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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF CAIN
 AGUILAR IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

CX

1 I, Cain Aguilar, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail (the "Jail"). I was most
6 recently booked into the Jail on July 6, 2013. I have not yet been convicted and am
7 awaiting trial on the charges brought against me.

8 3. From my experience the Jail is a very unsafe place for prisoners. On
9 February 10, 2013 I was attacked by another prisoner in the day room ^{isolation C4} [REDACTED]. I
10 temporarily lost consciousness, sustained a fractured right cheek bone and other facial
11 injuries and suffered slurred speech and loss of vision. Since July 2013 I have also seen at
12 least five fights between prisoners in B-Dorm where I am housed. I am always scared that
13 I will be attacked again by another prisoner.

14 4. The incident on February 10 occurred after the deputies moved about 65
15 inmates into the isolation day room in order to search our pod in D-Dorm. I believe it was
16 a random search. We were told to take our cups and spoons with us. The isolation day
17 room is too small to hold all of the inmates in the pod comfortably and all of us were
18 crowded in shoulder to shoulder. The door was closed and there were no guards in the day
19 room with the inmates, just guards in the tower. I believe we had been held in the isolation
20 day room for about half an hour before the fight started in which I was attacked.

21 5. When I was attacked by the other prisoner in February 2013 and sustained a
22 fractured cheekbone, other facial injuries, slurred speech and loss of vision, I did not
23 receive proper medical attention from the Jail. The attack occurred at approximately 11:00
24 P.M. at night on February 10, 2013. The Inmate Injury Report, a true and correct copy of
25 which is attached as **Exhibit A** described that I had a split and swollen lip, talked without
26 opening my mouth all the way and complained of pain to my right jaw. The Inmate Injury
27 reports shows that at approximately 11:45 P.M. that night I was seen by medical staff who
28 cleaned my lip, gave me an ice pack, noted that I reported my pain to be a 10 out of 10 and

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1 gave me Ibuprofen 800 mg. The report also notes that the nurse who administered the
2 treatment contacted P.A. Terri who stated that I should return for MD sick call on February
3 11, 2013. A page of my Doctors Orders, a true and correct copy of which is attached as
4 **Exhibit B** also shows that at 11:45 P.M. one of the nurses on medical staff prescribed me
5 Ibuprofen 800 mg to be taken twice that day, ordered that I receive an ice pack every shift
6 for 24 hours and a neuro check every shift for 24 hours and set me up for sick call on
7 February 11, 2013 to follow-up on my injuries and jaw pain. As I recall the nurse would
8 not give me her name at the time of the examination.

9 6. I was taken to a single booking cell after the incident and then transferred to
10 H-Pod on or around 6:25 A.M. that morning of February 11, 2013. Attached as **Exhibit C**
11 is a true and correct copy of a Lockdown/Inmate Movement Form showing my transfer to
12 a booking cell and then to H-Pod. At 8:00 A.M. that morning and 9:00 P.M. that night I
13 received ice packs and at 6 P.M. that evening I received Ibuprofen. Attached as **Exhibit D**
14 is a true and correct copy of a Treatment and Vital Sign Flow Sheet showing that I
15 received the ice packs. Attached as **Exhibit E** is a true and correct copy of a page of my
16 Medication Administration Records showing that I received Ibuprofen at 18:00. Despite
17 having been told that I would see medical staff I was not seen or examined by the P.A. or
18 doctor all during that day. I did not receive any further care aside from the ice packs and
19 Ibuprofen. I told the nurses who came to give me Ibuprofen and ice packs that there was
20 something seriously wrong with my face and that I needed to see the doctor. I told them
21 that I had throbbing pain in my face and head, couldn't open my mouth, couldn't eat, had
22 blurred vision and had been knocked out. The staff told me that the pain was just due to
23 my being hit, however, I'd been hit before and this pain was clearly different, which I told
24 them. I also informed the deputies that came to deliver food about all of these issues and
25 about my need to see a doctor. The only response I got was that I should submit a sick
26 slip. I put in a sick slip to the nurse who came to give me an ice pack. However, despite
27 submitting a sick slip I wasn't seen by medical staff. During that day I experienced a
28 throbbing and stabbing pain in my face and head that was 10 out of 10 on the pain scale. I

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1 couldn't eat, I couldn't open my mouth, I couldn't think straight and I had blurred vision.
2 It was probably the most pain I have ever felt. Despite my sick slip and all of my requests
3 to the nurses and custodial staff I did not see a P.A. or doctor all that day.

4 7. I became so frustrated and scared by the lack of adequate care that I had my
5 family bail me out so that I could go to the Emergency Department at Natividad Medical
6 Center ("Natividad") on February 12, 2013 on my own. I bailed out on the morning of
7 February 12, 2013 and went straight to Natividad. At Natividad I got a CT scan, which
8 showed a right zygomatic arch (cheekbone) fracture along with other injuries in my face
9 where I had been hit. Attached as **Exhibit F** is a true and correct copy of the CT scan
10 assessment from my Jail medical file showing the right zygomatic arch fracture and other
11 injuries. Attached as **Exhibit G** is a true and correct copy of my Emergency Department
12 Chart from Natividad noting that I was referred to the ear, nose and throat doctor.

13 8. The next day, February 13, 2013, I went to see an ear, nose and throat
14 specialist, Dr. German, who assessed that I had a fracture of the zygoma and ordered that I
15 be scheduled for surgery for a reduction of the fracture. Dr. German also noted that the
16 surgery needed to be done within 2 weeks of the injury before the bones set. Attached as
17 **Exhibit H** is a true and correct copy of a record of my February 13, 2013 appointment
18 with Dr. German that my attorneys received from the Salinas Central Coast Head & Neck
19 Surgeons, which notes his assessment and plan. Attached as **Exhibit I** is a true and correct
20 copy of an examination report that my attorneys received from Salinas Central Coast Head
21 & Neck Surgeons showing that I attended a pre-op appointment on February 15, 2013 and
22 that I was scheduled to "Repair Right Zygoma Fracture 02/2013-NMC." Dr. German also
23 prescribed me Vicodin to help me manage the pain until the surgery.

24 9. The day I was supposed to have surgery to fix the fracture of my face,
25 February 20, 2013, I was rearrested and booked into jail. I told staff at the Jail that I had
26 surgery scheduled, but they told me that they weren't going to let me out for the surgery
27 because a commander had to approve the request and that would take at least a few days.
28 In addition, despite the fact that I informed medical staff, both verbally and through sick

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1 slips, that I was in a lot of pain, needed my prescribed medication, had blurred vision and
2 needed to see the doctor, I did not receive any treatment. The pain was very bad during
3 this time and I experienced a throbbing pain pinpointed at the location of the fracture,
4 which was still at an 8 out of 10 on the pain scale. I couldn't eat because of the pain and
5 because I couldn't open my mouth all the way and it was very difficult for me to sleep. I
6 told staff I needed a liquid diet, but didn't get one until the last day I was there.

7 10. The charges against me ended up being dropped and I was released from the
8 Jail on February 22, 2013. In total I had been without my pain medication for three days
9 while inside. When I was released I rescheduled my surgery and ended up being
10 rescheduled for a date near the end of March 2013. I also was prescribed more Vicodin on
11 the outside to help manage my pain prior to surgery.

12 11. I ended up back in custody on March 5, 2013 prior to the rescheduled
13 surgery. Although I again informed medical staff of my pain and my Vicodin prescription
14 on the outside, I was not given any of that medication to help manage my pain. Medical
15 staff indicated that they would have to verify the prescription with my outside doctor, but I
16 still never got the medication. I was still experiencing pain high on the pain scale with
17 throbbing pain, blurred vision and headaches, and I still couldn't open my mouth all the
18 way to eat. I ended up getting out of the Jail around March 17, 2013 prior to the time I
19 was supposed to have the surgery. Once I was out I had issues with my health insurance
20 and did not end up getting the surgery as scheduled.

21 12. I was then back in custody on July 6, 2013 and have been in custody ever
22 since. I did not end up getting surgery to fix my fractured cheekbone until August 20,
23 2013, six months after the injury occurred. During the six months I continued to
24 experience a great deal of pain, could only eat very soft foods and liquids, had blurred
25 vision and headaches, and for a while slurred when I talked.

26 13. I was in custody at the Jail at the time of the surgery. After the surgery I did
27 not receive the proper soft and liquid diet for my recovery and went without food for
28 approximately 2 weeks. The doctor's office where I got the surgery said I was to be fed a

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1 soft diet. Attached as **Exhibit J** are true and correct copies of the post-operative
2 instructions from Salinas Central Coast Head & Neck Surgeons stating “soft foods only”
3 and the Post-Op Progress/Discharge Notes noting “soft” under the section for diet
4 comments. The morning I returned from surgery medical staff ordered that I should have a
5 “clear liquids today then mechanical soft diet” for the next 4 weeks. Attached as
6 **Exhibit K** is a true and correct copy of a page of Doctors Orders ordering clear liquids for
7 August 20, 2013 and then a mechanical soft diet for the next four weeks. Dr. Eliud Garcia,
8 a doctor at the Jail, put in a Medical Diet Order for me for a “mechanical soft diet,” which
9 was to start on August 21, 2013 and go to September 19, 2013. Attached as **Exhibit L** is a
10 true and correct copy of the Medical Diet Order signed by Dr. Garcia on August 20, 2013
11 requesting a “mechanical soft diet” to start on August 21, 2013.

12 14. Despite the orders from Salinas Central Coast Head & Neck Surgeons and
13 from Dr. Garcia that I was to receive liquids and then a soft diet, for the first two and a half
14 days after I got my surgery I was only given broth. Attached as **Exhibit M** is a true and
15 correct copy of the grievance I filed on August 22, 2013 notifying staff that I had only
16 been provided with broth for the over 48 hours since I had returned to the Jail from my
17 surgery. It took a few more days after filing the grievance to get what the Jail deemed a
18 “soft diet.” However, the food I was provided as a “soft diet” was not actually soft. As far
19 as I could tell from looking at other prisoners’ food, I was being provided with the same
20 meals as prisoners who weren’t receiving any type of special diet, with the only difference
21 being that the meal did not contain cake. Because the food was not soft enough it was too
22 painful for me to eat. My family even called the Jail to let them know I had not been given
23 food. Attached as **Exhibit N** is a true and correct copy of August 25, 2013 Progress Notes
24 indicating that my family had called to let the Jail know I had not been given food.
25 Attached as **Exhibit O** are true and correct copies of a page of August 26, 2013 Progress
26 Notes in which Dr. Garcia notes that I reported that the soft diet seemed to be just the
27 regular diet and that it was too hard for me to chew and in which he ordered me onto a full
28 liquid diet and a Medical Diet Order from Dr. Garcia indicating that I am to have a liquid

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1 diet beginning August 26, 2013. In addition, August 26, 2013 Doctors Orders with a time
2 notation of 12:10 P.M. state I was to start a full liquid diet for 3 weeks. See **Exhibit K**.

3 15. Despite the order from the doctor, by the next day August 27, 2013 at 8:40
4 A.M. I still had not received my diet change. Attached as **Exhibit P** is a true and correct
5 copy of a page of August 27, 2013 Progress Notes that indicates that I was not yet
6 receiving my newly ordered liquid diet and that shows that medical staff told me that I
7 needed to follow-up myself if I continued to receive a regular diet. Even after this, it still
8 took a number of days to get my correct liquid diet. I notified medical staff about the
9 continuing problem, but they said they had given the order to the kitchen and said that if
10 the kitchen didn't give it to me it wasn't their problem. I also notified the deputies about
11 the problem, but they in turn told me that it was an issue between medical staff and the
12 kitchen and that it was not their problem. It seemed like all of the parties were just passing
13 the problem off to one another. All in all I ended up going nearly two weeks before I
14 finally got food I could eat. It put my body through extra stress when I was deprived of
15 food for this long, especially right after having had surgery. I lost weight, constantly felt
16 dizzy, couldn't concentrate and could often do nothing more than lay on my bed.

17 16. After the surgery, I was in an intense amount of pain and the Jail did not
18 provide me with the proper care to manage the pain. My outside doctor ordered that I
19 receive Norco and medical staff at the Jail ordered that I receive Norco for 10 days. See
20 **Exhibits J and K**. Specifically, Jail medical staff ordered that I receive Norco for 10 days,
21 3 times a day for the first 5 days and 2 times a day for the remaining 5 days. See **Exhibit**
22 **K**. I began receiving Norco, which helped bring the pain down to a 2 out of 10 and helped
23 me sleep, however, I only received it for 5 days before it stopped, even though I was
24 supposed to receive it for a period of 10 days. I had to put in a sick slip to get the problem
25 addressed. Attached as **Exhibit Q** is a true and correct copy of a sick slip in my Jail
26 medical file dated August 26, 2013 in which I requested medication because my face still
27 hurt. In an August 26, 2013 Progress Note, Dr. Garcia acknowledged that the medication
28 had stopped and ordered that I be put back on Norco twice a day for the next 5 days. See

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1 **Exhibit O.** During the time I was without the pain medication my pain spiked back up and
2 it was back to nearly the same amount of pain as right after the injury had occurred. I had
3 stitches on the inside of my gum line and on the outside of my face, which gave me sharp
4 stabs of pain in addition to the throbbing pain where the fracture had been. I couldn't sleep
5 and couldn't do much of anything except lay in my bed. It did not seem right that I was
6 forced to put in a sick slip and re-see the doctor in order to get medication that had already
7 been prescribed to me.

8 17. I still have pain in my face from the cheekbone injury. It is usually 4 out of
9 10 on the pain scale, but on a bad day it gets up to 9 out of 10. It gets up to the 9 out of 10
10 level about twice a week. I also get headaches about three times a week, which I didn't
11 used to get before the attack and injuries. My headaches can last anywhere from one to
12 two hours to the whole day and the pain from the headaches ranges from about 5 to 9 on
13 the pain scale. The pain can be debilitating when it is bad. It can make it impossible to get
14 to the yard and difficult to eat. Despite the pain I am not receiving any pain medication.

15 18. I still have blurred vision in my right eye, which I believe to be a result of the
16 attack and injuries I sustained in February 2013. I have difficulty recognizing people's
17 faces and making out words on signs that are only short distances away. I also believe my
18 frequent headaches may be related to my vision issues. Back in February 2013
19 immediately following the injury, Dr. German, the ear, nose, throat doctor who saw me for
20 my facial fracture, recommended that I see an "eye doctor for visual changes to assess for
21 possibility of damage to the eye." See **Exhibit H**. I have also voiced the concerns about
22 my vision to Jail medical staff and requested to see a specialist, but that request has not
23 been granted. For example, attached as **Exhibit R** is a true and correct copy of Dr.
24 Garcia's Progress Notes dated November 1, 2013 describing that I complained of blurred
25 vision and that I was told I should get my wife to bring in my glasses. However, my wife
26 brought in my glasses and it has not improved the vision issues in my right eye. I ended up
27 filing a grievance, a true and correct copy of which is attached as **Exhibit S**, in mid-March
28 2014 requesting to see a specialist about my blurred vision. I still have not seen anyone. I

1 am very concerned that my vision problem will get worse and I really want to find out
2 what is wrong and get it fixed. I am a carpenter by trade and will not be able to do my job
3 if this problem gets worse.

4 19. About two months after the surgery I was elbowed in the right side of my
5 face when I was playing basketball in the yard, which caused me a lot of pain and made
6 me fear that I had re-injured the same cheekbone that had been fractured. The pain was
7 very bad, about 9 out of 10 on the scale. The pain was almost as bad as right after the
8 injury occurred and worse than the pain I experienced right after the surgery. I also had a
9 great deal of swelling on my face. I saw medical staff the next day, but I did not receive
10 the proper medical attention for my pain. I also told staff that my vision was blurry and
11 getting worse, but staff did not give me a vision test. I filed a grievance to try to get it
12 addressed. Attached as **Exhibit T** is a true and correct copy of my grievance dated
13 October 24, 2013. I was put on Ibuprofen, but it wasn't strong enough so I filed a sick slip
14 on October 25, 2013 requesting to see the doctor, because the medication was not doing
15 anything for my pain. Dr. Garcia only put me on Ibuprofen and Tylenol, which wasn't
16 enough and I had to file an additional sick slip on October 29, 2013 about the pain in my
17 face. Attached as **Exhibit U** are true and correct copies of my sick slips about my pain and
18 blurred vision from October 25 and 29, 2013. I then saw Dr. Garcia again November 1,
19 2013 and he ordered an x-ray for me and changed my medication from Ibuprofen to
20 Naprosyn and asked me some questions about my vision. He also told me to get my wife
21 to bring my eyeglasses to the Jail. See **Exhibit R**. The medication was still not strong
22 enough to manage my pain and I had to file another sick slip. Attached as **Exhibit V** is a
23 true and correct copy of a November 15, 2013 sick slip explaining that my medication was
24 not working and that I needed to see Dr. Garcia. Despite putting in the sick slip, the issue
25 was not addressed and I did not receive proper pain medication.

26 20. Beginning in September 2013 I began getting painful rashes and boils on the
27 back of my head, neck and on my arms. It hurt to lie down and I experienced itching and
28 burning. I believe the rashes and boils may have been caused by a staph infection. I filed

1 numerous sick slips over the next few months to try to get the issue addressed. Attached as
2 **Exhibit W** are true and correct copies of sick slips about my painful boils and rashes dated
3 September 21, November 16 and December 23 of 2013. At one point I was given
4 hydrocortisone, but it did not work on the boils and rashes. Attached as **Exhibit X** are true
5 and correct copies of sick slips notifying medical staff that the hydrocortisone was not
6 working and that I still had the boils. Finally in the beginning of 2014 I was seen by Dr.
7 Garcia and was given antibiotics. I took the antibiotics for a few weeks, which improved
8 the boils on the back of my head. However, two to three weeks after I stopped taking the
9 antibiotics the boils returned and I was put back on the antibiotics. The same cycle has
10 occurred twice. As of the end of March 201^{4 CA} I was back on the antibiotics.

11 21. I have had many problems using the grievance process at the Jail. In my
12 recent time in the Jail I have filed five grievances, but only received responses to two of
13 them. I filed two grievances prior to getting my cheekbone surgery. The first was to get
14 pain medication and proper diet after I was booked into the Jail in July of 2013. The
15 second was about the fact that it was taking so long for me to be able to see the ear, nose
16 and throat doctor after I was booked in in July. The third was the grievance I filed two
17 days after surgery in order to get a proper diet and pain medication. The fourth I filed
18 about 5 days after surgery about my pain medication stopping abruptly and about not
19 receiving the proper diet. The fifth I filed after I was hit in the face when I was playing
20 basketball in October of 2013 and did not receive proper medical care. I never received
21 responses to my first two grievances. The third grievance about pain medication and diet
22 change that I filed after my surgery, wasn't was returned to me for eight days and then
23 only included a response stating that staff had sent a diet change to the kitchen. *See*
24 **Exhibit M**. However, I still had not actually received my special diet from the kitchen. I
25 also did not receive a formal response to the fourth grievance. I recall that a deputy
26 showed me a copy of the grievance with a response that showed the problem had been
27 addressed and that I had been given proper diet and pain medication, but he refused to give
28 me a copy. I received a response to my fifth grievance about inadequate assistance for

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1 pain management and my vision problems, but the response did not address the issue and
2 simply said that I had had my medication changed and that I was to have my wife bring in
3 my glasses. See **Exhibit T**. In fact my medication was changed to something that was still
4 not effective for me to manage the pain and my wife did bring in my glasses, but it did not
5 help with my vision issues.

6 22. I also have had problems with the sick call process. There have been times
7 when my sick call slips have never been answered and others where it has taken multiple
8 days to get seen by medical staff.

9 23. I am currently suffering from depression and anxiety. I am constantly on
10 edge and feel sad, like something is wrong. When I feel depressed I withdraw and don't
11 talk to anyone and can't do anything except lay on bed. I also have trouble sleeping.
12 Attached as **Exhibit Y** is a true and correct copy of September 11, 2013 Progress Notes, in
13 which Dr. Fithian noted my issues with depression, anxiety and sleeping issues. In the past
14 I was prescribed Elavil when I was in the Jail, but I have not received medication this time.
15 I was sent to see the therapist Kim by Dr. Fithian. I saw her once, but it was in the
16 presence of a deputy and Kim told me to put in a sick call slip in order for us to be able to
17 talk alone. I put in the sick call slip, but it was never answered. [REDACTED] J

18 [REDACTED] J

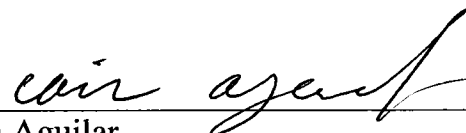
19 [REDACTED] J

20 24. In addition, my medical file appears to be incomplete. My attorneys
21 requested my entire medical file. I reviewed all of the documents that were provided to
22 my attorneys. My file does not have copies of three grievances I have filed, nor does it
23 have all of my sick slips. For example, I recall putting in sick slips about pain and
24 requesting to see the doctor both after I was attacked and injured by another inmate in
25 February 2013, and after I received surgery in August 2013 when I was not getting a
26 proper diet, but they do not appear to be in my file.

27 25. I agreed to be a named plaintiff in this case because I would like to represent
28 other prisoners who have had problems similar to what I have experienced while in

1 Monterey County Jail. I want to help improve the medical and mental health care and the
2 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
3 cooperating fully with my counsel and am responding to all requests for information to the
4 best of my ability and recollection, and will continue to do so in the future. My lawyers
5 keep me updated on the progress of this case, and I will review all materials provided to
6 me and provide my input to the best of my ability. When I have questions about the case, I
7 will ask the attorneys for help to understand everything to the best of my ability.

8 I declare under penalty of perjury under the laws of the United States and the State
9 of California that the foregoing is true and correct, and that this declaration is executed at
10 Salinas, California this 7 day of April, 2014.

11
12 
13 Cain Aguilar

Exhibits A - Y

Filed Under Seal

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*Admitted *Pro Hac Vice*

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

28 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF HA (TRAN)
 COBB IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

HC

1 I, Ha (Tran) Cobb, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I was arrested and booked into Monterey County Jail (the "Jail") on April 4,
6 2013. With the exceptions of a few times that I was admitted to the hospital, I have been
7 in the Jail since that date. I am now serving a term in the Jail after having been convicted.

8 3. I have been incarcerated in the Jail numerous times since 1994.

9 4. During my most recent term in the Jail, my experience has been dominated
10 by my diagnosis with, and treatment and surgeries for, severe kidney stones.

11 5. Within a few days of being booked into the Jail, I began complaining to
12 medical staff about the strange color and smell of my urine. My urine was tested on three
13 occasions over the following month without any diagnosis.

14 6. Around mid-May, I started developing extremely bad pain on my lower right
15 side. The pain was constant and serious and was sometimes so bad that it would wake me
16 up. I had trouble sleeping, sometimes had fevers, and began losing weight because I
17 sometimes couldn't eat. I first reported this pain to medical staff around May 13, 2013.

18 7. On June 1, 2013, the pain became absolutely debilitating. The pain was 10
19 out of a 10 point scale. I was taken to the emergency room at Natividad Medical Center
20 ("NMC") where I was diagnosed with a 6 cm staghorn calculus (commonly referred to as a
21 kidney stone) as well as numerous other kidney stones in my right kidney.

22 8. It is my understanding that kidney stones are one of the most painful
23 conditions from which a person can suffer. That has certainly been my experience.
24 Throughout the more than 10 months since I first started to experience significant
25 symptoms, the pain has been overwhelming at times. I have lost a lot of weight because I
26 was unable to eat at times. It was painful for me to urinate to the point where I did not
27 want to drink anything.
28

1 9. One of the worst parts about having kidney stones while in the Jail has been
2 my inability to control my access to pain medications, even ibuprofen or Tylenol. The Jail
3 completely controls pain medications. During the past 10 months and despite my frequent
4 requests, there have been many periods of time during which the Jail did not provide me
5 with adequate medication to control my pain. When my prescriptions would run out, the
6 Jail would not renew them automatically. I would have to see a doctor or nurse again to
7 get it renewed, which would take a few days. I would be without any pain medication for
8 that time.

9 10. For example, immediately after being diagnosed with kidney stones on June
10 1, 2013, I received Norco and Motrin for about seven days. Together, these medications
11 generally helped to keep my pain at a tolerable level, though I still experienced moments
12 of extreme pain. Between June 1 and 6, 2013, I filed five sick call slips to see medical
13 staff about increasing and maintaining my pain medication. By June 6, 2013, the pain I
14 was experiencing had not changed from the level of pain that sent me to the emergency
15 room on June 1; moreover, I had not received any treatment and had not been seen by a
16 specialist yet. Nonetheless, on June 6, 2013, the Jail stopped providing me with Norco,
17 and I was only provided with ibuprofen from June 6 until June 19. Attached as **Exhibit A**
18 are true and correct copies of Medication Administration Records from my Jail medical
19 file from this time period. The ibuprofen was completely inadequate to control my pain.
20 On June 7, 2013, I filed a grievance, a true and correct copy of which is attached as
21 **Exhibit B**, explaining that I had been diagnosed with kidney stones, had been prescribed
22 Norco for my pain, had not received any Norco since 5 AM on June 6, 2013, and, as a
23 result, was experiencing the worst pain in my life. The response to the grievance, dated
24 June 14, 2013, admitted that I wasn't receiving Norco and stated simply that "[y]our
25 medication has run out." I was not examined by medical staff with authority to prescribe
26 pain medication until June 14, 2013. Attached as **Exhibit C** is a true and correct copy of
27 progress notes from my medical file from the relevant time period. I was not again
28 prescribed Norco until I had an appointment with an urologist on June 19, 2013; the



1 urologist recommended that I be provided with Norco for 10 days. Attached as **Exhibit D**
2 is a true and correct copy of a CFMG Medical Referral Form dated June 19, 2013,
3 completed by the urologist, recommending a Norco prescription. During the period of
4 time that I was without strong pain medication, I had trouble moving. I sometimes
5 couldn't get out of bed. Other prisoners had to pull me out of bed to use the bathroom
6 because I couldn't get up on my own. I asked nurses orally and in sick call slips to
7 receive Norco, but was not seen by anyone who addressed my issue.

8 11. According to my Medical Administration Records from my Jail medical file,
9 a true and correct copy of which is attached as **Exhibit E**, I was also without any Norco a
10 few other times. When this occurred, I was in excruciating pain and had a fever. Only
11 once I received Norco or ibuprofen would my fever break and my pain get under control.

12 12. I've also had a lot of trouble using the sick call process at the Jail to receive
13 medical attention. For example, in the days following my June 1, 2013 diagnosis of
14 kidney stones, I submitted four sick call slips about my severe pain. True and correct
15 copies of the sick call slips I submitted between June 1 and 6, 2013, are attached as
16 **Exhibit F**. Despite the seriousness of my condition and my legitimate claims of pain, I
17 was not seen by any medical staff at the Jail to address my complaints of pain until June
18 14, 2013, and then only after I filed the grievance on June 7, 2013.

19 13. The Jail's delays in diagnosing my kidney stones and in getting me to a
20 specialist nearly had very serious consequences. When I was diagnosed with kidney
21 stones on June 1, 2013, the doctors from the emergency room ordered that I have an
22 appointment with an urologist "immediate[ly]." Attached as **Exhibit G** is a true and
23 correct copy of a June 1, 2013 progress note in my medical file in which medical staff at
24 the Jail wrote that the doctor at the emergency room had ordered that I have an "immediate
25 appt." with an urologist. Attached as **Exhibit H** is a true and correct copy of a fax from a
26 doctor in the NMC Emergency Department to CFMG ordering that I be seen by an
27 urologist on June 3, 2013. I was not seen by an urologist until June 19, 2013. When I
28 finally saw the urologist, she ordered that I have a right percutaneous nephrostomy tube

1 placement and a nephroureteral stent placed into my right kidney to help ease the blockage
2 of my kidney caused by my kidney stones. In her progress note from that appointment, a
3 true and correct copy of which is attached as **Exhibit I**, she explained that she was
4 concerned whether there was “sufficient function in the right kidney to be salvaged, or
5 whether a nephrectomy [kidney removal] would be more suitable”

6 14. The nephrostomy tube was placed on June 25, 2013, and a test of my kidney
7 function was run shortly thereafter. I can see from reviewing my file that the urologist
8 noted in a progress note from a July 22, 2013 appointment, a true and correct copy of
9 which is attached as **Exhibit J**, that the test showed that I had “right-sided kidney function
10 of approximately 31%.” No one informed me of this fact at the time, although the doctor
11 did tell me that my kidney function was very low. It is my understanding that if my kidney
12 function had been much lower, I may have had to have my kidney removed.

13 15. I did not receive surgery to remove the major kidney stone until September
14 13, 2013. The surgery was only partially successful, as the doctor was only able to remove
15 about 30% of the largest, 6 cm stone, and was unable to remove a number of other stones.
16 Attached hereto as **Exhibit K** is a true and correct copy of the Operative Report from my
17 surgery.

18 16. The nephrostomy tube for my kidney remained in place from June 25, 2013,
19 until September 18, 2013. The nephrostomy essentially was an open wound from the
20 outside of my body into my kidney. I was told by the doctors who placed the nephrostomy
21 that I needed to keep it and the dressing surrounding it very clean. Attached as **Exhibit L**
22 is a true and correct copy of the discharge instructions for caring for my nephrostomy tube,
23 which indicate that I should use alcohol wipes when emptying the urinary bag and should
24 not get the dressing wet.

25 17. Throughout my time in the Jail, the Jail did not change my dressing as often
26 as they were supposed to. On June 29, 2013, medical staff at the Jail ordered that the
27 dressing for my nephrostomy tube be changed daily. Attached hereto as **Exhibit M** is a
28 Treatment and Vital Sign Flowsheet on which the changes of the dressing were recorded.

1 The staff changed the dressing on June 29 but then didn't even evaluate or change the
2 dressing until July 1, 2013. On July 5, 2013, medical staff again ordered that my dressing
3 be changed every day. Attached hereto as **Exhibit N** is a Treatment and Vital Sign
4 Flowsheet on which the changes of the dressing were recorded. The dressing was only
5 changed on July 5, 7, 11, 17, 22, and 25 and August 2, 2013 (staff offered to change the
6 dressing on July 18, 2013, but I declined). On August 2, 2013, the medical staff person
7 who changed the dressing noted "yellow drainage at puncture site." On August 6, 2013,
8 medical staff again ordered that the dressing for my nephrostomy be changed daily.
9 Attached hereto as **Exhibit O** is a Treatment and Vital Sign Flowsheet on which the
10 changes of the dressing were recorded. The dressing was only changed on August 6 and
11 August 13, 2013. Finally, on August 19, 2013, medical staff ordered that my dressing be
12 changed on an every-other-day basis. Attached hereto as **Exhibit P** is a Treatment and
13 Vital Sign Flowsheet on which the changes of the dressing were recorded. On five
14 different occasions between August 19 and September 22, 2013, more than two days
15 passed without the dressing being changed. On September 6, 2013, according to the
16 Flowsheet, the reason that the dressing was not changed was because there were not any
17 custody officers available to assist medical staff.

