

1 PATRICIA A. MCCOLM, J.D.
2 P.O. Box 113
3 Lewiston, CA 96052
4 (415) 333-8000

5 Plaintiff, pro se

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA

FILED
MAR 13 2017
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

8 PATRICIA A. MCCOLM

NO. 1:14-cv-00580-LJO-MJS

9 **FIRST AMENDED COMPLAINT**
10 **AND JURY DEMAND.**

11 Plaintiff,

12 vs.

13 STATE OF CALIFORNIA;
14 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND HABILITATION (CDCR);
15 EDMUND G. BROWN, JR,
Governor of the State of California, Off.
16 JEFFREY BEARD, Secretary of CDCR, Off.;
CALIFORNIA CORRECTIONAL HEALTH
17 CARE SERVICES (CCHCS);
TIM ELLAVICH, Director of (CCHCS)Off.;
18 CALIFORNIA CORRECTIONAL
WOMEN'S FACILITY (CCWF);
19 TIM NEAL (HCCEO) (CCWF), Ind. & Off.;
R. MITCHELL (HCCP&S)(CCWF), Ind. & Off.;
20 PAL VIRK (HCCME)(CCWF), Ind. & Off.;
A. GONZALES, M.D. (CCWF), Ind. & Off.;
21 B.K. JOHYNSON, Warden (CCWF) Ind. & Off.;
GOYNES, Asso. Warden (CCWF) Ind. & Off.;
22 CPT. PARKS, Ind. & Off.;
R. BLISS (CO), Ind. & Off.;
23 R. SMITH (CO), Ind. & Off.;
R. AMEZCUA (LT), Ind. & Off.
24 FRANCO HARRIS (RN), Ind. & Off.
K. GREEN (LVN), Ind. & Off.
25 LOVAK (LVN), Ind. & Off.
J. BROBST, Ind. & Off.
26 CANTRELL (LVN), Ind. & Off
VALASQUEZ (LVN), Ind. & Off.
27 ONYEJE, Ind. & Off.
LWIN, Ind. & Off.
28 T. EZENWUGO (NP), Ind. & Off.
A.H. KHOO, (Unlicensed Physician) Ind. & Off.
TUNE (RN), Ind. & Off.

- 1 L. HUNTER, (Sgt.) Ind. & Off.
- 2 D. OLGETREE (CO), Ind. & Off.
- 3 BARON (CO), Ind. & Off.
- 4 FRUTOZ (CO), Ind. & Off.
- 5 HAYNES (CO), Ind. & Off.
- 6 JOHNSON (Sgt.), Ind & Off.
- 7 HANZAK (LT), Ind. & Off.
- 8 PIMPENTAL (Lt), Ind. & Off.
- 9 FORTNER, Ind. & Off.
- 10 RAMERY, Ind. & Off.
- 11 F. IVY (CO), Ind. & Off.
- 12 E. ESTRADA (CO), Ind. & Off.
- 13 MAGDALENO (CO), Ind. & Off.
- 14 L. BERGER (Librarian), Ind. & Off.
- 15 M. CUMMINGS (CO), Ind. & Off.
- 16 K. DOZIER (CO), Ind. & Off.
- 17 MEISTER (Sgt), Ind. & Off
- 18 SELF (CO) Ind. & Off.
- 19 FLORES (CO), Ind. & Off.
- 20 CAIN (CO), Ind. & Off.
- 21 COLLINS (CO), Ind. & Off.
- 22 GOMEZ (CO) Ind. & Off.
- 23 K. GREEN (CO), Ind. & Off.
- 24 R. WILLIAMS (Cpt), Ind. & Off.
- 25 R. GIBSON (Sgt), Ind. & Off.
- 26 L. LONGERO (CO), Ind & Off.
- 27 M. FRANCO (CO), Ind. & Off.
- 28 VALASQUEZ (CO), Ind. & Off.
- M. SANTOS (CO), Ind. & Off.
- S. GOSS (CO), Ind. & Off.
- M. LANTOK, Ind. & Off.
- PAGALING, Ind. & Off.
- GRUTERRAZ (CO), Ind. & Off.
- SOTELLO (CO), Ind. & Off.
- B.K. LANDINGHAM, Ind. & Off.
- JOSH SMITH, Ind. & Off.
- JUSTIN KELLY, Ind. & Off.
- K. ANDERSON (CO), Ind. & Off.
- BALDERAS (CO), Ind. & Off.
- KENNEDY (LT) Ind. & Off.
- ORMANDE (Sgt), Ind. & Off.
- CLARK (Sgt), Ind. & Off.
- HICKMAN (Lt) Ind & Off.
- RIVERA, (Sgt), Ind. & Off.
- VALENCIA (CO), Ind. & Off.
- DOES 1-100, Ind. & Off.

Defendants.

Plaintiff PATRICIA A. MCCOLM (Plaintiff) for her first amended complaint against
defendants alleges as follows:

JURISDICTION AND VENUE

1
2
3 1. Plaintiff brings this action under the American's with Disability Act, 42 U.S.C.
4 section 12101 (Prohibition against discrimination based on disability), 12203 (Prohibition against
5 retaliation and coercion) et seq. ("ADA"), Section 504 of the Rehabilitation Act of 1973, as
6 amended, 29 U.S.C. section 794 for discrimination based on plaintiff's disabilities; 42 U.S.C.
7 section 1981 (Reverse Discrimination), 42 U.S.C. section 1985 (Conspiracy to Interfere with
8 Rights) 1988; 42 U.S.C. section 1986 (Neglect to Prevent Interference with Rights); (42 U.S.C.
9 1983, deprivation of civil rights, retaliatory infractions et al, conspiracy/denial of plaintiff's
10 rights secured by the United States Constitution under the First, Fourteenth, Eighth Amendments,
11 denial of access to the courts/destruction of legal mail/records; and related State claims including
12 but not limited to causes for violation of Penal Code sections 2650-2652 (failure to protect,
13 unauthorized punishment, lack of care inflicting injury/impair health of prisoner), 2652/2656
14 (lack of care inflicting injury/deprivation of medically prescribed orthopedic appliances), Civil
15 Code sections 51, 51.7, 52.1 (discrimination/interference with exercise of civil rights) et al., Civil
16 Conspiracy / Deprivation of Civil Rights, California Code of Regulations Title XV violations,
17 medical negligence, personal injury/premises liability, personal injury/assault and battery,
18 intentional/negligent injury/failure to protect from other inmates (violent injury/physical abuse,
19 verbal harassment/bullying), retaliatory intimidation/treats re use of "Ad Seg," sexual
20 harassment/indecency, retaliatory infractions, fraud, intentional/negligent infliction of emotional
21 distress, personal injury/infliction of sleep deprivation, intentional/negligent destruction/theft of
22 personal property, intentional/negligent destruction of documents/evidence, defamation, elder
23 abuse, intentional/negligent creation of false and defamatory documents, falsification/destruction
24 of medical records, failure to inspect/produce and correct per statute upon request, failure to
25 provide and effectuate legal mail / interference with legal and U.S. Mails et al.

26 2. This Court has jurisdiction pursuant to the following statutes:

27 a. 28 U.S.C. section 1331, which gives district courts original jurisdiction over
28 civil rights actions arising under the Constitution, laws or treaties of the United States;

1 early release by reason thereof and to make her time as “hard” as possible.

2 7. Pursuant to California Code of Regulations, Title XV section 3375.1, McColm’s
3 placement score mandated that she be assigned to a Level I facility, which was not afforded to
4 McColm. Instead, she was placed in a Level IV facility (CCWF); primarily in non-ADA rooms
5 among medically/psychiatrically dangerous inmates, many of whom were violent murderers, who
6 were known to harbor hatred toward persons who were white, elderly and/or disabled; inmates
7 from whom, McColm suffered significant harm without recourse / protection from CCWF
8 employees.

9 8. Plaintiff is a qualified person with disability within the meaning of ADA section 3(2),
10 42 U.S.C. section 12102(2), and is generally known as a qualified person with disability
11 requiring reasonable accommodations and is a person with a record of having a qualifying
12 impairment that substantially limits one or more major life functions and has been regarded as
13 having such impairment.

14 9. Plaintiff is and was at all relevant times in this complaint a medically prescribed
15 motorized wheelchair user due to multiple medical conditions with limitations in major life
16 activities; including but not limited to **1) multiple sclerosis (MS)(not diagnosed or**
17 **accommodated by CCWF in spite of notice to be followed re outside physician MS**
18 **evaluation) affecting cognitive function, reading, speaking, use of extremities, walking with**
19 **severe fall fracture risk therefrom and from 2) osteoporosis.** Further, plaintiff has additional
20 medical conditions limiting activities of life; e.g. 3) asthma, 4) Hashimoto’s Disease, a life
21 threatening thyroid disease absent sufficient medication; the outside prison specialist dosage
22 prescribed, was denied at CCWF causing severe suffering / diminished cognitive function; **5)**
23 **degenerative herniated disc disease causing severe neck and back pain/severe spasm**
24 **limiting standing, walking, sitting,** sleeping and with pain/spasm, cognitive function; 6) sleep
25 apnea, **7) crippling arthritis limiting manual function and strength from deformed painful**
26 **hands, severely limiting writing/keyboarding, inflicting illegible writing requiring**
27 **additional time and assistance accommodation therewith; accommodations requested, but**
28 **not provided by CCWF, 8) painful weak prior left shoulder injury requiring surgery not**

1 performed by CCWF limiting use of arms, 9) acute painful and weak right shoulder injury
2 inflicted at CCWF neither diagnosed nor surgery performed inflicting severe pain and limiting
3 use of arms (surgery performed upon release from CCWF), **10) unstable arthritic painful feet**
4 **with deformed right lis franc foot fracture/dislocation/subluxation injury with fallen arch**
5 **and chronic pain limiting standing, walking, cognitive function on pain, for which surgery**
6 **is recommended;** 11) Grover's Disease; broken left wrist requiring surgery with fracture plate
7 inflicting weak limited function/flexibility and use of wrist; **12) painful knee injury at CCWF**
8 **from battery by inmate limiting standing/walking** and **13) hearing loss**, preventing plaintiff
9 from hearing and understanding speech accurately, not knowing the volume of her speech and
10 not having full cognition of words spoken; among other detriment from comprehension issues,
11 now diagnosed for hearing aids.

12 10. By reason of her age of 67-68 at CCWF, and as a white female with limitations of
13 disability requiring wheelchair use, Plaintiff is more likely than non-elderly white disabled
14 persons to suffer class based violence and discrimination from prison inmates and guards, denied
15 accommodation of disability and medical treatment, be subjected to intimidation/coercion and
16 sleep deprivation, verbally/physically/sexually harassed and abused, bullied, battered, have
17 property destroyed/stolen, deprived of services, benefits and privileges available at the prison
18 such as access without extreme pain to housing, food facilities/regular meals, education, denied
19 civil rights and protections under both Federal and State statutes generally and in retaliation for
20 exercise of rights by both prison employees and inmates in knowing violation of Constitutional
21 rights; in particular, in violation of duty to provide protection from the general prison population
22 violence constituting cruel and unusual punishment; all of which, were suffered by Plaintiff in
23 violation of law.

24 Defendants

25 11. Defendant STATE OF CALIFORNIA is a public "covered entity" within the
26 meaning of the ADA, a government entity receiving funds from the Federal government who has
27 duty to ensure that its subordinate agencies are compliant with the provisions of State and
28 Federal law. Defendant State of California owns and operates the correctional facilities that are

1 the subject of the claims against it for violations of the ADA, section 504 of the Rehabilitation
2 Act and related State statutes applicable to California State Prisons without immunity from suit
3 under the eleventh amendment. Defendant California has the responsibility to take action to
4 remedy the violations of the ADA and Rehabilitation Act set forth in this complaint, but failed to
5 so act; inflicting harm to plaintiff herein. Defendant California is and was on notice at all
6 relevant time in this amended complaint of its duty to comply with the ADA et al and with the
7 Armstrong Remedial Plan and other orders set forth in C94-2307, which it violated inflicting
8 injury/harm to plaintiff as set forth in this amended complaint.

9 12. Defendant CALIFORNIA DEPARTMENT OF CORRECTIONS AND
10 HABILITATION (CDCR) is a public "covered entity" under the ADA, a California State agency,
11 recipient of federal financial assistance where all of the operations of the California Department
12 of Corrections constitute a program or activity as those terms are used as the term is used in 42
13 U.S.C. sections 12101 et seq.; located in this judicial district, having a duty to protect inmates
14 and comply with requirements of law. It proves programs and/or activities receiving federally
15 financial assistance acting under the color of state and federal law. Defendant CDCR operates
16 the correctional facilities that are the subject of the claims against it for violation of the ADA and
17 section 504 of the Rehabilitation Act and related State statutes applicable to California State
18 Prisons without immunity from suit under the eleventh amendment. Defendant CDCR has the
19 responsibility to take action to remedy the violations of the California Code of Regulations, Title
20 XV, the ADA and Rehabilitation Act set forth in this complaint, but failed to so act; inflicting
21 harm to plaintiff herein. Defendant (CDCR) is and was on notice at all relevant time in this
22 amended complaint of its duty to comply with the ADA et al and with the Armstrong Remedial
23 Plan and other orders set forth in C94-2307, which it violated inflicting injury/harm to plaintiff as
24 set forth in this amended complaint.

25 13. Defendant EDMUND G. BROWN JR. is Governor of the State of California and the
26 Chief Executive of the state government. He is sued in his official capacity. As Governor he is
27 obligated under state law to supervise the official conduct of all executive and ministerial officers
28 and to see that all offices are filled and their duties lawfully performed. Defendant Brown Jr.

1 Has the authority to appoint and remove the subordinate defendants named herein. Governor
2 Brown Jr. Retains the ultimate state authority over all the prison conditions and procedures to
3 which plaintiff's causes of action relate. Defendant Brown Jr. has the authority and
4 responsibility to take action to remedy the violations of law set forth in this first amended
5 complaint, but has not done so; in spite of notice of similar violations by defendants named
6 herein and agreements to correct said violations reached through previous litigation against said
7 defendants and court orders pertaining thereto.

8 14. Defendant JEFFREY BEARD was on information and belief, at all times mentioned
9 in this amended complaint, Secretary of the CALIFORNIA DEPARTMENT OF
10 CORRECTIONS AND HABILITATION (CDCR) and is sued in that capacity. The Department
11 of Corrections dis responsible for the operation of the California state prison system, including
12 the provision of constitutionally adequate conditions and procedures for plaintiff. Defendant
13 Beard had the authority and responsibility to take action to remedy the violations of law set forth
14 in this amended complaint, but failed to do so.

15 15. Defendant CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
16 (CCHCS) is a "covered entity" under the ADA and under the California Department of
17 Corrections with duty to provide health care services to inmates. On information and belief, said
18 defendant instituted a policy to deny all persons with disability use of a physician prescribed
19 motorized wheelchair, without regard to whether or not manual function could provide mobility
20 thereof.

21 16. Defendant TIM ELLAVICH, on information and belief, at all times mentioned in this
22 amended complaint was the Director of CALIFORNIA CORRECTIONAL HEALTH
23 CARE SERVICES, and is sued in that capacity. As Director, defendant Ellavich was
24 responsible for supervising the development and implementation of a system of individual
25 assessment of a prisoner's disabilities, including his or her ability to perform daily living tasks
26 and to provide accommodations appropriate to a prisoner's limitations of disability and to
27 comply with the mandate of law. On information and belief, Defendant Ellavich instituted a
28 policy to deny all persons with mobility disability a motorized wheelchair without regard to

1 ability to manually operate same and to deny all persons with wheelchairs on "A" yard a pusher
2 thereof. Defendant Ellavich had the authority and responsibility to take action to remedy the
3 violations of law set forth in this amended complaint, as to which he is a named defendant, which
4 he failed to do.

5 17. Defendant CALIFORNIA CORRECTIONAL WOMEN'S FACILITY (CCWF) is a
6 "covered entity" under the ADA located in this judicial district under policies and procedures of
7 the California Department of Corrections with a duty to protect inmates, comply with
8 requirements of law and not to discriminate/retaliate for exercise of civil rights in violation of
9 Federal and State civil rights statutes. It provides programs and/or activities receiving federally
10 financial assistance acting under the color of state and federal law. Defendant CCWF is a
11 California correctional facility for women which is the subject of the claims against it for
12 violation of the ADA and section 504 of the Rehabilitation Act and related State statutes
13 applicable to California State Prisons without immunity from suit under the eleventh amendment.
14 Defendant CCWF has the responsibility to comply with California Code of Regulations, Title
15 XV and to take action to remedy violations thereof and the violations of the ADA and
16 Rehabilitation Act set forth in this complaint, but failed to so act; inflicting harm to plaintiff
17 herein. Defendant CCWF is and was on notice at all relevant time in this amended complaint of
18 its duty to comply with the ADA et al and with the Armstrong Remedial Plan and other orders
19 set forth in C94-2307, which it violated inflicting injury/harm to plaintiff as set forth in this
20 amended complaint.

21 18. Defendant TIM NEAL (HCCEO), on information and belief, was at all times
22 mentioned in this amended complaint was an M.D. Chief Executive Officer for Medical Services
23 for the California Department of Corrections at CCWF and is sued in his Ind. & Off. As the
24 Chief Executive officer, Dr. Neal has responsibility for supervising the provision of medical and
25 health care for all prisoners in the custody of the Department of Corrections. Defendant Neal has
26 the authority and responsibility to take action to remedy the violations of law set forth in this
27 amended complaint as to which he is a named defendant, but failed to do so.

28 19. Defendant R. MITCHELL (HCCP&S), on information and belief, was at all times

1 mentioned in this amended complaint, was an M.D. Assistant Deputy Director for Medical
2 Services for the California Department of Corrections at CCWF, who acted in violation of law to
3 effectuate the retaliatory civil conspiracy to deny plaintiff her civil right of access to and use of a
4 wheelchair with/without a pusher inflicting harm thereby and to deny timely access to and copy
5 of requested medical and related records. Defendant Mitchell is sued in his Ind. & Off. capacity;

6 20. Defendant PAL VIRK (HCCME), on information and belief, was at all times
7 mentioned in this amended complaint an M.D. Assistant Deputy Director for Medical Services
8 for the California Department of Corrections at CCWF who took no action to prevent the
9 conspiracy to interfere with rights, and is sued in his Ind. & Off. capacity;

10 21. Defendant A. GONZALES, M.D. (CCWF) on information and belief was all times
11 mentioned, employed by the CDCR as a physician at CCWF. Defendant was acting under color
12 of state law and is sued in his official and individual capacity.

13 22. Defendant B.K. JOHNSON, was at all relevant times hereto, employed by CDCR as
14 Warden of CCWF. As Warden of the prison, Defendant manages its day to day operations and
15 executes its policies. Defendant Johnson knew and/or should have known from plaintiff's letters
16 and complaints to ADA Associate Warden Goynes and other Associate Wardens and ADA
17 officials within CCWF; in particular, re discrimination/retaliation, lack of medical care/denial of
18 wheelchair and pusher, that CCWF employees were engaged in a conspiracy to interfere with and
19 deny plaintiff's ADA and other civil rights (42 U.S.C. section 1985) and Defendant Johnson
20 neglected to prevent such conspiracy to interfere with plaintiff's rights in violation of 42 U.S.C.
21 section 1986; in particular, the specific notice to her offices of the denial of prescribed orthopedic
22 appliances in violation of the ADA and Penal Code section 2656; e.g. medically prescribed
23 wheelchair. At all times mentioned, Defendant Johnson was acting under the color of state law
24 and is sued in her official and individual capacity.

