

1 rights secured by the Constitution of the United States. The
2 court has jurisdiction under 28 U.S.C. §§1331 & 1343(a)(3).
3 Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §§ 2210
4 and 2202. Plaintiff's claims for injunctive relief are authorized
5 by 28 U.S.C. §§ 2283 & 2284 and Rule 65 of the Federal Rules of
6 Civil Procedure.

7 2. The Eastern District of California is an appropriate venue
8 under § 1391(b)(2), because it is where the events giving rise to
9 these claims occurred.

10 II
11 PLAINTIFF

12 3. Plaintiff, Alfred C. Lombardelli, is and was at all times
13 mentioned herein a prisoner of the State of California in the
14 custody of the California Department of Corrections &
15 Rehabilitation. Plaintiff, is currently confined in Corcoran
16 State Prison in Corcoran California, where the events giving
17 rise to this action occurred.

18 III
19 DEFENDANTS

20 4. Defendant KELVIN HALSEY, is , and at all times relevant
21 herein employed by the CDC&R as a correctional officer at Corcoran
22 State Prison. Plaintiff is informed and believes, and thereon
23 alleges, that defendant HALSEY is a properly trained correctional
24 officer who is and has been responsible for the safety and
25 security, and over all well-being of all inmates at Corcoran
26 State Prison. At all times mentioned defendant HALSEY was
27 acting under the color of state law, in the course and scope of
28 his employment, and is sued in his official and individual

1 capacities.

2 5. Defendant, Sergeant RONALD VOGEL, is, and at all times
3 relevant herein was employed by the CDC&R as a correctional
4 sergeant at Corcoran State Prison. Plaintiff is informed and
5 believes, and thereon alleges, that defendant VOGEL is a properly
6 trained correctional sergeant who is and has been responsible for
7 the safety, security, and over all well-being of inmates at
8 Corcoran State Prison. At all times mentioned defendant VOGEL
9 was acting under the color of state law, in the course and scope
10 of his employment, and is sued in his official and individual
11 capacities.

12 6. Defendant T. HEBRON, is, and at all times relevant herein
13 was employed by the CDC&R as a correctional officer at Corcoran
14 State Prison. Plaintiff is informed and believes, and thereon
15 alleges, that defendant HEBRON is a properly trained correctional
16 officer who is and has been responsible for the safety and
17 security, and over all well-being of all inmates at Corcoran
18 State Prison. At all times mentioned defendant HEBRON was
19 acting under the color of state law, in the course and scope of
20 his employment, and is sued in his official and individual
21 capacities.

22 7. Defendant R. BENEVIDEZ, is, and at all times relevant herein
23 was employed by the CDC&R as a correctional officer at Corcoran
24 State Prison. Plaintiff is informed and believes, and thereon
25 alleges, that defendant BENEVIDEZ is a properly trained
26 correctional officer who is and has been responsible for the
27 safety, security, and over all well-being of inmates at Corcoran
28 State Prison. At all times mentioned defendant BENEVIDEZ was

1 acting under the color of state law, in the course and scope of
2 his employment, and is sued in his official and individual
3 capacities.

4 8. Defendant S. SMYTH, is and at all times relevant herein
5 employed by the CDC&R as a correctional officer at Corcoran
6 State Prison. Plaintiff is informed and believes, and thereon
7 alleges, that defendant SMYTH is a properly trained correctional
8 officer who is and has been responsible for the safety, security,
9 and over all well-being of inmates at Corcoran State Prison. At
10 all times mentioned defendant SMYTH was acting under the color of
11 state law, in the course and scope of his employment, and is
12 sued in his official and individual capacities.

13 9. Defendant A. CASTRO, is, and at all times relevant herein
14 employed by the CDC&R as a correctional officer at Corcoran
15 State Prison. Plaintiff is informed and believes, and thereon
16 alleges, that defendant CASTRO is a properly trained correctional
17 officer who is and has been responsible for the safety, security,
18 and over all well-being of inmates at Corcoran State Prison. At
19 all times mentioned defendant CASTRO was acting under the color
20 of state law, in the course and scope of his employment, and is
21 sued in his official and individual capacities.

22 10. Defendant CCI E. ORTIZ, is and at all times relevant herein
23 employed by the CDC&R as a correctional counselor I at Corcoran
24 State Prison. Plaintiff is informed and believes, and thereon
25 alleges, that defendant ORTIZ is a properly trained correctional
26 counselor who is and has been responsible for the safety,
27 security, classification, and over all well-being of inmates at
28 Corcoran State Prison. At all times mentioned defendant ORTIZ

1 was acting under the color of state law, in the course and scope
2 of her employment, and is sued in her official and individual
3 capacities.

4 11. Defendant Captain R. VELLA, is and at all times relevant
5 herein employed by the CDC&R as a correctional captain at Corcoran
6 State Prison. Plaintiff is informed and believes, and thereon
7 alleges, that defendant VELLA is a properly trained correctional
8 captain and manager of prison operations, who is and has been
9 responsible for the safety, security, and over all well-being
10 of inmates at Corcoran State Prison. At all times mentioned
11 defendant VELLA was acting under the color of state law, in the
12 course and scope of his employment, and is sued in his official
13 and individual capacities.

14 12. Defendant CCI SABRINA JOHNSON (PIO), is and at all times
15 relevant herein was employed by the CDC&R as a correctional
16 counselor I and the Public Information Officer/Administrative
17 Assistant at Corcoran State Prison. Plaintiff is informed and
18 believes and thereon alleges, that defendant JOHNSON is a
19 properly trained correctional counselor/public information
20 officer, who is and has been responsible for the safety, security,
21 and over all well-being of inmates at Corcoran State Prison. At
22 all times mentioned defendant JOHNSON was acting under the color
23 of state law, in the course and scope of her employment, and is
24 sued in her official and individual capacities.

25 13. Defendant M. MELO, is and at all times relevant herein was
26 employed by the CDC&R as a correctional lieutenant at Corcoran
27 State Prison. Plaintiff is informed and believes, and thereon
28 alleges, that defendant MELO is a properly trained lieutenant

1 who is and has been responsible for the safety, security, and
2 a senior hearing officer for disciplinary proceedings, and over all
3 safety of inmates at Corcoran State Prison. At all times
4 mentioned defendant MELO was acting under the color of state law,
5 in the course and scope of his employment, and is sued in his
6 official and individual capacities.

