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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

20 JESSE HERNANDEZ et al., on behalf of
themselves and all others similarly situated,

21 Plaintiffs,

22 v.

23 COUNTY OF MONTEREY; MONTEREY
24 COUNTY SHERIFF’S OFFICE;
CALIFORNIA FORENSIC MEDICAL
25 GROUP, INCORPORATED, a California
corporation; and DOES 1 to 20, inclusive,

26 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF GAY
CROSTHWAIT GRUNFELD IN
SUPPORT OF PLAINTIFFS’
MOTION FOR CLASS
CERTIFICATION**

Judge: Hon. Paul S. Grewal
Date: June 3, 2014
Time: 10:00 A.M.
Crtrm.: 5, 4th Floor

Trial Date: None Set

1 I, Gay Crosthwait Grunfeld, declare:

2 1. I am an attorney admitted to practice law in California, a member of the bar
3 of this Court, and a partner in the law firm of Rosen Bien Galvan & Grunfeld LLP
4 (“RBGG”), counsel of record for Plaintiffs. I have personal knowledge of the matters set
5 forth herein, and if called as a witness I could competently so testify. I make this
6 declaration in support of Plaintiffs’ Motion for Class Certification.

7 **I. Plaintiffs’ Counsel Extensively Investigated the Conditions in Monterey**
8 **County Jail Prior to Filing this Action**

9 2. Plaintiffs’ counsel began investigating the conditions in Monterey County
10 Jail (the “Jail”) in early 2012. That year, James Egar, the Public Defender for the County
11 of Monterey, contacted my firm to complain of serious and life-threatening problems his
12 clients were experiencing when incarcerated in the Jail. Since mid-2012, attorneys and
13 other staff from RBGG, and the Public Defender’s Office and, more recently, the
14 American Civil Liberties Union Foundation of Northern California (“ACLU of Northern
15 California”), and the American Civil Liberties Union – National Prison Project
16 (“ACLU-NPP”) have, among other investigative activities, (1) conducted more than one
17 hundred interviews of former and current prisoners in the Jail; (2) reviewed tens of
18 thousands of pages of medical and custody records for current and former prisoners in the
19 Jail; (3) reviewed documents produced by Monterey County in response to three requests
20 for information pursuant to the California Public Records Act; and (4) reviewed hundreds
21 of Sheriff’s Office reports of incidents that occurred in the Jail.

22 3. On May 23, 2013, five prisoners in the Jail filed the instant lawsuit against
23 Defendants the County of Monterey (the “County” or “Monterey County”), the Monterey
24 County Sheriff’s Office (“Sheriff’s Office”), and California Forensic Medical Group, Inc.
25 (“CFMG” and, collectively, “Defendants”). *See* Compl., Dkt. No. 1. The complaint
26 alleged four primary claims under federal and California law: (1) that Defendants violate
27 the United States and California constitutions through their failure to keep prisoners safe
28 from violence from other prisoners in the Jail; (2) that Defendants violate the United States

1 and California constitutions through their failure to provide adequate medical care to
2 prisoners in the Jail; (3) that Defendants violate the United States and California
3 constitutions through their failure to provide adequate mental health care to prisoners in
4 the Jail; and (4) that Defendants violate federal and California disability rights laws by
5 failing to provide reasonable accommodations and discriminating against prisoners with
6 disabilities in the Jail.

7 4. Plaintiffs filed the First Amended Complaint on October 31, 2013. Dkt.
8 No. 16. Seven new plaintiffs joined the lawsuit in the First Amended Complaint.
9 Plaintiffs filed the Second Amended Complaint on April 11, 2014, adding ten additional
10 plaintiffs to the lawsuit. Dkt. No. 41.

11 **II. The Parties Agreed Upon Four Neutral Experts to Evaluate Plaintiffs’**
12 **Principal Allegations of Unconstitutional and Illegal Conditions at the Jail**

13 5. On July 29, 2013, before any of the Defendants had filed an answer or other
14 responsive pleading, the Court entered a stipulated order staying the action until January 1,
15 2014. *See* Dkt. No. 11. The purpose of the stay was to permit the parties time to
16 “(1) engage in a process of mutually agreeing to experts who will review and analyze the
17 conditions at the Monterey County Jail and issue reports, and (2) to engage in settlement
18 negotiations aimed at achieving mutually agreeable relief.” *See* Dkt. No. 9, at 1.

19 6. At the outset of the stay, the parties agreed on four neutral experts—one for
20 each of the primary claims in the Complaint—to assess the allegations of Plaintiffs’
21 Complaint.

22 7. The parties agreed to have Michael Hackett, a correctional security expert,
23 evaluate “whether Defendants adequately protect prisoners from injury and violence in the
24 Jail, including but not limited to, whether Defendants have adequate staffing to prevent
25 violence, actively manage the population to reduce crowding, properly train and supervise
26 the conduct of custody staff, maintain a physical structure that is safe and adequate for
27 monitoring prisoner safety, have clear and adequate policies and procedures with respect to
28 housing, classification, and use of force, have an adequate classification and housing

1 assignment system, and what additional steps, policies, and/or procedures, if any,
2 Defendants should implement to address issues of violence in the Jail.” Attached hereto as
3 **Exhibit A** is a true and correct copy of the contract between the County and Mr. Hackett,
4 describing the scope of his assignment at page 10. This contract was signed by
5 Defendants’ counsel and Mr. Hackett on August 23, 2013.

