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17 IN THE UNITED STATES DISTRICT COURT
 18 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

19 EAMMA JEAN WOODS, et al.,) Case No. 07-cv-1078-DMS-PCL
 20)
 Plaintiff,)
 21) **DEFENDANTS' ANSWER TO**
 v.) **PLAINTIFFS' COMPLAINT FOR**
 22) **INJUNCTIVE AND DECLARATORY**
 JULIE L. MYERS, et al.,) **RELIEF¹**
 23)
 Defendant.)
 24)
 25)

26 ¹ This Answer is filed on behalf of the Federal Defendants. It
 27 is not filed on behalf of defendants Corrections Corporation of
 America (CCA), Joe Easterling, or Charles Howard.

1 COME NOW Defendants Julie L. Myers, John P. Torres, Robin
2 Baker, Anthony Cerone, Neil Sampson, Timothy Shack, Capt. Philip
3 Jarres, Lt. Tonya Walston, Stephen Gonsalves, Esther Yun-Ling
4 Hui, David Lusche, Edmund Jedry, and Scott J. Salvatore
5 ("Defendants"), by and through the undersigned counsel, and
6 submit this Answer to Plaintiffs' Complaint for Injunctive and
7 Declaratory Relief.

8
9 INTRODUCTION

- 10 1. Defendants admit the allegations in the first and
11 second sentences of Paragraphs 1, with exception as
12 applied to plaintiffs Winston Alexander Carcamo, Marta
13 Monteagudo-Guerrero and Mohammad Ali Nesa. Defendants
14 admit the allegations in the third and fourth sentences
15 of Paragraph 1. Defendants admit the allegations in
16 the fifth sentence of Paragraph 1, to the extent that
17 any reference to contract employees refers to PHS'
18 contract employees at the Facility. Defendants deny
19 the allegations in the sixth sentence of Paragraph 1.
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21 2. Denied.
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23 3. This paragraph sets forth plaintiffs' portrayal of the
24 action, including legal conclusions. No response is
25 necessary. Defendants object to the characterizations
26 of defendants' actions and to every legal conclusion
27 set forth by plaintiffs. To the extent that a response

1 is deemed required, the allegations in Paragraph 3 are
2 denied.

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4 JURISDICTION AND VENUE

5 4. This paragraph sets forth conclusions of law to which
6 no response is required; however, to the extent that a
7 response is deemed required, the allegations of
8 Paragraph 4 are denied.

9 5. This paragraph sets forth conclusions of law to which
10 no response is required; however, to the extent that a
11 response is deemed required, the allegations of
12 Paragraph 5 are denied.

13 6. This paragraph sets forth conclusions of law to which
14 no response is required; however, to the extent that a
15 response is deemed required, the allegations of
16 Paragraph 6 are denied.

17 7. This paragraph sets forth conclusions of law to which
18 no response is required; however, to the extent that a
19 response is deemed required, the allegations of
20 Paragraph 7 are denied.

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22 PARTIES

23 I. Plaintiffs

24 8. Defendants admit the allegations of Paragraph 8 as to
25 plaintiffs Eamma Jean Woods, Rigoberto Aguilar-Turcios,
26 Fred Nganga Ngugi, Luis Alberto Tinoco, Sylvester
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1 Owino, Gloria Vanegas, Alfredo Toro, and Romeo Fomai.
2 Defendants deny the allegations of Paragraph 8 as to
3 Winston Carcamo, Marta Monteagudo-Guerrero and Mohammad
4 Ali Nesa.

5 9. Defendants admit the allegations in the first sentence
6 of Paragraph 9 to the extent that plaintiff Woods is a
7 45-year old woman from Honduras. Defendants lack
8 sufficient information and knowledge to form a belief
9 as to the truth of the remainder of the allegations in
10 the first sentence of Paragraph 9, which allegations
11 are therefore denied. Defendants admit the allegations
12 in the second sentence of Paragraph 9. Defendants
13 admit the allegations of the third sentence of
14 Paragraph 9 to the extent that plaintiff Woods has been
15 diagnosed with neurofibromatosis and has been
16 complaining of a glomus tumor on her finger, but deny
17 the existence of a glomus tumor on her finger.
18 Defendants admit the allegations of the fourth sentence
19 of Paragraph 9 to the extent that plaintiff Woods has
20 been diagnosed with bipolar disorder, depression, and
21 possibly a mild form of a seizure disorder; however,
22 there was no indication of a seizure disorder on her
23 EEG. Defendants deny the remainder of the allegations
24 of the fourth sentence of Paragraph 9.
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1 10. Defendants admit the allegations in the first and
2 second sentences of Paragraph 10. Defendants deny the
3 allegations in the third sentence of Paragraph 10.

4 11. Defendants admit the allegations in the first sentence
5 of Paragraph 11, to the extent that plaintiff Ali Nesa
6 was detained at SDCF since May 2005. However, Mr. Nesa
7 was removed from the United States and returned to
8 Belize on October 4, 2007. Defendants lack sufficient
9 information and knowledge to form a belief as to the
10 truth of the allegations in the second sentence of
11 Paragraph 11, which allegations are therefore denied.
12 Defendants deny the allegations in the third sentence
13 of Paragraph 11 and object to the characterizations of
14 defendants' action therein and to every legal
15 conclusion set forth by plaintiffs. Defendants deny
16 the allegations in the fourth sentence of Paragraph 11.
17 Defendants admit the allegations in the fifth sentence
18 of Paragraph 11 to the extent that plaintiff Ali Nesa
19 complained of headaches and chest pain, as well as
20 bleeding in his mouth and a burning pain in his penis
21 during urination, but aver that he refused to attend
22 several scheduled dental appointments. Defendants deny
23 the allegations in the sixth sentence of Paragraph 11.

24 12. Plaintiff Carcamo was removed from the U.S. and
25 returned to Belize on July 6, 2007. As a result, he
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1 has since been dismissed from this action. No response
2 is needed; however, to the extent that a response is
3 deemed required, the allegations of Paragraph 12 are
4 denied.

5 13. Defendants admit the allegations of the first sentence
6 of Paragraph 13 to the extent that Mr. Ngugi is a 38-
7 year-old man from Kenya who entered the United States
8 on a student visa in August 1998. Defendants admit the
9 allegations in the second sentence of Paragraph 13.
10 Defendants admit the allegations in the third sentence
11 of Paragraph 13 to the extent that plaintiff Ngugi has
12 been diagnosed with bipolar disorder and has taken
13 medication for that condition, but aver that he often
14 refuses to take his medication. Defendants deny the
15 remainder of the allegations in the third sentence of
16 Paragraph 13. Defendants admit the allegations in the
17 fourth sentence of Paragraph 13 to the extent that Mr.
18 Ngugi has had dental problems for which he had dental
19 appointments and received a regimen of amoxicillin as
20 treatment. Defendants deny the remainder of the
21 allegations in the fourth sentence of Paragraph 13.
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23 14. Plaintiff Monteagudo-Guerrero was released from ICE
24 custody on June 22, 2007 on her own recognizance and
25 was granted voluntary departure. As a result, she has
26 been dismissed from this action. For these reasons, no
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response is needed; however, to the extent that a response is deemed required, the allegations of Paragraph 14 are denied.

15. Defendants admit the allegations in the first sentence of Paragraph 15 to the extent that Mr. Tinoco is a 64-year-old man from Nicaragua who arrived at SDCF in September 2003. Defendants lack sufficient information and knowledge to form a belief as to the truth of the the remainder of the allegations in the first sentence of Paragraph 15, which allegations are therefore denied. Defendants admit the allegations in the second sentence of Paragraph 15 to the extent that plaintiff Tinoco has been diagnosed with diabetes, hypercholesterolemia, hypertension and hemorrhoids. Defendants deny the remainder of the allegations in the second sentence of Paragraph 15.

