CLASS ACTION COMPLAINT

SECOND AMENDED COMPLAINT

STATEMENT OF CLAIM

1. The medical care provided at the Louisiana State Penitentiary at Angola ("Angola") falls far beneath constitutional and statutory standards. Countless prisoners have already

c. Failing to provide and manage medication in accordance with prescriptions and medically appropriate treatment courses;

d. Failing to ensure that Plaintiffs' medical needs are addressed in their follow-up care, dietary plans, work requirements, cell conditions, and other aspects of confinement;

e. Enforcing a "malingering" rule designed to punish Plaintiffs who seek treatment and discourage them from requesting medical assistance; and

f. Maintaining an insufficient number of qualified medical personnel such as physicians and nurses, such that some medical tasks are performed by unqualified individuals including prisoners.

4. These medically and constitutionally unacceptable practices have produced an immeasurable amount of needless pain and suffering, exacerbating Plaintiffs' health problems and turning treatable conditions into debilitating and disabling—or even terminal—conditions. Many Plaintiffs and class

6. Despite repeated requests from Plaintiffs and warnings from doctors and advocacy groups, and despite the obviousness of many of these medical urgencies and their devastating consequences, Defendants have been deliberately indifferent

Defendants' broader failure to accommodate individuals with disabilities in performing the tasks of daily life, as described below, also contravenes federal law. Defendants' methods of administration have the effect of subjecting prisoners with disabilities to discrimination on the basis of their disabilities and defeat the accomplishment of the objectives of a medical care delivery system to prisoners with disabilities.

9. Accordingly, Plaintiffs seek declaratory relief holding Defendants' practices in violation of the Eighth Amendment, the ADA, and the Rehabilitation Act, and injunctive relief compelling Defendants to immediately provide Plaintiffs and the class members they represent with constitutionally adequate health care and accommodation for their disabilities.

JURISDICTION AND VENUE

10. Plaintiffs bring this action pursuant to 42 U.S.C. §§ 1983 and 12101 *et*

custody. At all relevant times, Vannoy and his predecessor Cain have acted under color of law and as the agent and official representative of DOC. Warden Vannoy can be served at 17544 Tunica Trace, Angola, LA 70712.

13.

Director, and Staff Physician at Angola, from 2002 to 2007. He was certified by the American Board of Internal Medicine from 2002 to 2012. In his capacity

representative of DOC. She can be served at 504 Mayflower Street, Baton Rouge, LA 70802.

20. Defendant DOC, the Louisiana Department of Public Safety and Corrections, is the state prison system, a division of the State of Louisiana. It is charged with overseeing the custody and care of offenders in Louisiana. At all relevant times, the DOC operated Angola, a public facility with programs and services. The DOC is the recipient of federal funds. The DOC can be served at 504 Mayflower Street, Baton Rouge, LA 70802.

B) Plaintiffs

16. Plaintiffs and the Plaintiff Class are individuals currently incarcerated at Angola, along with individuals who were incarcerated at Angola when this litigation was filed on May 20, 2015, but have been transferred to another DOC facility since the filing of this lawsuit.

17. The named Plaintiffs each have serious medical needs that have gone untreated, undertreated, or mistreated by Defendants. Each Plaintiff is a

19. In 2010, Mr. Hurd began compla made sick call but re tle medical atten nd was told nothing was just g nd started drastically losing 2013-2014, his weight dropped to efore. He had blood tests and again was

and troubling symptoms, he did not receive a CT r 2015. That scan revealed that he had cancer on both his nd that the progression of the tumor on his kidney suggested it ast 3-4 years.

ad at least one hernia that Defendants declined to treat. In January outside hospital for cancer treatment, Mr. Hurd was given emergency ue to the condition to which his hernia had deteriorated. After returning tal, he was never given the pain medications prescribed by the surgeon at ospital. Mr.

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22. Plaintiff **Alton Adams**, DOC No. 284186, is 52 years old and has been at Angola for 19 years. Because of Defendants' deliberate indifference, he has had ~~mulbard~~.