6 8. The parties agreed to have Dr. Michael Puisis, D.O., an expert in correctional
7 medical services, evaluate “the adequacy of the medical care being provided to inmates at
8 the Monterey County Jail,” including “whether Defendants provide medically necessary
9 treatments in a timely manner, provide a sufficient number of qualified health care
10 professionals, properly train and supervise the conduct of health care staff, provide
11 sufficient facilities for medical care, have created an adequate screening and intake process
12 to identify and treat medical care issues faced by newly arriving prisoners, have a reliable
13 and timely manner for alerting health care staff of prisoners’ medical needs, maintain
14 adequate, accurate, and complete medical care records, make referrals to outside specialists
15 and hospitals when higher levels of care are needed, and provide appropriate medical care
16 follow-up.” Attached hereto as **Exhibit B** is a true and correct copy of an August 21, 2013
17 email from Peter Bertling, counsel for Defendant CFMG, to Dr. Puisis, setting forth the
18 scope of Dr. Puisis’s work as a neutral expert.

19 9. The parties agreed to have Dr. Richard Hayward, Ph.D., an expert in
20 correctional mental health care services, evaluate “whether Defendants’ system for
21 providing mental health care in the jail is adequate, including, but not limited to, whether
22 Defendants provide medically necessary mental health care treatment in a timely manner,
23 provide a sufficient number of qualified mental health care professionals, properly train
24 and supervise the conduct of mental health care staff, provide sufficient facilities for
25 mental health care, have created an adequate screening and intake process to identify and
26 treat mental health care issues faced by newly-arriving prisoners, have a reliable and
27 timely manner for alerting mental health care staff of prisoners’ mental health needs,
28 maintain adequate, accurate, and complete mental health care records, provide appropriate

1 mental health care follow-up, administer psychotropic medications with appropriate
2 supervision and periodic evaluation, make referrals to outside specialists and hospitals
3 when higher levels of care are needed, and have clear and adequate policies and
4 procedures to identify, treat, track, and supervise prisoners at risk for suicide or harm to
5 themselves.” Attached hereto as **Exhibit C** is a true and correct copy of an August 21,
6 2013 email from Mr. Bertling to Dr. Hayward, describing Dr. Hayward’s assignment as a
7 neutral expert.

8 10. The parties agreed to appoint SZS Consulting, an organization with expertise
9 in evaluating compliance with disability rights laws, to determine “(1) whether the Jail
10 facilities comply with the standards for accessibility set forth in the ADA, 42 U.S.C.
11 § 12132, and its implementing regulations 29 C.F.R. § 1630, including the ADA
12 Accessibility Guidelines; (2) if not, what modifications are necessary to bring the facilities
13 into compliance with the standards; (3) whether Defendants have adequate policies and
14 procedures in place to identify and track prisoners with disabilities, provide an effective
15 grievance procedure to request disability accommodations, have adequate accommodations
16 for prisoners, have adequate policies and procedures to ensure prisoners with disabilities
17 are notified of emergencies, including alarms, fires, and earthquakes, and have exit
18 protocols, provide prisoners with disabilities with appropriate assistive devices, (giving
19 due consideration to inmate safety issues and the ability to use such devices as weapons),
20 have sufficient accessible housing to meet the needs of their population of prisoners with
21 disabilities, and offer programs and services that are reasonably available to prisoners with
22 disabilities; and (4) evaluate Defendants’ policies and procedures to ensure compliance
23 with the ADA, the Rehabilitation Act, and California Government Code sections 11135 *et*.
24 *seq.*” Attached hereto as **Exhibit D** is a true and correct copy of the fully executed
25 agreement between SZS Consulting and the County, describing the scope of service at
26 p. 10. This contract was signed by Defendants’ counsel on October 22, 2013, and by
27 Syroun Z. Sanossian on October 17, 2013.

28

1 11. During the late-summer and early-fall of 2013, the four neutral experts
2 conducted their reviews. Each of the experts conducted at least one site visit to the Jail.
3 The experts also evaluated a number of documents, including Defendants' policies and
4 procedures.

5 12. Attached hereto as **Exhibit E** are true and correct copies of the Monterey
6 County Sheriff's Office, Custody Operations Bureau, Policies and Procedures, Sections
7 1100-1123, as produced by counsel for the County to Mr. Hackett, the security expert, and
8 to me.

9 13. Attached hereto as **Exhibit F** is a true and correct copy of the Monterey
10 County Adult Detention Facility Inmate Information Booklet, as produced by counsel for
11 the County to Mr. Hackett and to me.

