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10 IN THE UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 ROBIN LUCAS, VALERIE) No.
13 MERCADEL, and RAQUEL DOUTHIT,)
14 Plaintiffs,) COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

15 vs.)

16 O. IVAN WHITE, WARDEN LOY) JURY TRIAL DEMANDED
17 HAYES, CAPTAIN DENNIS SMITH,) [Civil Rights]
18 OFFICER _____ GILLETTE,)
LIEUTENANT GILLETTE,)
19 LIEUTENANT SHEILA YARBOROUGH,)
LIEUTENANT WAYNE ERNST,)
20 OFFICER GARFIELD SAMUELS, and)
DOES 1 through 15, inclusive,)
21 Defendants.)

22 Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL DOUTHIT
23 hereby allege as follows:

24 INTRODUCTION

25 1. Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL
26 DOUTHIT seek damages for injuries causes while incarcerated in
27 the custody of the Federal Bureau of Prisons at Camp Parks
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1 minimum security facility ("Camp Parks"), the Federal Detention
2 Center -- Pleasanton ("FDC-Pleasanton") and the Federal
3 Correction Institution -- Dublin ("FCI-Dublin") in or around the
4 time period between August and November 1995. During that time
5 Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL DOUTHIT were
6 sexually assaulted, physically and verbally sexually abused and
7 harassed, subjected to repeated invasions of privacy and
8 subjected to threats, retaliation and harassment when they
9 complained about this wrongful treatment.

10 2. In their acts and omissions as alleged herein,
11 Defendants have violated Plaintiffs' rights under the federal
12 Constitution and federal law to be from cruel and unusual
13 punishment and have deprived Plaintiffs of their privacy, due
14 process, equal protection and free speech rights. As a result of
15 Defendants' wrongful conduct, Plaintiffs have suffered, and
16 continue to suffer, severe physical and emotional injury, and
17 hereby seek damages in an amount to be determined, and injunctive
18 relief.

19 JURISDICTION

20 3. This lawsuit is brought under the United States
21 Constitution for damages pursuant to Bivens v. Six Unknown Agents
22 of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), and for
23 injunctive relief. Jurisdiction is based on 28 U.S.C. §1331.

24 4. The acts and omissions complained of herein also give
25 rise to various tort claims over which this Court has
26 jurisdiction pursuant to the Federal Tort Claims Act, 28 U.S.C.
27 §§1346(b), 2671 et seq. (This Court also has supplemental
28 jurisdiction over claims arising under state law, pursuant to 28
U.S.C. §1367.) Plaintiffs have filed timely administrative

1 claims under the Federal Tort Claims Act; however, because claims
2 have not yet been denied, nor has a six month time period
3 elapsed, plaintiffs do not assert those claims here. Plaintiffs
4 intend to assert any and all such claims at such time as they may
5 properly be asserted and joined in this lawsuit.

6 VENUE

7 5. The events or omissions giving rise to the claims
8 alleged in this Complaint arose in the Northern District of
9 California. Therefore, venue lies in the United States District
10 Court for the Northern District of California. 28 USC §§84(a);
11 1391(b)(2).

12 INTRA-DISTRICT ASSIGNMENT

13 6. All events giving rise to the causes of action
14 contained herein occurred in the County of Alameda and thus this
15 case should be assigned to the San Francisco Division or the
16 Oakland Division of the Northern District of California pursuant
17 to Rule 3-2(c) of the Local Rules of the Northern District.

18 PARTIES

19 7. Plaintiff ROBIN LUCAS is a citizen of the State of
20 California. At all times relevant herein, Plaintiff LUCAS was
21 incarcerated in the custody of the Federal Bureau of Prisons at
22 the FDC-Pleasanton facility and/or at the FCI-Dublin facility
23 and/or at Camp Parks facility. Plaintiff LUCAS was released from
24 prison in or around July 1996. Plaintiff LUCAS is an African-
25 American woman.

26 8. Plaintiff VALERIE MERCADEL currently is incarcerated in
27 the custody of the Federal Bureau of Prisons. At all times
28 relevant herein, Plaintiff MERCADEL was incarcerated in the
custody of the Federal Bureau of Prisons at the FDC-Pleasanton

1 facility and/or at the FCI-Dublin facility. Plaintiff MERCADEL
2 is an African-American woman.

3 9. Plaintiff RAQUEL DOUTHIT currently is incarcerated in
4 the custody of the Federal Bureau of Prisons. At all times
5 relevant herein, Plaintiff DOUTHIT was incarcerated in the
6 custody of the Federal Bureau of Prisons at the FDC-Pleasanton
7 facility and/or at the FCI-Dublin facility. Plaintiff DOUTHIT is
8 an African-American woman.

9 10. Defendant O. IVAN WHITE is, and was at all times
10 relevant herein, the Western Regional Director for the Federal
11 Bureau of Prisons, acting under color of federal law. As such,
12 he was responsible for the security and safety of persons
13 incarcerated within the Western Region, including Plaintiffs, and
14 the supervision, training and administration of the correctional
15 staff in the Western Region. As to all claims presented herein,
16 except for the claim for injunctive relief, Defendant WHITE is
17 being sued in his individual capacity. As for Plaintiffs'
18 injunctive relief claim only, Defendant WHITE is being sued in
19 his official capacity.

20 11. Defendant WARDEN LOY HAYES, based on information and
21 belief, is, and was at all times relevant herein, the Warden at
22 the FCI-Dublin, FDC-Pleasanton and Camp Parks facilities, acting
23 under color of federal law. As such, he was responsible for the
24 security and safety of persons incarcerated within these
25 facilities, including Plaintiffs, and the supervision, training,
26 administration and placement of the correctional staff at these
27 facilities. He also was directly responsible for making
28 decisions as to which facility would house particular inmates,
including Plaintiffs, and knew or should have known that

1 Plaintiffs were housed at the J-2 SHU. As to all claims
2 presented herein, except for the claim for injunctive relief,
3 Defendant HAYES is being sued in his individual capacity. As to
4 Plaintiffs' injunctive relief claim only, Defendant HAYES is
5 begin sued in his official capacity.

6 12. Defendant CAPTAIN DENNIS SMITH was at all times
7 relevant herein a high-ranking correctional officer at the FDC-
8 Pleasanton FCI-Dublin and Camp Parks facilities, acting under
9 color of federal law. As such, he was responsible for the
10 security and safety of persons incarcerated within these
11 facilities, including Plaintiffs, and the supervision, training
12 and administration of the correctional staff in these facilities.
13 He is being sued in his individual capacity.

14 13. Defendant OFFICER _____ GILLETTE is, and was at all
15 times relevant herein, a correctional officer at the J-2 SHU at
16 the FDC-Pleasanton facility, acting under color of federal law.
17 As such, he was responsible for the security and safety of
18 persons incarcerated within FDC-Pleasanton, including Plaintiffs.
19 He is being sued in his individual capacity.

20 14. Defendant LIEUTENANT _____ GILLETTE is, and was at all
21 times relevant herein, a Special Investigative Section ("SIS")
22 Officer at the FDC-Pleasanton, FCI-Dublin facilities, acting
23 under color of federal law. As such, he was responsible for the
24 investigation and prosecution of inappropriate or unlawful
25 behavior of correctional officers within these facilities, and
26 for the security and safety of persons incarcerated within these
27 facilities, including Plaintiffs. He is being sued in his
28 individual capacity.

15. Defendant LIEUTENANT SHEILA YARBOROUGH is, and was at all times relevant herein, an SIS officer at the FDC-Pleasanton, FCI-Dublin and Camp Parks facilities, acting under color of federal law. As such, she was responsible for the investigation and prosecution of inappropriate or unlawful behavior of correctional officers within these facilities, and for the security and safety of persons incarcerated within these facilities, including Plaintiffs. She is being sued in her individual capacity.

16. Defendant LIEUTENANT WAYNE L. ERNST is, and was at all times relevant herein, a corrections officer at the FCI-Dublin, FDC-Pleasanton and Camp Parks facilities, acting under color of federal law. As such, he was responsible for the security and safety of persons incarcerated within these facilities, including Plaintiffs, and the supervision, training and administration of the correctional staff in these facilities. He is being sued in his individual capacity.

17. Defendant OFFICER GARFIELD SAMUELS was at all times relevant herein, a corrections officer at the J-SHU at the FDC-Pleasanton facility, acting under color of federal law. As such, he was responsible for the security and safety of persons incarcerated within FDC-Pleasanton, including Plaintiffs. He is being sued in his individual capacity.

18. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1 through 15, inclusive, and therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of Does 1 through 15 is responsible in some manner for the injuries and damages alleged herein. Plaintiff therefore sues

Does 1 through 15, inclusive, by such fictitious names and will seek leave to amend this Complaint to add their true names and capacities when they have been ascertained.

19. Plaintiffs are informed and believe, and on that basis allege, that at all times relevant herein, Defendants, and each of them, were employees and agents of the government of the United States of America.

20. Plaintiffs allege that at all times relevant to this action, Defendants, and each of them, acted in the course and scope of their employment and under color of federal law.

21. While acting and failing to act as alleged herein, Defendants, and each of them, had complete custody and total control of Plaintiffs. Plaintiffs were dependent upon Defendants, and each of them, for their personal security.

22. In performing the acts and/or omissions complained of herein, Defendants, and each of them, acted under color of federal law, and Plaintiffs are informed and believe each acted maliciously, callously, intentionally, recklessly, with gross negligence, and with deliberate indifference to the rights and personal security of Plaintiffs. Each of them knew or should have known that their conduct, attitudes, actions and/or omissions were, and are, a threat to Plaintiffs and to their Constitutionally-protected rights. Despite this knowledge, Defendants, and each of them, failed to take steps to protect Plaintiffs, and to ensure their Constitutional rights while they were in Defendants' care and custody.

FACTS

1 23. Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL
2 DOUTHIT are, or were, female inmates incarcerated in the custody
3 of the Federal Bureau of Prisons and housed at the FDC-Pleasanton
4 facility and the FCI-Dublin facility, who were subjected to a
5 pattern and practice of sexual assaults, intimidation, physical,
6 sexual and verbal abuse, threats of violence, sexual harassment,
7 invasions of privacy, and other violations of law by Defendants,
8 and were retaliated against by Defendants for their complaints
9 regarding this unlawful conduct, as set forth herein.

ROBIN LUCAS

10 24. On or about April 2, 1995, Plaintiff ROBIN LUCAS was
11 incarcerated at Camp Parks, in Dublin, California, a minimum
12 security facility for women.

13 25. On or about August 14, 1995, after an alleged
14 altercation with another prisoner, Plaintiff LUCAS was moved to
15 the J-2 SHU (Special Housing Unit) at FDC-Pleasanton.

16 26. Plaintiff LUCAS is informed and believes that FDC-
17 Pleasanton is a detention facility regularly used for the housing
18 of men only. The J-2 SHU is a 24-hour lockdown facility, in
19 which inmates are locked in their single cells at all times
20 (except for very limited activities, such as showers). At the
21 time Plaintiff LUCAS was placed in the J-2 SHU, she was one of
22 only a handful of women housed there among an otherwise all-male
23 prisoner population.

24 27. Plaintiff LUCAS is informed and believes and therefore
25 alleges that Defendant Warden HAYES directly approved her
26 placement at the J-2 SHU and/or immediately ratified her transfer
27 to the J-2 SHU, and was responsible for deciding whether she
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1 would be moved from that unit. Plaintiff is further informed and
2 believes that Defendant WHITE approved the policy of housing
3 female inmates in the men's SHU unit, and approved Plaintiff
4 LUCAS' placement at the J-2 SHU.

5 28. Plaintiff LUCAS' placement at FDC-Pleasanton, and her
6 placement in the J-2 SHU in particular, exposed all aspects of
7 her private life, including changing of clothes, showering and
8 use of the cell toilet, to the supervision and observation of
9 male custody staff, as well as exposing her to a male inmate
10 environment pervaded by sexual attention and animus directed at
11 the few women in the facility. Few, if any, female officers were
12 assigned to the J-2 SHU during the time Plaintiff was placed
13 there. Moreover, because the facilities were designed for
14 single-sex use, the cell windows and showers were in plain view
15 of the male guards and inmates.

16 29. As a result of her placement on an all male tier, under
17 constant supervision of male prison staff and constant exposure
18 to the male inmate environment, Plaintiff LUCAS suffered severe
19 emotional and psychological distress and invasions of her
20 privacy.

21 30. Shortly after Plaintiff LUCAS' arrival at the J-2 SHU,
22 she became the victim of a pattern of serious sexual harassment
23 and unwelcome sexual advances orchestrated and facilitated by
24 prison officials including, but not limited to the following:

25 (a) Male prisoners were allowed by guards to roam the
26 J-2 SHU corridor and harass women prisoners, including Plaintiff
27 LUCAS, through the food port or other opening in the cell doors.

28 On several occasions, male prisoners propositioned Plaintiff

LUCAS with offers of alcohol, drugs, condoms and other contraband in return for sexual favors.

1 (b) Male prisoners repeatedly taunted and threatened
2 to assault Plaintiff LUCAS.

3 (c) Male prisoners were provided access to Plaintiff
4 LUCAS' cell without her consent by one or more correctional
5 officers, who would open the locked cell door to admit them.
6 Plaintiff LUCAS is informed and believes some of the prisoners
7 who were admitted to her cell were from other parts of the
8 detention center.

9 (d) One male prisoner entered Plaintiff LUCAS' cell
10 and climbed into bed with her while she was asleep and without
11 her consent, for the purpose of having sexual contact with her.

12 31. Plaintiff LUCAS is informed and believes, and therefore
13 alleges, that Defendant SAMUELS (otherwise known as "Dude"), an
14 officer regularly on duty at the J-2 SHU between midnight and
15 8:00 a.m., unlocked Plaintiff LUCAS' cell door to permit male
16 prisoners to enter her cell at night without her consent, for the
17 purposes of perpetrating such assaults, abuse and harassment.

18 32. Plaintiff LUCAS is informed and believes, and on that
19 basis alleges, that other correctional officers, whose identities
20 are unknown to Plaintiff LUCAS, and who are sued herein as DOE
21 Defendants 4 through 15, also allowed male inmates to access
22 Plaintiff LUCAS' cell at the J-2 SHU for purposes of perpetrating
23 such assaults, abuse and harassment, or otherwise participated in
24 the assaults, abuse and harassment.

25 33. During this time period, Plaintiff LUCAS repeatedly
26 asked prison personnel, including Defendant SAMUELS to stop
27 letting male prisoners into her cell and asked other correctional
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staff at the J-2 SHU to intervene to stop this harassment, to no avail.

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2 34. Throughout the time she was housed in the J-2 SHU, and
3 as a result of the unwelcome encounters with male prisoners and
4 correctional staff as herein alleged, Plaintiff LUCAS was
5 severely emotionally and psychologically distraught and in
6 constant fear of further attacks. This fear and emotional and
7 psychological distress was exacerbated by the fact that she could
8 not seek assistance from the correctional staff, as they were
9 involved in the wrongdoing.

10 35. In or around August 1995, after her requests for help
11 to the J-2 SHU staff went unanswered, and fearing for her
12 physical safety there, Plaintiff LUCAS contacted Defendant
13 CAPTAIN SMITH, and asked to be transferred to a SHU in a female
14 facility. Plaintiff LUCAS spoke with Defendant CAPTAIN SMITH
15 several times in late August 1995, and informed him about what
16 was taking place at the J-2 SHU, including the fact that
17 correctional officers were unlocking her cell door to allow
18 inmates to enter at night, and about Defendant Officer SAMUELS'
19 involvement. Despite the fact that Plaintiff LUCAS provided this
20 information, Defendant SMITH refused to remove her from the J-2
21 SHU. During one of her conversations with Defendant SMITH,
22 Plaintiff LUCAS identified some of the inmates who had been let
23 into her cell from a photographic line-up shown to her by
24 Defendant CAPTAIN SMITH. After this identification, Defendant
25 CAPTAIN SMITH requested that Plaintiff LUCAS provide an affidavit
26 to the authorities.

27 36. On or about September 5, 1995, pursuant to Defendant
28 SMITH'S request, Plaintiff LUCAS gave a verbal statement and a

1 written affidavit to SIS Investigators, Defendants LIEUTENANTS
2 YARBOROUGH and GILLETTE, including a detailed written statement
3 regarding her treatment at the J-2 SHU. Plaintiff LUCAS is
4 informed and believes that the SIS is the Internal Affairs Bureau
5 for all three facilities -- FDC-Pleasanton, FCI-Dublin and Camp
6 Parks. Plaintiff is informed and believes that Defendants
7 LIEUTENANTS YARBOROUGH and GILLETTE communicated the substance of
8 her detailed statement to Defendant CAPTAIN SMITH. Despite her
9 provision of this detailed statement, Defendant CAPTAIN SMITH
10 again refused to move Plaintiff from the J-2 SHU.