18 18. The problems I had keeping the dressings clean and dry may have
19 contributed to other serious medical problems I experienced. Throughout June, July,
20 August, and September 2013, my kidney and urinary tract frequently became infected. As
21 a result, I often had a fever and experienced significant pain. On two separate occasions—
22 August 1 and August 6, 2013—I had to be rushed to the Emergency Department at NMC
23 because I had a high fever. These emergency visits occurred during a period where my
24 nephrostomy dressing was only changed by the Jail three times over the course of almost
25 three weeks from July 18 and August 6.

26 19. In addition, on September 10, 2013, three days before the surgery to remove
27 my kidney stones, my nephrostomy tube somehow came dislodged. I woke up in the
28 morning covered in urine and completely panicked. Other prisoners had to get the custody



1 staff's attention for me, as I could not get their attention myself. Dr. Garcia was called and
2 came to see me after about an hour. When I finally saw a radiologist at NMC, I was told
3 that the tube I had was supposed to be in place for a short period of time, whereas I had
4 then had it in place for many months.

5 20. I believe the Jail has failed to provide me with adequate medical treatment in
6 other ways. One time in May 2013 I had an appointment with one of the doctors at the
7 Jail, Dr. Benda. Dr. Benda conducted the entire appointment in the hallway of the
8 Women's Section of the Jail. During the appointment, we discussed very personal
9 information about my complaints of cloudy urine and unpleasant odors emanating from my
10 body. Dr. Benda also advised me about how to shower. He used a very loud voice and
11 was nearly screaming; for some reason, he seemed irritated with me. Everyone in the area,
12 including prisoners, a deputy, and a nurse, were watching and listening to Dr. Benda's
13 conversation with me. The experience was very embarrassing.


14 21. During my time in the Jail, I have had a very hard time using the grievance
15 process. For example, I filed a grievance on June 7, 2013, requesting pain medication to
16 treat "the worst pain in my life" and to have surgery to remove my kidney stones. *See*
17 **Exhibit B**. The response I received from the Jail, which was approved by Commander
18 Bass, stated that my grievance had been resolved. However, neither request was resolved.
19 With respect to the surgery, the response stated that "[y]ou are scheduled to see an
20 urologist soon." With respect to my medication, the response stated that "[y]our
21 medication has run out. I will schedule you to see the PA 6/15/13 for refills or another
22 medication." The response seems useless to me because it did not provide me with an
23 answer regarding whether I would receive medication.

24 22. I agreed to be a named plaintiff in this case because I would like to represent
25 other prisoners who have had problems similar to what I have experienced while in
26 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
27 and the assistance available to prisoners with disabilities. I have been cooperating fully
28 with my counsel and am responding to all requests for information to the best of my ability

X

1 and recollection, and will continue to do so in the future. My lawyers keep me updated on
2 the progress of this case, and I will review all materials provided to me and provide my
3 input to the best of my ability. When I have questions about the case, I will ask the
4 attorneys for help to understand everything to the best of my ability.

5 I declare under penalty of perjury under the laws of the United States and the State
6 of California that the foregoing is true and correct, and that this declaration is executed at
7 Salinas, California this 15 day of April, 2014.

8
9
10 
11 Ha Cobb

Exhibits A - P

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF SUSAN
 DILLEY IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set



1 I, Susan Dilley, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail ("the Jail"). I was booked
6 into the Jail on June 28, 2013. I have been housed in the Women's Section of the Jail
7 since that date with the exception of August 23 to 30, 2013, when I was temporarily
8 released to attend to my dying mother. For all of the time that I have been in the Jail, I
9 have been a sentenced prisoner, serving a jail term after having been convicted.

10 3. Beginning in approximately 2010, I began experiencing cognitive problems
11 and memory loss. I also began to experience numbness in my legs, problems maintaining
12 my balance, and substantial nerve-related pain. In 2010, I started seeing a chiropractor to
13 treat my pain. I saw the chiropractor until mid-2011, when I was initially arrested on the
14 charges for which I am now sentenced. I was released from the Jail while my charges
15 were pending. However, at that point I could not afford and did not seek any further
16 treatment for my symptoms.

17 4. By the time I was booked into the Jail in June 2013, my symptoms had
18 worsened significantly. I was in constant pain. It was also extremely difficult and painful
19 (and sometimes impossible) for me to walk long distances or up more than one or two
20 stairs. During the custody intake process on the day I was arrested, custody staff did not
21 note that I had any trouble walking. Attached as **Exhibit A** is a true and correct copy of
22 my Intake Health Screening form from my Jail custody file. During the medical intake
23 procedures the following day, medical staff noticed my difficulty walking. Attached as
24 **Exhibit B** is a true and correct copy of my Intake Triage Assessment, from my Jail
25 medical file. I informed medical staff that I wasn't walking right, that I was having pain in
26 my back that radiated down my legs, that I had been losing my balance and tripping easily,
27 and that I would fall if forced to walk in a dark room. Despite raising my problems with
28





1 staff, no staff inquired whether I required any accommodations for my problems walking.
2 In fact, all the medical staff did was “encourage” me to “take care when ambulating.” *Id.*

3 5. On August 6, 2013, while I was in the Jail, I was tentatively diagnosed with
4 Multiple Sclerosis (“MS”) by Dr. Centurion, a neurologist in Carmel, California, who does
5 not work for or at the Jail.

6 6. In response to my diagnosis, I was prescribed pain medication and slowly
7 given certain accommodations over the course of many months. I have had great difficulty
8 receiving the pain medication and accommodations in a timely and consistent manner.

9 7. On August 6, 2013, I was prescribed an extra mattress by the medical staff at
10 the Jail for the length of my stay in the Jail. Attached hereto as **Exhibit C** is a true and
11 correct copy of a page from my medical file on which medical staff ordered an extra
12 mattress for me. I did not receive the mattress before I was released from the Jail for a
13 week starting on August 23, 2013. I returned to the Jail on August 30, 2013. When I
14 returned to the Jail, I still was not provided with an extra mattress. I had to request another
15 medical appointment before they provided me with my extra mattress on September 2,
16 2013. For the periods of time that I was without an extra mattress, I would wake up every
17 morning with hip and neck pain. Now that I have the extra mattress, I have much less pain
18 in the morning.

19 8. The shoes provided to me by the Jail upon my booking were very unstable,
20 which placed me at danger given my existing problems with stability. On September 17,
21 2013, Dr. Centurion ordered that I should be permitted to wear special shoes that would
22 assist with my stability. Attached hereto as **Exhibit D** is a true and correct copy of a page
23 from my medical file on which Dr. Centurion ordered special shoes for me. Attached
24 hereto as **Exhibit E** is a true and correct copy of a medical ^{order}  approved by Dr. Eliud
25 Garcia at the Jail granting me permission to have special shoes. I did not receive the
26 special shoes for about a month; at that point, the Jail finally permitted me to bring in a
27 pair of my own shoes from outside of the Jail. My shoes from home are much more stable,
28 and I feel much less ⁱⁿ  danger of falling now that I am able to wear them.



1 9. I was prescribed a cane on November 12, 2013, to assist me with walking
2 and stability. Attached hereto as **Exhibit F** is a true and correct copy of a page from my
3 medical file on which medical staff ordered a cane for me. But the Jail did not provide me
4 with a cane until November 25, 2013. Attached as **Exhibit G** is a true and correct copy of
5 a page from my medical file indicating that medical staff did not give me the cane until
6 November 25, 2013. Without the cane, I could only walk long distances if I held on to the
7 wall. Now I can use my cane for balance.

8 10. I filed a grievance in mid-December, a true and correct copy of which is
9 attached as **Exhibit H**, asking for a shower chair so that I would not be in danger of falling
10 while using the shower. I am unstable and prone to falling if I stand too long or close my
11 eyes. Without the shower chair, I would lose my balance when I would close my eyes to
12 wash my hair. Before filing the grievance, I almost fell on a number of occasions. In
13 response to the grievance, the Jail staff wrote that they had to "order" a shower chair for
14 me because they did not possess any. I did not receive access to a shower chair until
15 sometime in January 2014.

16 11. Even with the chair, I have had significant difficulty accessing the shower in
17 the housing units where I have lived, T- and U-Pod. The chair that I have been provided is
18 so big that it takes up most of the space in the shower. As a result, I can't sit in the shower
19 chair. The best I can do is place the chair outside the shower and hold on to the back of the
20 chair for balance. Even with the chair, I have almost fallen in the shower on numerous
21 occasions.

22 12. My multiple sclerosis makes it very difficult for me to walk around the Jail.
23 As I discussed above, the Jail waited almost five months to prescribe a cane to help me
24 ambulate. Even with the cane, I encounter numerous obstacles that prevent me from
25 equally and safely participating in the programs, services, and activities offered by the Jail.
26 The exercise yard for the Women's Section of the Jail is located on the roof of the
27 Women's Section. The only means of accessing the yard is by a very long stairway; there
28 is no elevator. I am unable to climb the stairway without experiencing extraordinary pain.



1 As a result, I have not been to the yard for the entire period of time that I have been
2 incarcerated in the Jail. The only times I have gone outside have been to go to court and
3 when I have medical appointments at facilities outside of the Jail. I have not been outside
4 since about December 14, 2013. This lack of access to exercise and the outdoors has had a
5 profoundly negative effect on my physical and mental well-being. I miss fresh air and
6 nature. If the exercise yard were accessible to me, I would go to yard almost every time
7 that it was offered to me.

8 13. The Jail offers religious services for prisoners. The religious services are,
9 however, conducted in a room that is up the same, long stairway that provides access to the
10 yard. Because I cannot climb stairs without extraordinary pain, I have not gone to the
11 religious services. If the religious services were offered in an area of the Jail that I could
12 access, I would attend frequently.

13 14. I filed a grievance in mid-December requesting that I be provided access to
14 the exercise yard and to religious services. A true and correct copy of the grievance is
15 attached as **Exhibit I**. The grievance was responded to on December 23, 2013, but on the
16 form for the grievance I had filed about the shower chair. The response, written by Jail
17 Commander Bass, assured me that “[c]ustody staff was to make arrangements [for the]
18 exercise area and church.” See **Exhibit H**. As far as I am aware, no arrangements have
19 ever been made for me to access the exercise yard or church. And as I stated earlier, I
20 have not accessed the yard or religious services the entire time that I have been at the Jail.

21 15. In addition, the Jail offers an educational program called Choices and Pride.
22 All prisoners who complete the program receive a five-day reduction in their sentence.
23 The program is offered in the same room as religious services. Because I want to receive
24 the five-day credit, I forced myself to climb the stairs and participated in one session on
25 March 20, 2014. Climbing the stairs caused me tremendous pain that lasted until the
26 following day. In order to complete the program and receive the credit, I will have to
27 climb the stairs at least 25 more times. I am not certain I will be able to do that.

28



1 16. From my experience, the Jail also seems to lack enough appropriate beds for
2 prisoners with disabilities. In November 2013, I was told by custody staff that I would be
3 moved from T-Pod to Q-Pod. It is my understanding that Q-Pod is a better housing unit to
4 live in because the prisoners in the unit get more privileges. On November 22, 2013, I
5 filed a grievance, a true and correct copy of which is attached as **Exhibit J**, requesting that
6 I be moved to Q-Pod as I had been promised. The appeal was answered on November 23,
7 2013, by a Sergeant. The officer wrote “[a]s far as your movement to Q-Pod is concerned,
8 you are in line for a spot, but there are still no medical bunks.” I still have not been moved
9 to Q-Pod.

10 17. Staff at the Jail have frequently discriminated against me because of, and
11 failed to accommodate, my disabilities. For example, in mid-December 2013, I missed my
12 morning pain medication because the staff distributing the medication refused to provide
13 me with sufficient time to get up from bed, obtain some water, and walk to the area where
14 the medication is distributed. As a result of my inability to get my medication, I was in
15 significant pain for most of the morning. I filed a grievance, a true and correct copy of
16 which is attached as **Exhibit K**, about not being provided with sufficient time to receive
17 my medication. The Sergeant who answered my appeal blamed the entire incident on me.
18 She wrote in response to my grievance that “[i]f you have difficulty moving around, please
19 be considerate of the 899 other inmates in the facility and get up more quickly or keep
20 water with you. The med nurse has a schedule to keep.”

21 18. Even though my condition is chronic and has not improved during my time
22 in the Jail, every time that I receive a prescription for pain medication, including
23 ibuprofen, staff place a limit on the amount of time that the prescription will be filled.
24 Throughout my time in the Jail, medical staff have frequently failed to renew my pain
25 medication prescription prior to its expiration. This has resulted in numerous periods
26 during which my access to ibuprofen has been interrupted. My pain medication was
27 interrupted most recently at the end of January 2014 when I was without medication for
28



1 approximately 6 days. I also experienced periods without access to pain medications
2 several times in September, October, and November 2013.

3 19. Without the pain medication, I experience substantial, unnecessary pain.
4 The pain in my legs makes it very hard for me to walk. As a result, when I lack pain
5 medication, I pretty much stay in my bed all day except when I go to the bathroom.

6 20. When I saw Dr. Centurion in September 2013, he prescribed that I receive
7 ibuprofen four times a day. ^{400mg} See **Exhibit D**. Without examining me, on October 23, 2013,
8 the Jail lowered my dosage to [REDACTED] mg two times per day. Attached as **Exhibit L** are true
9 and correct copies from my Jail medical file of a doctors order and progress note from that
10 date. I still am only receiving ibuprofen two times a day. I do not know why the Jail
11 provides me less ibuprofen than Dr. Centurion prescribed for me. The two doses are not
12 sufficient to control my pain. I receive the first dose at about 4 A.M. By about 11 A.M.,
13 my legs start to hurt. I do not receive another dose of pain medication until 5:30 or 6 P.M.
14 When the ibuprofen is working, I have no pain. Once it wears off, the pain in my legs is
15 an 8 or 9 on a 10-point scale.

16 21. On at least two occasions, I have not received tests that doctors ordered for
17 me. According to a page from my medical record, a true and correct copy of which is
18 attached as **Exhibit M**, on September 18, 2013, Dr. Centurion ordered that I receive a “full
19 neuropsychiatric assessment to evaluate cognitive function.” In a September 17, 2013,
20 letter sent by Dr. Centurion to Jail medical staff, a true and correct copy of which is
21 attached as **Exhibit N**, Dr. Centurion explained that he “would recommend [the] patient
22 have a full neuropsychiatric evaluation.... Patient ... complains of cognitive dysfunction
23 and there is a question as to whether cognitive impairment could have contributed to the
24 charges that were made against her.” From my medical records, it does not appear that
25 anyone at the Jail reviewed this order until November 21, 2013. *See id.* I still have not
26 received a neuropsychiatric assessment.

27 22. According to a page from my medical record, a true and correct copy of
28 which is attached as **Exhibit O**, on July 1, 2013, before I had been diagnosed with MS,



1 Physician's Assistant Terri Whiting ("PA Whiting"), part of the Jail's medical staff,
2 ordered that I receive an EKG test to try to determine why I was experiencing my unusual
3 symptoms. On July 3, 2013, according to another page from my medical record, a true and
4 correct copy of which is attached as **Exhibit P**, I was scheduled for the EKG but the test
5 did not take place because there were no custody staff members available to bring me to
6 the infirmary in the Jail. To date, I have not had the EKG.

7 23. The medical care I have received at the Jail has been problematic in other
8 respects as well. For example, the following incident demonstrates how (1) the Jail does
9 not always follow orders given by outside medical providers, (2) the Jail does not follow
10 its own internal orders for medications, and (3) medical staff at the Jail see patients without
11 looking at the patient's medical chart. On September 17, 2013, I saw Dr. Centurion. Dr.
12 Centurion prescribed me 400-800 mg of ibuprofen every six hours as needed for pain. *See*
13 **Exhibit D**. On that same day, according to another page from my medical records, a true
14 and correct copy of which is attached as **Exhibit Q**, medical staff erroneously and
15 confusingly indicated in a doctor's order that I was prescribed 600 mg of ibuprofen three
16 times a day as needed for 21 days. Notwithstanding the inconsistent orders and notes, I
17 had not received any ibuprofen by the next day, September 18, 2013, and so requested to
18 see medical staff. I saw PA Whiting, who, it appears from her own progress note, a true
19 and correct copy of which is attached as **Exhibit R**, examined me without my medical
20 chart. *See id.* (dictated Progress Note on which PA Whiting indicates she "will check chart
21 for ibuprofen order," meaning she did not have the chart with her when she examined me).
22 As a result, she did not confirm from my medical file that I was, in fact, prescribed
23 ibuprofen and provide me the medication immediately.

24 24. The grievance process at the Jail has worked very poorly for me. There are
25 at least two grievances that I filed, one from the end of February and one from mid-
26 January, to which I never received any responses.

27 25. Frequently, the responses I have received to grievances do not resolve the
28 issues I raised in the appeal. For example, my December 2013 grievance about accessing



1 the yard and religious services was not resolved; I still have not been able to access the
2 exercise yard or church. Nonetheless, Jail Commander Bass checked off the box on the
3 grievance form that indicated that my appeal had been "resolved." *See Exhibit I.* There
4 have also been times where there were no grievance forms available in my housing unit. I
5 had to file one grievance, a true and correct copy of which is attached as **Exhibit S**, in
6 October 2013 on a regular piece of lined paper. I have sometimes even been unable to
7 obtain grievance forms after asking for them from staff; on such occasions, staff have
8 either refused to provide me with a grievance form or promised to provide me with a form
9 in the future but then failed to do so.

10 26. Being in Jail has often been a scary experience for me. I have witnessed
11 many incidents of violence between prisoners. Over the last 9 months, I have seen at least
12 six fights between prisoners in my housing units. Frequently, in the fights between
13 prisoners that I have observed, the officers do not intervene fast enough to keep prisoners
14 from hurting each other. Sometimes, officers do not intervene at all; the fights simply run
15 their course before officers respond. In one fight that occurred in March 2014, I saw two
16 custody staff who were observing from outside the pod while the prisoners fought in the
17 bathroom. Rather than intervene, they simply yelled through the door that the pod had lost
18 TV privileges because there were too many women in the bathroom. Staff did not even
19 enter the pod. The Jail seems to me to be a very unsafe place.

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1 27. I agreed to be a named plaintiff in this case because I would like to represent
2 other prisoners who have had problems similar to what I have experienced while in
3 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
4 and the assistance available to prisoners with disabilities. I have been cooperating fully
5 with my counsel and am responding to all requests for information to the best of my ability
6 and recollection, and will continue to do so in the future. My lawyers keep me updated on
7 the progress of this case, and I will review all materials provided to me and provide my
8 input to the best of my ability. When I have questions about the case, I will ask the
9 attorneys for help to understand everything to the best of my ability.

10 I declare under penalty of perjury under the laws of the United States and the State
11 of California that the foregoing is true and correct, and that this declaration is executed at
12 Salinas, California this 15 day of April, 2014.

Susan Dilley

Exhibits A - S

Filed Under Seal

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF CONNIE
 DOBBS IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

1 I, Connie Dobbs, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail (the "Jail"). I was most
6 recently booked into the Jail on September 15, 2012. I am a sentenced prisoner, serving a
7 jail term after having been convicted of a crime.

8 3. On November 30, 2012 I fell at the Salinas Courthouse on a rainy day when I
9 was shackled at my ankles, waist and wrists. I fell forward and my face and shoulder
10 absorbed most of the impact of my fall. I sustained a fractured nose, a permanent post-
11 traumatic tremor in my right hand from mild traumatic brain injury, and nerve damage,
12 pain and numbness in my left leg, knee and ankle. I also had two black eyes and bruises
13 all over my elbows, knees and ankles. Attached as **Exhibit A** is a true and correct copy of
14 the November 30, 2012 Inmate Injury Report detailing the incident. Although I received
15 an ice pack and one dose of pain medication after the incident, which was around noon, I
16 was not examined again by medical staff until later that night even though I was in a lot of
17 pain. As shown in Progress Notes and Doctors Orders of November 30, 2012, true and
18 correct copies of which are attached as **Exhibit B**, when I finally saw a nurse later that
19 night, despite the fact that I had serious pain, all the nurse did after consulting with a
20 Physician's Assistant ("P.A.") was order me Ibuprofen and put me on for sick call with the
21 P.A. for three days later.

22 4. Ever since my fall I have been experiencing tremors in the upper right side of
23 my body and in my right arm and hand. I have seen an outside neurologist, Dr. Centurion,
24 a number of times to be treated for the tremor. Dr. Centurion has determined that the
25 tremor is post-traumatic due to mild traumatic brain injury sustained in the fall. He has
26 prescribed me the medication Artane, which makes the tremor better, but the tremor still
27 affects my day-to-day life. For example, the tremor interferes with my ability to write
28 since I write with my right hand. In addition, my hand shakes when I eat and hold objects.

C.D.

1 Attached as **Exhibit C** are true and correct copies of Dr. Centurion's examination reports
2 dated January 8, January 29, March 12, July 11 and November 12 of 2013.

3 5. The Jail did not diagnose my fractured nose for nearly two weeks after my
4 fall. Attached as **Exhibit D** is a true and correct copy of test results from my medical file
5 dated December 11, 2012 showing my nasal fracture. Since the incident, I have had a lot
6 of sinus problems because of the fracture.

7 6. In addition to the tremor I continue to experience pain, tingling and
8 numbness in my right arm, wrist and hand. In January of 2013 Dr. Centurion noted that I
9 had Right Carpal Tunnel Syndrome and suggested I wear a wrist splint at night. *See*
10 **Exhibit C**. Attached as **Exhibit E** is a true and correct copy of January 8, 2013 Doctors
11 Orders in which medical staff at the Jail ordered that I was to have a "wrist-guard, non-
12 metal R wrist x LOS." I still had not received anything for my wrist by January 22, 2013
13 at which point medical staff ordered that I be given an ACE bandage wrap, instead of a
14 splint, for my right carpal tunnel syndrome. Attached as **Exhibit F** is a true and correct
15 copy of January 22, 2013 Progress Notes in which medical staff orders an "ACE wrap
16 instead of splint for R CTS."

17 7. I used an ACE wrap at night to try to keep my wrist and arm straight.
18 However, the ACE wrap did not provide sufficient support for my wrist. The pain,
19 tingling and numbness in my right arm, wrist and hand have continued.

20 8. In addition, the wrap has been taken twice by custody staff in raids and
21 searches of my pod. When the wrap was taken in raids, I did not get it back for two weeks
22 to a month, despite my requests. Attached as **Exhibit G** is a true and correct copy of a
23 February 21, 2013 sick slip that I had to put in to receive a new wrap and attached as
24 **Exhibit H** is a true and correct copy of July 30, 2013 Doctors Orders ordering that I should
25 again be provided with an ACE wrap for my right wrist. I do not think that custody staff
26 should take something away from me that has been prescribed by medical staff. I also do
27 not think that I should have to submit sick slips to get the wrap back once it has been
28 taken, especially since it was initially ordered for my entire length of stay.

9. In September 2013 the numbness and tingling in my hand worsened. I told medical staff that even though I had been using the ACE wrap to try to keep my hands straight at night, I often woke up with my hands and wrist curled. Following this examination, and nine months after the neurologist first suggested a splint, medical staff ordered that I be provided a right wrist splint. Attached as **Exhibit I** is a true and correct copy of September 11, 2013 Progress Notes noting my worsening symptoms, determining that my right carpal tunnel syndrome had been exacerbated and stating that the "patient will be ordered a right wrist splint in neutral position" to wear at night for the length of stay. Also attached as **Exhibit J** is a true and correct copy of September 11, 2013 Doctors Orders ordering the right wrist splint for the length of stay. By mid-November, I had still not received the wrist splint. Attached as **Exhibit K** is a true and correct copy of November 12, 2013 Progress Notes noting that I was to get a "wrist splint as I [medical staff] ordered for CTS." I still did not get the wrist splint, so in mid-March 2014 I filed a grievance requesting that it be provided to me. By early April 2014, seven months after medical staff had ordered it, I still had not received the wrist splint. Without the splint I continue to experience pain, numbness and tingling in my right wrist which keeps me up at night.

10. I have a history of chronic pain in my left knee, hip and lower back. This condition was made worse by my fall and the injuries I sustained in November 2012. Since then I have been experiencing an increase in the pain as well as an increase in swelling and numbness in my left hip, leg and knee. I have been diagnosed with arthritis in my lumbar spine and hip and lumbar radiculitis, a condition in which the nerve in the lower spine is irritated or inflamed and can cause pain that radiates from the back through the legs. Attached as **Exhibit L** is a true and correct copy of test results from my Jail medical file showing arthritis of the lumbar spine and left hip, and attached as **Exhibit M** is a true and correct copy of Progress Notes noting the lumbar radiculitis. I frequently have shooting pain that shoots between my knee and my lower back and gets up to a 10 out of 10 on the pain scale. It makes it difficult for me to walk and climb stairs. CD

CE

1 [REDACTED] CD
2 [REDACTED] My injuries are also made worse when CD
3 we are kept on our beds for long periods of time, such as the occasions when the guards
4 put us on lockdown and make us stay on our beds for up to four hours at a time. In
5 addition I have been developing increasing pain in my ankle and have requested that I get
6 x-rays, but haven't received them yet.

7 11. I have been on pain medication for much of my time in the Jail for the pain
8 in my back and left leg, hip and knee. However, Jail medical staff have been inconsistent
9 in following instructions and providing me the prescribed medication. I have had issues
10 with having to request continuation of pain medication despite the fact that I was supposed
11 to have been receiving ongoing prescriptions. I have also faced problems in getting timely
12 attention when I put in sick slips and often times have to fill in two to three sick slips for
13 the same thing before I receive attention.

14 12. For example, I was receiving Ibuprofen relatively consistently from the end
15 of 2012 for both pain in my left hip, leg, knee and back and for pain from dental issues and
16 in April 2013 I also began receiving an ongoing prescription of Gabapentin for the pain in
17 my left hip, leg, knee and back. Attached as **Exhibit N** is a true and correct copy of a page
18 of Medication Administration Records from my Jail medical file showing I was put on a
19 90-day prescription of 600 mg of Ibuprofen to be taken twice a day and a 90-day
20 prescription of 600 mg of Gabapentin (Neurontin) to be taken ~~twice~~ ^{once} a day, both of which CD
21 prescriptions were supposed to run from July 22, 2013 to October 22, 2013. Attached as
22 **Exhibit O** is a true and correct copy of July 22, 2013 Doctors Orders indicating the 90-day
23 prescriptions of Ibuprofen and Gabapentin, among other medications. On July 30, 2013,
24 due to increased pain my Gabapentin was increased to 600 mg twice a day and my
25 Ibuprofen was increased to 600 mg three times a day for just for the following two weeks.
26 Attached as **Exhibit P** is a true and correct copy of July 30, 2013 Progress Notes assessing
27 my condition and ordering an increase in Gabapentin and Ibuprofen. *See also* July 30,
28 2013 Doctors Orders, attached as **Exhibit H**.

1 13. On about August 15, 2013 the Jail abruptly stopped providing me with both
2 Ibuprofen and Gabapentin. Attached as **Exhibit Q** is a true and correct copy of the
3 grievance I filed on August 15, 2013 explaining that both my medications had been
4 stopped and that I had filled out numerous sick slips without any response. I did not
5 receive my medication, so on August 22, 2013 I put in another grievance, a true and
6 correct copy of which is attached as **Exhibit R**, again explaining that my pain medication
7 was stopped. I noted that I was experiencing withdrawal symptoms and was in a lot of
8 pain and that I had put in sick slips and a grievance and hadn't heard anything back. I
9 continued not to receive the medications, so on August 24, 2013, I submitted a third
10 grievance, a true and correct copy of which is attached as **Exhibit S**, explaining again that
11 I was still in a lot of pain and not receiving my pain medications.

12 14. It took until August 26, 2013 for Doctors Orders to be issued ordering that I
13 was to receive Ibuprofen again. *See* **Exhibit H**. On August 26 staff responded to my
14 grievance of August 15, writing that "you should have been started on medication." *See*
15 **Exhibit Q**. On August 26, 2013 staff also responded to my grievance of August 24 stating
16 simply that "[t]his has been addressed." *See* **Exhibit S**.

17 15. Still, staff had not done anything to restart my Gabapentin. On August 28,
18 2013 staff responded to my August 22 grievance stating "Your medication reached its
19 discontinue date. You can go on sick call for a refill." *See* **Exhibit R**. It was not until
20 September 5, 2013 that medical staff ordered that I start receiving Gabapentin again. On
21 that date, I was ordered 90-day prescriptions of both Gabapentin and Naprosyn. *See*
22 **Exhibit J**.

23 16. During this period, I was without Ibuprofen for about 12 days and was
24 without Gabapentin for about 22 days. I was in a lot of pain at that time and experienced
25 shooting, radiating pain that was about a 10 out of 10 on the pain scale. I also felt like I
26 was experiencing withdrawal, which I had never experienced before and I was cold and
27 sweating and found it hard to eat.

28

1 17. In addition, my medical file appears to be incomplete. My attorneys
2 requested my entire medical file. I reviewed all of the documents that were provided to
3 my attorneys. My file does not have copies of any of the sick slips I submitted in 2012,
4 nor does it contain copies of sick slips I submitted when my pain medications were
5 discontinued in mid-August 2013. For instance in my grievances of August 15 and 22,
6 2013 I noted that I had put in sick slips about my pain medication stopping, but no sick
7 slips from this time are in my file. See **Exhibits R and Q**. In another example, a
8 November 12, 2012 Progress Note, a true and correct copy of which is attached as
9 **Exhibit T**, notes that I had put in a sick slip requesting a refill of Ibuprofen, but there is no
10 corresponding sick slip in my file.

11 18. I am serving a long sentence in the Jail, and I am concerned that the lack of
12 care I'm receiving will have a negative effect on my future health. The lack of care is
13 especially dangerous for me due to my chronic conditions of hypertension and tremors as
14 well as the chronic pain I experience due to arthritis and nerve conditions in my left side
15 and lower back.

16 19. I am frequently fearful in the Jail. Over the last 18 months I have seen at
17 least four fights between prisoners in T and U-Pod. It seems to me fights often occur
18 because of the lack of supervision. Aside from head count which occurs once an hour the
19 guards are just in the tower and so aren't aware of what is going on in the pod.

20 20. I agreed to be a named plaintiff in this case because I would like to represent
21 other prisoners who have had problems similar to what I have experienced while in
22 Monterey County Jail. I want to help improve the medical care, the mental health care, the
23 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
24 cooperating fully with my counsel and am responding to all requests for information to the
25 best of my ability and recollection, and will continue to do so in the future. My lawyers

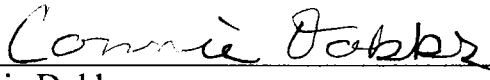
26 ///

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1 keep me updated on the progress of this case, and I will review all materials provided to
2 me and provide my input to the best of my ability. When I have questions about the case, I
3 will ask the attorneys for help to understand everything to the best of my ability.

4 I declare under penalty of perjury under the laws of the United States and the State
5 of California that the foregoing is true and correct, and that this declaration is executed at
6 Salinas, California this 17 day of April, 2014.

7
8 
9 Connie Dobbs

Exhibits A - T

Filed Under Seal

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*Admitted *Pro Hac Vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF SEAN
 ESQUIVEL IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

LE

1 I, Sean Esquivel, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I have been in the Monterey County Jail (the "Jail") many times since
6 approximately 1988. The three most recent times I've been in the Jail have been for parole
7 violations from October 16, 2013 to approximately December 2013, from January 29,
8 2014 to approximately February 2014, and from March 3, 2014 until the present. I am
9 currently housed in the Jail as a sentenced prisoner.