25 23. Defendant GOYNES, on information and belief, was at all relevant times hereto,
26 employed by CCWF as an Associate Warden at CCWF. As Associate Warden, defendant was
27 acting as the ADA administrator charged with addressing discrimination issues and providing
28 reasonable accommodations to persons with disabilities; accommodations requested, but denied

1 to plaintiff. On information and belief, Defendant Goynes is responsible for a policy and practice
2 of refusing "A" yard disabled persons a wheelchair pusher, without regard to need based on
3 disability. At all times mentioned, Defendant Goynes was acting under the color of state law and
4 is sued in his official and individual capacities.

5 24. On information and belief, Defendant CPT. PARKS, was at all relevant times,
6 employed by CDCR at CCWF as a correctional officer Captain. At all times mentioned,
7 Defendant Parks was acting under color of state law and is sued in his official and individual
8 capacity.

9 25. On information and belief, Defendant R. BLISS (CO), was at all relevant times,
10 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant Bliss
11 was acting under color of state law and is sued in his official and individual capacity.

12 26. On information and belief, Defendant R. SMITH (CO) was at all relevant times,
13 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant Parks
14 was acting under color of state law and is sued in his official and individual capacity.

15 27. On information and belief, Defendant R. AMEZCUA (LT) was at all relevant times,
16 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
17 acting under color of state law and is sued in his official and individual capacity.

18 28. On information and belief, Defendant FRANCO HARRIS (RN) was at all relevant
19 times acting as a medical provider at CCWF. At all times mentioned, Defendant was acting
20 under color of state law and is sued in his official and individual capacity.

21 29. On information and belief, Defendant K. GREEN (LVN) was at all relevant times
22 acting as a medical provider at CCWF. , At all times mentioned, Defendant was acting under
23 color of state law and is sued in his official and individual capacity.

24 30. On information and belief, Defendant LOVAK (LVN) was at all relevant times
25 acting as a medical provider at CCWF. , At all times mentioned, Defendant was acting under
26 color of state law and is sued in his official and individual capacity.

27 31. On information and belief, Defendant J. BROBST was at all relevant times acting as
28 a medical provider or medical secretary at CCWF. , At all times mentioned, Defendant was

1 acting under color of state law and is sued in his official and individual capacity.

2 32. On information and belief, Defendant CANTRELL (LVN), was at all relevant times
3 acting as a medical provider at CCWF. At all times mentioned, Defendant was acting under
4 color of state law and is sued in his official and individual capacity.

5 33. On information and belief, Defendant VALASQUEZ (LVN), was at all relevant
6 times acting as a medical provider at CCWF. At all times mentioned, Defendant was acting
7 under color of state law and is sued in his official and individual capacity.

8 34. On information and belief, Defendant ONYEJE, was at all relevant times acting as a
9 medical provider at CCWF. At all times mentioned, Defendant was acting under color of state
10 law and is sued in his official and individual capacity.

11 35. On information and belief, Defendant LWIN, was at all relevant times acting as a
12 medical provider at CCWF. At all times mentioned, Defendant was acting under color of state
13 law and is sued in his official and individual capacity.

14 36. On information and belief, Defendant T. EZENWUGO (NP), was at all relevant
15 times acting as a medical provider at CCWF. At all times mentioned, Defendant was acting
16 under color of state law and is sued in his official and individual capacity.

17 37. On information and belief, Defendant A.H. KHOO, was at all relevant times acting
18 as a physician at CCWF without a California license as an M.D. At all times mentioned,
19 Defendant was acting under color of state law and is sued in his official and individual capacity.

20 38. On information and belief, Defendant L. HUNTER, was at all relevant times,
21 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
22 acting under color of state law and is sued in his official and individual capacity.

23 39. On information and belief, Defendant D. OLGETREE (CO) was at all relevant times,
24 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
25 acting under color of state law and is sued in his official and individual capacity.

26 40. On information and belief, Defendant BARON (CO) was at all relevant times,
27 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
28 acting under color of state law and is sued in his official and individual capacity.

1 41. On information and belief, Defendant TUNE (RN), At all times mentioned,
2 Defendant was acting under color of state law and is sued in his official and individual capacity.

3 42. On information and belief, Defendant FRUTOZ (CO) was at all relevant times,
4 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
5 acting under color of state law and is sued in his official and individual capacity.

6 43. On information and belief, Defendant HAYNES (CO) was at all relevant times,
7 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
8 acting under color of state law and is sued in his official and individual capacity.

9 44. On information and belief, Defendant JOHNSON (Sgt.) was at all relevant times,
10 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
11 acting under color of state law and is sued in his official and individual capacity.

12 45. On information and belief, Defendant HANZAK (LT) was at all relevant times,
13 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
14 acting under color of state law and is sued in his official and individual capacity.

15 46. On information and belief, Defendant PIMPENTAL (Lt) was at all relevant times,
16 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
17 acting under color of state law and is sued in his official and individual capacity.

18 47. On information and belief, Defendant FORTNER, was at all relevant times, employed
19 by CDCR at CCWF as a correctional officer acting as an appeals processor. At all times
20 mentioned, Defendant was acting under color of state law and is sued in his official and
21 individual capacity.

22 48 On information and belief, Defendant RAMERY was acting as an Appeals processor at
23 CCWF. At all times mentioned, Defendant was acting under color of state law and is sued in her
24 official and individual capacity.

25 49. On information and belief, Defendant F. IVY (CO) was at all relevant times,
26 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
27 acting under color of state law and is sued in his official and individual capacity.

28 50. On information and belief, Defendant E. ESTRADA (CO) was at all relevant times,

1 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
2 acting under color of state law and is sued in his official and individual capacity.

3 51. On information and belief, Defendant MAGDALENO (CO) was at all relevant times,
4 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
5 acting under color of state law and is sued in her official and individual capacity.

6 52. On information and belief, Defendant L. BERGER, was at all times mentioned the
7 librarian of CCWF with facilities that failed to provide ADA access to persons with disability
8 and denied timely copies of appeal documents to plaintiff and the assistance mandated by CCR
9 Title XV. At all times mentioned, Defendant was acting under color of state law and is sued in
10 his official and individual capacity.

11 53. On information and belief, Defendant M. CUMMINGS (CO) was at all relevant
12 times, employed by CDCR at CCWF as a correctional officer. At all times mentioned,
13 Defendant was acting under color of state law and is sued in his official and individual capacity.

14 54. On information and belief, Defendant K. DOZIER (CO) was at all relevant times,
15 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
16 acting under color of state law and is sued in his official and individual capacity.

17 55. On information and belief, Defendant MEISTER (Sgt) was at all relevant times,
18 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
19 acting under color of state law and is sued in his official and individual capacity.

20 56. On information and belief, Defendant SELF (CO) was at all relevant times, employed
21 by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was acting
22 under color of state law and is sued in his official and individual capacity.

23 57. On information and belief, Defendant FLORES (CO) was at all relevant times,
24 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
25 acting under color of state law and is sued in her official and individual capacity.

26 58. On information and belief, Defendant CAIN (CO) was at all relevant times,
27 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
28 acting under color of state law and is sued in her official and individual capacity.

1 59. On information and belief, Defendant COLLINS (CO), was at all relevant times,
2 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
3 acting under color of state law and is sued in his official and individual capacity.

4 60. On information and belief, Defendant GOMEZ (CO) was at all relevant times,
5 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
6 acting under color of state law and is sued in his official and individual capacity.

7 61. On information and belief, Defendant K. GREEN (CO), At all times mentioned,
8 Defendant was acting under color of state law and is sued in official and individual capacity.

9 62. On information and belief, Defendant R. WILLIAMS (Cpt) was at all relevant
10 times, employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant
11 was acting under color of state law and is sued in his official and individual capacity.

12 63. On information and belief, Defendant R. GIBSON (Sgt) was at all relevant times,
13 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
14 acting under color of state law and is sued in his official and individual capacity.

15 64. On information and belief, Defendant L. LONGERO (CO) was at all relevant times,
16 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
17 acting under color of state law and is sued in her official and individual capacity.

18 65. On information and belief, Defendant M. FRANCO was at all relevant times,
19 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
20 acting under color of state law and is sued in his official and individual capacity.

21 66. On information and belief, Defendant VALASQUEZ (CO) was at all relevant times,
22 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
23 acting under color of state law and is sued in his official and individual capacity.

24 67. On information and belief, Defendant M. SANTOS (CO) was at all relevant times,
25 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
26 acting under color of state law and is sued in his official and individual capacity.

27 68. On information and belief, Defendant S. GOSS (CO) was at all relevant times,
28 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was

1 acting under color of state law and is sued in his official and individual capacity.

2 69. On information and belief, Defendant M. LANTOK was at all relevant times,
3 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
4 acting under color of state law and is sued in his official and individual capacity.

5 70. On information and belief, Defendant PAGALING, was at all relevant times,
6 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
7 acting under color of state law and is sued in his official and individual capacity.

8 71. On information and belief, Defendant GRUTERRAZ (CO) was at all relevant times,
9 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
10 acting under color of state law and is sued in his official and individual capacity.

11 72. On information and belief, Defendant SOTELLO (CO) was at all relevant times,
12 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
13 acting under color of state law and is sued in his official and individual capacity.

14 73. On information and belief, Defendant B.K. LANDINGHAM was at all relevant
15 times, employed by CDCR at CCWF as a correctional officer Captain. At all times mentioned,
16 Defendant was acting under color of state law and is sued in his official and individual capacity.

17 80. On information and belief, Defendant JOSH SMITH, was employed by CDCR. At
18 all times mentioned, Defendant was acting under color of state law and is sued in his official and
19 individual capacity.

20 81. On information and belief, Defendant JUSTIN KELLY, was employed by CDCR.
21 At all times mentioned, Defendant was acting under color of state law and is sued in his official
22 and individual capacity.

23 82. On information and belief, Defendant K. ANDERSON (CO) was at all relevant
24 times, employed by CDCR at CCWF as a correctional officer. At all times mentioned,
25 Defendant was acting under color of state law and is sued in his official and individual capacity.

26 83. On information and belief, Defendant BALDERAS (CO) was at all relevant times,
27 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
28 acting under color of state law and is sued in his official and individual capacity.

1 84. On information and belief, Defendant KENNEDY (LT) was at all relevant times,
2 employed by CDCR at CCWF as a correctional officer Lt. At all times mentioned, Defendant
3 was acting under color of state law and is sued in his official and individual capacity.

4 85. On information and belief, Defendant ORMANDE (Sgt) was at all relevant times,
5 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
6 acting under color of state law and is sued in his official and individual capacity.

7 86. On information and belief, Defendant CLARK (Sgt) was at all relevant times,
8 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
9 acting under color of state law and is sued in his official and individual capacity.

10 87. On information and belief, Defendant HICKMAN (Lt) was at all relevant times,
11 employed by CDCR at CCWF as a correctional officer Lt. At all times mentioned, Defendant
12 was acting under color of state law and is sued in his official and individual capacity.

13 88. On information and belief, Defendant RIVERA, (Sgt) was at all relevant times,
14 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
15 acting under color of state law and is sued in his official and individual capacity.

16 89. On information and belief, Defendant VALENCIA (CO), was at all relevant times,
17 employed by CDCR at CCWF as a correctional officer. At all times mentioned, Defendant was
18 acting under color of state law and is sued in his official and individual capacity.

19 90. Defendants DOES 1-100, Ind. & Off. On information and belief, DOE 1 is a nurse
20 employed in the reception center at CCWF and was acting under color of state law and is sued in
21 her official and individual capacity.

22 91. Defendants Doe 1-100 inclusive, are sued herein under fictitious names. Their true
23 names and capacities are unknown to the plaintiff. When their true names and capacities are
24 ascertained, plaintiff will amend this complaint by inserting their true names and capacities
25 herein. Plaintiff informed and believes and thereon alleges, that each of the fictitiously named
26 defendants is responsible in some manner for the conduct, acts, omissions, facts, circumstances,
27 occurrences, liability herein alleged, and that plaintiff's injuries / damages as herein alleged were
28 proximately caused by these defendants. Plaintiff is informed and believes and thereon alleges

1 that Doe defendants were the agent of other named defendants in doing the things alleged were
2 acting within the course and scope of such agency, agreement with permission and consent of
3 his/her codefendants.

4 92. At all times mentioned herein, was the agent of each other defendant and had a legal
5 duty to oversee and supervise the hiring, conduct, and employment of each defendant, the acts
6 complained of herein were done and performed by said Defendants by and through their
7 authorized agents, servants and/or employees, all of whom at all relevant times herein were
8 acting withing the course, purpose and scope of said agency, service and/or employment capacity
9 ratifying all of the acts complained of herein.

10 93. Each of the named defendants is an employee of the Defendant California
11 Department of Corrections, California Correctional Women's Facility as administrators,
12 correctional officers of varying rank or health care providers as identified in the list above having
13 a duty to protect inmates from harm and comply with institutional policy, State and Federal law.

14 94. On information and belief, the California license status of any defendant identified as
15 a medical provider could not be determined as existing and/or valid, either from postings in
16 medical facilities or from specific inquiry made by plaintiff, because no response to the inquiry
17 was received; in particular, an inquiry for any California license number for each defendant
18 identified above as a medical provider. Plaintiff is informed and believes that persons acting as
19 physicians are not licensed in California as an M.D. and who's authority to provide medical care
20 is uncertain.

21
22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 95. Plaintiff exhausted all administrative remedies necessary to proceed on her federal
24 and state claims in this action having acted to pursue administrative grievance procedures within
25 CCWF and having timely acted to submit California Government Claims and statutory notice of
26 intent of sue re medical negligence/malpractice while she was incarcerated; but is informed and
27 believes that exhaustion of prison administrative remedies following release is not required.
28 Such procedures were addressed to the best of her ability and limitations of disability taking into

1 account the discriminatory/ retaliatory obstacles placed in her way, denial of timely access to the
2 library for research/forms/copies, an apparent constitutional denial of access to the court
3 violation and the apparent institutional fraud against inmates by interfering with the exercise of
4 timely process / exercise of civil rights; including but not limited to denial of timely access to the
5 appeals submission box, refusal to copy appeals, refusal to provide confirmation of submissions,
6 refusal to accept documents submitted for hearing on appeal, confiscation of documents
7 submitted in support of appeals without return of same and/or not placed in records re
8 disciplinary hearings and medical appeals; as well as, intentional confiscation and destruction of
9 personal/appeal documents by correctional officers, essentially violating its own processes under
10 California Code of Regulations, Title XV, and denying accommodation assistance mandated
11 thereby; necessary timely preparation and submission of documents and timely access to the
12 library for copies to ensure record of submissions, which was repeatedly denied; all of which,
13 form a part of the causes of action in this complaint and are hereby incorporated in the
14 allegations therein.

15
16 **GENERAL ALLEGATIONS FOR CLAIMS**
17

18 96. Plaintiff is informed and believes and thereon alleges that on or about February 12,
19 2013 through August 2014, defendants and each of them, did knowingly, willfully, oppressively
20 and maliciously; join in, conspired and agreed among themselves to discriminate/retaliate against
21 and damage the plaintiff, a white female of 67 years, by reason of general discriminatory
22 retaliatory class animus because of her race, age and qualification as person with disability,
23 perceived as just "too much trouble," and general discriminatory class animus against white
24 individuals and the elderly; as well as, those such as plaintiff, who exercise the civil right to
25 complain about ADA and other violations of law/file complaints and seek enforcement thereof
26 through access to the courts for redress; as alleged in the facts set forth in this amended
27 complaint, including but not limited to: intentional/unlawful/reckless placement of plaintiff in
28 circumstances/conditions not limited to room assignments that defendants knew and/or should

1 have known were in contravention of California Code of Regulations, Title XV and would cause
2 physical and mental injury / harm, deprive her of the benefits/protections of applicable statutes,
3 deny necessary reasonable accommodation of her disabilities, deny right of access to the court;
4 and further cause harm from denial of regular meals, failure to diagnose and treat medical
5 conditions, failure to protect her from the violence and abuses of other inmates, failure to house
6 plaintiff appropriate to her placement level under Title XV, deny her proper mail process and use
7 of and actual placement of legal mail in the U.S. Mail stream; e.g. California Supreme Court not
8 receiving legal mail timely submitted for mailing of mandatory filings on appeal related to the
9 conviction; and generally, subjecting her to risk of physical/mental, economic and harm to her
10 reputation by such deprivations as more fully set forth in this amended complaint; and which in
11 fact, did cause such harm.

12 97. At all times relevant to this action, the American's with Disabilities Act of 1990
13 (ADA), 42 U.S.C. sections 12,101 et seq and section 504 of the Rehabilitation Act was in full
14 force and effect in the United States and generally incorporated into the California Civil Code;
15 which are applicable to California State prisons. *Armstrong v Wilson*, 942 F. Supp. 1252 (ND
16 CA 1996) Defendants entered into remedial plans and were subject to multiple court orders
17 regarding violations of the cited statutes. Accordingly, defendants were on notice that their
18 conduct toward plaintiff as set forth in this amended complaint was against law and in violation
19 of its own agreements to be in compliance with said statutes.

20 98. The ADA expressly prohibits discrimination on the basis of disability, requires
21 reasonable accommodations and prohibits retaliation for asserting opposition to any act or
22 practice made unlawful by the ADA. The ADA, the Rehabilitation Act and related California
23 statutes including but not limited to the Civil Code and California Code of Regulations, Title XV
24 prohibit any person from retaliating against an individual for asserting rights under the ADA or
25 for filing charges or participating in proceedings under the ADA. In addition to the ADA, such
26 retaliatory conspiracies are prohibited under 42 U.S.C. sections 1985 and the failure to prevent is
27 actionable under 42 U.S.C. 1986. Prohibited discrimination/retaliation by defendants and each of
28 them, is the fundamental underlying this action; inflicting injury and damage to Plaintiff.

1 99. Title II of the ADA, found at 42 U.S.C. sections 12131-12134, extends to state and
2 local governments the non-discrimination provisions of the Rehabilitation Act. It requires that
3 their services, programs and activities of state and local governments be administered in the most
4 integrated settings appropriate to the needs of the qualified individual with disabilities. The
5 needs of plaintiff were not accommodated as required.

6 100. The California Code of Regulations, Title XV, Division 3 sets forth Rules and
7 Regulations of Adult Institutions, Programs and Parole re Defendant Department of Corrections
8 and Rehabilitation; which includes, mandate for compliance with the ADA, specifies the facility
9 levels appropriate for inmates and code of conduct for custodial officers etc. Plaintiff was not
10 afforded her right to housing/placement as specified under the CCR, Title XV, which violation
11 led to elder abuse and injury from other inmates known by defendants to be violent.

12 101. Defendant CCWF is a prison subject to CCR, Title XV and ADA requirements as
13 are each of its employees with the mandate of law not to discriminate or retaliate for exercise of
14 civil rights. In contravention of law, plaintiff was subject to discrimination based on her age,
15 disability and race as a white female, and retaliated against for efforts to exercise of rights and
16 complaints denying rights by defendants.

17 102. Defendants are subject to the California Penal Code; in particular, Chapter 4,
18 sections 2652 and 2656, which mandate that a prisoner "***shall not be deprived of the possession***
19 ***or use of any orthopedic or prosthetic appliance, if such appliance has been prescribed or***
20 ***recommended and fitted by a physician.***" Defendants were in violation of this provision by
21 denying plaintiff the use and possession of a wheelchair as prescribed and use and possession of
22 her hand brace. The statute further mandates under subsection "(d)" that: "***No person***
23 ***incarcerated in any facility of the Department of Corrections shall be deprived of the use or***
24 ***possession of any orthopedic or prosthetic appliance unless both the inmate's personal***
25 ***physician and a department physician concur in the professional opinion that such appliance***
26 ***is no longer needed.***" Defendants were in violation of this provision when they removed use of
27 plaintiff's wheelchair without compliance with the statutory procedures and consent of her
28 personal physician; causing injury and precipitating retaliatory falsified infractions for alleged

1 misuse of a walker, an apparent 1983 violation.

