive Due Process Violation.

Plaintiff has not adequately pled a procedural due process claim under the Fifth Amendment. In his First Amended Complaint, plaintiff defines overdetention as "holding a detainee or prisoner in Department of Corrections' custody past the person's Release Time on their Release Date." First Am. Compl. ¶ 26 [12]. According to plaintiff, the "release time" is the date and time on which a detainee is entitled to release and the "release date" is "the day on which the person is entitled to be released." *Id*. at ¶ 27-28. With respect to the "release time," plaintiff further alleges that an individual is *per se* overdetained if they are held for more than two hours following a court hearing ordering their release, or if they are released after 10 p.m. *Id*. at ¶ 2. These are legal conclusions—and this Court should not assume they are true, even at the motion to dismiss stage. *See Iqbal*, 556 U.S. at 678. Additionally, in *Barnes* the plaintiffs asked this Court to impose a bright-line time limit of two and a half hours for the DOC release process. *Barnes*, 793 F. Supp. 2d at 274. The *Barnes* Court expressly declined, finding only that the maximum permissible administrative delay "likely" falls short of the 48 hours horizon set for detentions pending probable cause determinations after warrantless arrests. *Id.* at 275-76.

Plaintiff alleges he was overdetained for "several hours" or, in the alternative "that he was held for more than five hours." First Am. Compl. ¶ 132-33. This Court should not accept plaintiff's alternatively pled facts. The length of time plaintiff was held after being ordered to be released is the heart of his claim against the District—he is alleging he was held for a length of time which was so unreasonable that it violated his constitutional rights. And while Federal Rule

of Civil Procedure 8(e)(2) "allows a party to plead inconsistent statements either alternatively or hypothetically within a single count," "Rule 8(e)(2) specifically states that 'all statements shall be made subject to the obligations set forth in Rule 11.'"[2] *Great Lakes Higher Ed. Corp. v. Austin Bank of Chicago*, 837 F. Supp. 892, 894 (N.D. Ill., E.D. 1993) (requiring claims alleging "mutually exclusive possibilities" to be re-pled); *see also Osborn v. Haley*, 549 U.S. 225, 235 n.6 (2007) ("subject to Rule 11 obligations, parties may plead claims or defenses 'alternately or hypothetically"'). Because Rule 11 requires that the signer of a pleading certify that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact, a party "is not at liberty to set forth variant statements of his claim or defense unless he is honestly in doubt as to what the evidence will show." *Banco Cont'l v. Curtiss Nat'l Bank of Miami Springs*, 406 F.2d 510, 513 (5th Cir. 1969). "It is a violation of Rule 11 to withhold relevant factual evidence within the knowledge of the pleading party in order to gain the advantage of being able to plead more causes of action than are appropriate." *Great Lakes Higher Ed Corp.*, 837 F. Supp. at 894 (citing Rule 11).

To be sure, DOC kept plaintiff in its custody during the time it took to administratively process his release. But, "[t]emporarily retaining custody over an inmate who is entitled to release in order to accomplish an administrative task incident to that release is not *per se* unconstitutional." *Barnes*, 793 F. Supp. 2d at 275. Several courts, including this Court, have recognized the need for administrative processing following a release order, prior to actually

[2] *See* Fed. R. Civ. P. 8, Note to 2007 Amendment ("The former Rule 8(b) and 8(e) cross-references to Rule 11 are deleted as redundant. Rule 11 applies by its own terms. The force and application of Rule 11 are not diminished by the deletion."). "Accordingly, courts have held that Rule 8(d)(3)'s "alternative pleadings rule" does not cover inconsistent assertions of fact when the pleader holds the knowledge of which of the inconsistent facts is the true one." *Mrla v. Fed. Nat'l Mortg. Ass'n*, case no. 15-cv-13370, *4 (E.D. MI. S.D. July 21, 2016) (citations omitted).

releasing an inmate. *See id*. at 275-76; *Lewis v. O'Grady*, 853 F.2d 1366, 1370 (7th Cir. 1988) ("We recognize that the administrative task incident to a release of a prisoner may require some time to accomplish—in this case perhaps a number of hours."); *Berry v. Baca*, 379 F.3d 764 (9th Cir. 2004). In his Complaint, plaintiff acknowledges the need for administrative processing following a release order: "A person may be subject to commitment on more than one case or charge," First Am. Compl. ¶ 25; "Just because a court return receives a single release order does not mean that [the inmate is] automatically entitled to release," *id*. at ¶ 62; "A court return sent to court on more than one charge or case may receive a release order in one case and a commitment order in another," *id*. at ¶ 63; and "Similarly, a court return who receives release order in all cases on which they were sent to court may be subject to continued detention on other cases or subject to a detainer or warrant," *id*. at ¶ 64. But plaintiff fails to allege facts that, if true, would make his detention for "hours" during the administrative processing unconstitutional.