10 3. I use a wheelchair all the time. In prison, I was classified as a permanent
11 wheelchair user, and was restricted to ground floor and lower bunk housing with no stairs
12 in the path of travel. I last left prison in 2013. In addition, I suffer from sleep apnea and
13 require the use of a CPAP machine to sleep safely. Attached hereto as **Exhibit A** is a true
14 and correct copy of an email sent from the California Department of Corrections and
15 Rehabilitation to Commander James Bass, dated March 5, 2014, and found in my Jail
16 custody file, which lists my needed disability accommodations. In addition to my
17 disabilities, I suffer from a number of chronic medical conditions, including diabetes,
18 asthma, seizures, and high blood pressure. I also suffer from a number of chronic
19 psychiatric conditions, including Attention Deficit Hyperactivity Disorder (ADHD),
20 depression, anxiety, anti-social behavior, and mood swings.

21 4. On October 16, 2013, I was booked into the Jail after having been
22 transported directly from the Emergency Room at Natividad Memorial Hospital ("NMC").
23 At NMC, I was treated for an infection in a soft tissue tumor on my right leg. This tumor,
24 which I've had since approximately 2000, causes me serious pain and makes it impossible
25 for me to walk. It began growing rapidly in 2012. Attached hereto as **Exhibit B** is a true
26 and correct copy of clinic notes from NMC in 2012, describing my condition in some
27 detail including the fact that tumor was, at the time, 18 x 6 x 6 cm large. This tumor is one
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1 of the reasons that I am in a wheelchair, along with my chronic back problems and injuries
2 from a car accident.

3 5. I arrived at the Jail in a wheelchair and with an open wound on my leg,
4 which needed constant care. Attached hereto as **Exhibit C** and **Exhibit D** are true and
5 correct copies of an Intake Health Screening form from my Jail custody file and an Intake
6 Triage Assessment from my Jail medical file. Both documents indicate that Jail staff were
7 aware of the mass on my right leg, as well as my diabetes, asthma, high blood pressure,
8 and psychiatric conditions. In addition, on my Intake Health Screening form, custody staff
9 noted my history of seizures; medical staff did not identify this issue on my Intake Triage
10 Assessment form. Neither custody staff nor medical staff indicated on either form that I
11 need a wheelchair to get around.

12 6. I have had a wheelchair every time I've been in the Jail since approximately
13 2000, excepting a two-day period in August 2012 when the custody staff took my
14 wheelchair after I got in an argument with a custody staff member. I had to file a
15 grievance to get my wheelchair back, where I informed the Jail that without my wheelchair
16 I could not go to the restroom or otherwise leave my bed. Attached hereto as **Exhibit E** is
17 a true and correct copy of the grievance I filed on August 7, 2012, which I was forced to
18 file on plain paper because I could not find any grievance forms in my housing area, which
19 is a common problem, and the guards refused to give me any.

20 7. I have experienced many problems in the Jail getting the help I need to take
21 care of myself in a wheelchair. For example, I have been housed in a number of different
22 housing units at the Jail, including B-Dorm, C-Dorm, D-Dorm, and the Rotunda. When I
23 was housed in C-Dorm, where I was housed when booked into the Jail in October 2013,
24 had no wheelchair accessible toilets. In 2012, I previously broke the partition between the
25 toilets in C-Dorm because I was forced to use that partition as a sort of makeshift grab bar
26 to help me use the toilet. When I was housed in D-Dorm, there were no wheelchair
27 accessible showers. When I have been placed in those dorms, I needed other prisoners to
28

1 help me use the showers and the toilets. For example, I could not get past the concrete lip
 2 in the floor leading to the shower in D-Dorm without the help of others.

3 8. I ^{was housed} ~~in B-Dorm~~ ^{for my first six weeks here}, which does have wheelchair accessible toilets and
 4 showers. However, other prisoners use the disabled toilet as a urinal and the Jail fails to
 5 clean it properly—making it disgusting for me to use and putting me at risk for infection.
 6 There are also no wheelchair accessible tables in the chow room in B-Dorm, as there are
 7 metal chairs bolted to the sides of the table that are placed in such a way that it is
 8 impossible for me to pull my wheelchair up to the table. I am forced to sit far away from
 9 the table, with one of those metal chairs in between me and the table. The only alternative
 10 is to eat at the end of the table, but when I do that, I get yelled at by the guards because I
 11 am too close to the podium. *I am currently in A-Dorm, which has similar problems.*

12 9. The Jail seems to have an inconsistent (or possibly no) policy about
 13 providing wheelchairs for prisoners. In October 2013, I was given a wheelchair at the Jail,
 14 which had a broken right wheel and missing left leg peg.. I orally complained to both
 15 custody and medical staff about this, but the staff did not do anything to fix the wheelchair.
 16 The only way I could get around was to lift up my chair into a “wheelie” and sort of hop
 17 forward. I could not roll the chair at all. This was extremely exhausting for me. It also
 18 meant that I was even less mobile than I normally am and was hindered in my daily
 19 activities. Attached hereto as **Exhibit F** is a true and correct copy of a page from my Jail
 20 medical records discussing my broken wheelchair and noting that I could only move the
 21 wheelchair “with care.” Only after I complained directly to Dave Harness, a manager of
 22 the Jail medical staff, in the beginning of November 2013, did the Jail provide me with a
 23 functional wheelchair. Attached hereto as **Exhibit G** is a true and correct copy of a page
 24 from my medical file noting that Mr. Harness obtained a “working CFMG wheelchair” for
 25 me. By contrast, when I entered the Jail in January 2014, I was allowed to keep my own
 26 wheelchair with me, which worked considerably better than the wheelchairs provided by
 27 the Jail and is of better quality. Unfortunately, for my most recent stay at the Jail, I was
 28

1 not permitted to bring my wheelchair with me. I don't know why the Jail sometimes lets
2 me have my own wheelchair and does not at other times.

3 10. When I was housed in the Rotunda, I could not access the yard, which is up a
4 long flight of stairs. I never went as there was no way for me to get there. In B-Dorm^{and A-Dorm}, the
5 exercise yard is not upstairs. But the exercise yard is so small that I am scared to go
6 outside. In my wheelchair, I would be unable to get out of the way of a flying basketball
7 or other piece of sports equipment used by the other prisoners in my housing unit. During
8 my current stay in the Jail, I have gone outside around four times to the exercise yard. I
9 would go outside a lot more to get some much needed sun if the yard was larger and I felt
10 safer out there.

11 11. Because of my sleep apnea, I require the use of a CPAP machine to breathe
12 at night. If I'm not using a CPAP machine, I risk not getting enough oxygen during the
13 night, which can cause all sorts of health problems in both the short and long term.
14 Without a CPAP machine, I risk my breathe stopping in the middle of the night. This has
15 happened to me three times in the past and scares me very much. I also get bad headaches
16 if I don't use it regularly. Jail staff are well aware of my condition, from my many stays at
17 the Jail. Attached hereto as **Exhibit H** is a true and correct copy of my Intake Triage
18 Assessment from my most recent stay at the Jail dated March 3, 2014, which notes that I
19 need a CPAP machine at night to breathe.

20 12. For at least the last two times I've been in the Jail, the Jail has failed to
21 provide me with a functional CPAP machine for at least part of my time in the Jail. When
22 I was booked into the Jail in January 2014, I told a nurse in the booking area that I needed
23 a CPAP machine. She told me that the Jail would not provide me with a machine and that
24 I needed to bring my own. Attached hereto as **Exhibit I** is a true and correct copy of pages
25 from my medical file with the nurse's notes from our interaction.

26 13. I was without a CPAP machine for five nights until February 3, 2014. For
27 those five nights, I had to find other prisoners willing to watch me sleep in case I stopped
28 breathing. I did not sleep well, and woke up every morning with a headache and nausea.

Attached hereto as **Exhibit J** is a true and correct copy of the Medical Treatment Order, signed by Doctor Taylor Fithian ("Dr. Fithian") on February 3, 2014, ordering that the Jail provide me with a CPAP machine. However, the Jail would only provide me with access to the CPAP machine if I would sleep in the infirmary. Attached hereto as **Exhibit K** is a true and correct copy of the order that I be brought to the Outpatient Health Unit (or Infirmary) to use the machine at night. At that time, Jail staff told me that the only reason I need to use the machine in the infirmary is because it is rented.

14. For my current stay in the Jail, which began in March 2014, the staff is once again requiring me to come to sleep in the infirmary to use my CPAP machine. Attached as **Exhibit L** is a true and correct copy of a page from my medical file noting that it is "OK" for me to use the machine in the Infirmary. Attached hereto as **Exhibit M** is a true and correct copy of a page from my medical file showing that when I tried to take the machine back with me to my housing unit on March 12, 2014, I was stopped because it is a "rented machine."

15. During previous times in the Jail, when I brought my own CPAP machine, I was always permitted to sleep with my CPAP in many different housing units, including B-Dorm, C-Dorm, D-Dorm, and the Rotunda. I prefer to sleep in a housing unit rather than the infirmary because the guards bring me to and from the infirmary at odd hours—sometimes I'm not brought there until 1 am and then have to go back to my cell at 4 am. That is not enough time for me to use the machine properly to get a real night's sleep. I also don't like being in the infirmary at night because it is very cold and there is inadequate bedding for the beds there, which makes it even colder. I also can't do anything at night there that I might be able to do in my housing unit, like read, write letters, talk to people, or take a shower.

16. I also need other assistive devices for my leg aside from my wheelchair. I need orthopedic shoes, as well as an extra mattress and pillow to avoid numbness in my calves, toes, and arms. The Jail has been very inconsistent about providing these to me. Right now, I am receiving the shoes and an extra mattress, although it took a few days to

JR.

1 get it. I am still not receiving a pillow. I do not know why the Jail staff sometimes denies
2 me these accommodations that they know I need.

3 17. In addition to not receiving needed accommodations for my disabilities from
4 the Jail, the Jail has not provided me with proper medical care, especially for the wound on
5 my leg related to my tumor. Upon my booking in the Jail on October 16, 2013, Jail
6 doctors ordered that I receive daily wet to dry changes of the dressing on the large, open
7 wound on my leg. At the start, medical staff changed the dressing daily, as ordered. Then,
8 on October 24 and 25, 2013, medical staff did not change the dressing at all. Attached
9 hereto as **Exhibit N** is a true and correct copy of the Treatment and Vital Sign Flow Sheet
10 found in my medical file, recording both the order for daily dressing changes and that no
11 dressing changes were done on October 24 or 25, 2013. Jail staff only started again
12 changing the dressing as ordered once I filed a sick call slip on October 27, 2013.
13 Attached hereto as **Exhibit O** is a true and correct copy of that sick call slip.

14 18. On October 30, 2013, while I was in my housing unit, C-Dorm, my wound
15 began to bleed profusely. I was experiencing pain at about a level 7 on a 10-point scale.
16 Other prisoners in my housing unit had to go find a guard to bring me to the infirmary, as
17 there were no nurses or custodial staff around. This took quite a few minutes before the
18 other prisoners could find someone. I find that it is often true that custodial and medical
19 staff are not around, and that prisoners end up having to take care of each other at the Jail.
20 Attached hereto as **Exhibit P** is a true and correct copy of the Inmate Injury Report filed
21 by custodial staff after this incident. The guard noted that there was "a large pool of blood
22 below" my bunk. Attached hereto as **Exhibit Q** is a true and correct copy of a page from
23 my medical files noting that "Pieces of muscle tissue [were] found detached" from my leg.

24 19. After this incident, Dr. Garcia, a medical doctor at the Jail, ordered that my
25 dressing be changed twice a day instead of once a day. Attached hereto as **Exhibit R** is a
26 true and correct copy of a page from my medical file containing this order, dated October
27 31, 2013. However, medical staff only changed my dressing once a day on November 3,
28 4, 5, 6, 7, 9, 10, 12, and 13, 2013. And they did not change my dressing at all on

J.S.

1 November 11, 2013. Attached hereto as **Exhibit S** is a true and correct copy of the
2 Treatment and Vital Sign Flow Sheet documenting these failures to change my dressing as
3 ordered. Jail staff wrote on the Flow Sheet that my dressing was not changed on
4 November 9, 2013, because “no deputy available per visits.” On November 11, 2013,
5 medical staff wrote that my dressing wasn’t changed because “no deputy to assist.”

6 20. On November 8, 2013, during this period when Jail staff repeatedly failed to
7 change my dressing as ordered, my leg wound once again started bleeding profusely while
8 I was waiting to go to court. Attached hereto as **Exhibit T** is a true and correct copy of the
9 Inmate Injury Report filed after this second incident.

10 21. On November 14, 2013, Dr. Garcia ordered that the wound dressing be
11 changed once a day. Attached hereto as **Exhibit U** is a true and correct copy of a page
12 from my medical file showing this order. Medical staff failed to provide even this lower
13 level of care. I received no dressing change on November 15, 22, or 23, 2013. Attached
14 hereto as **Exhibit V** is a true and correct copy of a page from my medical file showing that
15 no dressing changes occurred on those dates. On November 24, 2013, after my dressing
16 had not been changed for 72 hours, nurses noted increased “red granulation” around my
17 wound.

18 22. The Jail has also failed to provide me with equipment I need to perform
19 proper self-care. Because of my leg injury and large bandage, I need a waterproof
20 covering for my wound in order to shower. I received such a covering on October 20,
21 2013. *See* **Exhibit F**. The Jail did not, however, provide me with a covering when I
22 entered the Jail in January 2014; I was without a covering for the majority of my stay in
23 the Jail. This meant that I did not shower for approximately 10 days. I was thus deprived
24 of basic hygiene due to the lack of a cover. The Jail also did not provide me with a leg
25 covering when I entered the Jail in March 2014. On March 7, 2014, I filed a sick call slip
26 asking for a leg covering to allow me to shower. Attached hereto as **Exhibit W** is a true
27 and correct copy of that sick call slip. Although I saw medical staff in response to this
28 request, they did not provide me with a leg covering after this visit. I still do not have one.

A/S

1 I've been forced to make my own as much as I can, but I cannot make anything that is
2 reusable, like the one I should have from the Jail. I thus am showering about one-third as
3 much as I would like to be. I feel like this puts me at increased risk for scabies and the
4 other diseases that are prevalent at the Jail.

5 23. Additionally, the treatment I've received at the Jail for my diabetes has been
6 inconsistent and ineffective. For example, when I was in the Jail in January and February
7 2014, I entered the Jail with a high blood sugar level of 282 mg/dl (normal range generally
8 considered to be 70-150 mg/dl). On the afternoon of January 29, 2014, I received two
9 types of insulin: one that is used to treat blood sugar spikes and one that is a long-term
10 treatment. I was then seen by a nurse on the morning of January 30, 2014, but did not
11 receive any insulin. In fact, I did not receive any insulin again until the afternoon of
12 February 1, 2014—48 hours after my last dosage of insulin. Unsurprisingly, my blood
13 sugar had spiked to 337 mg/dl after that period of neglect. Attached hereto as **Exhibit X** is
14 a true and correct copy of a page from my medical records showing the Jail's provision of
15 insulin to me during this period.

16 24. I am also asthmatic and need two inhalers to breathe normally, flovent and
17 albuterol. The Jail is well aware that I have asthma. Attached hereto as **Exhibit Y** is a
18 true and correct copy of my most recent Intake Health Screening Form found in my
19 custodial files and dated March 3, 2014. The Jail will sometimes let me keep my own
20 inhalers with me. However, the Jail will not give me a new inhaler when I run out. When
21 I entered the Jail in January 2014, I was fortunate to have my two inhalers on me.
22 However, they were both almost empty. The Jail did not give me replacements when I ran
23 out, which happened after a couple of weeks, even though I repeatedly asked the Jail staff
24 who came by during med call for new ones. I tried to avoid running out by using my
25 inhalers much less than I normally do. Without inhalers, I struggle to breathe normally
26 and wheeze frequently particularly at night. I also feel fatigued and have a loss of energy.
27 I do not like feeling this way.

28

A E.

1 25. I can see from reviewing my medical file that I was tested for Hepatitis C in
2 the fall and the test came back “reactive” at a high enough level the testing company wrote
3 that no additional testing was necessary for verification. Attached hereto as **Exhibit Z** is a
4 true and correct copy of the Quest Diagnostics Report, dated November 6, 2013. No one
5 ever told me about this result. Nor has anyone talked to me about what “reactive” means
6 or whether I am currently infected with Hepatitis C.

7 26. Normally, when I am in the Jail I receive the serious pain medication that is
8 prescribed to me by outside doctors. However, during my most recent time in the Jail, I
9 have not received any pain medication at all from the Jail. This means that my leg and
10 back are both in constant and serious pain. I am also suffering from other consequences,
11 like headaches and memory loss. I’m having trouble concentrating or thinking straight
12 because of the pain. I have asked repeatedly for my medication but I still have not
13 received any.

14 27. I also suffer from a variety of psychiatric conditions, including ADHD,
15 depression, anxiety, and mood swings. During my most recent stay in the Jail, I filed a
16 sick call slip on or around March 6, 2014, alerting the Jail that I was hearing noises and
17 experiencing severe depression and anxiety. Attached hereto as **Exhibit AA** is a true and
18 correct copy of that sick call slip. On March 7, 2014, I saw Charlotte Gage (“Nurse
19 Gage”), one of the Jail’s psychiatric staff members. Attached hereto as **Exhibit BB** is a
20 true and correct copy of her notes from our consultation. Nurse Gage wrote that I should
21 see Dr. Fithian for a medication consultation on March 10, 2014. However, this did not
22 happen. I have not seen Dr. Fithian at the Jail for approximately a year. I can see from
23 reviewing my medical file that Dr. Fithian wrote on March 5, 2014—i.e., before I saw
24 Nurse Gage—that I was not to receive psychiatric medication because I had not received
25 any recently at the Jail. A true and correct copy of this note from my Jail medical file is
26 attached hereto as **Exhibit CC**. I don’t know why Dr. Fithian would reach this conclusion
27 without talking to me. I am not feeling well right now. I should not be punished by being
28 deprived of proper medical treatment just because I was in a more emotionally stable place

29.

1 for a few months and did not need psychiatric care. Right now, I feel even worse than I
2 did at the beginning of March and I am still not receiving any treatment.

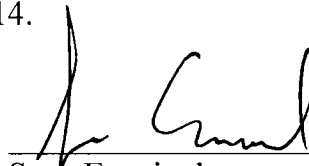
3 28. I have submitted at least two or three grievances in the last year to request
4 various accommodations and medical treatment I need. However, after reviewing my
5 medical and custody records, I am unable to find these grievances.

6 29. I am on parole. It is my understanding that while I am on parole, I can be
7 arrested and placed in the Jail for allegedly violating the terms and conditions of my
8 parole, whether or not the alleged violation constitutes a violation of a criminal law. There
9 are many conditions of my parole including a 10 pm curfew and living restrictions. If I am
10 released from the Jail, the violation of any of these could put me back in the Jail at any
11 time.

12 30. I agreed to be a named plaintiff in this case because I would like to represent
13 other prisoners who have had problems similar to what I have experienced while in
14 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
15 and especially the assistance available to prisoners with disabilities. I have been
16 cooperating fully with my counsel and am responding to all requests for information to the
17 best of my ability and recollection, and will continue to do so in the future. My lawyers
18 keep me updated on the progress of this case, and I will review all materials provided to
19 me and provide my input to the best of my ability. When I have questions about the case, I
20 will ask the attorneys for help to understand everything to the best of my ability.

21 I declare under penalty of perjury under the laws of the United States and the State
22 of California that the foregoing is true and correct, and that this declaration is executed at
23 Salinas, California this 15 day of April, 2014.

24 25


25
26 Sean Esquivel27
28

Exhibits A - Z, AA - CC

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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

26 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF RAMONA
 GIST IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

1 I, Ramona Gist, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail (the "Jail"). I was most
6 recently booked into the Jail on December 20, 2013. I am a sentenced prisoner, serving a
7 jail term after having been convicted. I have been a prisoner in the Jail approximately 10
8 times over the past 15 years, including 3 times over the past 2 years.

9 3. I currently suffer from a number of serious mental health conditions,
10 including schizophrenia and bipolar disorder, anxiety and insomnia. I also have
11 developmental disabilities, including fetal alcohol syndrome and mild Down syndrome. I
12 also have a number of physical medical conditions, including scoliosis and congenital hip
13 dislocation.

14 4. On numerous occasions I have had great difficulty getting my needed
15 psychiatric medications when housed in the Jail. For example, when I was booked into to
16 the Jail on a previous charge in March 2012, I notified custody and medical staff that I had
17 mental health conditions for which I was taking a number of psychiatric medications.
18 Attached as **Exhibit A** is a true and correct copy of an Intake Triage Assessment from my
19 Jail medical file showing that I alerted the Jail medical staff to the fact that I had a number
20 of health issues, including schizophrenia, and that I was taking seven prescription
21 medications, including Risperidone, Fluoxetine, Benztropine and Trazodone, my last use
22 of which had been the day I was booked. Attached as **Exhibit B** is a true and correct copy
23 of an Intake Health Screening form from my Jail custody file, showing that I had brought
24 those seven medications with me to the Jail. Jail medical staff also indicated that they
25 were going to verify the medications with my outside physician's office at Seaside Family
26 Health Center ("Seaside"). Attached as **Exhibit C** is a true and correct copy of March 16,
27 2012 Doctors Orders from my Jail medical file ordering that my medication be verified
28 with Seaside.

1 5. According to a page from my Jail medical file containing a March 19, 2012
2 Progress Note, a true and correct copy of which is attached as attached **Exhibit D**, my
3 relatives also brought my medications, including Risperidone, Fluoxetine, Benztropine,
4 and Trazodone, to the Jail a few days after my booking; Jail medical staff kept the
5 medications in the Jail pharmacy. That same day, according to a fax from a Target
6 Pharmacy dated March 19, 2012 that is in my Jail medical file, a true and correct copy of
7 which is attached as **Exhibit E**, the pharmacy confirmed for the Jail that I was prescribed
8 all of the medications that my family brought to the Jail.

9 6. Despite the verification of my prescriptions, the Jail refused to provide me
10 with the medication. Instead, as shown in the attached **Exhibit D**, a true and correct copy
11 of a page from my Jail medical file containing Progress Notes dated March 20 and 27,
12 2012, Dr. Taylor Fithian, a doctor at the Jail, and others on the medical staff determined
13 that I was not allowed to receive my mental health medication until I detoxed from alcohol
14 and had remained sober for 90 days.

15 7. When I am not taking my psychiatric medications, my mental health
16 deteriorates. I feel unstable, hear voices, talk to myself, have trouble organizing my
17 thoughts, find it difficult to express myself to others and get easily distracted. I began to
18 feel this way when Jail medical staff took me off the medications in March 2012, so I put
19 myself on the mental health sick call list at least twice and I continued to request my
20 psychiatric medications. However, it was not until May 2012, two months after I had been
21 admitted, that the Jail provided me with the Risperidone, Fluoxetine, Benztropine, and
22 Trazodone I had been taking pursuant to prescription prior to my arrest.

23 8. I was released from the Jail in mid-2012, but was then booked back into the
24 Jail in November 2012. According to a November 7, 2012 Intake Health Screening form
25 from my Jail custody file, a true and correct copy of which is attached as **Exhibit F**, I
26 notified Jail custody and medical staff at the time I was booked that I was taking Prozac
27 and other psychiatric medications. As shown in the attached **Exhibit G**, a true and correct
28 copy of a page from my Jail medical file containing a Progress Note dated November 12,

1 2012, despite their knowledge of my prescriptions, Dr. Fithian and others on medical staff
2 again denied me access to my medications. Attached as **Exhibit H** is a true and correct
3 copy of a page of Progress Notes from my Jail medical file showing that a month later, on
4 December 7, 2012, L.P.T. Gage of the Jail medical staff continued to deny my request for
5 medication citing Dr. Fithian's orders. Without my medication, I continued to experience
6 instability, anxiety, and depression.

7 9. In mid-December 2012, medical staff requested and reviewed my medical
8 and psychiatric records from Seaside. A true and correct copy of the Seaside records from
9 my Jail medical file are attached as **Exhibit I**. The records show that I had been diagnosed
10 with fetal alcohol syndrome, mild Down's syndrome, acute psychosis, anxiety and that I
11 suffered from insomnia. The records further show that I had a gait disturbance, history of
12 knee problems that previously required surgery, that I had had surgery for Micrognathia
13 (for an abnormally small jaw) and that I had persistent pain from a congenital hip
14 dislocation. The Seaside records show that I was prescribed a number of medications
15 including Risperidone, Fluoxetine, Benztropine and Trazodone. *See Exhibit I*.

16 10. On December 20, 2012, Dr. Rowe, a Ph.D. and R.N. on the Jail medical
17 staff, reviewed the records from Seaside that indicated that I had a number of problems
18 including psychosis. Attached as **Exhibit J** is a true and correct copy of a page of Progress
19 Notes from my Jail medical file indicating that Dr. Rowe had reviewed my Seaside
20 records. Dr. Rowe, however, concluded that I did not have any psychotic symptoms and
21 instead simply had problems with cocaine and alcohol. Dr. Rowe ordered that I should
22 "remain medication free for 90 days." On December 28, 2012 I filed a grievance, a true
23 and correct copy of which *RG* [REDACTED] is attached as **Exhibit K**, requesting
24 my medications. In the January 3, 2013 response to my grievance, I was told simply that I
25 was to remain medication free for 90 days. Attached as **Exhibit L** are true and correct
26 copies of pages of Progress Notes from my Jail medical file showing that I continued to
27 inform medical staff that I was not feeling mentally well and continued to request my
28 medications up through the beginning of March 2013. My requests were denied. As

1 shown in **Exhibit L**, during one of these examinations Dr. Fithian noted that I had a
2 longstanding history of personality disorder.

3 11. The Jail did not provide me with any psychiatric medications until March
4 2013, three months after I was admitted to the Jail. Even then, the Jail only provided me
5 with Risperdal and Cogentin (Benztropine); I still was not provided with Trazodone or
6 Prozac. I filed a grievance requesting the rest of the medications. I was not provided with
7 medication in response to my grievance.

8 12. I was released in September 2013, but booked into the Jail again on
9 December 20, 2013 and have been in Jail since then. Although in January 2014 the Jail
10 started giving me Risperdal and Prozac, I was not provided with Trazodone or
11 Benztropine. I need Trazodone to help my insomnia and sleeping issues and I need the
12 Benztropine to help stabilize the medications. Without these medications I have trouble
13 sleeping and my mood feels unstable. As demonstrated by the attached **Exhibit M**, a true
14 and correct copy of a page from my Jail medical file of a February 7, 2014 prescription
15 record from a Target Pharmacy, the Jail was aware that I had a prescription on file for a
16 number of medications, including Risperidone, Fluoxetine, Benztropine and Trazodone, in
17 the month prior to my arrest.

18 13. Because of my mental instability, lack of sleep, and extreme discomfort, I
19 filed a grievance on February 27, 2014, a true and correct copy of which from my Jail
20 medical file is attached as **Exhibit N**, to request my medications. The March 6, 2014
21 response to the grievance stated simply that I was currently on medication for my
22 condition, without discussing my different medications. On March 10, 2014 I saw medical
23 staff once again and let them know I was having significant problems sleeping. In
24 response to my complaints, my Risperdal was discontinued and I was given Trazodone
25 along with the Prozac. Attached as **Exhibit O** is a true and correct copy of a page of
26 Progress Notes from my Jail medical file showing the change in my medication from
27 Risperdal to Trazodone, even though I am supposed to receive all of the medications at
28

1 once. Those Progress Notes also show Dr. Fithian's assessment that I have a personality
2 disorder and generalized anxiety disorder.

3 14. Since I stopped the Risperdal and am on just the Trazodone and Prozac I do
4 not feel normal. I feel anxious, frustrated, and get angry easily. I also hear voices and
5 have been talking to myself. Additionally, I have been having bad physical reactions and
6 am experiencing itchiness all over my body and find myself rocking back and forth for no
7 reason. I feel much worse than I have in the past. I have filled out sick slips requesting to
8 get back on all of my medications, but I have not yet been seen or been treated by medical
9 staff. I am particularly concerned because I have just recently been sentenced to 19 more
10 months in the Jail, which is a lot of time to go without having proper medication.

11 15. When I'm treated by my doctors at Seaside, I feel like they take my feelings
12 and well-being seriously. They listen to me when I have a complaint and try to take some
13 action—whether it's a change in medication or something else—to help me feel better.
14 When I'm in the Jail, I feel like the medical staff treat me completely differently. It seems
15 like no matter how badly I tell them that I am feeling, they ignore me and make decisions
16 about my care based on how they think I should be feeling. I have a lot of serious
17 problems. It makes me feel like less than a person when they don't listen to me and they
18 deny me treatment that I know has worked for me in the past.

19 16. In the past my doctors have wanted to conduct tests since they said I may be
20 at risk of getting a tumor due to some of my chronic conditions. I have told medical staff
21 at the Jail that my doctors wanted me to have tests done, like an MRI and a CT scan, but I
22 have not received any response and don't know whether I will receive the tests.

23 17. I also have a history of scoliosis and congenital hip dislocation and the Jail is
24 not giving me adequate medication to manage my extreme chronic back pain. I constantly
25 feel shooting pains in my back and my back is often swollen. My outside physician had
26 given me a regular prescription of a muscle relaxant, Flexeril, to help me manage the pain.
27 As shown in the attached **Exhibit P**, a true and correct copy of a page from the January 4,
28 2014 Progress Notes from my Jail medical file, medical staff have noted that they were

PG

1 aware of my pain and that I had a stiff gait and signs of scoliosis. As shown in the
2 attached **Exhibit Q**, a true and correct copy of a page from the January 6, 2014 Progress
3 Notes from my Jail medical file, medical staff were also made aware of my Flexeril
4 prescription and made a note that they would follow-up and get a prescription verification
5 from my pharmacy at Target.

6 18. Despite this note indicating that staff would verify my prescriptions, it took
7 the Jail a month to get the prescription list from Target. *See Exhibit M*. Even though the
8 Jail received the medication verification, I still am not receiving Flexeril
9 (Cyclobenzaprine) or other sufficient pain medication from the Jail for my back.
10 Physician's Assistant Terri Whiting, a member of Jail medical staff, has also indicated in
11 the past that she would call my outside provider at Seaside to ask about the Flexeril, but I
12 haven't heard any response from her about that.

13 19. On February 27, 2014, I filed a grievance, explaining the pain I was in and
14 requesting the proper medication. *See Exhibit N*. On March 6, 2014, the Jail responded,
15 stating that I was seen for my back pain, given medication for a limited time, and that if
16 my pain continued to be a problem I should go back on sick call. It doesn't seem to me
17 that my condition is being taken seriously. My pain is severe and chronic. I experience
18 pain at about a 9 out of 10 on the pain scale and it is difficult to lay down, sit down, or
19 stand up for long periods of time. It does not help to simply be put on Ibuprofen for short-
20 term periods and then have to go back on sick call.

21 20. I have also made many requests to get an extra blanket to put under my back
22 at night to help my pain. I also included this request in my February 27, 2014 grievance.
23 This request was not addressed at all in the grievance response. I still have not received an
24 extra blanket.

