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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

RICHARD KAPELA DAVIS,  
MICHAEL HUGHES, DAMIEN  
KAAHU, ROBERT A. HOLBRON,  
JAMES KANE, III, and  
ELLINGTON KEAWE,

Plaintiffs,

vs.

NEIL ABERCROMBIE, in his official  
capacity as the Governor of the State of

CIVIL NO. 11-00144 LEK/BMK  
(Declaratory and Injunctive Relief and  
Other Civil Action)

**SECOND AMENDED COMPLAINT  
FOR DAMAGES AND FOR  
CLASSWIDE DECLARATORY  
AND INJUNCTIVE RELIEF**

Hawaii; TED SAKAI, in his official capacity as Director of the Hawaii Department of Public Safety, CORRECTIONS CORPORATION OF AMERICA,

Defendants.

**SECOND AMENDED COMPLAINT FOR DAMAGES AND FOR CLASSWIDE DECLARATORY AND INJUNCTIVE RELIEF**

**PRELIMINARY STATEMENT**

This is a civil rights action for declaratory and injunctive relief and damages, which was originally filed in the Circuit Court of First Circuit Court, State of Hawaii, as Civil No. 11-1-0266-02 RMB , but was properly removed to this Court by Defendants on March 8, 2011 pursuant to 28 USC §§ 1441 and 1446 and Rules 11 and 81(c) of the Federal Rules of Civil Procedure.

Plaintiffs, and other similarly situated individuals, are Native Hawaiian religious practitioners who have been incarcerated under the laws of the State of Hawaii, but are currently serving their terms of sentence in for-profit private prisons under various governmental contracts with the State of Hawaii.

Native Hawaiians, the indigenous people of Hawaii, are an over-represented group in these privately-operated prison facilities. Many of them practice spiritual beliefs first established by their ancestors, who exercised sovereignty over the area that now comprises the state of Hawai'i.

The State of Hawaii, through its elected and appointed officials, is allowing its private prison subcontractor to operate without any oversight, authority and/or control to protect its inmates. Consequently, the Defendants' deliberate actions and/or omissions have resulted in a violation of Plaintiffs' rights to exercise their religion as secured by the Hawaii State Constitution and state laws, and in violation of the United States Constitution and federal laws protecting their civil rights.

Plaintiffs ask this Court to address this wrong. This Court has jurisdiction to declare that the Defendants have violated the U.S. Constitution and federal laws and also violated the Hawaii State Constitution and state laws. Plaintiffs seek to enjoin Defendants from exercising a policy that causes such injury upon the Plaintiffs, and other similarly situated individuals as a class. Plaintiffs are also entitled to seek damages caused by Defendants' violations.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Federal Constitutional and Federal Statutory claims pursuant to 28 U.S.C. §1331 and §1343.
2. This Court has jurisdiction over Plaintiffs' Hawaii State law claims pursuant to 28 U.S.C. § 1367.

3. There is an actual controversy between the Plaintiff and the Defendants within the meaning of the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57.

4. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc-1 et seq. (“RLUIPA”).

5. This action also arises under the Constitution and laws of the State of Hawaii, including Article 1, §§ 4 and 5, and Article XII, § 7 of the Hawaii State Constitution and Hawaii Revised Statutes §§ 1-1 603-21.9(1), (6) and 603-2.

6. Venue is proper in this Court pursuant to 28 USC § 1441(a) as this Court embraces the District to which the Defendants removed Plaintiffs’ State of Hawaii action.

### **THE PARTIES**

7. Plaintiffs are, and were at all times mentioned herein, an adult citizen of the United States of America, and a resident of the state of Hawaii.

8. Plaintiffs are descendants of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

9. Plaintiffs has been convicted of violating crimes under Hawaii state law and sentenced under the same.

10. In or around 2007, Plaintiffs were involuntarily transferred from either the State of Hawaii or from various private prisons owned and operated by Defendant Corrections Corporation of America (“CCA”) to one of two of its private prisons in Eloy, Arizona pursuant to various contracts with the State of Hawaii and the Corrections Corporation of America.

11. Plaintiffs are persons residing in or confined to an institution for purposes of RLUIPA.

12. Each member of the Plaintiff class is an identifiable person (a) who was convicted of violating crimes under the laws of the state of Hawaii and was a resident of the state of Hawaii; (b) and who has resided in or was confined to a CCA-operated facility at any time within four years prior to the filing of this Complaint until the resolution of this lawsuit; (c) and who declares that Native Hawaiian religion is their faith. Each member of the class and subclass are persons residing in or confined to an institution for purposes of RLUIPA.

13. Defendant NEIL ABERCROMBIE, Governor of the State of Hawaii, is the chief executive of the State of Hawaii, and is capable of being sued in this Court. Defendant ABERCROMBIE is responsible for the supervision and management of all state instrumentalities and employees charged with (a) executing the State of Hawaii’s prison regulations and procedures; and (b)

monitoring out-of-state public and private correctional facilities where Hawaii state inmates are serving their sentences.

14. Defendant TED SAKAI, the Director of the State of Hawaii Department of Public Safety, is sued in her official capacity as the state official responsible for overseeing the implementation of Chapter 353 of the Hawaii Revised Statutes, and more particularly, H.R.S. § 353-16.2 which concerns the oversight of those committed persons from the State of Hawaii who have been transferred to out-of-state institutions pursuant to contract with the State of Hawaii, including, but not limited to all policies relating to those committed persons' freedom to practice their respective religions while in custody.

15. Unless otherwise specified in this Complaint, Defendants NEIL ABERCROMBIE, and TED SAKAI are collectively referred to as "Defendants STATE OF HAWAII."

16. As the primary legal custodian of those individuals incarcerated under its criminal statutes, Defendants STATE OF HAWAII must guarantee to those individuals the rights, privileges, or immunities secured by the Hawaii State Constitution, the United States Constitution and federal and state laws in a manner that is not inconsistent with their status as institutionalized persons, or with the legitimate penological objectives of the corrections system, including those State

of Hawaii committed persons who have been transferred to out-of-state institutions pursuant to contract with the State of Hawaii.

17. Defendant CCA is a private, for-profit corporation organized under the laws of the State of Tennessee. CCA manages and operates Saguaro and Red Rock Correctional Facilities (“SCF” and “RRCF,” respectively), which presently supervises and controls committed persons convicted and sentenced under Hawaii state laws pursuant to various contracts executed with the Defendants STATE OF HAWAII in exchange for substantial payments made by the State of Hawaii for this service.

18. Since at least 2002, Defendant CCA and the Defendants STATE OF HAWAII have been parties to various contracts executed in the State of Hawaii in which Defendant CCA accepted responsibility of supervising and controlling those individuals who have been convicted and sentenced under the criminal statutes of the State of Hawaii and have been involuntarily transferred by Defendants STATE OF HAWAII to CCA prison facilities in exchange for substantial payments made by the State of Hawaii.

19. Based upon previous contractual relations with the State of Hawaii and based upon its present contracts with the State of Hawaii, Defendant CCA has sufficient and material contacts with the State of Hawaii and has therefore

purposefully availed itself to the State pursuant to the State of Hawaii's long-arm jurisdiction.

20. Moreover, Plaintiffs' claims arise out of said contracts between the Defendants STATE OF HAWAII and Defendant CCA pursuant to the State of Hawaii's long-arm jurisdiction.

21. As the contractually authorized legal custodian of those individuals incarcerated under the laws of the State of Hawaii, Defendant CCA is charged with a task and function that is traditionally and fundamentally performed by the government and/or are sufficiently intertwined with the government to the extent that Defendants CCA and its employees at SCF and RRCF serve as instrumentalities of the Hawaii Department of Public Safety and are therefore state actors. Consequently, Defendant CCA and its employees of SCF and RRCF must guarantee to those individuals under its supervision and control the rights, privileges, or immunities secured by the Hawaii State Constitution, the United States Constitution and federal and state laws in a manner that is not inconsistent with their status as institutionalized persons, or with the legitimate penological objectives of the corrections system.



## CLASS ALLEGATIONS

22. Plaintiffs bring this action, on behalf of themselves and all other similarly situated persons, as a class action pursuant to Federal Rule of Civil Procedure 23.

23. The proposed Plaintiff Class is composed of and defined as:  
(a) all persons who were convicted of violating crimes under the laws of the state of Hawaii and were residents of the state of Hawaii; (b) and who have resided in or were confined to a CCA-operated facility at any time within two years prior to the filing of this Complaint until the resolution of this lawsuit; (c) and who declare that Native Hawaiian religion is their faith.

24. The proposed Segregation Subclass is composed of and defined as:  
(a) all persons residing in or confined to a CCA-operated facility at any time within two years prior to the filing of this complaint and until this lawsuit is resolved; (b) in segregation from the general population; and (c) who declare Native Hawaiian religion is their faith.

25. The proposed Plaintiff Class and Segregation Subclass consist of readily ascertainable persons who can be located using information in Defendants' records. Defendants require that Plaintiffs and class members declare their religious faith through a registration process established by the facility.

26. The potential quantity of members of the proposed classes as defined is so numerous that joinder of all members would be unfeasible and impractical.

Upon information and belief, there are approximately over one hundred and fifty members of the proposed Plaintiff Class. Upon information and belief, there are approximately thirty to fifty class members of the Segregation Subclass. As of November 2010, approximately 7% of the population at SCCF was registered as Native Hawaiian religious practitioners. As of November 2010, approximately 35% of the Hawaii inmates at RRCF registered was Native Hawaiian religious practitioners. The disposition of their claims through this class action will benefit both the parties and this Court.