12 14. Attached hereto as **Exhibit G** is a true and correct copy of CFMG's Policy
13 and Procedure Manual, Monterey County, Adult Detention Facility, as produced by
14 counsel for CFMG to Dr. Puisis and to me.

15 15. Attached hereto as **Exhibit H** is CFMG's Monterey County Staffing Plan,
16 produced by counsel for CFMG to Dr. Puisis and to me.

17 **III. The Neutral Experts Found Serious and Systemic Constitutional, ADA, and**
18 **Rehabilitation Act Violations at the Jail**

19 16. In November 2013, the security, medical, and ADA experts completed their
20 reports and produced them to the parties.

21 17. Attached hereto as **Exhibit I** is a true and correct copy of the report produced
22 by Mr. Hackett, the security expert, dated November 30, 2013, entitled "Rule 26 Report."
23 I received the report attached to an email from Susan Blich, counsel for the County and
24 the Sheriff's Office, on December 3, 2013.

25 18. Attached hereto as **Exhibit J** is a true and correct copy of the report
26 produced by Dr. Puisis, the medical expert, dated November 29, 2013, entitled "Monterey
27 County Jail, Health Care Evaluation," which I received attached to an email from
28 Dr. Puisis on that same date.

1 19. Attached hereto as **Exhibit K** is a true and correct copy of the report
2 produced by SZS Consulting, the experts in access for people with disabilities, dated
3 November 30, 2013, entitled “ADA Assessment & Review: Monterey County Jail.” I
4 received an email from SZS Consulting on December 4, 2013, providing instructions for
5 accessing the report on SZS Consulting’s secure ftp site. A paralegal at my firm
6 downloaded the report from SZS Consulting’s website on December 5, 2013.

7 20. Dr. Hayward, the mental health care expert, has not yet produced a final
8 version of his report. On December 9, 2013, Dr. Hayward sent an email, a true and correct
9 copy of which is attached as **Exhibit L**, to me and other counsel in this case. The email
10 included as an attachment a draft of his report regarding mental health care services at the
11 Jail. Attached as **Exhibit M** is a true and correct copy of Dr. Hayward’s draft report,
12 entitled “DRAFT Review of Mental Health Services at the Monterey County Jail.” In his
13 email, Dr. Hayward wrote “[p]lease review [my draft report] and respond with any
14 requests for clarification or additional information. I will respond to your requests prior to
15 finalizing the report.”

16 21. On December 20, 2013, I sent a letter, a true and correct copy of which is
17 attached hereto as **Exhibit N**, to Dr. Hayward, requesting clarification and additional
18 information regarding his report.

19 22. On January 17, 2014, Dr. Hayward sent an email to the parties, attaching a
20 document, a true and correct copy of which is attached as **Exhibit O**, entitled “Initial
21 Response to Feedback to Draft of Review of Mental Health Services at the Monterey
22 County Jail.”

23 23. On January 21, 2014, Dr. Hayward participated in a telephone conference
24 call with counsel for the parties to discuss his draft report, my letter, and his response to
25 my letter. On February 11, 2014, I sent a letter to Dr. Hayward to follow up on the
26 January 21, 2014 conference call. Attached hereto as **Exhibit P** is a true and correct copy
27 of my letter. In the letter, I requested that Dr. Hayward confirm areas of the mental health
28 care services at the Jail that, during the conference call, he had represented he did not

1 review. I also requested that he provide some additional detail regarding the information
 2 upon which he relied to conduct his review of suicides at the Jail and the Jail's suicide
 3 prevention program. I have not received any response from Dr. Hayward to my February
 4 11, 2014 letter. Dr. Hayward has also not provided the parties with a final version of his
 5 report.

6 **IV. Defendants Have Repeatedly Admitted that the Jail Place Prisoners at Risk of**
 7 **Harm**

8 24. Over the past few years, employees of Defendants have made numerous
 9 public concessions of significant problems at the Jail, some of which are described below.

10 25. Attached hereto as **Exhibit Q** is a true and correct copy of an article by Ryan
 11 Masters that appeared in the Monterey County Weekly entitled "Hell Hole: The Monterey
 12 County Jail is an overcrowded pit of violence and despair. There is no plan to fix it," dated
 13 October 26, 2006, and available at [http://www.montereycountyweekly.com/news/
 14 local_news/the-monterey-county-jail-is-an-overcrowded-pit-of-violence/article_65f77467-
 15 346f-5bf7-9b9b-ca73b274d802.html](http://www.montereycountyweekly.com/news/local_news/the-monterey-county-jail-is-an-overcrowded-pit-of-violence/article_65f77467-346f-5bf7-9b9b-ca73b274d802.html). Therein, one of the "demoralized and fatigued
 16 deputies" interviewed by Mr. Masters describes the Jail as a "very, very hostile work
 17 environment" with "increasingly violent" prisoners and construction reminiscent of the
 18 "Winchester Mystery House."

19 26. Attached hereto as **Exhibit R** is a true and correct copy of a press release
 20 issued by Maia Carroll, the Communications Coordinator for the Monterey County
 21 Administrative Office, entitled "Sheriff to Hold Open House to Showcase Jail Housing
 22 Addition Project," and dated October 5, 2012. Ms. Carroll writes: "Overcrowding has
 23 been a serious problem at the jail for many years, creating a dangerous situation for
 24 inmates, jail staff and the community."