25 21. My fetal alcohol syndrome and mild Down syndrome give me
26 comprehension problems and make it difficult for me to understand instructions and
27 directions. I also have problems remembering information. In the past I have had trouble
28 understanding what is happening during medical appointments, court hearings and intake

1 proceedings. I also have trouble filling out paperwork. When I fill out grievances and sick
2 slips sometimes I have to have other inmates help me.

3 22. My comprehension issues make it difficult for me to participate in programs
4 offered by the Jail. For instance, I would like to participate in the GED program here, but I
5 can't because I can't understand the classes due to my developmental disabilities. I would
6 like to get my GED. The Jail doesn't have special education classes. If it did I would
7 participate in the classes.

8 23. The Jail also fails to provide me with the proper help and accommodations
9 for my physical disabilities. For example, because of my fetal alcohol syndrome and other
10 physical problems, it is difficult for me to safely walk in ankle shackles. In 2010, I
11 requested an exemption from being shackled at the ankles. Attached as **Exhibit R** is a true
12 and correct copy of the request from my Jail medical file. I informed the Jail that if they
13 continued to shackle me, I was likely *going to* hurt myself. In response, I was simply told that
14 only those who were physically unable to be shackled would be given exemption. My
15 request to go to court without ankle shackles in 2010 was denied without them asking me
16 any further questions about my condition.

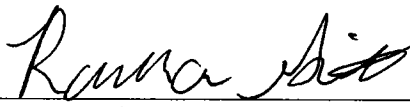
17 24. I also have trouble walking due to my chronic back, hip, and other mobility
18 issues. As shown in my Seaside medical records, previously attached as **Exhibit I**, in the
19 past I have been prescribed a cane by my outside doctor. In addition to a cane, at home I
20 also have a walker that I use and special shoes that I wear. I don't have any of these things
21 in the Jail. I fall a lot due to my mobility issues and sometimes hurt myself.

22 25. I also have trouble getting up the stairs to the yard. I would like to attend
23 church and the Narcotics Anonymous and Alcoholic Anonymous classes, but it hurts my
24 back too much to walk up the stairs to get to the classes or to where the religious services
25 are held. It also makes it difficult to attend the classes when I am not on the proper
26 psychiatric medications.

1 26. Over the last two and a half months I have seen at least two fights where I
2 am housed in U-Pod. I feel especially unsafe in the Jail because I feel like I am an easy
3 target for other inmates because of my physical and developmental disabilities.

4 27. I agreed to be a named plaintiff in this case because I would like to represent
5 other prisoners who have had problems similar to what I have experienced while in
6 Monterey County Jail. I want to help improve the medical care, mental health care, the
7 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
8 cooperating fully with my counsel and am responding to all requests for information to the
9 best of my ability and recollection, and will continue to do so in the future. My lawyers
10 keep me updated on the progress of this case, and I will review all materials provided to
11 me and provide my input to the best of my ability. When I have questions about the case, I
12 will ask the attorneys for help to understand everything to the best of my ability.

13 I declare under penalty of perjury under the laws of the United States and the State
14 of California that the foregoing is true and correct, and that this declaration is executed at
15 Salinas, California this 17 day of April, 2014.

16
17 
18 _____
19 Ramona Gist
20
21
22
23
24
25
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27
28

Exhibits A - R

Filed Under Seal

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*Admitted *Pro Hac Vice*

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

28 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF MARTHA
 GOMEZ IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

mg

1 I, Martha Gomez, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail (the "Jail"). I was most
6 recently booked into the Jail on January 13, 2014. I am a sentenced prisoner currently
7 serving a term in the Jail for a probation violation.

8 3. I experience chronic pain due to injuries and degenerative conditions
9 including back pain, numbness and stiffness in my legs, pain in my right side from pinched
10 nerves, pain from arthritis in my knee and hands, and pain from when a flesh eating
11 disease destroyed much of the muscle in my left shoulder. I also suffer from chronic
12 hypertension, hepatitis B and C, migraines, and dementia. I frequently fall because of my
13 poor state of health and often injure myself when I do so.

14 4. The Jail has not provided me with adequate accommodations and assistance
15 for my mobility impairment. The pain in my back and legs and my arthritis make it
16 difficult for me to walk without a walker. When I came into Jail I had a walker. I was
17 hospitalized for a bowel obstruction soon after I was admitted to the Jail. When I returned
18 from the hospital it took staff nearly two weeks to give me back my walker, despite my
19 repeated requests to get the walker back.

20 5. I can generally manage my pain from migraines and arthritis with Tylenol,
21 though sometimes that pain increases to the point where I require stronger medication.
22 There have been multiple times during this and previous terms in the Jail where I have
23 requested Tylenol or stronger medication and have experienced significant delays being
24 assessed and/or receiving medication. For example, when I submitted sick call slips to
25 complain of migraines in late-August 2013, it took about seven days for me to receive any
26 Tylenol. Without Tylenol, I experienced pressure behind my temples, severe headache,
27 and nausea. Attached hereto as **Exhibit A** are true and correct copies from my Jail
28

1 medical file of sick call slips and a Doctors Order regarding my attempts to receive
2 Tylenol in August and September 2013.

3 6. In February 2014, I submitted sick call slips to complain that the Tylenol I
4 was receiving was not strong enough to treat my painful arthritis. Staff did not address my
5 pain issues for seven days, and then simply renewed my Tylenol prescription, rather than
6 evaluating me for the need for stronger medication. Attached hereto as **Exhibit B** are true
7 and correct copies from my Jail medical file of sick call slips and a Doctors Order
8 regarding my attempts to receive stronger pain medication in February 2014.

9 7. I have mental health problems that cause me anxiety, difficulty sleeping,
10 difficulty coping, and cause me to hear voices whispering to me. It is my understanding
11 that I have been diagnosed with a bipolar disorder, schizophrenia, and depression. Doctors
12 at the Jail diagnosed me with a mood disorder. Attached as **Exhibit C** is a true and correct
13 copy of a page of Progress Notes dated February 20, 2014 in which Dr. Fithian, a doctor at
14 the Jail, determined that I have a mood disorder. When I first arrived at the Jail in January
15 I was not given any medication for my mental health issues. About a month into my stay
16 at the Jail I was prescribed Risperdal and Klonopin. However, ^{the dosage mg} [REDACTED] is not
17 working to treat my symptoms. I am still experiencing anxiety, have trouble sleeping, and
18 continue to hear voices.

19 8. On or around April 14, 2014, I submitted a sick call slip in the morning,
20 telling the Jail medical staff that the voices were telling me to hurt myself. While I was at
21 dinner that afternoon, one of the nurses came to find me. She seemed angry with me, and,
22 in front of everyone at dinner, asked me in a loud voice whether I wanted to hurt myself. I
23 told her I didn't. She then took me to a "Safety Cell," which I call a rubber room, without
24 letting me finish my dinner. The rubber room is a dirty cell that smells bad. It has nothing
25 in it except a grate in the floor for a toilet—no bed, bench, sink, or anything else.

26 9. The Jail staff took all of my clothes. I was left there overnight completely
27 naked, with nothing to lie on except a mat. I was given no water or food, and no blanket or
28 mattress. There was no toilet paper. The rubber room felt like it was 100 degrees, and I

1 felt like I was hyperventilating in hot cell—especially without any water. The Jail staff left
2 the light on all night, which made it even more difficult to sleep.

3 10. I was left in the rubber room all night. I was finally released to a booking
4 cell around 11 am the next day, and then allowed to go back to my normal housing unit
5 around dinnertime.

6 11. In my experience, the Jail is a dangerous place. Around the middle of
7 February I was attacked by another prisoner in S-Pod, who hit me in my face. Since
8 January I have also seen three other fights in my housing unit. My poor physical health
9 and my mental illness make me feel that I am especially at danger of being harmed.

10 12. I agreed to be a named plaintiff in this case because I would like to represent
11 other prisoners who have had problems similar to what I have experienced while in
12 Monterey County Jail. I want to help improve the medical care, the mental health care, the
13 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
14 cooperating fully with my counsel and am responding to all requests for information to the
15 best of my ability and recollection, and will continue to do so in the future. My lawyers
16 keep me updated on the progress of this case, and I will review all materials provided to
17 me and provide my input to the best of my ability. When I have questions about the case, I
18 will ask the attorneys for help to understand everything to the best of my ability.

19 I declare under penalty of perjury under the laws of the United States and the State
20 of California that the foregoing is true and correct, and that this declaration is executed at
21 Salinas, California this 17 day of April, 2014.

22
23 
24 Martha Gomez

Exhibits A - C

Filed Under Seal

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*Admitted *Pro Hac Vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF GEORGE
 GREIM IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

D.D.

1 I, George Greim, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently incarcerated at the Monterey County Jail (the "Jail"). I
6 entered the Jail on September 13, 2012. In late-July 2013, I was transferred by the Jail to
7 Alameda County's Santa Rita Jail Facility ("Santa Rita"). It is my understanding that I
8 was transferred to Santa Rita under an agreement between Alameda County and Monterey
9 County by which Monterey County can house prisoners it controls in Santa Rita. I was
10 then transferred back to the Monterey County Jail on September 6, 2013, where I have
11 been ever since as a sentenced prisoner. I have previously been in the Jail many times.

12 3. I have serious psychiatric conditions, of which the Jail is aware. In state
13 prison, I was treated at the enhanced outpatient level of care as recently as April 2012. I
14 am bipolar, suffer from depression and anxiety, and have an antisocial personality
15 disorder. Attached hereto as **Exhibit A** and **Exhibit B** are true and correct copies of an
16 Intake Health Screening form, dated September 13, 2012, and found in my Jail custody
17 records, and an Intake Triage Assessment, dated September 14, 2012, and found in my Jail
18 medical records. I can see from reviewing these documents that the member of the Jail
19 nursing staff who conducted my Intake Triage Assessment noted that I was bipolar and
20 took Remeron, the antidepressant I was prescribed in state prison. I can see that the Intake
21 Health Screening form only notes that I take Remeron but fails to note my psychiatric
22 disorders.

23 4. I also suffer from alcohol and drug dependence. Upon entering the Jail in
24 September 2012, I was subjected to the Jail's alcohol withdrawal protocol. Attached
25 hereto as **Exhibit C** is a true and correct copy of a page from my Jail medical file with the
26 order that I be placed on the "Level 1" alcohol withdrawal protocol. Even after I finished
27 the withdrawal protocol, the Jail refused to provide me with any psychiatric medications
28

D. D.

1 for a period of 90 days because medical staff determined that I suffered from alcohol
2 dependence.

3 5. I saw a psychiatric nurse on September 17, 2012. I asked to be provided
4 with my psychiatric medication, but was not given any medication. Attached hereto as
5 **Exhibit D** is a true and correct copy of a page from my Jail medical file ordering that I
6 remain "clean and sober for 90 days" before I could even be considered for psychiatric
7 medication.

8 6. From September 2012 until March 2013, I was not evaluated by any member
9 of the Jail's psychiatric staff. I asked both orally and in writing to receive psychiatric
10 medication during this time, but did not receive any response. I eventually got discouraged
11 without any treatment. On March 5, 2013, I submitted a sick call slip asking once again to
12 be seen by someone from the mental health care staff about receiving psychiatric
13 medication. On March 8, 2013, Dr. Taylor Fithian ("Dr. Fithian"), a Jail psychiatrist, met
14 with me. I told Dr. Fithian that I was depressed, feeling manic and stressed, and was
15 experiencing racing thoughts. I told him that I would like to receive psychiatric
16 medication for these conditions. Attached hereto as **Exhibit E** is a true and correct copy of
17 a page from my Jail medical file with Dr. Fithian's notes from this conversation. Dr.
18 Fithian did not provide me with any medication, but promised to obtain my medical
19 records from prison.

20 7. I can see from reviewing my medical file that the Jail did, in fact, request my
21 prison records, and they were faxed to the Jail on March 12, 2013. Attached hereto as
22 **Exhibit F** is a true and correct copy of the documents faxed by the California Department
23 of Corrections and Rehabilitation to the Jail and found in my Jail medical file. The CDCR
24 records show that I received Remeron (mirtazapine) when I was in prison. I saw Dr. Fithian
25 again on March 14, 2013. Despite records showing I had taken Remeron in the past, Dr.
26 Fithian refused to provide me with any psychiatric medication. Attached hereto as
27 **Exhibit G** is a true and correct copy of a page from my Jail medical file with Dr.
28 Fithian's short notes from this conversation. I filed another sick call slip on March 30,

1 2013 about problems with my mental health, but was not provided with medication in
2 response to that request either.

3 8. During the spring and early-summer of 2013, my mental health continued to
4 deteriorate. After not receiving any psychiatric medication for months, I filed a grievance
5 about it on July 1, 2013, a true and correct copy of which is attached hereto as **Exhibit H**.
6 This grievance told the Jail that "I have been diagnosed with a bipolar disorder in prison
7 and I was on medication" and that "I am currently experiencing severe anxiety and
8 depression." In the "Findings" section, there are two different notes from members of the
9 Jail staff. The first note, dated July 8, 2013, promised to schedule me for sick call with a
10 member of the Jail's psychiatric staff. The second, dated July 9, 2013, told me that "You
11 were seen 4/17/13" and that "due to [history of] substance abuse," I would be referred to a
12 therapist. I do not know why it is relevant that I was seen two and a half months
13 previously in April, when I was experiencing severe depression in July. I also do not know
14 why my history of substance abuse is relevant to my need for psychiatric medication.
15 Finally, I do not know why it matters that the prison records said I had a "mood disorder
16 NOS" instead of specifying that I had bipolar disorder. The psychiatric staff at prison told
17 me that I was bipolar. Attached hereto as **Exhibit I** is a true and correct copy of a page
18 from my Jail medical file, dated July 9, 2013, with a note from Dr. Elaine Finnberg ("Dr.
19 Finnberg"), a psychologist who works at the Jail, saying she would not recommend
20 medication for me "due to his substance abuse history." At that time, I had been in the Jail
21 for ten months, clean and sober. I do not know why my substance abuse history was
22 relevant.

23 9. My mental state got worse and worse. I submitted two more sick call slips on
24 July 16 and 18, 2013, true and correct copies of which are attached hereto as **Exhibit J** and
25 **Exhibit K**. In the second of these sick call slips, I told the Jail that "My mind is doing
26 back flips and I'm not landing right...Crashing."

27 10. On July 22, 2013, I saw Dr. Fithian again. Dr. Fithian saw me in the hallway
28 with a deputy right there who could hear everything. I didn't feel like I could tell Dr.

1 Fithian how I really felt with the deputy right there. I didn't want to disclose my
2 confidential and personal information. For example, I wouldn't tell Dr. Fithian how
3 stressed I really was because I didn't want to make the deputy nervous about me.

4 11. After this conversation, Dr. Fithian did not decide whether he would
5 prescribe medication for me because he wanted to obtain my CDCR records first. He
6 entered an order that staff request my CDCR records. Attached hereto as **Exhibit L** are
7 true and correct copies of pages from my Jail medical file with Dr. Fithian's notes and
8 orders from this conversation. However, as discussed above, I know that the Jail had
9 already received my prison records in March 2013. *See* **Exhibit G**. I don't know why Dr.
10 Fithian submitted an order for my records a second time, rather than review the records
11 already in his possession. I was so frustrated by this.

12 12. In late-July 2013, I was transferred to Santa Rita. At first, Santa Rita would
13 not treat me for any of my medical or mental health conditions. I was told by medical and
14 mental health care staff at Santa Rita that they would not treat me because they had not
15 received my medical files from the Jail. I submitted a grievance to the Monterey County
16 Jail through the mail, a true and correct copy of which is attached hereto as **Exhibit M**,
17 requesting that the Jail forward my records promptly. I never received a response to this
18 grievance. I can now see from reviewing my file that the Jail did in fact receive my
19 grievance. On it, in the "Findings" section, a member of the Jail staff wrote that my
20 records had been transferred with me. However, I was told by the medical staff at Santa
21 Rita that they had not received my medical file.

22 13. It took about three weeks for me to get treatment at Santa Rita. Once I did
23 start receiving treatment at Santa Rita, I got the care I needed. Santa Rita doctors
24 prescribed Remeron, an antidepressant, and Depakote, which treats mood disorders, for
25 me. When on those medications, I felt much better. I didn't feel angry or tense in the
26 same way. I felt calm and happier.

27 14. I was transferred back to the Monterey County Jail on September 6, 2013. I
28 went through the Jail intake procedures again, including receiving a new Intake Health

D. G.

1 Screening and Intake Triage Assessment. True and correct copies of these documents,
2 which were found in my Jail custody and medical records, are attached hereto as
3 **Exhibit N** and **Exhibit O**. Upon my reentry to the Jail, these documents correctly noted
4 that I am bipolar and was taking Remeron and Depakote. I can also see from reviewing
5 my records that Santa Rita sent the Jail a Medical Information Transfer Form, a true and
6 correct copy of which is attached as **Exhibit P**, on which someone had noted that I was
7 taking Remeron (15 mg once a day) and Depakote (250 mg twice a day).

8 15. When I first got back to the Jail, I received these medications for
9 approximately two days. Attached hereto as **Exhibit Q** is a true and correct copy of a page
10 from my Jail medical records with the order that I receive these medications. Attached
11 hereto as **Exhibit R** is a true and correct copy of a page from my Medication
12 Administration Record, found in my Jail medical file, which shows that I received
13 Remeron and Valporic Acid ("VPA") (a generic drug that is sometimes substituted for
14 Depakote) at the Jail for two days in September 2013. Then, on September 9, 2013, I saw
15 Dr. Finnberg. Attached hereto as **Exhibit S** is a true and correct copy of Dr. Finnberg's
16 notes from the conversation. Dr. Finnberg wrote in her progress notes: "He claims that he
17 was diagnosed with 'bipolar disorder,' but this was only in prison.... Since he was not on
18 these medications the last time he was in Monterey County Jail...I did not see the need for
19 them" The Jail then discontinued my medication.

20 16. Without the medications, I felt angry and stressed out. I had racing thoughts,
21 mania, and anxiety. Sometimes, I would get so depressed I would just lie in my bunk.
22 When I talked to my wife on the phone, I would get frustrated with her for no reason. I
23 snapped at people around me. I had trouble sleeping. It felt like my head was doing
24 somersaults.

25 17. It finally became too much for me, and I submitted a grievance on September
26 29, 2013, a true and correct copy of which is attached as **Exhibit T**. In this grievance, I
27 asked the Jail medical staff to provide me with my medication and to stop telling me that
28 the staff needed to "check my records" when I knew that my records showed that I needed

1 medication. As I explained, the “doctors always talk of ‘records’ which neglect my current
2 symptoms and treatment necessity [sic].” On the same day, I submitted a sick call slip, a
3 true and correct copy of which is attached as **Exhibit U**, asking to “see mental health staff
4 about my medication.”

5 18. I saw Nurse Charlotte Gage (“Nurse Gage”), a member of the Jail’s
6 psychiatric staff, on October 2, 2013. Attached hereto as **Exhibit V** is a true and correct
7 copy of Nurse Gage’s notes from this consultation. I then saw Dr. Fithian the next day, and
8 he ordered that I be allowed to restart the same medication regime I had at Santa Rita.
9 Attached hereto as **Exhibit W** is a true and correct copy of a page from my Jail medical
10 records with the order that I start receiving Remeron and VPA. After the Jail began
11 providing me with the medications again, I felt much better. I felt a lot of relief that I was
12 finally getting some treatment.

13 19. At the same time that I was struggling to get treatment for my serious mental
14 health conditions, I was not receiving the medical care I needed for a number of other
15 problems.

16 20. First, almost as soon as I got back to the Jail from Santa Rita, I developed a
17 scabies infection. Scabies is incredibly itchy and uncomfortable. I have observed many
18 prisoners in the Jail during my time here who have also had scabies infections. I submitted
19 a sick call slip about it on September 10, 2013, a true and correct copy of which is attached
20 hereto as **Exhibit X**, but did not receive any treatment until September 16, 2013. Attached
21 hereto as **Exhibit Y** is a true and correct copy of a page from my Jail medical file with the
22 order for treatment. This treatment didn’t fully work, and I had two more outbreaks of
23 scabies in the fall. Attached hereto as **Exhibit Z** are true and correct copies of pages from
24 my Jail medical file ordering treatment for scabies and dated October 1, 2013, and October
25 18, 2013. Even after these treatments were done, my skin continued to be very itchy and
26 bothersome. I don’t know if my scabies came back or if it was a different problem, but I
27 complained frequently to the Jail medical staff at sick call that my skin was irritated.

28

21. Second, I have a serious injury to my right knee that dates back to an altercation in prison in 2011. While at Santa Rita, I saw a physical therapist who told me that I either had a torn ligament or damaged cartilage, and that I needed an MRI to confirm what was wrong. Throughout the fall of 2013, my knee kept hurting more and more, and I couldn't extend it fully. It would also occasionally make a "popping" noise, which really concerned me. Through a series of sick call slips and grievances, I informed the Jail medical staff about this condition. Attached hereto as **Exhibit AA** are true and correct copies of some of these sick call slips and a grievance dated October 22, 2013. At the end of October 2013, I was given a neoprene knee brace, which helped a little, but not a lot. I still struggled with basic movements, like getting up or walking around. If I moved the wrong way, it felt like my knee would pop out of its socket, which was extremely painful. I learned how to "pop" it back into place myself. I also fell on my way to the shower once in the middle of November. Attached hereto as **Exhibit BB** is a true and correct copy of a page from my medical record showing that I informed a member of the Jail medical staff that I fell in the shower and was just told to wear my brace more frequently. The brace wasn't enough though, and I asked the Jail in mid-December 2013 for a cane. Attached hereto as **Exhibit CC** is a true and correct copy of my sick call slip requesting a cane, which I filed on plain paper because there were no sick call slips available in my housing unit, which I find is often the case. I did not receive a cane in response to this request. And although I finally was able to get a MRI on my knee in the end of November 2013, I did not get any follow up care after this test. On January 6, 2014, I filed a grievance about this issue, a true and correct copy of which is attached as **Exhibit DD**.

22. Finally, at the same time I was dealing with all of these other medical issues, I had a broken tooth that caused me serious pain. This pain was so bad that I submitted multiple sick call slips to request treatment. I first alerted the Jail to my pain on September 29, 2013 via a sick call slip, a true and correct copy of which is attached hereto as **Exhibit EE**. However, my tooth was not extracted until almost two months later on November 22, 2013. Attached hereto as **Exhibit FF** is a true and correct copy of a page

1 from my Jail medical file discussing this extraction. While I was waiting for my tooth to
2 be extracted, I was in serious pain which made it difficult to eat.

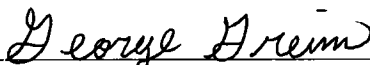
3 23. During a previous term in the Jail, I was put on suicide watch in August
4 2012. Attached hereto as **Exhibit GG** is a true and correct copy of a Sobering/Safety Cell
5 Log found in my Jail custody file from when I was placed in a Safety Cell, which I call a
6 "rubber room." The rubber rooms at the Jail are dirty dark cells with nothing except a grate
7 in the floor to defecate and urinate in. They are very cold and uncomfortable. I was not
8 given a mattress or blanket while I was in there. My shoes were also taken from me,
9 meaning I had to be barefoot on the nasty floor. It didn't seem to me that it had been
10 sanitized before I was put in there.

11 24. I do not believe that the Jail is a safe place to be. I was attacked while
12 housed in A-Dorm on November 13, 2012. I was jumped from behind by three or four
13 other prisoners. After they attacked me, the other prisoners told me that I had to move
14 housing units or I would get jumped again. I went and got my mattress, and then pressed
15 the button to alert custody staff to the attack. Until I pressed the button, custody staff did
16 not seem to be aware that the altercation happened, and they didn't do anything to stop the
17 attack. Attached hereto as **Exhibit HH** is a true and correct copy of the Inmate Injury
18 Report filed by the Jail staff after this incident. As the custody staff member wrote:
19 "Greim informed me that he was jumped in A-Dorm. Greim had a swollen right eye, and
20 bumps and bruises to his nose and forehead." A member of the medical staff also wrote on
21 the same form: "Pt brought to infirmary. Bleeding stopped to right eye, face, chest and
22 legs cleaned." The Jail medical staff performed neurological checks on me for 24 hours
23 and gave me some ice packs and ibuprofen. Attached hereto as **Exhibit II** is a true and
24 correct copy of a page from my medical file on which a member of the Jail medical staff
25 wrote these orders. In the attack, I received the worst black eye I've ever had. I also kept
26 getting bad headaches for a month or so afterwards.

27 25. I agreed to be a named plaintiff in this case because I would like to represent
28 other prisoners who have had problems similar to what I have experienced while in

1 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
2 and the assistance available to prisoners with disabilities. I have been cooperating fully
3 with my counsel and am responding to all requests for information to the best of my ability
4 and recollection, and will continue to do so in the future. My lawyers keep me updated on
5 the progress of this case, and I will review all materials provided to me and provide my
6 input to the best of my ability. When I have questions about the case, I will ask the
7 attorneys for help to understand everything to the best of my ability.

8 I declare under penalty of perjury under the laws of the United States and the State
9 of California that the foregoing is true and correct, and that this declaration is executed at
10 Salinas, California this 17 day of April, 2014.

11
12 
13 George Greim
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Exhibits A - Z, AA - JJ

Filed Under Seal

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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

26 Defendants.

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Case No. CV 13 2354 PSG

**DECLARATION OF JESSE
 HERNANDEZ IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

H

1 I, Jesse Hernandez, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I was booked into the Monterey County Jail ("the Jail") on April 28, 2012. I
6 remained in the Jail until September 27, 2013, when I was released from the Jail to
7 participate in the Supervised Home Confinement program in lieu of serving the remainder
8 of my Jail term. From September 27, 2013 until February 19, 2014, I lived in Salinas,
9 California, and was supervised by an officer from the Monterey County Probation
10 Department. On February 19, 2013, I was arrested related to my home confinement and
11 incarcerated in the Jail. I have been back in the Jail since February 19, 2014.

12 3. Over the past 15 years, I have been incarcerated in the Jail at least 8 times.

13 4. In January 2012, I was shot three times: once in my left shoulder, once in my
14 chest, and once just below my navel. I had a number of life-saving surgeries at Santa
15 Clara Regional Trauma Center, including a splenectomy, a partial small colon resection, a
16 temporary ileostomy, and a stent in my left arm. I still have fragments from all three
17 bullets in my body.

18 5. When I was arrested on April 28, 2012, I still had the ileostomy and an open
19 wound on my abdomen from a surgery approximately two months prior. My left wrist was
20 also in a solid brace. At the time, I was receiving weekly physical therapy for my shoulder
21 to help treat some of the painful nerve damage I had suffered to my left arm that was being
22 caused by the bullet in my shoulder. I was also on a number of medications, including 300
23 mg of Neurontin three times a day, Percocet, and other pain medications.

24 6. During the time I have been in the Jail, I experienced a number of
25 complications related to my abdominal injuries, ileostomy, and the bullets lodged in my
26 body. I was hospitalized on at least three occasions, including for nearly seven weeks in
27 January and February 2013. I believe that the medical care that I received from the Jail
28

1 contributed to the complications, caused me unnecessary pain and suffering, and on at least
2 one occasion, placed my life in danger.

3 7. One problem I experienced during my time in the Jail was an eight month
4 ordeal for getting approval for a surgery to reverse my ileostomy. At the time I was
5 arrested, I was receiving care for my abdominal wounds and ileostomy at Santa Clara
6 Regional Trauma Center. My doctor at Santa Clara Regional Trauma Center informed me
7 that my ileostomy should be reversed within six to eight months of the ileostomy surgery,
8 which was performed in January 2012. I informed Jail medical staff of this within two
9 days of my booking into the Jail. Attached as **Exhibit A** is a true and correct copy of a
10 progress note, dated May 1, 2012, from my Jail medical file, which indicates that I told
11 medical staff that I was "scheduled to have the colostomy reversed."

12 8. In the progress note from my May 1, 2012 appointment, Physician's
13 Assistant Terri Whiting ("PA Whiting"), part of the medical staff at the Jail, ordered that
14 the Jail request my medical records from Santa Clara Regional Trauma Center, where my
15 ileostomy surgery was performed. *See Exhibit A.* I have reviewed my Jail medical file
16 and there are no records from ~~██████████~~ ^{*Santa Clara JH*} Regional Trauma Center in the file.

17 9. On May 17, 2012, I complained of abdominal pain to staff in the Jail and
18 was taken to the emergency department at Natividad Medical Center ("NMC"). I ended up
19 being admitted to the hospital for four days because of an abscess in my abdomen. The
20 staff at the hospital drained the abscess and installed a J.P. tube. As part of the Pain
21 Management and Follow Up Appointment Instructions issued by the hospital upon my
22 discharge on May 21, 2012, a true and correct copy of which is attached as **Exhibit B**, I
23 was supposed to see Dr. Palmer, a surgeon at NMC, one week after my discharge on May
24 21, 2012.

25 10. I did not see Dr. Palmer until June 8, 2012, 18 days after my discharge from
26 the hospital. Attached as **Exhibit C** is a true and correct copy of the Outpatient Services
27 Visit Record for my appointment.

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1 11. I saw Dr. Palmer again on July 20, 2012. Dr. Palmer ordered that I should be
2 scheduled for an ileostomy reversal. Attached as **Exhibit D** is a true and correct copy of
3 the specialty clinic note for the July 20, 2012 appointment. Attached as **Exhibit E** is a true
4 and correct copy of a Pre-Operative OR Procedure Admitting Order signed by Dr. Palmer
5 on July 20, 2012, ordering that I receive a laparotomy and an ileostomy reversal.

6 12. I ultimately did not receive the laparotomy and ileostomy reversal until
7 almost five months later, December 13, 2012. I believe that the Jail attempted to delay
8 providing me with the ileostomy reversal until I was released from the Jail. There are
9 multiple notes in my medical file that indicate that the Jail used my court proceedings as an
10 excuse for not providing the ileostomy reversal. On July 20, 2012, Dr. Eliud Garcia, a
11 doctor at the Jail wrote a note in my medical file, a true and correct copy of which is
12 attached as **Exhibit F**, in which he states that Dr. Palmer would do the ileostomy reversal
13 "when time appropriate relative to court." On August 23, 2012, Dr. Garcia called Dr.
14 Palmer and wrote in a progress note, a true and correct copy of which is attached as
15 **Exhibit G**, that Dr. Palmer "agrees with plan to wait for reversal till after trial." That same
16 day, Dr. Garcia wrote a "memo" to me, a true and correct copy of which is attached as
17 **Exhibit H**, stating that "I spoke with Dr. Palmer regarding your condition.... Plan for
18 ileostomy reversal is unchanged and can be done after completion of your trial."

19 13. I was never consulted about the plan to delay my ileostomy until after the
20 end of my criminal proceedings. In fact, I repeatedly made it clear to medical staff, at
21 appointments and in grievances that I filed at the Jail, that I wanted the ileostomy as soon
22 as possible.

23 14. The ileostomy caused me many problems. The site of the ileostomy, which
24 is called a stoma, was often irritated and painful. I complained to medical staff many,
25 many times about painful burning at my stoma. In addition, by August 2012, my
26 ileostomy had begun to prolapse by as much as 2 centimeters.