16. Defendants admit the allegations in the first and second sentences of Paragraph 16. Defendants admit the allegations in the third sentence of Paragraph 16 to the extent that Mr. Owino has been diagnosed with hypertension and asthma, and complained of dental pain and vision problems while at SDCF. Defendants deny the remainder of the allegations in the third sentence of Paragraph 16.

1 17. Defendants admit the allegations in the first sentence
2 of Paragraph 17. Defendants lack sufficient
3 information and knowledge to form a belief as to the
4 truth of the allegations in the second sentence of
5 Paragraph 17, which allegations are therefore denied.
6 Defendants admit the allegations in the third sentence
7 of Paragraph 17 to the extent that Ms. Vanegas has been
8 diagnosed with hypothyroidism. Defendants lack
9 sufficient information and knowledge to form a belief
10 as to the truth of the remainder of the allegations in
11 the third sentence of Paragraph 17.

12 18. Defendants admit the allegations in the first and
13 second sentences of Paragraph 18. Defendants admit the
14 allegations in the third sentence of Paragraph 18 to
15 the extent that Mr. Toro has been diagnosed with
16 hypertension. Defendants lack sufficient information
17 and knowledge to form a belief as to the truth of the
18 remainder of the allegations in the third sentence of
19 Paragraph 18, which allegations are therefore denied.

20 19. Defendants admit the allegations in the first sentence
21 of Paragraph 19, to the extent that plaintiff Fomai is
22 a 36-year old man from Samoa who has been diagnosed as
23 transgendered. Defendants lack sufficient information
24 and knowledge to form a belief as to the truth of the
25 remainder of the allegations in the first sentence of
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1 Paragraph 19, which allegations are therefore denied.
2 Defendants admit the allegations in the second sentence
3 of Paragraph 19. Defendants lack sufficient
4 information and knowledge to form a belief as to the
5 truth of the allegations in the third sentence of
6 Paragraph 19, which allegations are therefore denied.
7 Defendants admit the allegations in the fourth sentence
8 of Paragraph 19, to the extent that plaintiff Fomai has
9 been diagnosed as having the hepatitis C virus,
10 depression and has a history of suicidal thoughts.
11 Defendants lack sufficient information and knowledge to
12 form a belief as to the truth of the remainder of the
13 allegations in the fourth sentence of Paragraph 19,
14 which allegations are therefore denied.
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17 **II. Defendants**

18 20. Defendants admit the allegations of the first, second,
19 third, fourth, and fifth sentences of Paragraph 20.
20 Defendants deny the allegations of the sixth sentence
21 of Paragraph 20. Defendants admit the allegations of
22 the seventh sentence of Paragraph 20.

23 21. Defendants admit the first sentence of Paragraph 21.
24 Defendants deny the allegations in the second sentence
25 of Paragraph 21. Defendants aver that the Office of
26 Detention and Removal Operations (DRO) is responsible
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1 for promoting public safety and national security by
2 making certain, through the enforcement of U.S.
3 immigration laws, that removable aliens depart the
4 United States in a timely fashion. Defendants further
5 aver that in doing so, DRO makes use of its resources
6 and expertise to transport, facilitate case processing,
7 and remove unauthorized aliens from the United States
8 when they are ordered removed. Defendants deny the
9 allegations in the third sentence of Paragraph 21 to
10 the extent that while ICE-DRO headquarters' staff
11 conducts annual inspections of Service Processing
12 Centers (SPCs) and Contract Detention Facilities
13 (CDFs), including SDCF, specially-trained field staff
14 conduct the annual inspections of the detention
15 facilities used through an Inter-Governmental Service
16 Agreement (IGSA). Defendants admit the allegations in
17 the fourth and fifth sentences of Paragraph 21.

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19 22. Defendants admit the allegations in the first sentence
20 of Paragraph 22; however, defendants deny any
21 implication that Mr. Baker may be responsible for the
22 first-line supervision of the ICE staff currently
23 employed at SDCF. Defendants admit the allegations in
24 the second sentence of Paragraph 22 to the extent that
25 Mr. Baker oversees transfers of immigration detainees
26 into and out of SDCF. Defendants deny the remainder of
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1 the allegations in the second sentence of Paragraph 22.
2 Defendants deny the allegations in the third sentence
3 of Paragraph 22. Defendants admit the allegations in
4 the fourth sentence of Paragraph 22.

5 23. Defendants deny the allegation in the first sentence of
6 Paragraph 23 that defendant Anthony Cerone is currently
7 the ICE Officer-in-Charge (OIC) at SDCF; however, when
8 the Complaint was filed, Anthony Cerone was the ICE OIC
9 at SDCF and Assistant Field Office Director of the ICE
10 San Diego Field Office. Defendants deny the
11 allegations in the second sentence of Paragraph 23.
12 Defendants admit the allegations in the third sentence
13 of Paragraph 23 to the extent that the OIC of SDCF --
14 though not currently defendant Cerone -- has the
15 authority to transfer detainees to and from SDCF and
16 supervises all ICE employees at SDCF. Defendants deny
17 the allegations in the fourth sentence of Paragraph 23.
18 Defendants admit the allegations in the fifth sentence
19 of Paragraph 23 to the extent that the OIC at SDCF --
20 though not currently defendant Cerone -- is responsible
21 for ensuring the facility's compliance with all of
22 ICE's National Detention Standards. Defendants deny
23 the remainder of the allegations in the fifth sentence
24 of Paragraph 23. Defendants admit the allegations in
25 the sixth sentence of Paragraph 23 to the extent that
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1 Mr. Cerone, as the then-OIC at SDCF, supervised a
2 Contracting Officer's Technical Representative
3 ("COTR"). However, defendants deny the remainder of
4 the allegations in the sixth sentence of Paragraph 23.
5 Defendants deny the allegations in the seventh, eighth
6 and ninth sentences of Paragraph 23. Defendants admit
7 the allegations in the tenth sentence of Paragraph 23
8 to the extent that the OIC at SDCF (formerly Mr.
9 Cerone), attends weekly meetings with the Public Health
10 Service (PHS), although not for purposes of PHS'
11 oversight. Therefore, defendants deny the remainder of
12 the allegations in the tenth sentence of Paragraph 23.

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14 24. Defendants deny the allegations in the first sentence
15 of Paragraph 24 to the extent that Mr. Sampson is no
16 longer the Interim Director of DIHS. Instead, Captain
17 Don Brown is the Interim Director of DIHS. Defendants
18 deny the remainder of the allegations in the first
19 sentence of Paragraph 24. Defendants admit the
20 allegations of the second sentence of Paragraph 24 to
21 the extent that the period of time in question is prior
22 to October 1, 2007. Defendants aver that the
23 Interagency Agreement between ICE and HHS expired on
24 October 1, 2007. Defendants admit the allegations in
25 the third sentence of Paragraph 24. Defendants deny
26 the allegations in the fourth sentence of Paragraph 24.
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1 25. Defendants admit the allegations in the first sentence
2 of Paragraph 25. Defendants admit the allegations in
3 the second sentence of Paragraph 25 to the extent that
4 Mr. Shack advises the DIHS Director regarding the
5 technical aspects of the administration and provision
6 of healthcare services to ICE detainees. Defendants
7 deny the remainder of the allegations in the second
8 sentence of Paragraph 25.