27. Plaintiffs' claims are typical of all persons who were convicted of violating crimes in Hawaii and were residents of the state of Hawaii residing in or confined to a CCA-operated facility and who declare that Native Hawaiian religion is their faith. Plaintiffs' claims are also typical of persons residing in or confined to a CCA-operated facility, segregated from the general population, and who declare that their faith is Native Hawaiian religion. Plaintiffs' claims are typical of those in this class because Defendants failed to provide Plaintiff and those similarly situated with the right to practice Native Hawaiian religion as required by federal law.

28. Plaintiffs will fairly and adequately represent the class members and will vigorously pursue this suit. Plaintiff possesses the requisite personal interest in the subject matter of the lawsuit. The classes are represented by counsel

experienced in class action and civil rights litigation and in the statutory and constitutional provisions at issue in this case.

29. The nature of this action and the nature of the laws available to Plaintiff make use of the class action format a particularly efficient and appropriate procedure to afford relief to Plaintiff for the wrongs committed by Defendants.

30. Defendants have acted or refused to act on grounds generally applicable to all members of the class, making appropriate final declaratory and injunctive relief to the class as a whole.

31. There are common questions of law and fact as to the members of proposed Plaintiff Class and proposed Segregation Subclass which predominate over questions affecting only individual members of these classes. Questions of law and fact common to the class members in the classes include, but are not limited to, the following:

a) Whether Defendants' conduct deprived and/or deprives class members of rights guaranteed under RLUIPA;

b) Whether Defendants' conduct deprived and/or deprives class members of rights guaranteed by the United States Constitution and the Hawaii State Constitution;

c) Whether Plaintiffs and class members are entitled to the declaratory relief prayed for below;

- d) Whether Plaintiffs and class members are entitled to injunctive relief; and
- e) The nature of such injunctive and declaratory relief.

### **FACTUAL ALLEGATIONS**

32. Upon information and belief, the federal government provides financial assistance to Defendants STATE OF HAWAII which is responsible for administering corrections in Hawaii.

33. Upon information and belief, in or around 2002, the Defendants STATE OF HAWAII executed one or more contracts with CCA delegating its statutory authority to supervise and monitor the custody of certain individuals who were convicted of violating crimes under Hawaii state law and sentenced under the same at a privately-owned correctional facility located in Eloy, Arizona.

34. On information and belief, Native Hawaiians make up the highest percentage of people incarcerated in CCA-operated facilities.

35. A recent study by the Office of Hawaiian Affairs concluded that Native Hawaiians constitute 41% of all persons incarcerated in out-of-state facilities like Saguaro Correctional Center and Red Rock Correctional Center. Native Hawaiians constitute 39% of the imprisoned population, although they make up 24% of the general population of Hawaii.

36. Upon information and belief, in or around 2002, the Defendants STATE OF HAWAII executed one or more contracts with CCA delegating its statutory authority to supervise and monitor the custody of certain individuals who were convicted of violating crimes under Hawaii state law and sentenced under the same at a privately-owned correctional facility located in Eloy, Arizona.

37. Defendant CCA's execution of those previous and current contracts with the Defendants STATE OF HAWAII has established substantial contacts with the State of Hawaii and has purposefully availed itself to the State of Hawaii concerning its scope of responsibility of supervision of Plaintiffs at CCA facilities.

38. Plaintiff RICHARD KAPELA DAVIS ("DAVIS") was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2006, DAVIS was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to SCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA.

39. Plaintiff MICHAEL HUGHES ("HUGHES") was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2006, HUGHES was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the

STATE OF HAWAII to SCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA.

40. Plaintiff DAMIEN KAAHU (“KAAHU”) was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2006, KAAHU was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to SCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA.

41. Plaintiff KALAI K. POAHA (“POAHA”) was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2006, POAHA was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to SCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA.

42. Plaintiff ROBERT A. HOLBRON (“HOLBRON”) was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2006, HOLBRON was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to SCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA. Plaintiffs are informed and believe that

HOLBRON's security classification precludes him from the general population of inmates at SCF.

43. Plaintiff JAMES KANE III ("KANE") was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2007, KANE was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to RRCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA. Plaintiffs are informed and believe that KANE's security classification precludes him from the general population of inmates at SCF.

44. Plaintiff ELLINGTON KEAWE ("KEAWE") was convicted of violating crimes under Hawaii state law and sentenced under the same. In or around 2007, KEAWE was involuntarily transferred from a private prison owned and operated by CCA pursuant to previous governmental contracts with the STATE OF HAWAII to RRCF in Eloy, Arizona pursuant to various contracts with the STATE OF HAWAII and CCA. Plaintiffs are informed and believe that KEAWE's security classification precludes him from the general population of inmates at SCF.

45. Plaintiffs are Native Hawaiians whose religious and spiritual beliefs and practices originate in, and are interpreted from within the traditional Native Hawaiian culture and community.

46. A critical tenet of Native Hawaiian religion essential to the sincere expression of Plaintiffs' faith is to congregate out of doors on a daily basis, preferably at dawn, to pule (pray), oli (chant), hula (dance), and perform other specific religious protocol activities.

47. A critical tenet of Native Hawaiian religion essential to the expression of Plaintiffs' faith is to participate in certain religious rituals and ceremonies marking the beginning and end of the Makahiki season, a four month period dedicated to Lono, the Hawaiian god of agriculture, fertility and peace.

48. The Makahiki season is signaled by the rising of the Makali`i (Pleiades) Constellation in October-November of each year. The Makahiki season ends by the setting of Makali`i (Pleiades) Constellation in February-March of each year.

49. The ceremonies marking the beginning and end of Makahiki Season includes the following customary and traditional activities critical to the Native Hawaiian faith: a) a sunrise service; b) a two-hour session dressing the image of Lono, and preparing offerings and giving offerings, including chanting and dancing; c) a one-hour procession; d) a 30-minute opening prayer; e) a 1.5-hour session of traditional games; f) a two-hour session of chanting, prayer, and an awa ceremony; g) a three-hour ceremonial feast, food to be prepared by inmates serving the following ceremonial foods, ia ulaula (red fish), taro, sweet potato, pork,



breadfruit, coconut, banana and the awa drink. These activities should be performed outdoors by all practitioners, as well as attendance and presence of a *kahu* or other religious leaders.

50. A critical tenet of Native Hawaiian religion essential to the expression of Plaintiffs' faith is to have access to the following sacred items required for specific religious protocol activities: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

51. A critical tenet of Native Hawaiian religion essential to the expression of Plaintiffs' faith is to establish an out-of-doors altar composed of at least two spiritually significant stones as a focal point for specific religious protocol activities.

52. A critical tenet of Native Hawaiian religion essential to the expression of Plaintiffs' faith is to regularly meet with a respected *kahu* (religious) leader to assist in their worship activities.

53. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in SCF are allowed to exercise their religion by gathering together on a regular basis to pray, chant, and perform other activities that are essential to expressing their faith without unreasonable disturbance and/or intrusion from employees of SCF or other inmates.

54. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in RRCF are allowed to exercise their religion by gathering together on a regular basis to pray, chant, and perform other activities that are essential to expressing their faith without unreasonable disturbance and/or intrusion from employees of SCF or other inmates.

55. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in SCF are allowed to participate in religious ceremonies and rituals at specified times during the year that are integral to their faith and that express their religious and spiritual beliefs.

56. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in RRCF are allowed to participate in religious ceremonies and rituals at specified times during the year that are integral to their faith and that express their religious and spiritual beliefs.

57. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in SCF are allowed access to religious items that are integral to their faith and that express their religious and spiritual beliefs.

58. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in RRCF are allowed to access to religious items that are integral to their faith and that express their religious and spiritual beliefs.

59. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in SCF are allowed to access a worship space appropriate to their faith and that express their religious and spiritual beliefs.

60. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in RRCF are allowed to access a worship space appropriate to their faith and that express their religious and spiritual beliefs.

61. Plaintiffs are informed and believe that prisoners of other religions who are incarcerated in SCF have regular and frequent access to a spiritual advisor to assist them in practicing their respective faiths.

62. Plaintiffs are informed and believe that other prisoners of other religions who are incarcerated in RRCF have regular and frequent access to a spiritual advisor to assist them in practicing their respective faiths.

63. Plaintiffs are informed and believe that other prisoners of other religions who are precluded from the general population at SCF are allowed to

exercise their religion by regularly meeting with a spiritual advisor to assist in: a) regular worship activities; b) special worship activities for certain religiously significant holidays; and c) providing access to sacred worship items essential to expressing their faith.

64. Plaintiffs are informed and believe that the Defendant CCA provides regularly scheduled weekly educational classes on topics concerning Native Hawaiian culture, language and history at SCF.

65. Plaintiffs are informed and believe that the Warden and or other personnel at SCF authorizes only certain inmates to supervise, lead, control and teach those educational classes on topics concerning Native Hawaiian culture, language and history.

66. Plaintiffs are informed and believe that the Warden and or other personnel at SCF retain absolute discretion to modify, cancel and/or reschedule the weekly Native Hawaiian educational classes without notice.

67. Plaintiffs are informed and believe that the CCA does not provide any Hawaiian educational classes to inmates who are incarcerated at RRCF.

