

1 Cayetano Melendez, D96382
California Health Care Facility
2 P.O. Box 32200 (Facility C)
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In Propria Persona

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Limited Purpose Counsel for
9 Drafting the Second Amended Complaint

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13 CAYETANO MELENDEZ,

14 Plaintiff,

15 vs.

16 HUNT, in his individual capacity as a
Correctional Officer at the Kern Valley State
17 Prison; ARRIOLA, in his individual capacity as
a Correctional Officer at the Kern Valley State
18 Prison; CRUZ, in her individual capacity as a
Correctional Officer at the Kern Valley State
19 Prison; and DOES 1 through 50, inclusive,

20 Defendants.

Case No. 1:13-cv-00279-AWI-BAM (PC)

**SECOND AMENDED COMPLAINT
FOR VIOLATION OF CIVIL AND
CONSTITUTIONAL RIGHTS**

DEMAND FOR JURY TRIAL

21 **INTRODUCTION**

22 While incarcerated in the Kern Valley State Prison, CAYETANO MELENDEZ was
23 subject to excessive force, inhuman conditions of confinement, and deliberate indifference to his
24 serious medical condition by Correctional Officer HUNT, while Correctional Officers ARRIOLA
25 and CRUZ failed to intercede.

26 **JURISDICTION**

27 1. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 (in
28 that they arise under the Constitution of the United States); and pursuant to 28 U.S.C. § 1343(a)(3)

1 (in that they are brought to address deprivations, under color of state authority, of rights,
2 privileges, and immunities secured by the United States Constitution).

3 2. Venue is proper in the United State District Court for the Eastern District of
4 California under 28 U.S.C. § 1391(b). Defendants are located in the Eastern District of California
5 and many of the acts and/or omissions complained of herein occurred in this District.

6 3. Intradistrict venue is proper in the Fresno Division of the United State District
7 Court for the Eastern District of California under Local Rule 120(d), because this action arises
8 from acts and/or omissions which occurred in the County of Kern.

9 4. Plaintiff is currently a prisoner housed at the California Health Care Facility located
10 in Stockton, California. Plaintiff has brought no other lawsuits while he was a prisoner, excluding
11 the instant action. Plaintiff has exhausted all available administrative remedies related to the facts
12 contained in this Complaint.

13 **PARTIES**

14 5. Plaintiff CAYETANO MELENDEZ (“Plaintiff” or “MELENDEZ”) is currently a
15 prisoner housed at the California Health Care Facility located in Stockton, California.

16 6. Defendant HUNT is, and at all times relevant hereto was, a Correctional Officer
17 employed at the Kern Valley State Prison. HUNT was, at all times relevant herein, acting under
18 the color of state law. HUNT is sued in his individual capacity.

19 7. Defendant ARRIOLA is, and at all times relevant hereto was, a Correctional Officer
20 employed at the Kern Valley State Prison. ARRIOLA was, at all times relevant herein, acting
21 under the color of state law. ARRIOLA is sued in his individual capacity.

22 8. Defendant CRUZ is, and at all times relevant hereto was, a Correctional Officer
23 employed at the Kern Valley State Prison. CRUZ was, at all times relevant herein, acting under the
24 color of state law. CRUZ is sued in her individual capacity.

25 9. Defendant DOES 1 through 50 are/were agents or employees employed at the Kern
26 Valley State Prison who are/were, at all times relevant herein, acting under the color of state law.
27 The true and correct names of DOES 1 through 50 are not now known to Plaintiff who sues such
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1 Defendants by their fictitious names. Plaintiff intends to substitute the true and correct names of
2 said Defendants when the same are ascertained.

3 **GENERAL FACTUAL ALLEGATIONS**

4 10. MELENDEZ was, at all relevant times herein, a prisoner housed at the Kern Valley
5 State Prison (“KVSP”) located in Delano, California.

6 11. MELENDEZ is, and at all times relevant hereto was, a person suffering from throat
7 cancer and type 2 diabetes. MELENDEZ’s diabetes requires that he have access to water and
8 glucose/sugar on a regular basis, to prevent diabetes-related symptoms and potentially a diabetes-
9 induced coma. KVSP correctional officers, including HUNT, ARRIOLA, and CRUZ, were aware
10 that MELENDEZ suffered from diabetes-related symptoms without access to water and
11 glucose/sugar.

12 12. Prior to the allegations alleged herein, MELENDEZ suffered a stroke which
13 severely and permanently affected movement on the entire right side of his body. MELENDEZ has
14 been confined to a wheelchair since he suffered the stroke.

15 13. On June 27, 2012, MELENDEZ underwent dialysis, a kidney treatment.
16 MELENDEZ commonly underwent dialysis treatments at KVSP and was familiar with the
17 procedures when such treatments were provided.