9 26. Defendants admit the allegations in the first sentence
10 of Paragraph 26 to the extent that Capt. Jarres is a
11 Commissioned Corps Officer of the USPHS. Defendants
12 deny the remainder of the allegations in the first
13 sentence of Paragraph 26. Defendants deny the
14 allegations in the second sentence of Paragraph 26.
15 Capt Jarres only receives a copy of complaints
16 regarding detainee medical and mental health care that
17 are addressed to him at DIHS headquarters in
18 Washington, D.C. from immigration detainees and
19 advocates around the country. Defendants admit the
20 allegations in the third sentence of Paragraph 26, but
21 only to the extent that Capt. Jarres' supervision is
22 indirect. Defendants admit the allegations in the
23 fourth sentence of Paragraph 26.

24 27. Defendants deny the allegations in the first sentence
25 of Paragraph 27 to the extent that Lt. Walston is
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1 currently not the DIHS Managed Care Coordinator for the
2 Western Region. Instead, Lt. Gia Lawrence is the
3 Interim DIHS Managed Care Coordinator for the Western
4 Region. Defendants admit the second sentence of
5 Paragraph 27 as they pertain to the DIHS Managed Care
6 Coordinator for the Western Region, and not
7 specifically to Lt. Walston herself. Defendants admit
8 the remainder of the allegations of Paragraph 27.

9 28. The allegations in Paragraph 28 are denied to the
10 extent that Cmdr. Gonsalves is no longer the USPHS
11 Health Services Administrator (HSA) at SDCF, effective
12 October 1, 2007. Defendants admit the remainder of
13 second sentence of Paragraph 28. Defendants deny the
14 allegations in the third sentence of Paragraph 28.

15 29. Defendants admit the allegations in the first, second
16 and third sentences of Paragraph 29. Defendants admit
17 the allegations in the fourth sentence in Paragraph 29,
18 but deny the implication that Dr. Hui is solely
19 responsible for Treatment Authorization Requests (TARs)
20 from DIHS.

21 30. Defendants admit the allegations in the first sentence
22 of Paragraph 30. Defendants admit the allegations in
23 the second sentence of Paragraph 30, but deny the
24 implication that Mr. Lusche is solely responsible for
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- 1 the activities described in the second sentence of
2 Paragraph 30.
- 3 31. Admitted.
- 4 32. Admitted.
- 5 33. Defendants can neither admit nor deny any allegations
6 as they pertain to the other defendants in this action.
- 7 34. Defendants can neither admit nor deny any allegations
8 as they pertain to the other defendants in this action.
- 9 35. This paragraph sets forth a conclusion of law to which
10 no response is required; however, to the extent that a
11 response is deemed required, the allegations of this
12 paragraph are denied.
- 13 36. This paragraph sets forth a conclusion of law to which
14 no response is required; however, to the extent that a
15 response is deemed required, the allegations of this
16 paragraph are denied.
- 17 37. Defendants can neither admit nor deny any allegations
18 as they pertain to the other defendants in this action.
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21 LEGAL FRAMEWORK

- 22 38. This paragraph sets forth conclusions of law to which
23 no response is required; however, to the extent that a
24 response is deemed required, the allegations of this
25 paragraph are denied.
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1 39. This paragraph sets forth conclusions of law to which
2 no response is required; however, to the extent that a
3 response is deemed required, the allegations of this
4 paragraph are denied.

5 40. This paragraph sets forth conclusions of law to which
6 no response is required; however, to the extent that a
7 response is deemed required, the allegations of this
8 paragraph are denied.

9 41. This paragraph sets forth a portrayal of plaintiffs'
10 sought-after relief and conclusions of law to which no
11 response is required; however, to the extent that a
12 response is deemed required, the allegations of this
13 paragraph are denied.
14

15
16 FACTUAL ALLEGATIONS

17 I. The Immigration Detention Health Care System

18 42. Admitted.

19 43. Admitted.

20 44. Admitted.

21 45. Denied.

22 46. Defendants deny the allegations in the first sentence
23 of Paragraph 46. Defendants admit the allegations in
24 the second and third sentences of Paragraph 46.
25 Defendants deny the allegations in the fourth sentence
26 of Paragraph 46.
27

1 47. Denied.

2 48. Defendants deny the allegations in the first sentence
3 of Paragraph 48. Defendants admit the allegations in
4 the second sentence of Paragraph 48. Defendants deny
5 the allegations in the third sentence of Paragraph 48.

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7 II. SDCF's Troubled History in Correctional Health Care

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49. Admitted.

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10 50. Defendants lack sufficient information and knowledge to
11 form a belief as to the truth of the allegations in the
12 Paragraph 50, which allegations are therefore denied.

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13 51. Denied.

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14 52. Defendants deny the allegations of the first sentence
15 of Paragraph 52. Defendants admit the allegations in
16 the second sentence of Paragraph 52. Defendants deny
17 the allegations in the third sentence of Paragraph 52.
18 Defendants admit the allegations in the fourth sentence
19 of Paragraph 52.

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20 53. Defendants deny the allegations in the first and second
21 sentences of Paragraph 53. Defendants admit the
22 allegations in the third and fourth sentences of
23 Paragraph 53. Defendants deny the allegations in the
24 fifth sentence of Paragraph 53. Defendants lack
25 sufficient information or knowledge to either admit or
26 deny the remaining allegations in the sixth sentence.

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- 54. Denied.
- 55. Denied.
- 56. Paragraph 56 sets forth plaintiffs' portrayal of the action. No response is needed. Defendants object to the characterizations of defendants' actions and to every legal conclusion set forth by plaintiffs. To the extent that a response is deemed required, defendants deny the allegations in the first sentence of Paragraph 56. Defendants admit the allegations in the second sentence of Paragraph 56.
- 57. Denied.
- 58. Admitted.
- 59. Denied.
- 60. Defendants admit the allegations of the first sentence of Paragraph 60. Defendants admit the allegations in the second sentence of Paragraph 60, but note that the auditors reviewed a sample size of only 19 detainee files.
- 61. Defendants admit the allegations in the first sentence of Paragraph 61 to the extent that sick call request forms are not maintained in the medical file. Defendants deny the remainder of the allegations in the first sentence of Paragraph 61, and object to the characterization of defendants' actions or policies. Defendants admit the allegations in the second sentence

1 of Paragraph 61, but note that such information is
2 recorded and stored in another location. Defendants
3 deny the allegations in the third sentence of Paragraph
4 61.

5 62. Defendants admit the allegations in the first sentence
6 of Paragraph 62 to the extent that detainees are not
7 provided with a copy of the sick call request itself;
8 however, defendants note that this procedure does not
9 mean that they never receive any form of response from
10 medical providers related to their sick call
11 request(s). Defendants deny the remainder of the
12 allegations in the first sentence of Paragraph 62.
13 Defendants deny the allegations in the second sentence
14 of Paragraph 62.

15
16 63. As Mr. Abdelwahab is not an ICE detainee at SDCE,
17 defendants lack sufficient information and knowledge to
18 form a belief as to the truth of the allegations in
19 Paragraph 63, which allegations are therefore denied.

20 64. Defendants lack sufficient information and knowledge to
21 form a belief as to the truth of the allegations in the
22 first and second sentences of Paragraph 64, which
23 allegations are therefore denied.

24 65. Defendants lack sufficient information and knowledge to
25 form a belief as to the truth of the allegations in
26 Paragraph 65, which allegations are therefore denied.
27

1 66. Defendants deny the allegations in the first sentence
2 of Paragraph 66. Defendants admit the allegations in
3 the second sentence of Paragraph 66. Defendants lack
4 sufficient information and knowledge to form a belief
5 as to the truth of the allegations in the third and
6 fourth sentences of Paragraph 66, which allegations are
7 therefore denied. Defendants deny the remainder of the
8 allegations in Paragraph 66.