7 14. Defendant J. HARTLEY, is, and at all times relevant herein
8 was employed by the CDC&R as the chief deputy warden. Plaintiff
9 is informed and believes, and thereon alleges, that defendant
10 HARTLEY is a properly trained manager/administrator of prison
11 operations, and is responsible for promulgating, supervising
12 the promulgation of, implementing, supervising the implementation
13 of, monitoring the classification of inmates housed in
14 Administrative Segregation and enforcing of policies, regulations,
15 of inmate discipline and assessment of Security Housing Unit
16 (SHU) programs. Defendant HARTLEY is and has been responsible
17 for the safety and security, and over all well-being of all
18 inmates at Corcoran State Prison. At all times mentioned
19 defendant HARTLEY was acting under the color of state law, in the
20 course and scope of his employment, and is sued in his official
21 and individual capacities.

22 15. Defendant NICK COMAITES, is , and at all times relevant
23 herein was employed by the CDC&R as the captain of facility C
24 at Corcoran State Prison. Plaintiff is informed and believes,
25 and thereon alleges, that defendant COMAITES is a properly
26 trained manager of prison operations, the classification of
27 inmates, and supervisor of inmate discipline, and over-all
28 manager of facility operations including the supervision of

1 correctional lieutenant's; sergeant's, and correctional officer's.
2 Defendant COMAITES is and has been responsible for the safety and
3 security, and over all well-being of all inmates at Corcoran
4 State Prison. At all times mentioned defendant COMAITES was
5 acting under the color of state law, in the course and scope of
6 his employment, and is sued in his official and individual
7 capacities.

8 16. Defendant RAUL LOPEZ, is, and at all times relevant herein
9 was employed by the CDC&R as the Associate Warden. Plaintiff is
10 informed and believes, and thereon alleges, that defendant LOPEZ
11 is a properly trained manager/administrtror of prison operations
12 including inmate discipline as the Chief Disciplinary Officer.
13 Defendant LOPEZ is and has been responsible for the safety and
14 security, and over all well-being of all inmates at Corcoran
15 State Prison. At all times mentioned defendant LOPEZ was acting
16 under the color of state law, in the course and scope of his
17 employment, and is sued in his official and individual
18 capacities.

19 17. Defendant Nurse OSUNDE, is and at all times relevant herein
20 employed as a nurse at Corcoran State Prison in administrative
21 segregation 3A03. Plaintiff is informed and believes, and
22 thereon alleges, that defendant OSUNDE is a properly trained
23 nurse who is and has been responsible for the medical care of all
24 inmates at Corcoran State Prison. At all times mentioned
25 defendant OSUNDE was acting under color of state law, in the
26 course of her employment, and is sued in her official and
27 individual capacities.

28 18. Defendant Nurse BURNS, is and at all times relevant herein

1 employed as a nurse at Corcoran State Prison in 3A03 administrat-
2 tive segregation. Plaintiff is informed and believes, and
3 thereon alleges, that defendant BURNS is a properly trained
4 nurse who is and has been responsible for the medical care of all
5 inmates at Corcoran State Prison. At all times mentioned
6 defendant BURNS was acting under color of state law, in the
7 course of her employment, and is sued in her official and
8 individual capacities.

9 19. Defendant Nurse Practitioner, LOADHOLT, is and at all times
10 relevant herein was employed as a nurse practitioner at Corcoran
11 State Prison in 3A03 administrative segregation. Plaintiff is
12 informed and believes, and thereon alleges, that defendant
13 LOADHOLT is a properly trained nurse practitioner who is and has
14 been responsible for the medical care of all inmates at Corcoran
15 State Prison. At all times mentioned defendant LOADHOLT was
16 acting under state law, in the course of her employment, and is
17 sued in her official and individual capacities.

18 20. Defendants designated herein as DOES 1 through 5, consist of
19 nurses, nurse practitioners' or LVN's or supervisor's who are
20 responsible for promulgating, supervising the promulgation of,
21 implementing, supervising the implementation of, monitoring
22 compliance with, supervising the monitoring of compliance with,
23 enforcing and/or supervising the enforcement of policies and
24 procedures affecting the medical care of all inmates within the
25 CDC&R. These defendants are also responsible for assuring that
26 all inmates receive proper medical care, including proper
27 diagnosis and treatment. At all times mentioned these defendants
28 were acting under the color of state law, in the course and

1 scope of their employment, and are sued herein in their official
2 and individual capacities. The true names and capacities of
3 said DOES 1 through 5 are presently unknown to plaintiff, who
4 therefore sues them by such fictitious names and will seek
5 leave to amend this complaint to add their true names and capaci-
6 ties when they have been ascertained.

7 IV

8 FACTS

9 21. Plaintiff is an active prisoner, rights advocate and a
10 Member of the Men's Advisory Council at all times mentioned
11 herein that gave rise to the events described below. Plaintiff
12 Alfred C. Lombardelli, filed many grievances (CDC-form 602) for
13 the improvement of conditions on Facility "C" at Corcoran State
14 Prison. Plaintiff also filed several staff misconduct complaints
15 against employees for misconduct while on duty, including on
16 defendant's R. VOGEL and K. HALSEY. (see exhaustion of
17 administrative remedies infra.) Corcoran State Prison and
18 staff thereof, are infamous for retaliating and utilizing
19 reprisals against prisoner rights advocate's and inmates in
20 general who file grievances. This is an example of such egregious
21 misconduct.

22 22. Plaintiff was assigned as a building porter in building two
23 during the hours of 0600-1400 hours. Defendant HALSEY, defendant
24 BENEVIDEZ, and defendant ORTIZ were all assigned to building two
25 during the same times and duration of plaintiff's job assignment.
26 Defendants' HALSEY and BENEVIDEZ were assigned correctional
27 officer's in building two and was plaintiff Alfred Lombardelli's
28 supervisor's in his job assignment as a porter in that building.

1 23. Plaintiff Alfred Lombardelli, and fellow Men's Advisory
2 Council member and prisoner right advocate Inmate Lawrence Massey,
3 P-90015, would collaborate on many grievances and work closely
4 together on the Men's Advisory Council. Inmate Massey, was also
5 an assigned Barber/porter in building two. We would both share
6 our written grievances with defendant HALSEY by allowing him to
7 read many of our grievances and other legal documents as he
8 expressed empathy with our constant struggle for our rights
9 here at Corcoran State Prison. Defendant HALSEY became over-
10 familiar with both plaintiff and Inmate Massey in a myriad of
11 ways. (See staff complaint Log #COR-07-1171, attached herein as
12 exhibit "A."). Defendant BENEVIDEZ engaged in the "code of
13 silence" concerning defendant HALSEY's misconduct.