27 15. It was difficult to care for the ileostomy in the Jail. The Jail is a very dirty
28 and unsanitary place. Because of my left arm problems, it was difficult for me to change

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1 the ileostomy bag on my own. I therefore had to rely on medical staff to help me.
2 Frequently, medical staff were not available or were unwilling to help me empty or change
3 my ileostomy bag. At other times, custody staff were not available or refused to escort me
4 to see medical staff so that they could change or empty my ileostomy bag. When I had to
5 empty the bag myself, it was difficult and painful. Failure to change the bag regularly
6 resulted in further irritation to and bleeding around my stoma. And when the bag was not
7 emptied regularly, it became very heavy with feces, pulled on the stoma, and caused
8 additional pain.

9 16. On August 8, 2012, I even applied to the Jail, pursuant to California Penal
10 Code § 4018.6, for a temporary release so that I could get my ileostomy reversal procedure
11 at Santa Clara Regional Trauma Center. Attached as **Exhibit I** is a true and correct copy
12 of my application. Medical staff approved my application, but custody staff denied the
13 application. On the form, custody wrote "Per our conversation, Hernandez to set up appt.
14 & pay for all costs." I believe the conversation that is referenced was a conversation
15 between me and Commander Barrera that took place after August 10, 2012. JH He told me
16 that since I wasn't yet a sentenced prisoner, I could only be released if I paid for
17 everything, including transportation and the surgery itself. He said the main reason I was
18 denied a medical release was because I wasn't sentenced yet.

19 17. It is my belief that the Jail wanted to delay the procedure until after my
20 criminal proceedings in hopes that I would receive a prison sentence. If I was transferred
21 to prison, it is my understanding then the Jail would not have to pay for the procedure.

22 18. After I finally received the ileostomy reversal surgery at NMC on December
23 13, 2012, I had a number of post-operative complications. I returned to the Jail after the
24 surgery on December 21, 2012. The discharge instructions from NMC, a true and correct
25 copy of which are attached as **Exhibit J**, indicated that I should either call the Outpatient
26 Surgery Center during business hours, or call or go to the Emergency Department after
27 hours, if I had pain uncontrolled by pain medication, bleeding, inability to urinate, a fever,
28 vomiting, or my wounds became red or drained fluid.

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1 19. On December 22, 2012, I saw a nurse at the Jail that day at 1:25 P.M., and
2 complained of a sharp, stabbing pain that was 9 out of a 10-point scale. Attached as
3 **Exhibit K** is a true and correct copy of a page from my Jail medical record of numerous
4 progress notes from December 22, 2012. The pain was so bad that I was crying. Instead
5 of immediately returning me to the hospital, the nurse called PA Whiting, who ordered
6 Tylenol, Milk of Magnesium, and Colace, and instructed that she should be called if my
7 condition worsened. By 2:15 P.M., my condition had worsened, as I was unable to lie
8 down, was nauseated, was unable to drink any fluids, and was moaning. At that time, the
9 nurse paged PA Whiting; still the nurse did not send me to the Emergency Department.
10 When PA Whiting did not respond, the nurse paged her again at 3:15 P.M.; still, the nurse
11 did not send me to the Emergency Department, even though she noted that I was sitting on
12 the edge of the bed, grimacing and crying. Finally, at 3:50 P.M., Dr. Garcia called and
13 stated that I should be sent to the Emergency Department. It appears that there may have
14 been a delay in following Dr. Garcia's order. The nurse made a note in my medical file
15 that a "Sgt. [is] aware of T.O. [transportation order] arranging transport with feeding." My
16 understanding of this note is that custody staff were aware of the need to take me to the
17 hospital, but couldn't do it right away because staff was occupied bringing food to
18 prisoners in the Jail.

19 20. I was in the hospital from December 22 to 30, 2012 for treatment of a bowel
20 obstruction. I had to go back to the Emergency Department on December 31, 2012
21 because I wasn't having any bowel movements. Attached as **Exhibit L** is a true and
22 correct copy of the progress note from my Jail medical file from that date that indicates I
23 was being sent to the Emergency Department to rule out a possible bowel obstruction. I
24 was discharged from the Emergency Department the same day. Attached as **Exhibit M** is
25 a true and correct copy of the Patient Visit Information for my Emergency Department
26 visit. The Emergency Department instructed that I should "[r]eturn to the ER for fever,
27 increased pain, vomiting, inability to have a bowel movement, or for any other problem."
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1 21. On January 7, 2013, I complained early in the morning to a nurse that I felt
2 like I had a fever, that I woke up in a sweat, that I had diarrhea, that I was experiencing
3 nausea, and that I had vomited one time. Attached as **Exhibit N** is a true and correct copy
4 of a page from my Jail medical file with progress notes from that day. According to the
5 instructions from NMC, I should have been returned to the Emergency Department.
6 Instead, the nurse ordered that I receive Imodium and Phenergan and be evaluated by PA
7 Whiting later that day. Attached as **Exhibit O** is a true and correct copy of a page from
8 my Jail medical file on which those orders are written. I was never seen by the PA that
9 day. See **Exhibit N**. I was seen by a nurse at 6:00 P.M. in order to change the dressing
10 from my ileostomy reversal. See *id.* I told her that I felt like I had a fever. She measured
11 my temperature, which was 101.0 degrees. Despite my serious recent history of surgery
12 and complications and the discharge instructions from the Emergency Department on
13 December 31, 2012, the nurse did not contact a doctor or PA Whiting or send me to the
14 Emergency Department. Instead, she entered an order to provide me with Tylenol, have
15 my temperature checked regularly for a day, and set me up to be seen by PA Whiting the
16 next day.

17 22. That night, at about 1 A.M., I started experiencing unbearable pain in my
18 abdomen. It was the worst pain I have ever experienced in my life, including when I was
19 shot three times. It felt like I was being tortured. My abdomen was throbbing, and I was
20 getting hot and felt very nauseas. At the time, I was housed in J-Pod, which is celled
21 housing; I was single celled. I collapsed on my bunk and couldn't move. Another prisoner
22 was in the common area of the unit and could walk up to my door. I pleaded with him to
23 get the attention of an officer. There was no custody staff around for the prisoner to notify
24 for about 15 minutes. Staff finally made their rounds of the pods. The prisoner got the
25 attention of an officer. I could hear the conversation between the prisoner and the officer.
26 The officer did not even enter the pod to look at me or talk with the other prisoner. The
27 officer told the other prisoner that medical staff wouldn't be able to come for 30 minutes.

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1 The prisoner said "But he's already been down for 15 minutes." The officer said, "I'll see
2 what I can do."

3 23. About a half hour passed and the same officer passed by J-Pod to conduct a
4 regular check. The same prisoner banged on his door to get the guard's attention. The
5 prisoner said that I still hadn't been seen by medical. The guard then entered the pod for
6 the first time and came to my cell. He said "I'll be right back, let me get a hold of my
7 Sergeant." He then left the pod. Another 10-15 minutes passed and still no medical staff
8 came to see me. Other prisoners started banging on their doors and yelling "Man down!"
9 to try to get staff attention.

10 24. Finally, medical staff finally arrived at 2:50 A.M. on January 8, 2013. The
11 responding staff noted on an On-Site Emergency Response Record, a true and correct copy
12 of which is attached as **Exhibit P**, that I was "lying on bunk fetal position in distress.
13 Diaphoretic. Rocking in pain, holding abd. Unable to converse. Abd distended. BP
14 140/98, pulse 120. Temp 102 degrees. Vomited clear bile X 2." I was transported to the
15 Emergency Department at NMC at 3:00 A.M.

16 25. I stayed in the hospital from January 8 until February 27, 2013 for doctors to
17 treat multiple abscesses in my abdomen. I have reviewed my Jail medical file, and none of
18 the medical records from my time in the hospital, with the exception of the discharge
19 instructions, are in my Jail medical file.

20 26. On February 27, 2013, upon my discharge, doctors at the hospital provided
21 me with a prescription for 600 mg of Gabapentin three times a day for 30 days, for 30 mg
22 MS Contin two times a day for 30 days, and for one #3 tablet of Tylenol with Codeine
23 every four hours as needed for 10 days. Attached as **Exhibit Q** are true and correct copies
24 of the prescriptions. When I arrived at the Jail, I spoke with someone from medical staff.
25 They told me I could only receive the MS Contin if I was housed in the infirmary. I didn't
26 want to be stuck in the infirmary, so I agreed to let them provide me with methadone
27 instead of MS Contin.
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1 27. The Jail did not order Gabapentin for me until I requested it at an
2 appointment with a nurse on March 1, 2013. Attached as **Exhibit R** are true and correct
3 pages from the doctors orders section of my Jail medical file with pain management orders
4 from February 27, 2013 and March 1, 2013.

5 28. The pain management plan that the Jail imposed on me was not sufficient to
6 treat my pain. Over the weeks following my return from the hospital, I was in horrible
7 pain, often as high as 8 or 9 on a 10 point scale. My pain was generally a 5 or 6 out of 10.
8 I had a lot of trouble sleeping, nausea, and cold sweats caused both by pain and withdrawal
9 from the pain medication I was taking in the hospital. I continued to have problems with
10 pain management all the way up until I was released from the Jail on September 27, 2013.

11 29. I also had significant problems getting the Jail to pay any attention to my left
12 arm and shoulder injury. During my initial examination at the Jail, conducted by PA
13 Whiting on May 1, 2012, she noted the many problems I was experiencing with my arm,
14 including weakness, lack of range of motion, and pain. See **Exhibit A**. I explained to PA
15 Whiting that I had been receiving physical therapy on a weekly basis. In response, PA
16 Whiting wrote that the Jail "[w]ill schedule Natividad physical therapy appointment with
17 possible home exercise regimen." However, the doctors orders for the visit, a true and
18 correct copy of which are attached as **Exhibit S**, do not include anything about physical
19 therapy for my arm.

20 30. I continued to complain to medical staff at the Jail regarding pain, numbness,
21 and other problems with my arm, at appointments on May 17, June 6, August 8, and
22 September 9, 2012, and June 13, June 17, June 27, July 1, July 3, and July 30, 2013. I
23 submitted sick call slips about my shoulder and arm pain on June 19, July 12, August 22,
24 and August 31, 2012, and June 12, June 16, June 26, June 28, July 4, July 7, and August 8,
25 2013. I also filed a grievance about receiving care for my arm on June 10 and July 8,
26 2012, and May 10, 2013. To date, the Jail has not permitted me to be seen by a neurologist
27 or orthopedist to evaluate my arm. The Jail has not provided me with access to any
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1 physical therapy. All that I have been provided for treatment of my arm is intermittent
2 pain medication.

3 31. The condition of my arm and shoulder improved somewhat between when I
4 was booked into the Jail on April 28, 2012 and released from the Jail on September 27,
5 2013. Once I was released, I was able to go see a specialist, Dr. Galicia at NMC, about my
6 arm and shoulder. I was placed on physical therapy, had my Gabapentin dosage increased,
7 and had some tests conducted. My arm and shoulder improved a lot with this treatment.
8 With that said, I still experience a number of problems with my arm, including numbness,
9 tingling, pain, and weakness.

10 32. Throughout my time in the Jail, in addition to the incidents described above,
11 I have had a really hard time getting to see appropriate medical staff when I need care. In
12 order to access medical care, we are told to file a sick call slip and provide it to medical
13 staff. I have done this many times during my time in the Jail. However, I often am not
14 seen by appropriate medical staff for many days (and sometimes not at all) after I make a
15 request for care. This was especially concerning to me when I was dealing with all of the
16 complex issues related to my ileostomy. For example, on August 30, 2012, I complained
17 to a nurse that I was having pain on my right side. A true and correct copy of the progress
18 note from my interaction with the nurse is attached as **Exhibit T**. The nurse instructed me
19 that if my condition worsened, I should complete a sick call slip. My condition did get
20 worse, so on August 31, 2012, I filed a sick call slip, a true and correct copy of which is
21 attached as **Exhibit U** about strong pain and visual blood in my stoma and requesting to
22 have the brace on my arm changed. According to the sick call slip, no medical staff even
23 viewed the slip until September 3, 2012. A stool sample was ordered on September 4,
24 2012, but I was not seen by any medical staff other than for them to gather the stool
25 sample. Having yet to be examined by any medical staff, on September 7, 2012, I filed
26 another sick call slip, a true and correct copy of which is attached as **Exhibit V**, stating
27 that I was having sharp deep pains around my stomach on the left hand side and felt
28 bloated. On September 11, 2012, I was finally seen by PA Whiting, but she only

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1 addressed my complaints about my arm and did not evaluate my abdomen, stoma, or
2 ileostomy. Attached as **Exhibit W** is a true and correct copy of the progress note from that
3 visit. I was seen again by PA Whiting on September 18, 2012, and it appears from the
4 progress notes in my medical file, a true and correct copy of a page from which is attached
5 as **Exhibit X**, that she dictated a note from that visit. However, I have reviewed my Jail
6 medical file and the dictated note is not in the file. I do not remember what was discussed
7 at the September 18, 2012 appointment. However, even if she addressed my complaints
8 regarding my abdomen, which were related to a very serious medical problem about which
9 the Jail was well aware, it still took 19 days.

10 33. I had other, similar problems accessing care. For example, on October 2,
11 2012, I submitted a sick call slip complaining that I wasn't receiving some medications for
12 my stomach and was experiencing strong cramping pains; I wasn't fully evaluated until
13 October 26, 2012—24 days later. Attached as **Exhibit Y** are true and correct copies of the
14 sick call slip and progress notes from the relevant time period.

15 34. On November 7, 2012, I submitted sick call slips about pain sensation in my
16 stomach and that I was throwing up. I wasn't evaluated by a doctor or the PA until
17 November 15, 2012—a week later. Attached as **Exhibit Z** are true and correct copies of
18 the sick call slip and progress notes from the relevant time period.

19 35. On November 18 and 25, 2012 and December 2, 2012, I complained on sick
20 call slips about pain related to my abdomen. I was seen by PA Whiting on November 20,
21 2012, but she referred my pain issues to Dr. Garcia. I was then seen by Dr. Benda, one of
22 the Jail physicians, on November 21, 2012, but he also referred all of my issues to
23 Dr. Garcia. Neither Dr. Garcia nor any other doctor or PA saw me to address any of my
24 abdomen pain prior to my ileostomy reversal surgery on December 13, 2012. Attached as
25 **Exhibit AA** are true and correct copies of the sick call slips and progress notes from the
26 relevant time period.

27 36. On April 1 and 8, 2013, I submitted sick call slips regarding abdomen pain. I
28 was seen by PA Whiting on April 9, 2013, but again, she referred the pain issues to

JH

1 Dr. Garcia. On April 15, 2013, I filed another sick call slip about stomach pain,
2 specifically indicating that PA Whiting had referred me to Dr. Garcia but that I had not
3 been seen by him. I did not see anyone to address my complaints of pain until April 18,
4 2013. Attached as **Exhibit BB** are true and correct copies of the sick call slips and
5 progress notes from the relevant time period.

6 37. On May 6 and 13, 2013, I submitted sick call slips complaining of pain in
7 my abdomen. I was not seen by a doctor or the PA until May 16, 2013. Attached as
8 **Exhibit CC** are true and correct copies of the sick call slips and progress notes from the
9 relevant time period.

10 38. On June 13, 2013, I was seen by Dr. Garcia regarding pain in my shoulder,
11 arm, and hand. He instructed me that I should follow up with him or another doctor if I
12 had continued problems. I filed sick call slips on June 16, 22, 26, and 28, 2013. Dr.
13 Garcia requested that I be seen on June 28, 2013. However, as indicated in a progress note
14 from that date, I was not seen because "Deputy staff unable to bring pt. to medical. Will
15 reschedule." On July 7, 2013, after still not having been seen about my arm, I filed
16 another sick call slip. Finally, on July 8, 2013, I was seen by Dr. Garcia for problems with
17 my arm. Attached as **Exhibit DD** are true and correct copies of the sick call slip and
18 progress notes from the relevant time period.

19 39. Sometimes the medical staff at the Jail would promise that I would receive
20 follow up care, but it would never happen. For example, on May 13, 2012, I saw a nurse
21 in the infirmary and complained of pain in all four quadrants of my abdomen. My
22 abdomen was tender to the touch. I specifically requested that I be seen by PA Whiting.
23 Attached as **Exhibit EE** is a true and correct copy of a page from my Jail medical file with
24 the progress note from that visit with the nurse. After my visit, the nurse ordered that I be
25 seen by PA Whiting on May 14, 2012. Attached as **Exhibit FF** is a true and correct copy
26 of a page from my Jail medical file with the order for me to be seen on May 14, 2012. I
27 was not seen on May 14, 2012 by any medical staff at the Jail. On May 15, 2012, I was
28 seen by another nurse and again complained about problems with my abdomen. See

JH

1 **Exhibit EE.** It wasn't until May 16, 2012, that I was finally seen by a doctor in the jail
2 about my abdomen pain. *Id.*

3 40. On other occasions, Jail medical staff failed to follow orders for my care.
4 For example, on February 27, 2013, the day I returned from my seven-week admission in
5 the hospital, medical staff ordered that the dressing on my abdomen would be changed
6 twice a day until I went to see my surgeon on March 13, 2013. Attached as **Exhibit GG** is
7 true and correct copy of the Treatment and Vital Sign Flow Sheet on which the dressing
8 changes were supposed to be recorded. There should be two entries per day. However, on
9 February 27 and 28 and March 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, and 14, my dressing was only
10 changed one time. My dressing was not changed at all on March 4, 2013.

11 41. Sometimes when I was unable to get medical attention using the sick call
12 process, I would file a Jail grievance to try to get help. On June 10, 2012, I filed a
13 grievance, a true and correct copy of which is attached as **Exhibit HH**, requesting that I
14 receive proper medical attention for my arm and abdomen. The response, dated June 14,
15 2012, stated simply "Mr. Hernandez you have been seen by our doctor and by MD's at
16 NMC! The surgeon here recommend [sic] you follow up with your primary surgeon."
17 This response did nothing to address my complaints. It did not address the problems with
18 my arm. And with respect to my ileostomy, I could not follow up with my primary
19 surgeon since I was stuck in the Jail. I also was not seen by a doctor or the PA until June
20 22, 2012. Attached as **Exhibit II** is a true and correct copy of a page from the progress
21 notes in my Jail medical file with progress notes from the relevant time.

22 42. The Jail's failure to provide me with prompt medical attention when
23 requested caused me significant unnecessary pain and suffering. On numerous occasions, I
24 was forced to endure with medical symptoms, including pain, that could have been treated
25 if I was promptly seen by an appropriate medical professional. And when I required
26 emergency medical attention two times in December 2012 and January 2013, I believe the
27 Jail's slow responses placed my life in danger.

28

JH

1 43. It is incredibly frustrating, stressful, and scary to be incarcerated in a place
2 where you have no control over access to medical care, even when you really need it.
3 Over the past two years when I was in the Jail, I often felt helpless and hopeless, worried
4 that I would have to suffer and maybe even die because the Jail would not provide me with
5 the help I needed when I needed it. I was especially fearful and traumatized in the period
6 after I returned from the hospital on February 27, 2013, because I had no confidence that
7 the Jail would respond to my complaints fast enough.

8 44. I have had other problems with the grievance process at the Jail as well. On
9 March 7, 2013, about a week after I had returned from my seven-week admission to NMC,
10 I filed a grievance about having trouble safely accessing the shower in my housing unit.
11 Attached as **Exhibit JJ** is a true and correct copy of the grievance from my custody file. I
12 complained that the shower in my unit had a 1.5 to 2 foot step up to enter the shower, but
13 had no grab bars for stability. I explained that I could not enter the shower "for fear of
14 falling and injuring myself." I requested that the Jail install grab bars or move me to a
15 different housing unit, I-Pod, that I knew had a more accessible shower. The Jail did not
16 respond to my grievance until April 1, 2013, well beyond the ten-day deadline for
17 responding to appeals. Commander Bass answered the appeal and wrote "Mr. Hernandez.
18 Per our conversation on 3/28/13 you are no longer having difficulty with the shower. You
19 will not be moved to I-Pod." His response is not accurate. I was still having problems
20 safely accessing the shower. I did tell Commander Bass that I would agree to stay in [REDACTED] JH
21 Pod. But that was only after he told me that I could not be moved to I-Pod. I still needed,
22 but was not provided with, a shower with grab bars.

23 45. As another example, my attorneys helped me to fill out a grievance
24 complaining about not receiving proper medical attention. I submitted the grievance
25 around March 20, 2013 by putting it with the regular mail for collection as I had been
26 instructed by Jail staff to do. I never received any response to the grievance. In addition, I
27 have reviewed my custody and medical files, and there is not a copy of the grievance in
28

JH

1 either file. I have filed other grievances that also did not receive any responses, including
2 a grievance about my high fiber diet sometime in March or April 2013.

3 46. I have reviewed my entire Jail medical file. A number of documents from
4 outside medical providers do not appear to be in my file. For example, the clinical note
5 from my December 13, 2012, laparotomy and ileostomy reversal surgery is not in my Jail
6 medical file. In addition, there are hardly any documents in my Jail medical file related to
7 my nearly two month stay in the hospital in January and February 2013, and there are no
8 documents in the file that indicate what procedures and treatment I received during that
9 time.

10 47. The Jail did obtain some records from NMC from prior to my arrest related
11 to my treatment for gunshot wounds in January 2012. Attached as **Exhibit KK** are true
12 and correct copies of all of the documents in my medical file from outside providers
13 related to my treatment for gunshot wounds. But the records are all illegible.

14 48. My ileostomy surgery was performed at the Santa Clara Regional Trauma
15 Center. My follow up treatment for my abdomen wounds was also at Santa Clara Regional
16 Trauma Center and NMC. There are no records from the ^{Santa Clara JH} [REDACTED] Regional Trauma
17 Center in my Jail medical file.

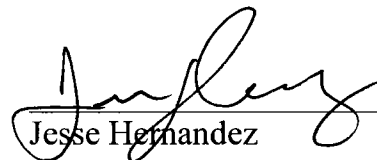
18 49. As I discussed above, I was released from the Jail on September 27, 2013
19 and placed on Supervised Home Confinement. I was then arrested and placed back in the
20 Jail on February 19, 2014.

21 50. At the time that I was arrested I was scheduled for abdominal surgery at
22 Stanford Hospital on February 20, 2014 to repair a hernia and shift how my abdominal
23 muscles are attached to my body. Before I was officially booked into the ^{Jail JH} [REDACTED] the Jail
24 medical staff sent me to NMC to be medically cleared. A doctor examined me, concluded
25 that I had an extensive hernia, and prescribed some pain medications for me. I was then
26 taken to the Jail. While in the booking area, I overheard PA Whiting say to a Sergeant and
27 my Probation Officer, "I don't know what we're going to do with him. He's cost us a lot
28 of money." I missed my scheduled surgery the next day.

1 51. I have seen many violent incidents between prisoners in the approximately
2 17 months that I have been in the Jail since April 2012. During that time, I have seen
3 approximately 10-11 fights between prisoners. During some fights I have observed,
4 custody staff do not intervene. The fights end on their own, not because staff break them
5 up. There have been some fights that I have seen where prisoners have been seriously
6 injured but where staff have so little clue about what's going on that nobody gets caught
7 and punished.

8 52. I agreed to be a named plaintiff in this case because I would like to represent
9 other prisoners who have had problems similar to what I have experienced while in
10 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
11 and the assistance available to prisoners with disabilities. I have been cooperating fully
12 with my counsel and am responding to all requests for information to the best of my ability
13 and recollection, and will continue to do so in the future. My lawyers keep me updated on
14 the progress of this case, and I will review all materials provided to me and provide my
15 input to the best of my ability. When I have questions about the case, I will ask the
16 attorneys for help to understand everything to the best of my ability.

17 I declare under penalty of perjury under the laws of the United States and the State
18 of California that the foregoing is true and correct, and that this declaration is executed at
19 Salinas, California this 1 day of April, 2014.

20
21 
22
23
24
25
26
27
28

Exhibits A - Z, AA - KK

Filed Under Seal

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*Admitted *Pro Hac Vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF JASON HOBBS
 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

1 I, Jason Hobbs, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I have served terms in the Monterey County Jail (the "Jail") numerous times
6 over the past fifteen years. Over the past year I have been booked into the Jail on two
7 occasions. I was arrested and placed in the Jail from July 12, 2013, until July 29, 2013,
8 when I was released. I was again arrested and have remained in the Jail since
9 November 12, 2013. I am currently serving a term in the Jail after having been convicted.

10 3. I suffer from a number of medical and psychiatric conditions. I have asthma
11 and Hepatitis C. I also have degenerative disc disease. Around 2006, I had major back
12 surgery to fuse part of my spine at L4-S1. My back problems cause me a lot of pain all of
13 the time. I also suffer from depression and anxiety, and have been diagnosed as having
14 bipolar disorder.

15 4. On November 17, 2013, I was attacked by another prisoner. I defended
16 myself from the unprovoked attack, and ended up wrestling on the ground with the other
17 prisoner. The attack severely aggravated my back problems and resulted in very serious
18 pain for me. I also suffered an asthma attack during the fight.

19 5. I was in so much pain after the November 17, 2013 attack that the Jail
20 provided me with medical attention and scheduled me for an MRI.

21 6. The increased back pain after the attack made it very difficult and painful for
22 me to walk. It also impeded my balance and made me considerably less stable. I orally
23 asked medical staff to provide me with a cane at that time, but I did not receive a cane until
24 December 2, 2013. According to a page from my Jailcustody records, a true and correct
25 copy of which is attached as **Exhibit A**, medical staff did not order that I be provided with
26 a cane until November 29, 2013; it took three days for them to provide me with the cane
27 after it had been ordered.
28

1 7. On December 22, 2013, I was taking a shower in my housing unit, the
2 Rotunda. I know that the shower in the Rotunda used to have a functional portable shower
3 chair because I had seen and used it during prior terms in the Jail. On the date I was
4 showering, the portable shower chair was no longer in the Rotunda because I am informed
5 it had broken. There is also a metal, permanent shower chair in the Rotunda. However,
6 the water from the showers accessible to the metal chair never gets hot. The showers that
7 have hot water are away from the metal shower chair. Because I wanted a hot shower, I
8 brought my cane into the shower to try to provide me some stability. While I was using
9 two hands to wash my hair, I lost my balance and fell. I hit my head and I think that I
10 blacked out for a few seconds. When I woke up, I had severe pain in my back, neck, and
11 head. I was transported to the infirmary, where I spent the next two days for observation.
12 I had continued headaches from my fall for 3-4 weeks.

13 8. I was returned to the Rotunda on December 24, 2013. I was housed in the
14 Rotunda until around the first week in March 2014. As of that date, the Rotunda still
15 lacked a functional shower chair where a person could access hot water.

16 9. Especially after I aggravated my back in the fight on November 17, 2013, I
17 had difficulty walking. It is and was particularly difficult and painful for me to walk up or
18 down stairs.

19 10. The exercise yard for the Rotunda is located up a very long flight of stairs.
20 As far as I am aware, there is no way to access the Rotunda's exercise yard other than
21 walking up the long flight of stairs. I rarely went to the exercise yard when it was offered
22 because it was so painful and difficult for me to walk up and down the stairs. If the
23 exercise yard had been located in an area where I did not have to walk up or down stairs, I
24 would have gone to the yard for exercise almost every time that it was offered to me.

25 11. Because of my back problems, it is difficult and dangerous for me to sleep
26 on an upper bunk; I have great difficulty safely climbing up and down from the bed. When
27 I was booked into the Jail on July 12, 2013, I was placed in a detox cell in the booking
28 area. On July 14, 2013, at a medical appointment with a nurse, I told the nurse that I had

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1 back, leg, and neck pain, and requested that when I was moved to a housing unit, I be
2 provided with a lower bunk assignment because I wouldn't be able to get up to an upper
3 bunk. Attached as **Exhibit B** is a true and correct copy of a page from my Jail medical file
4 with the progress note from the appointment. The nurse didn't address my request, but
5 placed me on sick call to see a doctor the next day. On July 15, 2013, I was seen by a
6 doctor. According to the progress note from that appointment, a true and correct copy of
7 which is attached hereto as **Exhibit C**, the doctor also did not address my request for a
8 lower bunk.

9 12. When I was discharged from the detox cell, I was assigned to the C Wing in
10 the Rehabilitation Facility. All of the bunks in the C Wing were triple bunks. From my
11 experience, in C Wing, staff do not assign bunks to prisoners. When a new prisoner is
12 placed in the C Wing, the prisoner either takes an open bunk or other prisoners tell him
13 what bunk to take. When I arrived in the C Wing, there were no lower bunks available.
14 As a result, I had to choose a middle or upper bunk. Three days later, on July 18, 2013, as I
15 was trying to get down from my bunk, I fell about 4 feet. I fell on the corner of a table or
16 chair, which hit me right on my lower-middle back. The pain felt like someone had
17 stabbed me with a knife and pulled it out. After I fell, I crawled to the front of the C Wing
18 where other prisoners helped me get the attention of the guards. I received medical
19 attention in the infirmary as a result. I was also moved to the Rotunda for the rest of my
20 term in the Jail.

21 13. I have asked for lower bunk chronos at other times in the Jail, and, even
22 though the Jail knows that I have fallen trying to get down from an upper bunk before, I
23 still have not been provided with a lower bunk chrono.

24 14. From the date of the November 17, 2013 attack until today, my back pain has
25 been at very high levels. The Jail has prescribed me some medications to help me try to
26 manage my back pain. The only medication that has worked to control my pain has been
27 Norco. Unfortunately and for reasons I do not understand, the Jail has on numerous
28 occasions failed to provide me with Norco. For example, despite requesting medications

1 through the sick call process, I did not receive any pain medications on November 26,
2 2013. I also did not receive any pain medications from December 18 to 21, 2013.

3 15. When I did not receive Norco in November 2013, my pain became
4 overwhelming. The pain became so bad that, according to a page from my Jail medical
5 file, a true and correct copy of which is attached as **Exhibit D**, a deputy in my housing unit
6 reported to medical staff that I was in "severe back pain." The Jail had to admit me
7 overnight into the Jail infirmary to control the pain.

8 16. Sometimes, and especially when I do not receive Norco, the back pain is so
9 bad that I am unable to move around or get up from my bed. Without the pain medication,
10 I stay in bed all day.

11 17. The Jail has never offered me any physical therapy to help me strengthen my
12 back and control my pain without medication. As a result, the only thing that helps control
13 my pain is medication.

14 18. I typically use an Albuterol inhaler to treat my asthma attacks. For some of
15 the time that I have been in the Jail on this recent term, the Jail provided me with an
16 Albuterol inhaler to keep on my person. In late February, my inhaler ran out. I filed 3 sick
17 call slips requesting it be refilled. I also asked medical staff orally to refill it. It still has
18 not been refilled. As a result, I am suffering wheezing asthma attacks almost nightly. I am
19 especially worried about not having my inhaler because of how frequently I have seen
20 respiratory sicknesses spread through the Jail.