11 37. Plaintiff LUCAS is informed and believes, and therefore
12 alleges, that Defendants LIEUTENANTS YARBOROUGH and GILLETTE and
13 CAPTAIN SMITH leaked, or caused the release of, the substance of
14 her detailed statement to personnel and inmates at FCI-Dublin
15 and/or FDC-Pleasanton, knowing that the release of that
16 information to FCI-Dublin and/or FDC-Pleasanton personnel and
17 inmates would brand Plaintiff as a "snitch" and place her safety
18 and security at risk.

19 38. Within days after making her detailed statement, the
20 substance of Plaintiff LUCAS' detailed statement and the fact
21 that Plaintiff LUCAS had "snitched" were common knowledge among
22 the male prisoners and correctional personnel in the J-2 SHU.
23 During this time, Plaintiff LUCAS remained housed in the J-2 SHU
24 despite obvious and severe risk to her personal security, her
25 receipt of threats, and her repeated requests for transfer and
26 protection.

27 39. On or about September 22, between midnight and 5:00
28 a.m., while she was asleep, Plaintiff LUCAS' cell door was
opened. Three men, whose identities are unknown to Plaintiff and

1 who are sued here as DOES 1 through 3, entered her cell and
2 forcibly restrained her and handcuffed her from behind.

3 Plaintiff LUCAS was brutally beaten, her life was repeatedly
4 threatened, and she was savagely raped and sodomized. During
5 this attack, Defendants DOES 1 through 3 informed Plaintiff LUCAS
6 that the attack was in retaliation for her providing a statement
7 to the SIS investigators, including, but not limited to, calling
8 her a "snitch" and advising her to "keep her mouth shut".

9 Plaintiff is informed and believes and therefore alleges that one
10 or more of Defendant Does 1 through 3 are, or were, correctional
11 personnel.

12 40. This violent attack resulted in serious physical injury
13 to Plaintiff LUCAS, including injuries to her neck, back, ribs,
14 shoulder, arms, wrists, anus and private areas, as well as severe
15 emotional and psychological trauma.

16 41. Following the attack, Plaintiff LUCAS requested medical
17 attention from the prison staff. Despite her requests for such
18 attention, Plaintiff LUCAS was denied any medical attention until
19 several weeks after the attack.

20 42. During the time period following the attack, male
21 inmates continued to threaten to physically harm Plaintiff LUCAS,
22 including making statements to the effect that she would be found
23 hanging dead in her cell.

24 43. On or about, October 5, 1995, Plaintiff LUCAS was
25 transferred to the women's SHU facility at FCI-Dublin.

26 44. In or around late October or early November 1995,
27 Plaintiff LUCAS gave another statement to Defendant LIEUTENANT
28 ERNST, this time concerning the September 22nd attack.

1 45. Subsequent to her second statement to the authorities,
2 Defendant CAPTAIN SMITH attempted to intimidate Plaintiff LUCAS
3 into withdrawing her complaints, including by making statements
4 advising her to "drop the issue."

5 46. Plaintiff LUCAS has suffered, and continues to suffer,
6 in addition to physical injury, severe psychological and
7 emotional trauma, including extraordinary fear, anxiety, and
8 depression as a consequence of the harassment, abuse,
9 discrimination and retaliation Plaintiff LUCAS encountered at the
10 hands of male staff and prisoners at FDC-Pleasanton and FCI-
11 Dublin.

12 47. These actions and inactions by prison officials and
13 inmates, along with the complete failure of prison officials to
14 take any action to protect Plaintiff LUCAS, or to provide her
15 with requested and much needed medical attention, as herein
16 alleged, not only allowed her physical injuries to worsen, but
17 also intensified her severe emotional and psychological trauma.

18 48. Plaintiff LUCAS is informed and believes and therefore
19 alleges that, in or around the period of her incarceration at the
20 J-2 SHU, other women prisoners were also sexually harassed and
21 assaulted after correctional officers, including Defendant
22 SAMUELS, unlocked their cell doors to admit male inmates. Among
23 the other women prisoners who were subject to this harassment
24 were two other African-American women (Plaintiffs Valerie
25 MERCADEL and Raquel DOUTHIT), and three White women.

26 49. Plaintiff is informed and believes that other women
27 housed at the J-2 SHU also complained to prison officials about
28 sexual harassment and assault, including rape. Plaintiff is
further informed and believes that a complaint by one of the

1 White women resulted in the removal of the White women from the
2 J-2 SHU on or about September 25, 1995. (The three African-
3 American women, including Plaintiff LUCAS, were not removed until
4 on or about October 5, 1995.)

5 50. On or about November 17, 1995, after the intervention
6 of her attorneys, Plaintiff LUCAS was transferred to the Alameda
7 County Jail, Santa Rita.

8 51. Plaintiff LUCAS, on her own, and by and through her
9 attorneys, has submitted all grievances alleged herein, to
10 personnel at the Federal Bureau of Prisons, and has cooperated
11 fully in any and all formal internal investigations of the events
12 complained of herein, thereby fully exhausting all applicable
13 internal grievance mechanisms.

14 52. Plaintiff LUCAS has filed a timely tort claim against
15 Defendants, and each of them, a true and correct copy of which is
16 attached hereto as Exhibit A.

17 VALERIE MERCADEL

18 53. On or about June 8, 1995, Plaintiff VALERIE MERCADEL
19 was housed at FCI-Dublin, a federal correctional facility for
20 women.

21 54. On or about September 20, 1995, after an altercation
22 with another prisoner, Defendant Captain SMITH and other
23 correctional personnel moved Plaintiff MERCADEL and Plaintiff
24 Raquel DOUTHIT, another female prisoner, to the J-2 SHU (Special
25 Housing Unit) at FDC-Pleasanton.

26 55. Plaintiff MERCADEL is informed and believes that FDC-
27 Pleasanton is a detention facility regularly used for the housing
28 of men only. The J-2 SHU is a 24-hour lockdown facility, in
which inmates are locked in their single cells at all times

1 (except for very limited activities, such as showers). At the
2 time Plaintiff MERCADEL was placed in the J-2 SHU, she was one of
3 only a handful of women housed there among an otherwise all-male
4 prisoner population.

5 56. Plaintiff MERCADEL is informed and believes and
6 therefore alleges that Defendant Warden HAYES directly approved
7 her placement at the J-2 SHU and/or immediately ratified her
8 transfer to the J-2 SHU, and was responsible for deciding whether
9 she would be moved from that unit. Plaintiff is further informed
10 and believes that Defendant WHITE approved the policy of housing
11 female inmates in the men's SHU unit, and approved Plaintiff
12 MERCADEL's placement at the J-2 SHU.

13 57. Plaintiff MERCADEL's placement at FDC-Pleasanton, and
14 her placement in the J-2 SHU in particular, exposed all aspects
15 of her private life, including changing of clothes, showering and
16 use of the cell toilet, to the supervision and observation of
17 male custody staff. She was further exposed to a male inmate
18 environment pervaded by sexual attention and animus directed at
19 the few women in the facility. Few, if any, female officers were
20 assigned to the J-2 SHU during the time Plaintiff was placed
21 there. In addition, because the facilities were designed for
22 single-sex use, the cell windows and showers were in plain view
23 of the male guards and inmates. Moreover, as Plaintiff was
24 supplied only one set of clothing upon transfer to the J-2 SHU,
25 she was forced to sleep in her undergarments.

26 58. As a result of her placement on an all male tier, under
27 the constant supervision of male prison staff and constant
28 exposure to the male inmate environment, Plaintiff MERCADEL

suffered severe emotional and psychological distress and invasions of her privacy.

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2 59. Shortly after Plaintiff MERCADEL's arrival at the J-2
3 SHU, she became the victim of a pattern of serious sexual
4 harassment and unwelcome sexual advances orchestrated and
5 facilitated by prison officials including, but not limited to the
6 following:

7 (a) Male prisoners were allowed by guards to roam the
8 J-2 SHU corridor and harass women prisoners, including Plaintiff
9 MERCADEL, through the food port or other opening in the cell
10 doors.