14 24. In the struggle to better conditions and programs here on
15 3C facility, petitioner Alfred C. Lombardelli, on July 2, 2006,
16 sent a Request for Disclosure of Public Records for the "Daily
17 Activity Schedules" (DAS's) which outline the activities for
18 inmates on other facilities here at Corcoran State Prison. in an
19 attempt to compare the various "programs" with that of facility
20 3C. Petitioner sent said request pursuant to the provisions of
21 the California Public Records Act. (Govt. Code §6250 et.seq.).
22 Defendant JOHNSON is the Public Information Officer (PIO) in
23 charge of complying with requests for information for Corcoran
24 State Prison. Defendant HALSEY read the request for disclosure
25 for public records. Defendant JOHNSON did not comply with the
26 request. Subsequently, petitioner filed a grievance requesting
27 defendant JOHNSON to answer the request for disclosure. Defendant
28 HALSEY read the grievance. Defendant JOHNSON again did not

1 comply with the request.

2 25. After a reasonable amount of time, petitioner prepared a
3 Petition for Order to Compel Disclosure of Public Records pursuant
4 to the California Public Records Act. While waiting for the
5 institution's litigation coordinator to process the necessary
6 paperwork to file the petition, petitioner allowed defendant's
7 HALSEY and ORTIZ to read the petition. As it turned out, this
8 was a mistake. Almost immediately, defendant's HALSEY and ORTIZ
9 began a "campaign of harrasment" with retaliation and reprisals.
10 Defendant HALSEY would make comments on a daily basis such as,
11 "Sabrina Johnson is my homegirl" or "you'll never get thos DAS's
12 Lombardelli," and other comments concerning said petition. Both
13 defendant's HALSEY and ORTIZ would threaten petitioner with false
14 "write-ups" on a daily basis to remove petitioner from his job
15 assignment to curtail his privileges. Petitioner is informed and
16 believes and thereon alleges these threats were for the purpose
17 to "chill" petitioner's right to file the Petition for Order to
18 Compel Disclosure of Public Records in Kings County Superior
19 Court. Petitioner is informed and believes that defendant's
20 VELLA and VOGEL gave complicit instructions to defendant's
21 JOHNSON, HALSEY, and ORTIZ to not comply with his requests and
22 further "chill," interfere, obstruct and barricade petitioner in
23 his quest to obtain said DAS's. Defendant BENEVIDEZ engaged in
24 the "code of silence" concerning such misconduct.

25 26. In furthering this interference, defendant HALSEY began
26 denying petitioner leave from his job assignment to gain access
27 to the law library. On January 16, 2007, the litigation
28 coordinator forwarded the necessary paperwork to defendant

1 ORTIZ on petitioner's Request for Disclosure of Public Records to
2 be filed in Kings County Superior Court. Petitioner heard
3 defendant ORTIZ tell defendant HALSEY that petitioner was indeed
4 filing the petition. Defendant ORTIZ obstructed and delayed the
5 process by not forwarding the documents to the litigation
6 coordinator in a timely manner. Immediately thereafter, the
7 campaign of of harassment was "ramped up" by defendant's HALSEY
8 and ORTIZ.

9 27. Prior to the filing of the Petition for Order to Compel
10 Disclosure of Public Records in Kings County Superior Court,
11 defendants VELLA and VOGEL engaged in intimidation tactics in
12 order to purposely "chill" petitioner's will to exercise his
13 right to file such petition. On November 26, 2006, defendant
14 VELLA stopped petitioner on the track and stated, "Lombardelli,
15 you are just an inmate and you will never get the DAS's you are
16 trying to obtain through the public records act." On December
17 12, 2006, defendant VOGEL, while interviewing petitioner on the
18 inmate appeal concerning the public records, stated, "you're
19 just an inmate and I don't give a fuck about the public records
20 act, the Captain doesn't want you to have them, you're not going
21 to get them."

22 28. The Petition for Order to Compel Disclosure of Public
23 Records was filed on January 29, 2007, in Kings County Superior
24 Court and assigned case no 07-C-0028. On February 7, 2007,
25 defendant HALSEY again threatened petitioner with placement in
26 "the hole;" for the petition of the CPRA. HALSEY would state
27 repeatedly, "Sabrina Johnson is my homegirl and you're never
28 going to get those DAS's and you're never going to get to the

1 law library from "Ad-Seg."

2 29. Petitioner was exhausted of all the threats and harassment
3 by HALSEY and responded that he is going to file a staff complaint
4 against him and defendant ORTIZ for their retaliation tactics
5 and for his persistent and myriad acts of misconduct. (See
6 exhibit "A" n.3). Defendant HALSEY immediately became abusive
7 and irate with other threats of placement in ad-seg and then
8 ordered petitioner to "lock it up." Petitioner complied went to
9 his cell and locked up. Minutes later, HALSEY had control open
10 his cell and ordered petitioner to "cuff it up." Defendant HALSEY
11 sadistically and maliciously placed the handcuffs on petitioner
12 so tight it cut into petitioner's hands and wrists causing
13 extreme pain and severe discomfort. When petitioner complained
14 HALSEY stated, "shut up you're going to the hole." HALSEY
15 escorted petitioner to the program office and placed him in a
16 cage and left the handcuffs on him. Petitioner was forced to
17 stay in the cage with the handcuffs cutting into his wrists,
18 unable to urinate for an unknown long period of time. Because
19 petitioner has an enlarged prostate it was extremely painful to
20 hold his urine causing severe pain and discomfort.

21 30.. After an unknown long period of time, defendant VOGEL
22 arrived at the cage and stated, "you're lucky this isn't the old
23 days Lombardelli, or we would just beat you up and send you on
24 your way." VOGEL then released petitioner from the cage and
25 then stated, "You're moving to one block, you're going to the
26 penalty box." Defendant VOGEL refused to inform petitioner why
27 he was placed in handcuffs and the cage in the first instance.
28 Upon returning to his assigned unit in building 2, petitioner

1 found his personal property scattered on the tier. Defendant
2 HALSEY yelled, "You're going to one block, you're a rat, we're
3 going to place you on "C" status." He further stated, "You're
4 going to find out the hard way how well liked Sabrina Johnson
5 is too." By yelling in such a loud manner where other inmates
6 heard defendant HALSEY call petitioner a "rat" placed petitioner's
7 life in peril. Such action caused psychological and emotional
8 distress causing headaches, stress, and loss of sleep. Such
9 actions were intended to "chill" petitioner's will to exercise his
10 first amendment rights to grieve the government. Defendant
11 BENEVIDEZ again engaged in the "code of silence."

12 31. While retrieving and packing his property to comply with
13 the order to move to one block, petitioner heard HALSEY tell
14 defendant ORTIZ to "write him up." ORTIZ asked "for what?"
15 Halsey stated, "We'll talk and figure it out." Petitioner's
16 move to one block removed him from his job assignment and
17 curtailed his privileges. This action was in violation of CDC&R
18 policy and procedures in removing petitioner from his job
19 assignment. Petitioner could not complain to staff concerning
20 the damage done to his wrists as he was aware of the tactics
21 utilized by supervisor's to place inmates in the hole who make
22 excessive force complaints.