68. Plaintiffs are informed and believe that CCA provides only an arbitrarily selected group of Native Hawaiian religious practitioners who are incarcerated in facilities located at SCF to participate in a ceremony to observe the beginning and ending of the Makahiki Season with certain religious protocol and

the use of certain sacred items. Consequently, Plaintiffs are informed and believe that those Native Hawaiian religious practitioners who are arbitrarily denied in participating in the Makahiki Season ceremonies are relegated to only attend and observe those activities, if at all.

69. Plaintiffs are informed and believe that CCA does not provide any Native Hawaiian religious practitioners who are incarcerated in facilities located at RRCF to participate in a ceremony to observe the beginning and ending of the Makahiki Season.

70. Plaintiffs are informed and believe that SCF provides inmates who are Christian with the option of being housed in a separate area within SCF that allows them to: a) worship together on a daily basis; b) observe all important holidays with specific protocol; c) access religiously sacred items and educational materials required of their faith; d) access to a spiritually significant space for worship activities; and e) meet regularly with a spiritual teacher/leader to assist in their worship.

71. In or around July 2009, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA each submitted an inmate request form, in accordance with CCA's administrative procedure, requesting to be allowed to gather daily with fellow Native Hawaiian inmates in observance of the Native Hawaiian Religion.

Plaintiffs requested that these gatherings occur at an outdoor location during sunrise, last approximately 30 minutes, and include chanting, dancing and prayer.

72. In or around July 2009, HOLBRON submitted an inmate request form, in accordance with CCA's administrative procedure, requesting to be allowed to meet with a spiritual advisor ("*kahu*") to chant, dance and pray in observance of the Native Hawaiian Religion.

73. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's request for daily gatherings. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA then filed timely a formal grievance form seeking reconsideration of the denial.

74. In or around August 2009, employees at SCF denied HOLBRON's request for gatherings with a spiritual advisor. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

75. In or around August 2009, employees at SCF denied DAVIS, HUGHES and KAAHU's grievance concerning the denial of their request for daily gatherings. Pursuant to CCA's administrative procedure, DAVIS, HUGHES and KAAHU then filed a timely appeal seeking reconsideration of the denial.

76. In or around August 2009, employees at SCF denied HOLBRON's grievance concerning the denial of meeting with a spiritual leader for gatherings.

Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

77. In or around August 2009, the Warden of SCF denied DAVIS, HUGHES, KAAHU and POAHA's appeal concerning the denial of their request for daily gatherings. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA have now administratively exhausted this claim.

78. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's request to gather with other practitioners to meet on a daily basis to dance, chant and pray prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS, HUGHES, KAAHU and POAHA's specific request to meet on a daily basis to pray, chant and dance with other Native Hawaiian practitioners.

79. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's specific request to meet on a daily basis to pray, chant and dance with other Native Hawaiian practitioners was not the least restrictive means of furthering a compelling government interest.

80. From approximately January to November 2010, SCF restricted DAVIS, HUGHES and KAAHU from attending any of its Native Hawaiian cultural educational classes, apparently due to their prior lack of regular attendance.

81. As of November 2010, however, SCF allowed DAVIS, HUGHES and KAAHU to attend its Native Hawaiian cultural educational classes.

82. KAAHU, however, cannot attend any of the Native Hawaiian cultural education classes because he is a participant in the “R-DAP” substance abuse program, recommended by the parole board to assist in his early release. The R-DAP meetings conflict with the Native Hawaiian cultural education classes, and administer sanctions and penalties against KAAHU for attending the Native Hawaiian cultural education classes instead of the R-DAP meetings.

83. From approximately August 2009 to present, POAHA attends SCF’s Hawaiian cultural educational classes, but these classes did not address his need to congregate with other Native Hawaiian practitioners to pray, chant and dance.

84. In or around August 2009, the Warden of SCF denied HOLBRON’s appeal concerning the denial of his request to meet with a *kahu* to practice his Native Hawaiian faith with dance, chanting and prayer

85. Defendants’ denial of HOLBRON’s request to meet with a *kahu* to dance, chant and pray prevented him from engaging in conduct that is important to



him and motivated by sincere religious belief, and thereby puts substantial pressure on him to modify his behavior and to violate his beliefs. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying HOLBRON's specific request to meet with a *kahu* on a daily basis to pray, chant and dance.

86. Defendants' denial of HOLBRON's specific request to meet with a *kahu* on a daily basis to pray, chant and dance was not the least restrictive means of furthering a compelling government interest.

87. In or around August 2009, employees at RRCF denied KANE and KEAWE's request for daily gatherings. Pursuant to CCA's administrative procedure, KANE then filed timely a formal grievance form seeking reconsideration of the denial.

88. In or around August 2009, employees at RRCF denied KANE and KEAWE's grievance concerning the denial of their request for daily gatherings. Pursuant to CCA's administrative procedure, KANE then filed a timely appeal seeking reconsideration of the denial.

89. In or around August 2009, the Warden of RRCF denied KANE's appeal concerning the denial of their request for daily gatherings. Pursuant to CCA's administrative procedure, KANE and KEAWE have now administratively exhausted this claim.

90. Defendants' denial of KANE and KEAWE's request to gather with other practitioners to meet on a daily basis to dance, chant and pray prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

91. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KEAWE and KANE's specific request to meet on a daily basis to pray, chant and dance with other Native Hawaiian practitioners.

92. Defendants' denial of KEAWE and KANE's specific request to meet on a daily basis to pray, chant and dance with other Native Hawaiian practitioners was not the least restrictive means of furthering a compelling government interest.

93. In or around July 2009 DAVIS, HUGHES, KAAHU, KANE and POAHA each submitted an inmate request form requesting to be allowed to celebrate the opening and closing days of the 2009-10 Makahiki Season.

94. With respect to the Makahiki requests as described above, DAVIS, HUGHES, KAAHU, KANE and POAHA requested permission to perform certain religious rituals and ceremonies that included the following activities: a) two-hour preparation session on the day before; b) a sunrise service; c) a two-hour session dressing the image of Lono, and preparing offerings and giving offerings,

including chanting and dancing; d) a one-hour procession; e) a 30-minute opening prayer; f) a 1.5-hour session of traditional games; g) a two-hour session of chanting, prayer, and an awa ceremony; h) a 30-minute clean up session; i) a three-hour ceremonial feast, food to be prepared by inmates serving the following ceremonial foods, ia ulaula (red fish), taro, sweet potato, pork, breadfruit, coconut, banana and the awa drink. They requested access to the outdoors for all the above activities, as well as attendance and presences of a kahu or other religious leaders.

95. In or around July 2009 HOLBRON submitted an inmate request form requesting to be allowed to meet with a spiritual advisor to assist in celebrating the opening and closing of the 2009-10 Makahiki Season with activities commensurate with his security level.

96. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA then filed timely a formal grievance form seeking reconsideration of the denial.

97. In or around August 2009, employees at SCF denied HOLBRON's request to meet with a spiritual advisor to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

98. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's grievance concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA then filed a timely appeal seeking reconsideration of the denial.

99. In or around August 2009, employees at SCF denied HOLBRON's grievance concerning the denial of meeting with a spiritual leader to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

100. In or around August 2009, the Warden of SCF denied DAVIS, HUGHES, KAAHU and POAHA's appeal concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA have now administratively exhausted this claim.

101. In or around August 2009, the Warden of SCF denied HOLBRON's appeal concerning the denial of his request to meet with a spiritual leader to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON has now administratively exhausted this claim.

102. In or around November 2009, the Defendants authorized inmates in the general population of the Saguaro Correctional Facility the opportunity to participate in a ceremony purportedly recognizing the opening of the 2009-10

Makahiki Season, but banned Plaintiffs DAVIS, HUGHES and KAAHU from attending.

103. In or around November 2009, some inmates in the general population of the Saguaro Correctional Facility participated in a ceremony purportedly recognizing the opening of the 2009-10 Makahiki Season, but this ceremony failed to include all of the specific religious protocol activities previously requested by Plaintiffs DAVIS, HUGHES, KAAHU and POAHA.

104. Upon information and belief, in or around February 2010, the Defendants authorized inmates in the general population of the Saguaro Correctional Facility to participate in a ceremony purportedly recognizing the closing of the 2009-10 Makahiki Season, but banned Plaintiffs DAVIS, HUGHES and KAAHU from attending.

105. In or around February 2010, some inmates in the general population of the Saguaro Correctional Facility participated in a ceremony purportedly recognizing the closing of the 2009-10 Makahiki Season, but the ceremony did not include all of the specific religious protocol activities previously requested by Plaintiffs DAVIS, HUGHES, KAAHU and POAHA.

106. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's request to observe the opening and closing days of the 2009-2010 Makahiki Season as requested prevented them from engaging in conduct that is important to

them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

107. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS, HUGHES, KAAHU and POAHA's specific request to observe the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol.

108. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's specific request to observe the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

109. Defendants' denial of HOLBRON's request to observe the 2009-2010 Makahiki Season with a *kahu* prevented him from engaging in conduct that is important to him and motivated by sincere religious belief, and thereby puts substantial pressure on him to modify his behavior and to violate his beliefs. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying HOLBRON's specific request to meet with a *kahu* to celebrate the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol.