25 27. Attached hereto as **Exhibit S** is a true and correct copy of an article by
 26 Sunita Vijayan that appeared in The Salinas Californian entitled "Jail funds welcome,
 27 more money sought," dated October 12, 2012, and which an attorney from my office
 28 accessed by going to <http://www.thecalifornian.com/article/20121012/NEWS01/>

1 [310120027/Jail-funds-welcome-more-money-sought](#). Therein, Sheriff Miller discussed
2 “the overcrowded nature of the current [Jail] facility.”

3 28. Attached hereto as **Exhibit T** is a true and correct copy of an article by
4 Sunita Vijayan that appeared in The Salinas Californian entitled “Monterey County Sheriff
5 supports realignment bill,” dated February 5, 2013, and which a paralegal from my firm
6 downloaded at <http://www.thecalifornian.com/apps/pbcs.dll/article?AID=2013301300056>
7 on February 6, 2013. Monterey County Sheriff Scott Miller discusses therein the
8 “uncomfortable...ratio of inmates” to custody officials in the overcrowded Jail.

9 29. Attached hereto as **Exhibit U** is a true and correct copy of an article by Jim
10 Johnson that appeared in the Monterey County Herald entitled “Supervisors happy with
11 sheriff’s handling of jail,” and which is available at [http://www.montereyherald.com/state/
12 ci_23040185/county-supervisors-happy-sheriffs-handling-jail](http://www.montereyherald.com/state/ci_23040185/county-supervisors-happy-sheriffs-handling-jail). Therein, Sheriff Miller and
13 a number of Monterey County Supervisors express concern that the Jail is “not equipped to
14 deal with the myriad of general and mental health issues associated with longer-term
15 stays,” which have become more common after the passage of the State’s Realignment
16 legislation in 2011.

17 30. Attached hereto as **Exhibit V** is a true and correct copy an article by Julia
18 Reynolds that appeared in the Monterey County Herald entitled “Monterey County Public
19 Defender’s Office sues county, Sheriff’s Office over jail conditions,” dated May 24, 2013,
20 and which is available at [http://www.montereyherald.com/local/ci_23318410/monterey-
21 county-public-defenders-office-sues-county-sheriffs](http://www.montereyherald.com/local/ci_23318410/monterey-county-public-defenders-office-sues-county-sheriffs). Sheriff Miller is interviewed by
22 Ms. Reynolds about the “exacerbated” need for “in-custody medical” care and the
23 “overcrowded” conditions in the Jail.

24 31. Attached hereto as **Exhibit W** is a true and correct copy of an article by
25 Arvin Temkar that appeared in the Monterey County Weekly entitled “Monterey County
26 Closer to Jail Expansion, Amid Criticism,” dated October 24, 2013, and available at
27 [http://www.montereycountyweekly.com/news/local_news/monterey-county-closer-to-jail-
28 expansion-amid-criticism/article_c6456a92-3c35-11e3-bd74-001a4bcf6878.html](http://www.montereycountyweekly.com/news/local_news/monterey-county-closer-to-jail-expansion-amid-criticism/article_c6456a92-3c35-11e3-bd74-001a4bcf6878.html). Therein,

1 Sheriff Miller states: “My responsibility is to provide suitable, safe housing for inmates,
2 and right now we lack adequate housing by any standards.”

3 32. Attached hereto as **Exhibit X** is a true and correct copy of a guest
4 commentary by Sheriff Miller that appeared in the Monterey County Herald entitled
5 “Monterey sheriff outlines upgrades to jail,” posted to the website on January 29, 2014,
6 and which is available at [http://www.montereyherald.com/Opinion/ci_25023066/
7 Monterey-sheriff-outlines-upgrades-to-jail](http://www.montereyherald.com/Opinion/ci_25023066/Monterey-sheriff-outlines-upgrades-to-jail). In his commentary, Sheriff Miller discusses
8 “two recent deaths” in the context of the “chronically overcrowded” Jail, the “constant
9 concern” with “[d]eciding which inmates can be reasonably housed safely together,” and
10 “increased strain on our medical and mental health services.”

11 33. Attached hereto as **Exhibit Y** is a true and correct printout from a page from
12 the website for Monterey County entitled “Monterey County Jail Housing Addition Grant
13 ID # A-19-12,” which is available at [http://www.co.monterey.ca.us/jailexpansion/pdfs/
14 Jail_Housing_Addition_Fact_Sheet_d1.pdf](http://www.co.monterey.ca.us/jailexpansion/pdfs/Jail_Housing_Addition_Fact_Sheet_d1.pdf) and which an attorney from my office visited
15 most recently on April 18, 2014. This statement discusses the “overcrowding” that “puts
16 officers, staff, inmates and the public at risk.” The statement also mentions the “indirect
17 supervision,” “[i]neffective separation of potentially dangerous inmates,” and “labyrinth-
18 like manner of jail additions.”