23 32. On February 14, 2007, petitioner was issued a false
24 disciplinary report in Log #3C-07-02-014, for Behavior which
25 Could Lead to Violence. On February 23, 2007, petitioner was
26 found "not guilty" by Lieutenant Clee of the "canard." Not
27 satisfied, defendant HALSEY would seek out petitioner and
28 continue his "campaign of harassment" with threats and overly

1 "rough pat downs" whenever he saw petitioner. When petitioner
2 attempted to complain to defendant VOGEL he was only met with more
3 unprofessionalism remarks and feigned ignorance of HALSEY's
4 misconduct. This is no surprise to petitioner as defendant VOGEL
5 was a named defendant in the Petition for Order to Compel
6 Disclosure of Public Records - and petitioner has also filed a
7 staff complaint against VOGEL for abusive misconduct on July 12,
8 2006, in appeal Log No. CSPC-06-2853, as well. (See exhibit "C"
9 attached herein.)

10 33. Petitioner filed a staff complaint on HALSEY for the above
11 retaliation and other acts of misconduct. (Attached herein as
12 Exhibit "A.") The appeals office processed the staff complaint
13 on March 12, 2007. When defendant HALSEY was informed by union
14 rules that he was under investigation for said complaint he again
15 ramped up the campaign of harassment. HALSEY began telling
16 inmates that petitioner was a "rat and a snitch" thereupon
17 placing petitioner's in life in danger resulting in psychological
18 and emotional distress causing headaches and loss of sleep.
19 Petitioner had to seek psychiatric care.

20 34. On March 27, 2007, defendant HALSEY wrote another "canard"
21 as a CDC-128(B) general chrono for disruptive behavior and
22 confiscated petitioner's religious book stating, "only Bible's
23 are allowed on the yard." (See attached as exhibit "D" herein,
24 the 128(B).) On April 3, 2007, defendant VOGEL summons
25 petitioner to his office and informs him that he is conducting
26 the investigation of the staff complaint petitioner filed on
27 defendant HALSEY for retaliating against this writer for the
28 CPRA petition in which defendant VOGEL was a named defendant.

1 Petitioner objected to defendant VOGEL being the investigative
2 officer in the staff complaint against HALSEY as VOGEL was a
3 named defendant in the CPRA petition in which HALSEY began
4 retaliating against petitioner for. (See the CPRA petition
5 attached as exhibit "B" herein.) This objection was met with
6 more threats and unprofessionalism by defendant Sergeant VOGEL.

7 35. Subsequently, defendant VOGEL complicit with defendant's
8 HALSEY and BENEVIDEZ conducts a cover-up investigation on the
9 staff complaint against HALSEY. According to inmate witnesses,
10 defendant's VOGEL, HALSEY and BENEVIDEZ made promises of special
11 privileges to them to refute allegations that petitioner made in
12 appeal log no. CSPC-4--7-0117. (Attached as exhibit "A.")

13 36. Subsequently, at petitioner's annual classification review,
14 plaintiff, informed the committte that he feared for his safety
15 around HALSEY and requested a transfer. The request for transfer
16 was denied.

17 37. Defendant HALSEY continues his "campaign of harassment"with
18 every opportunity. HALSEY on numerous occasions, threatens
19 plaintiff with placement in Ad-Seg where HALSEY claims plaintiff
20 will not get any legal mailout of the institution or access to
21 the law library. HALSEY continues to tell inmates that plaintiff
22 is a "rat and snitch" and that "he is going to get him." (See
23 attached declarations of inmates herein as exhibit "E.") Again,
24 such action caused psychological and emotional distress causing
25 headaches and loss of sleep.

26 38. True to his word, defendant HALSEY does indeed get the
27 plaintiff. On April 10, 2007, plaintiff was summoned to the law
28 library as a "Priority Legal User" (PLU) by the librarian Ms.

1 Certine. While enroute to the law library plaintiff was stopped
2 by defendant HALSEY continuing with his harassment, he stated,
3 "you are not going to the law library Lombardelli." After a brief
4 argument concerning my legal rights to the law library, HALSEY
5 ordered plaintiff to retrieve a pair of shoes as he claimed he
6 noticed I had a different pair of shoes on in the morning.
7 Plaintiff complied with HALSEY's order to retrieve a pair of
8 shoes. Plaintiff surrendered the shoes by "softly" and "under-
9 handed" tossing the shoes to HALSEY and several other Correctional
10 Officer's standing approximately seventy five (75) to one hundred
11 (100) feet away down the wall from the exit of plaintiff's
12 building - now in building one. The running shoes landed at
13 least 20 to 30 feet away from all staff members.

14 39. Plaintiff was escorted to a cage in the Program Office.
15 Several minutes later, plaintiff clearly heard defendant VOGEL
16 state, "Fuck it Halsey, state the shoes struck you and let's get
17 rid of this litigator. once and for all." Plaintiff informed
18 defendant VOGEL that he heard what he said and informed VOGEL
19 that he was committing a felony offense in conspiring to falsify
20 a police report. (See Cal. Penal Code §118.1). VOGEL stated,
21 "Prove it."

22 40. Subsequently, plaintiff was placed in Administrative
23 Segregation and charged with "Battery on a Peace Officer" based
24 on falsified reports by defendant HALSEY and T. HEBRON who
25 conspired with defendant VOGEL to falsify their reports. Based,
26 on these falsified reports, the institution also submitted a
27 District Attorney referral as a three strike case for criminal
28 prosecution with the Kings County District Attorney's Office for

1 Battery on a Peace Officer. (See incident package log no. 3C-07-
2 04-0190, attached as exhibit "F" herein.) Due to these false
3 allegations plaintiff suffered severe psychological stress,
4 headaches, and loss of sleep. On April 20, 2007, plaintiff was
5 issued a serious CDC-115 write-up for Battery on a Peace Officer
6 in log no. 3C-07-04-009, based on the false reports by defendant's
7 HALSEY and HEBRON. (Attached as Exhibit "F" herein.)

8 41. On May 25, 2007, the Kings County District Attorney rejected
9 the case for prosecution for lack of evidence. (Exhibit "F").

10 42. During the course of the disciplinary process plaintiff was
11 assigned an investigative employee (I.E.) to assist him in
12 obtaining and presenting evidence during the disciplinary hearing.
13 The Investigative Employee assigned to plaintiff was Correctional
14 Officer E. Epstein. Officer Epstein obtained exonerating evidence
15 by both staff and inmates who witnessed the incident all of which
16 stated that the shoes fell well short of all staff. (See investi-
17 gative report attached as exhibit "F" herein.)