9 67. Defendants admit the allegations in the first sentence
10 of Paragraph 67 to the extent that plaintiff Tinoco has
11 been diagnosed with diabetes, hypertension and
12 hypercholesterolemia. Defendants lack sufficient
13 information and knowledge to form a belief as to the
14 truth of the allegations in the second sentence of
15 Paragraph 67, which allegations are therefore denied.
16 Defendants admit the allegations in the third sentence
17 of Paragraph 67. Defendants lack sufficient
18 information and knowledge to form a belief as to the
19 truth of the allegations in the fourth sentence of
20 Paragraph 67, which allegations are therefore denied.
21 Defendants admit the allegations in the fifth sentence
22 of Paragraph 67. Defendants lack sufficient
23 information and knowledge to form a belief as to the
24 truth of the allegations in the sixth sentence of
25 Paragraph 67, which allegations are therefore denied.
26 Defendants admit the allegations in the sixth sentence of
27 Paragraph 67, which allegations are therefore denied.

1 Defendants admit the allegations in the seventh
2 sentence of Paragraph 67. Defendants lack sufficient
3 information and knowledge to form a belief as to the
4 truth of the allegations in the eighth and ninth
5 sentences of Paragraph 67, which allegations are
6 therefore denied.

7 68. Defendants deny the allegations in the first sentence
8 of Paragraph 68. Defendants lack sufficient
9 information and knowledge to form a belief as to the
10 truth of the remainder of the allegations in Paragraph
11 68, which allegations are therefore denied.

12 69. Defendants deny the allegations in the first sentence
13 of Paragraph 69. As Mr. Abdelwahab is not an ICE
14 detainee at SDCF, defendants lack sufficient
15 information and knowledge to form a belief as to the
16 truth of the remainder of the allegations in Paragraph
17 69, which allegations are therefore denied.

18 70. Defendants lack sufficient information and knowledge to
19 form a belief as to the truth of the allegations in the
20 first and second sentences of Paragraph 70, which
21 allegations are therefore denied. Defendants admit the
22 allegations in the third sentence of Paragraph 70 to
23 the extent that Mr. Owino was examined and confirmed to
24 have asthma in June 2006. Defendants deny the
25 remainder of the allegations in the third sentence of
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Paragraph 70. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the fourth, fifth and sixth sentences of Paragraph 70, which allegations are therefore denied. Defendants deny the allegations in the seventh sentence of Paragraph 70.

71. Defendants admit the allegations in the first sentence of Paragraph 71. Defendants lack sufficient information and knowledge to form a belief as to the truth of the remainder of the allegations in Paragraph 71, which allegations are therefore denied.

72. Defendants admit the allegations in the first sentence of Paragraph 72 to the extent that plaintiff Woods has been diagnosed with a seizure disorder that causes her body to shake and jerk. Defendants deny the allegations in the second sentence of Paragraph 72. Defendants admit the allegations in the third sentence of Paragraph 72. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the fourth and fifth sentences in Paragraph 72, which allegations are therefore denied. Defendants admit the allegations of the sixth sentence of Paragraph 72 to the extent that Ms. Woods has complained about a seizure disorder and requested Klonopin. Defendants deny the remainder of

1 the allegations in the sixth sentence of Paragraph 72.
2 Defendants lack sufficient information and knowledge to
3 form a belief as to the truth of the allegations in the
4 seventh sentence of Paragraph 72, which allegations are
5 therefore denied.

6 73. As Mr. Wong is not an ICE detainee at SDCF, defendants
7 lack sufficient information and knowledge to form a
8 belief as to the truth of the allegations in Paragraph
9 73, which allegations are therefore denied.

10 74. As Mr. Banderas is not an ICE detainee at SDCF,
11 defendants lack sufficient information and knowledge to
12 form a belief as to the truth of the allegations in
13 Paragraph 74, which allegations are therefore denied.

14 75. Defendants lack sufficient information and knowledge to
15 form a belief as to the truth of the allegations in the
16 first sentence of Paragraph 75, as SDCF is not a
17 detention facility intended, as prisons are, for the
18 correction of its detainees' behavior. Thus, these
19 allegations are therefore denied. Defendants deny the
20 allegations in the second sentence of Paragraph 75.
21 Defendants admit the allegations in the third sentence
22 of Paragraph 75 to the extent that plaintiff Toro has
23 been diagnosed with hypertension for which he has been
24 prescribed atenolol. Defendants deny the remainder of
25 the allegations in the third sentence of Paragraph 75.
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1 Defendants deny the allegations in the fourth sentence
2 of Paragraph 75. Defendants lack sufficient
3 information and knowledge to form a belief as to the
4 truth of the allegations in the fifth, sixth and
5 seventh sentences of Paragraph 75, which allegations
6 are therefore denied.

7 76. Defendants admit that allegations in the first sentence
8 of Paragraph 76. Defendants lack sufficient
9 information and knowledge to form a belief as to the
10 truth of the allegations in the second sentence of
11 Paragraph 76, which allegations are therefore denied.
12 Defendants deny the allegations in the third sentence
13 of Paragraph 76. Defendants lack sufficient
14 information and knowledge to form a belief as to the
15 truth of the allegations in the fourth, fifth and sixth
16 sentences of Paragraph 76, which allegations are
17 therefore denied.
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19 77. As Mr. Arias-Forero is not an ICE detainee at SDCF,
20 defendants lack sufficient information and knowledge to
21 form a belief as to the truth of the allegations in
22 Paragraph 77, which allegations are therefore denied.

23 78. Denied. Defendants also object to the characterization
24 of defendants' action and to every legal conclusion set
25 forth by plaintiffs.
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1 79. Defendants admit the allegations in the first sentence
2 of Paragraph 79. Defendants deny the allegations in
3 the second sentence of Paragraph 79 to the extent that
4 Lt. Walston is currently not the DIHS Managed Care
5 Coordinator for the Western Region. Instead, Lt. Gia
6 Lawrence is the Interim DIHS Managed Care Coordinator
7 for the Western Region. Defendants admit the remainder
8 of the allegations in the second sentence of Paragraph
9 79 as they pertain to the DIHS Managed Care Coordinator
10 for the Western Region, and not specifically to Lt.
11 Walston herself. Defendants deny the allegations in
12 the third and fourth sentences of Paragraph 79.

13 80. As Mr. Arias-Forero is not an ICE detainee at SDCF,
14 defendants lack sufficient information and knowledge to
15 form a belief as to the truth of the allegations in
16 Paragraph 80, which allegations are therefore denied.

17 81. As Mr. Arias-Forero is not an ICE detainee at SDCF,
18 defendants lack sufficient information and knowledge to
19 form a belief as to the truth of the allegations in
20 Paragraph 81, which allegations are therefore denied.

21 82. As Mr. Arias-Forero is not an ICE detainee at SDCF,
22 defendants lack sufficient information and knowledge to
23 form a belief as to the truth of the allegations in
24 Paragraph 82, which allegations are therefore denied.
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1 83. As Mr. Arias-Forero is not an ICE detainee at SDCF,
2 defendants lack sufficient information and knowledge to
3 form a belief as to the truth of the allegations in
4 Paragraph 83, which allegations are therefore denied.

5 84. As Mr. Wong is not an ICE detainee at SDCF, defendants
6 lack sufficient information and knowledge to form a
7 belief as to the truth of the allegations in Paragraph
8 84, which allegations are therefore denied.