21 19. I have experienced other problems with the medical care at the
22 Jail. According to a page from my Jail medical records, a true and correct copy of which is
23 attached as **Exhibit E**, on December 4, 2013, medical staff at the Jail ordered that I have
24 an appointment with a neurosurgeon "ASAP for eval[uation] & pain mgmt/MRI review."
25 At around that same time, I was informed by medical staff at the Jail that I would see a
26 specialist. On December 19, 2013, I filed a grievance requesting that I be seen by a
27 specialist. A true and correct copy of the grievance is attached as **Exhibit F**. Since
28

1 December 4, 2013, I have not been seen by any specialists to evaluate my back; I am also
2 not aware of any upcoming appointments scheduled with a neurosurgeon.

3 20. According to a page from my Jail medical records, a true and correct copy of
4 which is attached hereto as **Exhibit G**, the medical staff at the Jail wanted to have an
5 appointment with me on December 19, 2013. However, medical staff were unable to see
6 me because there were no custody staff available to escort me to see the medical staff. *See*
7 *id.* (progress note explaining that medical staff “[a]sked to see pt. [patient] but no deputy
8 available this AM or PM”). I was not seen by medical staff until December 21, 2013.

9 21. Because of my efforts to defend myself from the unprovoked attack I
10 experienced on November 17, 2013, I was charged with a Disciplinary Action Report
11 (“DAR”) for fighting. A true and correct copy of the DAR is attached as **Exhibit H**. I
12 pleaded guilty to the charge, because I felt had no choice. As punishment, I was assessed
13 two weeks loss of access to the exercise yard and two weeks loss of access to the
14 commissary. As far as I am aware, at no point during the DAR process, did staff review
15 whether my anxiety, depression, and bipolar disorder had played a role in my violation of
16 Jail rules.

17 22. I have suffered other violent attacks while at the Jail. On or around April 13,
18 2014, four other prisoners attacked me while I was asleep. It was like waking up in a
19 nightmare. I suffered a number of injuries from this attack, including an ulnar fracture in
20 my left arm, a black eye, facial fractures, a cut under my eye that required stitches, and
21 other cuts and bruises all over my face and body. No guards were around when the attack
22 happened. I had to walk over to the guard station myself for the guards to notice that
23 anything was wrong. The guards then walked me over to the infirmary. At the infirmary,
24 the medical staff recognized I needed emergency attention, and sent me to the emergency
25 room at NMC.

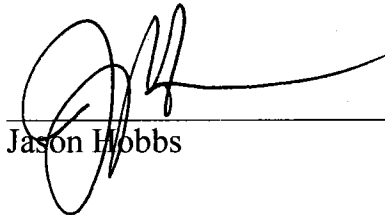
26 23. I have had problems in past Jail terms. For example, in July 2009, I was
27 arrested and placed in the Jail. Before I was arrested, I was prescribed and was taking
28 Oxycodone, Oxycontin, Xanax, Adderall, and Klonopin. According to a page from my

1 Jail medical file, a true and correct copy of which is attached as **Exhibit I**, after I was
2 arrested, medical staff at the Jail confirmed that I had been prescribed these medications.
3 Despite the fact that I was taking the medications pursuant to a prescription and that I was
4 not using or abusing drugs or alcohol at that time, the Jail placed me on what it calls a
5 “detox protocol.” The detox protocol involved taking me off of all of my medications. As
6 a result of being taken off of all of my medications, I went into withdrawal and started
7 having serious pain. I had sweats, chills, body aches, and back pain. The Jail never
8 provided me with my prescribed medications during that time in the Jail. A similar thing
9 happened on other occasions where the Jail would fail to provide me with prescribed pain
10 and psychiatric medications when I was arrested.

11 24. I agreed to be a named plaintiff in this case because I would like to represent
12 other prisoners who have had problems similar to what I have experienced while in
13 Monterey County Jail. I want to help improve the medical care, mental health care, the
14 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
15 cooperating fully with my counsel and am responding to all requests for information to the
16 best of my ability and recollection, and will continue to do so in the future. My lawyers
17 keep me updated on the progress of this case, and I will review all materials provided to
18 me and provide my input to the best of my ability. When I have questions about the case, I
19 will ask the attorneys for help to understand everything to the best of my ability.

20 I declare under penalty of perjury under the laws of the United States and the State
21 of California that the foregoing is true and correct, and that this declaration is executed at
22 Salinas, California this 17 day of April, 2014.

23
24
25
26
27
28



Jason Hobbs

Exhibits A - I

Filed Under Seal

1 MICHAEL W. BIEN – 096891
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 3 VAN SWEARINGEN – 259809
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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

26 Defendants.

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*Admitted *Pro Hac Vice*

Case No. CV 13 2354 PSG

**DECLARATION OF BRANDON
 MEFFORD IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

BM

1 I, Brandon Mefford, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I was booked into the Monterey County Jail ("the Jail") on December 3,
6 2013. I arrived directly from the Salinas Valley State Prison ("SVSP"). I am being held
7 on new charges.

8 3. I have very serious and chronic psychiatric conditions, including borderline
9 personality disorder, severe depression and anxiety, and attention deficit hyperactivity
10 disorder ("ADHD"). I have a history of suicide attempts and of self-mutilation. While in
11 state prison, I received the highest levels of care available, including treatment in the
12 licensed inpatient care facilities run by the Department of State Hospitals ("DSH"). I was
13 in DSH facilities for a significant part of my time in state prison. While I was treated in a
14 DSH unit, I received multiple hours a week of treatment and constant supervision by
15 nurses and psychiatric technicians. Even when I was not in a DSH facility, I received
16 treatment at the "Enhanced Outpatient Program" level, meaning I received, at minimum,
17 10 hours a week of treatment.

18 4. In addition to my psychiatric conditions, I also suffer from chronic asthma
19 and hypertension. In state prison, I received an inhaler for my asthma.

20 5. The Jail is aware of my psychiatric and medical conditions. Attached hereto
21 as **Exhibit A** is a true and correct copy of pages from my Medication Reconciliation Form,
22 which was sent from SVSP to the Jail. Attached hereto as **Exhibit B** and **Exhibit C** are
23 true and correct copies of my Intake Health Screening Form, found in my custody file, and
24 my Intake Triage Assessment Form, found in my Jail medical file, both dated December 3,
25 2013. These forms indicate that I made Jail custody and medical staff aware of my
26 psychiatric and medical conditions immediately upon my booking into the Jail.

27 6. After being processed, I was placed in G-Pod, a segregation or solitary
28 confinement unit. In G-Pod, everyone is in "lockdown," and most of the prisoners housed

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1 there are violent offenders. [REDACTED] I do not know why I was placed in a lockdown pod with
2 violent offenders. Attached hereto as **Exhibit D** is a true and correct copy of a page from
3 my custodial file discussing my classification. In G-Pod, I and, as far as I know, everyone
4 else are only allowed out of our cells one hour a day. We are inside our cells 23 hours or
5 more per day. During the hour out of our cells, we are expected to shower, use the
6 telephone, exercise, or watch television. Because the guards rotate the hours during which
7 prisoners are allowed out of their cell, sometimes my out-of-cell hour falls in the middle of
8 the night. When this happens, I cannot use the television or telephone. Attached hereto as
9 **Exhibit E** is a true and correct copy of a grievance I filed about this policy in February
10 2014. There is also no yard attached to G-Pod. We only get outdoor yard access when the
11 guards bring us, which happens irregularly but no more than once a week. Sometimes,
12 there will be many weeks when outdoor yard will not be offered. I have gone many days
13 at the Jail without being able to participate in any recreation activities or outdoor exercise
14 at all.

15 BM 7. Being in G-Pod means being without light or interaction with people. My
16 cell has the windows covered by a metal plate, so I cannot see outside at all and have no
17 idea if it ^{IS} [REDACTED] day or night. I find this very disorienting and difficult to deal with. My
18 mental health issues and in particular my anxiety are worse when I am so disoriented. I
19 feel depressed without being able to see the rain come down or the sun come up. Even
20 those small contacts with the outdoors do a lot to calm me. Without them, I sometimes
21 feel so depressed I have suicidal ideations.

22 8. Soon after I arrived at the Jail on December 3, 2013, I saw a psychiatric
23 nurse, Charlotte Gage ("Nurse Gage"). Nurse Gage agreed to continue me on the same
24 medication I had been taking in state prison: Zyprexa (olanzapine)(5 mg) and Depakote
25 (divalproex sodium ER) (two tabs of 500 mg) in the evening and Zoloft (sertraline) (three
26 tabs of 50mg) in the morning. Attached hereto as **Exhibit F** is a true and correct copy of
27 Nurse Gage's notes from this examination, found in my medical file. The next day, Doctor
28 Taylor Fithian ("Dr. Fithian") came to speak with me. Attached hereto as **Exhibit G** is a

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1 true and correct copy of a page from my Jail medical records with Dr. Fithian's notes from
2 our conversation. After a very brief conversation, Dr. Fithian changed my medication.
3 Instead of Depakote, Dr. Fithian switched me to the generic version, valproic acid (VPA)
4 at the same dosage. Dr. Fithian also started me on Klonopin (clonazepam) (1 mg twice a
5 day). Attached hereto as **Exhibit H** is a true and correct copy of a page from my medical
6 file ordering these medication changes. I can see from reviewing this document that Dr.
7 Fithian did not provide any reason for these changes. I also asked Dr. Fithian for
8 medication to help with my ADHD. Dr. Fithian refused. I can see that he wrote in his
9 notes from this conversation that he told me that: "we did not have any central nervous
10 stimulants here." See **Exhibit G**.

11 9. I did not feel that this medication combination worked as well for me as the
12 combination of medication I took in state prison. VPA upsets my stomach. Klonopin
13 made me very sleepy, and did not help with my ADHD symptoms. ADHD makes it hard
14 for me to function. When it is not controlled, I feel like I live in a hyper-manic state as my
15 ADHD, anxiety, and mania all combine in a toxic combination. I can't sit still. In state
16 prison, I received medication for ADHD, and it helped me slow down so that I could
17 function better.

18 10. Dr. Fithian has subsequently changed my medications, sometimes without
19 my knowledge or permission. For example, after the December 15, 2013 incident
20 discussed below, Dr. Fithian added Haldol to my medications. Attached hereto as
21 **Exhibit I** is a true and correct copy of a page from my Jail medical record with Dr.
22 Fithian's notes, dated December 16, 2013, that I should be started on Haldol. I always
23 refused Haldol in state prison because it makes me feel twitchy and like I'm hallucinating.
24 Then, a couple of days later, I started receiving a higher dosage of Klonopin. Attached
25 hereto as **Exhibit J** is a true and correct copy of a page from my medical records with an
26 order to raise my Klonopin dosage from 1 mg to 2 mg. There is no indication in my
27 medical record that I can see as to why my dosage was altered.

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1 11. I also have not seen Dr. Fithian or any psychiatrist or therapist regularly
2 while I've been in the Jail. For example, I did not see Dr. Fithian from December 16,
3 2013, until January 10, 2014. I can see from reviewing my records that Dr. Fithian was
4 supposed to see me on both January 8, 2014, and January 9, 2014, but did not. Attached
5 hereto as **Exhibit K** and **Exhibit L** are true and correct copies of Dr. Fithian's notes from
6 those dates that were found in my Jail records. I do not know why Dr. Fithian did not see
7 me on those days. I can also see from reviewing my file that on January 9, 2014, Dr.
8 Fithian wrote: "In review of his chart, it looks like some of his progress notes are missing
9 because I have seen him on several occasions and there is no reflection of that."

10 *See* **Exhibit L**.

11 12. Even when I was able to see Dr. Fithian, it was often not in a therapeutic
12 setting. For example, Dr. Fithian came to see me at my cell on February 26, 2014. He
13 conducted our entire conversation about my mental health care treatment through the tray
14 slot of my cell. In order for me to hear him and for him to hear me, we both had to speak
15 loudly in a manner that made it likely that the deputies who were standing right there and
16 the prisoners in the day room could hear our conversation. I do not know why Dr. Fithian
17 came to see me at my cell, but it made me very uncomfortable to have to talk to him about
18 my private medical concerns in front of everyone in my housing unit. Attached hereto as
19 **Exhibit M** is a true and correct copy of Dr. Fithian's notes from this conversation, which
20 were found in my Jail medical file.

21 13. I believe that at the Jail I have not received the treatment or medication I
22 need to help me manage my mental illness. My mental illness is overwhelming at times
23 and I cannot control it. I feel like the Jail staff members don't understand that, and they
24 punish me for actions I do involuntarily.

25 14. For example, on December 15, 2013, there was an incident in G-Pod. A
26 bunch of prisoners began "popping" their tray slots. This means that prisoners began
27 opening their tray slots from inside their cell. They could do this because the locks on the
28 tray slots do not function properly. Attached hereto as **Exhibit N** is a true and correct copy

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1 of the Disciplinary Action Report ("DAR") filed against me by the custody staff in
2 response to the incident. As I wrote on the DAR: I did not break the lock on the tray slot,
3 "[m]y lock was broken and did not lock." After this incident, I became agitated and yelled
4 some things at the guard. Attached hereto as **Exhibit O** is a true and correct copy of the
5 DAR filed by the custody staff in response to this additional incident. I lost commissary,
6 yard, and visit privileges for four weeks until January 14, 2014. The Jail staff did not
7 consider my mental illness at all in adjudicating this DAR. The Jail custody staff told me
8 during the DAR that it was not their job to consider my mental health. They told me to file
9 a sick call slip and to see Dr. Fithian if I was concerned about my mental health.

10 15. As mentioned, the lack of daylight in my cell caused me serious anxiety, and
11 I needed access to the outdoor yard, however infrequent, to calm me down. I thus decided
12 to appeal the DAR that caused me to lose my yard, commissary, and visit rights. Attached
13 hereto as **Exhibit P** is a true and correct copy of the appeal I filed on December 20, 2013.
14 Therein I wrote that my serious mental illness caused me to act out, and that I apologized
15 for my actions. I agreed that I should be punished in some form, but told the Jail staff that
16 I thought four weeks of lost privileges was too harsh, given the involuntary nature of my
17 psychiatric condition.

18 16. On or around January 2, 2014, I received a response from Commander
19 Mendoza to my appeal, which he denied. Attached hereto as **Exhibit Q** is a true and
20 correct copy of Commander Mendoza's letter to me. Commander Mendoza showed no
21 understanding of my mental illness, writing instead: "The fact of the matter is that you
22 made threats against an officer which in this facility we take serious [sic] regardless of an
23 inmate's medical condition. If you feel the Board's disciplinary recommendations are
24 excessive and possibly impact your mental state I suggest you make sure you take your
25 prescribed medications. I assume you're taking some sort of medication(s) for your bi-
26 polar and depression."

27 17. Sometimes when I act up because of my mental illness, I am placed in a
28 "Safety Cell," which I call a "rubber room." The rubber rooms are single cells with

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1 nothing but a grate in the floor for a toilet—no sink, bed, desk, or anything else. When I
2 have been in the rubber room, they have always been extremely dirty, with feces, urine,
3 and trash on the floor. Sometimes, there have also been feces smeared on the walls and on
4 the cell door window.

5 18. I have been left naked in the rubber room at least one time, while I was also
6 strapped to a restraint chair. At least once, I was given a thin smock to wear but nothing
7 else. At other times, I was left without any clothes except my shorts and undershirt. I am
8 scared to be in the rubber room with so little clothing because it's so dirty and I often have
9 open wounds from cutting myself. I don't want to sit down on the nasty floor because of
10 I'm scared of getting an infection. Sometimes, I receive a blanket while I'm in the rubber
11 room, but not always.

12 19. I have also been left in the rubber room for many hours without any food or
13 water. For example, for a period of about 15 hours on January 26, 2014, and January 27,
14 2014, I was given no food and only one cup of water. Even when I am offered food, I
15 have sometimes refused it because I don't want to eat on the dirty floor, staring at the dried
16 feces on the grate. When I have received food in the rubber room, it has come on a
17 Styrofoam plate, without any utensils to eat it with. I don't want to eat food with my hands
18 in the rubber room, especially if I've had to use the toilet-grate. There is no way to clean
19 my hands in the rubber room—no toilet paper, water, or soap. When the guards do bring
20 me a cup of water, I have to choose between washing my hands and drinking it.

21 20. In a rubber room, I feel like I am left all by myself. There have been long
22 periods where I would not see anyone at all and would be totally alone. No one talked to
23 me. This made me anxious and depressed. I felt abandoned, like I was so unimportant that
24 I had been left alone and forgotten. I can see from reviewing the Safety Cell Logs
25 completed by Jail custody staff that the Jail staff would often fail to check on me for
26 periods of time as long as an hour or more. Attached hereto as **Exhibit R** is a true and
27 correct copy of the Safety Cell Log found in my Jail custody records from my December
28 15, 2013, stay in the rubber room; attached hereto as **Exhibit S** are true and correct copies

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1 of the Safety Cell Logs, found in my Jail custody records, from the January 24, 2014 to
2 January 27, 2014 period of time in which I was in and out of rubber rooms; attached hereto
3 as **Exhibit T** is a true and correct copy of the Safety Cell Log, found in my custody file,
4 from when I was in a rubber room on March 18, 2014; attached hereto as **Exhibit U** are
5 true and correct copies of the Safety Cell Logs, found in my Jail custody records, from the
6 March 30, 2014 to April 3, 2014 period of time in which I was in and out of rubber rooms.

7 21. I also have not received regular medical care while I am in a rubber room.
8 For example, attached hereto as **Exhibit V** is a true and correct copy of a Sobering/Safety
9 Cell/Restraints Log, dated January 24, 2014, and found in my Jail medical record, whereon
10 some Jail staff member wrote that my vital signs were not checked at 12 pm "per custody"
11 and were not checked at 2 pm with no reason given. Even when I would see medical staff,
12 they never asked how I was feeling or checked on my mental state.

13 22. I have been placed in rubber rooms for many different reasons, all of which
14 relate to my mental illness. For example, I was placed in a rubber room on December 15,
15 2013, after the DAR hearing and "tray popping" incident discussed above. At the time I
16 was placed in the rubber room, I had not expressed any suicidal thoughts or ideation to any
17 staff at the Jail. It appears from reviewing my records that staff placed me in the rubber
18 room because of "my disruptive behavior in G-Pod," not because of anything related to
19 hurting myself or others. Attached as **Exhibit W** is a true and correct copy of a
20 Lockdown/Inmate Movement Form for my transfer from G-Pod to a rubber room.

21 23. When I get anxious I have a tendency to hurt myself to quell the anxiety. In
22 the rubber room, I began punching myself in the face as a way to quiet my anxious mind. I
23 punched myself 20-30 times, giving myself a bloody nose. I told the custody staff that "I
24 just couldn't handle it anymore." Attached hereto as **Exhibit X** is a true and correct copy
25 of the Inmate Injury Report discussing this incident and found in my custody file. The
26 incident is also discussed in **Exhibit W**. The Jail custody staff then placed me in a
27 restraint chair. The restraint chair has straps that prevent movement across the chest, legs,
28 and arms. I was also put in a padded helmet. I was able to get myself out of the restraint

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1 chair within an hour or two—I don't know if it was because the guards didn't tie the straps
2 well or if the restraint chair itself was that easy to escape. Attached hereto as **Exhibit Y** is
3 a true and correct copy of a Sobering/Safety Cell/Suicide Watch/Restraints Log found in
4 my Jail medical file and dated December 15, ^{2013 BM} [REDACTED] and December 16, ^{2013 BM} [REDACTED]. I was out of
5 the restraint chair for five or ten minutes before anyone noticed me standing by the
6 window in the cell door. The guards then placed me back in the restraint chair and added
7 belly chains for a couple of hours. Eventually, the guards removed me from the chair and
8 chains, but left me in the rubber room.

9 24. All evening, I informed the Jail medical staff that I wanted to hurt myself to
10 “distract” from my feelings of anxiety. *See* **Exhibit Y**. I also told the staff that being in the
11 rubber room was only making my anxiety worse. I was placed back in a restraint chair at
12 about 10 pm on the night of December 15, 2013. Attached hereto as **Exhibit Z** is a true
13 and correct copy of the Restraint Chair Report Form found in my custody file and dated
14 December 15, 2013. At 2 am, or after I had been in the safety cell for about 15 hours, I
15 was given a bunch of medication through two or three different shots. I can see from
16 reviewing my files that the staff referred to this as the “Fithian Cocktail.” Attached hereto
17 as **Exhibit AA** is a true and correct copy of a page from my Jail medical records showing
18 that Dr. Fithian was contacted about me earlier but did not respond until almost 2 am. I
19 was finally allowed to go back to my cell at around noon on December 16, 2013.

20 25. In January 2014, I was again placed in a rubber room, this time for
21 expressing thoughts of self-harm. The morning of Friday, January 24, 2014, I was seen by
22 a member of the Jail's medical staff. I told the staff member that I was having thoughts of
23 self-mutilation. A true and correct copy of a page from my Jail medical record discussing
24 this conversation is attached as **Exhibit BB**. I became nervous while talking to the
25 medical staff member, because I realized that if I admitted to my true thoughts, I would be
26 put back in a rubber room. In response to a question regarding whether I would actually
27 hurt myself if I had a tool to do so, the medical staff member wrote that I said “[I]’m
28

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1 thinking what to say because I know your [sic] going to put me in a rubber room.” As
2 feared, I was placed in a rubber room that afternoon.

3 26. In state prison, I could be honest with medical staff members, because if I
4 told them that I was thinking about hurting myself, I wouldn’t automatically be placed in a
5 rubber room. Instead, the state prison staff would check on me regularly and provide
6 treatment as necessary. Here in the Jail, even if you say you are just having vague
7 thoughts about hurting yourself, you get thrown in the rubber room.

8 27. After reviewing my medical file, I can see that I was actually discontinued
9 from suicide watch by 3 pm on January 24, 2014, or approximately three hours after I was
10 placed in the rubber room. Attached hereto as **Exhibit CC** is a true and correct copy of a
11 page from my Jail medical records, where a Jail staff member wrote that Dr. Fithian
12 removed me from suicide watch. But I was not returned to G-Pod. Instead, I was taken to
13 a booking cell where I was kept by myself. After reviewing my file, it appears that Dr.
14 Fithian ordered that I remain in the booking area until he could see me on Monday. The
15 order discontinuing the suicide watch also ordered that I was to remain single celled “until
16 further notice.” See **Exhibit CC**. In addition, in an incident report related to the psychotic
17 episode described below, a true and correct copy of which is attached as **Exhibit DD**,
18 custody staff wrote that “[i]t should be noted that Dr. Fithian had ordered Mefford to stay
19 in booking Cell 11 until he could be seen by a jail psychologist on Monday.”

20 28. ^{BM} [REDACTED] each booking cell only has a bench, toilet, and sink, with
21 no bed, blanket, or mattress. The bench and floors were very dirty and the room was
22 freezing cold. I did not want to sleep in the booking cell in such freezing and unsanitary
23 conditions. I thus decided to not take my Klonopin, because it makes me so sleepy I knew
24 I would be forced to lie on the floor to sleep or risk collapsing. At about 2 am on January
25 25, 2014, custody staff came to get me from the booking area. The staff members told me
26 that Dr. Fithian did not have the authority to keep me in a booking cell and that they were
27 bringing me back to G-Pod. While walking me back, the guards saw that I had the
28 Klonopin in my hand, and took me to the Infirmary to verify what medication it was.

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1 While in the Infirmary, the guards got extremely angry and I became agitated. Because I
2 argued back, the guards threw me to the ground and stepped on me. I received a black eye
3 from this encounter. The guards also filed a Disciplinary Action Report, a true and correct
4 copy of which was found in my custody file and is attached hereto as **Exhibit EE**. There
5 is no indication on the DAR that staff considered whether my mental illness had caused
6 my violation of Jail rules.

7 29. The guards then brought me back to a rubber room. As I discussed above, I
8 have a tendency to hurt myself in stressful situations. I started banging my head against
9 the door. The custodial staff then placed me in a restraint chair with belly chains and a
10 padded helmet. Attached hereto as **Exhibit FF** is a true and correct copy of the Restraint
11 Chair Report Form found in my Jail custody record. After approximately three hours, or
12 around 5:30 am on January 25, 2014, I was once again brought from the rubber room to a
13 booking cell.

14 30. While detained in the booking cell at this time, I was still very agitated and
15 was talking excitedly to anyone who would listen. My thoughts were racing, I believe I
16 was probably having a hyper-manic episode, but received no medical or psychiatric
17 treatment for it even though nurses checked on me and noted that I was "talking nonstop."
18 Attached hereto as **Exhibit GG** is a true and correct copy of a page from my medical
19 records with notes from the Jail medical staff who checked on me on January 25, 2014,
20 and into the morning of January 26, 2014. I was also experiencing some tightness in my
21 chest, which felt like the start of an asthma attack. I asked a nurse to go get my inhaler,
22 which the guards had not brought with me to the rubber room. No one brought me my
23 inhaler.

24 31. On the evening of January 26, 2014, I once again became agitated after
25 spending over 48 hours in a combination of the rubber rooms and the booking cells. I was
26 feeling so frustrated and anxious that I was stuck there. I started banging my head against
27 the booking cell door, causing my forehead to become red. Attached hereto as
28 **Exhibit HH** is a true and correct copy of the Inmate Injury Report in which a Jail staff

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1 member details this incident. Custody staff moved me from the booking cell back, once
2 again, to a rubber room—now for the third time in two days. This moving between these
3 horribly dirty cells just made my anxiety worse. This time, it was even more stressful,
4 because the Jail staff left me handcuffed in the rubber room, which hurt my arms a lot. I
5 start to freak out when I am in serious pain.

6 32. I started banging my head against the door in my safety cell, giving myself a
7 bloody nose. The guards then put me in a restraint chair for the second time in 24 hours.
8 Attached hereto as **Exhibit II** is a true and correct copy of the Restraint Chair Report Form
9 dated January 26, 2014, and found in my Jail medical record. I can see from reviewing my
10 Jail files that the Jail custodial staff filed a Crime/Incident Report about me at this time.
11 See **Exhibit DD**.

12 33. I finally was seen by Dr. Fithian on the morning of January 27, 2014, almost
13 72 hours after I was initially placed in the safety cell. Attached hereto as **Exhibit JJ** is a
14 true and correct copy of Dr. Fithian's notes from that conversation.

15 34. I was again placed in a rubber room on March 18, 2014, for approximately
16 nine hours. See **Exhibit T**. From about March 30, 2014 until approximately April 3,
17 2014, I then had a very serious psychotic episode. See **Exhibit U**. For approximately four
18 days, I was in and out of rubber rooms, booking cells, and isolation cells, as I struggled
19 with my self-harming compulsions. I cut myself on the buttocks with a screw that I had
20 removed from a smoke detector, and I hit my head against the wall. Instead of providing
21 any therapeutic care, the Jail just moved me back and forth between the different cells. BM
22 Attached hereto as **Exhibit KK** are true and correct copies of pages from my Jail custody file
23 discussing my injuries and my movement back and forth between cells.

24 35. I do not believe that I should be spending so much time in the rubber rooms,
25 booking cells, and isolation. I also do not believe I should be assigned to a lockdown unit.
26 I have repeatedly tried totell Jail staff members that being alone and deprived of human
27 contact and natural light is bad for my psyche. These dark lonely rooms are not helping
28 me get better in any way.

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1 36. I tried to tell Dr. Fithian, Nurse Gage, and other members of the Jail's
2 psychiatric staff about why it was bad for my mental health for me to be assigned to a
3 lockdown unit. Attached hereto as **Exhibit LL** is a true and correct copy of a sick call slip
4 I filed about this issue on January 4, 2014. Attached hereto as **Exhibit MM** are true and
5 correct copies of pages from my medical file with medical progress notes discussing my
6 concerns. None of the staff members provided any treatment in response to my concerns.

7 37. I then tried to find help for this issue through the Jail's grievance procedures.
8 I filed a grievance about my problems with sensory deprivation in G-Pod on January 20,
9 2014, a true and correct copy of which is attached hereto as **Exhibit NN**. In this grievance,
10 I wrote that without sunlight or some sense of day or night "I am constantly left in a state
11 of sever[e] depression and anxiety and dealing with feelings of claustrophobic panic
12 attacks and even suicidal thoughts." I told the Jail staff that "my mental stability is
13 decompensating more and more every day." This grievance was returned to me with a
14 note, dated February 4, 2014, and written by Dr. Fithian, that "We will continue to provide
15 you with as much care and treatment as we can, you need and deserve." I see that there was
16 also a note, signed by Commander Bass, that the Jail would "look into the window
17 situation." This grievance was marked as "Resolved" on February 6, 2014. I do not know
18 why it was marked as resolved as nothing changed. I was left in the same housing unit and
19 was not provided with any solution to this problem.

20 38. In addition to my psychiatric conditions, I also suffer from asthma. When I
21 entered the Jail, I informed the custody staff at the health screening and medical staff at the
22 intake triage that I had asthma. See **Exhibits B** and **C**. I also brought a Xopenex inhaler
23 with me from SVSP, which was taken at my intake. When I saw a nurse on December 3,
24 2013, I requested my inhaler, which was in the receiving area with my other property. The
25 nurse gave me a new inhaler. See **Exhibit H**. On December 5, 2013, I saw Physician's
26 Assistant Terri Whiting ("PA Whiting") who confirmed my asthma and told me to
27 continue using my inhaler as necessary. Attached hereto as **Exhibit OO** is a true and
28 correct copy of PA Whiting's notes from her examination of me.

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1 39. During a custody raid in January 2014, my inhaler was taken away from me.
2 Jail staff had not marked it to indicate that it was mine. As a result, I was unable to prove
3 that it was mine and that I had the right to have it. I saw a member of the medical staff
4 about my asthma on January 17, 2014, and requested a new inhaler. The medical staff
5 member told me that I could not have one as there was no record that I had asthma or had
6 ever had an inhaler. Attached hereto as **Exhibit PP** is a true and correct copy of a page
7 from my Jail medical records, dated January 17, 2014, and showing the nurse's notes from
8 this conversation. Therein, the nurse wrote: "[T]here has never been an order for INH
9 [inhaler]." From reviewing my medical record, I can see that this is not true. See **Exhibits**
10 **H** and **OO**. Moreover, I received inhalers in prison, so the orders for inhalers and my
11 history of asthma were recorded in my prison medication file, which I can see is in my Jail
12 medical records. See **Exhibit A**.

13 40. Without my inhaler, I struggle to breath and can feel my chest tightening up.
14 I believe that this asthmatic feeling also contributes to my anxiety, which then triggers a
15 whole host of my psychiatric symptoms.

16 41. I went back to see the medical staff on January 21, 2014. Then, the medical
17 staff had no problem determining that I was wheezing and had a history of asthma. After
18 this second examination, I received an inhaler. Attached hereto as **Exhibit QQ** is a true
19 and correct copy of a page from my Jail medical records with an order for an albuterol
20 inhaler, dated January 21, 2014.

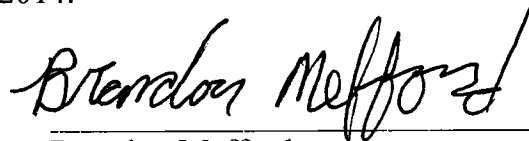
21 42. I also do not believe that the Jail is a safe place to be. On January 22, 2014,
22 another prisoner in my housing unit attacked me while we were lined up to go to sick call.
23 I hit him back, and we were both punished. I lost my yard privileges, which I had just
24 gained back, until February 2, 2014. Attached hereto as **Exhibit RR** is a true and correct
25 copy of the Disciplinary Action Report prepared by a member of the Jail custody staff
26 discussing this incident. I have also personally witnessed a number of fights between
27 prisoners. Sometimes, the custody staff does not know about these fights. Sometimes, the
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1 custody staff will not report the fights or intervene, and will leave it to the prisoners to
2 break it up themselves.