Plaintiff has not adequately pled a substantive due process claim. "[T]he doctrine of substantive due process constrains only egregious government misconduct" and "grave unfairness." *George Washington Univ. v. District of Columbia*, 318 F.3d 203, 209 (D.C. Cir. 2003) (citing *Silverman v. Barry*, 845 F.2d 1072, 1080 (D.C. Cir. 1988) (doctrine prevents only "grave unfairness")). In *Silverman*, the United States Court of Appeals for the D.C. Circuit identified two ways a plaintiff might show such unfairness: "a substantial infringement of state law prompted by personal or group animus, or a deliberate flouting of the law that trammels significant personal or property rights…." *Silverman*, 845 F.2d at 1080.

Plaintiff does not allege that DOC officials acted with animus. As a result, to prevail on a substantive due process claim, plaintiff "must show that the state actor was deliberately indifferent to his constitutional rights and that such conduct shocks the conscious." *Cohen v.*

District of Columbia, 744 F. Supp. 2d 236, 243 (D.D.C. 2010); *see also Cty. of Sacramento v. Lewis*, 523 U.S. 833, 847 n.8 (1998) ("[T]he threshold question is whether the behavior…[was] so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience.").

Plaintiff cannot meet the standard set forth in *Cohen*, because there are *no* facts alleged in the Complaint sufficient to infer that the "detention"—which lasted several hours—was so egregious that it may fairly be said to shock the contemporary conscience. *Cf. Berry,* 379 F.3d at 773 (a county knew its policy of delaying processing of releases until all information relating to prisoners scheduled for release had been entered into a computer system resulted in delays of up to 48 hours). Plaintiff's allegations regarding another inmate, Mr. Smith, do not cure this deficiency. *See* First Am. Compl. ¶¶ 82-104. Mr. Smith is not a party to this litigation. Even if he was overdetained for 23 days, as plaintiff alleges, Mr. Smith's overdetention does not establish that the District "routinely" overdetains inmates or is deliberately indifferent. The facts pled regarding Mr. Smith's alleged overdetention, however, illustrate the inadequacies of plaintiff's own allegations. According to the Complaint, Mr. Smith was ordered released through two release orders, but only one order was processed by the DOC Records Office. *Id*. at ¶¶ 84-91. The Complaint further alleges Mr. Smith informed staff at the jail that he was entitled to release, but DOC did not investigate his claims—instead, detaining him for an additional 23 days. *Id*. at ¶¶ 89, 94. In contrast, plaintiff does not allege the District failed to properly process his release. He alleges merely that his release processing took longer than it should have, but without pleading a factual basis for the allegation. In fact, he was released within "hours." *Id*. at ¶ 132. Plaintiff has not adequately alleged a Fifth Amendment due process violation and his Complaint should be dismissed.

3. Plaintiff Fails to State a Claim Sufficient to Establish an Eighth Amendment Violation.

Plaintiff also fails to state a claim for an Eighth Amendment violation. Plaintiff "must identify a deprivation that is 'objectively, sufficiently serious' in that it 'result[s] in the denial of the minimum civilized measure of life's necessities." *Banks v. York*, 515 F. Supp. 2d 89, 105 (D.D.C. 2007). Plaintiff does not allege he suffered any mistreatment during the time he was held to complete his release processing. To be sure, plaintiff was returned to the general population at D.C. Jail, where he had been detained prior to attending court. First Am. Compl. ¶ 137. But the District's decision to return him to the general population until his release paperwork was processed does not violate the protections found in the Eighth Amendment. "After incarceration, only the 'unnecessary and wanton infliction of pain'… constitutes cruel and unusual punishment forbidden by the Eighth Amendment." *Ingraham v. Wright*, 430 U.S. 651, 664 (1977) (quoting *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). The normal conditions of confinement that are "part of the penalty that criminal offenders pay for their offenses" do not constitute cruel and unusual punishment under the Eighth Amendment. *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981).