34. In Mr. Parker's experience, men on Ward 2 are often not cleaned at all unless there is a tour group visiting. Mr. Parker is excluded from attending church unless a nurse or EMT accompanies him; he has found that there is often no staff available to take him, effectively preventing him from attending religious ceremonies. Mr. Parker used to have an air mattress that was appropriate for his paraplegia, but it broke in or around 2011 and has not been replaced. In 2014, his accommodations declined further when the Angola hospital underwent a severe shortage of hygiene supplies including bed mats, subjecting Mr. Parker to an increased risk of bedsores and other life-threatening complications. He is regularly left to sit in his own feces for several hours before an orderly comes to change his bedding. He has had his catheter supplies changed arbitrarily, causing pain and discomfort. For six of eight days in early April 2015, with only one orderly on the Ward, there was no one to feed Mr. Parker his breakfast and he went hungry. He never receives physical therapy and relies on prisoner-orderlies for feeding. He is never weighed.

35. Plaintiff **Farrell Sampier**, DOC No. 607098, is 48 years old and has been at Angola for 3 years. Due in large part to the DOC's negligence, Mr. Sampier is paraplegic. Mr. Sampier, who was not paralyzed when he entered DOC custody, began experiencing numbness and pins-and-needles sensations while at Orleans Parish Prison, but his repeated requests for medical attention were ignored. After he began to experience paralysis at EHCC, he was eventually diagnosed with transverse myelitis. Transverse myelitis is a neurologic condition that typically leads to a full or significant recovery if properly treated with medication, rehabilitation, and physical therapy—but if left untreated, as Mr. Sampier's was, almost always results in permanent paralysis. Indeed,

refused to provide him with his medication in retaliation for other complaints he has made. He experiences swelling in his legs and numbness in his hands. He has previously made sick call about the "black box," the device used to keep him shackled, because it caused pain and swelling in his wrists. The EMT who responded to his sick call told him that whether he must wear a black box is a security decision, not a medical decision, and provided no treatment. Defendants have

the shoes were not specific to his medical needs of severe bunions and overlapping toes. The shoes caused Mr. Tonubbee additional pain in his feet and knees. He requested that the doctor issue him orthopedic shoes appropriate for his medical needs and was denied. Mr. Tonubbee was told to purchase his own shoes from the Commissary. The Commissary only sells non-orthopedic tennis shoes that fall apart when they become wet. Mr. Tonubbee has been re-gluing his shoes in an effort to get them to last longer than three months.

40. In October 2015, after the initiation of this litigation, Mr. Tonubbee was told he was being referred for a knee replacement. However, he has yet to receive any treatment. In March 2016, he was injured during a soldering accident when solder flux got into his left eye. Despite repeated requests for prompt care, his condition worsened until late May 2016 when, after inquiries by his attorneys, he was transported to University Medical Center New Orleans for needed treatment.

41. Plaintiff **Otto Barrera**, DOC No. 615551, is 50 years old and has been at Angola since November 2013. In 2012, as a result of a gunshot wound, he lost much of his lower jaw. He had multiple surgeries before his incarceration including a skin graft and bone removal. He is currently missing his bottom lip and part of his tongue. Mr. Barrera has difficulty chewing and swallowing as a result of his injuries, and the difficulty is worsening. He was referred for reconstructive surgery around August 2014, but Defendants deemed the surgery "cosmetic" and denied it on that basis. He is supposed to be on a soft diet but receives the same food as other men on the hospital ward so he must tear the food into small pieces with his hands before placing it in the back of his mouth to attempt to swallow. Mr. Barrera receives medications through an enteral tube. During a

demanding tasks beyond working the crops. If he refuses, he is written up for disobedience. His duty status says “no uneven ground,” but in practice in the field this purported restriction is meaningless. He also has a bottom-bunk duty status but was still assigned to a top bunk until late 2014, a year

was unsuccessful. He

on the basis that Mr. White did not have a fever. However, pneumonia is not always accompanied by a fever, and Mr. White did not develop a fever when he previously contracted pneumonia at Angola.

50. Immediately following a visit by attorneys investigating medical care at Angola on August 19, 2014, Mr. White had a chest x-ray taken. He was not informed of what the physicians were looking for or the results other than that the x-ray was "okay." On approximately February 5, 2015, a second x-ray was performed at Angola. Mr. White was not informed of the reason for the x-ray or the result.