11 (b) On at least one occasion, a male inmate grabbed
12 Plaintiff MERCADEL through her cell door and made statements to
13 the effect that he had paid for her services and would "collect"
14 whether she consented or not. He then proceeded to physically
15 assault her by striking a strong blow to her head.

16 (c) Male prisoners repeatedly propositioned Plaintiff
17 MERCADEL for sex, both in writing and while standing outside her
18 cell.

19 (d) Male prisoners were provided access to Plaintiff
20 MERCADEL's cell without her consent by one or more correctional
21 officers, who would open the locked door to admit them. On these
22 occasions, Plaintiff was locked in her cell with the male inmates
23 until such time as the correctional officer(s) returned to unlock
24 the cell. Plaintiff MERCADEL is informed and believes some of the
25 prisoners who were admitted to her cell were from other parts of
26 the detention center.

27 (e) At least one male inmate who was provided access to
28 Plaintiff MERCADEL's cell without her consent forcibly molested

and abused her, fondling her breasts and attempting to orally copulate her.

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2 60. Plaintiff MERCADEL is informed and believes, and
3 therefore alleges, that Defendant SAMUELS (otherwise known as
4 "Dude"), an officer regularly on duty at the J-2 SHU between
5 midnight and 8:00 a.m., unlocked Plaintiff MERCADEL's cell door
6 to permit male prisoners to enter her cell at night without her
7 consent, for the purposes of perpetrating such assaults, abuse
8 and harassment.

9 61. Plaintiff MERCADEL is informed and believes, and on
10 that basis alleges, that other correctional officers, whose
11 identities are unknown to Plaintiff MERCADEL, and who are sued
12 herein as DOE Defendants 4 through 15, also allowed male inmates
13 to access Plaintiff MERCADEL's cell at the J-2 SHU for purposes
14 of perpetrating such assaults, abuse and harassment, or otherwise
15 participated in the assaults, abuse and harassment.

16 62. During this time period, Plaintiff MERCADEL asked
17 prison personnel, including Defendant SAMUELS to stop letting
18 male prisoners into her cell. Defendant SAMUELS acknowledged his
19 participation in the unwelcome sexual advances.

20 63. During the time Plaintiff MERCADEL was housed at the J-
21 2 SHU, Defendant Officer GILLETTE sexually harassed and assaulted
22 Plaintiff MERCADEL, including, without limitation, by making
23 sexual remarks and comments to her, by demanding that Plaintiff
24 MERCADEL show him her breasts or genitals in order to receive a
25 prison issued t-shirt, and by attempting to grab Plaintiff
26 MERCADEL's buttocks while she was on her way to the shower.
27 Plaintiff MERCADEL refused to comply with Defendant Officer
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GILLETTE's demands to show her breasts and/or genitals and did not receive a t-shirt from him.

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64. Throughout the time she was housed in the J-2 SHU, and as a result of the unwelcome encounters with male prisoners and correctional staff as herein alleged, Plaintiff MERCADEL was severely emotionally and psychologically distraught and in constant fear of further attacks. This fear and emotional and psychological distress was exacerbated by the fact that she could not seek assistance from the correctional staff, as they were involved in the wrongdoing. Moreover, as a result of her constant fear of further attacks, and in an effort to protect herself from these attacks, Plaintiff MERCADEL moved her mattress to block the cell door and attempted to stay awake during the night.

65. On or about October 5, 1995, correctional staff moved Plaintiff MERCADEL and two other African-American female prisoners, Plaintiffs Robin LUCAS and Raquel DOUTHIT, to the SHU at the nearby FCI-Dublin.

66. Plaintiffs MERCADEL and Raquel DOUTHIT were placed in a cell together at FCI-Dublin.

67. On or about October 11, 1995, Plaintiff MERCADEL appeared before E. Porter, a Disciplinary Hearing Officer, for a disciplinary hearing pertaining to her initial SHU placement. Plaintiff MERCADEL complained to Officer Porter about the problems she had encountered. Officer Porter refused to listen to her complaints, cautioned her that her allegations were "dangerous," and informed her that she had to write to his superior, Defendant O. Ivan WHITE, the Western Regional Director of the Bureau of Prisons, in order to initiate a complaint.

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68. On or about October 15, 1995, Plaintiff MERCADEL wrote a letter to Defendant WHITE, which she and Plaintiff DOUTHIT both signed. In the letter they informed Defendant WHITE that their personal safety and security had been violated by correctional officers at the J-2 SHU at FDC-Pleasanton, and requested that an official from outside FCI-Dublin be sent to investigate these problems. Defendant WHITE failed to respond appropriately to this letter; instead, he sent a copy of the letter to officials at FDC-Pleasanton and/or FCI-Dublin, some of whom were the officials accused of misconduct. Plaintiff MERCADEL is informed and believes that Defendant Lieutenant ERNST at FCI-Dublin was assigned to investigate their complaints.

69. On or about October 16, 1995, Defendant Lieutenant ERNST spoke with Plaintiffs MERCADEL and DOUTHIT separately about the problems they had encountered at FDC-Pleasanton, promising to treat their interviews as confidential.

70. Plaintiff MERCADEL is informed and believes, and therefore alleges, that Defendant LIEUTENANT ERNST and/or Defendant WHITE leaked, or caused the release of, the substance of her complaints to personnel and inmates at FCI-Dublin and/or FDC-Pleasanton, knowing that such release would brand Plaintiff MERCADEL as a "snitch" and place her safety and security at risk.

71. Within days after making these complaints, the substance of Plaintiff MERCADEL'S complaint and the fact that Plaintiff MERCADEL had "snitched" were common knowledge among the correctional staff. During this time, Plaintiff MERCADEL remained housed at FCI-Dublin.

72. Following the meeting with Defendant Lieutenant ERNST, Plaintiff MERCADEL was threatened and harassed by the

1 correctional staff at FCI-Dublin, including without limitation
2 the following:

3 (a) On or about October 19, 1995, Defendant Captain
4 SMITH approached Plaintiffs MERCADEL and DOUTHIT at their cell,
5 and threatened to close the investigation regarding their
6 complaints of treatment at the J-2 SHU in order to intimidate
7 them.

8 (b) Subsequent to his threats to close the
9 investigation altogether, Defendant CAPTAIN SMITH threatened
10 Plaintiff MERCADEL's physical safety and security, including, but
11 not limited to, threats to tell the other prisoners that
12 Plaintiff MERCADEL was a "snitch", which Defendant SMITH knew
13 would endanger Plaintiff MERCADEL's physical safety and security.

14 (c) Defendant Officer GILLETTE also came to Plaintiffs
15 MERCADEL and DOUTHIT's cell at FCI-Dublin and attempted to
16 intimidate them into dropping their complaint.

17 73. Plaintiff MERCADEL is informed and believes that the
18 conduct as alleged herein was part of an effort by Defendants
19 WHITE, ERNST, SMITH and Officer GILLETTE to retaliate against her
20 for her complaints about her treatment in the J-2 SHU, and at
21 FCI-Dublin, and to intimidate her into withdrawing said
22 complaints, or to suppress evidence, obstruct justice, and/or
23 intimidate witnesses with regard to said complaints.

24 74. On or about November 1, 1995, Plaintiff MERCADEL filled
25 out a request to speak with Defendant Warden HAYES concerning
26 what had happened to her, and wrote a second letter to Defendant
27 WHITE informing him of the continuing threat to her safety and
28 requesting investigation by someone from outside FCI-Dublin.

1 Plaintiff MERCADEL was not moved or provided protection pursuant
2 to these requests.

3 75. Plaintiff MERCADEL has suffered, and continues to
4 suffer, in addition to physical injury, severe psychological and
5 emotional trauma, including extraordinary fear, anxiety, and
6 depression as a consequence of the harassment, abuse,
7 discrimination and retaliation Plaintiff MERCADEL encountered at
8 the hands of male staff and prisoners at FDC-Pleasanton and FCI-
9 Dublin.

10 76. These actions and inactions by prison officials and
11 inmates, along with the complete failure of prison officials to
12 take any action to protect Plaintiff MERCADEL intensified her
13 severe emotional and psychological trauma.