9 85. Defendants admit the allegations in the first sentence
10 of Paragraph 85 to the extent that Ms. Woods has been
11 diagnosed with neurofibromatosis. Defendants lack
12 sufficient information and knowledge to form a belief
13 as to the truth of the remainder of the allegations in
14 the first sentence of Paragraph 85, which allegations
15 are therefore denied. Defendants admit the allegations
16 in the second sentence of Paragraph 85 to the extent
17 that prior to entering SDCF in July 2006, Ms. Woods was
18 being treated for her neurofibromatosis at the UCSD
19 Neurology Clinic. Defendants lack sufficient
20 information and knowledge to form a belief as to the
21 truth of the remainder of the allegations in the second
22 sentence of Paragraph 85. Defendants lack sufficient
23 information and knowledge to form a belief as to the
24 truth of the allegations in the third and fourth
25 sentences of Paragraph 85. Defendants admit the
26 sentences of Paragraph 85. Defendants admit the
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allegations in the fifth sentence of Paragraph 85 to the extent that Ms. Woods has complained about pain in her finger. Defendants deny the remainder of the allegations in the fifth sentence of Paragraph 85. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the sixth sentence of Paragraph 85, which allegations are therefore denied. Defendants deny the allegations of the seventh sentence of Paragraph 85.

86. Defendants admit the allegations of the first sentence of Paragraph 86 to the extent that Mr. Tinoco has been diagnosed with having hemorrhoids and reports having pain when sitting down. Defendants deny the remainder of the allegations in the first sentence of Paragraph 86. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the second and third sentences of Paragraph 86, which allegations are therefore denied. Defendants admit the allegations in the fourth sentence of Paragraph 86 to the extent that Mr. Tinoco requested surgery to remove his hemorrhoids. Defendants deny the remainder of the allegations in the fourth sentence of Paragraph 86.

87. Defendants admit the allegations of the first sentence of Paragraph 87 to the extent that Mr. Fomai has had a

1 rash since February 2007. Defendants deny the
2 allegations of the first sentence of Paragraph 87 that
3 the rash is "painful," as the rash is not painful and
4 is much improved and nearly resolved. Defendants admit
5 the allegations in the second sentence of Paragraph 87.
6 Defendants deny the allegations in the third sentence
7 of Paragraph 87. Defendants lack sufficient
8 information and knowledge to form a belief as to the
9 truth of the allegations in the fourth sentence of
10 Paragraph 87, which allegations are therefore denied.

11 88. Defendants admit the allegations in the first and
12 second sentences of Paragraph 88. Defendants deny the
13 allegations in the third sentence of Paragraph 88.

14 89. As Mr. Casteneda is not an ICE detainee at SDCF,
15 defendants lack sufficient information and knowledge to
16 form a belief as to the truth of the remainder of the
17 allegations in Paragraph 89, which allegations are
18 therefore denied.

19 90. Defendants admit the first sentence of Paragraph 90 to
20 the extent that Mr. Fomai has gender identity disorder.
21 Defendants lack sufficient information and knowledge to
22 form a belief as to the truth of the remainder of the
23 allegations in the first sentence of Paragraph 90,
24 which allegations are therefore denied. Defendants
25 admit the allegations in the second sentence of
26

1 Paragraph 90 to the extent that Mr. Fomai was taking
2 Premarin. Defendants deny the remainder of the
3 allegations in the second sentence of Paragraph 90.
4 Defendants lack sufficient information and knowledge to
5 form a belief as to the truth of the allegations in the
6 third sentence of Paragraph 90, which allegations are
7 therefore denied. Defendants admit the allegations in
8 the fourth sentence of Paragraph 90 to the extent that
9 Mr. Fomai was denied hormone therapy by medical staff,
10 including defendant Hui, pursuant to DIHS policy.
11 Defendants lack sufficient information and knowledge to
12 form a belief as to the truth of the remainder of the
13 allegations in the fourth sentence of Paragraph 90,
14 which allegations are therefore denied. Defendants
15 lack sufficient information and knowledge to form a
16 belief as to the truth of the allegations in the fifth,
17 sixth and seventh sentences of Paragraph 90, which
18 allegations are therefore denied. Defendants admit the
19 allegations in the eighth sentence of Paragraph 90 to
20 the extent that Mr. Fomai's medical records confirm a
21 history of depression and suicide attempts. Defendants
22 lack sufficient information and knowledge to form a
23 belief as to the truth of the remainder of the
24 allegations in the eighth sentence of Paragraph 90,
25 which allegations are therefore denied. Defendants lack
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1 sufficient information and knowledge to form a belief
2 as to the truth of the allegations in the ninth and
3 tenth sentences of Paragraph 90, which allegations are
4 therefore denied.

5 91. Plaintiff Carcamo was removed from the U.S. and
6 returned to Belize on July 6, 2007. As a result, he
7 has since been dismissed from this action. For this
8 reason, no response is needed; however, to the extent
9 that a response is deemed required, the allegations of
10 Paragraph 91 are denied.

11 92. Plaintiff Carcamo was removed from the U.S. and
12 returned to Belize on July 6, 2007. As a result, he
13 has since been dismissed from this action. For this
14 reason, no response is needed; however, to the extent
15 that a response is deemed required, the allegations of
16 Paragraph 92 are denied.

17 93. Plaintiff Carcamo was removed from the U.S. and
18 returned to Belize on July 6, 2007. As a result, he
19 has since been dismissed from this action. For this
20 reason, no response is needed; however, to the extent
21 that a response is deemed required, the allegations of
22 Paragraph 93 are denied.

23 94. Plaintiff Carcamo was removed from the U.S. and
24 returned to Belize on July 6, 2007. As a result, he
25 has since been dismissed from this action. For this
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reason, no response is needed; however, to the extent that a response is deemed required, the allegations of Paragraph 94 are denied.

95. Plaintiff Monteagudo-Guerrero was released from ICE custody on June 22, 2007 on her own recognizance and was granted voluntary departure. As a result, she has since been dismissed from this action. For this reason, no response is needed; however, to the extent that a response is deemed required, the allegations of Paragraph 95 are denied.

96. Defendants deny the allegations in the first sentence of Paragraph 96. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the second, third and fourth sentences of Paragraph 96, which allegations are therefore denied. Defendants admit the allegations in the fifth sentence of Paragraph 96 to the extent that Ms. Vanegas requested and received ibuprofen. Defendants deny the remainder of the allegations in the fifth sentence of Paragraph 96, and note that Ms. Vanegas only asked for ibuprofen during her visit with the doctor. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the sixth sentence of Paragraph 96, which allegations are therefore denied.

1 97. Denied.

2 98. Defendants lack sufficient information and knowledge to
3 form a belief as to the truth of the remainder of the
4 allegations in Paragraph 98, which allegations are
5 therefore denied.

6 99. Defendants lack sufficient information and knowledge to
7 form a belief as to the truth of the allegations in the
8 first, second and third sentences of Paragraph 99,
9 which allegations are therefore denied. Defendants
10 admit the allegations in the fourth sentence of
11 Paragraph 99 to the extent that Mr. Aguilar-Turcios saw
12 Dr. Jedry in mid-May 2006. Defendants lack sufficient
13 information and knowledge to form a belief as to the
14 truth of the remainder of the allegations in the fourth
15 sentence of Paragraph 99, which allegations are
16 therefore denied. Defendants deny the allegations in
17 the fifth and sixth sentences of Paragraph 99.
18 Defendants admit the allegations in the seventh
19 sentence of Paragraph 99. Defendants lack sufficient
20 information and knowledge to form a belief as to the
21 truth of the allegations in the eighth sentence of
22 Paragraph 99, which allegations are therefore denied.

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24 100. Defendants deny the allegations in the first sentence
25 of Paragraph 100. Defendants admit the allegations in
26 the second sentence of Paragraph 100. Defendants admit
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the allegations in the third sentence of Paragraph 100 to the extent that Dr. Jedry prescribed a one-week course of amoxicillin. Defendants lack sufficient information and knowledge to form a belief as to the truth of the remainder of the allegations in the third sentence of Paragraph 100, which allegations are therefore denied. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the fourth and fifth sentences of Paragraph 100, which allegations are therefore denied. Defendants admit the allegations in the sixth and seventh sentences of Paragraph 100. Defendants admit the allegations in the eighth sentence of Paragraph 100 to the extent that a nurse said that she would refer Mr. Ngugi to a dentist. Defendants lack sufficient information and knowledge to form a belief as to the truth of the remainder of the allegations in the eighth sentence of Paragraph 100, which allegations are therefore denied. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the ninth and tenth sentences of Paragraph 100, which allegations are therefore denied.

101. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the

1 first and second sentences of Paragraph 101, which
2 allegations are therefore denied. Defendants deny the
3 allegations in the third sentence of Paragraph 101, and
4 aver that Ngugi refused to go to his dental appointment
5 on December 19, 2006. Defendants lack sufficient
6 information and knowledge to form a belief as to the
7 truth of the allegations in the fourth sentence of
8 Paragraph 101, which allegations are therefore denied.
9 Defendants admit the allegations in the fifth sentence
10 of Paragraph 101 to the extent that Mr. Ngugi met with
11 Dr. Jedry on January 17, 2007. Defendants lack
12 sufficient information and knowledge to form a belief
13 as to the truth of the remainder of the allegations in
14 the fifth sentence of Paragraph 101, which allegations
15 are therefore denied. Defendants admit the allegations
16 in the sixth sentence of Paragraph 101 to the extent
17 that Dr. Jedry prescribed Mr. Ngugi a ten-day course of
18 amoxicillin and ibuprofen. Defendants lack sufficient
19 information and knowledge to form a belief as to the
20 truth of the remainder of the allegations in the sixth
21 sentence of Paragraph 101, which allegations are
22 therefore denied. Defendants admit the allegations in
23 the seventh sentence of Paragraph 101, and aver that
24 Mr. Ngugi did not request or complain about any dental
25 pain or dental needs. Defendants lack sufficient
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1 information and knowledge to form a belief as to the
2 truth of the allegations in the eighth, ninth and tenth
3 sentences of Paragraph 101, which allegations are
4 therefore denied.

5 102. Defendants lack sufficient information and knowledge to
6 form a belief as to the truth of the allegations in
7 Paragraph 102, which allegations are therefore denied.
8 Defendants aver that on March 2, 2007, during a dental
9 sick call, plaintiff Owino requested a cleaning and was
10 informed that he is eligible but that oral surgeries
11 take priority.

12 103. Defendants deny the allegations in the first sentence
13 of Paragraph 103. As Mr. Abdelwahab is not an ICE
14 detainee at SDCF, defendants lack sufficient
15 information and knowledge to form a belief as to the
16 truth of the remainder of the allegations in Paragraph
17 103, which allegations are therefore denied.

18 104. Plaintiff Monteagudo-Guerrero was released from ICE
19 custody on June 22, 2007 on her own recognizance and
20 was granted voluntary departure. As a result, she has
21 since been dismissed from this action. For this
22 reason, no response is needed; however, to the extent
23 that a response is deemed required, the allegations of
24 Paragraph 104 are denied.
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1 105. As Mr. Ledda is not an ICE detainee at SDCF, defendants
2 lack sufficient information and knowledge to form a
3 belief as to the truth of the remainder of the
4 allegations in Paragraph 105, which allegations are
5 therefore denied.

6 **C. Mental Health Care**

7 106. Defendants deny the allegations in the first sentence
8 of Paragraph 106, and object to plaintiffs'
9 characterization of SDCF as a correctional facility.
10 Rather, SDCF is a detention facility that is used to
11 detainee illegal aliens eligible for removal from the
12 United States, until such time as their removal can be
13 effectuated. Unlike with correctional institutions,
14 detention at SDCF is not designed for the purpose of
15 punishing its inhabitants and defendants object to any
16 characterization, either inadvertent or blatant, that
17 attempts to classify its detainees as being treated
18 like prisoners. Defendants also deny the allegations
19 in the second and third sentences of Paragraph 106.

20 107. Defendants deny the allegations in the first sentence
21 of Paragraph 107. Defendants lack sufficient
22 information and knowledge to form a belief as to the
23 truth of the remainder of the allegations in Paragraph
24 107, which allegations are therefore denied.
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1 108. Defendants admit the allegations in the first sentence
2 of Paragraph 108 to the extent that detainees with
3 mental illnesses, for the most part, are not housed in
4 the general population. However, defendants aver that
5 detainees with less severe, treatable forms of mental
6 illness, e.g. mild depression, may be housed in the
7 general population. Defendants deny the remainder of
8 the allegations in the first sentence of Paragraph 108.
9 Defendants admit the allegations in the second and
10 third sentences of Paragraph 108. Defendants deny the
11 allegations in the fourth and fifth sentences of
12 Paragraph 108. Defendants admit the allegations in the
13 sixth and seventh sentences of Paragraph 108, to the
14 extent that SDCF does contain two isolation rooms that
15 provide padded walls to those detainees who may
16 otherwise injure themselves or others if housed in
17 another environment.

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19 109. Defendants deny the allegations in the first and second
20 sentences of Paragraph 109. Defendants lack sufficient
21 information and knowledge to form a belief as to the
22 truth of the remainder of the allegations in Paragraph
23 109, which allegations are therefore denied.

24 110. Defendants deny the allegations in the first, second
25 and third sentence of Paragraph 110. Defendants admit
26 the allegations in the fourth sentence of Paragraph
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110. Defendants lack sufficient information and knowledge to form a belief as to the truth of the remainder of the allegations in Paragraph 110, which allegations are therefore denied.

111. Defendants admit the allegations in the first sentence of Paragraph 111 to the extent that Mr. Ngugi was diagnosed with bipolar disorder, that Mr. Ngugi has taken medications for this condition in the past, and that Mr. Ngugi currently is not prescribed any medications for this condition. Defendants deny the remainder of the allegations in the first sentence of Paragraph 111 and object to the characterization of defendants' actions and to every legal conclusion set forth by plaintiffs. Defendants admit the allegations in the second sentence of Paragraph 111. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the third sentence of Paragraph 111, which allegations are therefore denied. Defendants admit the allegations in the fourth, fifth and sixth sentences of Paragraph 111. Defendants lack sufficient information and knowledge to form a belief as to the truth of the allegations in the seventh and eighth sentences of Paragraph 111, which allegations are therefore denied. Defendants admit the allegations in the ninth sentence of Paragraph 111 to

1 the extent that in June 2006 Ngugi refused medication
2 for his bipolar disorder, but deny that this refusal
3 had any relationship to the nature of the allegedly
4 inadequate psychiatric treatment he was receiving at
5 SDCF. Thus, defendants deny the remainder of the
6 allegations in the ninth sentence of Paragraph 111.
7 Defendants lack sufficient information and knowledge to
8 form a belief as to the truth of the allegations in the
9 tenth sentence of Paragraph 111, which allegations are
10 therefore denied.

11 112. Defendants admit the allegations in the first sentence
12 of Paragraph 112 to the extent that plaintiff Woods has
13 been diagnosed with depression and bipolar disorder.
14 Defendants admit the allegations in the second sentence
15 of Paragraph 112 to the extent that Ms. Woods has seen
16 mental health professionals. Defendants deny the
17 remainder of the allegations in the second sentence of
18 Paragraph 112. Defendants lack sufficient information
19 and knowledge to form a belief as to the truth of the
20 allegations in the third and fourth sentences of
21 Paragraph 112, which allegations are therefore denied.

22 113. Defendants lack sufficient information and knowledge to
23 form a belief as to the truth of the allegations in the
24 first sentence of Paragraph 113, which allegations are
25 therefore denied. Defendants admit the allegations in
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1 the second sentence of Paragraph 113 to the extent that
2 Mr. Fomai has a history of suicidal thoughts.
3 Defendants lack sufficient information and knowledge to
4 form a belief as to the truth of the remainder of the
5 allegations in the second sentence of Paragraph 113,
6 which allegations are therefore denied. Defendants
7 lack sufficient information and knowledge to form a
8 belief as to the truth of the allegations in the third
9 and fourth sentences of Paragraph 113, which
10 allegations are therefore denied.