110. Defendants' denial of HOLBRON's specific request to meet with a *kahu* to observe the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

111. In or around August 2009, employees at RRCF denied KANE's request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KANE then filed timely a formal grievance form seeking reconsideration of the denial.

112. In or around August 2009, employees at RRCF denied KANE's grievance concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KANE then filed a timely appeal seeking reconsideration of the denial.

113. In or around August 2009, the Warden of RRCF denied KANE's appeal concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KANE has now administratively exhausted this claim.

114. Defendants' denial of KANE and KEAWE's request to observe the 2009-2010 Makahiki Season prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts

substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

115. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KANE and KEAWE's specific request to observe the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol.

116. Defendants' denial of KANE and KEAWE's specific request to observe the opening and closing days of the 2009-2010 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

117. In or around July 2009, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA each submitted an inmate request form requesting access to religiously significant objects for daily use and for use during the Makahiki celebration.

118. Specifically, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA sought access to: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), ti shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke*



(percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

119. In or around July 2009 HOLBRON submitted an inmate request form requesting to be allowed to meet with a spiritual advisor to assist him in using the following sacred items to practice his faith: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

120. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's request for access to those sacred items described above. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA then filed timely a formal grievance form seeking reconsideration of the denial. In or around August 2009, employees at SCF denied HOLBRON's request to meet with a spiritual advisor to access those sacred items

described above. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

121. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's grievance concerning the denial of access to those sacred items. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA then filed a timely appeal seeking reconsideration of the denial.

122. In or around August 2009, employees at SCF denied HOLBRON's grievance concerning the denial of meeting with a spiritual leader to access those sacred items. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

123. In or around August 2009, the Warden of SCF denied DAVIS, HUGHES, KAAHU and POAHA's appeal concerning the denial of their request to access those sacred items. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU and POAHA have now administratively exhausted this claim.

124. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's request to access those sacred items described above, prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

125. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS, HUGHES, KAAHU and POAHA's specific request to access those sacred items described above.

126. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's specific request to access those sacred items described above was not the least restrictive means of furthering a compelling government interest.

127. In or around August 2009, the Warden of SCF denied HOLBRON's appeal concerning the denial of his request to meet with a spiritual leader to access those sacred items described above. Pursuant to CCA's administrative procedure, HOLBRON has now administratively exhausted this claim.

128. Defendants' denial of HOLBRON's request to access those sacred items with the assistance of a *kahu* prevented him from engaging in conduct that is important to him and motivated by sincere religious belief, and thereby puts substantial pressure on him to modify his behavior and to violate his beliefs.

129. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying HOLBRON's specific request to meet with a *kahu* to access those sacred items described above.

130. Defendants' denial of HOLBRON's specific request to meet with a *kahu* to access those sacred items described above was not the least restrictive means of furthering a compelling government interest.

131. In or around August 2009, employees at RRCF denied KANE's request to access those sacred items. Pursuant to CCA's administrative procedure, KANE then filed timely a formal grievance form seeking reconsideration of the denial.

132. In or around August 2009, employees at RRCF denied KANE's grievance concerning the denial of his request to access those sacred items. Pursuant to CCA's administrative procedure, KANE then filed a timely appeal seeking reconsideration of the denial.

133. In or around August 2009, the Warden of RRCF denied KANE's appeal concerning the denial of his request to access those sacred items. Pursuant to CCA's administrative procedure, KANE has now administratively exhausted this claim.

134. Defendants' denial of KANE's request to access those sacred items prevented him from engaging in conduct that is important to him and motivated by sincere religious belief, and thereby puts substantial pressure on him to modify his behavior and to violate his beliefs.

135. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KANE's specific request to access those sacred items described above.

136. Defendants' denial of KANE's specific request to access those sacred items described above was not the least restrictive means of furthering a compelling government interest.

137. In or around July 2009, DAVIS HUGHES, KAAHU, KANE and POAHA each submitted an inmate request form requesting authorization to prepare a sacred space in their respective prison yards with at least two spiritually significant stones to serve as a focal point for their worship activities.

138. In or around August 2009, employees at SCF denied DAVIS, HUGHES, KAAHU and POAHA's request for authorization to prepare a sacred space for their worship activities at SCF. Pursuant to CCA's administrative procedure, DAVIS, HUGHES and KAAHU then filed timely a formal grievance form seeking reconsideration of the denial.

139. In or around August 2009, employees at SCF denied DAVIS, HUGHES and KAAHU's grievance concerning the denial of their request to prepare a sacred space at SCF. Pursuant to CCA's administrative procedure, DAVIS, HUGHES and KAAHU then filed a timely appeal seeking reconsideration of the denial.

140. In or around August 2009, the Warden of SCF denied DAVIS, HUGHES and KAAHU's appeal concerning the denial of their request to prepare a

sacred space at SCF. Pursuant to CCA's administrative procedure, DAVIS, HUGHES and KAAHU have now administratively exhausted this claim.

141. Defendants' denial of DAVIS, HUGHES, KAAHU and POAHA's request to establish a sacred space outside prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

142. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS HUGHES, KAAHU and POAHA's specific request to establish a sacred space outside, as described above.

143. Defendants' denial of DAVIS, HUGHES and KAAHU's specific request to establish a sacred space outside, as described above was not the least restrictive means of furthering a compelling government interest.

144. In or around August 2009, employees at RRCF denied KANE and KEAWE's request for authorization to prepare a sacred space for their worship activities at RRCF. Pursuant to CCA's administrative procedure, KANE and KEAWE then filed timely a formal grievance form seeking reconsideration of the denial.

145. In or around August 2009, employees at RRCF denied KANE's grievance concerning the denial of his request to prepare a sacred space at RRCF. Pursuant to CCA's administrative procedure, KANE and KEAWE then filed a timely appeal seeking reconsideration of the denial.

146. In or around August 2009, the Warden of RRCF denied KANE and KEAWE's appeal concerning the denial of their request to prepare a sacred space at RRCF. Pursuant to CCA's administrative procedure, KANE and KEAWE have now administratively exhausted this claim.

147. Defendants' denial of KANE and KEAWE's request to establish a sacred space outside prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

148. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KANE and KEAWE's specific request to establish a sacred space outside, as described above.

149. Defendants' denial of KANE and KEAWE's specific request to establish a sacred space outside, as described above was not the least restrictive means of furthering a compelling government interest.

150. In or around July 2009, DAVIS, HUGHES, KAAHU, HOLBRON, KANE, KEAWE and POAHA each submitted an inmate request form requesting authorization to meet regularly with a *kahu*.

151. In or around August 2009, employees at SCF denied DAVIS, HUGHES KAAHU, HOLBRON and POAHA's request to meet regularly with a *kahu*. Pursuant to CCA's administrative procedure, DAVIS, HUGHES KAAHU, HOLBRON and POAHA then filed timely a formal grievance form seeking reconsideration of the denial.

152. In or around August 2009, employees at SCF denied DAVIS, HUGHES KAAHU, HOLBRON and POAHA's grievance concerning the denial of their request to meet regularly with a *kahu*. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU, HOLBRON and POAHA then filed a timely appeal seeking reconsideration of the denial.

153. In or around August 2009, the Warden of SCF denied DAVIS, HUGHES KAAHU, HOLBRON and POAHA's appeal concerning the denial of their request to meet regularly with a *kahu*. Pursuant to CCA's administrative procedure, DAVIS, HUGHES, KAAHU, HOLBRON and POAHA have now administratively exhausted this claim.

154. Defendants' denial of DAVIS, HUGHES, KAAHU, HOLBRON and POAHA's request to regularly meet with a *kahu* prevented them from engaging in



conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

155. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS, HUGHES KAAHU, HOLBRON and POAHA's specific request to regularly meet with a *kahu*.

156. Defendants' denial of DAVIS, HUGHES KAAHU, HOLBRON and POAHA's specific request to regularly meet with a *kahu*, was not the least restrictive means of furthering a compelling government interest.

157. In or around August 2009, employees at RRCF denied KANE and KEAWE's request to meet regularly with a *kahu*. Pursuant to CCA's administrative procedure, KANE and KEAWE then filed timely a formal grievance form seeking reconsideration of the denial.

158. In or around August 2009, employees at RRCF denied KANE and KEAWE's grievance concerning the denial of their request to meet regularly with a *kahu*. Pursuant to CCA's administrative procedure, KANE and KEAWE then filed a timely appeal seeking reconsideration of the denial.

159. In or around August 2009, the Warden of RRCF denied KANE and KEAWE's appeal concerning the denial of their request to meet regularly with a

*kahu*. Pursuant to CCA's administrative procedure, KANE and KEAWE have now administratively exhausted this claim.

160. Defendants' denial KANE and KEAWE's request to regularly meet with a *kahu* prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

161. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KANE and KEAWE's specific request to regularly meet with a *kahu*.

162. Defendants' denial of KANE and KEAWE's specific request to regularly meet with a *kahu*, was not the least restrictive means of furthering a compelling government interest.

163. In or around July 2010 DAVIS, HUGHES, and KEAWE each submitted an inmate request form requesting to be allowed to celebrate the opening and closing days of the 2010-11 Makahiki Season.

