



2. Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental jurisdiction of the State of Illinois.

3. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because all of the events described herein took place in the City of Chicago, County of Cook, State of Illinois.

4. The Plaintiff, MARCUS MALEWSKI, was at all relevant times a United States citizen and resident of the State of Illinois.

5. At all relevant times, Defendant, TONI PRECKWINKLE was the President of the Cook County Board of Commissioners, which is responsible for authorizing construction and repairs of the Cook County Jail (“CCJ”) physical plant and for funding all operations and programs of CCJ. This includes ensuring appropriate resources are provided for such construction, repair and operations. Defendant, TONI PRECKWINKLE is sued in her official capacity.

6. At all relevant times, Defendant, COOK COUNTY through the County Board of Commissioners was responsible for CCJ’s physical plant and had sole responsibility for funding all operations and programs of the CCJ, this includes ensuring that the CCJ has the sufficient funding and resources to operate the jail lawfully.

7. At all relevant times, Defendant, THOMAS J. DART was the Sherriff of Cook County. He was solely responsible for all security, corrections policies and practices at the CCJ. Defendant, THOMAS J. DART is responsible for the care, custody, and control of each individual housed in CCJ. Defendant, THOMAS J. DART is sued in his official capacity.

8. At all relevant times, Defendant, CARA SMITH was the Executive Director of the Cook County Department of Corrections. She reports directly to Defendant THOMAS J. DART and was responsible for overseeing the implementation of all policies and procedures

promulgated by Defendant THOMAS J. DART regarding the operations of CCJ. Defendant, CARA SMITH is sued in her official capacity.

9. On or about May 11, 2014, the Plaintiff, MARCUS MALEWSKI, was arrested, taken into custody, and was transferred to the CCJ located 2700 South California Ave, Chicago, IL 60608.

10. On or about May 12, 2014, the Plaintiff was escorted with a large group of pre-trial detainees to be arraigned and to have bond set by a judge sitting in the Circuit Court of Cook County, located at 2650 South California Ave, Chicago, Illinois. After the arraignment and bond hearing, the Plaintiff and the remaining pre-trial detainees were escorted to a relatively new holding area (initial holding area) at CCJ where they were to remain while being processed. After they were processed, the Plaintiff and this group of pre-trial detainees remained in this holding area till approximately 11:00 p.m. of May 12, 2014. None of the pre-trial detainees had been fed up till this point.

11. After 11:00 p.m. on May 12, 2014, each pre-trial detainee was handcuffed to another pre-trial detainee and the group was escorted to a smaller and older holding area (“second holding area”). The second holding area did not have a bathroom and was significantly smaller than the initial holding area. The Plaintiff and this group of pre-trial detainees were kept in this second holding area from approximately 11:00 p.m. of May 12, 2014 till 3:30 a.m. of May 13, 2014. During this period, approximately ten to twenty (10-20) pre-trial detainees were taken out of this second holding area and given division and cell assignments. A guard informed the Plaintiff and the rest of the pre-trial detainees that the jail only had space to house ten to twenty (10-20) pre-trial detainees, leaving more than fifty (50) pre-trial detainees, including the

Plaintiff, without division and cell assignments. The guard also informed the rest of the pre-trial detainees that he was unable to provide them food.

12. At approximately 3:00 a.m. on May 13, 2014, the Plaintiff and the rest of the pre-trial detainees were taken out of the second holding area to another location within the jail where a guard took all of the pre-trial detainees' ID cards and grouped them into three (3) stacks. Then the guard then gave one (1) of the stacks to a processing guard to scan into the system. However, when the processing guard refused to scan the ID's into the system, the guard scanned all of the ID's and assigned a division and a cell assignment electronically to the Plaintiff and each of the remaining pre-trial detainees.

13. At approximately 4:00 a.m. on May 13, 2014, the Plaintiff and the rest of the pre-trial detainees were taken to a cell block in Division 6, which at the time was under construction. After taking off their handcuffs, a guard informed the Plaintiff and the rest of the pre-trial detainees that since there were no open beds in any part of the jail, that the only available option was to allow the inmates to stay in this cell block of Division 6. Since the cells in this cell block were under construction, the pre-trial detainees could not stay in the cells and had to sleep on the floor in the common area in the middle of the cell block. The Plaintiff and the pre-trial detainees were not provided mattress pads, pillows, blankets, soap or toilet paper at this time. Since the construction crews returned at 6:00 a.m., the guard could only allow the pre-trial detainees to sleep on the floor in the common area for two (2) hours. Finally, the guard said that they could not give food to the inmates at this time.