2 103. Defendants and each of them negligently maintained, managed, controlled and
3 operated the premises at CCWF known as "A" yard, the reception facility, where they allowed
4 deterioration of the walkway edge abutting the apron into the housing unit to which plaintiff was
5 assigned; thereby, creating a large crumbling gap between them; which defendants knew, or in
6 the exercise of reasonable care should have known, constituted a dangerous condition and
7 unreasonable risk of harm to prisoners, of which Plaintiff was at all times herein mentioned
8 unaware. Defendants negligently failed to take steps to either make the condition safe or warn
9 plaintiff of the dangerous condition, all of which caused plaintiff's wrongfully issued walker to
10 get trapped therein; upon plaintiff objected to pushing by an inmate, at the request of the
11 corrections officer; which propelled plaintiff backward onto the asphalt causing her to suffer
12 severe right shoulder injury requiring surgery; as well as, other injuries and damages hereinafter
13 described under cause of action for negligence. But for the discriminatory/retaliatory violations
14 of the ADA and related statutes with specific violation of P.C. section 2656 in failing to provide
15 for use of a wheelchair, Plaintiff more likely than not, would not have suffered the
16 injuries/damage/retaliatory infractions incurred by denial thereof.

17 104. Inadequate professional staffing and training and a lack of proper protections
18 deprived plaintiff of reasonable safety from physical and mental abuse at the hands of
19 correctional and medical staff and other prisoners.

20 105. CCWF and on information and belief, all prisons for women; lack the space and
21 physical facilities necessary to provide ADA accommodation re accessible housing, protection
22 and services for *all* prisoners with disabilities; in particular, those with mobility disabilities
23 requiring rooms providing for wheelchair access and use.

24 106. Assignment of prisoners without disability to alleged ADA rooms, deprived
25 plaintiff of reasonable accommodation of her needs as a qualified person with disabilities and
26 wheelchair user.

27 107. Insufficient ADA wheelchair accessible housing, overcrowding of prisons, and lack
28 of proper protections deprived plaintiff of reasonable accommodation of her disabilities, safety

1 from physical and mental abuse at the hands of correctional and medical staff and other
2 prisoners.

3 108. The dearth of appropriate training, housing and services contributed to the
4 unnecessary emotional and physical suffering of the plaintiff and persons with disability as a
5 class.

6 109. The specific efforts by defendants to deny, ignore and/or remove DPW status /
7 wheelchair use to discriminate/retaliate for exercise of civil rights and/or to avoid claims,
8 mandates of remedial plans re insufficient housing to meet the needs of persons with disability,
9 inflicted unnecessary emotional and physical suffering of the plaintiff.

10 110. In doing the things set forth in this amended complaint, Defendants acted in concert
11 with knowing deliberate indifference to the violations of plaintiff's constitutional / civil rights
12 and the harm such violations would inflict.

13
14 **FACTS**

15
16 **I (A) Reception Center / "A" Yard:**

17 Discrimination/Retaliation/Negligence/Medical Malpractice/Violations of P.C.
18 2652/2626/CCR, Title XV et al.

19 111. On February 12, 2013, plaintiff was incarcerated at CCWF and on information and
20 belief was given designation as a person with disability, "DPW" status.

21 112. Upon arrival at the reception center, she presented her medications/prescriptions,
22 medical documentation from physicians giving notice of her ADA status wheelchair user,
23 limitations of disability and need for use of physician prescribed orthopedic appliances including
24 but not limited to shoes, hand brace, pillow and wheelchair. The physician recommended
25 housing in a medical unit.

26 113. Plaintiff's physician prescribed orthopedic appliance re black hand brace and
27 orthopedic appliance physician prescribed black shoes, were taken away. The pillow and
28 wheelchair were not provided. At no time was plaintiff's orthopedic appliance hand brace

1 returned for use at CCWF. The shoes were temporarily returned but later taken away without
2 prior notice by Defendant CO Baron, leaving plaintiff without shoes, further limiting her ability
3 to stand/walk, get to meals, classes and medical care. The basis for taking the shoes was
4 specious, allegedly because they were "black," where plaintiff observed that other inmates had
5 black shoes, who refused to wear the white shoes provide, and no other inmates "black" shoes
6 were taken away as were plaintiff's.

7 114. Plaintiff presented documentary statements from her physician, orthopedic surgeon,
8 Richard Marder, M.D. of University of California, Davis, who suggested placement in a medical
9 facility, describing her medical conditions re limitations of mobility and manual function
10 disability advising that she needed LEFT shoulder surgery and **could not use her**
11 **hands/arms/shoulders to move a manual wheelchair** requesting she be allowed to use a
12 motorized wheelchair among other accommodations. The physician recommendations were
13 disregarded.

14 115. Based upon the medical verification presented at reception and orthopedic
15 **appliance hand brace, it was clear that plaintiff could neither use her hands/arms to move a**
16 **manual wheelchair or walker;** in particular, because the lack of hand/arm strength, extreme pain
17 in hands, wrist, feet and lack of mobility (deformed arthritic lis franc fracture/dislocation,
18 subluxation in right foot), would prevent use of the walker hand breaks that must be squeezed
19 to effectuate a slowdown/stop and would also prevent control of its movement; as well as
20 inability to stand/ambulate as would be required; and thus, use of a walker would place plaintiff
21 in extreme danger of falling with severe risk for potentially life threatening injury such as a hip
22 fracture for an elder person; in particular, due to plaintiff's osteoporosis.

23 116. Upon a fall to the ground, plaintiff is unable to lift her weight, pick herself up to
24 stand, and would require assistance to do so. In addition to weak painful hand/shoulder/back,
25 plaintiff's limitation is exacerbated by a weak left wrist fracture that required surgery and
26 recommendation that she not lift weight of more than five pounds.

27 117.DOE 1, on information and belief, a nurse, demanded that plaintiff walk a substantial
28 distance from the reception center to another location at CCWF, giving plaintiff back her shoes

1 to do so. Plaintiff informed DOE 1, that she could not walk the distance demanded and that she
2 would need use of a motorized wheelchair because of her inability to use her hands to move a
3 manual wheelchair; giving notice of her ADA limitations and physician submitted information.
4 DOE 1 acknowledged having received the medical information.

5 118.Plaintiff was informed by DOE 1, that there were no motorized wheelchairs at
6 CCWF for use by prisoners and begrudgingly, with obvious ire and resentment, pushed Plaintiff
7 in a manual wheelchair to the designated location, on information and belief, the office of
8 Defendant A. Gonzales, an alleged physician providing medical care at CCWF. By her
9 statement of necessity to push plaintiff in the manual wheelchair, the nurse acknowledged the
10 inability of plaintiff to use a manual wheelchair without the assistance of a "*pusher*," alleged by
11 DOE 1, as generally assigned by CCWF, for disabled wheelchair users without regard to whether
12 or not the inmate could use her hands/arms to move the wheelchair.

13 119.Plaintiff's medications were ignored and within her view, were thrown away at the
14 reception center, apparently without taking proper note thereof, that she required thyroid
15 medication for life threatening Hashimoto's Disease at a 125 level to avoid severe
16 physical/mental dysfunction and potential for myxedema coma and death.

17 120.Instead, she was negligently given an inadequate dose of .50 by Defendant A.
18 Gonzales, from which she suffered severe emotional distress, hair loss, dry skin, mental fog and
19 pain with inability to attend to intellectual functions, among other effects from insufficient
20 thyroid medication. Plaintiff was also denied adequate appropriate pain and other medications
21 prescribed by her personal physicians.

22 121.In contravention of plaintiff's physician medical advice of necessity and
23 recommendations for use of a wheelchair, defendants denied plaintiff a wheelchair without
24 explanation and over protests of reckless disregard for her safety and extreme pain upon
25 ambulation and potential for falls and severe back spasms from the effort. Instead, she was
26 issued the noticed inability to use non-accommodating dangerous instrumentality, *a walker!*

27 122.Plaintiff's request to have her physician prescribed motorized wheelchair/scooter
28 brought in from her residence for use at CCWF was denied.

1 123.As more fully set forth herein, plaintiff did suffer extreme back spasm/pain and did
2 fall several times attempting to comply with the custody officer (CO) orders to use the walker;
3 which repeatedly caused plaintiff to suffer injury, pain and humiliation from the laughter and
4 reticule from the officers when she fell; officers who refused to be of assistance to plaintiff,
5 forcing her to lie on the ground in the hot sun for extended time.

6 124.During one such incidents, while lying on the ground unable to get up, a CO
7 Cummings took advantage of plaintiff's helplessness, to commit theft and destruction of her legal
8 papers and notes of officer abuse that were in the wayward *walker* basket; literally tearing then
9 up in front of plaintiff, as she screamed in pain for assistance and for someone to stop the officer
10 misconduct. No officer took action to stop CO Cummings misconduct, causing plaintiff to loose
11 important legal/appeal papers. During the incident, CO Cummings and other officers present
12 inflicted tirades of verbal abuse.

13 125.When plaintiff attempted to avoid falling by sitting on the walker to accommodate
14 her needs as a person with disability; in order to get to meals et al, she was issued retaliatory
15 infractions (42 U.S.C. 1983 violation) for allegedly not using it properly. Plaintiff's pleas for
16 use of a wheelchair with pusher were ignored.

17 **B. Room Assignment:**

18 126.In spite of plaintiff's requests pursuant to medical submissions, Plaintiff was
19 assigned to a non-ADA accessible room in a housing unit that was an long distance from the
20 reception center and was required to use an old unstable, obvious in need of repair, *walker* to do
21 so. The DOE 1 nurse refused to provide plaintiff with either a wheelchair or other assistance in
22 getting to the assigned unit with all the heavy prison issue items. Thereby, plaintiff was forced to
23 suffer extreme pain in her slow difficult efforts to reach the distant housing unit.

24 127.Plaintiff was placed in a room that was not ADA qualified, which was modified for
25 use by eight persons in the small room designed for fewer persons. Among the inmate
26 occupants of the room was an African American woman, who was identified by other roommates
27 as having a violent hatred toward elder white inmates and was acknowledged as known to
28 custodial officers to have habitually abused and battered prior elderly roommates; including the

1 elderly inmate immediately preceding the occupancy of plaintiff.

2 128. Shortly after taking occupancy, the African American inmate shoved a table at which
3 plaintiff was sitting, into plaintiff's leg dragging plaintiff along with the table being moved by the
4 inmate causing injury to plaintiff's knee. The inmate objected to a white elderly person sitting at
5 "her table"! On information and belief, appropriate diagnostic procedures such as an MRI and
6 medical treatment was requested and essentially ignored. No MRI was taken to determine a
7 diagnosis.

8 129. Upon initial inquiry about the claims/grievance process regarding the inmate battery
9 injury, DOE custody officer in the housing unit told plaintiff that she would have to hire a lawyer
10 to make a claim/file a grievance and was told that inmates on "A" yard were not entitled to
11 access the library or use phones. At no time upon initial inquiry regarding her grievance/appeal
12 rights, was plaintiff informed of either the 602 or 1824 processes or directed to a copy of
13 California Code of Regulations, Title XV, which was not in plaintiff's possession. Upon delayed
14 subsequently learning of the grievance/claim form 602, which was initially denied upon request
15 by custody DOE officer, (no information regarding 1824 was brought to plaintiff's attention), it
16 was prepared and submitted to custody officers as allegedly required as no other process was
17 afforded. On information and belief, the grievance/claim papers were not processed.

18 130. Plaintiff was denied use of a wheelchair; in spite of notice that she had extreme pain
19 upon efforts to hold onto the walker for ambulation, to the point of being unable to stand and
20 could not walk the distances with the walker, mandated by the facilities at CCWF to get to or
21 from the cafeteria. The additional limitations from the painful inmate inflicted knee injury
22 aggravating the inability to ambulate the distance, was also ignored; in spite of notice to the
23 custodial officers and request for assistance. Further, plaintiff frequently could not access meals,
24 because she had disc disease with herniated discs, inflicting severe back pain with spasm when
25 she attempted to use the walker over distance. And when she tried to ignore the pain trying to get
26 to/from the cafeteria or sit on the walker to relieve sudden sharp pain spasms, plaintiff became
27 more distressed from custody officers yelling at her for "going too slow," demanding she not sit
28 on the walker, under threat of receiving an infraction for being late to count.

1 131. Plaintiff's efforts to painfully get to meals with the walker caused her to suffer
2 extreme nose bleeds, which burst out suddenly into the food trays; thus, making it impossible to
3 eat. It also caused other inmates to chun plaintiff in the cafeteria by reason of such repeat sudden
4 nose bleeds. The bloody food was not sufficient good cause for staff to allow her a replacement
5 meal. Thus, plaintiff frequently had no choice but to forego eating, losing over 65 pounds during
6 her incarceration.

7 132. Plaintiff suffered severe physical and emotional distress from these circumstances
8 literally crying repeatedly begging defendants; including Dr. Gonzales, for use of the wheelchair
9 and an appropriate level of thyroid medication et al, to no avail.

10 133. On information and belief, at or about the same time period, plaintiff sought in
11 writing and by oral request, accommodations of her disabilities including use of the prescribed
12 orthopedic appliances in addition to the wheelchair which included but not limited to the soft
13 pillow, egg create mattress cover to help with shoulder/back pain/spasm and arm numbing from
14 the alleged ADA officers, Defendant Sgt. Hunter and Asso. Warden Goynes, Defendant Sotello,
15 Sgt Ormande, Lt. Kennedy who took no steps to provide plaintiff with her orthopedic appliances
16 or any other requested accommodations or assistance to lesser her suffering.

17 Denial of Access to the Court

18 134. Plaintiff also asked for use of pen as purportedly required for appeals, paper and
19 access to the law library to provide for access to the court, all of which were refused. Even
20 though she was a defendant in pending litigation in Trinity County brought by PG&E falsely
21 claiming a recorded easement on her real property and seeking a prescriptive easement with a
22 cross defendant having a pending motion for judgment on the pleadings scheduled, plaintiff's
23 unanticipated remand on 2/11/13 did not provide time for either a response or notice of the
24 incarceration; and yet, all her requests to CCWF officials and the litigation officer, Defendant
25 Josh Smith, for appearance at hearings in Trinity County by telephone in pending civil litigation
26 were DENIED; even where such requests were brought to the attention of the trial court with
27 further request therein where time ran without ability of plaintiff to appear to protect her
28 constitutional property interests.

1 135. Plaintiff's efforts to send legal mail were also refused by custodial officers.
2 Defendant Magdaleno even threw the papers back through the window into plaintiff's face. In a
3 later incident with Defendant Dozier, he refused to allow plaintiff's legal mail of a time limited
4 document pertaining to her conviction, which on information and belief, never arrived at the
5 California Supreme Court. Following the incident in which plaintiff was required to return to her
6 room, another Doe defendant CO alleged that he had said legal mail and that he would ensure
7 that it was put in the legal mail stream. When plaintiff learned that her signed legal mail had
8 failed to be processed by the Supreme Court, she asked for the records of unit and mail room
9 legal mail and to date has been repeatedly refused these records.

10 136. Plaintiff's trial transcript records sent to her by her attorney and other records /
11 evidence of abuses at CCWF; including the actual medical document crumpled and thrown onto
12 the floor by Defendant Magdaleno and 602 processes at CCWF etc., were boxed by R&R Doe
13 Defendants at CCWF with the promise that her boxed records would be mailed to her sans fee,
14 which had been approved upon her release; yet, upon her release, NONE OF THESE BOXED
15 RECORDS FOR MAILING WERE RECEIVED BY PLAINTIFF AND NO RESPONSE HAS
16 BEEN RECEIVED FROM CCWF REGARDING THESE MISSING BOXES, IN SPITE OF
17 NUMEROUS INQUIRIES FROM BOTH PLAINTIFF AND HER FORMER PROBATION
18 OFFICER. On information and belief, there was agreement among defendants to interfere with
19 the appeals/accommodation of disability process at each level of the process.

20 137. Defendants Fortner and Ramey were the primary defendants responsible for process
21 of appeals. On appeals submitted regarding the retaliatory false disciplinary charges including
22 but not limited to appeals of 115s brought against plaintiff, her appeal documents were either
23 claimed to be missing and/or not received; in particular, the witness statements/evidence
24 attempted to be submitted at the hearing, there were at all times refused consideration and on
25 appeal, were again submitted and on information and belief, destroyed/discarded and certainly
26 were not considered by the appeals reviewers; in spite of numerous communications objecting to
27 the false and fraudulent handling of plaintiff's grievance/claims/accommodations paperwork and
28 processes. The papers submitted were frequently not returned and/or not returned as submitted,

1 thus, giving the appearance of intentional falsification of the records to prejudice plaintiff; in
2 particular, where her witness statements and documentary evidence was submitted and appeals
3 return without these documents. Accordingly, the full and complete record was either not
4 submitted at all and/or not submitted for review and/or higher review in accordance with
5 plaintiff's submissions. Plaintiff strongly objected orally to Defendant Fortner and in writing to
6 what appeared to be the fraudulent manipulation by Fortner, Ramey and Does, who acted to
7 manipulate the appeals process, cause documents to go missing, make false representations
8 regarding submissions and generally, who took action, precipitated inaction/omission and/or
9 caused other defendants to take action and/or inaction, such as Defendant Berger, the librarian, to
10 deny access to the library for appeal document copies; thereby, forcing some appeals to be
11 submitted without a full and complete copy thereof being retained by plaintiff; all for the
12 apparent retaliatory purpose to deny plaintiff exercise of her rights and prejudice her
13 appeals/claims.

14 138. The entire process for inmate appeals appears to be a sham subject to any retaliatory
15 whim and manipulation desired by any CCWF/CDCR employee; and certainly was a sham, for
16 plaintiff, attempting to exercise her rights.

17 -----

18 139. Plaintiff's medical condition became so deteriorated and life threatening, that on
19 one occasion plaintiff's spasms and pain became so extreme and disabling that she collapsed on
20 the floor shaking uncontrollably, unable to stand even with help; regarding which, the roommates
21 became so frightened for plaintiff, that they pushed the emergency button for medical; after
22 which, she was taken to the skilled nursing facility (SNF).

23 140. The skilled nursing facility (SNF) recognized her "DPW" status and found that her
24 thyroid levels were too low and FINALLY increased the dosage; but not to a level sufficient to
25 restore the previously prescribed amount by plaintiff's specialist personal physician.

26 141. Plaintiff's efforts to acquire a diagnosis explanation for the nose bleeds and the
27 wheelchair accommodation, were essentially ignored. Instead, in contravention of "DPW"
28 status, a new larger *walker* was imposed by DOE 2, on information and belief, a nurse, with the

1 demand that it be used, instead of the wheelchair; in spite of notice that plaintiff could not
2 ambulate the distances at CCWF, that every step was painful precipitating back spasm and that a
3 walker was a serious fall risk from inability to use hands to break/control a walker. SNF
4 personnel confirmed it had the medical information plaintiff submitted CCWF; yet, failed to
5 issue the wheelchair.