51. Mr. White previously had permanent indoor duty status, because of his asthma and gunshot wounds, but Dr. Toce revoked it on the basis that Mr. White "look[ed] healthy" and only used his inhaler every other day. Mr. White's duty status was returned to field duty. In or around July 2014, Mr. White lost consciousness by the re-entry shack in the east yard and

Beginning at least as early as February 2013, he submitted repeated sick call requests and grievances. In response, Angola doctors repeatedly told Mr. Lewis that his throat issues would get better and only prescribed a Q-Tussin spray. Defendants refused to take Mr. Lewis to a hospital or specialist until January 8, 2015, after he was visited by attorneys. A Louisiana State University ("LSU") doctor performed a laryngoscopy and recommended an immediate biopsy. Mr. Lewis received a biopsy at LSU hospital on March 26, 2015 and was diagnosed with throat cancer on April 8, 2015. On May 15, 2015, he was sen

stroke. Mr. Parks's attempts to exhaust Angola's administrative grievance process were met with hindrance by the prison including delivering Administrative Remedy Procedure responses directly to the blind Mr. Parks rather than alerting the Inmate Counsel he was working with.

58. Attorneys working with Mr. Parks repeatedly noted the obvious neglect and apparent

64. The medical services DOC provides to prisoners at Angola consist of both on-site treatment by DOC personnel and off-site treatment by local hospitals and specialists.

by

70. To request health care, prisoners must submit a Health

is generally performed by security staff without appropriate medical training, rather than nurses. During Pill Call, prisoners are regularly forced to stand in line for extended periods of time including outdoors under harsh conditions.

prisoners

79. Around the same time, the LSU School of Medicine terminated a residency rotation at Angola that brought medical students from LSU School of Medicine to Angola to perform diagnostic procedures and some surgeries.

80. Neither the DOC nor the State of Louisiana has adequately replaced the services provided by the defunct residency program or the LSU hospitals. At present, most Angola prisoners with acute medical needs requiring off-site attention are taken to University Medical Center ("UMC-NO," formerly Interim LSU Hospital) in New Orleans, Our Lady of the Lake Regional Medical Center in Baton Rouge, Lallie Kemp Regional Medical Center in Independence, or Lane Regional Medical Center in Zachary. Due to UMC-NO's distance from Angola, Defendants frequently decline to use

period, Louisiana's rate of cancer deaths was nearly 50% higher than the next closest state, it had the highest rate of AIDS-related deaths and deaths from heart disease, and it was among the five worst states in deaths from liver disease and respiratory disease. Bureau of Justice Statistics, "Mortality in Local Jails and State Prisons, 2000-2013 – Statistical Tables," Tab. 27. Similarly, Louisiana has the second highest rate of HIV-

85. Because of budget shortfalls, Defendant DOC is reportedly considering a plan to close two privately run state prisons, Winn

wrkf.org/post/inmate-care-more-complicated-privatization. In addition to its own prisoners, Angola's pharmacy services Dixon Correctional Institution and Avoyelles Correctional Center. Angola pharmacists report that they process about 263,000 prescriptions per month.

90. Defendants have not indicated that they hired additional pharmacy staff to address this increased workload.

91. Defendants have also acknowledged delayed and withheld care in emails. For example, in February 2012, Defendant Stacye Falgout sent an email to colleagues regarding "Offender visits to outside facilities," in which she noted, "Secretary LeBlanc and Dr. Singh have expressed their concerns to Secretary Greenstein and the Governor's Office regarding delay of critical care. DHH and the Governor's office are in agreement

Defendants apparently moved dozens of wheelchair-bound inmates, many of whom had resided at Angola for decades, in an apparent attempt to improve Defendants' chances in this lawsuit. However, Defendants have the power to transfer these inmates back to Angola at any time for any reason, just as they had the power to transfer them out of Angola to gain some perceived litigation benefit.

B) Provision of Medical Care Is Medically and Constitutionally Deficient.

93. The Plaintiffs described

96. The following systemic policies and practices, both individually and in

a. Plaintiff Rufus White awaited a chest x-ray for more than two years to investigate chronic chest pain. He is still awaiting diagnostic tests for frequent blood in his stool and other symptoms of pain and swelling in and around his abdomen.

Plaintiff Clyde Carter has suffered from

f. In addition to the named plaintiffs, Lionel Parks, who is now deceased, suffered a stroke in July 2014 while housed in the Ash-2 dorm. Mr. Parks made four requests for emergency medical attention, telling medical personnel he believed he was having a stroke due to numbness in his body, but Angola staff only took his blood pressure, said he was fine, and sent him back to the medical dorm. He only received medical attention after his fourth request.

g. One 64-year-old prisoner with a family history of kidney failure was urinating blood for more than four years with no diagnosis. In July 2014, he was sent to Lallie Kemp hospital, but Angola staff did not send his records so the hospital refused to admit him for kidney failure

symptoms. Defendants took no meaningful steps to diagnose the cause of his symptoms until January 2015, after attorneys visited Mr. Lewis. At that time, he was sent to LSU Hospital and recommended for an immediate biopsy by the LSU specialist. Defendants then waited another three months before allowing Mr. Lewis to receive a biopsy. He was diagnosed with throat cancer in April 2015 and died in November 2015.