18 14. MELENDEZ was being assisted by registered nurse Kelly (“Kelly”) and dialysis
19 technician Joan (“Joan”) as they prepared MELENDEZ for his dialysis treatment. Kelly noted to
20 Joan that MELENDEZ should be situated in the middle chair for his dialysis treatment, as opposed
21 to the side chairs, because “He [MELENDEZ] is claustrophobic.” HUNT was present in the room
22 and heard Kelly’s comment regarding MELENDEZ’s claustrophobia. MELENDEZ does suffer
23 from claustrophobia onset by confinement in tight, closed-in spaces.

24 15. MELENDEZ underwent approximately three and one-half hours of dialysis
25 treatment.

26 16. During the dialysis treatment, Kelly and Joan provided MELENDEZ with water
27 and small pieces of candy to prevent MELENDEZ from experiencing diabetes-related symptoms.

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1 17. When MELENDEZ's dialysis treatment concluded, HUNT was summoned back to
2 the room in order to push MELENDEZ's wheelchair back to his cell.

3 18. In HUNT's presence, Kelly observed that the ankle chains around MELENDEZ's
4 ankles appeared to be tighter than necessary and were cutting into MELENDEZ's ankles. Kelly
5 asked HUNT "Don't you think those are too tight?" HUNT became irritated by Kelly's
6 observation and left the room. HUNT returned to the room when it was time to take MELENDEZ
7 away from the dialysis treatment room.

8 19. As HUNT pushed MELENDEZ's wheelchair, he told MELENDEZ "I got
9 something for you."

10 20. Rather than placing MELDENDEZ in the "tank," a large holding cell that easily
11 accommodated MELENDEZ's wheelchair where MELENDEZ was always placed following
12 dialysis treatmewnts, HUNT placed MELENDEZ and his wheelchair in the "cage," a particularly
13 small cell which barely fit MELENDEZ and his wheelchair, for the sole purpose of inducing
14 MELENDEZ's claustrophobia.

15 21. HUNT then squeezed both ankle chains tighter around MELENDEZ's ankles,
16 breaking the skin and causing him to bleed. MELENDEZ cried out in pain and asked HUNT what
17 he was doing. HUNT ignored MELENDEZ, locked the cage, and left the room.

18 22. HUNT returned to the correctional officers' station located immediately outside of
19 the door from where MELENDEZ was locked in the cage.

20 23. At that point in time, MELENDEZ had gone approximately an hour without a drink
21 of water or glucose/sugar. MELENDEZ began to experience symptoms of his unattended diabetic
22 condition, profusely sweating and shaking. MELENDEZ became distressed and feared that he
23 would suffer a diabetic coma without immediate medical attention.

24 24. MELENDEZ began to yell for the help of the correctional officers, who
25 MELENDEZ could hear talking on the other side of the room's door. In response to
26 MELENDEZ's pleas for help with his medical condition, MELENDEZ could hear HUNT,
27 ARRIOLA, and CRUZ laughing from the correctional officers' station and they continued to
28 ignored MELENDEZ, leaving him calling for help from the cage.

1 of the injury was so great that MELENDEZ still has prominent scars around both ankles where
2 the chains cut into both of his legs, nearly a year after the incident. HUNT's use of excessive force,
3 the decision to tighten MELENDEZ's ankle chains, was not motivated by a good-faith effort to
4 maintain or restore discipline, but was instead a malicious and sadistic act performed by HUNT for
5 the sole purpose of causing MELEDENZ harm.

6 32. As a direct and proximate result of HUNT's intentional, deliberate, and
7 unreasonable conduct, which was motivated by evil motive or intent, or involved reckless or
8 callous indifference to MELENDEZ federally protected rights under the Eighth and Fourteenth
9 Amendments, MELENDEZ suffered injuries entitling him to receive compensatory and punitive
10 damages against HUNT.

11 WHEREFORE, Plaintiff prays for relief as hereunder appears.

12 **SECOND CLAIM**

13 **Inhumane Conditions of Confinement**

14 **(Eighth & Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

15 **Against Defendants HUNT and DOES 1 through 50**

16 33. Plaintiff realleges and incorporate the allegations of each and every preceding
17 paragraph of this Complaint, to the extent relevant, as if fully set forth herein.

18 34. HUNT, acting under color of state law, and in violation of contemporary standards
19 of decency, locked MELENDEZ in the cage for the sole purpose of a wanton and unnecessary
20 infliction of pain on MELENDEZ. HUNT knew that MELENDEZ was claustrophobic and, rather
21 than placing MELENDEZ in the larger tank, the regular course of action readily available to
22 HUNT, HUNT chose to lock MELENDEZ in the small cage for no legitimate penological purpose.

23 35. As a direct and proximate result of HUNT's intentional, deliberate, and
24 unreasonable conduct, which was motivated by evil motive or intent, or involved reckless or
25 callous indifference to MELENDEZ federally protected rights under the Eighth and Fourteenth
26 Amendments, MELENDEZ suffered injuries entitling him to receive compensatory and punitive
27 damages against HUNT.