6 142. Protest to the walker and report of the inability to safely use a walker were of no use
7 in obtaining the medically necessary orthopedic appliances prescribed by plaintiff's physicians.
8 The DOE 2 nurse threatened that if plaintiff continued to argue need for the wheelchair and did
9 not take the new walker, that she would make sure that plaintiff had no mobility device
10 whatsoever.

11 143. On information and belief, DOE 2 retaliated by refusing the wheelchair, knowing
12 what detriment the refusal would inflict; because plaintiff had complained about sleep
13 deprivation, from the constant awakening at night from the loud entries into the room by "her"
14 staff. Thereafter, plaintiff was immediately discharged back to the general population; instead of
15 a medical facility recommended by plaintiff's outside physician.

16 144. At some point, plaintiff was allowed a hand brace, which was not as prescribed by
17 her physician. It was designed for a different purpose; and thus, did not accommodate
18 plaintiff's special need. The orthopedic appliance supplier stated that she would attempt to
19 obtain the correct device; but it never came.

20 Dangerous Condition/Premises Personal Injury/Medical Negligence/Cruel Treatment
21 Falsification of Medical Records/Failure to Produce/Correct et al.

22 145. On or about February 21, 2013, McColm was slow in returning from a meal for
23 "count" sitting on the walker to relieve pain and was told by Defendant CO Smith that she was
24 going to be late for "count" and to "hurry up." He sent an inmate out of the housing unit with
25 instructions to push plaintiff sitting in the walker.

26 146. In spite of objection by plaintiff, that the walker could not be pushed with her sitting
27 thereon, the inmate grabbed the walker aggressively pushing plaintiff over her objections
28 backward toward the housing unit telling plaintiff that she had CO Smith's approval to do so and

1 she had to obey his order.

2 147. At the junction between the walkway and patio, the walker hit a dangerous
3 condition of the property at CCWF, a crumbling cement and open gap, jamming therein,
4 propelling plaintiff forcefully backward onto her RIGHT shoulder on the pavement. The arm
5 was displaced, forcing plaintiff had to grab the inoperative limb and pull it back into place from
6 its subluxation, all the while screaming in pain from the multiple injuries. An emergency alarm
7 was issued.

8 148. At the scene, CO Smith admitted that he had instructed the inmate to push plaintiff
9 while sitting in the walker.

10 149. Defendant nurse Franco Harris was told about both the RIGHT shoulder dislocation
11 type injury and neck injuries; but he still hoisted plaintiff like a horse with her jacket into a
12 wheelchair, rolled back into the housing unit, where he only touch plaintiff LEFT arm, ignoring
13 her severe pain and tearful pleas for examination at the hospital with x-rays. Plaintiff was told by
14 Defendant Franco to go back to her room without providing pain medication; to which plaintiff
15 objected, advising that she had none as it had not yet issued.

16 150. In spite of both shoulder and neck injuries report; as well as overall strain, Plaintiff
17 was denied emergency room examination, the right arm with the shoulder dislocation type injury
18 was not examined nor was any x-ray or MRI taken. She was denied pain medication and was in
19 tears shaking uncontrollably from apparent shock and pain throughout the night. No sling was
20 provided for the useless arm. The defendants involved in this cruel failure to treat were Nurse
21 Franco Harris, K. LVN Green, LVN Lovak, Doe 3-4. One or the other LVN was heard to say:
22 *"She's starting already."*

23 151. The following morning, plaintiff reported the dislocation/subluxation type injury to
24 the RIGHT shoulder and neck to Defendant Dr. Gonzales, who again ignored the medical reality
25 and instead, essentially did nothing for the acute injury to the right shoulder/neck and only
26 prescribed evaluation/xray/physical therapy for the LEFT shoulder; thus, giving the strong
27 impression institutional decision to "cover-up" the incident and officer liability. And still, he
28 refused to issue a permanent wheelchair.

1 152. The physical therapist noted the right shoulder injury; but stated that she was
2 authorized to treat ONLY THE LEFT SHOULDER, that plaintiff already knew needed surgery
3 and was not the subject of the acute injury. In spite of several administrative requests and 602
4 proceedings, plaintiff was denied urgent treatment for the right shoulder injury.

5 153. Plaintiff reported the incident to upper medical staff defendants and was
6 interviewed by Defendant Lt. R. Amezcua, who created an inaccurate record of the incident.
7 Medical records were erroneous and appear to have been intentionally falsified by Defendant
8 Franco Harris. Written efforts to get timely access to and have these records corrected were
9 ignored by Defendants R. Mitchell, Tim Neal, Pal Virk to whom multiple requests were
10 addressed..

11 154. Plaintiff sought immediate treatment for her ACUTE RIGHT SHOULDER
12 INJURY and was repeatedly denied treatment/examination for the RIGHT SHOULDER
13 INJURY; but instead, referred for a left shoulder injury known to exist prior to the entry into
14 CCWF.

15 155. No surgery was authorized or performed by defendants, as was recommended by
16 Dr. Marder of U.C. Davis, for the left shoulder; nor was there any timely effort to diagnose the
17 right shoulder injury and provide surgery for the injury of February 21, 2013 at CCWF. Right
18 shoulder surgery was performed by Dr. Marder upon plaintiff's release from CCWF, which he
19 found to be extremely necessary.

20 156. The claims process was subverted repeatedly by the wrongful assertion of claim for
21 the LEFT shoulder.

22 157. Plaintiff suffered repeated episodes of arm numbing which received no evaluation
23 or treatment and the pillow recommended was initially authorized and upon receipt from outside
24 source, was refused use by plaintiff.

25 158. In spite of the painful acute injuries with loss of use of the right arm and repeated
26 bloody nose episodes, plaintiff continued to be denied use of a wheelchair causing her to suffer
27 extreme exhaustion, pain, and distress, leaving her in tears on a near daily basis.

28 159. Reaching a "breaking point" from the pain, having multiple nose bleeds that were

1 difficult to stop, plaintiff went to Dr. Gonzales, in tears stating that the extreme pain and inability
2 to get to meals and distress being inflicted, appeared to be causing the lengthy nose bleeds;
3 begging for use of a wheelchair. Dr. Gonzales finally issued, what he stated was, a “temporary”
4 manual wheelchair; but no “pusher” was made available to plaintiff; in spite of the fact that
5 Defendants knew from medical information provided upon entry to CCWF, that plaintiff could
6 not use her hands/arms to move a manual wheelchair and would need an assistant to move the
7 manual wheelchair and/or a motorized wheelchair; in particular, following the severe right
8 shoulder injury. Neither an assistant nor motorized wheelchair was provided to plaintiff.

9 160. During plaintiff’s time on “A” yard, Defendants Ivy, Estrada, Bliss, Parks, Goynes,
10 Johnson and others refused to provide plaintiff with a wheelchair pusher. Defendants Ivy and
11 Estrada threatened inmates who volunteered to push plaintiff with a “write-up,” more time on
12 their sentence and room torn up, if they helped plaintiff; in particular, by pushing plaintiff’s
13 wheelchair.

14 161. Plaintiff was denied access to the cafeteria, programs and medical appointments by
15 reason of the denial of an accommodation re “pusher” for the wheelchair.

16 162. **In spite of formal requests to custody officers and alleged ADA compliance**
17 **officers; e.g. Defendants Asst. Warden Goynes, Sgt. Hunter and other officials, plaintiff’s**
18 **requests for accommodations re wheelchair “pusher,” were ignored and/or denied by**
19 **alleged POLICY of CCWF NOT TO PROVIDE ADA ASSISTANCE/WHEELCHAIR**
20 **PUSHERS ON “A” YARD for what is approximately a period of three months or more and**
21 **specifically represented that a wheelchair pusher would be provided when she was sent**
22 **“over the wall” to a permanent facility.** The representation of being provided a wheelchair
23 pusher upon transfer out of “A” yard was FALSE.

24 163. On or about March/April of 2013, Plaintiff was directed to Defendant custody
25 officer Bliss, who was alleged to be in a position to assign a wheelchair pusher to assist plaintiff
26 in getting to a medical appointment; from whom she asked for an accommodation of disability by
27 providing a pusher for the wheelchair because she could not use her hands to move the
28 wheelchair; in order to allow her to timely get to a physical therapy appointment, which was

1 located in a different yard a substantial distance from her unit in A yard.

2 164. Defendant Bliss refused to be of assistance telling plaintiff to “*get out of the*
3 *wheelchair*” and “*push yourself*” to physical therapy or he would tell the therapist, that she was
4 “*refusing medical care,*” and “*cancelling the appointment.*”

5 165. Plaintiff had observed that there were African American inmates with wheelchairs,
6 that were in fact, out of their wheelchairs; walking behind them, giving the impression that they
7 had no mobility issue for which the wheelchair was required.

8 166. Plaintiff did not have the ability to move the wheelchair as Defendant Bliss
9 demanded, advising him of this fact; asking for an accommodation of her disability, to which he
10 responded with angry verbal abuse and threats to issue an infraction if plaintiff did not comply
11 with his demand and “*move on.*”

12 167. Plaintiff had to wait a length of time for another inmate to pass who would be of
13 assistance, knowing that she would be late for her appointment; remarkably, an appointment
14 made for the wrong left shoulder, not the right shoulder with the acute injury needing attention.

15 168. **Plaintiff reported the conduct of Defendant CO Bliss to Defendant Lt. Parks,**
16 **who took exception to the complaint regarding Defendant Bliss; demanding she not make**
17 **any more ADA complaints about his officers; and with intimidating hostility, loudly**
18 **threatened to make plaintiff's life at CCWF as “hard as his authority would allow” for**
19 **making such complaints. He also refused to provide the requested wheelchair pusher.**

20 169. On information and belief, Lt. Parks did act in concert with others to effectuate his
21 threat in retaliation for plaintiff's ADA complaints as more fully set forth below, showing that
22 the retaliatory conspiracy was in effect as was the “cover-up” defense of anticipated liability for
23 plaintiff's acute injuries.

24 170. Plaintiff's counselor promised that upon transfer out of “A” yard receiving, if she
25 stayed at CCWF, she would be transferred to an ADA medical unit identified as 505 where she
26 would have a wheelchair accessible room and wheelchair pusher. This representation proved to
27 be false and essentially a fraud on plaintiff as she was neither sent to a medical unit, 505 or
28 provided with an ADA wheelchair accessible room or pusher.

1 171. Plaintiff was intentionally placed in a position, where Defendant Lt. Parks could
2 obtain agreement of all CCWF defendants to effectuate, a pervasive retaliatory conspiracy to
3 deny ADA accommodation and violate plaintiff rights pursuant to his threat to make her time at
4 CCWF as "hard" as possible. And he did so.

5 **II. "D" Yard.**

6 172. Upon transfer out of receiving "A" yard, Plaintiff was neither assigned to 1) a level
7 one facility, which was mandated for plaintiff as a low level inmate under CCR, Title XV, 2) a
8 promised medical ADA unit, 3) the promised "505," a promised wheelchair accessible room, nor
9 provided with the promised wheelchair pusher.

10 173. In contravention of promises made to plaintiff, upon transfer from "A" yard, she
11 was wrongfully assigned to a LEVEL FOUR PRISON (CCWF) IN A UNIT WITH MULTIPLE
12 MURDERERS ON "D" YARD, reputed to be the most racially violent yard against elder white
13 females at CCWF, where she was assigned to a room, WITH THE MOST INFAMOUS
14 PRISONER KNOWN TO THE INSTITUTION FOR REVERSE DISCRIMINATION
15 VIOLENCE AND ELDER ABUSE AGAINST ROOMMATES, an African American murderer
16 with the nickname of "Money Phoenix." Other inmates told plaintiff, even BEFORE she got to
17 the room, that she had to get a "bed move" or end up "dead." Even another African American
18 woman stated that plaintiff was in serious danger being assigned to that room; in particular, as an
19 elder white female. Plaintiff could not refuse to go to the assigned room because she would be
20 given an infraction and sent to a terrible "jail within jail." However, there was a kind offer of
21 help from the inmate, in getting a bed move based on the institution having a long standing wide
22 knowledge about the hostility of the infamous murderer, from having to provide bed moves to
23 multiple other inmates abused in that room.

24 174. Plaintiff's urgent requests for the promised wheelchair accessible room and
25 wheelchair pusher were met with representations by custody officers in the assigned unit on "D"
26 yard, that neither wheelchair accessible cells nor wheelchair pushers were provided on "D" yard
27 and that those accommodations are offered only at "505". Plaintiff made multiple requests for
28 transfer to "505," which custody officers represented was not possible pursuant to decision of Lt.

1 Parks.

2 175. Unable to obtain an immediate bed move, plaintiff was forced to go into the hostile
3 room; and in fact, did suffer extreme physical and emotion abuse in said room.

4 176. Plaintiff was denied access for her wheelchair, was denied use of the toilet by
5 pushing and occupancy of the toilet area by the violent inmate until plaintiff gave the abusive
6 inmate her orthopedic shoes under threat of battery accompanied by a tirade of verbal abuse.

7 177. Plaintiff advised custody officers of the threats and abuse and that she was at serious
8 fall risk on the slippery painted room floor without her shoes and wheelchair. When the custody
9 officer recovered plaintiff's shoes, saying she could wear them, the violent inmate demanded that
10 plaintiff put Kotex on the bottom of her shoes, which was an extreme slip and fall hazard for
11 plaintiff. When plaintiff objected to the demand as not accommodating her disabilities and risk
12 of falling, the abuse and threat of violence and denial of access to the bathroom and other
13 harassing behavior and pushing persisted. The violent inmate refused to allow plaintiff to put a
14 lock on her locker and then repeatedly forcefully slammed plaintiff's locker door as plaintiff tried
15 to ignore the abuse by lying on her bed. The loud repetitive striking noise caused plaintiff severe
16 ear pain, headache, and fear of immediate fatal battery. Because plaintiff was accused by the
17 abusive inmate of snoring, the inmate played an obnoxious audio tape noise loop throughout the
18 night at its highest volume. The verbal racial elder abuse was truly disgusting and hurtful.

19 178. The custody officers admitted a history of abuse of other inmates from the objected
20 to roommate; but required that plaintiff to stay in the room until another bed assignment could be
21 approved. Plaintiff suffered, suffered, suffered. Finally, she was allowed to leave the room; but
22 was placed in other abusive non-accessible rooms.

23 179. Remarkably, over the objection of other inmates who told custody officers that they
24 could not put plaintiff in the proposed all black inmate room; because being white, she would be
25 killed; plaintiff was required to go into that room "temporarily," where the inmates forced her to
26 sit at the door entry for extended time because no inmate would allow her to come further into
27 the room or go to the bathroom. When she asked to go to the bathroom, the inmates threw toilet
28 paper rolls and other objects repeatedly hitting plaintiff inflicting pain and fear of fatal injury.

1 Trying to write in her notebook to ignore the abuse, the inmates grabbed the notebook out of her
2 hands, tore out its pages and flushed them down the toilet, battering plaintiff as she tried to
3 protect her writings from such destruction. The screaming from the battery, finally brought the
4 custody officer to the door allowing plaintiff to leave.

5 180. On information and belief, the custody officers took no action against the African
6 American inmates for their treatment of plaintiff; in spite of plaintiff's report of the abuse, theft
7 and battery, merely telling plaintiff to "*get used to it, its prison!*" This refrain was repeated to
8 plaintiff on multiple occasions where nothing was done about the abuses she sustained as an
9 elder white person with disability.

10 181. In another room, upon entry by this elder with wheelchair, the crowded inmates
11 exploded with extreme anger and verbal abuse saying they did not want some "*stinkin old person*
12 *or wheelchair,*" taking up more space in their small room, even being spit on by an inmate
13 known to have AIDS, who stated that she hoped plaintiff would be infected thereby. The
14 custody officers did nothing to stop the abuse. The request for a bed move was supported by the
15 inmates who did NOT want the wheelchair, even though they had come to accept plaintiff, who
16 showed that even an "old" person could appreciate music and "rock" with the youngsters.

17 182. In yet another room which was not wheelchair acceptable, there was more elder
18 abuse of not wanting a "*stinkin old person*" in the room with demands not to have the wheelchair
19 in the room. To force a request for a bed move, the inmates repeatedly sprayed plaintiff in the
20 face with cleaning chemicals, knowing she had asthma and could not tolerate the spray. When
21 plaintiff complained about this abuse, the custody officers tried to ignore the abuse and did
22 nothing to the abusers. When the chemical spraying continued that included participation by an
23 African American causing an asthma attack; the custody officers did nothing to the abusers; but
24 instead, threatened PLAINTIFF with AdSeg for her "own protection," removing all of her
25 property from the room when she was not present; during which time, personal property of
26 plaintiff was stolen. The custody officers refused to take a theft report from plaintiff and on
27 information and belief, took no action against the perpetrators of the abuse.

28 183. Housing assignments that did not accommodate the wheelchair were known to

1 Defendants as an irritant to inmates and ground for abuse against a disabled person being
2 assigned to a small 8 person room WITH A WHEELCHAIR, where the space was already
3 overcrowded. Plaintiff was wrongfully placed in room assignments where CCWF defendants
4 knew and/or should have known that she would be subjected to the abuse incurred BY REASON
5 OF HER ADA STATUS WITH WHEELCHAIR.

6 184. The threat and action thereon to force a complaining plaintiff into an unfounded
7 move to Ad Seg when plaintiff was the VICTIM of inmate abuse in violation of CCR, Title XV,
8 propelled plaintiff into making a strong demand to speak with the yard Captain to make the
9 violation argument re reverse discrimination and elder abuse with objection to what appeared to
10 be a "policy" of institutional violation of ADA and other rights; with a showing, of what
11 appeared to be intentional discriminatory/retaliatory conduct against plaintiff because of her
12 complaints.

13 185. Plaintiff was transferred to "505," where the malicious intentional
14 discrimination/retaliation continued by agreement of defendants; which included additional
15 violation of P.C. 2656, by unlawfully taking away of the wheelchair; in what appears to have
16 been an effort to avoid necessity to afford accommodation to plaintiff and advance the purpose of
17 the retaliatory conspiracy to deny ADA rights and inflict intentionally "set-up" false and
18 defamatory infractions to harm plaintiff.

19 186. When a report was taken, plaintiff was made to sign a "no enemy" chrono under
20 duress/threat that if she did not sign the essentially "bogus" chrono, she would be sent to "Ad
21 Seg," prison in prison, with even fewer "privileges," a location on information and belief, that is
22 widely populated with elderly white inmates trying to avoid elder abuse racial violence.

23 187. On information and belief, custody officers also engaged in a pattern and practice of
24 writing "bogus" informational chronos identified as a "128(b)," "128(A)" and "115"s against
25 inmates who complain; in what appears to be a means of avoiding the time to pursue discipline
26 against the offending inmate, in defense of the officer against whom the complaint has been
27 made and/or in retaliation against the inmate who complains about violation of rights et al.

28 188. Known officers who failed to protect plaintiff from inmate abuse include but are not

1 limited to: Defendants Santos, Goss, Olgetree, Haynes, Frutoz, Baron, Magdaleno, Self, Green,
2 Gomez, Collins, Cain, Franco, Gruierrez, Sotello, Asso. Warden Goynes, Sgts. Johnson, Hunter,
3 Meister, Armando, Clark, Lts Hanzak, Pimpetel, Kennedy, Cpt. Williams, Hickman. Some of
4 these defendants were themselves perpetrators of retaliatory abuse including battery against
5 plaintiff and then wrote false and defamatory reports in defense. Defendants Hanzak, Pimpetel
6 acted in contravention of appeal hearing procedures under CCR, Title XV.