18 43. In early June of 2007, Officer Epstein submitted his report
19 including the exculpatory and exonerating evidence. Plaintiff
20 is informed and believes and alleges thereon, that after being
21 informed of the exonerating evidence, defendant's VOGEL and CASTRO
22 conspired to hold and hide the exonerating from plaintiff and from
23 their supervisor's in order to retain plaintiff in Administrative
24 Segregation. Long after due process constraints were violated
25 for disciplinary proceedings, plaintiff was finally provided with
26 a copy of the investigative employees report on August 13, 2007.

27 44. On August 20, 2007, defendant Lieutenant M. MELO, conducted
28 a disciplinary hearing on said charge of Battery on a Peace Officer

1 Officer. Without properly utilizing the preponderance of evidence
2 rule and ignoring the exonerating evidence defendant MELO found
3 plaintiff guilty of Battery on a Peace Officer. This caused
4 further undue emotional and psychological stress, headaches, and
5 loss of sleep. Furthermore, on August 29, 2007, plaintiff was
6 taken to institutional classification committee (I.C.C.) and
7 defendant Chief Deputy Warden, J. HARTLEY, assessed plaintiff a
8 six (6) month Security Housing Unit (SHU) program without reviewing
9 the exonerating evidence although petitioner attempted to point
10 it out to HARTLEY. This caused further undue emotional and
11 psychological stress, headaches, and loss of sleep. Due to the
12 time plaintiff already had served in Ad-Seg while awaiting a
13 hearing, plaintiff was released from Ad-Seg on August 31, 2007.

14
15 45. Upon release from Ad-Seg, defendant HALSEY continued with his
16 retaliation tactics threatening and intimidating plaintiff.

17 Halsey continued to tell inmates that plaintiff was a "rat and a
18 snitch," subjecting plaintiff to unnecessary and frightening
19 hostility and threats. Plaintiff continued to suffer under
20 emotional and psychological stress, headaches, and loss of sleep.

21 46. Defendant's N. COMAITES, and R. LOPEZ, Associate Warden,
22 reviewed plaintiff's CDC-115 for Battery on a Peace Officer and
23 ignored the exonerating evidence and affirmed the guilty finding.
24 This action further caused undue emotional and psychological
25 stress, headaches, and loss of sleep.

26 47. On March 4, 2008, defendant HALSEY, while working the gun
27 tower, made another threat against plaintiff stating something to
28 the effect that he would 'shoot the plaintiff and place him back

1 in the hole.' Plaintiff continues to live in fear of defendant's
2 HALSEY and VOGEL and is subject to further retaliation and is
3 fearful for his well-being and safety.

4 48. As to defendant SYMTH, on April 25, 2007, at approximately
5 10:00 a.m., entered 3A03 Ad-Seg for the purpose to "surreptitiously"
6 take the alleged shoes out of my property that were "packed-up"
7 and transported to ad-seg and stored in the "conex box." These
8 shoes by all protocol should have marked as evidence and placed in
9 an evidence locker. Plaintiff is informed and believes that
10 defendant VOGEL and SMYTH conspired to cover-up the mistake of
11 packing the evidence in plaintiff's property. They did not do
12 a very good job of it. Defendant SMYTH did not change plaintiff's
13 property receipt to reflect he retrieved the shoes nor did he
14 produce a supplemental report to reflect he retrieved the shoes.
15 Upon release from Ad-Seg defendant SMYTH would make veiled threats
16 with remarks on numerous occasions designed to "chill" my right
17 to appeal the incident described above. Later, plaintiff conducted
18 a review of his Central-File and noticed CDC-128 "write-ups"
19 authored by SMYTH whereupon plaintiff was not given copies of and
20 therefore not allowed to appeal the "write-ups."

21 49. Finally on November 16, 2007, Chief Deputy Maurice Junious
22 reversed the guilty finding of the canard written by defendant
23 HALSEY for Battery on a Peace Officer. (See attached herein
24 exhibit "H" and Memorandum authored by Maurice Junious, dated
25 November 16, 2007.)

26 50. Plaintiff continues to be retaliated against with veiled
27 threats constantly by defendant HALSEY whenever he comes into any
28 contact with him. Defendant continues to harass plaintiff and

1 wrote a false report on plaintiff on July 13, 2008, for "refusing
2 a direct order."

3 51. Plaintiff has exhausted all of his administrative remedies
4 and attempts to file grievances as the retaliation continues and is
5 on-going. (See exhibits "A" through "H" and appeal log no. CSPC-
6 4-07-04568.)

7 MEDICAL ISSUES

8 52. While housed in Administrative segregation for all of the
9 above, plaintiff acquired an ear problem in mid-May of 2007.
10 Plaintiff submitted the proper request for medical attention.
11 (CDC-form 7362). Months later, what was found was a small piece
12 of toilet paper stuck to plaintiff's ear drum causing a severe ear
13 infection due to the lack of medical attention while housed in Ad
14 Seg. This piece of toilet paper caused plaintiff to constantly
15 hear a crackling and popping sound in his ear with severe pain,
16 mental anguish, vertigo, and loss of hearing due to the infection
17 of his ear.

18 53. What occurred during his entire stay in 3A03-Ad-Seg concerning
19 the treatment of plaintiff's ear can only be described as
20 dysfunctional, inadequate, and certainly deliberately indifferent
21 to plaintiff's medical needs and suffering.

22 54. Never at any time during plaintiff's stay in Ad-Seg did a
23 Doctor, Nurse practitioner, Registered Nurse, or LVN Nurse,
24 actually look into plaintiff's ear with an Otis scope. Defendant
25 Doe #1, without looking into plaintiff's ear, ordered that
26 plaintiff be given "earwax removal drops" for three (3) days,
27 followed by a ear "flush" immediately thereafter. The ear drops
28 were given for three days however, the ear was never flushed.

1 Then again, on June 14, 2007, the ear drops were re-prescribed and
2 administered scheduled for an ear-flush on June 17, 2007. Again,
3 plaintiff was not called until June 20, 2007, which was too late as
4 the wax would have hardened again; if in fact that was the problem,
5 but as it turned out it wasn't. On that date however, defendant Nurse
6 OSUNDE, without proper training, instruction, or equipment, simply
7 put water in the ear, looked inside the ear without an Otis scope
8 and declared "the ear is clear." Plaintiff adamantly informed
9 OSUNDE it was not clear, as the popping and crackling sound was
10 still present. Plaintiff informed defendant OSUNDE that he can
11 put more water in his ear in the shower than what she did - and
12 that the ear needs to be flushed properly. Defendant OSUNDE
13 simply declared "there was nothing else she could do."