19 34. Attached hereto as **Exhibit Z** are true and correct copies of 55 applications
20 made by the Sheriff’s Office to the Superior Court of California, County of Monterey,
21 pursuant to California Penal Code section 4024.1 between December 2006 and October
22 2012. These applications were produced to Plaintiff’s Counsel on November 1, 2013, in
23 response to Plaintiffs’ counsel’s October 2, 2013 request. I am informed and believe that
24 Defendants continue to regularly file Section 4024.1 applications with the Superior Court.
25 However, requests by Plaintiffs’ counsel to obtain more recent records have thus far been
26 unsuccessful.

27
28

1 **V. Plaintiffs' Counsel Have Obtained Additional Documents Supporting Class**
 2 **Certification**

3 35. Attached hereto as **Exhibit AA** is a true and correct copy of the average
 4 daily population in the Jail for 2010-2013. These charts were produced by the County on
 5 January 14, 2014, in response to a California Public Records Act request made by Gary
 6 Karnes, a member of the National Association for the Advancement of Colored People
 7 ("NAACP"). Mr. Karnes sent the County's response to the request to co-counsel at the
 8 ACLU of Northern California, who in turn provided me with the information and
 9 documents.

10 36. Attached hereto as **Exhibit BB** are true and correct copies of Monterey
 11 County Sheriff's Office Custody Operations Bureau Inmate Daily Count Sheets from
 12 January 1, 2014, to March 10, 2014, excluding February 22, 2014. The County produced
 13 these documents to Plaintiffs' counsel on March 20, 2014, as part of its response to a
 14 March 10, 2014 California Public Records Act request by Plaintiffs' counsel for "[a]ny and
 15 all writings reflecting the Average Daily Population for Monterey County Jail from
 16 January 1, 2012 to the present."

17 37. Attached hereto as **Exhibit CC** are true and correct copies of documents
 18 related to many of the deaths that have occurred at the Jail since 2010. The County
 19 produced these documents on March 20, 2014, in response to a March 10, 2014 California
 20 Public Records Act request by Plaintiffs' counsel for "[a]ny and all writings ... related to
 21 any deaths of prisoners while in the custody of Monterey County Jail since January 1, 2010
 22" I am informed and believe that David Stevens died on January 20, 2014. The County
 23 produced no documents related to his death.

24 38. Attached hereto as **Exhibit DD** are true and correct copies of documents
 25 related to suicides that have occurred at the Jail since 2010. The County produced these
 26 documents on March 20, 2014, in response to a March 10, 2014 California Public Records
 27 Act request by Plaintiffs' counsel for "[a]ny and all writings ... related to suicides
 28 committed in Monterey County Jail since January 1, 2010" In response to this request,

1 the County initially did not provide any information related to an incident that occurred on
2 or around May 4, 2013, whereby a prisoner attempted suicide and died a few days later at a
3 hospital in San Jose. Attached hereto as **Exhibit EE** are true and correct copies of
4 documents related to this suicide, which were produced by the County in response to
5 Plaintiffs' counsel's follow-up request dated April 4, 2014.

6 39. On February 9, 2013, the County produced a report, entitled "County of
7 Monterey, Office of the Sheriff, Needs Assessment," written by TRG Consulting and dated
8 June 19, 2007, in response to a November 30, 2012 California Public Records Act request
9 by Plaintiffs' counsel. A true and correct copy of this Report was attached as Exhibit A to
10 Plaintiffs' Second Amended Complaint. *See* Dkt. No. 41.

11 40. Attached hereto as **Exhibit FF** is a true and correct copy of minutes from a
12 June 10, 2007 meeting of the Monterey County Board of Supervisors, in which the Board
13 of Supervisors approved legislation to "accept the Jail Facility Needs Assessment report."
14 An attorney from my office last accessed a copy of this minute item at
15 [https://monterey.legistar.com/LegislationDetail.aspx?ID=1335131&GUID=0B8F9961-](https://monterey.legistar.com/LegislationDetail.aspx?ID=1335131&GUID=0B8F9961-FA46-4416-9253-2543FA6E573F&Options=ID|Text|&Search=%22Accept+the+Jail+Facility+Needs+Assessment+report%22)
16 [FA46-4416-9253-2543FA6E573F&Options=ID|Text|](https://monterey.legistar.com/LegislationDetail.aspx?ID=1335131&GUID=0B8F9961-FA46-4416-9253-2543FA6E573F&Options=ID|Text|&Search=%22Accept+the+Jail+Facility+Needs+Assessment+report%22)
17 [&Search=%22Accept+the+Jail+Facility+Needs+Assessment+report%22](https://monterey.legistar.com/LegislationDetail.aspx?ID=1335131&GUID=0B8F9961-FA46-4416-9253-2543FA6E573F&Options=ID|Text|&Search=%22Accept+the+Jail+Facility+Needs+Assessment+report%22) on April 20,
18 2014.