102. Angola doctors tell prisoners that they can only talk to them about whatever problem was listed on the sick call form. Prisoners are not allowed to raise any other medical issues during these appointments, and to the extent they try to do so the doctors ignore them.

103. Even after a physician has recommended treatment or further diagnostic tests, Defendants routinely delay for months or years before providing the recommended care. For example:

a. Dr. Roundtree recommended surgery at least ten years ago for Plaintiff John To

a. Plaintiff Rufus White received a chest x-ray that he had been requesting for more than two years only after meeting with attorneys. He was not informed of the results

b. Plaintiff Farrell Sampier

then, the cane was a standard support cane, not a tapping cane, and thus inappropriate for his disability.

h. A 41-year-old prisoner, who has been at Angola for six years and suffers from severe hemorrhoids and rectal fissures he began to develop around 2009, received surgery in January 2015, after he began meeting with attorneys. The surgery did not resolve the problem.

i. A 51-year-old prisoner who has been at Angola for 26 years suffered with an epididymis cyst in his testicle the size of a softball for five years before finally receiving surgery in September 2014, after he began to meet

tests, follow-up care, medication, medical devices, physical therapy, and medical supplies.

108. Defendants' long-standing refusal to perform hernia surgeries, which had persisted for years at the time this action was filed, illustrates their willful refusal to provide medically necessary care to prisoners, despite knowing that failure to do so will cause continuing and worsening pain and suffering. Several prisoners have been awaiting surgery for large hernias for years.

109. In 2012, Defendants gathered a group of prisoners with hernias in need of surgery, and told them that the prison will not perform surgeries because of budget cuts. Dr. Collins and other Angola staff informed a gathering of several class members that the prison would not pay for their needed surgeries and that, barring a lawsuit, they would simply not receive the treatment they needed. This practice has been noted in other litigation brought by individual Angola prisoners and has been acknowledged by this Court. *Giovanni v. Cain et al*., no. 13-cv-00566-BAJ-RLB, Doc. 32, Magistrate Judge's report, Feb. 11, 2015 (denying summary judgment, citing "affidavits of defendants Kenny Norris and Stephanie Lamartiniere indicat[ing] that prison officials have admittedly relied upon the over-stressed charity hospital system for hernia surgeries, which system is only performing a limited number of such surgeries, and then only when the need for surgery

110. A 51-year-old prisoner who has been at Angola for 26 years suffered with an epididymis cyst in his testicle the size of a softball for five years t finally receiving surgery in September 2014. A doctor told him in 2010 that surgery was the only treatment option, and that Angola was waiting for the New Orleans urology clinic to schedule the surgery. However, the prisoner saw a doctor in New Orleans in 2013 who asked him why he did not come to the surgery thatnot[(1 41 35] TJ TJETBT1 0 0 1 240. 246)-7(g)10(e)4(r)-16(y)] TJETBT1 0

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expensive to continue. Instead of receiving chemotherapy, he received steroids that caused his legs to swell and his blood sugar to remain high. His cancer progressed to the point where he could not even have a broken arm set, due to the deterioration of his shoulder. After denying curative treatment for years, Defendants placed him in hospice care in approximately June 2014. Before his death, he reported that his doctors only made rounds once every one to two months.

115. Joseph Lewis and Lionel Parks, whose medical declines and deaths are detailed *supra* (see "Former Plaintiffs"), similarly illustrate the inevitable consequences of Defendants' denials of care.

iii. Defendants Do Not Provide and Manage Medication in Accordance with Prescriptions and Medically Appropriate Treatment Courses

116. Defendants do not properly provide or manage prescribed medication, leading to widespread use of incorrect and inappropriate medication, interrupted or incomplete dosages, and sudden introduction or cessation of medications that are supposed to be gradually tapered up or down. As a consequence, Plaintiffs face a serious risk of unnecessary harm, ineffective treatment, and potentially severe or life-threatening side effects.