B. <u>Plaintiff Fails to Allege That The District Has a Custom, Policy, or Practice of Overdetaining Inmates.</u>

As explained above, plaintiff fails to state a constitutional violation related to his alleged overdetention. He also fails to state a basis for municipal liability. To state a claim against the District of Columbia under 42 U.S.C. § 1983, plaintiff must allege both an underlying constitutional violation and a basis for municipal liability. *Brown v. District of Columbia*, 514 F.3d 1279, 1283 (D.C. Cir. 2008). First, a complaint must allege facts sufficient to support a reasonable inference that a person acting under color of District law subjected the plaintiff or

caused the plaintiff to be subjected to the deprivation of a constitutional right. *Jones v. Delaney*, 610 F. Supp. 2d 46, 49 (D.D.C. 2009) (citing *Oklahoma City v. Tuttle*, 471 U.S. 808, 829 (1985)). Then, "[t]o impose liability on the District under … § 1983, [a plaintiff] must show 'not only a violation of his rights under the Constitution or federal law, but also that the District's custom or policy *caused* the violation.'" *Feirson v. District of Columbia*, 506 F.3d 1063, 1066 (D.C. Cir. 2007) (quoting *Warren v. District of Columbia*, 353 F.3d 36, 38 (D.C. Cir. 2004)).

The pleading requirement for a § 1983 claim is only met where the complaint "include[s] some factual basis for the allegation of a municipal policy or custom," sufficient to pass muster "under the standard set by the Supreme Court in *Twombly* and *Iqbal*." *Smith v. District of Columbia*, 674 F. Supp. 2d 209, 213 n.2 (D.D.C. 2009). There are four basic categories of municipal action which, if proven, may subject a municipality to liability: "(1) an expressed municipal policy; (2) adoption by municipal policymakers; (3) custom or usage; and (4) deliberate indifference. *Hunter v. District of Columbia*, 824 F. Supp. 2d 125, 133 (D.D.C. 2011) (citing *Monell v. New York City Dep't of Soc. Servs*., 436 U.S. 658, 690-94 (1978)).

Plaintiff alleges the District was deliberately indifferent, First Am. Compl. ¶ 151, but provides no factual support for the allegation. Deliberate indifference means that, "faced with actual or constructive knowledge that its agents will probably violate constitutional rights, the city may not adopt a policy of inaction." *Warren*, 353 F.3d at 39. Plaintiff must show that the District knew or should have known his constitutional rights would likely be violated. *Barnes*, 793 F. Supp. 2d at 283. He has not. The Complaint does not provide *any* factual allegations which, if true, could prove the District had actual or constructive knowledge that plaintiff's constitutional rights would be violated if he was returned to the jail while DOC processed his release. Plaintiff's only claim is conclusory, stating, "[t]he District was deliberately indifferent to

[plaintiff's] rights." First Am. Compl. ¶ 151. The Court should not accept plaintiff's unsupported legal conclusions. *Iqbal*, 556 U.S. at 678.

Plaintiff alleges broadly that the District has a policy or practice of overdetaining inmates. First Am. Compl. ¶ 81. And, at the same time the plaintiff alleges that the District instituted reforms that "resolved" and its "overdetention problem." *Id*. ¶ 80. Plaintiff then contends, based "based on publically available filing[s]" and "discussions with knowledgeable people such as CJA lawyers," the District "routinely holds detainees past their Release Times." *Id*. ¶ 117. But, as explained above, plaintiff was not overdetained; he was returned to D.C. Jail while his release was processed by DOC, and he was released the same day he was ordered to be released—within several hours. If plaintiff *does* have support for his legal conclusion that the District has a practice of overdetaining inmates—whether that support is from information in public filings or otherwise—he must plead those allegations to support his claim. "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice" to satisfy a plaintiff's obligation under Rule 8. *Iqbal*, 556 U.S. at 678.

The only policy or practice which plaintiff identifies in his Complaint is DOC's practice of transmitting release orders to and from the courthouse by paper—a process which plaintiff refers to as a "sneaker system." First Am. Compl. ¶ 46. Plaintiff alleges the system is "inefficiently implemented," *id*. at ¶ 17, but he fails to allege the "sneaker system" actually caused him to be overdetained. Plaintiff admits that the travel time from the courthouse to the D.C. Jail is only 10 minutes. *Id*. at ¶ 106. The Complaint makes no connection between the alleged "inefficient" "sneaker system" and plaintiff's alleged overdetention.