14 55. On June 20, 2007, plaintiff submitted an inmate appeal
15 concerning the ear problem and the dysfunctionality of the
16 defendant nurses concerning his ear problem. Shortly thereafter,
17 plaintiff's ear became infected and plaintiff began to suffer
18 severe pain, mental anguish, vertigo, and loss of hearing due to
19 the infection of his ear. Plaintiff complained on a daily basis
20 to Nurses Does 1, 2, and 3, whom completely ignores plaintiff's
21 complaints .

22 56. Plaintiff submitted another request for medical services
23 concerning what now is an ear infection with vertigo. On July 26,
24 2007, defendant Nurse Practitioner, LOADHOLT, orders the ear to
25 be flushed but refuses to look into plaintiff's ear with the
26 Otis scope. Meanwhile, plaintiff continued to suffer pain,
27 mental anguish from the constant popping and crackling in his ear,
28 vertigo and loss of hearing.

1 57. On numerous occasions plaintiff requested to defendant Nurse
2 BURNS to comply with the "ear flushing order" by LOADHOLT but
3 defendant BURNS refused to do such or ensure someone qualified
4 follows-up on the order. This refusal allows plaintiff to
5 continue to suffer severe pain, mental anguish, vertigo and loss
6 of sleep.

7 58. Plaintiff was released from Ad-Seg on August 31, 2008.

8 Plaintiff submits yet another request for medical services now
9 that he is on another facility. Finally, on September 7, 2007,
10 Nurse Practitioner Wilson, responding to the inmate appeal filed
11 on June 20, 2007, properly flushed the infected ear clearing the
12 toilet paper which was stuck to the ear drum. It was at this
13 first time that "anyone" had actually looked in the ear with an
14 Otis scope which discovered the toilet paper stuck to plaintiff's
15 ear drum and which of course caused the ear infection and the
16 constant popping and crackling of the ear. Nurse Practitioner
17 Wilson prescribed the proper anti-biotics and medication to clear
18 the infection. Plaintiff continues to have occasional ear aches
19 and loss of hearing.

20 59. Plaintiff has exhausted his administrative remedies for the
21 claims herein. (See attached herein Exhibit "G").

22 ///

23 //

24 /

25

26

27

28

FIRST CLAIM FOR RELIEF

Violation Of Prisoner's First Amendment Rights To Be
Free From Retaliatory Acts For Filing Grievances
And Court Actions Against Prison Officials

60. Plaintiff realleges and incorporates by reference each allegation of paragraphs 1 through 51, inclusive, as if alleged herein.

61. Defendants K. HALSEY, R. VOGEL, T. HEBRON, R. BENEVIDEZ, S. SMYTH, A. CASTRO, CCI E. ORTIZ, R. VELLA, CCI SABRINA JOHNSON, violated plaintiff's First Amendment right to be free from retaliatory acts for exercising his right to file grievances and court actions against prison officials causing unnecessary physical injury, stress, psychological and emotional distress, as herein alleged.

62. Specifically, defendants knowingly retaliated against plaintiff for filing said Petition for Order to Compel Disclosure of Public Records and inmate grievances against them and other prison officials by conspiring to, and writing false and malicious disciplinary violations on plaintiff, taking his job assignment to curtail plaintiff's privileges and placing him in Administrative Segregation. For utilizing excessive force by placing handcuffs extremely tight maliciously and sadistically, leaving them on his wrists for an excessive period of time causing physical injury and extreme pain. For defendant K. HALSEY, "speading" the word to inmates that plaintiff is a "rat or snitch" placing plaintiff in jeopardy of personal safety and attempting to "chill" plaintiff's right to file grievances. All defendants actions offend contemporary standards of decency. Defendant BENEVIDEZ participated by engaging in the "code of silence" and participated

1 in a "cover-up" during the investigation of defendant HALSEY's
2 investigation of misconduct as described in Exhibit "A" herein.

3 63. Plaintiff is informed and believes, and thereon alleges,
4 that defendant M. MELO, furthered the retaliation by finding
5 plaintiff guilty of said canard for Battery on a Peace Officer
6 although he had exonerating evidence in front of him.

7 64.. Plaintiff is informed and believes, and thereon alleges,
8 that defendants J. HARTLEY, R. LOPEZ, N. COMAITES, knew that
9 defendants VOGEL, HALSEY, HEBRON, ORTIZ, JOHNSON, BENEVIDEZ,
10 SMYTH, VELLA, was capable of and likely to perpetrate such out-
11 rageous acts as to retaliate and falsify reports against plaintiff.

12 Plaintiff further alleges he informed defendant J. HARTLEY, that
13 retaliatory acts were occurring and would continue to occur by
14 defendants VOGEL, HALSEY, HEBRON, ORTIZ, JOHNSON, BENEVIDEZ,
15 SMYTH, and VELLA and that defendant knew that such conduct would
16 be harmful to plaintiff, yet allowed defendants to remain in
17 their position of authority, and to carry out the offensive
18 behavior. In doing so, defendant J. HARTLEY, implemented a
19 policy that repudiated plaintiff's constitutional rights and was
20 unconscionable. Under the doctrine of supervisory liability
21 defendant J. HARTLEY is liable for injuries.

22 65 Plaintiff further alleges that defendant N. COMAITES, and
23 R. LOPEZ, furthered the retaliation by "signing off" on the
24 "guilty" finding by defendant M. MELO, although they had the
25 exonerating evidence in front them.

26 66. Plaintiff is informed and believes, and thereon alleges,
27 that defendants HARLEY, COMAITES, and LOPEZ are in a position of
28 authority such that they could arrange, or order to be arranged,

1 a transfer for plaintiff away from CORCORAN I, where plaintiff is
2 subjected to retaliation and is fearful for his well-being and
3 safety. Plaintiff further alleges, that in fact defendant
4 HARTLEY, COMAITES, and LOPEZ knows of plaintiff's request for
5 transfer, of the alleged retaliation, and of plaintiff's fear, yet
6 has failed and refused to facilitate plaintiff's transfer.

7 67. Defendants and each of them, subjected plaintiff to this
8 physical, emotional, and mental abuse under circumstances which
9 did not require the use of physical force.

10 68. Defendants acts, as alleged herein, were despicable, knowing,
11 willful, malicious, and/or carried out with reckless disregard
12 for plaintiff's federally protected rights.

13 68. As a direct and proximate result of all of the defendant's
14 actions herein alleged, plaintiff suffered, and continues to
15 suffer, physical injury. Plaintiff is entitled to an award of
16 compensatory and punitive damages for injuries suffered.