14 77. Plaintiff MERCADEL is informed and believes and
15 therefore alleges that, in or around the period of her
16 incarceration at the J-2 SHU, other women prisoners were also
17 sexually harassed and assaulted after correctional officers,
18 including Defendant SAMUELS, unlocked their cell doors to admit
19 male inmates. Among the other women prisoners who were subject
20 to this harassment were two other African-American women
21 (Plaintiffs Robin LUCAS and Raquel DOUTHIT), and three White
22 women.

23 78. Plaintiff MERCADEL is informed and believes that other
24 women housed at the J-2 SHU also complained to prison officials
25 about sexual harassment and assault, including rape. Plaintiff
26 MERCADEL is further informed and believes that a complaint by one
27 of the White women resulted in the removal of the White women
28 from the J-2 SHU on or about September 25, 1995. (The three

African-American women, including Plaintiff MERCADEL, were not removed until on or about October 5, 1995.)

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79. On or about November 16, 1995, after the intervention of her attorneys, Plaintiff MERCADEL was transferred to the Alameda County Jail, Santa Rita.

80. Plaintiff since was moved to the Alameda County Jail, North County. She currently is housed at the Federal Correctional Institute in Danbury, Connecticut.

81. Plaintiff MERCADEL, on her own, and by and through her attorneys, has submitted all grievances alleged herein, to personnel at the Federal Bureau of Prisons, and has cooperated fully in any and all formal internal investigations of the events complained of herein, thereby fully exhausting all applicable internal grievance mechanisms.

82. Plaintiff MERCADEL has filed a timely tort claim against Defendants, and each of them, a true and correct copy of which is attached hereto as Exhibit B.

RAQUEL DOUTHIT

83. On or about June 2, 1995, Plaintiff RAQUEL DOUTHIT was housed at FCI-Dublin, a federal correctional facility for women.

84. On or about September 20, 1995, after an altercation with another prisoner, Defendant Captain SMITH and other correctional personnel moved Plaintiff DOUTHIT and Plaintiff Valerie MERCADEL, another female prisoner, to the J-2 SHU (Special Housing Unit) at FDC-Pleasanton.

85. Plaintiff DOUTHIT is informed and believes that FDC-Pleasanton is a detention facility regularly used for the housing of men only. The J-2 SHU is a 24-hour lockdown facility, in which inmates are locked in their single cells at all times

1 (except for showers). At the time Plaintiff DOUTHIT was placed
2 in the J-2 SHU, she was one of only a handful of women housed
3 there among an otherwise all-male prisoner population.

4 86. Plaintiff DOUTHIT is informed and believes and
5 therefore alleges that Defendant Warden HAYES directly approved
6 her placement at the J-2 SHU and/or immediately ratified her
7 transfer to the J-2 SHU, and was responsible for deciding whether
8 she would be moved from that unit. Plaintiff is further informed
9 and believes that Defendant WHITE approved the policy of housing
10 female inmates in the men's SHU unit, and approved Plaintiff
11 DOUTHIT's placement at the J-2 SHU.

12 87. Plaintiff DOUTHIT's placement at FDC-Pleasanton, and
13 her placement in the J-2 SHU in particular, exposed all aspects
14 of her private life, including changing of clothes, showering and
15 use of the cell toilet, to the supervision and observation of
16 male custody staff. She was further exposed to a male inmate
17 environment pervaded by sexual attention and animus directed at
18 the few women in the facility. Few, if any, female officers were
19 assigned to the J-2 SHU during the time Plaintiff was placed
20 there. In addition, because the facilities were designed for
21 single-sex use, the cell windows and showers were in plain view
22 of the male guards and inmates. Moreover, as Plaintiff DOUTHIT
23 was supplied only one set of clothing upon transfer to the J-2
24 SHU, she was forced to sleep in her undergarments.

25 88. As a result of her placement on an all male tier, under
26 constant supervision of male prison staff and constant exposure
27 to the male inmate environment, Plaintiff DOUTHIT suffered severe
28 emotional and psychological distress and invasions of her
privacy.

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89. Shortly after Plaintiff DOUTHIT's arrival at the J-2 SHU, she became the victim of a pattern of serious sexual harassment and unwelcome sexual advances orchestrated and facilitated by prison officials including, but not limited to the following:

(a) Male prisoners were allowed by guards to roam the J-2 SHU corridor and harass women prisoners, including Plaintiff DOUTHIT, through the food port or other opening in the cell doors. On several occasions, male prisoners propositioned Plaintiff MERCADEL with offers of alcohol, and other contraband in return for sexual favors.

(b) Male prisoners repeatedly propositioned Plaintiff DOUTHIT for sex, both in highly offensive letters and while standing outside her cell.

(c) Male prisoners were provided access to Plaintiff DOUTHIT's cell without her consent by one or more correctional officers, who would open the locked cell door to admit them. On these occasions, Plaintiff DOUTHIT was locked in her cell with the male inmates until such time as the correctional officer(s) returned to unlock the cell. Plaintiff DOUTHIT is informed and believes some of the prisoners who were admitted to her cell were from other parts of the detention center.

(d) On several occasions, male prisoners entered Plaintiff DOUTHIT's cell without her consent, where they sexually harassed and sexually and verbally abused her.

(e) On one occasion, a male inmate who was given access to her cell without her consent, held Plaintiff DOUTHIT down while he forcibly molested, orally copulated, and abused Plaintiff DOUTHIT. On a separate occasion, this male inmate

1 entered Plaintiff DOUTHIT's cell and, when Plaintiff DOUTHIT
2 refused to have sex with him, he sat directly in front of her and
3 masturbated.

4 90. Plaintiff DOUTHIT is informed and believes, and
5 therefore alleges, that Defendant SAMUELS (otherwise known as
6 "Dude"), a officer regularly on duty at the J-2 SHU between
7 midnight and 8:00 a.m., unlocked Plaintiff DOUTHIT'S cell door to
8 permit male prisoners to enter her cell at night without her
9 consent, for the purposes of perpetrating such assaults, abuse
10 and harassment.

11 91. Plaintiff DOUTHIT is informed and believes, and on that
12 basis alleges, that other correctional officers, whose identities
13 are unknown to Plaintiff DOUTHIT, and who are sued herein as DOE
14 Defendants 4 through 15, also allowed male inmates to access
15 Plaintiff DOUTHIT'S cell at the J-2 SHU for purposes of
16 perpetrating such assaults, abuse and harassment, or otherwise
17 participated in the assaults, abuse and harassment.

18 92. Throughout her stay on the J-2 SHU, Plaintiff
19 continually feared for her personal safety, and suffered extreme
20 emotional and psychological distress. This fear and emotional
21 and psychological distress was exacerbated by the fact that she
22 could not seek assistance from the correctional staff as they
23 were involved with the wrongdoing.

24 93. On or about October 5, 1995, correctional staff moved
25 Plaintiff DOUTHIT and two other African-American female
26 prisoners, Plaintiffs Robin LUCAS and Valerie MERCADEL, to the
27 SHU at the nearby FCI-Dublin.

28 94. Plaintiffs DOUTHIT and Valerie MERCADEL were placed in
a cell together at FCI-Dublin.

1 95. On or about October 11, 1995, Plaintiff DOUTHIT
2 appeared before E. Porter, a Disciplinary Hearing Officer, for a
3 disciplinary hearing pertaining to her initial SHU placement.
4 Plaintiff DOUTHIT complained to Officer Porter about the problems
5 she had encountered. Officer Porter refused to listen to her
6 complaints, cautioned her that her allegations were "dangerous,"
7 and informed her that she had to write to his superior, Defendant
8 O. Ivan WHITE, the Western Regional Director of the Bureau of
9 Prisons, in order to initiate a complaint.

10 96. On October 15, 1995, Plaintiff MERCADEL wrote a letter
11 to Defendant WHITE, which she and Plaintiff DOUTHIT both signed.

12 In the letter they informed Defendant WHITE that their personal
13 safety and security had been violated by correctional officers at
14 the J-2 SHU at FDC-Pleasanton, and requested that an official
15 from outside FCI-Dublin be sent to investigate these problems.
16 Defendant WHITE failed to respond appropriately to this letter;
17 instead, he sent a copy of the letter to officials at FDC-
18 Pleasanton and/or FCI-Dublin, some of whom were the officials
19 accused of misconduct. Plaintiff DOUTHIT is informed and
20 believes that Defendant Lieutenant ERNST at FCI-Dublin was
21 assigned to investigate their complaints.