7 189. Officers who engaged in the practice of writing false and misleading reports
8 involving plaintiff; include but are not limited to: Defendants Goss, Santos, Olgetree, Haynes,
9 Franco, Frutoz, Baron, Magdaleno, Gomez, Collins, Cain, Grutierraz, Valasquez, Longero,
10 Dozier, Cummings, Hunter, Estrada, Ivy, Amezcua.

11 190. On information and belief, nothing was done to infraction the abuse perpetrated
12 against plaintiff or issue criminal charges against the perpetrators of the multiple instances of
13 battery with injury she sustained from African American and other non-white inmates; e.g.
14 multiple head trauma and broken nose. On the contrary, it appeared that if there was a dispute
15 involving a member of the majority black inmate population and a minority white inmate, it was
16 the white individual who suffered consequences and not the African American abuser.

17 191. The retaliatory room assignments led to multiple injuries to plaintiff from repeated
18 battery; about which, on information and belief, the custodial staff did nothing regarding the
19 perpetrator of the crime; and in substantial part, would not even take a report regarding crimes
20 committed against plaintiff.

21 **III. "B" Yard / 505 et al.:**

22 192. The alleged ADA facility with ADA accessible rooms, was controlled by Defendant
23 CO Baron; who on information and belief, mandated the room assignments and took no
24 disciplinary action against African American inmates for their abusive conduct against other
25 inmates. His lack of care and inaction was reputed to be because he was married to an African
26 American woman.

27 193. Plaintiff's entry to the assigned ADA accessible room at 505 was met by an African
28 American woman, who had a prosthetic for her leg; but used the wheelchair as an instrument of

1 torment/torture When plaintiff attempted to enter the room with her property on a cart, the
2 wheelchair inmate repeatedly grabbed plaintiff's books and other property off the cart throwing
3 them at plaintiff, hitting her in the face dislodging plaintiff's glasses inflicting pain and severe
4 emotional distress. Said inmate's verbal abuse and harassment, directed at plaintiff, was joined
5 in by another African American woman in the room. The wheelchair inmate bully, literally raced
6 around the room dominating the space telling plaintiff she could not use her wheelchair when she
7 was in her wheelchair. Said bully, appeared to intentionally run over plaintiff's feet when they
8 were not on the bed.

9 194. Reporting the battery to Defendant Baron did nothing to change the bully behavior.
10 The bully abuse did not change the location of the abuser; but was exercised against the plaintiff
11 who was moved to another abusive room.

12 195. On information and belief, there is a general policy at CCWF to move the victim of
13 abuse to a different room and/or to AdSeg, if she reports the abuse; if she "tells" and/or files a
14 "formal grievance," instead of moving the perpetrator of the abuse; thereby, effectuating a hostile
15 retaliatory harm through the difficult moving process (without help as occurred when plaintiff
16 was required to move) for anyone who complains. The alleged "policy" appears to be effectuated
17 with the purpose of discouraging exercise of right to "complain" to obtain protection from other
18 inmates; and thereby also, avoiding CO time with paperwork and processing disciplinary
19 violations. This policy is further enforced through demands that the complaining victim sign a
20 "no enemy" chrono under threat of being sent to AdSeg, under the false pretense, it is for her
21 own protection if she refuses; thus, an apparent unlawful coercion to relieve CCWF of potential
22 liability for its failure to protect.

23 196. In one room assignment was a non-white individual, who repeatedly intentionally
24 hit plaintiff and her wheelchair; in particular, in moving to the door demanding she be out first,
25 frequently shoving plaintiff's wheelchair among other abuses directed against plaintiff. When
26 plaintiff was the one required to move and not the abuser, plaintiff objected/complained about
27 the "victim" being moved. On information and belief, the custody officer Defendant was Dozier
28 and DOES, gave an order to her other roommates that they could not help plaintiff pack or load

1 the cart under threat of a “write-up” 115. She could not even get assistance in obtaining a cart.
2 Accordingly, plaintiff suffered strain injury and severe pain in efforts to lift/move her property.
3 On information and belief, there was no disciplinary action taken against the offending roommate
4 causing the harm.

5 197. It was frequent that when plaintiff was required to move from an abusive room,
6 plaintiff was denied even voluntary assistance from other inmates upon order from the acting CO
7 and threat of a “write-up” if they provided help to plaintiff.

8 198. In another room at 505, with African American roommates, plaintiff received death
9 threats from one of these inmates who repeatedly physically poked plaintiff while she was in her
10 nightgown, saying plaintiff really actually liked her, with more poking. A report of this abuse
11 was interpreted by Defendant Johnson as a report of sexual harassment/battery which he did not
12 want to process, when plaintiff was telling him she hadn’t actually made that statement; but just
13 wanted the behavior to stop. He lambasted plaintiff with verbal abuse, reticule and false
14 assertions.

15 199. As stated by one custodial officer, there is a prison policy that you “*don’t tell*” and
16 certainly, “*don’t file a formal grievance.*” Plaintiff clearly had not complied with that position
17 and was being scourged for it.

18 200. Another of these inmates in the same room threatened plaintiff with battery
19 subjecting her to near constant loud verbal racial and other insults and harassment demanding
20 that plaintiff do everything she was told to do by said inmate and how to do it; including, how to
21 flush the toilet. This “control freak” abuse became so bad, that plaintiff wrote down verbatim the
22 pages of things that were in the tirades and forwarded a copy of them to Defendant Goynes with a
23 request to stop the racially charged abuse. HE DID NOT RESPOND and on information and
24 belief, took no action against either abusive inmate.

25 201. In yet another room, that was NOT wheelchair accessible, to which plaintiff as the
26 victim was required to move, an African American woman with a wheelchair, used that
27 wheelchair to repeatedly batter plaintiff and when she alleged plaintiff’s wheelchair was in her
28 way, let loose with a tirade of verbal abuse and literally shoved a large locker over on her causing

1 injury. She also appeared to have committed theft of plaintiff's property; including but not
2 limited to, plaintiff's ID; by reason of which, plaintiff was denied access to the library, medical
3 appointments and other locations where an ID was required for entry. It was observed by
4 plaintiff and other inmates that the abusing inmate frequently did NOT use the wheelchair,
5 walked the long distances to meals with other inmates and generally left her wheelchair in the
6 unit, as did multiple other inmates of African American origin. Other roommates and differently
7 housed inmates told plaintiff that the offending inmate was not qualified to have the wheelchair;
8 having questionably brought it with her from another prison; but that because she was African
9 American, the officers continued to allow her to use the wheelchair and obtain pushers when she
10 asked for them without challenge. Plaintiff reported the abuse and made the challenge herself as
11 to this particular abusive inmate. Thereafter, on information and belief, the inmate was given an
12 "early" release.

13 202. It appears plaintiff was retaliated against for her complaints because she was the one
14 forced to move; which after the reported abuses at 505, plaintiff was moved to a non-ADA unit
15 and room, under the control of a remarkably abusive CO, Defendant Olgetree, and his cohort
16 reputed by inmates as his "evil doer," Defendant Haynes; both of whom denied plaintiff
17 accommodation of her disabilities; primarily by refusal to provide for wheelchair pushers;
18 making up false complaints in attempt to justify the violation of rights.

19 Discrimination/Retaliation (ADA), First Retaliatory Infraction (42U.S.C. 1983)

20 203. Upon entry to Defendant Olgetree's unit, plaintiff had DPW status with
21 wheelchair in need of a wheelchair pusher to access meals, medical and other CCWF programs
22 and facilities. Defendants Olgetree and Haynes refused to secure plaintiff with a pusher.
23 Thereby, plaintiff missed medical appointments, meals at the cafeteria and other services for
24 which a wheelchair pusher was necessary. When plaintiff complained, Defendant Olgetree
25 asked if a grievance 602 would be brought against him. Plaintiff stated that she would prefer not
26 to have to go that route; but if it was necessary to obtain ADA rights, he would be named in a
27 lawsuit. Defendant Olgetree told plaintiff that her application for ACP early release "*would not*
28 *happen*," and began a course of retaliation to ensure that result. He told job assigned wheelchair

1 pushers that they would have to “push” plaintiff until her “*wheelchair was taken away*,” and that
2 he “*was working on it*.”

3 204. Defendant Olgetree told plaintiff that she had to go to 505 to get a wheelchair
4 pusher saying he had called. When plaintiff arrived at 505, she was immediately told she had no
5 right to be there without a pass and that a 115 would be issued against her denying Defendant
6 Olgetree had called. Clearly Defendant Olgetree knew he was sending her to a unit without a
7 pass and that she had not been informed by anyone that a pass was required when ordered to go
8 there.

9 205. Plaintiff had seen many inmates come to 505 without a pass for the same and
10 different reasons such as a request to move into the unit, without being threatened or charged
11 with a “serious” rule violation. On information and belief, Defendants Frutoz and Baron at 505
12 had refused to send a pusher to effectuate the agreed plan to “set-up” plaintiff for the ACP
13 disqualifying 115 by having Olgetree send plaintiff to 505 without giving her a pass. On
14 information and belief, there was a false allegation of being “disruptive” by talking too loud, an
15 issue related to plaintiff’s hearing loss that also appeared to be discriminatory based on that
16 limitation; because by reason of the hearing loss, she does not know how loud she is talking.
17 Plaintiff does not agree that she was “disruptive,” for any reason; absent the mere fact of
18 appearing without a pass being so intentionally stated to effectuate the alleged infraction.
19 Witnesses stated plaintiff was NOT disruptive; but these witnesses were not allowed to appear at
20 a hearing. And, Lt Hanzak wrongfully denied a hearing. Since plaintiff had no prior discipline,
21 there should NOT have been a 115 violation issued, only a verbal warning under 15 CCR 3312.
22 The 115 was a retaliatory disciplinary infraction; generally acknowledged by case authority as a
23 1983 violation.

24 206. Plaintiff was denied assistance to prepare, denied witnesses and denied a hearing by
25 Defendant Hanzak on the false 115 allegations; yet, plaintiff was found guilty with restrictions
26 imposed of no use of phone and “access to the court,” which precipitated loss of property
27 interests without ability to receive timely notice from outside CCWF to take action to prevent
28 what is property interest damage estimated to be in excess of \$200,000. Other falsely alleged

1 violations; in particular, for using a walker improperly by moving while sitting on it and for not
2 hearing an alleged order (a hearing loss discrimination) was denied accommodation of an
3 assistant as mandated by Title XV; as well as other hearing rights, was denied witnesses, denied
4 examination of witness, denied submission of documentary evidence, had her evidence refused
5 and/or thrown back at her being summarily found guilty and restrictions imposed; all in violation
6 of plaintiff's rights. Her complaints resulted in more retaliatory conduct and harm therefrom.

7 207. Thus, the record in support of ACP was compromised by false and defamatory
8 information and as written by Defendant Justin Kelly on CCWF falsehoods but also on false and
9 defamatory submissions by DOE defendant, on information and belief, an employee of Trinity
10 County; including but not limited to false allegation of "forgery" and the obvious omission of
11 positive information in support of ACP; all compromised by the retaliatory motive of defendants.

12 208. During the move from 505 to the Olgetree unit, on information and belief,
13 Defendant Olgetree had an infamous inmate in the room assigned, one who had killed her
14 disabled brother by drowning, putting a water hose down his throat, steal plaintiff's notebook
15 which had a written record of the prior abuses by inmates and officers at CCWF. It was obvious
16 that it was in the possession of custodial officers because plaintiff was ridiculed by officers with
17 quotes from her notebook.

18 209. Clearly a woman who had killed her own disabled brother was not expected to have
19 compassion for anyone else; in particular, a person with disability. Said inmate was reputed to
20 be the most dangerous in the unit, a snitch and impossible to have as a roommate, a person no
21 inmate wanted to live with; yet this is where Baron and Olgetree put plaintiff. The killer inmate
22 would not allow plaintiff to hang her TV antenna, constantly tearing it down. When plaintiff
23 tried to talk to her about it, plaintiff was attacked from behind while she was sitting in her
24 wheelchair and put in a choke hold. With the pressure cutting off air, plaintiff jumped up from
25 the wheelchair breaking the hold screaming. Olgetree just laughed, doing nothing. Again, it
26 was not the perpetrator who was moved, it was plaintiff.

27 210. Plaintiff's efforts to timely file for grievance procedures were interfered with in a
28 number of ways including use of the 115 process to restrict plaintiff to her room/unit and deny

1 access to the appeals box.

2 211. Defendant Haynes contributed to the retaliatory infliction of false assertions
3 regarding plaintiff in disciplinary proceedings and showing racial bias; by blaming plaintiff in a
4 witnesses incident of assault on plaintiff by an African American women, who got out of her
5 wheelchair to intentionally walk up to and batter plaintiff; yet, there was a false disciplinary
6 charge brought against plaintiff; and at hearing, witnesses and documentary evidence were
7 refused submission to the hearing officer and on appeal.

8 212. Plaintiff's ID was stolen denying her access to the library and other services; yet,
9 R&R where the ID's are replaced, were giving replacements to other inmates almost immediately
10 upon loss. Plaintiff was told that her's could have been gotten to her sooner. This denial was
11 orchestrated by Defendants Baron, Valencia, Frutoz, Meister and Rivera.

12 213. The library is not wheelchair accessible. When this was brought to the attention of
13 the librarian, Defendant L. Berger, he limited plaintiff's access, refused timely copies for appeals,
14 refused to obtain materials from other sources/libraries for plaintiff, refused to take action
15 against African American inmate who assaulted plaintiff in theft of her pen, refused to provide a
16 typewriter or otherwise provide an assistant with Appeal and other papers, made a false
17 accusation against plaintiff when his worker/employees "acted up" and generally, failed to
18 provide the services mandated under Title XV. Further, the library does not have civil materials
19 to provide sufficient information to ensure access to the court for all purposes. It would only
20 provide limited information for criminal matters.

21 214. By reason of the failure of accommodation assistance in violation of Title XV
22 mandate to provide same in preparing appeals et al, in order to overcome the illegible writing of
23 plaintiff from her manual function disability limitations/useless hands, plaintiff appeal
24 documents were rejected/cancelled; also, questionably making them untimely and no time
25 extension was provided upon request.

26 215. Plaintiff's TV, RCA amplifier, headphones and antenna were destroyed by inmates
27 when Defendant Collins refused to allow plaintiff time to put them in her locker before being
28 ordered out of the room following an inmates attempt to destroy her typewriter by throwing water

1 thereon and on plaintiff. Defendant Collins intentionally lied to prejudice plaintiff by alleging
2 the TV had fallen. It could not have fallen where the damage was a clearly blunt smash to the
3 face of the screen. Collins was retaliating for a prior 602 against him and Defendant Cain for
4 not accurately reporting battery in 507 room 16 where plaintiff reported potential for suffocation
5 by reason that her C-pap machine breathing tube had been sliced: TWICE! Defendant Collins
6 falsely alleged that plaintiff had cut her own breathing tube.

7 216. In a pattern and practice of harassment of plaintiff, Defendants Flores, Collins and
8 Cain engaged in conduct to inflict sleep deprivation throughout the night by leaving the hall
9 lights on, shining bright flashlight in her face while sleeping, pounding on the window, opening
10 and slamming the room door and yelling; all tantamount to torture. The roommates blamed the
11 disruption of sleep on plaintiff, by reason of an understood custodian officer animus toward her.
12 In turn, inmates understood that they also could harass plaintiff with impunity and they did so.
13 On information and belief, plaintiff is not the only victim of similar sleep deprivation tactics, that
14 have long been used by officers, to torment inmates at CCWF who complain.

15 217. Plaintiff was battered five times by the same violent inmate in 507, Rm.16, a
16 convicted murderer, Kim Baxley; by whom plaintiff was constantly harassed and who had
17 literally pulled plaintiff with her mattress off the bed frame when plaintiff moved into the room.
18 Another inmate Pico, in the same room, was a malicious verbal abuser who repeatedly hit
19 plaintiff and her wheelchair with a broom and threw chicken bones and other food at her; and
20 worse, engaged in indecent exposure. All such was reported to Defendants Collins, Cain, Self,
21 Gomez, Green and Johnson; yet, NOTHING WAS DONE TO PROTECT PLAINTIFF FROM
22 THESE ABUSIVE INMATES. On information and belief, neither witness statements were
23 taken nor even talking to the offending inmates took place. And, no one was moved out of the
24 room.

25 218. Following one such incident with inmate Baxter where she had hit plaintiff with the
26 walker, inflicting serious leg injuries with signification pain and bruising, Defendant Self, made
27 plaintiff painfully walk behind the walker the long distance to medical which required frequent
28 stops to sit on the walker to relieve pain/spasm with plaintiff in tears. Defendant Self told

1 plaintiff that her intake records had been distributed to the officers showing she was “convicted
2 of forgery,” which was FALSE AND DEFAMATORY, AND AN ALLEGATION THAT WAS
3 SPECIFICALLY EXCLUDED BY THE JUDGE AS NOT A PART OF THE TRIAL; and that
4 information from the internet was also distributed upon which he ridiculed plaintiff.

5 219. Plaintiff repeatedly made requests orally to her counselors and in writing to CCWF
6 records to correct the false information regarding her alleged conviction to eliminate the word
7 “forged,” which it refused to do, telling plaintiff that the information had come from the trial
8 court; yet, this appeared to be false; because CCWF had the records sufficient in the transcript of
9 the sentencing to show its records were in error and that all representations to “forged” were
10 stricken by the judge as there was no trial thereon. All records at CCWF referencing “forged”
11 should have been and should be stricken.

12 220. Plaintiff strongly objected to the false and defamatory comment from the internet
13 and harassment based thereon. Plaintiff became aware of a Title XV violation by disclosure of
14 intake records and question of wrongful submissions by Doe defendants in Trinity County, when
15 a picture of her in a form fitting ballet costume was taped up on the inmate information window
16 by CO Baron in 505. Plaintiff strongly objected to this disclosure of her private records at
17 CCWF; about which, nothing was done. CO Baron just laughed, as usual. The picture was
18 eventually taken down; but was followed with: “See, she doesn’t need a wheelchair, not only can
19 she walk, she can dance!” Of course, there was no disclosure that the picture was from the
20 1960’s; showing her talent, in the Arizona, Miss America Pageant.

21 221. During the second assignment to 505, plaintiff experienced more lack of care and
22 serious lack of protection. In another 505 room, plaintiff experienced avowed racial hatred
23 where an African American murderer of considerable size stated that she “*hated white people;*”
24 and really hated plaintiff who had moved into her room with a wheelchair and would “beat the
25 shit” out of her if she didn’t get out of the room. The avowed racist told plaintiff that she refused
26 to move her walker so that plaintiff could have her wheelchair near her bed and with what was
27 understood as violent intent, “warned” plaintiff not to touch her walker. Plaintiff reported this
28 threat to Defendants Frutoz and others, who told plaintiff she could move the offending walker

1 out of plaintiff's bed access area and did nothing to protect plaintiff. Upon return to the room
2 following the report of racial threats, a different roommate suggested, while the racist was out of
3 the room, that the walker be moved to a location closer to her own bed so that plaintiff could sit
4 in her wheelchair at her bed. When the racist returned, plaintiff was sitting in her wheelchair
5 near her bed with her back to the door. Without warning, the racist inmate approached plaintiff
6 from the rear of the wheelchair, and fisted plaintiff in the face, breaking her nose. Blood
7 splattered everywhere as Plaintiff screamed in fear from more contact before the door belatedly
8 opened from the alarm. The racist followed plaintiff out of the door screaming: "***I HATE***
9 ***WHITE PEOPLE!***"

10 222. Plaintiff had an x-ray that showed a broken nose.