17 69. As a further direct and proximate result of all of the
18 defendant's actions herein alleged, plaintiff suffered and
19 continues to suffer severe emotional and psychological distress.
20 Plaintiff is entitled to an award of compensatory and punitive
21 damages for injuries suffered.

22 70. Plaintiff is entitled to injunctive relief, including, but
23 not limited to, an order requiring his transfer away from Corcoran
24 I, where he will not be subjected to retaliation instigated and/
25 or ratified by any of the defendants. There is no adequate remedy
26 at law to protect plaintiff from said retaliation, and without
27 the equitable relief sought he is susceptible to great and
28 irreparable injury. The balance of hardships tips markedly

1 toward plaintiff in that there would be little or no prejudice
2 or harm to the defendants should plaintiff be transferred away
3 from Corcoran I, but great harm to plaintiff should be required
4 to stay at that institution.

5 SECOND CLAIM FOR RELIEF

6 Violation Of Prisoner's Fifth And Fourteenth Amendments
7 Rights To Due Process For Exercising His Right To
8 File Grievances And Be Free From Retaliatory
9 Acts For Exercising Those Rights

9 71. Plaintiff realleges and incorporates by reference each
10 allegation of paragraphs 1 through 51 and paragraphs 60 through
11 70, inclusive, as if alleged herein. All said defendant's
12 violated plaintiff's Fifth and Fourteenth Amendment Rights to
13 Due Process of Law.

14 ///

15 //

16 /

21
22
23
24
25
26
27
28

THIRD CLAIM FOR RELIEF

Violation Of Prisoner's Eighth Amendment Right
To Be Free From The Use Of Excessive Force

1
2
3
4 72. Plaintiff realleges and incorporates by reference each
5 allegation of paragraphs 1 through 51, inclusive, as if alleged
6 herein.

7 78. Defendant K. HALSEY, violated plaintiff's Eighth Amendment
8 right to be protected from cruel and unusual punishment in the
9 form of excessive force, by his unnecessary and wanton infliction
10 of pain, including physical injury and psychological and emotional
11 distress, as herein alleged.

12 79. Specifically, defendant HALSEY knowingly, maliciously and
13 sadistically inflicted physical, emotional and mental abuse upon
14 plaintiff when he placed handcuffs on plaintiff so tight they
15 cur into plaintiff's wrist and cut off blood stream to his hands,
16 and then left the handcuffs on for a long period of time, further
17 causing nerve damage and extensive and prolonged numbing of the
18 wrists, hands and fingers. Further, defendants VOGEL and HALSEY
19 left plaintiff handcuffed in the "cage" without allowing plaintiff
20 to urinate after plaintiff informed them he had an enlarged
21 prostate and had to urinate. Defendants actions offend
22 contemporary standards of decency.

23 80. Plaintiff is informed and believes, and thereon alleges,
24 that defendants J. HARTLEY, R. LOPEZ, and N. COMAITES, knew that
25 defendants R. VOGEL and K. HALSEY was capable of and likely to
26 perpetrate such outrageous acts as to use excessive force and
27 that defendant s knew that such conduct would be harmful to
28 plaintiff, yet allowed defendant VOGEL and HALSEY to remain in

1 their positions of authority, and to carry out the offensive
2 behavior. In doing so, defendants J. HARTLEY, R. LOPEZ, and N.
3 COMAITES, implemented a policy that repudiated plaintiff's
4 constitutional rights and was unconscionable. Under the doctrine
5 of supervisory liability defendants HARTLEY, LOPEZ, and COMAITES
6 is liable for injuries.

7 81. Plaintiff is informed and believes, and thereon alleges,
8 that defendants HARTLEY, LOPEZ, and COMAITES, are in a position
9 of authority such that they could arrange, or order to be arranged
10 a transfer for plaintiff away from Corcoran I, where plaintiff is
11 subjected to retaliation and is fearful for his well-being and
12 safety.

13 82. Defendants and each of them, subjected plaintiff to this
14 physical, emotional, and mental abuse under circumstances which
15 did not require the use of any physical force whatsoever including
16 placing handcuffs on the plaintiff in sadistically and malicious
17 manner.

18 83. Defendants acts, as alleged herein, were despicable, knowing,
19 willful, malicious, and/or carried out with reckless disregard for
20 plaintiff's federal protected rights.

21 84. As a direct and proximate result of all of the defendant's
22 actions herein alleged, plaintiff suffered, and continued to
23 suffer, physical injury. Plaintiff is entitled to an award of
24 compensatory and punitive damages for injuries suffered.

25 85. As a further direct and proximate result of all of the
26 defendant's actions herein alleged, plaintiff suffered and
27 continues to suffer severe emotional and psychological distress.
28 Plaintiff is entitled to an award of compensatory and punitive

1 damages for injuries suffered.

2 86. Plaintiff is entitled to injunctive relief, including, but
3 not limited to, an order requiring his transfer away from
4 Corcoran I, where he will be subjected to such outrageous acts
5 and/or ratified by any of the defendants. There is no adequate
6 remedy at law to protect plaintiff from said acts and without the
7 equitable relief sought he is susceptible to great irreparable
8 injury. The balance of hardships tips markedly toward plaintiff
9 in that there would be little or no prejudice or harm to the
10 defendants should plaintiff be transferred away from Corcoran I,
11 but great harm to plaintiff should he be required to stay at
12 that institution.

13 ///

14 //

15 /

16
17
18
19
20
21
22
23
24
25
26
27
28

1 FOURTH CLAIM FOR RELIEF

2 Violation Of Prisoner's Eighth Amendment
3 Right To Have Personal Safety

4 87. Plaintiff realleges and incorporates by reference each of the
5 general allegations of paragraphs 1 through 51, inclusive, and
6 paragraphs 60 through 86, inclusive, as if alleged herein.

7 88. Defendants have denied plaintiff his Eighth amendment right
8 to be free from cruel and unusual punishment in the form of
9 deprivation of personal safety, thus denying a basic human need
10 guaranteed to prisoners by the United States Constitution.

11 89. In doing as alleged herein above, defendant's acted with
12 deliberate indifference to plaintiff's personal safety, and
13 subjected him to unnecessary and wanton infliction of pain,
14 including physical injury and psychological and emotional
15 distress, in violation of his rights under the Eighth Amendment.
16 Specifically, defendants were deliberately indifferent to
17 plaintiff's right to have personal safety when HALSEY intention-
18 ally, knowingly, and maliciously & sadistically inflicted physical
19 abuse and humiliation on plaintiff by handcuffing plaintiff's
20 wrists so tight it cut plaintiff's wrists, caused nerve damage,
21 and left inside a cage having to hold his urine with an enlarged
22 prostate for an excessive amount of time. Further, defendant
23 HALSEY's action of "speading the word" that plaintiff "is a rat
24 and snitch," places plaintiff's personal safety in jeopardy.