22 97. On or about October 16, 1995, Defendant Lieutenant
23 ERNST spoke with Plaintiff DOUTHIT and MERCADEL separately about
24 the problems they had encountered at FDC-Pleasanton, promising to
25 treat their interviews as confidential.

26 98. Plaintiff DOUTHIT is informed and believes, and
27 therefore alleges, that Defendant LIEUTENANT ERNST and/or
28 Defendant WHITE leaked, or caused the release of, the substance
of her statement to personnel and inmates at FCI-Dublin and/or

FDC-Pleasanton, knowing that such release would brand Plaintiff as a "snitch" and place her safety and security at risk.

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99. Within days after making these complaints, the substance of Plaintiff DOUTHIT'S statement and the fact that Plaintiff DOUTHIT had "snitched" were common knowledge among the correctional staff. During this time, Plaintiff DOUTHIT remained housed at FCI-Dublin.

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100. Following the meeting with Defendant Lieutenant ERNST, Plaintiff DOUTHIT was threatened and harassed by the correctional staff at FCI-Dublin, including without limitation the following:

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(a) On or about October 19, 1995, Defendant Captain SMITH approached Plaintiffs DOUTHIT and MERCADEL at their cell, and threatened to close the investigation regarding their complaints of treatment at the J-2 SHU in order to intimidate them.

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(b) Subsequent to his threats to close the investigation altogether, Defendant CAPTAIN SMITH threatened Plaintiff DOUTHIT's physical safety and security, including, but not limited to, threats to tell the other prisoners that Plaintiff DOUTHIT was a "snitch", which Defendant SMITH knew would endanger Plaintiff DOUTHIT's physical safety and security.

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(c) Defendant Officer GILLETTE also came to Plaintiffs DOUTHIT's and MERCADEL's cell at FCI-Dublin and attempted to intimidate them into dropping their complaint.

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101. Plaintiff is informed and believes that the conduct as alleged herein was part of an effort by Defendants WHITE, ERNST, SMITH and Officer GILLETTE to retaliate against her for her complaints about her treatment in the J-2 SHU, and to intimidate her into withdrawing said complaints, or to suppress evidence,

obstruct justice, and/or intimidate witnesses with regard to said complaints.

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2 102. Plaintiff DOUTHIT has suffered, and continues to
3 suffer, in addition to physical injury, severe psychological and
4 emotional trauma, including extraordinary fear, anxiety, and
5 depression as a consequence of the harassment, abuse,
6 discrimination, and retaliation Plaintiff DOUTHIT encountered at
7 the hands of male staff and prisoners at FDC-Pleasanton and FCI-
8 Dublin.

9 103. These actions and inactions by prison officials and
10 inmates, along with the complete failure of prison officials to
11 take any action to protect Plaintiff DOUTHIT intensified her
12 severe emotional and psychological trauma.

13 104. Plaintiff DOUTHIT is informed and believes and
14 therefore alleges that, in or around the period of her
15 incarceration at the J-2 SHU, other women prisoners were also
16 sexually harassed and assaulted after correctional officers,
17 including Defendant SAMUELS, unlocked their cell doors to admit
18 male inmates. Among the other women prisoners who were subject
19 to this harassment were two other African-American women
20 (Plaintiffs Robin LUCAS and Valerie MERCADEL), and three White
21 women.

22 105. Plaintiff DOUTHIT is informed and believes that other
23 women housed at the J-2 SHU also complained to prison officials
24 about sexual harassment and assault, including rape. Plaintiff
25 DOUTHIT is further informed and believes that a complaint by one
26 of the White women resulted in the removal of the White women
27 from the J-2 SHU on or about September 25, 1995. (The three
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African-American women, including Plaintiff DOUTHIT, were not removed until on or about October 5, 1995.)

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106. On or about November 16, 1995, after the intervention of her attorneys, Plaintiff DOUTHIT was transferred to the Alameda County Jail, Santa Rita.

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107. Plaintiff since was moved to the Alameda County Jail, North County. She currently is housed at the Federal Correctional Institute in Tallahassee, Florida.

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108. Plaintiff DOUTHIT, on her own, and by and through her attorneys, has submitted all grievances alleged herein, to personnel at the Federal Bureau of Prisons, and has cooperated fully in any and all formal internal investigations of the events complained of herein, thereby fully exhausting all applicable internal grievance mechanisms.

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109. Plaintiff DOUTHIT has filed a timely tort claim against Defendants, and each of them, a true and correct copy of which is attached hereto as Exhibit C.

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COMMON FACTUAL ALLEGATIONS

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110. Plaintiffs are informed and believe that, in addition to the complaints they brought themselves, during the period they were housed on the J-2 SHU, and during the period when the acts complained of herein took place, certain of Plaintiffs' family and friends made requests to visit Plaintiffs, and/or attempted to lodge complaints with prison personnel on Plaintiffs' behalf, to no avail. Moreover, certain of these family members and/or friends were incorrectly informed by correctional personnel that women prisoners were not housed at the men's J-2 SHU facility.

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111. Defendants, and each of them, subjected Plaintiffs, as well as other female inmates within their custody and control, to

1 the constant supervision and observation of male custody staff,
2 as alleged herein, by placing Plaintiffs, or directing or
3 approving placement of Plaintiffs, on the J-2 SHU at FDC-
4 Pleasanton, an all-male tier, by failing to remove Plaintiffs
5 from the J-2 SHU after complaints were made by other prisoners,
6 and by failing to remove Plaintiffs from the J-2 SHU after
7 complaints were made by Plaintiffs.

8 112. Defendants, and each of them, subjected Plaintiffs, as
9 well as other female inmates within their custody and control, to
10 sexual assaults, abuse and harassment, as herein alleged, by
11 placing Plaintiffs, or directing or approving placement of
12 Plaintiffs, on the J-2 SHU at FDC-Pleasanton, an all-male tier,
13 by failing to remove Plaintiffs from the J-2 SHU after complaints
14 were made by other prisoners, and by failing to remove Plaintiffs
15 from the J-2 SHU after complaints were made by Plaintiffs.

16 113. Defendants, and each of them, subjected Plaintiffs, as
17 well as other female prisoners within their custody and control,
18 to sexual assaults, abuse and harassment by failing to enact,
19 maintain and properly implement and enforce appropriate policies
20 and procedures concerning security for female prisoners and the
21 prevention and handling of sexual assaults, abuse and harassment
22 of female prisoners confined within the Western Region of the
23 Bureau of Prisons, and especially Camp Parks, FCI-Dublin and FDC-
24 Pleasanton.

25 114. Plaintiffs are informed and believe, and therefore
26 allege, that Defendant SAMUELS, and DOE defendants 1 through 15,
27 subjected Plaintiffs to sexual assaults, abuse and harassment by
28 directly encouraging, facilitating and cooperating with male
prisoners by unlocking their cell doors to permit male prisoners

to enter their cells at night without their consent, for the purposes of perpetrating such assaults, abuse and harassment.

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2 115. Plaintiffs are informed and believe and therefore
3 allege that certain correctional personnel, including but not
4 limited to, some or all of the Defendants in this action,
5 received money and/or other favors or benefits from male inmates,
6 and/or other correctional personnel, in return for providing
7 access to Plaintiffs' cells, and/or the cells of other female
8 inmates.

9 116. Defendants, and each of them, retaliated against
10 Plaintiffs, through intimidation, threats, sexual and other
11 physical assaults, abuse and harassment, as herein alleged, after
12 Plaintiffs' complained about their treatment on the J-2 SHU.

13 117. Defendants, and each of them, once they received actual
14 notice of sexual assaults, abuse and harassment against
15 Plaintiffs, as herein alleged, failed to adequately investigate
16 and take reasonable measures to protect Plaintiffs, including,
17 but not limited to their failure to keep obviously sensitive
18 information confidential, and to remove Plaintiffs from the men's
19 unit and/or to remove them from the facilities controlled by the
20 correctional personnel implicated in their complaints.

21 118. Plaintiffs are informed and believe and thereupon
22 allege that Defendants, and each of them, failed to properly
23 evaluate, train, discipline and supervise subordinate
24 correctional personnel. Defendants' failure to supervise, train,
25 discipline and evaluate subordinate correctional personnel
26 resulted in the acts complained of herein.