11 114. Denied.

12 115. Defendants admit the allegations in the first sentence
13 of Paragraph 115. In fact, this event pre-dates DIHS'
14 provision of medical care to the ICE detainees being
15 housed at SDCF. Therefore, defendants lack sufficient
16 information and knowledge to form a belief as to the
17 truth of the remainder of the allegations in Paragraph
18 115, which allegations are therefore denied.

19 116. Defendants lack sufficient information and knowledge to
20 form a belief as to the truth of the allegations in
21 Paragraph 116, which allegations are therefore denied.
22 Defendants also object to the characterization of
23 defendants' actions and to every legal conclusion set
24 forth by plaintiffs in this paragraph.
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1 117. Mr. Ali Nesa was removed from the United States and
2 returned to Belize on October 4, 2007. Defendants lack
3 sufficient information and knowledge to form a belief
4 as to the truth of the allegations in the second
5 sentence of Paragraph 117, which allegations are
6 therefore denied.

7 118. Defendants deny the allegations in the first and second
8 sentences of Paragraph 118. Defendants admit the
9 allegations in the third sentence of Paragraph 118.
10 Defendants deny the allegations in the fourth sentence
11 of Paragraph 118. Defendants admit the allegations in
12 the fifth sentence of Paragraph 118, but note that
13 detainees are permitted to have their families bring or
14 send them glasses as medically required.

15 119. Defendants admit the allegations in the first sentence
16 of Paragraph 119 to the extent that Mr. Aguilar-Turcios
17 entered ICE custody in November 2005. Defendants lack
18 sufficient information and knowledge to form a belief
19 as to the truth of the remainder of the allegations in
20 the first sentence of Paragraph 119, which allegations
21 are therefore denied. Defendants admit the allegations
22 in the second sentence of Paragraph 119 to the extent
23 that Mr. Aguilar-Turcios has been diagnosed as having
24 migraine headaches. Defendants lack sufficient
25 information and knowledge to form a belief as to the
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1 truth of the remainder of the allegations in the second
2 sentence of Paragraph 119, which allegations are
3 therefore denied. Defendants admit the allegations in
4 the third sentence of Paragraph 119.

5 120. Defendants lack sufficient information and knowledge to
6 form a belief as to the truth of the allegations in the
7 first sentence of Paragraph 120, which allegations are
8 therefore denied. Defendants aver that plaintiff Owino
9 has complained of difficulty reading legal forms and
10 papers. Defendants admit the allegations in the second
11 sentence of Paragraph 120 to the extent that plaintiff
12 Owino has been diagnosed with recurring headaches.
13 Defendants lack sufficient information and knowledge to
14 form a belief as to the truth of the remainder of the
15 allegations in the second sentence of Paragraph 120,
16 which allegations are therefore denied. Defendants
17 lack sufficient information and knowledge to form a
18 belief as to the truth of the allegations in the third,
19 fourth and fifth sentences of Paragraph 120, which
20 allegations are therefore denied. However, defendants
21 aver that on July 20, 2007, during a sick call,
22 physician assistant Lusche informed plaintiff Owino
23 that eyeglasses are not a provided benefit.
24

25 121. As Mr. Arias-Forero is not an ICE detainee at SDCF,
26 defendants lack sufficient information and knowledge to
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1 form a belief as to the truth of the allegations in
2 Paragraph 121, which allegations are therefore denied.
3 122. Defendants deny the allegations in the first sentence
4 of Paragraph 122. Defendants admit the allegations in
5 the second and third sentences of Paragraph 122.
6 Defendants admit the allegations in the fourth sentence
7 of Paragraph 122 to the extent that Tinoco has been
8 diagnosed with diabetes and hypertension. Defendants
9 lack sufficient information and knowledge to form a
10 belief as to the truth of the remainder of the
11 allegations in the fourth sentence of Paragraph 122,
12 which allegations are therefore denied. Defendants
13 lack sufficient information and knowledge to form a
14 belief as to the truth of the allegations in the fifth
15 and sixth sentences of Paragraph 122, which allegations
16 are therefore denied. Defendants admit the allegations
17 in the seventh sentence of Paragraph 122 to the extent
18 that Mr. Tinoco had an eye examination on March 22,
19 2007. Defendants lack sufficient information and
20 knowledge to form a belief as to the truth of the
21 remainder of the allegations in the seventh sentence of
22 Paragraph 122, which allegations are therefore denied.
23 Defendants admit the allegations in the eighth sentence
24 of Paragraph 122 to the extent that Mr. Tinoco had two
25 eye examinations by Mr. Lusche. Defendants deny the
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1 remainder of the allegations in the eighth sentence of
2 Paragraph 122. Defendants admit the allegations in the
3 ninth sentence of Paragraph 122. Defendants admit the
4 allegations in the tenth sentence of Paragraph 122 to
5 the extent that Mr. Tinoco was found to have
6 papilledema on July 14, 2006. Defendants deny the
7 remainder of the allegations in the tenth sentence of
8 Paragraph 122. Defendants deny the allegations in the
9 eleventh sentence of Paragraph 122. Defendants admit
10 the allegations in the twelfth sentence of Paragraph
11 122. Defendants lack sufficient information and
12 knowledge to form a belief as to the truth of the
13 allegations in the thirteenth sentence of Paragraph
14 122, which allegations are therefore denied.

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16 123. Defendants deny the allegations in the first sentence
17 of Paragraph 123. Defendants admit the allegations in
18 the second sentence of Paragraph 123 to the extent that
19 Bill Roy Kurt Marion committed suicide at SDCF in July
20 2003. Defendants lack sufficient information and
21 knowledge to form a belief as to the truth of the
22 remainder of the allegations in the second sentence of
23 Paragraph 123, which allegations are therefore denied.

24 124. Defendants admit the allegations in the first sentence
25 of Paragraph 124 to the extent that on January 4, 2005,
26 detainee Sarabia died of a heart attack while in the
27

1 shower at SDCF. Defendants lack sufficient information
2 and knowledge to form a belief as to the truth of the
3 allegations in the second and third sentences of
4 Paragraph 124, which allegations are therefore denied.
5 Defendants deny the remainder of the allegations of
6 Paragraph 124.

7 125. Defendants lack sufficient information and knowledge to
8 form a belief as to the truth of the allegations in
9 Paragraph 125, which paragraph sets forth plaintiffs'
10 portrayal of the action, including legal conclusions.
11 Thus, defendants object to the characterizations of
12 defendants' actions and to every legal conclusion set
13 forth by plaintiffs. To the extent that a response is
14 deemed required, the allegations in Paragraph 125 are
15 therefore denied.
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18 **III. Class Action Allegations**

19 126. Mr. Carcamo and Ms. Monteagudo-Guerrero have been
20 dismissed from this action. For this reason, no
21 response as to these individuals is needed; however, to
22 the extent that a response is deemed required, the
23 allegations of Paragraph 126 are denied as to these
24 individuals. Also, this paragraph sets forth
25 plaintiffs' portrayal of the action, including legal
26 conclusions. No response is needed. Defendants object
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1 to the characterizations of defendants' actions and to
2 every legal conclusion set forth by plaintiffs. To the
3 extent that a response is deemed required, the
4 allegations in Paragraph 126 are denied.

5 127. This paragraph sets forth plaintiffs' portrayal of the
6 action, including legal conclusions. No response is
7 needed. Defendants object to the characterizations of
8 defendants' actions and to every legal conclusion set
9 forth by plaintiffs. To the extent that a response is
10 deemed required, the allegations in Paragraph 127 are
11 denied.