25 90. Plaintiff is informed and believes, and thereon alleges,
26 that defendants J. HARTLEY, ROL LOPEZ, and N. COMAITES, knew that
27 defendant VOGEL and defendant HALSEY was capable of and likely
28 to perpetrate asuch outrageous acts as to use excessive force and

1 jeopardize plaintiff's personal safety by spreading the word that
2 plaintiff was a "rat and snitch" and that defendant knew that
3 defendant VOGEL would condone such conduct and that such conduct
4 would be harmful to plaintiff, yet allowed defendant's VOGEL and
5 HALSEY to carry out the offensive behavior. In doing so,
6 defendants J. HARTLEY, R. LOPEZ, and N. COMAITES, implemented a
7 policy that repudiated plaintiff's constitutional rights and was
8 unconscionable. Under the doctrine of supervisory liability
9 defendant HARTLEY, LOPEZ and COMAITES is liable for injuries.

10 91. Plaintiff is informed and believes, and thereon alleges that
11 defendants LOPEZ and COMAITES, and HARTLEY, are in a position of
12 authority such that they could arrange, or order to be arranged,
13 a transfer for plaintiff away from Corcoran I, where plaintiff is
14 subjected to retaliation and is fearful for his well-being and
15 safety. Plaintiff further alleges, that in fact defendants
16 HARTLEY, LOPEZ, and COMAITES, knows of plaintiff's request for
17 transfer, of the alleged retaliation, and of plaintiff's fear,
18 yet has failed and refused to facilitate plaintiff's transfer.

19 92. Defendants and each of them, subjected plaintiff to this
20 physical, emotional, and mental abuse under circumstances which
21 did not require the use of physical force whatsoever.

22 93. Defendants acts, as alleged herein, were despicable, knowing,
23 willful, malicious, and/or carried out with reckless disregard for
24 plaintiff's federally protected rights.

25 93. As a direct and proximate result of all of the defendants
26 actions herein alleged, plaintiff suffered, and continues to
27 suffer, physical injury. Plaintiff is entitled to an award of
28 compensatory and punitive damages for injuries suffered.

1 94. As a further direct and proximate result of all of the
2 defendants actions herein alleged, plaintiff suffered and
3 continues to suffer severe emotional and psychological distress.
4 Plaintiff is entitled to an award of compensatory and punitive
5 damages for injuries suffered.

6 95. Plaintiff is entitled to injunctive relief, including, but
7 not limited to, an order requiring his transfer away from Corcoran
8 I, where he will be subjected to such outrageous acts and/or
9 ratified by any of the defendants. There is no adequate remedy
10 at law to protect plaintiff from said acts and without the
11 equitable relief sought he is susceptible to great irreparable
12 injury. The balance of hardships tips markedly toward plaintiff
13 in that there would be little or no prejudice or harm to the
14 defendants should plaintiff be transferred away from Corcoran I,
15 but great harm to plaintiff should he be required to stay at
16 that institution.

17 //

18 //

19 /

20

21

22

23

24

25

26

27

28

FIFTH CLAIM FOR RELIEF

Deliberate Indifference To Serious Medical Needs
Violating Plaintiff's Eighth Amendment Right

1
2
3
4 96. Plaintiff realleges and incorporates by reference each of
5 the allegations in paragraphs 52 through 59, inclusive.

6 97. Plaintiff's medical condition, as described herein,
7 constitutes a serious medical need in that failure to treat the
8 condition resulted in further significant injury. Said injury
9 has included, but not necessarily been limited to, infection,
10 loss of hearing, severe pain, vertigo, and loss of sleep, loss
11 of concentration, mental anguish, and headaches. Plaintiff's
12 medical condition also significantly affected his activities
13 during said condition each every day he had the condition.

14 98. Plaintiff is informed and believes, and thereon alleges,
15 that defendants have acted intentionally in the manner described
16 above and with knowledge of plaintiff's suffering and the risk
17 of further serious harm that could result from their actions or
18 refusal to act.

19 99. Defendants conduct violates 42 U.S.C. § 1983, because that
20 conduct constitutes deliberate indifference to plaintiff's
21 serious medical needs in violation of his Eighth Amendment right
22 to be free from cruel and unusual punishment.

23 100. As a proximate result of the defendants conduct, plaintiff
24 has suffered general damages in the form of severe pain and
25 suffering and emotional distress.

26 101. In acting as described herein above, defendants acted
27 despicably, knowingly, willfully, and maliciously, or with
28 reckless or callous disregard for plaintiff's federally protected

1 rights, entitling plaintiff to an award of exemplary and
2 punitive damages.

3 PRAYER FOR RELIEF

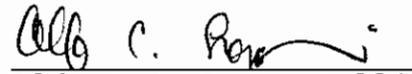
4 Wherefore, Plaintiff, Alfred C. Lombardelli, prays for the
5 following relief:

- 6 1. Injunctive relief;
7 2. Compensatory Damages according to proof;
8 3. Punitive Damages according to proof;
9 4. Cost of suit; and
10 5. Such further relief as the court deems proper.

11 DEMAND FOR JURY TRIAL

12 Plaintiff, Alfred C. Lombardelli, hereby demands a trial
13 by jury.

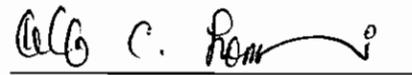
14
15 Dated: July 22, 2008



Alfred C. Lombardelli
In Pro-Se

17
18 I declare under the penalty of perjury that the foregoing is
19 true and correct.

20 EXECUTED this 22nd day of July 2008, at Corcoran,
21 California.



Alfred C. Lombardelli

ALFRED C. LOMBARDELLI,
Plaintiff,

v.

Case Number: CV-00658-AWI-DLB (PC)

K. HALSEY, Et. Al.,
Defendants.

PROOF OF SERVICE

I hereby certify that on July 2008, I served a copy
of the attached FIRST AMENDED COMPLAINT 42 U.S.C. § 1983,
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter
listed, by depositing said envelope in the United States Mail at Corcoran State Prison
Corcoran, California:

(List Name and Address of Each
Defendant or Attorney Served)

Clerk of the Court
UNITED STATES DISTRICT COURT
2500 TULARE STREET, ROOM 11501
FRESNO, CALIFORNIA 93721

I declare under penalty of perjury that the foregoing is true and correct.

Ronald Cobo
RONALD COBO

(Signature of Person Completing Service)