19 41. Plaintiffs' counsel obtained a copy of a more recent report written by TRG
20 Consulting, entitled "County of Monterey Office of the Sheriff, Jail Needs Assessment,"
21 and dated December 30, 2011. An attorney in my office last accessed this report at
22 <http://www.ebidboard.com/docs/1212/030036/NeedsAssessment-JailHousingAddition.pdf>
23 in May 2013. A true and correct copy of this Report was attached as Exhibit B to
24 Plaintiffs' Second Amended Complaint. *See* Dkt. No. 41.

25 42. Attached hereto as **Exhibit GG** is a true and correct copy of a page from the
26 website of Defendant CFMG, entitled "Current Contracts," which is available at
27 <http://cfmg.com/locations/current-contracts/> and indicates that CFMG has been providing
28

1 health care to prisoners at the Monterey County Jail since January 1984. An attorney from
2 my office last visited this web address on April 17, 2014.

3 43. Attached hereto as **Exhibit HH** is a true and correct copy of the contract
4 between the County and CFMG for CFMG to provide medical, mental health, and dental
5 care to prisoners at the Jail from April 1, 2012 to June 30, 2015, entitled “Agreement
6 Between County of Monterey and California Forensic Medical Group for Inmate
7 Healthcare Services for Adult and Juvenile Detention Facilities.” The County produced
8 the contract to Plaintiffs’ counsel on February 9, 2013, in response to a November 30,
9 2012 California Public Records Act request by Plaintiffs’ counsel.

10 44. Attached hereto as **Exhibit II** is a true and correct copy of a report written by
11 Matthew W. Brault for the United States Census Bureau, entitled “Americans with
12 Disabilities: 2010” and dated July 2012. This report is available at
13 <http://www.census.gov/prod/2012pubs/p70-131.pdf>.

14 **VI. Incident Reports Provided by the County Show Sustained and Unacceptable**
15 **Levels of Violence in the Jail Continuing to Date**

16 45. In September 2012, staff in the Sheriff’s Department produced 158
17 Crime/Incident Reports (“First Set of Incident Reports”) to James Egar, the Monterey
18 County Public Defender. These Incident Reports document incidents of inmate violence at
19 the Jail between January 16, 2011 and September 1, 2012. In turn, Mr. Egar provided the
20 complete First Set of Incident Reports to an attorney in my office on September 27, 2012.

21 46. A review of the First Set of Incident Reports show that the Jail’s regular
22 practice is to issue an Incident Report following violent interactions between inmates. As
23 evidenced by a comparison of the incident time and the report time, Jail staff generally
24 completed Incident Reports within hours, if not minutes, of the underlying incident. The
25 Incident Reports include the name of the person who prepared the report, the preparer’s
26 signature, and the signature of the preparer’s supervisor. The Incident Reports were
27 completed by Jail deputies who responded to the violent incidents and/or had knowledge
28 of the incident. All Incident Reports include Monterey County Sheriff’s Department

1 identifying marks, pre-printed form spaces for entering information about the incident, and
2 a synopsis and narrative of the incident details.

3 47. Each Incident Report in the First Set of Incident Reports is multiple pages in
4 length. Taken together, the 158 Incident Reports are so voluminous that they cannot be
5 conveniently examined by the Court. A paralegal of my law firm working under my
6 supervision, Doris Tseng, summarized the contents of the Incident Reports to make them
7 more accessible. Ms. Tseng's summary of the Incident Reports shows that there were
8 more than 150 separate incidents of violence between prisoners in the twenty-month span
9 between January 2011 and August 2012. This frequency averages to approximately one
10 violent incident every four days. In more than 100 of these incidents, at least one prisoner
11 required medical treatment. In at least 65 of these incidents, the violence between the
12 prisoners occurred outside of the observation of Jail staff. In at least 38 incidents, a
13 prisoner was attacked by perpetrators he or she was unable to identify. Violent incidents
14 occurred in almost every space where inmates were held, and were reported in 26 out of 29
15 housing units. Over 20 incidents involved women prisoners at the Jail.

16 48. Incident Reports for a more recent period were produced to Plaintiffs'
17 counsel in response to a Public Records Act request dated March 10, 2014 ("Second Set of
18 Incident Reports"). The Second Set of Incident Reports, which spans 2,826 pages and
19 covers the period September 1, 2012, to March 14, 2014, confirms that violent incidents
20 continue to plague the Jail. These are also so voluminous that they cannot be attached to
21 this declaration for the Court's review. A summary review of this Second Set of Incident
22 Reports by my associate, Van Swearingen, establishes that there were at least eleven
23 suicide attempts by Jail prisoners during this period. Moreover, in February 2014, the
24 most recent full month for which Incident Reports are available, there were at least
25 seventeen incidents of violence among Jail prisoners. This frequency averages to more
26 than one violent incident every other day. Attached hereto as **Exhibit JJ** are true and
27 correct copies of seventeen Incident Reports dated February 1, 2014, to February 28, 2014,
28 illustrating serious incidents of violence at the Jail, and eleven Incident Reports for the

1 period September 1, 2012, to March 14, 2014, describing suicide attempts during that time
 2 period. For example, on February 6, 2014, a prisoner approached a Jail officer in F-Pod
 3 asking to “get the [expletive] out of here” after he had been attacked by as many as ten
 4 other prisoners. *See id.* at Case No. 14-0807. Conditions also remain extremely dangerous
 5 in the women’s facility. For example, on February 26, 2014, a female prisoner in R-Pod
 6 (one of “two lockdown pods in the women’s section”) unlocked her own cell door, walked
 7 out of her cell, assaulted another female prisoner, then ran “back up to her room and
 8 lock[ed] herself back in her cell.” *See id.* at Case No. 01287-14.