14. At approximately 6:00 a.m. on May 13, 2014, the Plaintiff and the group of remaining pre-trial detainees were moved to a day room in Division 6 and were allowed to sleep on the

floor of the day room for approximately an hour. The Plaintiff and the rest of the pre-trial detainees at this point still had not been fed.

15. At approximately 7:00 a.m. on May 13, 2014, the Plaintiff and the remaining pre-trial detainees were handcuffed and transferred back to the initial holding area and stayed there until approximately 11:00 p.m. of May 12, 2014. Before being transferred, a couple of pre-trial detainees were escorted away from the group.

16. At approximately 11:00 a.m. on May 13, 2014 the Plaintiff and the remaining pre-trial detainees were then handcuffed and moved to a third holding area that did not have bathrooms or running water and stayed there till approximately 4:00 a.m. of May 14, 2014.

17. The Plaintiff and the remaining pre-trial detainees were then removed from this holding area back to the common area in the middle of a cellblock of Division 6. The guard removed their handcuffs and they slept on the floor in the common area of the cell block in Division 6 where they stayed until approximately 6:00 a.m. on May 14, 2014.

18. The Plaintiff and the remaining pre-trial detainees were then moved back to a day room in Division 6 until approximately 7:00 a.m. on May 14, 2014.

19. The Plaintiff and the remaining pre-trial Detainees were separated into three (3) groups: one group was escorted to another area of the jail, and two groups, one of which contained the Plaintiff, were escorted to two holding areas where they had access to a bathroom. The Plaintiff and the remaining pre-trial detainees in his group stayed in this fourth holding area till approximately 11:00 a.m. on May 14, 2014.

20. The Plaintiff and the remaining pre-trial detainees were then transferred back to the initial holding area. Upon entering the initial holding area, their handcuffs were removed and they stayed in this initial holding area till approximately 8:00 p.m. of May 14, 2014.

21. In the middle of the afternoon of May 14, 2014, the guards finally gave the Plaintiff and the remaining pre-trial detainees a sandwich and a drink. This was the first time that the Plaintiff was given food for more than two and a half (2 1/2) days of being in custody.

22. The Plaintiff and the remaining pre-trial detainees were handcuffed and moved to a fifth holding area where they did not have access to a bathroom or running water until approximately 4:00 a.m. of May 15, 2014. While he was being held in this fifth holding area, the Plaintiff informed the guards that he had to use the bathroom. However, the guards ignored his pleas. After waiting for a significant period of time, the Plaintiff was unable to contain himself and urinated in his jumpsuit.

23. The Plaintiff and the remaining pre-trial detainees were moved back to Division 6, where their handcuffs were removed and where they slept on the floor in the common area in the middle of a cell block until approximately 6:00 a.m. on May 15, 2014.

24. The Plaintiff and the remaining pre-trial detainees were then moved back to the dayroom of Division 6 and slept on the floor till on or about 10:00 a.m. of May 15, 2014.

25. TThe Plaintiff and pre-trial detainees were then handcuffed and removed back to the initial holding area where their handcuffs were removed and where they stayed till on or about 11:00 p.m. of May 15, 2014. In the middle of the afternoon of May 15, 2014, the Plaintiff and the pre-trial detainees had a lunch meal.

26. The Plaintiff and a couple pre-trial detainees were then handcuffed and were removed to yet another holding area (sixth holding area), where they stayed until approximately 3:00 a.m. on May 16, 2014.

27. The Plaintiff and a couple of pre-trial detainees were then called out of the holding area by a guard and given a mattress pad and were escorted to cells in Division 1. The Plaintiff

and each pre-trial detainee were given a cell to sleep in. This was the first opportunity that the Plaintiff had since May 12, 2014 to sleep in an actual bed.

28. At some point during the morning of May 16, 2014, the Plaintiff was moved to a different cell. It was at this new cell where the Plaintiff obtained soap and was allowed to take a shower. This was the first opportunity for the Plaintiff to shower since May 11, 2014. During the afternoon of May 16, 2014, the Plaintiff was given a lunch meal and in the evening he was given a hot meal.

29. Even though the Plaintiff's mother came to the jail in the morning of May 16, 2014 with his bond money, the Plaintiff remained in custody till approximately 10:00 p.m. of May 16, 2014.