117. Prisoners at Angola are subject to abrupt changes in their prescribed medications. These include substitution of prescribed medication with other medication, which is not always clinically indicated for the prisoner's medical need; failure to follow medically appropriate dispensation schedules; the sudden cessation of prescribed medications; and the failure to monitor medications that are supposed to be administered with oversight. Relatedly, Defendants fail to provide special diets that are prescribed to help manage an

illness, a medication, or both. Defendants also fail to provide necessary medical devices and supplies, including those prescribed by outside doctors. As a result of these practices, prisoners at Angola risk unnecessary pain and are subject to complications that can cause serious harm to their health.

118. Defendants routinely fail to provide prisoners with the full course of their medication, fail to provide medication as prescribed or in a timely fashion, and inappropriately start and stop medication. As a result, prisoners suffer unnecessary harm, including the risk of developing drug-resistant strains of bacteria. For example:

a. Plaintiff Reginald George was refused medications to manage his HIV between 2010 and 2012, despite his requests and despite the importance of consistency in antiretroviral treatment.

b. Plaintiff John Tonubee was prescribed cortisone shots for his knees four to six times a month, but only receives them approximately every six months.

c. Many

e. A 39-year-old prisoner who has been at Angola for five years had, at the time the original complaint in this action was filed, a protruding abdominal hernia that caused severe pain and an inflamed, painful hemorrhoid in the crack of his buttocks. He had

121. Defendants routinely fail to provide or maintain medically necessary devices. For example:

a. Plaintiff Otto Barrera's enteral feeding and medication tube was not cleaned or replaced for approximately a year and a half, until the day he was scheduled to meet with attorneys in connection with this action, April 29, 2015. At the prison where he was previously housed, the tube was cleaned regularly. When not changed regularly, the tube oozes blood every two or three days. He retained this tube until December 2015, when it fell out of his chest.

b. Plaintiff Clyde Carter, who has had one or more apparent torn knee ligaments for over two years, has not only been refused surgery, but has also been refused a doctor-recommended stabilizing knee brace with metal rods, and instead given only a Velcro brace that does not hold his injured knee in place. He was later offered an oversized brace and told that he would be punished if it was misplaced; his declining of the offer of an ill-suited brace was apparently recorded as a refusal of treatment. He has regularly been forced to work in the fields with this inadequate device.

c. Plaintiff Alton Batiste, who became blind while in custody at Angola, has never been furnished with a tapping cane. The only cane he has, a standard support cane, he received from another prisoner who died. Mr. Batiste resides in a housing unit where he is entirely dependent on the men around him to carry out the tasks of daily living.

d. As described above, a 58-year-old prisoner who has been blind since 1998, was not given a cane for 16 years, until he was visited by attorneys. He then received

iv. Defendants Do Not Maintain Medically Adequate Records or Ensure that Plaintiffs' Medical Needs Are Addressed in Follow-Up Care or Conditions of Confinement

123. Defendants' record-keeping practices are inadequate, not only contributing to the problems discussed above but also leading to a failure to provide adequate follow-up care. Similarly, Defendants' failure to adequately track Plaintiffs' medical care prevents Plaintiffs' diagnoses and medical needs from being incorporated in their dietary plans, work requirements, housing assignments, and other aspects of their confinement.

124. Defendants' system for tracking prescription medications expects prisoners themselves to track their need for prescription refills and make those requests several days before their prescriptions run out. Even when prisoners do make timely requests, they frequently face gaps in their prescription medication regimens.

125. Prisoners who request medical visits but are refused are entered into the system as "no shows" and are held responsible for having missed medical appointments, even where they had no ability to do otherwise.

126. Defendants' record-keeping practices are also inadequate in that they regularly lead to prisoners being transporte.87 316.25 Tm[( )] TJport5d4porte.87 316.25 Tm1 128.54 349.85 Tm[( )555.1

b. Mr. Tolbert is supposed to receive a special diet because of his diabetes, but instead receives the same food as other prisoners but without seasoning.

c. A 59-year-old prisoner taking Coumadin, a blood thinner, is not provided with a medically required diet, even though an unregulated diet can lead to dangerously low levels of coagulants, with potentially fatal consequences.