III. Plaintiff Fails to State a Claim for a Search in Violation of His Fourth and Fifth Amendment Rights.

The routine search plaintiff describes is not unconstitutional. The search—conducted after plaintiff had been outside of the detention facility—did not violate plaintiff's Fourth or Fifth Amendment rights. The Supreme Court and United States Court of Appeals for the D.C. Circuit have upheld the use of routine body cavity searches in detention centers fraught with security concerns, such as D.C. Jail.

The seminal Supreme Court opinion on body cavity searches is *Bell v. Wolfish*, 441 U.S. 520 (1979). There, the Supreme Court rejected a Fourth Amendment challenge to a policy of visual body cavity searches for all detainees following contact visits with outsiders. *Id*. at 560. The Court applied a balancing test to determine the reasonableness of the search: "Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted." *Id*. at 559. Following *Bell*, circuits (but not the D.C. Circuit) have split when considering whether the balancing test demanded individualized suspicion before an arrestee could be subject to a body cavity search. *Compare Mary Beth G. v. City of Chicago*, 723 F.2d 1263, 1273 (7th Cir. 1983), *with Florence v. Bd. of Chosen Freeholders of Burlington*, 621 F.3d 296, 308 (3rd Cir. 2010), *and Powell v. Barrett*, 541 F.3d 1298, 1314 (11th Cir. 2008),[3] *and Bull v. City & Cty. of San Francisco*, 595 F.3d 964, 975 (9th Cir. 2010).

The case law in this circuit is clear. The United States Court of Appeals for the D.C. Circuit issued a decision directly on point in *Bame v. Dillard*, 637 F.3d 380 (D.C. Cir. 2011). In

[3] The Eleventh Circuit in *Powell* noted that most courts (and its own precedent) had misinterpreted *Bell* as requiring reasonable suspicion for strip searching minor offenders where, in fact, that decision neither required individualized suspicion nor differentiated the degree of suspicion required based on the type of offense. *Powell v. Barrett*, 541 F.3d 1298, 1307-11 (11th Cir. 2008).

Bame, the Court considered a challenge to a United States Marshal Service policy which authorized strip searches of all male arrestees upon arrival at the Superior Court of the District of Columbia before being housed in the cellblock. *Id*. The court proceeded directly to the question of whether, at the time of the search in 2002, plaintiffs had a clearly established Fourth Amendment right to be free from the search absent individualized suspicion. *Id*. at 386. The court found, "[t]he governing precedent was then, as it is now, *Bell v. Wolfish*, and nothing in *Bell* requires individualized, reasonable suspicion before strip searching a person entering a detention facility." *Id*.; *see also Johnson v. District of Columbia*, 780 F. Supp. 2d 62, 74 (D.D.C. 2011). The court explained further that "the 'Court's rationale in *Bell* applies equally to any detention facility that is 'fraught with serious security dangers,' as well as the cellblock at the Superior Court." *Bame*, 637 F.3d at 387 (quoting *Bell*, 441 U.S. at 559).

The following year, the United States Supreme Court concurred; explicitly rejecting the proposition that individualized, reasonable suspicion is required before an inmate entering the general population may be subject to a routine, strip search or visual cavity search. *Florence v. Bd. of Chosen Freeholders of Burlington*, 566 U.S. 318 (2012). The Supreme Court explained, "Correctional officials have a legitimate interest, indeed a responsibility, to ensure that jails are not made less secure by reason of what new detainees may carry in on their bodies." *Id*. at 318. The Court granted deference to jail officials in their responses and procedures and maintained that where contraband and safety within the prison are concerned, individualized reasonable suspicion to conduct a search is not required. *Id.* at 330 (quoting *Block v. Rutherford*, 468 U.S. 576, 584 (1984)).[4] Although the Court discussed limited circumstances where individualized

[4] Where contraband is concerned the Supreme Court opinion discussed the difficulties of filtering through arbitrary factors such as the severity of the offense or prior offenses in

reasonable suspicion may be necessary, those situations involve *non-entry* to general population, or minor, non-violent or civil offenses. None of those circumstances apply here.