3 43. I am also scared of the other prisoners housed in G-Pod. As mentioned, most
4 of the people in G-Pod are there on violent offenses. I was directly threatened by at least
5 one other prisoner in G-Pod. I believe that he could make good on his threat. I am very
6 scared about this situation, and I do not trust guards to be close by to help me if something
7 happened.

8 44. I agreed to be a named plaintiff in this case because I would like to represent
9 other prisoners who have had problems similar to what I have experienced while in
10 Monterey County Jail. I want to help improve the medical care, the mental health care, the
11 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
12 cooperating fully with my counsel and am responding to all requests for information to the
13 best of my ability and recollection, and will continue to do so in the future. My lawyers
14 keep me updated on the progress of this case, and I will review all materials provided to
15 me and provide my input to the best of my ability. When I have questions about the case, I
16 will ask the attorneys for help to understand everything to the best of my ability.

17 I declare under penalty of perjury under the laws of the United States and the State
18 of California that the foregoing is true and correct, and that this declaration is executed at
19 Salinas, California this 17 day of April, 2014.

20 

21 Brandon Mefford
22
23
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25
26
27
28

Exhibits A - Z, AA - RR

Filed Under Seal

1 MICHAEL W. BIEN – 096891
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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

26 Defendants.

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*Admitted *Pro Hac Vice*

Case No. CV 13 2354 PSG

**DECLARATION OF ANGEL PEREZ
 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

1 I, Angel Perez, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in Monterey County Jail (the "Jail"). I was most
6 recently booked into the Jail on December 30, 2012. I am a sentenced prisoner, serving a
7 jail term after having been convicted of a crime.

8 3. I have a large tumor on my right foot that is potentially cancerous. The
9 tumor is approximately 5 centimeters by 3.5 centimeters and sticks out from my foot about
10 3 centimeters near the toes on the outer edge of my right foot. It is hard to the touch and
11 causes me a lot of pain. My condition is worsening—over the past 6 months it has grown
12 about a centimeter and begun to grow up my pinky toe. The pain has increased and it
13 makes it difficult for me to walk.

14 4. The mass on my foot was first examined in 2008 by doctors in Bakersfield,
15 California when I was serving time at state prison at Tehachapi. Those doctors conducted
16 an MRI and an ultrasound biopsy, the results of which indicated that the mass on my foot
17 could be a sarcoma. It was recommended that I receive an excisional biopsy in order to get
18 a further diagnosis. Attached as **Exhibit A** is a true and correct copy of a page from my
19 Jail medical file containing my MRI results from June 25, 2008, which states that the soft
20 tissue mass "most likely represents a sarcoma or metastatic disease." Attached as
21 **Exhibit B** is a true and correct copy of a page from my Jail medical file containing a
22 diagnosis from the Bakersfield Pathology Medical Group on October 13, 2008, which
23 describes a "differential diagnosis of tenosynovial giant cell tumor, however cannot rule
24 out sarcoma," and states that the doctor would "recommend incisional or excisional biopsy
25 of lesion for further classification." I was in and out prison from 2008 to 2011 before I
26 ended up back here in the Jail at the end of 2012. I did not have a stable life on the outside
27 and was not taking good enough care of myself to seek medical attention, so I did not end
28 up receiving the follow-up procedure.

1 5. When I was admitted to the Jail in December of 2012, the mass on my foot
2 was slightly smaller than now, but still large and protruding from my foot. Despite the size
3 of the mass, medical staff at the Jail never examined or asked me about the mass, even
4 though I have been examined for other conditions during my time at the Jail including, for
5 example, conditions on my left leg and foot.

6 6. By October of 2013 the mass on my foot had grown larger and had begun to
7 cause me severe pain. On October 17, 2013 I saw P.A. Whiting, a member of Jail medical
8 staff, and explained my symptoms and told her about my potential cancer diagnosis. I felt
9 that she was not taking my concerns seriously. She gave me the impression that it would
10 take at least a few months before they would even see me again since my records were at
11 the California Department of Corrections. I had also asked for a cane to help me walk, but
12 she denied my request. Attached as **Exhibit C** is a true and correct copy of P.A. Whiting's
13 Progress Notes documenting the October 17, 2013 examination and indicating that she
14 denied my request for a cane. I was concerned that I was not going to receive proper
15 medical care so I filed a grievance to try to get the issue addressed, a true and correct copy
16 of which is attached as **Exhibit D**.

17 7. On October 18, 2013 I was examined by Dr. Eliud Garcia, a doctor on Jail
18 medical staff. I also informed him that my 2008 examination had indicated that the mass
19 might be a sarcoma. Attached as **Exhibit E** is a true and correct copy of Dr. Garcia's
20 Progress Notes showing that he was made aware of my condition, ordered that I was to
21 receive a cane to assist with walking and to limit me putting full force on my foot, ordered
22 an x-ray, ordered that I should get an orthopedic clinic evaluation, and noted that records
23 from CDC-Tehachapi and Bakersfield Cancer Center had been requested.

24 8. On October 22, 2013, I was sent to see Dr. Pompan, an orthopedic surgeon in
25 the Specialty Clinics at Natividad Medical Center ("Natividad"). Dr. Pompan examined
26 me and reviewed my records from the Bakersfield Pathology Medical Group. Dr. Pompan
27 made a note that my records indicated that the mass could be a sarcoma and he
28 recommended that I (1) receive an MRI and (2) be referred to a tertiary medical center

1 (“e.g. UCSF, Stanford, [UC] Davis”) and seen by an expert in orthopedic oncology. That
2 recommendation was acknowledged by Dr. Taylor Fithian and Dr. Garcia, doctors at the
3 Jail. Attached as **Exhibit F** is a true and correct copy of a page from my Jail medical file
4 showing Dr. Pompan’s recommendations that I get an MRI and see an orthopedic
5 oncologist, which is signed by Dr. Fithian and Dr. Garcia. Attached as **Exhibit G** is a true
6 and correct copy of pages of my Natividad Outpatient Services Visit Record from my Jail
7 medical file further detailing Dr. Pompan’s assessment and recommendations. My
8 attorneys requested my complete file from Natividad which included additional details
9 from Dr. Pompan’s assessment including that he concluded that there was nothing he could
10 do for me and that instead I needed “the expertise of a tertiary center and an expert in
11 orthopedic oncology,” which would “be present in facilities like UCSF, Stanford or UC
12 Davis.” Attached as **Exhibit H** are true and correct copies of Dr. Pompan’s evaluation and
13 assessment received directly from Natividad.

14 9. Over a week went by with no word on the appointment with the orthopedic
15 oncologist and I was forced to file another sick slip and grievance requesting proper
16 treatment. Attached as **Exhibit I** is a true and correct copy of the November 3, 2013
17 grievance from my Jail medical file which shows that the only response I got to my
18 grievance was them telling me that I had an appointment scheduled to see a specialist, but
19 that they could not tell me when the appointment was because of jail policy. As it turns
20 out there was no appointment scheduled at that point with the type of specialist, an expert
21 in orthopedic oncology, that had been recommended by Dr. Pompan. Nor had there been
22 an appointment set up at one of the recommended outside hospitals. Not having any idea
23 when I might get the necessary treatment for my potentially cancerous foot was very
24 distressing. I understand that the Jail has policies about how much they can tell us about
25 outside appointments, but I feel like at least I could have been given some information
26 about what kind of specialist I would be seeing and a general timeframe. This would have
27 kept me informed and also would have allowed me to keep my family informed about the
28 status of my care as they have been very concerned.

1 10. Instead of sending me to an expert in orthopedic oncology as was
2 recommended, on November 18, 2013 medical staff at the Jail sent me to another
3 orthopedic surgeon at Natividad, whose name I later found out was Dr. James Ushiba.
4 Attached as **Exhibit J** is a true and correct copy of Dr. Ushiba's assessment from my Jail
5 medical file indicating some possible diagnoses for my condition, including sarcoma.
6 During the appointment, I insisted that I be seen by a cancer specialist as recommended by
7 Dr. Pompan. Dr. Ushiba agreed, writing in his note "I am not a cancer specialist.
8 Therefore a referral will be made to [sic] oncological surgeon." I was uncomfortable
9 throughout this appointment with Dr. Ushiba because he refused to provide me with his
10 name during the appointment.

11 11. A whole month had passed from the time Dr. Pompan first recommended I
12 see an expert in orthopedic oncology. The only follow up treatment I had received was the
13 appointment with Dr. Ushiba, who it turns out wasn't even the recommended type of
14 specialist. I was very concerned that I wasn't getting the proper treatment, so on
15 November 18, 2013 I filed a grievance to seek the proper medical help and to see an expert
16 in orthopedic oncology as had been recommended. I did not receive a response to the
17 grievance for over 3 weeks. When I did receive a response all it said was that I had a
18 "follow-up appointment with the specialist," but that they could not tell me when the
19 appointment had been scheduled. Attached as **Exhibit K** is a true and correct copy of my
20 grievance of November 18, 2013 and the response of December 11, 2013. As it turns out
21 there was no appointment scheduled at that point with the type of specialist, an expert in
22 orthopedic oncology, that had been recommended by Dr. Pompan, even though the
23 grievance response stated that I had an appointment to see the specialist. Nor had there
24 been an appointment set up at one of the recommended outside hospitals.

25 12. Nearly one additional month passed without me receiving medical attention,
26 at which point I was sent to see an oncologist, Dr. Peyman Haghighat, at Natividad. On
27 December 13, 2013 Dr. Haghighat examined me, once again noted the possibility of cancer
28 and also concluded that I "would benefit from evaluation by an oncological surgeon,

1 particularly orthopedic oncological surgeon.” He also recommended I “be referred to
2 Stanford University or UCSF for further evaluation and care.” Dr. Haghighat further
3 ordered a CT scan of my chest, abdomen and pelvis which was completed on December
4 17, 2013 and which showed “[m]ultiple mildly enlarged left para-aortic lymph nodes,”
5 with a differential diagnosis that included “reactive, metastatic disease, lymphoma,
6 Castleman disease.” Attached as **Exhibit L** are true and correct copies of Dr. Haghighat’s
7 evaluations and assessments received from Natividad. Attached as **Exhibit M** is a true and
8 correct copy of a page from my Jail medical file showing Dr. Haghighat’s conclusion that I
9 needed an evaluation at Stanford or UCSF with an oncologic surgeon, which is also signed
10 by Dr. Fithian and Dr. Garcia. Attached as **Exhibit N** is a true and correct copy of the
11 report from the CT Scan on December 17, 2013.

12 13. On December 20, 2013 I was sent to an oncologist at Natividad, Dr. Laura
13 Stampleman. Dr. Stampleman expressed extreme concern at my condition and told me I
14 really needed to get it taken care of. She even said that if I didn’t get a diagnosis and
15 treatment soon, it was possible that I might have to have all or part of my foot amputated.
16 She said she wanted to refer me to the person she thought best-suited to treat this condition
17 and referred me to a specific orthopedic oncologic surgeon at Stanford. Attached as
18 **Exhibit O** is a true and correct copy of a page from my Jail medical file consisting of a
19 CFMG Medical Referral Form, signed by Dr. Stampleman, referring me to Dr. David
20 Mohler at Stanford Orthopedic Surgical Oncology. The same page of my medical file
21 shows that Dr. Fithian and Dr. Garcia were both aware of this referral as they signed the
22 same referral page. Also attached as **Exhibit P** is a true and correct copy of a page of
23 Doctors Orders from my Jail medical file indicating that I was to get an appointment with
24 Dr. Mohler per Dr. Stampleman’s instructions. Attached as **Exhibit Q** are true and correct
25 copies of Dr. Stampleman’s evaluation and assessment received from Natividad showing
26 that Dr. Stampleman reviewed the CT scan results, made the plan to refer me to Dr. David
27 Mohler of the orthopedic oncology service at Stanford, and stated that I was follow up at
28

1 her clinic in one week and that they would make sure that I got the referral for the
2 diagnosis and surgical treatment.

3 14. It is now been nearly 6 months since Dr. Pompan ordered that I see an expert
4 in orthopedic surgical oncology and I still have not seen such a specialist. Despite having
5 the name of a referral from Dr. Stampleman and having been told by numerous physicians
6 that I needed to have an evaluation with an expert in orthopedic oncology, I still have not
7 seen an expert.

8 15. I have made numerous requests to see the expert and have made numerous
9 attempts to get an answer as to when I will be getting an appointment. Attached as
10 **Exhibit R** is a true and correct copy of the grievance I filed on February 26, 2014
11 requesting to see the specialist and asking for information. After I filed the grievance,
12 medical staff informed me verbally, near the beginning of March 2014, that the specialist
13 would not accept me and that the Jail was looking for alternatives. The nurse on staff also
14 got very angry with me for using the term malignant in my grievance. She told me if the
15 tumor was malignant I'd be dead already and ordered me never to use that word in a
16 grievance. I do not think it is right for the nurse to get angry with me just because I am
17 trying to understand my condition and trying to get any information about whether I will
18 eventually be able to see a specialist. This does not encourage trust between me and
19 medical staff. When I received the written response to my grievance on March 5, 2014 it
20 stated that they told me they had been working on my medical case since the end of
21 December and that I had now been made aware that medical staff had made contact with
22 Stanford Medical Center, UCSF and Natividad. See **Exhibit R**.

23 16. I filed an additional grievance on March 12, 2014 listing out my same
24 concerns about not receiving medical care and about not receiving proper medication for
25 pain management. Attached as **Exhibit S** is a true and correct copy of my March 12, 2014
26 grievance and the March 21 response from the Jail. In the March 21 response I was
27 informed that the Stanford doctor had refused to see me and that medical staff were
28

1 working to find another physician to treat me. I was also notified that I would be sent to a
2 physician at Natividad to evaluate other pain control options.

3 17. It is my understanding that a sarcoma can kill a person. And as I explained
4 earlier, I was told by Dr. Stampleman back in December that if I didn't receive appropriate
5 treatment, I could be at risk of losing my foot. I am incredibly frustrated and scared that I
6 have this potentially serious condition, but have absolutely no ability to obtain a diagnosis
7 or treatment without permission from the Jail. I've filed a number of grievances and have
8 constantly complained to medical and custody staff. All of the outside doctors I have seen
9 have recommended that I see the same type of specialist. As far as I can tell, there's
10 nothing more I can do to get the treatment that has been ordered for me, but I still have not
11 received it.

12 18. My attorneys recently received records from Natividad that included notes
13 documenting communications between Natividad staff and outside hospitals and between
14 Natividad staff and Jail medical staff about locating an expert. The last note is from March
15 28, 2014 and indicates that Elaine of CFMG told Natividad staff that I had been accepted
16 at Santa Clara Valley Medical Center. Attached as **Exhibit T** are true and correct copies
17 of notes received directly from Natividad documenting Natividad staff's communications
18 with outside hospitals and with Jail medical and CFMG staff. In early April one of the
19 nurses at the Jail informed me that they had located an expert at Santa Clara Valley
20 Medical Center and that they were waiting for a call back from the medical center and that
21 if they didn't hear back from them that medical staff would call them again. I have not
22 heard anything further from medical staff since then and have not yet seen the expert in
23 orthopedic oncology.

24 19. I also had concerns that the Jail was trying to put off the treatment until I got
25 out of Jail. My suspicion appears to be supported by an October 22, 2013 Progress Note
26 signed by Dr. Garcia, a true and correct copy of which is attached as **Exhibit U**. Although
27 I'm not certain of every word in the note, as far as I can tell, it states that I was seen at
28 Natividad by an orthopedist who referred me to a tertiary facility for "orthopedic

A.P.

1 oncology.” Dr. Garcia then wrote “[w]ill discuss anticipated length of incarceration with
2 Cmmdr. Bass. Poss[ible] need for extended time out of facility.” If, as the doctor at
3 Natividad believed, it was necessary for me to receive treatment, I do not understand why
4 Dr. Garcia would confer with custody staff at the Jail who are not medical professionals.
5 In addition, there have been a number of times that I have requested information from
6 nurses about when I will see the specialist and the nurses have responded by asking me
7 when I am getting out of the Jail anyways.

8 20. Over the six months since I notified medical staff about the tumor, the mass
9 has grown. It now seems like it is growing in the direction of my pinky toe. The pain I
10 experience because of the growth has also become much more severe. I have shooting
11 pain in the ball of my foot and top of my foot and it continues to make it difficult to walk.
12 Back in December, Dr. Stampleman prescribed me Norco every 6 hours to help manage
13 my pain. See **Exhibit O**. Doctors Orders also indicate that I was supposed to stop
14 receiving Ultram and Naprosyn and instead begin receiving Vicodin, two times a day for
15 30 days, as of December 23, 2013. See **Exhibit P**. However, at least 3 weeks went by
16 after that order before I began receiving the Vicodin. [REDACTED]

17 [REDACTED] A.P.
18 [REDACTED].

19 21. I put in sick call slips and eventually was transitioned to take the pain
20 medication 3 times a day. However, the pain increased and the low dose of pain killer I
21 was receiving was wearing off too quickly. I received the medication at 4:30am, 9:30am
22 and then 6pm, and was then without mediation for the next 10 hours over the night and
23 was in a lot of pain. I was also in a lot of pain during the day because the medication wore
24 off too quickly with the lower dose. I was in a lot of pain for most of the day, and had
25 stabbing, shooting pain in both the ball of my foot and on the top of my foot. The pain
26 occurred when I was walking as well as when I was sitting still. When the medication
27 wears off the pain is an 8 or 9 on a 10 point scale. I was receiving a 5/500 prescription of
28 the painkiller rather than a higher dose 10/325 prescription and I let the staff know that I

A.P.

1 thought the higher dose would help me manage the pain better. After making many
2 requests and filing a grievance I was recently transitioned to taking the higher 10/325 dose
3 of Norco three times a day. This helps more than the lower dose, though I continue to
4 experience pain.

5 22. There seem to be a lot of people in the Jail who are seriously mentally ill,
6 many of whom have very active symptoms of mental illness. There have been times in the
7 past when I have been housed in the same unit as people with serious mental illness. I
8 have seen such prisoners frequently start fights with other prisoners. It seems to me that
9 housing prisoners with serious, untreated mental illness with other prisoners creates a lot of
10 problems in the Jail.

11 23. The grievance process has not been effective for me to receive treatment or
12 meaningful responses to my requests for information concerning my condition. For
13 instance my grievances filed on November 3 and November 18, 2013 requesting
14 information about when I would receive my treatment were answered only with short
15 responses stating that I had an appointment with a specialist, but that they could not tell me
16 when the appointment was scheduled. *See Exhibits I and K.* As it turns out, at neither of
17 these points that I was given these responses, November 6 and December 11, 2013
18 respectively, had I actually been scheduled with the type of specialist, an expert in
19 orthopedic oncology, that had been recommended by Dr. Pompan. Nor had there been an
20 appointment set up at one of the recommended outside hospitals.

21 24. In addition, my grievance of November 18, 2013 was not answered for 3
22 weeks. Then when I filed a grievance on February 26, 2014 I received an initial angry
23 verbal response from the nurse for the way I had characterized my illness.

24 25. The sick call process has not always been effective to receive treatment
25 either as it often takes 4 to 5 days to get seen, which is a lot to wait especially when you
26 are in severe pain.

27 26. In addition, my medical file appears to be incomplete. My attorneys
28 requested my entire medical file. I reviewed all of the documents that were provided to

1 my attorneys. My file does not have copies of records from some of my appointments at
2 Natividad, such as full records from my appointments with Drs. Pompan, Stampleman and
3 Haghighat. Since the Jail is responsible for helping me get the proper treatment for my
4 serious medical condition it seems important that they have all of the relevant records
5 about my evaluations by outside doctors in my file. My medical file also does not contain
6 Medication Administration Records after September 23, 2013 even though I have received
7 medication since that date. There may also be additional files missing of which I am not
8 currently aware.

9 27. I agreed to be a named plaintiff in this case because I would like to represent
10 other prisoners who have had problems similar to what I have experienced while in
11 Monterey County Jail. I want to help improve the medical care, mental health care, the
12 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
13 cooperating fully with my counsel and am responding to all requests for information to the
14 best of my ability and recollection, and will continue to do so in the future. My lawyers
15 keep me updated on the progress of this case, and I will review all materials provided to
16 me and provide my input to the best of my ability. When I have questions about the case, I
17 will ask the attorneys for help to understand everything to the best of my ability.

18 I declare under penalty of perjury under the laws of the United States and the State
19 of California that the foregoing is true and correct, and that this declaration is executed at
20 Salinas, California this 17 day of April, 2014.

21
22 
23 Angel Perez

Exhibits A - U

Filed Under Seal

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*Admitted *Pro Hac Vice*

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

28 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF CLYDE
 WHITFIELD IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set



1 I, Clyde Whitfield, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I am currently a prisoner in the Monterey County Jail ("the Jail"), where I
6 have been housed as a pretrial detainee since November 30, 2013. My charges have not
7 yet been resolved, and I have not been sentenced.

8 3. In 2001, I was diagnosed with narcolepsy, which causes sudden sleep attacks
9 that occur with little or no warning. I also suffer from cataplexy, a symptom of
10 narcolepsy, which causes sudden episodes of muscle weakness while I am still awake.
11 When I experience a narcoleptic or cataplexic attack, I collapse wherever I happen to be.
12 This means that if I am standing or walking, I fall down without any ability to cushion my
13 fall and am at great risk of injuring myself. Attached hereto as **Exhibit A** is a true and
14 correct copy of a sleep latency test report performed in 2008 by Dr. Richard Kanak, an
15 expert in sleep disorders, which discusses my condition in depth. I also have sleep apnea.

16 4. The main treatment I have received over the years to manage my condition is
17 a combination of three medications: Provigil (200 mg three times a day); Xyrem (two
18 liquid 4 mg doses at night); and Loratadine to control my allergic reaction to Provigil. The
19 Provigil helps me stay awake during the day and the Xyrem helps me stay asleep at night.
20 Xyrem also helps treat my cataplexy. With Provigil, I can participate in classes or other
21 activities, whether at the Jail or outside of the Jail. But when I don't take Provigil, I cannot
22 stay awake during the day and may spend upwards of 20 hours a day in bed. I then get
23 depressed from being stuck in bed and being unable to perform any basic daily tasks or
24 activities. Because my cataplexy is induced by strong emotions, such as depression or
25 anxiety, I am more like to have cataplexic episodes when I do not take Xyrem.

26 5. The Jail is well aware of my condition, both from my many previous and
27 current stays at the Jail. Attached hereto as **Exhibit B** and **Exhibit C** are true and correct
28 copies of my Intake Health Screening Form and Intake Triage Assessment, both dated



1 November 30, 2013, and found respectively in my Jail custody and Jail medical records.
2 The nurse who conducted the Intake Triage Assessment wrote that I have not been
3 receiving medication for my narcolepsy for months. I do not know why she wrote that, as
4 it is different from what I told her. What I actually told the nurse was that I had missed my
5 last medical appointment and so had not taken my medication for a couple of weeks.

6 6. When I entered the Jail on November 30, 2013, I was placed in a booking
7 cell. This cell was very cold and I was left there without a blanket or a mattress. After
8 many hours, I complained to the custody staff that I was freezing and wished to move.
9 The Jail staff decided to move me to a Safety Cell, which I refer to as a “rubber room.”
10 Attached hereto as **Exhibit D** is a true and correct copy of a page from my custody file
11 showing that I was moved to a “single cell pending review.” Attached hereto as **Exhibit E**
12 is a true and correct copy of the Sobering/Safety Cell/Restraints Log showing that I was
13 booked into a rubber room “as single.” I was not assessed by any medical staff while I
14 was there. I can see from reviewing my file that the Jail staff marked on the Log that they
15 did not assess my condition because “custody [was] busy.”

16 7. The rubber rooms are completely empty cells. They have nothing but a door,
17 tray slot, light, and grate in the floor to be used as a toilet. Since I am in danger of falling
18 down at any moment, being housed in such an environment is extremely dangerous and
19 unsanitary. I have no way to protect myself from the urine and feces that are often on the
20 floor and walls of these rubber rooms. I felt terrible in the rubber room—it made me
21 nauseous and on edge.

22 8. When custody staff was finally able to evaluate my file, the Jail
23 inappropriately decided to place me in the C-Wing after booking. I am constantly at risk
24 for falling out of my bed; however, the Jail failed to assign me to a lower bunk. Without a
25 definite bunk assignment, I was stuck with whatever bunk was available and was assigned
26 to me by the other prisoners. I ended up in a middle bunk, which was approximately 4 feet
27 off of the ground. This was very dangerous for me.



1 9. On December 5, 2013, I was seen by Dr. Garcia, one of the doctors at the
2 Jail. I told him about my narcolepsy diagnosis and the medications I needed to control it.
3 Attached hereto as **Exhibit F** is a true and correct copy of Dr. Garcia's notes from his
4 examination of me. About two days after meeting with Dr. Garcia, I was moved from C-
5 Wing to the Rotunda.

6 10. On December 6, 2013, a full week after I was booked into the Jail, Dr.
7 Garcia called Dr. Kanak. Attached hereto as **Exhibit G** is a true and correct copy of the
8 page from my medical file recording Dr. Garcia's notes from his call with Dr. Kanak. Dr.
9 Kanak confirmed that I have severe narcolepsy. Dr. Garcia wrote that Dr. Kanak told him
10 I would be okay taking Provigil twice a day instead of three times a day. Dr. Garcia also
11 noted that if I could not find a family member to bring in my supply of Provigil, I would be
12 "OK" without it.

13 11. On December 6, 2013, Dr. Garcia issued a memo, addressed to Commander
14 Bass, as well as transportation and custody staff, about my condition. Attached hereto as
15 **Exhibit H** is a true and correct copy of this memo from my Jail custody file. Dr. Garcia
16 wrote that I should be treated like a "pregnant female" because I have a condition of
17 "extreme somnolence." Dr. Garcia also alerted custody staff that I was at increased risk of
18 violence or other abuse from other people in the Jail because I slept for up to 20 hours a
19 day.

20 12. On December 6, 2013, Dr. Garcia ordered Provigil 200 mg for me twice a
21 day for 90 days. Attached hereto as **Exhibit I** is a true and correct copy of a page from my
22 medical file with Dr. Garcia's orders.

23 13. The Jail did not provide me with Provigil until on or around February 1,
24 2014, or approximately 8 weeks after Dr. Garcia first ordered I receive the medication. I
25 am unable to verify the exact date because, after searching my medical file, I am unable to
26 find any Medication Administrative Records from my most recent stay at the Jail.

27 14. Around January 10, 2014, I filed a grievance with the Jail about my lack of
28 medication. I have reviewed my Jail custody and medical files and the grievance is not in



1 either file. On January 17, 2014, I received this grievance back, which was marked as
2 “resolved.” I kept a copy of the grievance that was returned to me via the institutional mail
3 system, and a true and correct copy of it is attached as **Exhibit J**. The “Findings” section
4 stated that I was supposed to provide my own medication. I don’t know why Dr. Garcia
5 ordered Provigil for me if I was expected to provide my own. The grievance was marked
6 as “Resolved” by Commander Bass on January 17, 2014. It’s not true that this grievance
7 was resolved. The Jail did nothing to provide me the medication I needed. I was suffering
8 serious limitations in my daily activities as a consequence.

9 15. By January 23, 2014, the Jail still had not provided me with Provigil. That
10 day, I filed another grievance requesting my medication. I wrote: “On 1-17-14, I received
11 a grievance back from your staff which I had submitted concerning medicinal treatment for
12 my narcolepsy. That grievance stated that the issue was resolved. That is not correct since
13 today is one week later and I still am not receiving any medication. I would greatly
14 appreciate it if this matter could ‘truly be resolve[d].’ Thank you for your time and
15 consideration.” A true and correct copy of this grievance is attached hereto as **Exhibit K**.
16 In the “Findings” section of this grievance form, some member of the Jail staff wrote:
17 “The medication that you cannot get has been ordered and you should be receiving that
18 med twice daily.” This is signed and dated January 29, 2014. There is no marking on this
19 grievance on either the “resolved” or “unresolved” boxes. It was not true that I was
20 receiving Provigil when this grievance was returned to me. I only started receiving
21 Provigil approximately three days later, or somewhere around February 1, 2014.

22 16. I also requested medication through other means besides grievances. I orally
23 requested Provigil from Jail nurses. I can see from reviewing my medical records that a
24 nurse wrote in my progress notes on January 22, 2014, that I was “requesting medication
25 for narcolepsy. Chart to be reviewed by MD to evaluate and advise.” A true and correct
26 copy of this page from my Jail medical records is attached hereto as **Exhibit L**. I do not
27 know why a doctor had to review my chart again if, as the Jail claimed, my medication had
28 already been ordered.



1 17. I can see from reviewing my medical file that Dr. Garcia ordered Provigil
2 again for me on January 24, 2014, or the day after I filed this second grievance. Attached
3 hereto as **Exhibit M** is a true and correct copy of a page from my medical file showing this
4 prescription order. I do not believe that I should have had to file two grievances and wait
5 almost two months to receive the Provigil I needed to manage my disability.

6 18. Between when I was booked in the Jail on November 30, 2013, and when the
7 Jail finally provided me with Provigil, my narcolepsy was very bad. I would have a
8 narcoleptic attack five or six times a day if I was out of bed. To avoid that risk, I was
9 forced to stay in bed.

10 19. Even when I finally got Provigil twice a day, it was first given to me in an
11 inappropriate manner. Provigil is an "upper" which heightens my alertness so I do not fall
12 asleep. When I was housed in the Rotunda and then in I-Pod, the Jail gave me Provigil at
13 3am and 3pm. Taking Provigil at 3am wakes me up and keeps me just awake enough that
14 I am unable to rest and therefore my cycle of exhaustion and sleeplessness is made worse.
15 Now that I am in C-Wing, medication rounds are done a little later in the day, which helps
16 a bit.

17 20. Being in the Jail without Xyrem also increases my risk of hurting myself in a
18 cataplexic attack. My cataplexic attacks are often triggered by strong emotions. My fear
19 of falling sends me into a downward spiral where I am more at risk for falling because I
20 am afraid I might have an attack. Usually, when I am given my prescribed Xyrem, I have
21 approximately one cataplexic episode every six months. Since I've been in the Jail, I have
22 had at least four episodes of cataplexy. When I have an attack, I can be asleep for between
23 three and thirty minutes. In December 2014, I fell down in the Rotunda. On or around
24 February 15, 2014, I was moved out of the Rotunda to a single cell in I-Pod. Being in a
25 single cell is very dangerous for me, as I'm scared of falling with no one around. Living
26 with this fear only makes my psychiatric conditions worse and makes it more likely that
27 my cataplexy will occur again. I fell again at least three times while I was housed in I-Pod.
28 Once when I fell, no one knew or woke me up. It's scary to wake up on the ground with

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1 no one around to help. Another time, I fell while out of my cell in the general area. Then,
2 other prisoners saw me fall and banged on their doors until custody staff noticed. Still
3 another time, I fell in my cell and was found on the floor by medical staff coming to bring
4 me my medication as part of the regular medical rounds. Not one of the medical staff
5 asked if I was alright, even though they found me collapsed on the floor. If I had had a
6 cellmate, then someone could have been there to wake me up, which would have made me
7 feel a lot safer.