164. With respect to the Makahiki requests as described above, DAVIS, HUGHES, and KEAWE requested permission to perform certain religious rituals and ceremonies that included the following activities: a) two-hour preparation session on the day before; b) a sunrise service; c) a two-hour session dressing the image of Lono, and preparing offerings and giving offerings, including chanting

and dancing; d) a one-hour procession; e) a 30-minute opening prayer; f) a 1.5-hour session of traditional games; g) a two-hour session of chanting, prayer, and an awa ceremony; h) a 30-minute clean up session; i) a three-hour ceremonial feast, food to be prepared by inmates serving the following ceremonial foods, ia ulaula (red fish), taro, sweet potato, pork, breadfruit, coconut, banana and the awa drink. They requested access to the outdoors for all the above activities, as well as attendance and presences of a kahu or other religious leaders.

165. In or around July 2010, HOLBRON submitted an inmate request form requesting to be allowed to meet with a spiritual advisor to assist in celebrating the opening and closing days of the 2010-11 Makahiki Season with activities commensurate with his security level.

166. In or around August 2010, employees at SCF denied DAVIS and HUGHES's request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS and HUGHES then filed timely a formal grievance form seeking reconsideration of the denial.

167. In or around August 2010, employees at SCF denied HOLBRON's request to meet with a spiritual advisor to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

168. In or around August 2010, employees at SCF denied DAVIS and HUGHES's grievance concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS and HUGHES then filed a timely appeal seeking reconsideration of the denial.

169. In or around August 2010, employees at SCF denied HOLBRON's grievance concerning the denial of meeting with a spiritual leader to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON then filed timely a formal grievance form seeking reconsideration of the denial.

170. In or around August 2010, the Warden of SCF denied DAVIS and HUGHES's appeal concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, DAVIS, and HUGHES have now administratively exhausted this claim.

171. In or around August 2010, the Warden of SCF denied HOLBRON's appeal concerning the denial of his request to meet with a spiritual leader to celebrate Makahiki. Pursuant to CCA's administrative procedure, HOLBRON has now administratively exhausted this claim.

172. Defendants' denial of HOLBRON's request to observe the 2010-2011 Makahiki Season with a *kahu* prevented him from engaging in conduct that is important to him and motivated by sincere religious belief, and thereby puts substantial pressure on him to modify his behavior and to violate his beliefs.

173. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying HOLBRON's specific request to meet with a *kahu* to celebrate the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol.

174. Defendants' denial of HOLBRON's specific request to meet with a *kahu* to observe the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

175. In or around November 2010, the Defendants authorized inmates in the general population of the Saguaro Correctional Facility the opportunity to participate in a ceremony purportedly recognizing the opening of the 2010-2011 Makahiki Season.

176. In or around November 2010, the Defendants authorized Plaintiffs DAVIS, HUGHES and KAAHU to attend a ceremony purportedly recognizing the opening of the 2010-11 Makahiki Season, but banned them from actively participating in the ceremony and/or engaging in any of the religious activities they had previously requested.

177. In or around November 2010, some inmates in the general population of the Saguaro Correctional Facility participated in a ceremony purportedly recognizing the opening of the 2010-11 Makahiki Season, but the ceremony did

not include all of the specific religious protocol activities previously requested by Plaintiffs DAVIS, HUGHES and KAAHU.

178. In or around November 2010, Plaintiffs DAVIS, HUGHES and KAAHU attended a ceremony recognizing the opening of the 2010-11 Makahiki Season, but Defendants banned them from actively participating in the ceremony and/or engaging in any of the religious activities they had previously requested.

179. Upon information and belief, in or around December 2010, the Defendants authorized inmates in the general population of the Saguaro Correctional Facility the opportunity to participate in a ceremony purportedly recognizing the closing of the 2010-2011 Makahiki Season.

180. In or around December 2010, the Defendants authorized Plaintiffs DAVIS, HUGHES and KAAHU to attend a ceremony purportedly recognizing the closing of the 2010-11 Makahiki Season, but banned them from actively participating in the ceremony and/or engaging in any of the religious activities they had previously requested.

181. On or about January 25, 2011, some inmates in the general population of the Saguaro Correctional Facility participated in a ceremony purportedly recognizing the closing of the 2010-11 Makahiki Season, but scheduled the ceremony approximately six weeks earlier than the setting of the Makali`i

(Pleiades) Constellation and failed to include all of the specific religious protocol activities as previously requested by Plaintiffs DAVIS, HUGHES and KAAHU.

182. On or about January 25, 2010, Plaintiff KAAHU attended a ceremony recognizing the closing of the 2010-11 Makahiki Season, but he was not permitted to participate in any religious protocol activities as they had previously requested.

183. Defendants' denial of DAVIS, HUGHES, and KAAHU's request to observe the opening and closing of the 2010-2011 Makahiki Season with specific religious protocol prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

184. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying DAVIS, HUGHES and KAAHU's specific request to observe the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol.

185. Defendants' denial of DAVIS, HUGHES and KAAHU's specific request to observe the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

186. In or around August 2010, employees at RRCF denied KEAWE's request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KEAWE then filed timely a formal grievance form seeking reconsideration of the denial.

187. In or around August 2010, employees at RRCF denied KEAWE's grievance concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KEAWE then filed a timely appeal seeking reconsideration of the denial.

188. In or around August 2010, the Warden of RRCF denied KEAWE's appeal concerning the denial of their request to celebrate Makahiki. Pursuant to CCA's administrative procedure, KEAWE has now administratively exhausted this claim.

189. Defendants' denial of KEAWE and KANE's request to observe the 2010-2011 Makahiki Season prevented them from engaging in conduct that is important to them and motivated by sincere religious belief, and thereby puts substantial pressure on them to modify their respective behavior and to violate their respective beliefs.

190. Upon information and belief, Defendants failed to consider the efficacy of less restrictive measures before denying KANE and KEAWE's specific



request to observe the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol.

191. Defendants' denial of KANE and KEAWE's specific request to observe the opening and closing days of the 2010-2011 Makahiki Season with specific religious protocol was not the least restrictive means of furthering a compelling government interest.

192. On information and belief, Plaintiffs have exhausted all of the administrative remedies required by all of Defendants in relation to their request to practice and express their religion and perform other activities that are essential to expressing their religious belief and faith.

### **CLAIMS FOR RELIEF**

#### **VIOLATION OF FIRST AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION RELATING TO FREE EXERCISE OF RELIGION**

193. Plaintiffs re-allege paragraphs 1 through 192, and incorporate them herein by reference.

194. The Free Exercise Clause of the First Amendment to the U.S. Constitution provides that "Congress shall make no law . . . prohibiting the free exercise [of religion]."

195. 42 U.S.C. § 1983 provides in relevant part: "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or

Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . .”

196. The Free Exercise Clause of the First Amendment is applied to the Defendants STATE OF HAWAII through the Fourteenth Amendment of the U.S. Constitution as state actors.

197. The Free Exercise Clause of the First Amendment applies to Defendant CCA, through the Fourteenth Amendment to the U.S. Constitution because its task of supervising and controlling State of Hawaii inmates is a task that is traditionally and fundamentally performed by the government, and thus is state actor.

### **COUNT I: AS TO DAILY WORSHIP VIOLATIONS**

198. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize when inmates of a certain religion can congregate for group worship.

199. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that refuses Native Hawaiian Practitioners from meeting with each other on a daily basis for group worship.

200. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that refuses Native Hawaiian Practitioners from meeting with each other on a daily basis for group worship.

201. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to meet with other Native Hawaiian practitioners on a daily basis for group worship in violation of the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

202. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA from meeting with other Native Hawaiian practitioners on a daily basis for group worship in violation of the Free Exercise

Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

203. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

204. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize when administrative segregation inmates of a certain religion can meet with a spiritual advisor on a regular basis.

205. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from regularly meeting with a spiritual advisor on a regular basis.

206. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor on a regular basis for worship activities in violation of the Free Exercise Clause of the First Amendment to the U.S. Constitution because said

policies and procedures are not reasonably related to legitimate penological interests.

207. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor on a regular basis for worship activities in violation of the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

208. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

209. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

## **COUNT II: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

210. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize whether inmates of a certain religion can observe important religious days with certain protocol.

211. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows only some Native Hawaiian Practitioners to observe the opening and closing days of Makahiki Season with certain religious protocol.

212. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice refusing all Native Hawaiian Practitioners from observing the opening and closing days of Makahiki Season with certain religious protocol.

213. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to observe the opening and closing days of the Makahiki Season violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

214. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA from observing the opening and closing days of the Makahiki Season violates the Free Exercise Clause of the First

Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

215. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

216. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs that permits its contractor, Defendant CCA to authorize whether administrative segregation inmates of a certain religion can meet with a spiritual advisor to observe important religious days with specific protocol.

217. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from meeting with a spiritual advisor to observe the opening and closing of Makahiki with specific protocol.

218. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to observe important religious days with specific protocol

violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

219. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to observe the opening and closing of Makahiki with specific protocol violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

220. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

221. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

### **COUNT III: AS TO ACCESS TO SACRED ITEMS VIOLATIONS**

222. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to



authorize whether inmates can access sacred items critical to the worship of their faith.

223. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners access to the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

224. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from access to the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or

painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

225. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's access the above listed sacred items violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

226. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to access the above listed sacred items violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

227. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

228. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent

widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs that permits its contractor, Defendant CCA to authorize whether administrative segregation inmates of a certain religion can meet with a spiritual advisor to utilize certain sacred objects critical to the worship of their faith.

229. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from meeting with a spiritual advisor to assist in the use of *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

230. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to access those sacred items violates the Free Exercise

Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

231. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to access those sacred items violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

232. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

233. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

#### **COUNT IV: AS TO ACCESS TO SACRED SPACE VIOLATIONS**

234. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize a sacred space for inmates to engage in religious worship activities.

235. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from establishing a sacred outdoor space with at least two spiritually significant stones for group worship.

236. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from establishing a sacred outdoor space with at least two spiritually significant stones for group worship.

237. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish a sacred outdoor space with at least two spiritually significant stones for group worship violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

238. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish a sacred outdoor space violates the Free Exercise Clause of the First Amendment to the U.S.

Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

239. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

240. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT V: AS TO ACCESS TO SPIRITUAL ADVISOR VIOLATIONS**

241. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize inmates to meet with a spiritual advisor on a regular basis.

242. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from meeting with a spiritual advisor on a regular basis.

243. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from to meet with a spiritual advisor on a regular basis.

244. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual advisor on a regular basis violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

245. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual advisor on a regular basis violates the Free Exercise Clause of the First Amendment to the U.S. Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

246. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

247. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**VIOLATION OF EQUAL PROTECTION CLAUSE OF THE  
FOURTEENTH AMENDMENT TO THE UNITED STATES  
CONSTITUTION**

248. Plaintiffs re-allege paragraphs 1 through 192, and incorporate them herein by reference.

249. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution provides that no State shall "deny to any person within its jurisdiction, the equal protection of the laws."

250. 42 U.S.C. § 1983 provides in relevant part: "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . ."

251. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution is applied to the Defendants STATE OF HAWAII through the Fourteenth Amendment of the U.S. Constitution as state actors.



252. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution applies to Defendant CCA, because its task of supervising and controlling State of Hawaii inmates is a task that is traditionally and fundamentally performed by the government, and thus is state actor.

**COUNT VI: AS TO DAILY WORSHIP VIOLATIONS**

253. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and give preference of those faiths over Plaintiffs' religion.

254. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and gives preference of those faiths over Plaintiffs' religion.

255. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and give preference of those faiths over Plaintiffs' religion.

256. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to congregate on a daily basis at either the Saguaro or Red Rock Correctional Centers for Native Hawaiian religious services, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet on a daily basis for group worship has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

257. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to congregate on a daily basis at either the Saguaro or Red Rock Correctional Centers for Native Hawaiian religious services, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet on a daily basis for group worship has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

258. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

259. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT VII: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

260. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

261. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and give preference of those faiths over Plaintiffs' religion.

262. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

263. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to actively participate in the opening and closing days of the Makahiki season with specific religious protocol, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to observe their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

264. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE and KEAWE's request to actively participate in the opening and closing days of the Makahiki season with specific religious protocol, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to observe their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

265. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE and KEAWE have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

266. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to assist in observing important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

267. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to assist in the observance of important holidays with specific religious protocol, and thus advances and give preference of those faiths over Plaintiffs' religion.

268. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing HOLBRON's

request to meet with a spiritual leader to observe the opening and closing days of the Makahiki season with specific religious protocol, while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to assist in observing their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

269. Consequently, Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to observe the opening and closing days of the Makahiki season with specific religious protocol, while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to assist in observing their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

270. As a consequence of the above violation, HOLBRON have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

271. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT VIII: AS TO ACCESS TO SACRED ITEMS VIOLATIONS**

272. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

273. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

274. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

275. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request access *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to access their respective sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

276. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to access *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt),



*apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to access their respective sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

277. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

278. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to access important sacred items for

worship, and thus advances and gives preference of those faiths over Plaintiffs' religion.

279. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to access important sacred items for worship, and thus advances and give preference of those faiths over Plaintiffs' religion.

280. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to access the following items of worship *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to access their

sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S.

Constitution.

281. Consequently, Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to access the following items of worship *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leaves, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to access their sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S.

Constitution.

282. As a consequence of the above violation, HOLBRON have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

283. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT IX: AS TO ACCESS TO SACRED SPACE VIOLATIONS**

284. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to consecrate a special area for their worship, and thus advances and gives preference of those faiths over Plaintiffs' religion.

285. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to consecrate a special area for their worship, and thus advances and give preference of those faiths over Plaintiffs' religion.

286. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions to consecrate a special area for their worship and thus advances and give preference of those faiths over Plaintiffs' religion.

287. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish an area out of doors with two spiritually significant stones for their worship activities, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to consecrate a special area for their worship has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

288. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish an area out of doors with two spiritually significant stones for their worship activities, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to consecrate a special area for their worship has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

289. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

290. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT X: AS TO ACCESS TO SPIRITUAL ADVISOR VIOLATIONS**

291. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and gives preference of those faiths over Plaintiffs' religion.

292. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and give preference of those faiths over Plaintiffs' religion.

293. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and give preference of those faiths over Plaintiffs' religion.

294. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual leader on a regular basis, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leaders on a regular basis has denied Plaintiffs the equal protection of the laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

295. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual leader on a regular basis, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leaders on a regular basis has denied Plaintiffs the equal protection of the

laws as guaranteed by the Equal Protection Clause of the Fourteenth Amendments to the U.S. Constitution.

296. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

297. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**VIOLATIONS OF ARTICLE I, SECTION 4 OF THE HAWAII STATE CONSTITUTION RELATING TO FREE EXERCISE OF RELIGION**

298. Plaintiffs re-allege paragraphs 1 through 192, and incorporate them herein by reference.

299. Article I, Section 4 of the Hawaii State Constitution provides that “[n]o law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof.. .”

300. The Free Exercise Clause of the Hawaii State Constitution applies to the Defendants STATE OF HAWAII because they are state actors.

301. The Free Exercise Clause of the Hawaii State Constitution applies to Defendant CCA because it is the contractually authorized legal custodian of those individuals incarcerated under the laws of the State of Hawaii, and charged with a



task and function that is traditionally and fundamentally performed by the government and/or are sufficiently intertwined with the government to the extent that Defendants CCA and its employees at SCF and RRCF are state actors.

**COUNT XI: AS TO DAILY WORSHIP VIOLATIONS**

302. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize when inmates of a certain religion can congregate for group worship.

303. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that refuses Native Hawaiian Practitioners from meeting with each other on a daily basis for group worship.

304. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that refuses Native Hawaiian Practitioners from meeting with each other on a daily basis for group worship.

305. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to meet with other Native Hawaiian practitioners on a daily basis for group worship in violation of Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

306. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA from meeting with other Native Hawaiian practitioners on a daily basis for group worship in violation of Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

307. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

308. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize when administrative segregation inmates of a certain religion can meet with a spiritual advisor on a regular basis.

309. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from regularly meeting with a spiritual advisor on a regular basis.

310. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor on a regular basis for worship activities in violation of Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

311. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor on a regular basis for worship activities in violation of Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

312. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

313. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XII: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

314. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize whether inmates of a certain religion can observe important religious days with certain protocol.

315. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows only some Native Hawaiian Practitioners to observe the opening and closing days of Makahiki Season with certain religious protocol.

316. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice refusing all Native Hawaiian Practitioners from observing the opening and closing days of Makahiki Season with certain religious protocol.

317. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to observe the opening and closing days of the Makahiki Season violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

318. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA from observing the opening and closing days of the Makahiki Season violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

319. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

320. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs that permits its contractor, Defendant CCA to authorize whether administrative segregation inmates of a certain religion can meet with a spiritual advisor to observe important religious days with specific protocol.

321. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from meeting with a spiritual advisor to observe the opening and closing of Makahiki with specific protocol.

322. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to observe important religious days with specific protocol violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

323. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to observe the opening and closing of Makahiki with specific protocol violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

324. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

325. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XIII: AS TO ACCESS TO SACRED ITEMS VIOLATIONS**

326. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize whether inmates can access sacred items critical to the worship of their faith.

327. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners access to the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee

drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

328. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from access to the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

329. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's access the above listed sacred items violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.



330. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA to access the above listed sacred items Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

331. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

332. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs that permits its contractor, Defendant CCA to authorize whether administrative segregation inmates of a certain religion can meet with a spiritual advisor to utilize certain sacred objects critical to the worship of their faith.

333. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice refusing Native Hawaiian Practitioners who are in administrative segregation from meeting with a spiritual advisor to assist in the use of *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell

bowl), ti shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers).

334. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to access those sacred items Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

335. Consequently, Defendant CCA's policy of refusing HOLBRON from meeting with a spiritual advisor to access those sacred items Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

336. As a consequence of the above violation, HOLBRON has suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

337. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XIV: AS TO ACCESS TO SACRED SPACE VIOLATIONS**

338. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize a sacred space for inmates to engage in religious worship activities.

339. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from establishing a sacred outdoor space with at least two spiritually significant stones for group worship.

340. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from establishing a sacred outdoor space with at least two spiritually significant stones for group worship.

341. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish a sacred outdoor space with at least two spiritually significant stones for group worship Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

342. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish a sacred outdoor space violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

343. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

344. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XV: AS TO ACCESS TO SPIRITUAL ADVISOR VIOLATIONS**

345. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent

widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize inmates to meet with a spiritual advisor on a regular basis.

346. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from meeting with a spiritual advisor on a regular basis.

347. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that prevents Native Hawaiian Practitioners from to meet with a spiritual advisor on a regular basis.

348. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual advisor on a regular basis violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

349. Consequently, Defendant CCA's refusal of DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual advisor on a regular basis violates Article I, Section 4 of the Hawaii State Constitution because said policies and procedures are not reasonably related to legitimate penological interests.

350. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

351. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**VIOLATION OF ARTICLE I, SECTION 5 OF THE HAWAII STATE  
CONSTITUTION RELATING TO EQUAL PROTECTION**

352. Plaintiffs re-allege paragraphs 1 through 192, and incorporate them herein by reference.

353. Article I, Section 5 of the Hawaii State Constitution provides that “[n]o person shall . . . be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.”

354. The Equal Protection Clause of the Hawaii State Constitution applies to the Defendants STATE OF HAWAII because they are state actors.

355. The Equal Protection Clause of the Hawaii State Constitution applies to Defendant CCA because it is the contractually authorized legal custodian of those individuals incarcerated under the laws of the State of Hawaii, and charged with a task and function that is traditionally and fundamentally performed by the government and/or are sufficiently intertwined with the government to the extent that Defendants CCA and its employees at SCF and RRCF are state actors.

**COUNT XVI: AS TO DAILY WORSHIP VIOLATIONS**

356. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and give preference of those faiths over Plaintiffs' religion.

357. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and gives preference of those faiths over Plaintiffs' religion.

358. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet on a daily basis for group worship and thus advances and give preference of those faiths over Plaintiffs' religion.

359. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to congregate on a daily basis at either the Saguaro or Red Rock Correctional Centers for Native Hawaiian religious services, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet on a daily basis for group worship has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

360. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to congregate on a daily basis at either the Saguaro or Red Rock Correctional Centers for Native Hawaiian religious services, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet on a daily basis for group worship has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.



361. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

362. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XVII: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

363. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

364. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and give preference of those faiths over Plaintiffs' religion.

365. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to observe their important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

366. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to actively participate in the opening and closing days of the Makahiki season with specific religious protocol, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to observe their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed Article I, Section 5 of the Hawaii State Constitution.

367. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to actively participate in the opening and closing days of the Makahiki season with specific religious protocol, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to observe their important holidays has denied

Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

368. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

369. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to assist in observing important holidays with specific religious protocol, and thus advances and gives preference of those faiths over Plaintiffs' religion.

370. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to assist in the observance of important holidays with specific religious protocol, and thus advances and give preference of those faiths over Plaintiffs' religion.

371. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to observe the opening and closing days of the Makahiki season with specific religious protocol, while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to assist in observing their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

372. Consequently, Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to observe the opening and closing days of the Makahiki season with specific religious protocol, while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to assist in observing their important holidays has denied Plaintiffs the equal protection of the laws as guaranteed Article I, Section 5 of the Hawaii State Constitution.

373. As a consequence of the above violation, HOLBRON have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

374. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XVIII: AS TO ACCESS TO SACRED ITEMS VIOLATIONS**

375. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

376. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

377. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions access to sacred items to practice their faith, and thus advances and gives preference of those faiths over Plaintiffs' religion.

378. Consequently, Defendant STATE OF HAWAII's actions and omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request access *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to access their respective sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

379. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to access *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow

ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to access their respective sacred items has denied Plaintiffs the equal protection of the laws as guaranteed Article I, Section 5 of the Hawaii State Constitution.

380. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

381. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to access important sacred items for worship, and thus advances and gives preference of those faiths over Plaintiffs' religion.

382. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows administratively segregated inmates of only certain religions to meet with a spiritual advisor to access important sacred items for worship, and thus advances and give preference of those faiths over Plaintiffs' religion.

383. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to access the following items of worship *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to access their sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.



384. Consequently, Defendant CCA's policy of refusing HOLBRON's request to meet with a spiritual leader to access the following items of worship *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) while allowing other administratively segregated state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leader to access their sacred items has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

385. As a consequence of the above violation, HOLBRON have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

386. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XIX: AS TO ACCESS TO SACRED SPACE VIOLATIONS**

387. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to consecrate a special area for their worship, and thus advances and gives preference of those faiths over Plaintiffs' religion.

388. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to consecrate a special area for their worship, and thus advances and give preference of those faiths over Plaintiffs' religion.

389. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to consecrate a special area for their worship and thus advances and give preference of those faiths over Plaintiffs' religion.

390. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish an area out of doors with two spiritually significant stones for their worship activities, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to consecrate a special area for their worship has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

391. Consequently, Defendant CCA's policy of refusing DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to establish an area out of doors with two spiritually significant stones for their worship activities, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to consecrate a special area for their worship has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

392. As a consequence of the above violation, DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

393. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XX: AS TO ACCESS TO SPIRITUAL ADVISOR VIOLATIONS**

394. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to exercise a policy that allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and gives preference of those faiths over Plaintiffs' religion.

395. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice that allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and give preference of those faiths over Plaintiffs' religion.

396. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice that

allows inmates of only certain religions to meet with a spiritual leader on a regular basis, and thus advances and give preference of those faiths over Plaintiffs' religion.

397. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual leader on a regular basis, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leaders on a regular basis has denied Plaintiffs the equal protection of the laws as guaranteed by Article I, Section 5 of the Hawaii State Constitution.

398. Consequently, Defendant CCA's policy of refusing DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA's request to meet with a spiritual leader on a regular basis, while allowing other state prisoners at Saguaro and Red Rock Correctional Centers of other faiths to meet with their respective spiritual leaders on a regular basis has denied Plaintiffs the equal protection of the laws as guaranteed Article I, Section 5 of the Hawaii State Constitution.

399. As a consequence of the above violation, DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue

to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

400. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**VIOLATION OF ARTICLE XII, SECTION 7 OF THE HAWAII STATE CONSTITUTION and H.R.S. SECTION 1-1 RELATING TO NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS**

401. Plaintiffs re-allege paragraphs 1 through 192, and incorporate them herein by reference.

402. Article XII, Section 7 of the Hawaii State Constitution provides that the State "reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua`a tenants who are descendents of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

403. Hawaii Revised Statutes Section 1-1 provides in pertinent part: "[t]he common law of England, as ascertained by English and American decisions, is declared to be the common law of the State of Hawaii in all cases, except as otherwise expressly provided by the Constitution or laws of the United States, or by

the laws of the State, or fixed by Hawaiian judicial precedent, or established by Hawaiian usage...”

404. Article XII, Section 7 of the Hawaii State Constitution and Hawaii Revised Statutes Section 1-1 applies to the Defendants STATE OF HAWAII as state actors.

405. Article XII, Section 7 of the Hawaii State Constitution and Hawaii Revised Statutes Section 1-1 applies to Defendant CCA because it is the contractually authorized legal custodian of those individuals incarcerated under the laws of the State of Hawaii, and charged with a task and function that is traditionally and fundamentally performed by the government and/or are sufficiently intertwined with the government to the extent that Defendants CCA and its employees at SCF and RRCF are state actors.

406. But for Plaintiffs’ involuntary seizure from the State of Hawaii to the State of Arizona, Plaintiffs would have continued to practice critical tenets of their Native Hawaiian faith in their respective ahupua`a as their ancestors had done before them.

**COUNT XXI: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

407. Upon information and belief, the Defendants STATE OF HAWAII are enforcing an official policy, or in the alternative, engaging in a persistent widespread practice of illegally delegating all of their Constitutional and statutory

responsibilities owed to Plaintiffs which permits its contractor, Defendant CCA to authorize whether inmates who are descendents of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 are allowed to engage in traditional and customary practices which originate in, and are interpreted from within the traditional Native Hawaiian culture and community.

408. Upon information and belief, Defendant CCA authorized Todd Thomas, an employee of CCA and Warden for SCF, to serve as its chief policymaker at SCF to enforce a corporate policy and/or customary practice to restrict inmates who are descendents of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 from engaging in traditional and customary practices which originate in, and are interpreted from within the traditional Native Hawaiian culture and community.

409. Upon information and belief, Defendant CCA authorized Bruno Stolc, an employee of CCA and Warden for RRCF, to serve as its chief policymaker at RRCF to enforce a corporate policy and/or customary practice to restrict inmates who are descendents of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 from engaging in traditional and customary practices which originate in, and are interpreted from within the traditional Native Hawaiian culture and community.



410. Consequently, Defendant STATE OF HAWAII's actions and or omissions have resulted in Defendant CCA's policy of refusing DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA to meaningfully participate in the recognition of the opening and closing days of the Makahiki Season with specific protocol and the use of sacred items violates Article XII, Section 7 of the Hawaii State Constitution and Hawaii Revised Statutes Section 1-1.

411. Consequently, Defendant CCA's refusal of DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA to meaningfully participate in the recognition of the opening and closing days of the Makahiki Season with specific protocol and the use of sacred items violates Article XII, Section 7 of the Hawaii State Constitution and Hawaii Revised Statutes Section 1-1.

412. As a consequence of the above violations, Plaintiffs have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

413. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**VIOLATIONS OF RLUIPA 42 U.S.C. §§ 2000cc, Et Seq.**

414. Plaintiffs re-allege paragraphs 1 through 190, and incorporate them herein by reference.

415. According to The Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ seq. (“RLUIPA”), which states in relevant part:

“(a) General Rule. No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person -

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.”