11 223. On information and belief, the offending inmate Brown was not issued either a
12 disciplinary infraction or charged with a hate crime battery; giving the strong appearance of
13 institutional racism. Plaintiff filed a 602; but heard nothing more about it. The complaints to
14 Defendants Sgts Rivera, Ormande, Clark, Hickman and others, had no response generally or to
15 plaintiff's specific request to file and pursue formal criminal charges against inmate Brown. On
16 information and belief, CCWF took steps to "cover-up" this hate crime battery; taking no steps to
17 comply with regulatory processes to prosecute Inmate Brown.

18 224. Plaintiff was also stalked with menace by another individual of non-white descent
19 who had been repeatedly pelting plaintiff with garbage, reported to Defendants Gomez and on
20 information and belief, Valencia and Johnson; yet, nothing was done to protect plaintiff from
21 repetition of the abuse, even after being told to stay away from plaintiff. She didn't and plaintiff
22 had to keep moving to avoid approach by the inmate. Defendant Gomez observed the stalking
23 behavior on the occasion of the incident of actual battery; but did nothing to stop the inmate. The
24 stalking inmate eventually got out of her wheelchair, which was observed by Gomez, saw her
25 drag the garbage can all across the day room to where plaintiff was sitting in the line to the "cop
26 shop," saw her pick up a large trash can turning it upside down over plaintiff's head hitting her
27 shoulders as wet garbage including bloody tampons fell all over plaintiff and into her lap in the
28 wheelchair. Plaintiff's screams were responded to with laughter by Defendant Gomez and other

1 custody officers. Remarkably, the offending inmate was NOT required to go to her room; but
2 plaintiff was required to go to the security room with door locked and denied early medical
3 evaluation and treatment; without regard to severe neck and shoulder pain. Again, on
4 information and belief, nothing was done to discipline / charge the inmate committing the
5 stalking hate crime battery.

6 Use of Excessive Force

7 225. Defendant Magdaleno committed a battery on plaintiff by use of excessive force
8 /unauthorized use of handcuffs taking a medical document owned by plaintiff, crumpling it up
9 and throwing it on the floor. The handcuffs were so tight that they cut off blood leaving bruises
10 in a circle around plaintiff's wrists. This abuse was reported to senior officials at CCWF; one of
11 whom in particular, agreed it was uncalled for excessive force and injury. When plaintiff filed a
12 grievance/claim on Magdeleno, said defendant falsely accused plaintiff of being disruptive at the
13 "cop shop" trying to get her attention by tapping on the window; when in fact, plaintiff was
14 already far away from the window talking to another inmate at the benches when the attack
15 occurred. Said defendant had previously told plaintiff that she didn't like plaintiff from "A"
16 yard, was insulting of plaintiff's disabilities and threatened her with "more time" when she
17 complained about Defendant Cummings getting into her walker when she fell at medical,
18 destroying plaintiff's legal papers. Magdaleno was a CO at "A" yard that refused to take
19 plaintiff's legal papers for mailing when presented, throwing them back at plaintiff.

20 226. Defendant Cummings tore up the notes of his abusive conduct toward plaintiff and
21 other appeal documents and took her files re abuses of medical including nurse Brobst and
22 writings to the Federal Receiver, 602s and other appeal documents and reference materials from
23 Justice Now and the Prison Law office. Defendant Balderas was present at the time of plaintiff's
24 fall at 702 medical and did nothing to stop Defendant Cummings from destroying plaintiff's legal
25 paper. And, as stated herein, Defendant Magdaleno was insulting plaintiff's disabilities falling
26 and threatened her with more time for complaining. Thus, such theft of legal matter is condoned
27 to cause detriment in ability to replace and file timely. Defendant Cummings engaged in a
28 pattern of harassment, false writings re 128b etc. to prejudice medical to take away the

1 wheelchair, inflicting severe emotional distress from his misconduct and malicious public
2 reticule.

3 227. Defendant Dr. Mitchell, orchestrated a plan in agreement with Defendants Olgetree
4 and Baron in joint agreement with all other defendants to retaliate against plaintiff for her ADA
5 and other complaints in concert with Lt. Parks to “take away” plaintiff’s wheelchair; in part, by
6 false reports by Cummings, Dozier, Longero, Valasquez, Baron, Frutoz, Bliss and all others to
7 allege plaintiff did not need the wheelchair; without regard to the fact that all persons with
8 wheelchairs in 505 with few exceptions, can all walk in their rooms; and persons who can push
9 their own wheelchairs appear to be non-white minorities who did not have wheelchairs taken
10 away as did plaintiff. The second denial of possession and use of a physician prescribed
11 orthopedic appliance is a violation of P.C. sections 2652 / 2656, not having obtained agreement
12 from plaintiff’s outside CCWF physician that it was no longer needed. On the contrary, the
13 physician stated it was specifically needed. With the diagnosis of MS the multiple falls at
14 CCWF should have raised that issue as good cause to retain the wheelchair, not take it away.

15 228. The medical defendants Mitchell, Onyeje, Irwin, Khoo, conspired to unlawfully
16 without medical cause, deprive plaintiff of the orthopedic appliance, a wheelchair, which she
17 needed to accommodate her disabilities and access the services and benefits provided prisoners.
18 The taking away of the permanent wheelchair and DPW status on October 16, 2013 was without
19 good cause, and based on false pretenses. Not even the standard of care x-rays were taken to
20 determine a lis franc injury, which must be weight bearing. If CCWF wanted this orthopedic
21 specialist diagnosis, it could have asked for plaintiff’s expert medical records; which may have
22 failed to obtain because it didn’t want to have support for use of the wheelchair. And if any
23 records were received, then they were intentionally disregarded to perpetuate the retaliatory harm
24 inflicted against plaintiff for her complaints re deprivation of rights.

25 229. Defendant Nurse Tune repeatedly refused to treat plaintiff for her medical needs for
26 which plaintiff filed a 602 against her, which resulted in a retaliatory bed move out of 505, where
27 Defendant Tune would not have a medical office as she did in 505. Defendant Tune had failed to
28 recognize that an emergency alarm regarding plaintiff having a numb literally “frozen” left arm

1 unable to be controlled by plaintiff, was indicative a serious neurological issue, totally failing to
2 take any action to determine the cause. On information and belief, such episodes are indicative
3 of MS which was not evaluated at CCWF. No nerve studies to diagnose MS were conducted.
4 On information and belief, plaintiff's MS was substantially aggravated by the extreme stress and
5 pain inflicted from the abuse inflicted on plaintiff at CCWF. CCWF was on notice that MS was
6 a possible diagnosis that was being evaluated by plaintiff's personal physicians; a diagnosis that
7 without a doubt, should have been suspected by medical staff, where plaintiff was
8 REPEATEDLY falling in efforts to walk using an unaccommodating mobility appliance: the
9 walker.

10 230. Defendant Tune also refused to recognize plaintiff's asthma by placing on her
11 record an indication thereof, that would give notice to officers that preventive care should be
12 taken. On the contrary, Defendant Tune showed lack of care in taking the position that officers
13 are allowed to spray her with pepper spray et al and do not have to give preventive care when it is
14 used in her presence; e.g. have her leave the area when it is used. In fact, when other prisoner's
15 were sprayed, plaintiff suffered long bouts of distressed breathing and painful coughing without
16 any preventive care being taken by custody officers or medical care for the potentially life
17 threatening effects.

18 231. Defendant Tune refused to process medical requests plaintiff directed to plaintiff's
19 primary medical provider, Dr. Khoo, and others to whom they were directed; where she was the
20 alleged "screener" of initial care need, before being forwarded for the requested evaluation. She
21 admitted that she did not want to treat plaintiff; joining in the wrongful efforts to remove plaintiff
22 from the 505 medical unit in October 2013.

23 232. Defendant Tune knew and/or should have known that plaintiff could not traverse
24 the distance to meals without a wheelchair; yet, when plaintiff was in extreme pain, unable to
25 stand and/or ambulate, unable to reach the cafeteria and not able to eat thereby, she took no
26 action to assist plaintiff in reaching the cafeteria for a meal. Plaintiff lost over 65 pounds.

27 233. Defendant alleged nurse practitioner Ezenwugo, refused to provide plaintiff with the
28 Title XV document for court accommodation of disability as needed for 1) access to the courts

1 and its services; in particular, where there is litigation pending in a California court; and 2)
2 refused to provide accommodation of disability verification of needs to provide for fair
3 preparation/presentation to ensure constitutional access to the court/administrative processes
4 regarding defense in disciplinary processes; e.g. 115 hearings.

5 234. On information and belief, CCWF has a policy *not* to provide inmates with
6 documents giving notice of disability accommodation needs for hearings et al because no
7 medical provider responded to plaintiff's requests! Thereby, plaintiff was denied fair hearings by
8 denial of Title XV mandates for manual function assistance with appeals, where hand writing is
9 illegible and appeal papers were rejected on that basis.

10 235. When the wheelchair was eventually returned some five months after October 16,
11 2013, it was without the important designation of "DPW." Thus, ADA housing was NOT
12 required. CCWF is lacking in care and housing for the disabled, apparently knowing this is a
13 violation of its agreements for compliance with the ADA, removing DPW status reduces the
14 numbers on record. The defendants and each of them were mistaken as to plaintiff.

15 236. When the wheelchair was taken away and walker reimposed knowing plaintiff could
16 not safely use a walker, plaintiff fell FOUR TIMES with injury and humiliation, the nose bleeds
17 returned with all defendants acting in continuing retaliatory agreement to make plaintiff's life
18 "hard" at CCWF.

19 237. One bloody nose occurrence could not be stopped for approximately four hours for
20 which plaintiff had to go to the hospital, the custodial officer who finally acted after hours of
21 unstoppable blood, stating that he had a relative who died from an unstoppable bloody nose and
22 that he feared that if plaintiff's loss of blood was not immediately controlled, she also could die.
23 The extreme bloody nose incidents did not abate until after plaintiff's pain was eased with issue
24 of the wheelchair with pusher, which did not last. When the wheelchair and pusher were again
25 wrongfully taken away again, the pain and distress once again precipitated more bloody nose
26 instances. It is also possible that battery from inmates contributed to these occurrences.

27 238. Plaintiff was again made to suffer by use the walker, which was used as a mean
28 spirited retaliatory excuse for more "write-ups" re 115s when she tried to access meals, medical

1 and programs sitting on the walker or be prevented by such threat from eating and benefitting
2 from programs and services at CCWF. Plaintiff observed that African American inmates were
3 not stopped or given “write-ups” for moving the walker while sitting or even having someone
4 push them in the walker. There was clearly a discriminatory bias here to prejudice plaintiff.
5 Plaintiff missed many meals by reason of this threat.

6 239. Defendants Cantrell and Valasquez made negligent inaccurate reports re plaintiff’s
7 use of the walker for a 115 when in fact, they knew and/or should have known that plaintiff could
8 not safely use a walker by reason of her disabilities.

9 240. Defendant Grutierraz made false assertions for a 115, when he alleged plaintiff had
10 not obeyed an order to “stop” sitting on the walker on her way to the cafeteria. Plaintiff did not
11 hear any such alleged demand. His alleged “order” was on information and belief, an intentional
12 act to inflict pain and deny plaintiff access to meals/services; because he knew access would not
13 otherwise be timely possible and thereby, plaintiff would be denied an opportunity to have a
14 meal, being late to the “chow hall.” Defendant Grutierraz and Defendant Baron supporting the
15 115, knew and/or should have known that plaintiff would suffer pain and could not safely use a
16 walker to access meals and services without moving the walker while sitting thereon and that
17 efforts to prevent same would be discriminatory where no prohibition was exercised as to
18 African American women who acted as did plaintiff by sitting/moving the walker, one of whom
19 was named “Crystal,” who commented on the disparate treatment of plaintiff where she had no
20 such restrictions placed on her use of the walker and even had people pushing her. Additionally,
21 where plaintiff did not hear, claiming otherwise would appear to also be discriminatory by reason
22 of plaintiff’s hearing loss. It certainly did not deserve a 115. The 115 only reflects the retaliatory
23 intent of the defendants to inflict harm on plaintiff, one who exercises rights and does not adhere
24 to the officer imposed “don’t tell” and “don’t file a formal grievance” policy for inmates at
25 CCWF.

26 241. On one occasion, when plaintiff tried to comply with the mandate to use the walker
27 without sitting on it, she fell while desperately trying to timely get to the appeals filing box.
28 Plaintiff could not get up on her own by reason of her limitations of disability and was left to lie

1 in the dirt under the hot sun. When she fell with injury, Defendant Kennedy came out of the
2 guard house saying plaintiff “*could just lie there*” claiming plaintiff was “*crying wolf*” among
3 other hurtful comments that brought plaintiff to tears.

4 242. Plaintiff wrote to Defendant Tim Neal and other medical officials with authority
5 over CCWF about the apparent medical negligence in failure to accurately diagnose and
6 discrimination by failure to provide accommodations of disability citing violations of 7410 and
7 1845 requesting he stop the retaliatory failure to provide the wheelchair with pusher, and to stop
8 and remove from the record the retaliatory 115 / 128 processes related to inability to use the
9 walker as demanded by custody officers. Plaintiff’s request to investigate and correct failed to
10 receive a response from Defendant medical CEO Neal or any other official of Defendant State of
11 California, Department of Rehabilitation, California Correctional Health Care Services.

12 243. At all relevant times in this amended complaint, Defendant Captains, Park,
13 Williams, Hickman, Landingham and Defendants Asso. Warden Goynes, and Defendant Warden
14 B.J. Johnson have had administrative authority over the conduct of CCWF custody officers at all
15 ranks and all alleged ADA officers pertaining to the events in this amended complaint and on
16 information and belief, CCWF litigation officer Josh Smith; all of whom took no action to
17 prevent the events conspired in that took place to harm/damage plaintiff by all defendants; and in
18 fact, added to the harm, by such omissions and violation of duty to protect plaintiff from other
19 inmates and employee abuses.

20 244. Defendant Warden Johnson was specifically sent written requests for investigation
21 and correction of the discriminatory denial of wheelchair et al; in particular, under P.C. section
22 2652/2656, which on information and belief, was “screened” by DOE associate warden without
23 acting to correct the offenses brought to the Warden’s attention.

24
25 **CAUSES OF ACTION**

26
27 **CLAIM 1: VIOLATION OF AMERICANS WITH DISABILITY ACT;**

28 (Against All Defendants/All Counts)

1 **(Count 1: Disability Discrimination)**

2 245. Plaintiff realleges and incorporates by reference paragraphs 1-244, as if fully set
3 forth herein.

4 246. The American's With Disability Act (ADA), 42 U.S.C. section 12131-34 and the
5 Rehabilitation Act (RA), 29 U.S. C section 794 apply to state prisons and the California
6 Department of Correction (CDC) must comply with its provisions, which expressly prohibits
7 discrimination on the basis of disability, requires reasonable accommodations, and prohibits
8 retaliation. [See *Armstrong v Wilson*, 942 F.Supp.1252 (ND CA 1996; 28 C.R.R. section
9 42.540(h) and (j) and Section 35.190(b)(6)].

10 247. The actions of defendants, as set forth in this First Amended Complaint, constitute
11 violations of plaintiff's rights under 42 U.S.C. sections 12101 et seq. including but not limited to
12 the Counts below; that additionally, show further and continuing violations of the ADA in
13 contravention of the Armstrong Remedial Plan and enforcement orders issued in C94-2307;
14 causing plaintiff to suffer non-economic and economic damages in an amount to be determined
15 at the time of trial and such equitable relief as available under the ADA.

16 **(Count 2: Failure to Accommodate in Violation of the ADA)**

17 248. Plaintiff realleges and incorporates by reference paragraphs 1-247, as if fully set
18 forth herein.

19 249. The actions of defendants, as set forth in this First Amended Complaint, constitute
20 violations of plaintiff's rights under the ADA by failure to provide plaintiff with reasonable
21 accommodation of her disabilities she requested and filed appeals to obtain, which were either
22 ignored/destroyed or denied..

23 **(Count 3: 42 U.S.C. section 12203: Retaliation Based on Opposition to Disability**
24 **Discrimination)**

25 250. Plaintiff realleges and incorporates by reference paragraphs 1-249 and 252-255, as if
26 fully set forth herein.

27 251. The actions of defendants, as set forth in this First Amended Complaint, constitute
28 prohibited retaliation for plaintiff's opposition to acts and practices which were in knowing

1 violation of her civil rights; including but not limited to those made unlawful by the ADA.

2 **(Count 4: Conspiracy to Discriminate/Retaliate for Exercise of Rights)**

3 252. Plaintiff realleges and incorporates by reference paragraphs 1-251 as if fully set
4 forth herein.

5 253. The actions of defendants, as set forth in this First Amended Complaint, constitute
6 intentional knowing acts in agreement to violate plaintiff's Constitutional/civil rights, to engage
7 in overt prohibited acts in furtherance of the conspiracy to discriminate/retaliate for plaintiff's
8 opposition to acts and practices made unlawful by the ADA and other statutes to cause her harm;
9 which did violate plaintiff's civil rights and cause plaintiff injury, loss and harm. As set forth in
10 this amended complaint, plaintiff engaged in protected activity including but limited to seeking
11 accommodation of her disabilities; in particular, by use of orthopedic appliances and objecting to
12 the violation of her rights, the defendants took adverse action against her by reason thereof at the
13 time and after the continued protected conduct objecting to the rights violations, and with nexus
14 to the challenged activity and plaintiff's protected activity, plaintiff suffered injury and damages.

15 254. Defendants wrongful acts, individually and/or by and through its agents, were
16 intentional, willful and wanton, outrageous, despicable, malicious, oppressive, fraudulent beyond
17 the bounds tolerated by civilized community and in total disregard and reckless indifference to
18 plaintiff's rights under the ADA, and justify the awarding of exemplary, liquidated and/or
19 punitive damages. Defendant Lt. Parks and Defendants generally refused to afford plaintiff with
20 disability accommodation/a wheelchair pusher; and in concert and agreement retaliated for her
21 complaints of disability discrimination with the stated retaliatory purpose of said Lt. Parks, to
22 harm plaintiff through whatever conduct could and did make plaintiff's time at CCWF as "hard"
23 as possible; such "hard" conduct as did cause plaintiff harm, inflicting serious and permanent
24 disabling injury and economic loss.

25 255. As a direct and proximate result of the acts engaged in re disability discrimination et
26 al under all Counts, failure to accommodate and retaliation, plaintiff has suffered non-economic
27 and economic damages in an amount to be determined at the time of trial. Plaintiff has suffered
28 physical and emotional injury, severe physical and emotional distress, humiliation,

1 embarrassment, damage to reputation, loss of enjoyment of life and estimated damage to her
2 property interests in excess of \$200,000. Plaintiff further requests attorneys fees, costs and other
3 damages and equitable relief as allowed under the ADA.
4

5 **CLAIM 2: VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**

6 (Against All Defendants)

7 Plaintiff realleges and incorporates by reference paragraphs 1-255, as if fully set forth
8 herein.

9 256. The actions of defendants, as set forth in this First Amended Complaint, constitute
10 violations of plaintiff's rights under section 504 of the Rehabilitation Act, codified at 29 U.S.C.
11 section 794.

12 257. Plaintiff, because of her above identified medical conditions qualifies as an
13 individual with disabilities as that term is used in 29 U.S.C. section 794.

14 258. The State of California and the Department of Corrections are recipients of federal
15 financial assistance as that term is used in 29 U.S.C. section 794.

16 259. All of the operations of the California Department of Corrections constitute a
17 program or activity as those terms are used by 29 U.S.C. section 794.

