

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LARRY LEE,

Plaintiff,

vs.

Case No. 09-12471
Hon. Arthur J. Tarnow
Mag. Michael Hluchaniuk

WASHTENAW COUNTY; DANIEL MINZEY,
in his official and individual capacities; CHAD
GRONDA, in his official and individual capacities;
RYAN MCLAUGHLIN, in his official and
individual capacities; JOSEPH FENDT, in his
official and individual capacities; KIRK FILSINGER,
in his official and individual capacities; ANTONIO VAUGHN,
in his official and individual capacities; JILL
WILLIAMS, in her official and individual capacities;
RICHARD WILLIAMS, SR, in his official and
individual capacities; KURT SCHIAPPACASSE,
in his official and individual capacities;
EDWARD MOOREMAN, in his official and
individual capacities; DARYL PARKER, in his
official and individual capacities; SECURECARE, INC;
JANE DOE, in her official and individual capacities; and
JOHN DOE, in his official and individual capacities.

Jury Demanded

Defendants.

SECOND AMENDED COMPLAINT

Plaintiff, Larry Lee, by his attorneys, the Michigan Clinical Law Program, for his second amended complaint states as follows:

INTRODUCTION

1. This is a prisoner's civil rights action for injunctive relief and damages arising out of the degrading and abusive anti-homosexual atmosphere created and perpetuated by defendants while plaintiff Larry Lee was incarcerated at the Washtenaw County Jail.

2. The heart of Mr. Lee's complaint is that the defendants violated his rights under the Constitution of the United States, as actionable through 42 U.S.C. § 1983. Defendants, motivated by animus towards homosexuals, subjected Mr. Lee to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution by turning a blind-eye to sexual assaults against him by a correctional officer and other inmates, his serious medical needs, and other inhumane conditions he suffered while in the jail. Inmates contaminated Mr. Lee's food with human feces and doused him with cups of urine. Correctional officers encouraged and were complicit in this behavior and blamed Mr. Lee's homosexuality for provoking such horror. Mr. Lee relentlessly pleaded for help and protection. It never came and, in some instances, Mr. Lee was unlawfully punished for asking.

3. Mr. Lee's complaint also includes a state law claim of intentional infliction of emotional distress.

PARTIES

4. Plaintiff LARRY LEE resides in Detroit, Michigan. Mr. Lee entered the Washtenaw County Jail on June 9, 2006, was convicted on December 12, 2006, and was sentenced on March 13, 2007. Shortly after sentencing, Mr. Lee was transferred to Florence Crane. All the claims in this complaint arise out of the time period when Mr. Lee was incarcerated in the Washtenaw County Jail.

5. Defendant WASHTENAW COUNTY ("County") is a local government unit located within the Eastern District of Michigan. Defendant controls, maintains and is directly responsible for all customs, practices, policies and procedures relevant to the operation of the Washtenaw County Jail, including, but not limited to those concerning the training of

correctional officers, housing of inmates and receiving, processing and administering inmate grievances.

6. Defendant DANIEL MINZEY was the Sheriff of Washtenaw County during all relevant times. As Sheriff, defendant Minzey was directly responsible for all customs, practices, policies and procedures relevant to the operation of the Washtenaw County Jail, including, but not limited to those concerning the training of correctional officers, housing of inmates and receiving, processing and administering inmate grievances. Defendant Minzey is being sued in his official and individual capacities.

7. Defendant KIRK FILSINGER was the Commander of Washtenaw County Jail and employed by defendant Washtenaw County. Defendant FILSINGER was at all times directly responsible for overseeing the operations at Washtenaw County Jail, including, but not limited to, the formulation and implementation of customs, policies and practices, the budget, the hiring, termination, and supervision of all jail employees, and implementing and supervising investigations into inmate complaints of wrongful conduct.

8. Defendants CHAD GRONDA, RYAN MCLAUGHLIN, JOSEPH FENDT, ANTONIO VAUGHN, JILL WILLIAMS, RICHARD WILLIAMS, SR., KURT SCHIAPPACASSE, JOHN DOE and JANE DOE were, during all relevant times, correctional officers employed by the defendant County to work at Washtenaw County Jail. These defendants are being sued in their official and individual capacities.