27 119. Plaintiffs are informed and believe that weeks or
28 months prior to the events complained of herein, female inmates

1 were housed at the J-2 unit and subjected to harassment similar
2 to that alleged herein. Plaintiffs are further informed and
3 believe that Defendants, and each of them, knew, or should have
4 known of these prior instances of harassment. Notwithstanding
5 the foregoing knowledge, Defendants failed to take action to
6 prevent similar harm to Plaintiffs. By permitting such
7 activities to continue unabated, Defendants, and each of them,
8 adopted a de facto policy of deliberate indifference to the
9 wrongful acts complained of herein and adopted, authorized,
10 ratified and approved a policy and practice of permitting illegal
11 sexual activity, sexual assault, sexual harassment, sexual
12 battery, molestation and retaliation against female inmates.

13 120. Plaintiffs are informed and believe that Defendants,
14 and each of them, failed to investigate the complaints received
15 from the White women housed on J-2 SHU concerning Defendant
16 SAMUELS, and/or other complaints regarding the J-2 SHU, as herein
17 alleged, and failed to take other action to protect Plaintiffs,
18 despite the fact that the information they received regarding
19 Defendant SAMUELS clearly indicated that he was unfit for his
20 position and that he was a threat to the safety and rights of
21 female inmates. Had Defendants investigated the information they
22 received about Defendant SAMUELS, Defendants could have prevented
23 the conduct alleged herein.

24 121. Plaintiffs are further informed and believe and
25 thereupon allege that Defendants WHITE, HAYES, SMITH, Officer
26 GILLETTE, Lieutenant GILLETTE, YARBOROUGH, ERNST and DOES 1
27 through 15, knew or should have known that Defendant SAMUELS was
28 unfit for the position of correctional officer and that Defendant
SAMUELS was a threat to the safety and rights of female inmates.

1 Notwithstanding the foregoing knowledge, Defendants failed to
2 take action to prevent Defendant SAMUELS from committing the
3 illegal acts complained of by the Plaintiffs herein. By
4 permitting such activity to continue unabated, Defendants, and
5 each of them, adopted a de facto policy of deliberate
6 indifference to the wrongful acts complained of herein and
7 adopted, authorized, ratified and approved a policy and practice
8 of permitting illegal sexual activity, sexual assault, sexual
9 harassment, sexual battery, molestation and retaliation against
10 female inmates.

11 122. The actions, conduct and inactions of Defendants, and
12 each of them, demonstrates a practice, custom, or policy of
13 reckless and deliberate indifference to instances of known or
14 suspected sexual assaults, intimidation, abuse, threats of
15 violence, sexual harassment, retaliation and other violations of
16 law violating Plaintiffs' Constitutional rights.

17 123. An actual controversy exists between Plaintiffs and
18 Defendants concerning their rights, privileges and obligations.

19 124. No adequate remedy at law exists which will completely
20 safeguard the Plaintiffs' legal rights and make the Plaintiffs
21 whole; the Plaintiffs, other female prisoners and the general
22 public will continue to be harmed and suffer irreparable loss and
23 injury, including the sexual harassment and sexual battery of
24 female inmates housed in men's prisons unless the Federal Bureau
25 of Prisons is ordered to: (1) cease and desist from failing to
26 investigate complaints of sexual harassment and sexual battery;
27 (2) implement policies and procedures for properly supervising,
28 training and disciplining its employees and agents with respect
to sexual harassment and sexual battery of female inmates; and

1 (3) to cease and desist from housing female inmates on primarily
2 male units.

3 FIRST CLAIM FOR RELIEF

4 (Bivens -- Eighth Amendment Cruel and Unusual
5 Punishment -- Deliberate Indifference to Prisoners'
6 Personal Security Interests; All Defendants)

7 125. Plaintiffs reallege and incorporate by reference each
8 allegation of paragraphs 1 through 124 above.

9 126. In acting and failing to act as alleged above,
10 Defendants, and each of them, through their pattern and practice
11 of permitting, facilitating and/or perpetrating sexual assaults,
12 intimidation, physical, sexual and verbal abuse, threats of
13 violence, sexual harassment, retaliation, and other violations of
14 law against Plaintiffs, and failing to properly investigate such
15 violations, as set forth herein, subjected Plaintiffs to
16 unnecessary and wanton infliction of pain and physical injury,
17 thereby violating the Plaintiffs' right to be free from cruel and
18 unusual punishment under the Eighth Amendment of the United
19 States Constitution.

20 127. As a proximate, direct and foreseeable result of the
21 Defendants' failure to ensure freedom from sexual assaults,
22 intimidation, physical, sexual and verbal abuse, threats of
23 violence, sexual harassment, retaliation and other violations of
24 law against Plaintiffs, and in failing to properly investigate
25 such violations, as set forth herein, Plaintiffs have suffered,
26 are suffering, and will continue to suffer irreparable harm and
27 damages in the form of pain and suffering, shame, humiliation,
28 degradation, emotional distress, embarrassment, mental distress
and other damages.

128. Defendants' acts and/or omissions were knowing, willful, intentional, malicious, unnecessary, wanton, and despicable, with reckless, callous or conscious disregard of the rights of the Plaintiffs, entitling the Plaintiffs to an award of exemplary damages.

SECOND CLAIM FOR RELIEF

(Bivens -- Eighth Amendment Failure to Train and Supervise-- Deliberate Indifference to Prisoners' Personal Security Interests; All Defendants)

129. Plaintiffs reallege and incorporate by reference each allegation of paragraphs 1 through 124 above.

130. In acting and failing to act as alleged above, Defendants, and each of them, through their failure to properly evaluate, train, discipline and supervise subordinate custodial personnel to prevent physical harm to, and/or sexual harassment of, inmates, to investigate allegations of physical harm to and/or sexual harassment of inmates, and to prevent retaliation against inmates for complaints of such abuse, subjected Plaintiffs to unnecessary and wanton infliction of pain and physical and emotional injury, thereby violating their rights under the Eight Amendment to the Constitution.

131. As a proximate, direct and foreseeable result of the Defendants' failure to properly evaluate, train, discipline and supervise subordinate custodial personnel as set forth herein, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm and damages in the form of pain and suffering, shame, humiliation, degradation, emotional distress, embarrassment, mental distress and other damages.

132. Defendants' acts and/or omissions were knowing, willful, intentional, malicious, unnecessary, wanton, and despicable, with reckless, callous or conscious disregard of the rights of the Plaintiffs, entitling the Plaintiffs to an award of exemplary damages.

THIRD CLAIM FOR RELIEF

(Bivens -- Fifth Amendment Substantive Due Process -- Deliberate Indifference to Prisoners' Personal Security Interests; All Defendants)

133. Plaintiffs reallege and incorporate by reference each allegation of paragraphs 1 through 124 above.

134. In acting and failing to act as alleged above, Defendants, and each of them, violated the Plaintiffs' right to personal security, subjecting Plaintiffs to unnecessary and wanton infliction of serious pain and physical and extraordinary emotional and psychological injury in violation of their substantive due process rights under the Fifth Amendment of the United States Constitution.

135. As a proximate, direct and foreseeable result of the Defendants' failure to ensure Plaintiffs' due process rights, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm and damages in the form of pain and suffering, shame, humiliation, degradation, emotional distress, embarrassment, mental distress and other damages.

136. Defendants' acts were knowing, willful, intentional, malicious, unnecessary, wanton, and despicable, with reckless, callous or conscious disregard of the rights of the Plaintiffs, entitling the Plaintiffs to an award of exemplary damages.

FOURTH CLAIM FOR RELIEF

(Bivens -- Fifth Amendment Equal Protection -- Gender Discrimination; All Defendants)

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2 137. Plaintiffs reallege and incorporate by reference each
3 allegation of paragraphs 1 through 124 above.

4 138. Defendants, and each of them, subjected Plaintiffs to
5 sexual assaults, abuse and harassment by placing Plaintiffs,
6 directing or approving placement of Plaintiffs, or failing to
7 remove Plaintiffs from placement on the J-2 SHU at FDC-
8 Pleasanton, an all-male tier under the constant supervision of
9 male custody staff, by subjecting Plaintiffs to sexual assaults,
10 abuse and harassment, and by failing to properly investigate
11 Plaintiffs' complaints, as set forth herein.

12 139. Plaintiff are informed and believe and therefore allege
13 that male prisoners within the custody and control of Defendants
14 were not similarly subjected to constant supervision and
15 observation by custody staff of the opposite gender, nor to the
16 sexual assaults, abuse and harassment experienced by plaintiffs
17 as alleged herein.