30. Upon information and belief, Defendants, TOMAS J. DART and CARA SMITH either instituted policies permitting or directing officers to house prisoners, like the Plaintiff in temporary holding cells for days on end without food, liquids, adequate bathroom and/or shower facilities, beds, or any of the other necessities of life; or in the alternative, failed to implement or enforce policies and procedures prohibiting the actions described herein.

31. By reason of policies and procedures (or lack thereof) described above, the Defendants subjected Plaintiff to unnecessary pain and suffering, and to an unreasonable risk of harm and injury through barbaric living conditions. These policies and practices have been implemented by Defendants and their agents or employees in their official capacities, and are the proximate cause of Plaintiff's deprivation of rights secured by the United States Constitution under the Fourteenth Amendment and protected by 42 U.S.C. §1983.

32. Subjecting the Plaintiff to barbaric conditions such as the lack of food and denial of such basic necessities as a cell, a bed, or access to a bathroom and a shower, as described in this Complaint, constitutes Cruel and Unusual Punishment.

33. Defendants have been aware of all the deprivations complained herein, and have condoned or been deliberately indifferent to such conduct.

WHEREFORE, the Plaintiff, MARCUS MALEWSKI, prays for judgment against the Defendants, THOMAS J, DART (in his official capacity) and CARA SMITH (in her official capacity) for reasonable compensatory damages, punitive damages, attorneys' fees, and costs.

**COUNT II**  
**42 U.S.C. § 1983 *Monell* CLAIM OF THE UNDERFUNDING OF COOK COUNTY JAIL**

1-33. Plaintiff MARCUS MALEWSKI hereby realleges and incorporates his allegations of paragraphs 1-33 of Count I as though fully set forth herein.

34. All Defendants have been aware of severe overcrowding at Cook County Jail for decades.

35. Despite this actual knowledge, Defendants COOK COUNTY and TONI PRECKWINKLE have failed to provide adequate funding to provide cells and the other basic necessities of life for pre-trial detainees sent to CCJ by the Courts, or to otherwise reduce the number of people housed in the jail.

36. As a result of these policies, procedures, and/or customs of underfunding Cook County Jail, pre-trial detainees have been subjected to barbaric living conditions in direct violation of the Fourteenth Amendment of the US Constitution.



37. As a direct and proximate result of the Defendants' policies, procedures, and/or customs of underfunding Cook County Jail, the Plaintiff was unconstitutionally subjected to unnecessary pain and suffering, unnecessarily exposed to an unreasonable risk of serious harm, and has suffered emotional distress, pain, suffering, fear and other damages.

WHEREFORE, the Plaintiff, MARCUS MALEWSKI, prays for judgment against the Defendants, TONI PRECKWINKLE (in her official capacity) and COOK COUNTY, and for compensatory damages, punitive damages, attorneys' fees, and costs.

**COUNT III**  
**CLASS ALLEGATION FOR CERTIFICATION OF SIMILARLY SITUATED**  
**PRE-TRIAL DETAINEES**

1-32 The Plaintiff, MARCUS MALEWSKI, realleges and incorporates his allegations of paragraphs 1-21 of Count I and his respective allegations of paragraphs 1-23 of Count II as though fully set forth herein.

33. The Plaintiff, MARCUS MALEWSKI, was housed with and has identified other pre-trial detainees that were or are currently similarly situated and who suffered similar violations of their rights guaranteed under the Fourteenth Amendment to be free of Cruel and Unusual Punishment. Because of the similarity of their experiences, the Plaintiff would like to request that a class of such individuals be certified who were or now prevented from having cell and division assignments that have suffered or are suffering similarly to the Plaintiff.

34. The Pre-trial detainees that were housed with Plaintiff were similarly situated for similar periods of time.

35. Upon information or belief, this pattern of abusive housing of pre-trial detainees has been conducted during other periods of time

WHEREFORE, the Plaintiff, MARCUS MALEWSKI, asks that an order certifying a class of all pre-trial detainees who were, or are now not given cell or division assignments upon entering Cook County Jail and who are forced to bear barbaric living conditions as a result.

**JURY DEMAND**

The Plaintiff, MARCUS MALEWSKI, hereby requests a trial by jury.

Respectfully submitted,

/s/ Gregory E. Kulis  
Gregory E. Kulis & Associates, Ltd.

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