9. Defendant EDWARD MOOREMAN was, during all relevant times, classification director at the Washtenaw County Jail and employed by defendant County. Defendant Mooreman's job included, but was not limited to, determining housing assignments of inmates. Defendant Mooreman is being sued in his official and individual capacities.

10. Defendant SECURECARE, INC. is a for-profit Michigan corporation. At all relevant times, SecureCare was obligated by contract to provide healthcare to inmates at the Washtenaw County Jail, including Mr. Lee. Upon information and belief, SecureCare helped formulate and implement the customs, policies, practices, procedures and protocols related to medical care in

the Washtenaw County Jail.

11. Defendant DARYL PARKER was, during all relevant times, a physician responsible for providing healthcare to inmates at the Washtenaw County Jail, including Mr. Lee. Upon information and belief, defendant Parker was either employed by or contracted with defendant SecureCare to provide such healthcare and design and implement SecureCare's customs, policies and practices, procedures and protocols related to medical care in the Washtenaw County Jail.

Defendant Parker is being sued in his official and individual capacities.

JURISDICTION

12. All defendants' actions were carried out under color of state law.

13. This action is brought under 42 U.S.C. § 1983, the Eighth and Fourteenth Amendments to the United States Constitution, and the laws of the State of Michigan.

14. Jurisdiction of this Court is based on 28 U.S.C. §§ 1331 and 1343. Supplemental jurisdiction over state law claims is based on 28 U.S.C. § 1367.

15. Venue is proper in the Eastern District of Michigan because a substantial part of the events or omissions giving rise to Mr. Lee's claims occurred within this district, and, upon information and belief, all defendants reside within the district and the state of Michigan.

FACTUAL ALLEGATIONS

16. Mr. Lee entered Washtenaw County Jail on Friday June 9, 2006.

17. Sexual and physical abuse by inmates started almost immediately upon Mr. Lee's arrival. Just days after entering, Mr. Lee was sexually assaulted by an inmate who groped Mr. Lee, exposed himself, and told Mr. Lee that he expected Mr. Lee to perform oral sex on him in the future. Mr. Lee reported this to an unknown corrections officer. The deputy replied that it was common for effeminate prisoners to be assaulted and that there was nothing the officer could do. Later that day the same inmate punched Mr. Lee in the face and physically forced him to perform oral sex.

18. Approximately one week after the first assault, defendant deputy Chad Gronda began

harassing Mr. Lee for being a homosexual. Defendant Gronda called Mr. Lee “faggot,” “ass-licker,” “sissy” and “queen” in front of inmates and imitated homosexual stereotypes by speaking with a lisp and by making effeminate hand gestures. When Mr. Lee asked defendant Gronda to stop, Gronda replied that he teased Mr. Lee because he liked Lee and that Lee wanted to perform oral sex on Gronda.

19. Defendant Gronda harassed Mr. Lee throughout his incarceration. Mr. Lee was in constant fear of this harassment for many reasons, most significantly because it influenced the other inmates to harass him.

20. Mr. Lee was soon attacked by an inmate known as Detroit, who grabbed Mr. Lee by the throat and pinned him against a wall for not responding when Detroit said “yo faggot.” Mr. Lee complained to deputy Profit about the attack. Deputy Profit replied that such attacks were part of the experience of being a homosexual in jail.

21. On June 30, 2006, Mr. Lee was taken from jail to court. While returning to the jail, Mr. Lee reported to deputy Rick Casey that defendant Gronda was sexually harassing him in front of inmates and provoking inmates to do the same. Deputy Casey escorted Mr. Lee to defendant sergeant Richard Williams, Sr.’s, office and had Mr. Lee report defendant Gronda’s harassment. Defendant Williams, Sr., told Mr. Lee that he did not believe him and instructed deputy Casey to escort Mr. Lee back to his cell.