129. Additionally, Defendants fail to monitor medications that are supposed to be administered with oversight, such

fail

131. Prisoners with injuries or disabilities are often required to work in the fields. (See paragraph 62, above.) Although medical staff sometimes provide a "duty status" to prisoners who have a medical need for a work exemption or restriction (or would provide such status if prisoners were not denied medical examinations as described above), duty status is often assigned late, inadequately, or not at all. This includes only assigning duty status for a short period to prisoners with a long medical recovery period, or assigning certain restrictions but not other medically necessary restrictions. Moreover, even when duty status is assigned, Plaintiffs are often forced to perform work beyond its scope due to Defendants' poor record-keeping or correctional officers' sheer disregard of the duty status. For example:

a. Plaintiff Cedric Evans was forced to work in the fields during several months where he had an undiagnosed broken clavicle.

b. Since apparently tearing ligaments in his knee in October 2013, Plaintiff Clyde Carter has been issued short-term duty statuses restricting him from field work, but is repeatedly forced back into the fields before they are renewed.

c. Plaintiff Ricky D. Davis was assigned to scrub kitchen pots and pans outdoors on the ground despite being given "No Kitchen" duty status. By assigning Mr. Davis to this task, Defendants

v. Defendants Use a "Malingering" Rule Designed to Discourage Plaintiffs from Requesting Medical Assistance and Retaliate Against Inmates Who Question Their Treatment by Denying Them Care

133. Defendants threaten to punish and do punish Plaintiffs for alleged malingering as a means of discouraging individuals from seeking access to medical care. As described *supra*, Defendants' sick call form bears written warning to the prisoner that "if I declare myself a medical emergency and health care staff determine that an emergency does not exist, I may be subject to disciplinary action for malingering."

134. Accusations of—and punishment for allegations of—malingering have a chilling effect on Angola prisoners' ability to seek appropriate medical care. Defendants' actions, ranging from disregard and neglect of medical complaints to actual disciplinary write-ups, reflect their approach to Plaintiffs' medical needs as, primarily, a matter of identifying who is malingering. For example,

a. Plaintiff Clyde Carter was accused of malingering when he initially injured his knee, and has faced charges of disobedience when his injury interferes with his ability to perform field work.

b. Plaintiff Kentrell Parker, who is quadriplegic, was put in an isolation cell after being accused of disobedience in response to his verbal complaints about receiving inadequate care, even though he is unable to move any body part below his neck and would be unable to notify staff if he undergoes a medical emergency while in an isolation room.

135. Several prisoners also report having been retaliated against, including by being sent to extended lockdown, for pursuing complaints about medical care. Many prisoners have

been verbally discouraged by staff from pursuing medical care. Some prisoners who were interviewed in the course of the investigation preceding this Complaint asked not to participate as named plaintiffs specifically because of their fear of retaliation.

136. The U.S. Department of Justice cited the threat of a malingering charge as a deterrent to seeking medical care as far back as the 1990s, as described below.

137. Defendants also retaliate against inmates who question their medical treatment or point out apparent problems by denying treatment altogether. Many inmates have been denied care after asking questions about the medications they were given, pointing out medical contraindications, or noting that a medical device the prison had on hand was not appropriate for their needs. In response, Defendants have listed them as refusing care and used this "refusal" as justification for both denying care at that particular instance and in the future. Defendants do this even though they know, as Dr. Singh noted in an email to Angola staff, that discontinuation of medication for noncompliance is "more punitive

for

139. Defendants are well aware of this staffing problem. In 2012, Dr. Raman Singh, the Medical Director for the DOC, was quoted with regard to medical staffing, stating, "I can't find a doctor at all for six months, and that creates a huge liability for the unit and for the institution. To me, it's like running Angola without security. The point is, it's easier to find security officers. It's really impossible to find physicians. When I was new, I was told that 'we just need a body in that job.' Sometimes it's so desperate a situation, you just need a body in the job." Cindy Chang, *Many doctors treating prisoners have disciplinary records themselves*, THE TIMES-PICAYUNE, July 29, 2012, *available at* www.nola.com/crime/index.ssf/2012/07/many_doctors_treating_states_p.html.

140. Several Angola doctors have restricted medical licenses that limit where they can practice, whom they can treat, or what type of treatment they can order. *Id.* These restrictions highlight the apparent scarcity of doctors willing to work at Angola.

141. Instead of maintaining an adequate medical staff to carry out the duties involved in caring for a population of more than 6,000 prisoners, Defendants call

143. In many parts of the prison beyond the Treatment Center, security staff perform Pill Call, where medications are dispensed multiple times per day. Security staff are unqualified to perform this role.