28 WHEREFORE, Plaintiff prays for relief as hereunder appears.

1 **THIRD CLAIM**

2 **Deliberate Indifference to Serious Medical Needs**

3 **(Eighth & Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

4 **Against Defendant HUNT and DOES 1 through 50**

5 36. Plaintiff realleges and incorporate the allegations of each and every preceding
6 paragraph of this Complaint, to the extent relevant, as if fully set forth herein.

7 37. At the time of the incident, MELENDEZ was suffering from a serious medical
8 condition, and the lack of water or sugar/glucose ingested by MELENDEZ placed him in danger of
9 experiencing a diabetes-induced coma, a significant injury. HUNT, acting under color of state law,
10 was aware of MELENDEZ's serious medical need and was deliberately indifferent towards that
11 need when HUNT confined MELENDEZ in the cage, left the room, and ignored MELENDEZ as
12 he called out in distress as he was experiencing a diabetic reaction.

13 38. As a direct and proximate result of HUNT's intentional, deliberate, and
14 unreasonable conduct, which was motivated by evil motive or intent, or involved reckless or
15 callous indifference to MELENDEZ federally protected rights under the Eighth and Fourteenth
16 Amendments, MELENDEZ suffered injuries entitling him to receive compensatory and punitive
17 damages against HUNT.

18 WHEREFORE, Plaintiff prays for relief as hereunder appears.

19 **FOURTH CLAIM**

20 **Failure to Intercede**

21 **(Eighth & Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

22 **Against Defendants ARRIOLA, CRUZ, and DOES 1 through 50**

23 39. Plaintiff realleges and incorporate the allegations of each and every preceding
24 paragraph of this Complaint, to the extent relevant, as if fully set forth herein.

25 40. ARRIOLA and CRUZ, acting under color of state law, heard MELENDEZ in
26 distress, calling for help due to the diabetic reaction he was experiencing. ARRIOLA and CRUZ
27 were aware of MELENDEZ's serious medical need and were deliberately indifferent towards that
28 need when they ignored MELENDEZ's pleas for help, instead choosing to laugh with HUNT at

1 the plight MELENDEZ was experiencing. ARRIOLA and CRUZ had a duty to intercede when
2 their fellow correctional officer, HUNT, was violating MELENDEZ's constitutional rights.
3 ARRIOLA and CRUZ's passive response to the violation of MELENDEZ's constitutional rights
4 by HUNT makes ARRIOLA and CRUZ liable, like HUNT, for subjecting MELENDEZ to a
5 deprivation of his Eighth and Fourteenth Amendment rights.

6 41. As a direct and proximate result of ARRIOLA and CRUZ's intentional, deliberate,
7 and unreasonable conduct, which was motivated by evil motive or intent, or involved reckless or
8 callous indifference to MELENDEZ federally protected rights under the Eighth and Fourteenth
9 Amendments, MELENDEZ suffered injuries entitling him to receive compensatory and punitive
10 damages against ARRIOLA and CRUZ.

11 WHEREFORE, Plaintiff prays for relief as hereunder appears.

12 **PRAYER**

13 WHEREFORE, Plaintiff seeks relief from this Court as follows:

- 14 1. For compensatory, general, and special damages in an amount according to proof;
 - 15 2. For exemplary/punitive damages against HUNT, ARRIOLA, and CRUZ, in an
16 amount sufficient to deter and to make an example of them, because HUNT, ARRIOLA, and
17 CRUZ engaged in purposeful conduct, as alleged, motivated by evil motive or intent, or involving
18 reckless or callous indifference to MELENDEZ federally protected rights under the Eighth and
19 Fourteenth Amendments to the U.S. Constitution;
 - 20 3. For attorney's fees as provided by law (if any), pursuant to 42 U.S.C. § 1988 and
21 any other statute as may be applicable;
 - 22 4. For costs of suit; and
 - 23 5. For such other and further relief as the Court may deem just and proper.
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DATED: June 5, 2014

Respectfully Submitted,
LAW OFFICE OF MARK E. MERIN



By: _____
Paul H. Masuhara

Limited Purpose Counsel for
Drafting the Second Amended Complaint

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DEMAND FOR A JURY TRIAL

A JURY TRIAL IS DEMANDED on behalf of Plaintiff CAYETANO MELENDEZ.

DATED: June 5, 2014

Respectfully Submitted,
LAW OFFICE OF MARK E. MERIN



By: _____
Paul H. Masuhara

Limited Purpose Counsel for
Drafting the Second Amended Complaint

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of June, 2014, I served the **SECOND AMENDED COMPLAINT FOR VIOLATION OF CIVIL AND CONSTITUTIONAL RIGHTS; DEMAND FOR JURY TRIAL** upon the Plaintiff via first class U.S. mail at the address listed below:

Cayetano Melendez, D96382
California Health Care Facility
P.O. Box 32200 (Facility C)
Stockton, California 95213

In Propria Persona

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on June 5, 2014, at Sacramento, California.

/s/ Paul H. Masuhara

Paul H. Masuhara