22. On or about July 2, 2006, Mr. Lee complained to deputy Rebecca Beard about defendant Gronda’s harassment as well as threats, harassment, and physical assaults from other inmates. Deputy Beard told Mr. Lee that he was “here because [he was] a criminal. Welcome to the Hogback Hilton.”

23. On or about July 2, 2006, Mr. Lee complained of chest pains to defendant Gronda and explained that he had also experienced such pains and shortness of breath just the day before. Defendant Gronda responded “Lee, you’re so gay, you whine about everything,” and instructed Mr. Lee to send a grievance to the medical staff. That evening, Mr. Lee informed Nurse Woodruff that defendant Gronda refused to call the medical staff when Mr. Lee was

experiencing chest pain. In the presence of Mr. Lee, Nurse Woodruff told defendant Gronda to call the medical staff immediately if Mr. Lee complained of chest pain.

24. Approximately five minutes later and outside of the presence of Nurse Woodruff, defendant Gronda returned to Mr. Lee's cell and threatened, "Look you little faggot, if you ever put me on the spot again, I will not hesitate to write you up for every little mistake you make."

25. On or about July 4, 2006, Mr. Lee reported defendant Gronda's harassment to defendant Sergeant Schiapacasse. Defendant Schiapacasse told Mr. Lee that he would talk to Mr. Lee later. He never did.

26. On or about July 10, 2006, a deputy escorted Mr. Lee from the barber to his cell and told him to walk along the right side of the hall. Upon reaching an intersecting hallway, a deputy told Mr. Lee to turn right and walk against the wall. Mr. Lee did so and immediately hit his head on a utility box mounted to the wall, fell backward and further injured his head on the wall and the floor. Upon information and belief, the deputy and other correctional staff knew of this hazard, and intentionally put Mr. Lee in harm's way.

27. Defendant Gronda and two nurses arrived at the scene. Gronda belittled Lee's sexuality, refused to provide medical treatment, and instructed the staff to take Mr. Lee to a holding cell. In that cell Mr. Lee vomited and bled from his ear and nose. As a result of the head trauma, he suffered blurred vision and chronic headaches.

28. Defendant Doctor Parker did not examine Mr. Lee until three days after his head injury. Despite Mr. Lee's persisting headaches and blurred vision, defendant Parker failed to properly diagnose and treat Mr. Lee at that time or at any time in the future.

29. Throughout the month of August 2006, Mr. Lee was sexually harassed by defendant deputies Gronda and Vaughn who would call Mr. Lee anti-homosexual names in front of other inmates. The inmates would follow suit, harassing Mr. Lee and bullying him to give them his food.

30. Several times in August of 2006, and continuing throughout Mr. Lee's incarceration, inmates threw urine on Mr. Lee. When Mr. Lee took showers to clean off the urine, inmates

threw objects at him and stole his clothes and towel, leaving him vulnerable to sexual assaults. Mr. Lee complained about the urine attacks to the jail staff, who responded by blaming Mr. Lee's homosexuality for the attacks.

31. On September 26, 2006, defendant Gronda entered Mr. Lee's room and forced Mr. Lee to perform oral sex. Defendant Gronda did this under threat of segregation and continued public harassment that, among other things, would cause further harassment and attacks by other inmates.

32. On about October 4, 2006, an inmate from housing unit "D" came into Mr. Lee's cell and threatened to physically assault Mr. Lee if he didn't perform oral sex on him in the future. Mr. Lee reported this threat to defendant deputy Jill Williams and requested to be moved from unit "D." Defendant Jill Williams accused Mr. Lee of lying and denied his request.

33. On or about October 18, 2006, Mr. Lee sent a grievance to defendant Sheriff Minzey and all sergeants, lieutenants, and supervisory staff. The grievance addressed the prison staff's failure to protect Mr. Lee from inmate attacks and defendant Gronda's sexual assault and continued harassment.

34. On or about October 19, 2006, Mr. Lee was physically forced to perform oral sex on the inmate whom he had previously complained about to defendant Jill Williams. The following day Mr. Lee reported the sexual assault to defendant Jill Williams. She again accused him of lying but agreed to move him to unit "B."