144. Defendants do not take adequate steps to make sure that medication distribution is correctly administered or accurately tracked. For example, correctional staff often distribute medication to dozens of inmates and only then, after the completion of distribution, record their recollection of which inmates received medication and what they received. This

C.) Defendants Have Been Deliberately Indifferent to the Substantial Risk of Serious Harm to Which Their Policies and Practices Expose Plaintiffs

152. Defendants are well aware that the systemic policies and practices discussed above are ongoing and pose a substantial risk of serious harm, including unnecessary pain and suffering, long-term disability or disfigurement, and death. Defendants are on notice from several sources, including direct observation and receipt of prisoner complaints, previous DOJ and class action litigation, and communications from Plaintiffs' attorneys.

i. Defendants Are Aware of Prisoner Health Problems and the Care Prisoners Receive, from Direct Observation and Patient Complaints

153. Defendants have seen countless examples of the tragic consequences of their inadequate care. As outlined above, Defendants have repeatedly seen their prisoners—men entirely under their control and care—complain of health care problems for years before even being examined, and then learned that their conditions have progressed past the point of treatment. The many resulting deaths and permanent disabilities, only a few of which are outlined above, put Defendants on notice that their policies and practices were insufficient to fulfill their constitutional responsibility to Plaintiffs.

154. Plaintiffs themselves have repeatedly complained about Defendants' practices, as have many members of the Plaintiff Class. Counsel for Plaintiffs have received reports of inadequate medical care from more than 200 men imprisoned at Angola, the vast majority of whom have complained to Defendants through Sick Call, the designated first-line mechanism to bring their medical complaints to the attention of Defendants. Many of these men, including all named Plaintiffs, have also utilized the Administrative Remedy Procedure ("ARP") grievance process, which brings their concerns to the attention of various officials at the prison and the DOC.

U.S.C. § 1997, *et seq*. In September 1994,

"Defendants are inadequately operating a medical care delivery system at Angola with critical shortages of key personnel. Angola lacks sufficient key professional medical staff: (1) physicians, (2) licensed physician assistants (as opposed to unlicensed assistants to physicians), (3) registered nurses, (4) licensed practical nurses, (5) a medical records professional (necessary to handle the complex and voluminous medical record requirements of Angola), (6) a registered dietician, and (7) physical therapists. Furthermore, Defendants lack critical non-professional staff necessary to allow the professional staff to free themselves from current administrative duties . . . ."

161. Plaintiffs' medical expert in the *Lynn* litigation, Michael Puisis, D.O., submitted a report illustrating several of the problems described in the DOJ Executive Summary. *See* Exhibit C. Dr. Puisis noted "shortages of supplies in various areas, including pharmaceuticals" and "involvement of security in medical matters." He expressed concern about leaving infirm individuals in locked rooms alone:

"On ward 1 (the infirmary), security can place any individual in a locked room depending on their security classification. Escape risks and protective custody were two reasons cited for placing individu9 Tm[(l3[(ke)-1[( )] TJET9 0 1 518.86 410.23 Tm[(TJETBT)61.42 Tm 0.017 57

cited

general population where follow up is poor." He noted that "[h]ousing units, including the infirmary, still do not accommodate paraplegics."

163. The *Lynn v. Williams* litigation led to the entry of a consent decree in September 1998. Warden Cain, the predecessor of Defendant Warden Vannoy, was Warden of Angola while the consent decree was in effect. The following year, however, over the objection of the DOJ, the consent decree was terminated.

iii. Plaintiffs' Counsel Have Informed Defendants of Their Deficiencies

164. Plaintiffs' counsel have contacted Defendants regarding concerns about medical care as detailed in this complaint at numerous points since 2013. Defendants were aware of multiple visits conducted by Plaintiffs' counsel to investigate allegations of inadequate

inadequate

numerous

Angola personnel, no one is currently receiving physical therapy and those prisoners who

173. Prisoners with the most acute medical needs are housed in the TC, Angola's prison hospital. When the TC opened it had three wards, but the DOC has since converted one of the wards into a storage space, eliminating much of the original medical capacity.

174. Currently, Ward 1 is Angola's Infirmary while Ward 2 houses prisoners with serious chronic care needs. Several of the prisoners living on Ward 2 have been there for years. Conditions on Ward 2 are unhealthy and dangerous: the ward is not regularly cleaned and has visible dust on many surfaces. There are flies that land on prisoners' food trays. Several men there have open wounds, often pressure sores from poor management of their conditions. The chair that is used to assist men in showering is merely hosed off between uses, not disinfected. This unhygienic practice exposes these men to the unnecessary risk of infection. Ward 2 often has a foul odor inside; parts of the bathroom area are covered with rust. Plaintiffs such as Mr. Parker suffer from unnecessary exposure to second-hand smoke caused when Angola staff and prisoners smoke cigarettes in close proximity to the living quarters. This practice further degrades the hygienic environment on the Ward.