18 140. Defendants, and each of them, in acting or failing to
19 act as alleged above, did so intentionally. Their actions and
20 inactions did not serve important governmental objectives, nor
21 were the means they employed substantially related to the
22 achievement of important governmental objectives.

23 141. Defendants, and each of them, thereby subjected
24 Plaintiffs to sexual assaults, abuse and harassment, causing
25 Plaintiffs unnecessary and wanton infliction of serious physical
26 injury and pain and extraordinary emotional and psychological
27 injury, on account of their gender, in violation of their rights
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1 under the Equal Protection component of the Fifth Amendment of
2 the United States Constitution.

3 142. As a proximate, direct and foreseeable result of the
4 Defendants' failure to ensure Plaintiffs' right to equal
5 protection, the Plaintiffs have suffered, are suffering, and will
6 continue to suffer irreparable harm and damages in the form of
7 pain and suffering, shame, humiliation, degradation, emotional
8 distress, embarrassment, mental distress and other damages.

9 143. Defendants' acts were knowing, willful, intentional,
10 malicious, unnecessary, wanton, and despicable, with reckless,
11 callous or conscious disregard of the rights of the Plaintiffs,
12 entitling the Plaintiffs to an award of exemplary damages.

13 FIFTH CLAIM FOR RELIEF

14 (Bivens -- Fifth Amendment Equal Protection -- Race
15 Discrimination; All Defendants)

16 144. Plaintiffs reallege and incorporate by reference each
17 allegation of paragraphs 1 through 124 above.

18 145. Defendants, and each of them, subjected Plaintiffs to
19 ongoing sexual abuse and harassment by failing to immediately
20 remove Plaintiffs from the J-2 SHU or otherwise take measures to
21 protect them or properly investigate after receiving actual
22 notice of sexual assaults, abuse and harassment against female
23 prisoners on the J-2 SHU.

24 146. Plaintiffs, who are African American, are informed and
25 believe that they were left confined at the J-2 SHU, and
26 subjected to further, unnecessary risk of sexual assaults, abuse
27 and harassment, for several days after White, female prisoners
28 confined at the J-2 SHU were moved out of that tier and housed in

1 a prison or tier designated for female prisoners because of known
2 sexual assaults, abuse and harassment.

3 147. Defendants, and each of them, in acting or failing to
4 act as alleged above, did so intentionally. Their actions and
5 inactions did not serve compelling governmental objectives, nor
6 were the means they employed narrowly tailored to achieve such
7 governmental objectives.

8 148. Defendants, and each of them, thereby subjected
9 Plaintiffs to additional sexual assaults, abuse and harassment,
10 causing Plaintiffs unnecessary and wanton infliction of serious
11 physical injury and pain and extraordinary emotional and
12 psychological injury, on account of their race, in violation of
13 their rights under the Equal Protection component of the Fifth
14 Amendment of the United States Constitution.

15 149. As a proximate, direct and foreseeable result of the
16 defendants' failure to ensure Plaintiffs' right to equal
17 protection, the Plaintiffs have suffered, are suffering, and will
18 continue to suffer irreparable harm and damages in the form of
19 pain and suffering, shame, humiliation, degradation, emotional
20 distress, embarrassment, mental distress and other damages.

21 150. Defendants' acts were knowing, willful, intentional,
22 malicious, unnecessary, wanton, and despicable, with reckless,
23 callous or conscious disregard of the rights of the Plaintiffs,
24 entitling the Plaintiffs to an award of exemplary damages.

25 SIXTH CLAIM FOR RELIEF

26 (Bivens -- Retaliation For Exercise of First Amendment
27 Rights; All Defendants)

28 151. Plaintiffs reallege and incorporate by reference each
allegation of paragraphs 1 through 124 above.

152. Defendants, and each of them, subjected Plaintiffs to sexual assaults, abuse and harassment, and/or failed to adequately investigate and take reasonable measures to protect Plaintiffs, as described herein, in retaliation for Plaintiffs' complaints to prison authorities regarding such unlawful conduct.

153. In acting and failing to act as alleged above, Defendants, and each of them, acted or failed to act intentionally. They thereby subjected Plaintiffs to sexual assaults, abuse and harassment which caused Plaintiffs unnecessary and wanton infliction of serious physical injury and pain and extraordinary emotional and psychological injury in violation of their rights under the First Amendment of the United States Constitution.

154. As a proximate, direct and foreseeable result of the defendants' failure to ensure Plaintiffs' First Amendment rights, the Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm and damages in the form of pain and suffering, shame, humiliation, degradation, emotional distress, embarrassment, mental distress and other damages.

155. Defendants' acts were knowing, willful, intentional, malicious, unnecessary, wanton, and despicable, with reckless, callous or conscious disregard of the rights of the Plaintiffs, entitling the Plaintiffs to an award of exemplary damages.

SEVENTH CLAIM FOR RELIEF

(Bivens -- Fourth Amendment Privacy; All Defendants)

156. The allegations contained in paragraphs 1 through 124 of the Complaint are hereby realleged and incorporated by reference.

157. Through their pattern and practice of sexual assaults, intimidation, abuse, threats of violence, sexual harassment, and other violations of law against Plaintiffs, and failure to properly investigate Plaintiffs' claims, as alleged herein, Defendants, and each of them, have violated the right of privacy, right to bodily integrity and right to bodily privacy guaranteed to the Plaintiffs by the Fourth Amendment of the United States Constitution.

158. As a proximate, direct and foreseeable result of the Defendants' failure to ensure the privacy rights, right to bodily integrity and right to bodily privacy of Plaintiffs, they have suffered, are suffering, and will continue to suffer irreparable harm and damages in the form of pain and suffering, shame, humiliation, degradation, emotional distress, embarrassment, mental distress and other damages.

159. Defendants' acts were willful, intentional, malicious, wanton, and despicable in conscious disregard of the rights of the Plaintiffs, entitling the Plaintiffs to an award of exemplary damages.

EIGHTH CLAIM FOR RELIEF

(Bivens -- Fifth Amendment Privacy; All Defendants)

160. The allegations contained in paragraphs 1 through 124 of the Complaint are hereby realleged and incorporated by reference.

161. Through their pattern and practice of sexual assaults, intimidation, abuse, threats of violence, sexual harassment, and other violations of law against Plaintiffs, and failure to properly investigate Plaintiffs' claims, as alleged herein, Defendants, and each of them, have violated the right of privacy

guaranteed to the Plaintiffs by the Fifth Amendment of the United States Constitution.

1
2 162. As a proximate, direct and foreseeable result of
3 Defendants' failure to ensure the privacy rights of Plaintiffs,
4 they have suffered, are suffering, and will continue to suffer
5 irreparable harm and damages in the form of pain and suffering,
6 shame, humiliation, degradation, emotional distress,
7 embarrassment, mental distress and other damages.

8 163. Defendants' acts were willful, intentional, malicious,
9 wanton, and despicable in conscious disregard of the rights of
10 the Plaintiffs, entitling the Plaintiffs to an award of exemplary
11 damages.

12 DEMAND FOR JURY TRIAL

13 164. Plaintiffs hereby demand a jury trial as provided by
14 Rule 38 of the Federal Rules of Civil Procedure.

15 PRAYER FOR RELIEF

16 WHEREFORE, Plaintiffs pray for judgment against
17 Defendants, and each of them, as follows:

- 18 1. Compensatory damages for each Plaintiff according to
19 proof;
20 2. Punitive damages for each Plaintiff according to proof;
21 3. As against Defendants WHITE and HAYES, injunctive
22 relief for Plaintiffs MERCADEL and DOUTHIT, and on behalf of all
23 female inmates, including but not limited to: (1) an order that
24 Defendants cease and desist from failing to investigate
25 complaints of sexual harassment and sexual battery; (2) an order
26 that Defendants implement policies and procedures for properly
27 supervising, disciplining and training its employees and agents
28 with respect to sexual harassment and sexual assault of female

1 inmates; and (4) an order that Defendants cease and desist from
2 housing Plaintiffs MERCADEL, DOUTHIT and/or other female inmates
3 on primarily male units.

4 4. For costs and attorneys' fees; and

5 5. For such additional relief as may be just and proper.

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10 Dated: August ___, 1996

ROSEN, BIEN & ASARO

11 By _____

Donna Petrine
Attorneys for Plaintiffs

LAW OFFICES OF GERI L. GREEN

12 By _____

Geri L. Green
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