35. On or about October 21, 2006, defendant Gronda escorted Mr. Lee from unit "B" to unit "C." Prior to their arrival in unit "C," defendant Gronda searched Mr. Lee's property and discovered newspaper clippings and recipes. Defendant Gronda threatened to write up Mr. Lee for having a newspaper in his cell if Mr. Lee did not perform oral sex on defendant Gronda. Fearing more harassment and the negative consequences from write-ups, Mr. Lee complied. When leaving, defendant Gronda told Mr. Lee that he would put Lee in segregation if Mr. Lee told anybody.

36. Throughout Mr. Lee's incarceration at the jail, defendant Gronda: i) actively encouraged inmates to engage in sexual harassment and hostile anti-homosexual behavior toward Mr. Lee; ii) repeatedly called Mr. Lee derogatory anti-homosexual names in front of other inmates; iii) portrayed demeaning stereotypes of homosexuals by, among other things, imitating effeminate mannerisms; and iv) discouraged Mr. Lee from attending Catholic services on account of Mr. Lee's sexuality.

37. Between August 2006 and February 2007, defendant Vaughn repeatedly told Mr. Lee that he was going to hell for being a homosexual. Defendant Vaughn would quote scripture passages regarding homosexuality. He told Mr. Lee that he would die of HIV by age thirty.

38. In October 2006, Mr. Lee was confronted by an inmate known as Samuel Sams who threatened to beat Mr. Lee for being a homosexual. Mr. Lee reported this threat to deputy Dean Reich and deputy Kellie Powdhar. Deputy Reich told Mr. Lee that he did not believe him and left. When the inmate recreation time began, inmate Samuel Sams physically assaulted Mr. Lee.

39. On or about November 20, 2006, Mr. Lee sent a grievance to defendant Minzey and the duty sergeant complaining of sexual harassment by guards and that the guards did not stop inmates from physically assaulting Mr. Lee.

40. Throughout Mr. Lee's incarceration, inmates would frequently push trash and pour urine underneath Mr. Lee's cell door. On or about December 10, 2006, Mr. Lee complained to defendant Jill Williams who told Mr. Lee to stop complaining and threatened to put him "in the hole."

41. Between about January 12 and January 19, 2007, Mr. Lee received a dinner tray from an inmate who worked as a steward with the jail dining services. On the tray were a piece of chicken and a sandwich wrapped in a napkin. Mr. Lee took a bite of the chicken and noticed an odd taste. He then unwrapped the sandwich, took a bite, discovered a foul taste and smell, and opened the sandwich to discover human feces. Mr. Lee also discovered feces under the skin of the chicken. Inmates looking on laughed and screamed. The steward and another inmate known as Lawrence Buckner admitted that they had planned this. Mr. Lee reported the incident to all of

the officers on duty that evening, including defendant deputy McLaughlin who laughed and told Mr. Lee that he “better eat the rest of [his] turd sandwich.”

42. On January 19, 2007, Mr. Lee met with defendant Richard Williams, Sr., to complain about the sexual assaults by defendant Gronda, the frequent assaults by inmates, the feces incident, and other abuse. Defendant Williams, Sr., said that he would investigate but added, “I can tell you right now that there is nothing we can do to prevent an inmate from harassing or assaulting another inmate.”

43. On or about January 20, 2007, defendant Gronda approached Mr. Lee and said, “You little faggot, you’re going to pay for opening your mouth. You’re a criminal and a faggot, do you actually think my co-workers will believe the word of a faggot? I could torture you all day long and they wouldn’t give a shit. Keep that mouth of yours shut and we won’t have any problems.”

44. On or about January 22, 2007, Mr. Lee again found human feces in his food. As Mr. Lee vomited, other inmates yelled and laughed. Mr. Lee reported this to all of the officers on duty, including the defendants that were present. Deputy C’na Justice told Mr. Lee that she would report this to the duty sergeant and to defendant Minzey.

45. On or about January 24, 2007, Mr. Lee found more feces in his food and reported it to defendant Fendt and other officers. Defendant Fendt was responsible for supervising the inmates who worked as food stewards. He said he would investigate.