18 260. Plaintiff, solely by reason of her disabilities and exercise of civil rights pertaining
19 thereto has been retaliated against as set forth herein and excluded from, denied benefits of and
20 subjected to discrimination under the programs and activities of the CDC as controlled and
21 overseen by all defendants resulting in harm to plaintiff; for which plaintiff seeks all available
22 remedies/damages set forth above where available under 504 of the Rehabilitation Act.
23

24 **CLAIM 3: VIOLATION OF CALIFORNIA PENAL CODE; CHAPTER 3. CIVIL**
25 **RIGHTS OF PRISONERS, ARTICLE 3. SEXUAL ABUSE IN DETENTION; CHAPTER**
26 **4. TREATMENT OF PRISONERS, ARTICLE 1, MISTREATMENT OF PRISONERS,**
27 **Sections 2650-2652, 2656.**

28 (Against All Defendants)

1 261. Plaintiff realleges and incorporates by reference paragraphs 1-260, as if fully set
2 forth herein.

3 262. The actions and omissions of defendants, as set forth in this First Amended
4 Complaint, constitute violations of plaintiff's rights under the California Penal Code as set forth
5 in the Counts below:

6 263. The California Penal Code applies by its terms to all defendants.

7 **(Count 1: Violation of 2652/2656; Denial of Orthopedic Appliances)**

8 264. Defendants are subject to the California Penal Code; in particular, Chapter 4,
9 sections 2652 and 2656, which mandate that a prisoner "*shall not be deprived of the possession*
10 *or use of any orthopedic or prosthetic appliance, if such appliance has been prescribed or*
11 *recommended and fitted by a physician.*" Defendants were in violation of this provision by
12 denying plaintiff the use and possession of a wheelchair as prescribed and use and possession of
13 her hand brace. The statute further mandates under subsection "(d)" that: "*No person*
14 *incarcerated in any facility of the Department of Corrections shall be deprived of the use or*
15 *possession of any orthopedic or prosthetic appliance unless both the inmate's personal*
16 *physician and a department physician concur in the professional opinion that such appliance*
17 *is no longer needed.*" Defendants were in violation of this provision when they removed
18 possession and use of plaintiff's wheelchair without compliance with the statutory procedures
19 and consent of her personal physician; causing injury to plaintiff and reputational harm from the
20 precipitating retaliatory falsified infractions for alleged misuse of a walker, an apparent 1983
21 violation, and seeks damages and equitable relief afforded by law for such harm.

22 **(Count 2: Violation of Article 3, Failure to Protect re Sexual Indecency/Harassment)**

23 265. Plaintiff realleges and incorporates by reference paragraphs 1-264, as if fully set
24 forth herein.

25 266. Under Penal Code section 2636-2639 prohibits sexual abuse in prisons and
26 provides for procedures for investigation and protection of inmates. Forms of sexual indecency
27 and harassment appear to be covered by these provision of law; in addition to being included in
28 the list of crimes; from which, defendants have a duty to protect plaintiff.

1 267. Plaintiff was subjected to sexual indecency by roommates. Whether such exposure
2 of “private parts,” is construed by Defendants as sexual harassment, elder abuse or other form of
3 misconduct, is unknown to plaintiff. However, she reported the apparent abuse and/or crime to
4 custody DOE officers and Sgt. Johnson, who took no action to either comply with the above
5 cited statute provisions or provide protection to plaintiff from such continuing inmate
6 misconduct and abuse of plaintiff. On information and belief, no “talk” or disciplinary action
7 was taken against the offending inmate Pico or any other inmate harassing plaintiff with such
8 “indecency.”

9 268. Plaintiff suffered emotional distress, physical reaction disgust/stomach upset and
10 fear for her safety from the unwanted “exposure,” for which relief afforded by statute and
11 damages are requested in such amount to be determined at trial.

12
13 **CLAIM 4: VIOLATION OF 42 U.S.C. Section 1981 (Reverse Race Discrimination):**

14 (Against All Defendants)

15 269. Plaintiff realleges and incorporates by reference paragraphs 1-268, as if fully set
16 forth herein.

17 270. Plaintiff is a Caucasian female. On information and belief, white females are a
18 minority at CCWF.

19 271. Defendants State of California and Department of Corrections are governing bodies
20 responsible for the affairs, policies, practices and operation of the California State prison system
21 that includes Defendant CCWF; and its Defendant employees; defendants prohibited by 42
22 U.S.C. section 1981, United States Constitution, Fourteenth Amendment, California State
23 Constitution and related California statutes Civil Code sections 51, 51.7 and 52; and regulations
24 applicable to prisons under California Code of Regulations, Title XV; from reverse
25 discrimination based on an individual’s race and retaliation arising out of complaints of such
26 discrimination.

27 272. On information and belief, at all relevant times in this amended complaint,
28 Defendant CCWF officials Warden, B.J. Johnson, Asso. Warden Goynes responsible for

1 addressing discrimination issues, ADA Sgt. Hunter, Chief Medical Officer Mitchell, Dr.
2 Gonzalez and the majority of named defendant medical personnel and correctional officers; as
3 well as, inmates committing hate crimes and abuses against plaintiff, were persons of color.

4 273. Defendants have at all times material to this action individually and collectively
5 discriminated against the plaintiff solely on the basis of the fact that the plaintiff is a white
6 female and/or in concert with such prohibited discrimination under the ADA; and retaliated
7 against her for complaints about conduct she reasonably believed to constitute racial bias and
8 reverse discrimination in violation of rights secured by 42 U.S.C. 1981 and above stated Federal
9 and State statutes.

10 274. The actions and omissions of defendants, as set forth in this First Amended
11 Complaint, constitute violations of plaintiff's rights prohibiting reverse race discrimination/bias
12 under the statutes set forth herein.

13 275. Plaintiff received different treatment than persons of color in the same and/or
14 similar circumstances; suffering disciplinary and other harm, where persons of color did not.
15 Plaintiff was repeatedly forced to move from rooms where she was abused by inmates of color
16 with all its distress, difficulties and physical pain for plaintiff; where the perpetrator of the abuses
17 against plaintiff were not; in particular, where the custody officer was himself a person of color,
18 who added to the difficulty imposed on plaintiff, by refusing to allow any inmate to be of
19 assistance to her. On information and belief, disputes between individuals of different races, are
20 resolved in favor of the person of color and against the minority white individual; as occurred in
21 a majority of matters pertaining to plaintiff; in particular, where "write-up" would potentially
22 issue. Persons of color were allowed to use a walker moving while sitting, plaintiff was not.
23 Persons of color were allowed to use wheelchairs who could walk and even push their own
24 wheelchairs; where plaintiff, with a severe mobility, manual function and substantial fall risk
25 disability was denied use of a wheelchair and even had it unlawfully removed by medical
26 personnel of color. Where perpetrators of misconduct both by custody officer and inmate were
27 of color, plaintiff's complaints were disregarded and met with retaliatory destruction/theft of
28 evidentiary documents by Defendant Cummings and others.

1 276. Defendants' conduct was attended by circumstances of fraud, malice, insult and a
2 reckless and wanton disregard for the rights and feelings of plaintiff for which punitive or
3 exemplary damages are proper to both punish defendants for the wrongdoing and to make an
4 example for other persons who otherwise might be tempted to engage in similar behavior.

5 277. As a direct and proximate result of the foregoing and defendants retaliation, plaintiff
6 has suffered damage to her reputation, suffered anguish, humiliation and mental distress / non-
7 economic and economic damages in an amount to be determined at the time of trial and seeks all
8 compensatory and punitive damages afforded by law, in addition to reasonable attorney fees,
9 costs and such equitable and other relief that is proper.

10
11 **CLAIM 5: NEGLIGENCE; California Civil Code section 1714(a)(Personal Injury /**
12 **Dangerous Condition of Property)**

13 (All Defendants; Defendants CO Smith and specified medical providers stated in "Facts.")

14 278. Plaintiff realleges and incorporates by reference paragraphs 1-277, as if fully set
15 forth herein.

16 279. The actions and omissions of offending defendants as set forth in this First
17 Amended Complaint regarding incident of February 21, 2013, constitute liability for personal
18 injury damages under California Civil Code section 1714(a) for dangerous condition on premises
19 of owner, possessor of premises re negligent maintenance, control, management and operation
20 thereof, medical negligence and intentional creation and/or falsification of records in an effort to
21 "cover-up" liability for the occurrence.

22 280. On February 21, 2013 plaintiff was incarcerated at CCWF assigned to a unit on
23 "A"yard, a prisoner to whom, defendants owe a duty.

24 281. At the aforementioned time and place, defendants and each of them negligently
25 maintained, managed, controlled and operated the premises at CCWF known as "A" yard, the
26 reception facility, where they allowed deterioration of the walkway edge abutting the apron into
27 the housing unit to which plaintiff was assigned; thereby, creating a large crumbling gap between
28 them; which defendants knew, or in the exercise of reasonable care should have known,

1 constituted a dangerous condition and unreasonable risk of harm to prisoners, of which Plaintiff
2 was at all times herein mentioned unaware.

3 282. Defendants negligently failed to take steps to either make the condition safe or warn
4 plaintiff of the dangerous condition, all of which caused plaintiff's wrongfully issued walker to
5 get trapped without notice or warning in the crumbling gap between the walkway and apron
6 located near the entry to the unit; thereby, in breach of the duty of care to prisoners.

7 283. On February 21, 2013, Plaintiff was sitting on her walker without movement to
8 relieve pain, when CO Smith demanded plaintiff "hurry up" to avoid being late for count;
9 whereupon, he ordered an inmate to go out and quickly push plaintiff sitting on the walker into
10 the unit, without regard to plaintiff objecting to being pushed by the inmate, who stated that she
11 had to obey the order of the officer or get a "write-up." The inmate aggressively pushed plaintiff
12 in the walker, which jammed in the crumbling gap propelling plaintiff backward onto the asphalt
13 causing her to suffer subluxation of her arm, requiring her to grab the limb and put it back into
14 joint, a severe right shoulder injury requiring surgery (performed following release from CCWF);
15 as well as, other injuries to neck with severe effects of shock, severe pain and suffering.

16 284. At the scene of the injury on the date stated, CO Smith admitted he had directed the
17 action of the inmate.

18 285. Plaintiff was not treated in accordance with the standard of care for such injuries as
19 shown in the facts incorporated herein by reference. CCWF medical personnel on information
20 and belief in concert with other officials of CCWF agreed to take steps to hide its liability and
21 that of the negligent officer through falsification of the accident report and subsequent medical
22 care; which itself is claimed herein as negligent compensable action.

23 286. As a proximate result of the negligence of defendants and each of them, plaintiff
24 was hurt and injured in her health, strength, and activity, sustaining injury to her shoulder, neck,
25 back, and nervous system and person, all of which injuries have caused and continue to cause,
26 plaintiff great mental, physical and nervous pain and suffering. Plaintiff was not adequately
27 diagnosed or treated at CCWF and the surgery required was performed at U.C. Davis following
28 plaintiff's release from custody. Plaintiff is informed and believes and thereon alleges that such

1 injuries will result in some permanent disability to her. As a result of the injuries, plaintiff
2 continues to suffer limitation and pain in the right shoulder and has suffered general damages in
3 an amount according to proof.

4 287. As a further proximate result of the negligence of defendants and each of them,
5 plaintiff has and will continue to incur medical and related expenses in an amount accordingly to
6 proof.

7 288. As a further and proximate result of the negligence of defendants, and each of
8 them, plaintiff's ability to engage in general activities of life and enjoy same without pain has
9 been impaired in the past, in the present and future in an amount according to proof.

10 289. But for the discriminatory/retaliatory violations of the ADA and related statutes
11 with specific violation of P.C. section 2656 in failing to provide for use of a wheelchair, Plaintiff
12 more likely than not, would not have suffered the injuries/damage/retaliatory infractions incurred
13 by denial thereof.

14 290. Plaintiff seeks general damages according to proof, medical and related expenses
15 according to proof, damages for loss of enjoyment of life, costs of suit and such other and further
16 relief as the court may deem proper.

17 291. Insofar as the above stated negligent conduct/breach of duty of care inflicting injury
18 to plaintiff is also a violation of 42 U.S.C. 1983 and/or other federal statutes, this cause is
19 incorporated therein by reference; as is any and all other negligent injury upon the facts set forth
20 in this amended complaint of negligent conduct causing plaintiff injury under State and Federal
21 law.

22
23 **CLAIM 6 : VIOLATION OF 42 U.S.C. SECTION 1985(3) AND THE FIRST, FOURTH,**
24 **EIGHTH, NINTH, THIRTEENTH AND FOURTEENTH AMENDMENTS TO THE**
25 **UNITED STATES CONSTITUTION; the CALIFORNIA STATE CONSTITUTION and**
26 **CALIFORNIA CIVIL CODE SECTION 51, 51.7, 52.1.**

27 (Against All Defendants)

28 292. Plaintiff realleges and incorporates by reference paragraphs 1-291, as if fully set

1 forth herein.

2 293. The actions and omissions of offending defendants, as set forth in this First
3 Amended Complaint, constitute violations of plaintiff's rights actionable under 42 U.S.C. section
4 1985 (3), the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments to the
5 United States Constitution and similarly violated Constitution of the State of California and
6 California Civil Code sections 51, 51.7, 52.1.

7 294. Protection of all persons in their civil rights and the redress of deprivation of rights
8 under color of law is provided for under 42 U.S.C. sections 1985, 1986, 1988 and is broadly
9 interpreted to include facts and circumstances which may not otherwise be actionable under
10 specific federal and/or state statutes.

11 295. As set forth in the incorporated facts herein, the individually named defendants
12 acting in their individual and official capacities as supervisory and administrative officials of the
13 Department of Corrections and CCWF and its subordinate employees , under color of law and
14 having been fully advised that plaintiff was being deprived of her constitutional rights, either
15 acted in a concerted, malicious intentional pattern to retaliate against plaintiff and her witnesses
16 or knowing that such retaliation was taking place, knowingly omitted to act to protect plaintiff
17 and her witnesses from continuing deprivations of their rights to enjoy freedom of speech,
18 movement, to petition their government for redress of grievances, to be free from discrimination,
19 unreasonable searches and seizures, to enjoy privacy, to be free from involuntary servitude and to
20 be free from deprivations of life, liberty and property without due process of law, all in violation
21 of the Constitution and laws of the United States and of 42 U.S.C. section 1983 and related State
22 statutes.

23 296. The defendants and each of them, in acting to deprive plaintiff of her rights, went
24 far beyond actions reasonably necessary for the discharge of their duties and within the scope of
25 their employment, and instead misused their official powers and acted from a willful and
26 malicious intent to deprive plaintiff of her civil rights and cause her grievous injuries thereby.

27 297. Defendants and each of them, in acting to deprive plaintiff of her rights, acted
28 intentionally, knowingly, willfully and with gross disregard of plaintiff's rights, in ratifying and

1 condoning the oppressive acts of their cohorts including other inmates in depriving plaintiff of
2 her ADA and other civil rights with failure to take action to prevent sexual advances and
3 indecency among other harm.

4 298. Defendants acted in an outrageous and systematic pattern of harassment,
5 oppression, intimidation, bad faith, ADA and reverse discrimination, cover-up dangerous
6 condition injury/liability, battery injuries from officers and inmates alike, medical negligence and
7 harm, cover-up and retaliation directed at plaintiff continuing over the course of her incarceration
8 from February 12, 2013 through August 2014 and on information and belief, continuing to the
9 present time by destruction of plaintiff's trial transcript and evidence in support of instant case
10 and/or by refusal to locate and send such boxes of materials as promised by CCWF officials;
11 including but not limited to Asso. Warden Goynes and Sgt. Johnson.

12 299. As a result of the acts of the defendants under color of law, plaintiff has suffered
13 repeated physical injury, mental anguish and emotional distress, humiliation and embarrassment,
14 false and defamatory disciplinary charges and record misrepresentation, medical and legal
15 expenses, loss of property interests in excess of \$200,000 and costs related to pursuing the claims
16 herein.

17 300. That by the aforesaid discriminatory and retaliatory acts and omissions of the
18 defendants, acting individually and acting in their capacities as supervisory and administrative
19 officials of the Department of Corrections and CCWF and as subordinate employees thereof at
20 CCWF acting in concert therewith, conspired, planned, agreed and intended to harass, intimidate,
21 defame, defraud and cause physical, economic and psychological injury to plaintiff.

22 301. That the purpose of defendants in so acting was to unlawfully extend and make
23 "hard" plaintiff's time in prison/preventing early release and was to prevent plaintiff through
24 physical and psychological violence, injury and intimidation from seeking relief from pain and
25 limitations of function through accommodation of her disabilities and seeking the equal
26 protection of the laws, and from enjoying equal privileges and immunities of citizens under the
27 Constitution and laws of the United States and the State of California, including but not limited
28 to her rights to freedom of speech, movement, right to petition their government/obtain access to

1 the courts for redress of her grievances, her right to be secure in her person and to be free from
2 unreasonable searches and seizures, her rights to privacy of her person, her right not to be
3 enslaved, nor deprived of life, liberty or property without due process of law, all in violation of
4 first, fourth, fifth, ninth, thirteenth and fourteenth amendments to the United States Constitution.

5 302. Pursuant to their conspiracy, the defendants, acted in furtherance of the conspiracy
6 to deprive plaintiff of her civil rights by repeated and insidious acts of harassment, sleep
7 deprivation, discrimination, retaliation, intimidation, bad faith, threat, fraud, injury to reputation
8 and of violation of usual safeguards and processes guaranteed under California Code of
9 Regulations, Title XV, the California Penal Code, the California Civil Code, all in violations of
10 relevant sections of those statutes and all in violation of 42 U.S.C. section 1985(3).

11 303. Numerous overt acts, but by no means all of the conspirators' overt acts in
12 furtherance of their conspiracy are specified in paragraphs 1-301 and each of those below
13 incorporated herein by reference, and these retaliatory acts were intended not only to deprive
14 plaintiff of her rights under 42 U.S.C. section 12101 et seq, section 12203, 504 of the
15 Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794; 42 U.S.C. section 1981 and 42
16 U.S.C. 1983 and related state statutes; but also to deprive her of rights to be free from
17 discrimination/retaliation under the provisions of the fourteenth amendment and the
18 constitutional civil rights described in hereabove paragraph 301.

19 304. Defendants acted with class based animus against plaintiff based on her disabilities,
20 race as a white female and access to the courts to perpetuate such class-based discrimination.

21 305. As a result of the aforesaid acts, plaintiff was deprived on her civil rights, suffered
22 mental anguish, emotional distress, physical injury and illness, damage to her
23 reputation/defamation, loss of enjoyment of life, economic loss and other monetary damages
24 estimated to be in excess of \$200,000; in addition to other deprivation of their civil rights;
25 including but not limited to continuing damage from injury / medical harm, the continuing
26 wrongful deprivation of trial transcript and evidence boxed for mailing by CCWF, not yet
27 received; and failure/refusal to correct CCWF records.

28 306. On information and belief, the last act of the conspiracy herein stated has not yet

1 occurred.

2
3 **CLAIM 6 : VIOLATION OF 42 U.S.C. SECTION 1986 (Neglect to Prevent)**

4 (Against all defendants)

5 307. Plaintiff realleges and incorporates by reference paragraphs 1-305, as if fully set
6 forth herein.

7 308. The actions and omissions of offending defendants, as set forth in this First
8 Amended Complaint constitute violations of plaintiff's rights under 42 U.S.C. section 1985;
9 regarding which, each defendant knew and/or should have known he/she had a duty under the
10 law, to take action to prevent the commission of the same.