8 21. Knowing the serious risk of falling, I was too scared to leave my bed except
9 when absolutely necessary. This meant, for example, that I only went to the exercise yard
10 approximately four times before the Jail started giving me the Provigil I need. The yard
11 for the Rotunda is up flights of stairs, and I was too scared of falling down them to risk
12 going to the yard. The few times I went to the yard I only did so because other prisoners
13 were willing to surround me to make sure I didn't fall down the stairs. Even after I started
14 receiving Provigil, I am nervous about stairs without Xyrem. Thus, while I was housed in
15 I-Pod—where the yard is also upstairs—I only went to the yard a little bit more frequently
16 than before. If I had the medication I needed, like Xyrem, or if the yard was not up a flight
17 of stairs, I would have gone more frequently. My mental and physical health have suffered
18 without access to exercise and the outdoors. In particular, my anxiety and depression are
19 worse without a little sunlight and fresh air.

20 22. I am now housed in C-Wing, in the Rehabilitation Wing of the Jail. There
21 are a lot of obstacles here which make me very nervous about falling. There are many
22 benches and shelves everywhere, and I do not feel safe walking around in C-Wing with my
23 condition. I have asked many times to be moved back to the Rotunda, which feels
24 relatively safer, but I have not yet gotten a response.

25 23. Since I sleep so much of the day, I am unable to watch out for myself in the
26 Jail. I worry about theft and being the victim of violence while I'm asleep. I am also
27 nervous about missing meals. I've missed approximately twenty meals since I've been in
28 the Jail simply because I was asleep. No Jail staff came to help me get to chow or brought



1 me meals. Mostly, I worry about falling and what would happen if I fell and really hurt
2 myself. I fear that the Jail would be too slow to respond, particularly in C-Wing. There's
3 no way to get help immediately in C-Wing. In the Rotunda, at least there was a button that
4 you could press. Here, there's nothing and you have to rely on the chance that a guard is
5 close by.

6 24. I feel scared and frustrated being in a place where I have no control over my
7 ability to access the medication and medical treatment I need. It is stressful to know that I
8 may not be able to access medical care, even when I really need it.

9 25. At the same time that I was experiencing problems receiving the care I
10 needed for my narcolepsy, I was dealing with an infected and fractured wisdom tooth. I
11 filed my first sick call slip about it on December 27, 2013, noting my "excruciating pain."
12 Attached hereto as **Exhibit N** is a true and correct copy of this sick call slip. I was not
13 seen in response to this sick call request. I can see from reviewing my medical file that my
14 sick call slip is marked "sc 12-27-13 @ 1400" but I did not see any member of the Jail
15 staff at 2 pm on December 27, 2013. After reviewing my medical record, there are also no
16 progress notes from December 27, 2013. I was finally seen by Physician's Assistant Terri
17 Whiting ("PA Whiting") on January 2, 2014, but not a dentist. PA Whiting insisted on
18 charging me the three dollar co-pay the Jail charges prisoners every time we go to sick
19 call. The Jail charges this co-pay regardless of what kind of insurance prisoners may have.
20 As a fully disabled person, I receive Medi-Cal insurance. I often have to pay a co-pay in
21 Jail for doctor visits for which I would not have to pay a co-pay if I were not in Jail. I told
22 PA Whiting about my pain and she examined my tooth. Attached hereto as **Exhibit O** is a
23 true and correct copy of her notes from this visit from my Jail medical file.

24 26. I did not receive any treatment—either medication or a dental evaluation—
25 after this visit with PA Whiting. I was still in horrible pain. Eventually, I had to file an
26 additional four sick call slips to receive medication for my pain and dental care. Attached
27 hereto as **Exhibit P** are true and correct copies of the additional sick call slips I filed,
28 which are dated January 5, 9, 10, and 21, 2014. I also had to file two grievances when I



1 failed to receive the ibuprofen that was eventually ordered for me. Attached hereto as
2 **Exhibit Q** are true and correct copies of the grievances I filed. I finally had my wisdom
3 tooth extracted on January 30, 2014. Attached hereto as **Exhibit R** is a true and correct
4 copy of a page from my medical file discussing this extraction. After this extraction I felt
5 much better and was no longer in pain. It ultimately took 34 days, five sick call slips, and
6 two grievances to get the care I needed.

7 27. On or around January 23, 2014, I also complained directly to a member of
8 the medical staff at the Jail I know as "Dr. Dave," whom I am informed and believe to be
9 Dave Harness, a member of the CFMG staff, about my problems obtaining the pain
10 medication I needed for my tooth. Dr. Dave told me that, as a prisoner, I obviously was
11 someone who could not follow directions. I told Dr. Dave that it was not my fault that the
12 Jail was failing to provide me with the medication I needed and that I was filing a
13 grievance about it. Dr. Dave swore at me and told me to file all the grievances I wanted. I
14 proceeded to file another grievance about Dr. Dave's treatment of me, which I did not like.
15 I have examined my custody and medical records, and have not found a copy of this
16 grievance. I received no response to this grievance. I then submitted another grievance
17 about Dr. Dave's conduct on February 4, 2014. A true and correct copy of this grievance,
18 which I kept for my own file, is attached hereto as **Exhibit S**. Therein, I asked why I had
19 not received a response to my previous grievance when "[i]t is my understanding that the
20 response time for a grievance is ten days." In the "Findings" section of this grievance,
21 Commander Bass wrote that he would "look into" it, and marked the grievance as
22 "Resolved." As I still have not gotten a response about my complaint about Dr. Dave, I do
23 not believe that grievance was resolved.

24 28. During my current stay in the Jail, my mental health has been pretty bad.
25 Because I could not get out of bed safely, I was feeling an unusual amount of depression,
26 stress, and anxiety before I got Provigil. It is depressing to lie in bed all day. I filed a sick
27 call slip on January 26, 2014, to request psychiatric care, a true and correct copy of which
28 is attached hereto as **Exhibit T**. I received no response to that sick call slip. Because I



1 was feeling worse and worse, I filed another sick call slip on January 27, 2014, a true and
2 correct copy of which is attached hereto as **Exhibit U**, where I once again told the Jail that
3 I was experiencing “a lot of stress and anxiety” and that “I have been on edge and my
4 mood drastically shifts at times.” In response to this second sick call slip, Dr. Fithian, a
5 Jail psychiatrist, came to talk with me in the hallway in the Rotunda. There was a deputy
6 standing with him who could hear and see everything that happened during our
7 conversation. However, Dr. Fithian did not do anything to help me. I can see from
8 reviewing his notes in my medical file that all he wrote was that I was on Provigil, and that
9 I should be allowed to continue on it. He did not mention the reason for our
10 conversation—my depression and anxiety. Attached hereto as **Exhibit V** and **Exhibit W**
11 are true and correct copies of Dr. Fithian’s notes from his conversation with me. He did
12 not prescribe me any medication or recommend that I receive any therapy. Finally, after
13 submitting additional sick call slips, I saw a psychiatric nurse. Again, this conversation
14 took place in the hallway (although I was then housed in I-Pod). This nurse gave me a
15 questionnaire about my mood but did not provide me with any treatment or medication.
16 After an additional visit with this same nurse, I was referred to Dr. Garcia. I then finally
17 started receiving medication for anxiety sometime in the middle of March 2014.

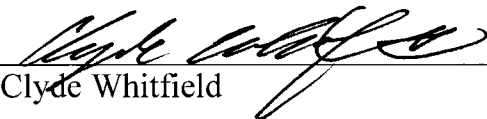
18 29. I have a long history of psychiatric conditions, as Dr. Fithian is well aware.
19 For example, in 2008, I spoke with Dr. Fithian after the Jail refused to provide me Abilify
20 (an antidepressant). Attached hereto as **Exhibit X** is a true and correct copy of Dr.
21 Fithian’s notes from this conversation. I attempted suicide at least once in 2003. I have
22 previously been on suicide watch while at the Jail and placed in a safety cell. A true and
23 correct copy of the record of this incident, found in my medical file, is attached hereto as
24 **Exhibit Y**.

25 30. In addition to my medical and psychiatric concerns, I do not believe the Jail
26 is a safe place to be. I have seen a lot of fights since I have been here. Since I was moved
27 into C-Wing on approximately March 8, 2014, I have witnessed around five fights.
28 Prisoners break up their own fights and the guards do not intervene. As mentioned, I am

1 particularly scared of being assaulted while I am asleep and am scared that no one will be
2 there to protect me.

3 31. I agreed to be a named plaintiff in this case because I would like to represent
4 other prisoners who have had problems similar to what I have experienced while in
5 Monterey County Jail. I want to help improve the medical care, the mental health care, the
6 safety for prisoners, and the assistance available to prisoners with disabilities. I have been
7 cooperating fully with my counsel and am responding to all requests for information to the
8 best of my ability and recollection, and will continue to do so in the future. My lawyers
9 keep me updated on the progress of this case, and I will review all materials provided to
10 me and provide my input to the best of my ability. When I have questions about the case, I
11 will ask the attorneys for help to understand everything to the best of my ability.

12 I declare under penalty of perjury under the laws of the United States and the State
13 of California that the foregoing is true and correct, and that this declaration is executed at
14 Salinas, California this 17 day of April, 2014.

15
16 
17 Clyde Whitfield

Exhibits A - Y

Filed Under Seal

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16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

27 Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF ROBERT
 YANCEY IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 CLASS CERTIFICATION**

**EXHIBITS FILED SEPARATELY
 UNDER SEAL**

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

Trial Date: None Set

1 I, Robert Yancey, declare:

2 1. I am a party in the above-entitled action. I have personal knowledge of the
3 matters set forth herein, and if called as a witness, I could and would competently so
4 testify. I make this declaration in support of Plaintiffs' Motion For Class Certification.

5 2. I have been a prisoner in the Monterey County Jail ("the Jail") on various
6 occasions since 2001 both as a pre-trial detainee and a sentenced prisoner. Most recently, I
7 was booked at the Jail on December 2, 2012, as a pretrial detainee, awaiting resolution of
8 the charges against me. On or around May 16, 2013, I was sent to North Kern State Prison
9 in Delano, California. I am currently incarcerated at Corcoran State Prison in Corcoran,
10 California. I expect to return to Monterey County Jail in the future to testify about events
11 in Monterey County and/or on alleged parole or probation violations.

12 3. It is my understanding that I could be sent back to the Jail if I ever need to be
13 present in court related to the criminal charges that resulted in me being sent to prison. I
14 could also be sent back to the Jail if it was necessary for me to testify in this case about the
15 problems I experienced in the Jail. In addition, I also will parole from prison at some point
16 in the future. When I parole, I will be sent back to Monterey County, which is the county
17 in which I was convicted and where I lived prior to my arrest. When I am on parole, I can
18 be arrested and placed in the Jail simply for allegedly violating the terms and conditions of
19 my parole, whether or not the alleged violation constitutes a violation of a criminal law. I
20 am concerned that, if I am sent back to the Jail, I will experience problems similar to the
21 problems I have experienced in the past.

22 4. I have been completely deaf since birth. I also have a speech impairment
23 that makes it impossible for me to be understood when speaking. My primary method of
24 communication is American Sign Language. I can also use written notes but do not
25 understand them very well. I am able to lip read a little bit, but not very well. I also have
26 a hard time reading and writing English.

27 5. Immediately prior to being booked at the Jail on December 2, 2012, I was
28 treated in the Emergency Room of Natividad Medical Center ("NMC") for injuries

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1 resulting from a car accident [REDACTED] 24 Attached as **Exhibit A** is a true and
2 correct copy of NMC Emergency Medicine Notes and a NMC Operative Report, both
3 dated December 2, 2012, from my Jail medical file. These documents show that I suffered
4 fractures in my left tibia and my right arm, requiring emergency treatment including
5 sutures in my left ankle and a splint and cast on my right arm.

6 6. Attached as **Exhibit B** and **Exhibit C** are true and correct copies of my
7 Intake Health Screening form dated December 2, 2012, from my Jail custody file, and my
8 Intake Triage Assessment dated December 2, 2012, from my Jail medical file. These
9 documents show that the Jail staff was aware that I had a broken right wrist and lacerations
10 to my left ankle. There is a box on the Intake Health Screening for staff to indicate if I had
11 a hearing disability, but it is not checked on my form. Staff did indicate on my Intake
12 Triage Assessment that I had a hearing impairment.

13 7. During the interviews with staff to complete the Intake Health Screening
14 form and the Intake Triage Assessment form, I was not provided with a sign language
15 interpreter. As a result, I was unable to communicate effectively with staff. Because I was
16 not provided with a sign language interpreter, it was difficult for me to understand the
17 questions that staff were asking me and, even when I understood the questions, to
18 communicate my answers to staff. At the time I was in extraordinary pain from the car
19 accident [REDACTED] 24 I was unable to communicate my discomfort to staff during
20 the intake process.

21 8. Even though sign language is my primary and preferred method of
22 communication, the Jail never provided me with a sign language interpreter for any
23 interactions with Jail custody or medical staff. This made it very, very difficult for me to
24 communicate with staff. For example, without a sign language interpreter during the
25 booking process, I was unable to effectively communicate with the custody staff who were
26 asking me important questions that determined my housing assignment.

27 9. During the first few months of my time in the Jail, I had a cast on my right
28 hand, which is the hand I use to write with. Before my cast was removed, I could not

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1 easily write notes to communicate with Jail Staff or other prisoners because it was very
2 painful for me to write. This meant that not only was I not able to communicate using a
3 sign language interpreter, but I also was not able to communicate using written notes.

4 10. Jail staff members often failed to accommodate my disability or help me
5 access the Jail services because some of them did not know I had a disability.

6 11. Even when staff did acknowledge that I had a disability, they sometimes
7 failed to help me access the services I needed. One example is documented in a
8 Disciplinary Action Report dated December 16, 2012, a true and correct copy of which is
9 attached as **Exhibit D**. On that date, I tried to use the TTY phone during the 60 minutes I
10 was allowed outside of my cell. Staff refused to take me to use the TTY phone. I believe
11 staff couldn't take me because there was insufficient custody staff available during that
12 time of the morning to escort me to the receiving area where the TTY phone is located.
13 Later that day, when I was back in my cell, I tried to get the attention of a deputy to request
14 that he provide me with access to the TTY phone. When I tried to get the deputy's
15 attention, and to get him to take me to use the phone, the Deputy could not understand me
16 and I could not understand him. He asked the prisoner housed next to me, who happened
17 to know some sign language, to translate for me. The deputy refused to bring me to use
18 the TTY phone, as it was not time for my hour rotation. The deputy told me that he
19 needed to check with a sergeant as using the TTY phone was not a special privilege I had.
20 I became agitated at this, and the deputy filed the Disciplinary Action Report against me.

21 12. At the hearing on the Disciplinary Action report, I was not provided with a
22 sign language interpreter. As a result I was not able to understand everything that staff
23 said to me or to explain my side of the story. I was found guilty of violating Jail rules, and
24 lost two weeks of yard and commissary privileges because of this incident.

25 13. Similarly, I had trouble communicating at another Disciplinary Action
26 hearing on January 27, 2013. A true and correct copy of the Disciplinary Action Report
27 from this incident is attached hereto as **Exhibit E**. I was accused of taking some shoes I
28 found in the receiving area that belonged to another prisoner. Prior to the hearing, the

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1 deputy wrote that "Yancy [sic] was asked if he waives time for the DAR but he was not
2 understandable." I was not provided with a sign language interpreter to communicate to
3 the deputy or to participate in my hearing. I found the hearing very confusing. On a DAR
4 Review Board form, a true and correct copy of which is attached as **Exhibit F**, I had to
5 plead guilty or not guilty to the charge by circling my choice. I ultimately circled both
6 Guilty and Not Guilty on the form provided because I did not understand what was
7 occurring. I was found guilty of the infraction and assessed the loss of yard, commissary,
8 and visitation for two weeks. *See Exhibit E.*

9 14. I was frequently denied access to the TTY phone. There is only one TTY
10 Phone for the Jail, located in the receiving area. I needed an officer to transport me to
11 access it. Officers frequently refused to transport me to the TTY phone. Officers would
12 tell me that they were too busy to do so. When I could convince an officer to bring me
13 there, I often was told I needed to leave the office before I had time to have a conversation.
14 Conversations on a TTY phone take much longer than a spoken conversation because each
15 person has to type everything that they want to say. Officers did not seem to understand
16 this. On December 20, 2012, I submitted a grievance form through the Jail's formal
17 grievance process requesting sign language interpretation for a number of my daily
18 activities as well as equal access to the TTY phone. After searching through my custody
19 and medical records, I am unable to find a copy of this grievance. I never received a
20 response to my grievance. Nothing changed for me after I filed the grievance; I still was
21 not provided a sign language interpreter or other accommodations for my hearing
22 impairment during my time in the Jail.

23 15. On January 26, 2013, I filed another grievance form about my lack of access
24 to the TTY phone and a sign language interpreter, a true and correct copy of which was
25 found in my medical file and is attached as **Exhibit G**. In this second grievance, I
26 informed the Jail that the deputies would reject my requests to use the phone. I also
27 informed the Jail that I needed a sign language interpreter for medical appointments, that
28 medical staff would rely on me to "read their lips," and that "I can't read lips well." Jail

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1 staff failed to respond to this grievance. The section on this grievance for staff to describe
2 any Findings/Recommendations is entirely blank. There is no writing on the appeal from
3 staff at that Jail; all of the writing on the grievance was by me. In addition, I continued to
4 be denied a sign language interpreter for any of my communications with Jail staff,
5 including at my medical appointments and at disciplinary hearings.

6 16. I was forced to file another grievance, a true and correct copy of which is
7 attached hereto as **Exhibit H**, on these same issues on February 14, 2013. In that
8 grievance, I wrote that the Jail had not responded to my request for a sign language
9 interpreter at medical appointments. I also complained that I had yet to receive the
10 medical tests I requested in January 2013. As I can see after reviewing my medical file,
11 the Jail did issue findings in response to this grievance—but not about the most important
12 issue. In the findings section, the Jail staff member noted that I was on the list for testing.
13 The Jail staff member also noted that my cast was due to be removed, which had not been
14 the subject of my grievance, but was instead discussed on a sick call slip I filed on
15 February 12, 2012, a true and correct copy of which is attached as **Exhibit I**. The
16 “findings” section of the grievance response includes nothing about my primary
17 complaint—namely, that I needed a sign language interpreter for medical appointments.
18 Despite this, Commander Bass marked this grievance as “resolved” on February 25, 2013.

19 17. I was not provided with a sign language interpreter at religious services,
20 which I attended regularly.

21 18. The Jail also failed to accommodate me with respect to other Jail programs.
22 For example, during the time that I was in the Jail, none of the televisions to which I had
23 access displayed closed captioning. I do not know if the televisions did not have the
24 capacity to display closed captioning, or if the guards just did not turn it on.

25 19. Without an interpreter, I was unable to defend myself when other prisoners
26 in my housing unit accused me of trying to sell scissors. Although I was thoroughly
27 searched and guards found no contraband on me, I was moved into a different housing unit
28 as a result of this incident on January 10, 2013. Attached hereto as **Exhibit J** is a true and

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1 correct copy of a page from my custody records describing this incident. I was also unable
2 to explain a serious problem I was having to a deputy on April 26, 2013. Attached hereto
3 as **Exhibit K** is a true and correct copy of a page from my custody file showing that I was
4 moved from H-Pod to C-Pod, but that the deputy had no idea what was wrong.

5 20. My inability to communicate meant that even though I had been in the Jail
6 many times before, the Jail staff misinterpreted my speech problems as a developmental
7 disability. After reviewing my medical records, I see that the Jail contacted the San
8 Andreas Regional Center about me, but that I was not in the Center's system. Attached
9 hereto as **Exhibit L** and **Exhibit M** are true and correct copies of pages from my Jail file
10 showing this contact occurred.

11 21. By comparison, I received a sign language interpreter for medical
12 appointments and visits at NMC. For example, I was provided a sign language interpreter
13 at a February 25, 2013 appointment about my wrist, and was therefore able to effectively
14 explain that my wrist was still hurting and was stiff.

15 22. I also felt afraid while I was in the Jail that I would not be safe in the event
16 of an emergency because I did not feel like the Jail staff would be able to communicate
17 with me.

18 23. Most importantly for my health and safety while I was at the Jail, I was
19 unable to communicate properly with the medical staff regarding my very serious injuries
20 and pain. On December 4, 2012, I was examined by Physician's Assistant Terri Whiting
21 ("PA Whiting"). True and correct copies of pages from my medical file documenting this
22 visit are attached as **Exhibit N**. As noted by PA Whiting, I was in great distress and could
23 not walk or otherwise bear weight on my left leg. PA Whiting did not bring a sign
24 language interpreter with her to this medical examination. It was therefore difficult for me
25 to communicate my extreme discomfort to PA Whiting or for me to understand what PA
26 Whiting was trying to say to me. Even she noted that our communication problems
27 compromised her ability to properly examine me or provide adequate medical care. PA
28 Whiting wrote that "Exam is limited due to decreased verbal communication as well as

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1 holding cell.” *Id.* I continued to experience serious pain and suffering after this
2 appointment. I believe that had I been able to communicate the extent of my pain and
3 suffering, I may have received better treatment. After this visit, PA Whiting increased my
4 dosage of ibuprofen from 600mg to 800mg three times a day for seven days, which was
5 grossly insufficient to manage my extreme pain. I can see from reviewing my medical file
6 that PA Whiting also ordered me to be placed in the outpatient unit for 72 hours. See
7 **Exhibit L.**

8 24. The next day, even though PA Whiting had recognized that I needed
9 continued care in the outpatient unit for three days, I was removed from the infirmary and
10 returned to the housing area. I was initially assigned to H Pod in the Men’s Section of the
11 Jail. When I was in H Pod, I, and, as far as I could tell, all of the other prisoners were kept
12 in our cells for 23 hours a day. We were only allowed one hour outside of our cells to
13 shower, make phone calls, exercise, and perform all other necessary daily activities.

14 25. When I left the hospital in December 2012 prior to being booked into the
15 Jail, I had a dressing and stitches on my leg wound. On December 4, 2012, medical staff
16 at the Jail ordered that my dressing be changed daily. Attached hereto as **Exhibit O** is a
17 true and correct copy of my Treatment and Vital Sign Flow Sheet from my medical
18 records noting that I needed a daily dressing change. According to these records, the
19 nursing staff failed to change my dressing on December 8, 10, and 13 with no explanation.

20 26. My very serious injuries, especially the injuries to my arm, caused me a lot
21 of pain, making it difficult to sleep or function normally. Medical staff repeatedly refused
22 to provide me with the stronger pain medication that had been prescribed and
23 recommended for me by doctors outside of the Jail. When I was released from the NMC
24 Emergency Department on December 2, 2012, the doctors wrote me a prescription for 20
25 tabs of Norco, to be taken as needed for pain. Attached as **Exhibit P** is a true and correct
26 copy of the prescription. I never received this medication. Instead, and as evidenced by
27 my medication administration records from my Jail medical file, true and correct copies of
28 which are attached here as **Exhibit Q**, the Jail only gave me ibuprofen and Naprosyn,

1 which I received inconsistently and in varying doses from December 2, 2012, until May
2 13, 2013. These medications were not strong enough to manage my pain. As a result, I
3 was constantly in pain and struggled to sleep.

4 27. On January 7, 2013, at NMC, I saw Dr. Ishizue, an orthopedist at NMC. He
5 prescribed 50 pills of Vicodin to help with my pain and to help me sleep. A true and
6 correct copy of this prescription is attached as **Exhibit R**. A true and correct copy of a
7 CFMG Medical Referral Form, dated January 7, 2013, is attached as **Exhibit S**. This form
8 notes as "Recommendations to Referring Agency" a treatment of "cast, vicodin." I never
9 received any Vicodin.

10 28. On April 18, 2013, I saw Dr. Pompan, another orthopedist at NMC. On a
11 CFMG Medical Referral Form he completed on April 18, 2013, Dr. Pompan wrote that I
12 "need[ed] stronger meds than what he is receiving." A true and correct copy of the CFMG
13 Medical Referral Form, dated April 18, 2013 is attached as **Exhibit T**.

14 29. The Jail also failed to respond to numerous requests that I made for better
15 pain management. On December 5, 2012, I complained to the staff that I was unable to
16 sleep because of the pain in my right arm. Attached hereto as **Exhibit U** is a true and
17 correct copy of a page from my medical file on which medical staff noted this complaint.
18 On December 6, 2012, I filed a sick call slip explaining that "I got ran over moments
19 before I got arrested and the pain on my arm & legs is extremely excruciating. The
20 Ibuprofen I'm currently taking is not working." A true and correct copy of this sick call
21 slip is attached as **Exhibit V**. The Jail did nothing to respond to this request. On
22 December 12, 2012, I filed yet another sick call slip again alerting the Jail Staff to my
23 serious pain, a true and correct copy of which is attached as **Exhibit W**. The Jail did
24 nothing to respond to this request. On December 18, 2012, instead of responding to my
25 requests for effective pain management, the medical staff lowered my dose of ibuprofen
26 from 800 mg to 600 mg twice a day. Attached hereto as **Exhibit X** is a true and correct
27 copy of a page from my medical records reflecting this change. Again on January 4, 2013,
28 using a sick call slip, I requested surgery on my wrist because I couldn't move it and it was

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1 in such pain. A true and correct copy of this sick call slip is attached as **Exhibit Y**.

2 Although I saw the medical staff after submitting this sick call slip, the Jail did not change
3 my medications, schedule me for surgery, or otherwise help me with my pain.

4 30. Despite my repeated pleas, the Jail did not provide me with the pain
5 medication I needed to allow me to sleep. And again on both January 7 and 8, 2013, after
6 visiting Dr. Ishizue and receiving a prescription for Vicodin, I filed two more sick call
7 slips to inform the Jail that I did not receive any of the prescribed medication at pill call.
8 True and correct copies of these sick call slips are attached hereto as **Exhibit Z**. Because I
9 was unable to find any sick call slips in my housing unit, which happens often, I filed my
10 January 8, 2013, sick call notice on a piece of plain paper. The Jail did nothing in response
11 to these sick call slips.

12 31. I finally had to file a grievance about my pain on May 5, 2013, a true and
13 correct copy of which is attached hereto as **Exhibit AA**. I told the Jail staff that I was "still
14 experiencing significant pain" and that my wrist was not working properly even though the
15 cast had been removed. This grievance was marked as resolved on May 8, 2013, but I
16 never received sufficient pain medication to help me function properly. The Jail responded
17 to this grievance by scheduling me for sick call on May 9, 2013. When I arrived for sick
18 call, I did not understand why I was there, as the medical staff failed to tell me that this
19 was their way of responding to my grievance and no sign language interpreter was present.
20 As my hand was out of a cast then, I was able to communicate to a very limited extent
21 using handwritten notes. A true and correct copy of these notes from my May 8, 2013 visit
22 to sick call is attached as **Exhibit BB**. A true and correct copy of a page from my medical
23 file showing that the attending medical staff was not informed about the content of my
24 grievance is attached as **Exhibit CC**.

25 32. The Jail failed to provide me with adequate shower covers for my arm and
26 leg injuries, both of which needed to be kept dry as my arm was in a cast and my leg had a
27 dressing. On December 21, 2012, I filed two sick call slips alerting the Jail to this
28 problem. True and correct copies of these slips are attached hereto as **Exhibit DD** and

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1 **Exhibit EE.** The first slip told the Jail that "I need a new wrap for my arm. This one I got
2 is already tore and falling apart. As well as one for my ankle. Thank you." Because the
3 shower covers were insufficient, my cast became soggy and began breaking apart. Thus,
4 my second sick call slip on December 21, 2012, informed the Jail that I needed to have my
5 arm bandage changed as it was "falling off."

6 33. On January 5, 2013, I saw medical staff about my cast that was falling apart.
7 The medical staff had no shower cover to give me, and so just instructed me to try to keep
8 my arm dry, which would effectively make showering impossible. Attached hereto as
9 **Exhibit FF** is a true and correct copy of a page from my medical records reflecting this
10 January 5, 2013 visit. The Jail did nothing to fix the problem. Almost two months later, as
11 reflected by a page in my medical records, a true and correct copy of which is attached
12 hereto as **Exhibit GG**, I still did not have a shower cover for my arm and it had to be
13 ordered for me again on February 20, 2013.

14 34. I believe that the Jail is not a safe place. I know that I experienced some
15 serious breaches in security and communication. After reviewing my medical file, for
16 example, I see that I was called for sick call on February 25, 2013, but the custody staff
17 was unable to find me as I had recently been moved from G-Pod to C-Pod. A true and
18 correct copy of a page of my medical file reflecting this is attached hereto as **Exhibit HH**.
19 I do not feel safe in a Jail that loses track of its prisoners.

20 35. Inadequate record keeping at the Jail also prevented me from receiving the
21 accommodations I needed for my injured left leg. On March 26, 2013, I requested
22 permission to purchase special shoes to help me walk. I was struggling to walk in the
23 shoes provided by the Jail as my left shin still hurt too much. A true and correct copy of a
24 page from my custody file, attached hereto as **Exhibit II**, shows that this request was
25 granted. However, on April 2, 2013, I tried to purchase shoes from the commissary and
26 was told that there was no order in the system to allow me access to special shoes. I filed a
27 grievance form that same day to request my shoes. A true and correct copy of this
28 grievance form is attached as **Exhibit JJ**. This form was marked as resolved on April 24,

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1 2013—22 days after I filed it. Since I did not receive a timely response to my grievance, I
2 then had to file a sick call slip on April 4, 2013, again requesting my special shoes. A true
3 and correct copy of this sick call slip, filed on plain paper, is attached hereto as
4 **Exhibit KK**. I was seen by PA Whiting on April 5, 2013, where I communicated to the
5 best of my ability by writing out my complaints on paper. PA Whiting wrote her answers
6 back to me that the order was already in the computer.

7 36. By April 25, 2013, I still was unable to purchase the shoes at the
8 commissary. On that day, I submitted another sick call slip as I was experiencing “damn
9 real pain” in my lower left leg and foot. A true and correct copy of that sick call slip is
10 attached hereto as **Exhibit LL**.

11 37. I agreed to be a named plaintiff in this case because I would like to represent
12 other prisoners who have had problems similar to what I have experienced while in
13 Monterey County Jail. I want to help improve the medical care, the safety for prisoners,
14 and especially the assistance available to prisoners with disabilities. I have been
15 cooperating fully with my counsel and am responding to all requests for information to the
16 best of my ability and recollection, and will continue to do so in the future. My lawyers
17 keep me updated on the progress of this case, and I will review all materials provided to
18 me and provide my input to the best of my ability. When I have questions about the case, I
19 will ask the attorneys for help to understand everything to the best of my ability.

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1 38. This declaration was translated for me in the presence of certified ASL
2 interpreter prior to my signing it below.

3 I declare under penalty of perjury under the laws of the United States and the State
4 of California that the foregoing is true and correct, and that this declaration is executed at
5 Corcoran, California this 21 day of April, 2014.

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8 Robert Yancey
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Exhibits A - Z, AA - LL

Filed Under Seal