46. On or about January 26, 2007, Mr. Lee’s breakfast was contaminated with human feces. Mr. Lee told the officers on duty and the social worker Callista Scotto.

47. That same day, Mr. Lee wrote a grievance to defendant Minzey and all supervisory staff, lieutenants, and social workers, complaining about the feces in his food and defendant Gronda’s sexual assaults and sexual harassment.

48. On or about January 27, 2007, Mr. Lee’s dinner was again contaminated with human feces. Mr. Lee again vomited upon discovering the feces. He complained to the block officers and defendant McLaughlin who replied, “Lee are you still eating shit sandwiches?”

49. In mid to late January 2007, Mr. Lee asked defendant housing coordinator Edward Mooreman for a transfer to a different housing unit because of the all of the abuse that he was suffering. Defendant Mooreman refused to move Mr. Lee, despite making such accommodations for heterosexual prisoners.

50. On or about January 30, 2007, Mr. Lee complained to defendant Vaughn that an inmate named Roger was physically threatening Mr. Lee and calling him derogatory names. Defendant Vaughn said that he was tired of Mr. Lee's complaints, and that to teach him not to complain, he was ordering that Mr. Lee be placed in isolation.

51. On or about January 31, 2007, Mr. Lee complained to defendant Jill Williams and deputy Mark Smolenski about the feces incidents and that he was now being punished for complaining about his treatment.

52. On or about February 1, 2007, Mr. Lee complained to deputy Richard Williams, Jr. about repeatedly finding feces in his food.

53. On or about February 9, 2007, Mr. Lee again asked defendant Mooreman for a transfer to a different housing unit rather than being kept in isolation. Defendant Mooreman stated that the jail was over-crowded and that nothing could be done about inmate-on-inmate abuse.

54. On or about February 9, 2007, deputy Richard Williams, Jr., told Mr. Lee that as a homosexual, Mr. Lee would go to hell. Deputy Williams, Jr., told Mr. Lee that he could change his homosexuality through Jesus Christ. Deputy Williams, Jr., discouraged Mr. Lee from reading the Quar'an and from accepting his homosexuality.

55. Throughout Mr. Lee's approximately three weeks in isolation, inmates continued to pour urine under his cell door. Defendants Fendt, Vaughn, and other correctional officers denied Mr. Lee a mop or other cleaning supplies. Mr. Lee was forced to endure the rancid odor and unsanitary conditions without respite as he was almost continuously locked in his cell.

56. Throughout Mr. Lee's incarceration he complained to defendant Doctor Parker, nurse Claudette, and nurse Don Bellman about headaches and panic attacks brought on by the physical and sexual assaults and sexual harassment he endured in jail. On several occasions he asked defendant Doctor Parker to place him in the medical unit. These requests were denied.

57. Mr. Lee also complained of sleep deprivation, hallucinations, and depression on several occasions throughout his incarceration. He made requests to defendant Doctor Parker to see a psychiatrist and a neurologist. Despite ongoing panic attacks and depression, these requests were denied until February 2007. Prior to Mr. Lee's incarceration, he had no history of mental illness.

58. In or about March 2007, Mr. Lee was diagnosed with Post Traumatic Stress Disorder stemming from the attacks and abuse that he suffered at the Washtenaw County Jail.

59. During Mr. Lee's incarceration, the jail staff told Mr. Lee that there was no formal system of administrative remedies. Mr. Lee repeatedly communicated his grievances to jail staff (including defendants) both orally and in writing exhausting every means of addressing his complaints made available to him.

60. On August 23, 2007, five months after Mr. Lee left Washtenaw County Jail, defendant Kirk Filsinger acknowledged receiving a letter from Mr. Lee complaining about his treatment at the jail, and promised that his accusations would be investigated. He indicated the investigation would be complete by September 20, 2007.