9 **VII. Class Counsel Meet the Requirements of Rule 23(a)(4) and (g)(1) and (4)**

10 49. The ten attorneys from a private law firm, a government agency, and two
 11 non-profit organizations working on this case on behalf of the named plaintiffs and the
 12 putative class and subclass bring to bear an extraordinary amount of experience and
 13 expertise in prisoners’ rights and class action litigation.

14 **A. Rosen Bien Galvan & Grunfeld LLP**

15 50. I am a partner at Rosen Bien Galvan & Grunfeld LLP (“RBGG”). I
 16 graduated from Columbia Law School in 1984 as a Harlan Fiske Stone Scholar and
 17 Articles Editor of the *Columbia Law Review*, after which I clerked for the Honorable Jack
 18 B. Weinstein of the United States District Court for the Eastern District of New York. I
 19 was admitted to the California bar in 1985. I currently serve as one of the lead counsel in
 20 *Armstrong v. Brown* (N.D. Cal. No. C 94-2307 CW), a class action against the California
 21 Department of Corrections and Rehabilitation (“CDCR”) on behalf of more than 10,000
 22 CDCR prisoners and parolees with mobility, hearing, vision, learning, kidney and
 23 developmental disabilities, and *Ramirez et al. v. Ghilotti Bros., Inc.* (N.D. Cal. No. 3:12-
 24 cv-04590-CRB), a class action on behalf of workers denied pay for all hours worked and
 25 meal and rest breaks. I previously served as lead counsel in *L.H. v. Brown* (E.D. Cal. No.
 26 CIV. S-06-2042 LKK/GGH), a due process and American with Disabilities Act (“ADA”)
 27 class action on behalf of juvenile parolees, and recently served as local counsel for
 28 plaintiffs in the consumer class action *Ferrington v. McAfee, Inc.* (N.D. Cal. No. 5:10-cv-

1 01455-HRL). In 2013, I was named one of the Top 100 SuperLawyers in Northern
2 California and one of the *Daily Journal's* Top 100 Women Lawyers in California, and
3 received a CLAY Award.

4 51. My partner and co-lead counsel Michael Bien graduated from Northwestern
5 University School of Law in 1980. He then joined the law firm of Brobeck, Phleger &
6 Harrison, where he was elected to partnership in 1987. In December 1990, he formed the
7 law firm, Rosen, Bien & Asaro (which became Rosen, Bien, Galvan & Grunfeld in 2012),
8 where Mr. Bien is now managing partner. Mr. Bien has been lead or co-lead counsel in
9 eight major cases representing a prisoner or classes of prisoners in civil rights actions,
10 including *Brown v. Plata*, 131 S. Ct. 1910, 179 L. Ed. 2d 969 (2011). In each of these
11 cases, he has represented prisoners or classes of prisoners with special needs or
12 vulnerabilities: mental illness, mental retardation, mobility, vision, hearing, learning and
13 developmental disabilities, and victims of sexual assaults. Mr. Bien has received
14 numerous awards and instances of peer recognition for his litigation work, including but
15 not limited to, Martindale Hubble A-V rating, repeated selection for the Northern
16 California "Super Lawyer" list in Civil Rights, First Amendment, and Business Litigation,
17 and a 2010 CLAY Award.

18 52. From its formation in 1990, RBGG has been a nationally recognized leader
19 in civil rights, employment, consumer, and antitrust class action litigation. The firm has
20 specialized in large class action lawsuits seeking to improve conditions in correctional
21 systems. For example, the firm is currently lead or co-lead class counsel in the following
22 class actions: *Coleman v. Brown*, E.D. Cal. No. S 90-0520 LKK-JFM P, an Eighth
23 Amendment class action lawsuit against CDCR on behalf of a class of more than 25,000
24 prisoners with serious mental illness; *Hecker v. Brown*, E.D. Cal. No. 2:05-cv-2441 LKK
25 JFM P, an ADA and Rehabilitation Act putative class action lawsuit against CDCR on
26 behalf of all prisoners with mental illness; and *Armstrong*, N.D. Cal. No. C 94-2307 CW.

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1 53. RBGG has the capacity thoroughly and vigorously to prosecute the claims in
2 this case and properly represent the plaintiff class and intends to commit all necessary
3 resources to do so.