416. Further, RLUIPA provides in relevant part:

“(b) Scope of application. This section applies in any case which--

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance...”

417. The United States Government provides financial aid to the State of Hawaii’s Department of Public Safety, which is responsible for administering the corrections of individuals who were convicted and sentenced pursuant to Hawaii

state laws, and thus falls under the definition of “program” or “activity” under RLUIPA.

418. State of Hawaii’s Department of Public Safety is an institution as defined in 42 U.S.C. § 1997.

419. Defendant CCA is an institution as defined in 42 U.S.C. § 1997.

420. The State of Hawaii, through its Department of Public Safety, entered into various contracts with the Defendant CCA for substantial financial consideration to take custody of DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA and other State of Hawaii inmates, and therefore renders Defendants CCA, SCCF and RCCF as instrumentalities of the Hawaii Department of Public Safety and thus fall under the definition of “program” or “activity” under RLUIPA.

421. Upon information and belief, SCCF receives financial assistance from the United States Government.

422. Upon information and belief, RCCF receives financial assistance from the United States Government.

423. SCCF is an institution as defined in 42 U.S.C. § 1997.

424. RCCF is an institution as defined in 42 U.S.C. § 1997.

**COUNT XXII: AS TO DAILY WORSHIP VIOLATIONS**

425. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from meeting with each other on a daily basis for group worship substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

426. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

427. Defendants STATE OF HAWAII's aforementioned policy therefore violates RLUIPA.

428. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* on a daily basis for worship substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

429. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

430. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violates RLUIPA.

431. Defendants CCA's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from meeting with each

other on a daily basis for group worship substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

432. Defendants CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

433. Defendants CCA's aforementioned policy and actions therefore violate RLUIPA.

434. Defendant CCA's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* on a daily basis for worship substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

435. Defendant CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

436. Defendant CCA's aforementioned policy and actions therefore violate RLUIPA.

437. As a consequence of the above violations of RLUIPA, Plaintiffs have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

438. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XXIII: AS TO OBSERVANCE OF MAKAHIKI VIOLATIONS**

439. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from observing the opening and closing days of the Makahiki Season in 2009-2011 with specific religious protocol substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

440. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

441. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

442. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* to observe the opening and closing days of the Makahiki Season in 2009-2011 with specific religious protocol substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

443. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

444. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

445. Defendants CCA's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from observing the opening and closing days of the Makahiki Season in 2009-2011 with specific religious protocol, substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

446. Defendants CCA's aforementioned policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from observing the opening and closing days of the Makahiki Season in 2009-2011 with specific religious protocol is not the least restrictive means of furthering any compelling governmental interest.

447. Defendants CCA's aforementioned policy and actions therefore violate RLUIPA.

448. Defendant CCA's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* to observe the opening and closing days of the Makahiki Season in 2009-2011 with specific

religious protocol substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

449. Defendant CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

450. Defendant CCA's aforementioned policy and actions therefore violate RLUIPA.

451. As a consequence of the above RLUIPA violations, Plaintiffs have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

452. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XXIV: AS TO ACCESS TO SACRED ITEMS VIOLATIONS**

453. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from accessing the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), ti shoots and leaves, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke*



(percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers), substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

454. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

455. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

456. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* to access the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers), substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

457. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

458. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

459. Defendants CCA's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from accessing the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leaves, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) substantially burdens DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

460. Defendants CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

461. Defendants CCA's aforementioned policy and actions therefore violate RLUIPA.

462. Defendant CCA's policy banning Native Hawaiian Practitioners who are in administrative segregation at SCCF from meeting with a *kahu* to access the following sacred items: *malo*, *kihei* and *pau* (native garments), block of *lama* wood, *kapa*, *pa`a kai* (sea salt), *apu* (coconut shell bowl), *ti* shoots and leafs, *kala* (seaweed), *`olena* (yellow ginger), a *kahili* (pole with cylindrical top covered with feathers, cloth, flora and/or painted), *pu kani* (conch shell), *pahu* (tree stump drum), *ipu* (gourd drum), *ipu heke* (double gourd drum), *`ohe ka eke`eke* (percussion instrument), *pu niu* (small knee drum), *`ohe hano ihu* (bamboo nose flute), *pu ohe* (bamboo shell horn), and *moena* (floor mats made of woven lauhala, grasses, natural fibers) substantially burdens HOLBRON's religious exercise and sincerely held religious beliefs.

463. Defendant CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

464. Defendant CCA's aforementioned policy and actions therefore violate RLUIPA.

465. As a consequence of the above RLUIPA violations, Plaintiffs have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

466. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XXV: AS TO ACCESS TO SACRED SPACE VIOLATIONS**

467. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from establishing an outdoor sacred space for worship substantially burdens DAVIS, HUGHES, KAAHU, KANE and KEAWE's religious exercise and sincerely held religious beliefs.

468. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

469. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

470. Defendants CCA's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from establishing an outdoor sacred space for worship substantially burdens DAVIS, HUGHES, KAAHU, KANE and KEAWE's religious exercise and sincerely held religious beliefs.

471. Defendants CCA's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest.

472. Defendants CCA's aforementioned policy and actions therefore violate RLUIPA.

473. As a consequence of the above violations, Plaintiffs DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

474. As a direct, proximate and foreseeable result thereof, Plaintiff DAVIS, HUGHES, KAAHU, KANE, KEAWE and POAHA have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**COUNT XXVI: AS TO ACCESS TO SPIRITUAL ADVISOR VIOLATIONS**

475. Defendants STATE OF HAWAII's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from meeting with a spiritual advisor on a regular basis substantially burdens DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

476. Defendants STATE OF HAWAII's aforementioned policy is not the least restrictive means of furthering any compelling governmental interest

477. Defendants STATE OF HAWAII's aforementioned policy and actions therefore violate RLUIPA.

478. Defendants CCA's policy banning Native Hawaiian Practitioners who are serving their sentences at SCCF and/or RCCF from meeting with a spiritual advisor on a regular basis substantially burdens DAVIS, HOLBRON, HUGHES, KAAHU, KANE, KEAWE and POAHA's religious exercise and sincerely held religious beliefs.

479. Defendants CCA's aforementioned policy not the least restrictive means of furthering any compelling governmental interest.

480. Defendants CCA's aforementioned policy and actions therefore violate RLUIPA.

481. As a consequence of the above violations, Plaintiffs have suffered, and continue to suffer irreparable injury that can only be readdressed by declaratory and injunctive relief.

482. As a direct, proximate and foreseeable result thereof, Plaintiffs have also suffered damages caused by Defendants' violations as described above in amounts to be established at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that this Court:

1. Issue an order, pursuant to Federal Rule of Civil Procedure 23, certifying this action as a Class Action, Appoint Plaintiffs as the representatives of the Class; and Appoint Counsel for Plaintiffs as Class Counsel;

2. Declare that Defendants have violated Plaintiffs' and all other class members' rights under the Free Exercise Clause of the First Amendment of the United States Constitution;

3. Declare that Defendants have violated Plaintiffs' and all other class members' rights under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

4. Declare that Defendants have violated Plaintiffs' and all other class members' rights under the Free Exercise Clause of the Hawaii State Constitution;

5. Declare that Defendants have violated Plaintiffs' and all other class members' rights under the Equal Protection Clause of the Hawaii State Constitution;

6. Declare that Defendants have violated Plaintiffs' and all other class members' rights under Article XII Section 7 of Hawaii State Constitution and H.R.S. 1-1;

7. Declare that Defendants violated RLUIPA;

8. Order Defendants to allow Plaintiffs and all other class members to exercise their Native Hawaiian religion by gathering once daily in observance of the Native Hawaiian Religion as requested by Plaintiffs;

9. Order Defendants to allow Plaintiffs and all other class members to exercise their Native Hawaiian religion by participating in certain and specific ceremonies critical to their observation of the annual Makahiki Season as requested by Plaintiffs;

10. Order Defendants to allow Plaintiffs and all other class members to exercise their Native Hawaiian religion by using and maintaining traditional and customary objects and items that are essential to expressing their religious belief and faith as requested by Plaintiffs

11. Order Defendants to allow Plaintiffs and all other class members to exercise their Native Hawaiian religion by constructing and accessing an outdoor sacred space to expressing their religious belief and faith as requested by plaintiffs

12. Order Defendants to allow Plaintiffs and all other class members to exercise their Native Hawaiian religion by meeting a spiritual leader on a daily basis to expressing their religious belief and faith as requested by plaintiffs.

13. Order Defendants to develop a comprehensive plan and promulgate official policy guidelines on how Native Hawaiians who have been convicted and



sentenced under the laws of the State of Hawaii can practice their religion on a regular and equal basis with all other religions represented at correctional facilities.

14. Appoint a Special Master to monitor Defendants' compliance with the relief granted by this Court;

15. Grant Plaintiffs and all other class members compensatory damages against Defendants jointly and severally, in an amount to be proven at trial.

16. Award Plaintiffs and all other class members their costs, including reasonable attorneys' fees and costs, as authorized by statute; and

17. Grant such other and further appropriate relief as this Court deems just and proper.

DATED: Honolulu, Hawaii, August 22, 2012.

/s/ Andrew B. Sprenger  
ANDREW B. SPRENGER  
SHARLA MANLEY  
JAMES KAWAHITO  
SHAWN C. WESTRICK  
Attorneys for Plaintiffs