12 128. Defendants admit the first sentence of Paragraph 128.
13 The remainder of this paragraph sets forth plaintiffs'
14 portrayal of the action, including legal conclusions.
15 No response is needed. Defendants object to the
16 characterizations of defendants' actions and to every
17 legal conclusion set forth by plaintiffs. To the
18 extent that a response is deemed required, the
19 remainder of the allegations in Paragraph 128 are
20 denied.

21 129. This paragraph sets forth plaintiffs' portrayal of the
22 action, including legal conclusions. No response is
23 needed. Defendants object to the characterizations of
24 defendants' actions and to every legal conclusion set
25 forth by plaintiffs. To the extent that a response is
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1 deemed required, the allegations in Paragraph 129 are
2 denied.

3 130. This paragraph sets forth plaintiffs' portrayal of the
4 action, including legal conclusions. No response is
5 needed. Defendants object to the characterizations of
6 defendants' actions and to every legal conclusion set
7 forth by plaintiffs. To the extent that a response is
8 deemed required, the allegations in Paragraph 130 are
9 denied.

10 131. This paragraph sets forth plaintiffs' portrayal of the
11 action, including legal conclusions. No response is
12 needed. Defendants object to the characterizations of
13 defendants' actions and to every legal conclusion set
14 forth by plaintiffs. To the extent that a response is
15 deemed required, the allegations in Paragraph 131 are
16 denied.

17 132. This paragraph sets forth plaintiffs' portrayal of the
18 action, including legal conclusions. No response is
19 needed. Defendants object to the characterizations of
20 defendants' actions and to every legal conclusion set
21 forth by plaintiffs. To the extent that a response is
22 deemed required, the allegations in Paragraph 132 are
23 denied.

24 133. This paragraph sets forth plaintiffs' portrayal of the
25 action, including legal conclusions. No response is
26 needed.

1 needed. Defendants object to the characterizations of
2 defendants' actions and to every legal conclusion set
3 forth by plaintiffs. To the extent that a response is
4 deemed required, the allegations in Paragraph 133 are
5 denied.

6 **CLAIM FOR RELIEF**

7 134. This paragraph sets forth plaintiffs' portrayal of the
8 action, including legal conclusions. No response is
9 needed. Defendants object to the characterizations of
10 defendants' actions and to every legal conclusion set
11 forth by plaintiffs. To the extent that a response is
12 deemed required, the allegations in Paragraph 134 are
13 denied.

14 135. This paragraph sets forth plaintiffs' portrayal of the
15 action, including legal conclusions. No response is
16 needed. Defendants object to the characterizations of
17 defendants' actions and to every legal conclusion set
18 forth by plaintiffs. To the extent that a response is
19 deemed required, the allegations in Paragraph 135 are
20 denied.

21 136. This paragraph sets forth plaintiffs' portrayal of the
22 action, including legal conclusions. No response is
23 needed. Defendants object to the characterizations of
24 defendants' actions and to every legal conclusion set
25 forth by plaintiffs. To the extent that a response is
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deemed required, the allegations in Paragraph 136 are denied.

137. This paragraph sets forth plaintiffs' portrayal of the action, including legal conclusions. No response is needed. Defendants object to the characterizations of defendants' actions and to every legal conclusion set forth by plaintiffs. To the extent that a response is deemed required, the allegations in Paragraph 137 are denied.

138. This paragraph sets forth plaintiffs' portrayal of the action, including legal conclusions. No response is needed. Defendants object to the characterizations of defendants' actions and to every legal conclusion set forth by plaintiffs. To the extent that a response is deemed required, the allegations in Paragraph 138 are denied.

139. This paragraph sets forth plaintiffs' portrayal of the action, including legal conclusions. No response is needed. Defendants object to the characterizations of defendants' actions and to every legal conclusion set forth by plaintiffs. To the extent that a response is deemed required, the allegations in Paragraph 139 are denied.

* * * * *

1 Any allegation of the complaint not heretofore expressly
2 admitted or otherwise plead to is hereby denied.

3 * * * * *

4 **PRAYER FOR RELIEF**

5 The remainder of the complaint constitutes Plaintiffs'
6 request for relief to which no responsive pleading is necessary.
7 To the extent that a response is deemed required, Defendants deny
8 the prayer for relief.

9 Defendants deny that Plaintiffs are entitled to the relief
10 sought in the complaint or to any relief whatsoever.

11 * * * * *

12 In addition, Defendants assert the following affirmative
13 defenses:
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16 **FIRST AFFIRMATIVE DEFENSE**

17 The complaint fails to state a claim upon which relief can
18 be granted.

19 **SECOND AFFIRMATIVE DEFENSE**

20 The complaint should be dismissed in part on the grounds of
21 mootness.

22 **THIRD AFFIRMATIVE DEFENSE**

23 Plaintiffs have failed to exhaust their claims in available
24 administrative procedures.

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FOURTH AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over plaintiffs' Cause of Action under the Declaratory Judgment Act.

FIFTH AFFIRMATIVE DEFENSE

The complaint is so general as to be insufficient to give defendants fair notice of the bases upon which plaintiffs bring their claims.

SIXTH AFFIRMATIVE DEFENSE

Relief should be denied to plaintiffs as an exercise of judicial discretion to withhold relief.

SEVENTH AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over plaintiffs' class action claims pursuant to 8 U.S.C. § 1252(f).

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the applicable statute of limitations.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs are unable to establish that they have serious medical needs for their respective discrete medical conditions.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' injuries or losses were not proximately caused by the defendants' actions or inactions as alleged in this Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to set forth the requisite showing of

1 subjective intent necessary to sustain a cause of action alleging
2 a Constitutional violation, thereby warranting dismissal of this
3 action.

4 **TWELFTH AFFIRMATIVE DEFENSE**

5 Plaintiffs have failed to set forth a grave deprivation in
6 regard to their allegation that a Constitutional violation has
7 occurred, thereby warranting dismissal of this action.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**

9 Plaintiffs are unable to establish (1) a strong likelihood
10 of success on the merits, (2) the possibility of irreparable
11 injury to the plaintiff if preliminary relief is not granted, (3)
12 a balance of hardships favoring the plaintiff, and (4)
13 advancement of the public interest (in certain cases) necessary
14 to substantiate entitlement to injunctive relief.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 Plaintiffs suffered no actual injury.

17 **FIFTEENTH AFFIRMATIVE DEFENSE**

18 Plaintiffs are unable to establish that Defendants' acts or
19 omissions were sufficiently harmful to show deliberate
20 indifference to their allegedly serious medical needs.

21 **SIXTEENTH AFFIRMATIVE DEFENSE**

22 Although defendants do not presently have specific facts in
23 support of its remaining defenses, it wishes to put counsel for
24 plaintiffs on notice that they raise the following affirmative
25 defenses, as set forth in Rule 8, Fed. R. Civ. P., should
26
27

1 subsequent discovery disclose facts that support those defenses,
2 including but not limited to: fraud; illegality; payment;
3 release; res judicata; and waiver.

4 * * * * *

5 WHEREFORE defendants ask that this action be dismissed with
6 prejudice, that judgment be entered for defendants, that the
7 request of an award of costs and expenses of the suit be denied
8 to plaintiffs, and that the Court grant such other and further
9 relief to defendants as it deems proper.

10
11 DATED: November 13, 2007

12
13 Respectfully submitted,

14 For Defendants:

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 13th day of November 2007 a true and correct copy of the foregoing Defendants' Answer to Plaintiffs' Complaint for Injunctive and Declaratory Relief was served by ECF Filing on all counsel of record.

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