4 **B. American Civil Liberties Union Foundation of Northern California**

5 54. The American Civil Liberties Union Foundation of Northern California, Inc.
6 (“ACLU of Northern California”) is the largest regional affiliate of the American Civil
7 Liberties Union (“ACLU”) and is dedicated to the defense and promotion of the guarantees
8 of liberty and individual rights embodied in the federal and state constitutions. The ACLU
9 of Northern California has extensive expertise in class action and other impact litigation
10 and has participated in numerous federal cases involving constitutional and statutory
11 challenges to conditions and restrictions affecting incarcerated persons.

12 55. Alan L. Schlosser has been an attorney with the ACLU of Northern
13 California since 1976 and the Legal Director since 2000. As an ACLU attorney,
14 Mr. Schlosser has litigated numerous civil rights cases in federal and state courts, many of
15 them on behalf of plaintiff classes. Among those cases are the following: *Kincaid v. City*
16 *of Fresno*, 244 F.R.D. 597 (E.D. Cal. 2007) (class action successfully challenging City’s
17 policy of seizing and immediately destroying homeless people’s property); *Rodriguez v.*
18 *Cal. Highway Patrol*, 89 F. Supp. 2d 1131 (N.D. Cal 2000) (class action challenge to racial
19 profiling in making vehicle stops); *Williams v. State of California*, No. 312236 (Cal. Super.
20 Ct., San Francisco filed May 17, 2000) (statewide class action on behalf of all students in
21 California public schools for failure to provide the basic educational necessities guaranteed
22 by the California Constitution); *Lazenby v. City of Vallejo*, No. 97-01750 (E.D. Cal. filed
23 Sept. 17, 1997) (class action challenge to law enforcement searches of homes of welfare
24 recipients without individualized suspicion); *Joyce v. San Francisco*, 486 F. Supp. 843
25 (N.D. Cal. 1994) (class action challenge to city program that targeted homeless for
26 violations of camping and sleeping ordinances); *Brown v. Jordan*, No. 92-3624 (N.D. Cal.
27 filed Sept. 3, 1992) (class action for damages on behalf of 396 persons arrested during a
28 protest of the Rodney King verdicts); *Int’l Molders Union v. U.S. Immigration and*

1 *Naturalization Serv.*, 643 F. Supp. 844 (N.D. Cal. 1986), *aff'd in part by* 799 F.2d 547 (9th
 2 Cir. 1986) (class action challenge to INS practices of detaining, questioning, and arresting
 3 workers during factory raids).

4 **C. American Civil Liberties Union – National Prison Project**

5 56. Formed as a project of the American Civil Liberties Union in 1972, the
 6 ACLU-NPP has decades of experience in complex prisoner rights class action suits and
 7 has represented prisoners in five cases before the U.S. Supreme Court. Indeed, Courts
 8 have repeatedly recognized the special expertise of NPP staff. *See Plyler v. Evatt*, 902
 9 F.2d 273, 278 (4th Cir. 1990); *Palmigiano v. Garrahy*, 707 F.2d 636, 637 (1st Cir. 1983);
 10 *Knop v. Johnson*, 712 F. Supp. 571, 583 (W.D. Mich. 1989); *Lightfoot v. Walker*, 619 F.
 11 Supp. 1481, 1487 (S.D. Ill. 1985), *aff'd*, 826 F.2d 516, 522 (7th Cir. 1987); *Ramos v.*
 12 *Lamm*, 539 F. Supp. 730, 750 (D. Colo. 1982), *remanded*, 713 F.2d 546 (10th Cir. 1983).

13 57. Eric Balaban received his J.D. from the University of Virginia School of
 14 Law in 1993. He has been an attorney with the ACLU-NPP since 1994, and senior staff
 15 counsel since 2005. Mr. Balaban has represented over 75,000 prisoners nationwide in
 16 federal class action lawsuits challenging unconstitutional and unlawful conditions of
 17 confinement. Among other cases, Mr. Balaban was lead counsel or co-lead counsel in
 18 *Graves v. Arpaio*, No. 77-479 (D. Ariz) (class action challenging inadequate health care
 19 and hazardous conditions on behalf of pretrial detainees); *Carty v. DeJongh*, 144 F. Supp.
 20 2d 395 (D.V.I. 2001) (class action challenging conditions for prisoners held at two U.S.
 21 Virgin Islands jails); and *Carruthers v. Lamberti*, No. 76-6086 (S.D. Fla.) (challenge to
 22 conditions at the Broward County, Fla. Jail). He also coordinates the ACLU-NPP's
 23 national advocacy campaigns to combat debtor's prisons and to reduce jail populations.
 24 Mr. Balaban has published numerous articles on prisoners' rights, including with regard to
 25 medical and mental health care, and prison policy, and has had many speaking
 26 engagements on the same topics.

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D. Monterey County Public Defender

58. James Egar, Public Defender for the County of Monterey, has set forth his and his office’s qualifications to serve as class counsel in his separate declaration in support of Plaintiffs’ Motion for Class Certification.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct, and that this declaration is executed at San Francisco, California this 29th day of April, 2014.

/s/ Gay Crosthwait Grunfeld

Gay Crosthwait Grunfeld