61. Defendant Filsinger assigned the investigation into Mr. Lee's accusations to Lieutenant Gary Greenfield and Sergeant Randy Casey, the brother of Deputy Rick Casey. Randy Casey completed his investigation on January 3, 2008. Upon information and belief, Mr. Lee was never actually interviewed regarding his accusations and defendant Filsinger failed to properly oversee, supervise, and control the investigation into Mr. Lee's allegations and take appropriate action with respect to Mr. Lee's complaints.

LEGAL CLAIMS

42 U.S.C. § 1983

Cruel and Unusual Punishment: Sexual Assault by a Correctional Officer

62. By virtue of the foregoing, defendant Chad Gronda, acting under color of state law maliciously and sadistically sexually assaulted Mr. Lee on several occasions.

63. Defendant Chad Gronda caused Mr. Lee to suffer cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

64. By virtue of the foregoing, defendants Daniel Minzey, Kirk Filsinger, Kurt Schiappacasse and Washtenaw County failed to train and supervise their employees, and effectuated a custom, policy and practice of inaction with respect to the use of force and sexual contact with inmates.

65. These defendants' inadequate training and supervision, and custom, policy and practice of inaction were deliberately indifferent and directly and proximately deprived Mr. Lee of his fundamental rights under the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

Violation of Substantive Due Process: Right to Bodily Integrity

66. By virtue of the foregoing, defendant Chad Gronda, acting under color of state law, violated Mr. Lee's fundamental right to personal security and bodily integrity under the Fourteenth Amendment of the United States Constitution as actionable under 42 U.S.C. §1983.

Violation of First Amendment: Retaliation for Engaging in Protected Conduct

67. By virtue of the foregoing, defendants Chad Gronda and Antonio Vaughn, acting under color of state law, violated Mr. Lee's right to freedom of speech.

68. These defendants retaliated against Mr. Lee for reporting defendant Gronda's misconduct. In doing so, they violated the First Amendment of the United States Constitution as actionable under 42 U.S.C. § 1983.

Cruel and Unusual Punishment: Deliberate Indifference to Sexual and Physical Assaults and the Degrading and Abusive Atmosphere Towards Homosexuals

69. By virtue of the foregoing, defendants Daniel Minzey, Chad Gronda, Kurt Schiappacasse, Edward Mooreman, Joseph Fendt, Ryan McLaughlin, Antonio Vaughn, Jill Williams, Richard Williams, Sr., and Kirk Filsinger acting under color of state law, were deliberately indifferent to i.) sexual assaults by defendant Gronda; ii.) sexual and physical assaults and other inhumane acts by inmates; and iii.) the degrading and abusive anti-homosexual atmosphere.

70. These defendants were subjectively aware of the threat that defendant Gronda and other inmates posed to Mr. Lee, and their inaction directly and proximately caused Mr. Lee to suffer cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

71. By virtue of the foregoing, defendants Washtenaw County, Daniel Minzey, Edward Mooreman, Richard Williams, Sr., and Kirk Filsinger failed to train and supervise and effectuated a custom, policy and practice of inaction with respect to investigating cases of prisoner abuse and protecting inmates from sexual assault, violence, and inhumane conditions, particularly with respect to homosexual inmates, who are especially likely to be targets of sexual assault, violence, and inhumane treatment in correctional facilities.

72. These defendants' inadequate training and supervision and custom, policy and practice of inaction were deliberately indifferent and directly and proximately deprived Mr. Lee of his fundamental rights under the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

Cruel and Unusual Punishment: Deliberate Indifference to Serious Medical Needs

73. By virtue of the foregoing, defendants Daniel Minzey, Daryl Parker, SecureCare, Chad Gronda, and Kirk Filsinger acting under color of state law, were deliberately indifferent to Mr. Lee's serious medical needs, including but not limited to severe anxiety, and depression.

74. These defendants were subjectively aware of these serious medical needs, and their inaction directly and proximately caused Mr. Lee to suffer cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. §1983.

75. By virtue of the foregoing, defendants Washtenaw County, Daniel Minzey, Kirk Filsinger, Daryl Parker, and SecureCare failed to train and supervise and effectuated a custom, policy and practice of inaction with respect to responding to, diagnosing, and treating serious medical needs.