Here, when plaintiff was searched he was re-entering the general population at D.C. Jail. When a prisoner is entering the general population from the outside, regardless of the reason, prison officials do not need individualized reasonable suspicion to conduct a search; barring potential contraband from entry into the prison population is a constitutionally sound objective for the search. As such, plaintiff's claim should be dismissed.

IV. Plaintiff's Common Law Claims Should Be Dismissed For Failure to State a Claim.

A. Plaintiff Fails to State a Claim for False Arrest.

The elements of a common law false arrest claim and a constitutional false arrest claim are practically identical. *Barnhardt v. District of Columbia*, 723 F. Supp. 2d 197, 214 (D.D.C. 2010). "[T]he requisite elements in both cases are that the plaintiff was arrested against his will and that the arrest was unlawful." *McCarthy v. Kleindienst*, 741 F.2d 1406, 1413, 239 U.S. App. D.C. 247 (D.C. Cir. 1984). To prevail, "plaintiff must demonstrate 'that the [District] acted without probable cause, in an objective constitutional sense, to effectuate his arrest.'" *Barnhardt*, 723 F. Supp. 2d at 214 (quoting *Taylor v. District of Columbia*, 691 A.2d 121, 125 (D.C. 1997)).

This Court held in *Barnes* that "overdetention" does not provide a basis for a Fourth Amendment claim because there is no seizure where the individual is already in DOC custody. *See* above Section II-B at 6 (citing *Barnes*, 793 F. Supp. 2d at 273-74). On that basis, plaintiff's alleged overdetention cannot constitute a false arrest. Plaintiff was lawfully in DOC custody on December 7, 2015, when he was taken to the courthouse. First Am. Compl. ¶¶ 128-29 [12]. He was not released from DOC custody at the courthouse, but was instead transported back to D.C.

---

determining whether or not an individual carries, or has been coerced to carry, contraband. *Florence v. Bd. of Chosen Freeholders of Burlington*, 566 U.S. 318, 334-39 (2012).

Jail until his release "several hours" later. *Id*. at ¶ ¶ 129, 132. Simply put, there are no factual allegations anywhere in the Complaint to support a false arrest claim. The claim should be dismissed.

B. Plaintiff Fails to State a Claim for Invasion of Privacy.

The tort of invasion of privacy for "intrusion of seclusion" requires "(1) an invasion or interference by physical intrusion, by use of a defendant's sense of sight or hearing, or by use of some other form of investigation or examination; (2) into a place where the plaintiff has secluded himself, or into his private or secret concerns; (3) that would be highly offensive to an ordinary, reasonable person." *Wolf v. Regardie*, 553 A.2d 1213, 1217 (D.C. 1989) (internal citations omitted). Plaintiff's claim fails because he has not plead facts sufficient to establish that he had a reasonable expectation of privacy from search upon his reentry at D.C. Jail; or that the routine search would be highly offensive to an ordinary, reasonable person in his situation. But even more detrimental to plaintiff's claim however, is that plaintiff failed to even allege that the strip search was offensive to him.[5] The Court should dismiss plaintiff's invasion of privacy claim.

CONCLUSION

For the foregoing reasons, the Court should grant the District's Motion to Dismiss Plaintiff's First Amended Complaint and dismiss the action with prejudice.

Dated: April 19, 2017.

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

[5] Plaintiff should not be permitted to correct the deficiencies in his Complaint by amending to add facts of which he was uniquely aware of at the time of filing and could have been properly included. *See Williams v. Savage*, 569 F. Supp. 2d 99, 108 (D.D.C. 2008) (denying plaintiffs' motion to amend the complaint because the information was in their possession at the time of filing and there was no justification for the delay in including the information in the complaint).

ELIZABETH SARAH GERE
Deputy Attorney General
Public Interest Division

/s/ Toni Michelle Jackson
TONI MICHELLE JACKSON, Bar No. 453765
Chief, Equity Section

/s/ Amanda J. Montee
AMANDA J. MONTEE, Bar No. 1018326
TY JOHNSON, Bar No. 1044025
Assistant Attorneys General
Suite 630 South
441 Fourth Street, N.W.
Washington, D.C. 20001
(202) 724-5691
(202) 741-8934 (fax)
amanda.montee@dc.gov

Attorneys for Defendant The District of Columbia