11 309. Under 42 U.S.C. section 1986, *"Every person who, having knowledge that any of*
12 *the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be*
13 *committed, and having the power to prevent or aid in preventing the commission of the same,*
14 *neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party*
15 *injured, or his legal representatives, for all damages caused by such wrongful act, which such*
16 *person by reasonable diligence could have prevented; and such damages may be recovered in*
17 *an action on the case; and any number of persons guilty of such wrongful neglect or refusal*
18 *may be joined as defendants in the action;."*

19 310. Defendants and each of them knew and/or should have known that the wrongs set
20 forth in this first amended complaint were conspired in to be done and were done in violation of
21 42 U.S.C. section 1985; each having the power to prevent or aid in preventing the commission of
22 the same; and neglected or refused so to prevent the wrongful act to be and was committed.
23 Each defendant, by reasonable diligence could have prevented the wrongful acts and resulting
24 damage to plaintiff.

25 311. Plaintiff suffered economic and non-economic harm as more fully set forth in
26 paragraph 305 above, which is incorporated herein by reference as though fully set forth herein
27 and as stated in each claim stated.

1 **CLAIM 7: VIOLATION OF 42 U.S.C. SECTION 1983**

2 (Against All Defendants or as Named Defendants in Facts Incorporated re Count Designation)

3 **General Allegations All Counts and Facts Constituting Violations:**

4 312. Plaintiff realleges and incorporates by reference paragraphs 1-311, as if fully set
5 forth herein.

6 313. The actions and omissions of offending defendants as set forth in this First
7 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.
8 The defendants acted intentionally under color of law and said acts or omissions by defendants
9 were the proximate / legal cause of the deprivation of plaintiff's rights protected by the
10 Constitution and laws of the United States.

11 314. Plaintiff's rights violated under 42 U.S.C. section 1983; include but are not limited
12 to each Count set forth below seeking for each violation all damages and equitable relief at law.

13 315. The general allegations set forth in CLAIM NO. 6 are realleges herein.

14 316. The conduct described herein and categorized below has been performed by
15 defendants and their agents or employees in their official and individual capacities and is the
16 proximate cause of plaintiff's deprivation of rights secured by the United States Constitution
17 under the Eighth and Fourteenth Amendments.

18 317. The constitutional deprivations described herein are the proximate result of the
19 official policies, customs and pervasive practices of the California Department of Corrections
20 and defendants. Defendants are aware of all of the unconstitutional conduct complained of
21 herein and have acted intentionally, condoned or been deliberately indifferent to such conduct.

22 318. Defendants' provision of accommodations, services and protections to plaintiff is
23 constitutionally defective in a number of respects set forth in the courts of behaviors identified
24 below including without limitation:

25 a. Defendants have subjected plaintiff to disciplinary, grievance, administrative
26 proceedings which have deprived plaintiff of due process and which violated the mandates of
27 CCR, Title XV either being unlawfully and on false pretenses, denied a hearing, denied
28 witnesses, denied opportunity to cross-examine her accusers and denied submission of

1 documentary evidence and argument in writing, which was refused submission and literally
2 thrown back at her and hearing closed without consideration of her defense. And, she was asked
3 to prepare without the ADA accommodations of an assistant with her illegible writing requested
4 by plaintiff upon which her rights were denied by reason of such illegibility and argument for
5 appropriate accommodations being granted prior to and at the hearing, all denied.

6 b. Plaintiff was denied access to the law library to prepare and copy appeal documents;
7 thereby, making it easy for loss/destruction and false pretenses to deny due process by false
8 claims no such existed.

9 c. Defendants subjected plaintiff to cruel and unusual punishment in the forms of actual
10 misuse of handcuffs too tight creating severe pain to old arthritic joints and surgical metal
11 implants as well as from severe bruising.

12 d. Defendants prevented plaintiff from eating at the cafeteria by reason of failure to
13 provide her with a wheelchair and pusher and then by taking away the wheelchair making use of
14 the walker properly for such purpose impossible and which precipitated disciplinary charges not
15 inflicted on similarly situated inmates of color.

16 e. Defendants subjected plaintiff to cruel and unusual punishment in the form of physical
17 and emotional damage and denial of food as a result of her disabilities and failure of the
18 defendants to accommodate.

19 f. Defendants took no steps to protect plaintiff from physical and emotional abuse and
20 sexual indecency by other prisoners, despite defendants' knowledge that because of her
21 disabilities, race and age, plaintiff was particularly susceptible to such abuse.

22 g. Because of the protected class characteristics of plaintiff, plaintiff suffered
23 discrimination/retaliation being excluded from processes, assistance and orthopedic appliances to
24 relieve the pain and suffering brought about by her disabilities which were unaccommodated by
25 defendants resulting in cruel and unusual punishment and a denial of equal protection and due
26 process.

27 319. Plaintiff is entitled to reasonable attorney fees, litigation expenses and costs for
28 maintaining her claims pursuant to 42 U.S.C. section 1988 and all available legal and equitable

1 relief available pursuant to 42 U.S.C. section 1983.

2 320. As a result of the acts herein claimed for defendants intentional acts plaintiff
3 suffered economic and non-economic damages to be determined in amount at trial on each of the
4 counts below; which losses of property interests alone by reason of false disciplinary charge
5 restrictions et al is estimated to exceed \$200,000.

6 321. Because the conduct of defendants was done with willful and malicious gross
7 disregard of the civil rights and well being of the plaintiff and because defendants knew and/or
8 should have known their acts and omissions were in violation of law and prior agreements under
9 the Armstrong Remedial Plan and other court orders regarding disabled prisoners, of which
10 plaintiff is one, plaintiff is properly entitled to an award of punitive and exemplary damages on
11 all counts stated and as the facts will support.

12 **(Count 1: Intentional Retaliatory False Disciplinary Reports/Infractions).**

13 322. Plaintiff realleges and incorporates by reference paragraphs 1-321, as if fully set
14 forth herein.

15 323. The actions and omissions of offending defendants regarding the above identified
16 Count, as set forth in this First Amended Complaint, constitute violations of plaintiff's rights
17 under 42 U.S.C. section 1983.

18 **(Count 2: Intentional Placement of Level I Plaintiff at CCWF, Level III/IV Prison,**
19 **Without Accessible Housing in Violation of Injunction/Armstrong Remedial Plan**
20 **Prohibiting such placements and in Violation of the Court's Orders for Enforcement (See**
21 **C94-2307)).**

22 324. Plaintiff realleges and incorporates by reference paragraphs 1-323, as if fully set
23 forth herein.

24 325. The actions and omissions of offending defendants, as set forth in this First
25 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

26 **(Count 3: Intentional Threats of Housing Disabled Plaintiff in AdSeg to Hide Lack**
27 **of Accessible Housing/Violation of Armstrong Remedial Plan).**

28 (Against Defendants Santos, Goss, Lantok, Does)

1 326. Plaintiff realleges and incorporates by reference paragraphs 1-325, as if fully set
2 forth herein.

3 327. The actions and omissions of offending defendants, as set forth in this First
4 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

5 **(Count 4: Failure to Provide Appropriate Medical Care)**.

6 328. Plaintiff realleges and incorporates by reference paragraphs 1-327, as if fully set
7 forth herein.

8 329. The actions and omissions of offending defendants, as set forth in this First
9 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983 as to
10 each sub-count below:

11 **A. Inadequate Medication**

12 **B. Failure to Issue ADA Accommodation Orthopedic Appliances**

13 **C. Failure to Treat / Diagnose;**

14 **D. Falsification of Medical Report/Records.**

15 **(Count 5: Intentional Failure to take Effective Steps to Protect Plaintiff from**
16 **Bullying, Physical / Emotional Abuse and Sexual Indecency by other Prisoners, knowing**
17 **that plaintiff as an Elder White Disabled Prisoner would be particularly Subjected to such**
18 **Abuse)**.

19 330. Plaintiff realleges and incorporates by reference paragraphs 1-329, as if fully set
20 forth herein.

21 331. The actions and omissions of offending defendants, as set forth in this First
22 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

23 **(Count 6: Intentional Sleep Deprivation).**

24 (Against Defendants Collins, Flores, Cain)

25 332. Plaintiff realleges and incorporates by reference paragraphs 1-331, as if fully set
26 forth herein.

27 333. The actions and omissions of offending defendants, as set forth in this First
28 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983

1 **(Count 7: Intentional Denial of Access to the Courts/Assistance/Law Library and**
2 **Access to Appear/Defend in Pending Civil Litigation)**

3 (All defendants and Library Berger)

4 334. Plaintiff realleges and incorporates by reference paragraphs 1-333, as if fully set
5 forth herein.

6 335. The actions and omissions of offending defendants, as set forth in this First
7 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

8 **(Count 8: Intentional Seizure, Destruction/Loss/Theft of Personal / Legal Papers**
9 **and Records; including Trial Transcript).**

10 (Against All defendants generally with knowledge Olgetree, Santos, Goss, Lantok, Johnson,
11 Goynes and Does and specifically Defendant Cummings)

12 336. Plaintiff realleges and incorporates by reference paragraphs 1-335, as if fully set
13 forth herein.

14 337. The actions and omissions of offending defendants, as set forth in this First
15 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

16 **(Count 9: Intentional Interference with Mail/Reading Confidential and Failure to**
17 **Send Legal Mail)**

18 (Against Defendants Magdaleno, Dozier and Does)

19 338. Plaintiff realleges and incorporates by reference paragraphs 1-337, as if fully set
20 forth herein.

21 339. The actions and omissions of offending defendants, as set forth in this First
22 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

23 **(Count 10: Intentional Cruel Punishment/violation of Title XV)**

24 340. Plaintiff realleges and incorporates by reference paragraphs 1-339, as if fully set
25 forth herein.

26 341. The actions and omissions of offending defendants, as set forth in this First
27 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

28 **(Count 11: Intentional Use of Excessive Force by CO Magdaleno).**

1 (Against Defendant Magdaleno)

2 342. Plaintiff realleges and incorporates by reference paragraphs 1-341, as if fully set
3 forth herein.

4 343. The actions and omissions of defendant Magdaleno, as set forth in this First
5 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983
6 under the Eighth Amendment and Fourteenth Amendment inflicting injury with deliberate
7 indifference for which all available damages under the law are requested. Defendant used
8 excessive and unnecessary force in the circumstances and in contravention of CCR, Title XV.
9 Said defendant acted maliciously and sadistically for the very purpose of causing plaintiff harm
10 having acknowledged that she did not like plaintiff. Defendant's conduct caused injury and harm
11 to plaintiff.

12 **(Count 12: Discrimination/lack of access in Violation of the American's With**
13 **Disability Act).**

14 344. Plaintiff realleges and incorporates by reference paragraphs 1-343, as if fully set
15 forth herein.

16 345. The actions and omissions of offending defendants, as set forth in this First
17 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.
18

19 **(Count 13: Refusing or Neglecting to Prevent Retaliation for Plaintiff's Exercise of**
20 **First Amendment Free Speech.)**

21 346. Plaintiff realleges and incorporates by reference paragraphs 1-345, as if fully set
22 forth herein.

23 347. The actions and omissions of offending defendants, as set forth in this First
24 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

25 **(Count 14: Personal Injury Dangerous Condition of Property/ Officer (CO Smith)**
26 **Negligence/ Medical Negligence.**

27 348. Plaintiff realleges and incorporates by reference paragraphs 1-347, as if fully set
28 forth herein.

1 349. The actions and omissions of offending defendants, as set forth in this First
2 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

3 **(Count 15: Violation of Penal Code section 2650 to protect plaintiff from sexual**
4 **indecenty and 2652, 2656 Denying Access to Orthopedic Appliances to Accommodate**
5 **Disability)**

6 350. Plaintiff realleges and incorporates by reference paragraphs 1-349, as if fully set
7 forth herein.

8 351. The actions and omissions of offending defendants, as set forth in this First
9 Amended Complaint, constitute violations of plaintiff's rights under 42 U.S.C. section 1983.

10 **(Count 16: Such Further and Additional Violations this Court will Support on the**
11 **Facts stated in this amended complaint.)**

12 352. Plaintiff realleges and incorporates by reference paragraphs 1-351, as if fully set
13 forth herein.

14 353. The actions and omission defendants, as set forth in this First Amended Complaint,
15 constitute violations of plaintiff's rights under 42 U.S.C. section 1983. s of offending

16
17 **CLAIM 8 : INTENTIONAL / NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

18 (All Defendants)

19 354. Plaintiff realleges and incorporates by reference paragraphs 1-353 as if fully set forth
20 herein.

21 **(Count 1: Sleep Deprivation)**

22 355. Plaintiff realleges and incorporates by reference paragraphs 1-354 as if fully set forth
23 herein.

24 356. The actions and omission defendants, as set forth in this First Amended Complaint,
25 constitute prohibited torture, cruel and unusual punishment violation under Eighth Amendment.

26 **(Count 2: Verbal Abuse/Threats**

27 357. Plaintiff realleges and incorporates by reference paragraphs 1-356 as if fully set forth
28 herein.

1 **(Count 3: Repetitive Moving/Denial of Assistance**

2 Plaintiff realleges and incorporates by reference paragraphs 1-, as if fully set forth herein.

3
4 **CLAIM 9 : VIOLATION OF CALIFORNIA CIVIL CODE SECTION 51, 51.7;Unruh**
5 **Civil Rights Act.**

6 358. Plaintiff realleges and incorporates by reference paragraphs 1-, as if fully set forth
7 herein.

8 359.The actions and omissions of offending defendants, as set forth in this First Amended
9 Complaint, constitute violations of plaintiff's rights under California Civil Code sections 51,
10 51.7.

11
12 **CLAIM 10 : VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1; Interference**
13 **With Exercise of Civil Rights**

14 360. Plaintiff realleges and incorporates by reference paragraphs 1-, as if fully set forth
15 herein.

16 361. The actions and omissions of offending defendants, as set forth in this First
17 Amended Complaint, constitute violations of plaintiff's rights under California Civil Code
18 sections 52.1.

19
20 **CLAIM 11 : VIOLATION OF CALIFORNIA CODE OF REGULATIONS, TITLE XV:**

21 (All Defendants)

22 362. Plaintiff realleges and incorporates by reference paragraphs 1-361, as if fully set
23 forth herein.

24 363. The actions and omissions of offending defendants, as set forth in this First
25 Amended Complaint, constitute violations of plaintiff's rights under California Code of
26 Regulations, Title XV.

27
28 **CLAIM 12 : NEGLIGENCE**

1 (All Defendants)

2 364. Plaintiff realleges and incorporates by reference paragraphs 1-363, as if fully set
3 forth herein.

4 365. The actions and omissions of offending defendants, as set forth in this First
5 Amended Complaint, constitute assault, battery injuries from inmates and medical malpractice as
6 alleged and as set forth in counts below.

7 **(Count 2, Property Damage/Loss)**

8 366. Plaintiff realleges and incorporates by reference paragraphs 1-361, as if fully set
9 forth herein.

10 367. The actions and omissions of offending defendants, as set forth in this First
11 Amended Complaint, constitute violations Plaintiff realleges and incorporates by reference
12 paragraphs 1-366 as if fully set forth herein.

13 **(Count 3, Failure to Protect/Battery by Brown)**

14 368. Plaintiff realleges and incorporates by reference paragraphs 1-367, as if fully set
15 forth herein.

16 369. The actions and omissions of offending defendants, as set forth in this First
17 Amended Complaint, constitute negligent failure to protect and personal injury from battery re
18 broken nose.

19 **(Count 4, Failure to Protect/Battery by Inmate Baxley)**

20 370. Plaintiff realleges and incorporates by reference paragraphs 1-369, as if fully set
21 forth herein.

22 371. The actions and omissions of offending defendants, as set forth in this First
23 Amended Complaint, constitute personal injury from battery.

24 **(Count 5, Failure to Protect from Violence by Other Prisoners)**

25 372. Plaintiff realleges and incorporates by reference paragraphs 1-371,
26 as if fully set forth herein.

27 373. The actions and omissions of offending defendants, as set forth in this First
28 Amended Complaint, constitute violations of plaintiff's civil rights to protection and damages

1 from the multiple batteries inflicted on plaintiff from other inmates.

2 **(Count 4, Elder Abuse/Sexual Indecency)**

3 374. Plaintiff realleges and incorporates by reference paragraphs 1-373, as if fully set
4 forth herein.

5 375. The actions and omissions of offending defendants, as set forth in this First
6 Amended Complaint, constitute violations of law prohibiting elder abuse and sexual indecency
7 inflicting harm on plaintiff.

8
9 **CLAIM 13 : MEDICAL NEGLIGENCE**

10 (All Medical Related Defendants, Defendant Gonzales, Mitchell and staff, Nurse Tune and all
11 those involved in disciplinary charges and incident of February 21, 2013.)

12 376. Plaintiff realleges and incorporates by reference paragraphs 1-361, as if fully set
13 forth herein.

14 377. The actions and omissions of offending defendants, as set forth in this First
15 Amended Complaint, constitute violations of California medical malpractice law by actions
16 below the standard of care, failure to treat, negligent treatment, insufficient medication inflicting
17 harm to plaintiff.

18
19 **CLAIM 14 : DEFAMATION**

20 378. Plaintiff realleges and incorporates by reference paragraphs 1-377, as if fully set
21 forth herein.

22 379. The actions and omissions of offending defendants, as set forth in this First
23 Amended Complaint, constitute violations Plaintiff realleges and incorporates by reference
24 paragraphs 1-, as if fully set forth herein.

25
26 **CLAIM 15 : CIVIL CONSPIRACY**

27 380. Plaintiff realleges and incorporates by reference paragraphs 1-379, as if fully set
28 forth herein.

1 381. The actions and omissions of offending defendants, as set forth in this First
2 Amended Complaint, constitute defamation causing damage to plaintiff; in particular, false
3 disciplinary infractions.
4

5 **CLAIM 16 : DESTRUCTION OF RECORDS /PERSONAL PROPERTY**

6 382. Plaintiff realleges and incorporates by reference paragraphs 1-381, as if fully set
7 forth herein.

8 383. The actions and omissions of offending defendants, as set forth in this First
9 Amended Complaint, constitute violations of the California civil codes re destruction and loss of
10 personal property, negligence et al and harm to plaintiff from destruction of her TV and other
11 property, theft and damage thereto not protected by all defendants as set forth in the facts.
12

13 **CLAIM 17 : FRAUD**

14 384. Plaintiff realleges and incorporates by reference paragraphs 1-383, as if fully set
15 forth herein.

16 385. The actions and omissions of offending defendants, as set forth in this First
17 Amended Complaint, constitute violations of California Civil Code re fraud and also constitute
18 denial of due process where related to appeal documents and the entire appeals process at
19 CCWF.
20

21 **CLAIM 18 : FAILURE TO INSPECT/PROVIDE/CORRECT MEDICAL RECORDS**

22 386. Plaintiff realleges and incorporates by reference paragraphs 1-385, as if fully set
23 forth herein.

24 387. The actions and omissions of offending defendants, as set forth in this First
25 Amended Complaint, constitute violations of the Medical Records Act and CCR, Title XV which
26 provide for inspection, copy timely denied plaintiff and correction of medical records at no time
27 receiving a response from defendants for which a remedy is hereby requested in accordance with
28 law.


1 WHEREFORE, Plaintiff prays for judgement as set forth in each claim above according
2 to proof and as allowed by law with such equitable other and further relief this Court deems just
3 and proper.

4
5 **JURY TRIAL DEMAND**

6 Plaintiff requests a trial by jury.

7
8 Dated: March 13, 2017

RESPECTFULLY SUBMITTED,

9
10 
11 Patricia A. McColm
Plaintiff