76. These defendants' inadequate training and supervision and custom, policy and practice of inaction were deliberately indifferent and directly and proximately deprived Mr. Lee of his fundamental rights under the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

Violation of Substantive Due Process: Disclosure of Sexual Orientation

77. By virtue of the foregoing, defendants Chad Gronda and Antonio Vaughn, acting under color of state law, deprived Mr. Lee of his privacy rights to maintain the confidentiality of his sexual orientation.

78. These defendants recklessly disclosed Mr. Lee's homosexuality knowing that it would increase the probability of assaults on Mr. Lee by other inmates and correctional officers, violating Mr. Lee's right to privacy under the Due Process Clause of the Fourteenth Amendment of the United States Constitution as actionable under 42 U.S.C. § 1983.

79. By virtue of the foregoing, defendants Kirk Filsinger, Daniel Minzey, and Washtenaw County failed to train and supervise and effectuated a custom, policy and practice of inaction with respect to maintaining confidentiality of inmates' sexual orientation.

80. These defendants' inadequate training and supervision and custom, policy and practice of inaction, which amounted to deliberate indifference, directly and proximately deprived Mr. Lee of his fundamental rights under the Eighth and Fourteenth Amendments of the United States Constitution as actionable under 42 U.S.C. § 1983.

Violation of Right to Equal Protection of the Law

81. By virtue of the foregoing, defendants, acting under color of state law, deprived Mr. Lee of equal protection under the law.

82. Defendants failure to protect Mr. Lee from sexual assaults and physical assaults, failure to adequately consider and investigate his grievances, and their endorsement and ratification of the degrading and abusive anti-homosexual atmosphere and treatment of Mr. Lee constitutes discrimination based upon sex and sexual orientation in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States as actionable under 42 U.S.C. § 1983.

State Law Claim

Tort Claims: Intentional Infliction of Emotional Distress

83. By virtue of the foregoing, defendants Chad Gronda, Antonio Vaughn, and Ryan McLaughlin, under the laws of the State of Michigan, committed the tort of intentional infliction of emotional distress when they deliberately acted in an extreme and outrageous manner causing Mr. Lee to suffer severe emotional distress.

Doe Claims

84. Defendants Jane Doe and John Doe are unknown defendants who engaged in some or all of the conduct alleged in this second amended complaint.

85. Each numbered allegation in this second amended complaint is to be read as alleging, and does allege, the conduct described against Jane Doe and John Doe.

86. In each numbered allegation alleging conduct at a specific named defendant, those named defendants not specified in such allegation are named in such allegations as Jane Doe and John Doe.

PRAYER FOR RELIEF

By virtue of the foregoing, Mr. Lee requests that the Court:

A. Issue an injunction ordering defendants to:

1. Design and implement a program that the Court finds adequately trains correctional officers to protect homosexual inmates and creates an environment that is not hostile to their presence;
 2. Design and implement a program that the Court finds adequately and timely reviews and responds to complaints by inmates as to physical threats, health needs, and harassment, including harassment based on sexual orientation;
 3. Design and implement a program that the Court finds adequately reviews housing assignments as to inmates who may be particularly susceptible to violence and/or harassment;
- B. Declare that Mr. Lee's constitutional and state law rights were violated by the defendants;
- C. Enter a judgment holding defendants jointly and severally liable to Mr. Lee for the wrongs complained of and awarding Mr. Lee compensatory and punitive damages in an amount to be determined at trial;
- D. Award Mr. Lee his costs, interest from the date of filing, and reasonable attorneys' fees as provided for by law; and
- E. Grant such other, further, and different relief as this Court deems just and proper.

JURY DEMAND

Plaintiff Larry Lee requests a trial by jury on all issues so triable.

Dated: January 19, 2012

Respectfully submitted,

MICHIGAN CLINICAL LAW PROGRAM

/s David A Santacroce

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PROOF OF SERVICE

I certify that on January 19, 2012, I electronically filed plaintiff's amended complaint together with this proof of service with the Clerk of the Court using the ECF system, which will send e-mail notification to all attorneys of record.

MICHIGAN CLINICAL LAW PROGRAM

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