175. Angola also operates at least two "medical dorms," Ash-2, Cypress-2, and possibly Hickory-4, outside of the TC. These dorms were not designed to be medical facilities and are not equipped for prisoners with serious medical needs, nor are they staffed by medical personnel or assistive individuals such as ASL interpreters. They also house far more

and

176. Many areas of Angola are physically inaccessible to prisoners with disabilities, particularly in the two so-called "medical dorms," both because of the facilities' physical plant and because Defendants fail to provide needed assistive devices. Ash and Cypress lack basic features of accessibility, such as doorways wide enough to accommodate wheelchairs or bathroom facilities designed for handicapped access.

177. In some instances, disabled prisoners are excluded from participating in prison activities because of insufficient staff. For instance, Mr. Parker is excluded from attending church unless a

or seatbelts. This is the only van Angola uses to transport disabled prisoners. Plaintiff Ricky Davis has been forced to ride face-down across a front seat while being transported to Angola post-surgery because a handicap-equipped van was not available.

181. Angola has a more suitable transport van that it acquired after the closure of C. Paul Phelps state prison in 2012, but Defendants elect not to use this van, either because there is not sufficient seating for security, or so as not to subject it to normal wear and tear.

E.) Failures Have a Disproportionately Harmful Effect on Prisoners with Disabilities.

182. Every failure of the Defendants to provide adequate medical care has an even more extreme effect on a prisoner with a disability. This is because prisoners with disabilities are in constant need of stabilizing care and the management of a chronic condition. Every failure potentially exacerbates a lifelong condition that will, as a result of the failure, need even more qualified care.

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184. Defendants' failure to provide adequate accessible and emergency transportation means that prisoners with disabilities miss important appointments for off-site medical care, thus aggravating their conditions.

185. Prisoners with chronic conditions requiring medication suffer disproportionate harm as interruptions and mistakes in the delivery and administration of their medication lead to a worsening of their condition or death.

186. Prisoners with compromised immune systems, such as those with HIV who must wait on the Defendants' slow sick call procedure, can seriously sicken in a

"Medical care" consists of attention and treatment by adequately trained professionals that seeks to manage, accommodate, resolve, or mitigate physical ailments affecting the human body. This includes primary care, necessary screening and diagnostic care, chronic care, surgical care, and care related to hearing, and vision.

189. The class includes prisoners who were transferred to Elayn Hunt Correctional Center since the original complaint was filed in this matter. As noted above, Defendants have transferred

a. whether Defendants' medical care system fails to provide minimally adequate care in violation of the Cruel and Unusual Punishments clause of the Eighth Amendment;

b. whether Defendants' medical care system places the prisoners at Angola at an unreasonable risk of suffering new or worsening physical injury or illness, or premature death;

c. whether Defendants have been

transferred dozens of inmates with disabilities in recent months in an apparent attempt to affect the outcome of this litigation. But Defendants have the authority to transfer those inmates back to Angola at any time and return them to the same

204. The claims of the named Plaintiffs are typical of the claims of the members of the proposed subclass. Plaintiffs and all other members of the subclass have sustained similar injuries arising out of and caused by Defendants' common course of conduct and policies in violation of the law as alleged herein.

205. Plaintiffs are members of the subclass and will fairly and adequately represent

the Plaintiffs' and the Plaintiff Class's ongoing deprivation of rights secured by the United States Constitution under the Eighth Amendment.

208. Defendants have o991 0 0 1 191.18 647.98 Tm[(o99181.59-6 TJ8s2/F7 12 Tf1 0 0 10)] o9916181.59-6 T

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mental health, and dental services, the library, educational, vocational, substance abuse, and other classes, and discharge services. Defendant DOC's programs, services, and activities are covered by the ADA.

213. Under the ADA, Defendant DOC must provide prisoners with disabilities reasonable accommodations and modifications so that they can avail themselves of and participate in all programs and activities offered by Defendants.

214. Defendant DOC fails to accommodate the Plaintiffs and the Disability Subclass they represent as described above, including by:

a. failing to "ensure that qualified inmates or detainees with disabilities shall not, because a facility is inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity," 28 C.F.R. § 35.152(b)(1);

b. failing to "ensure that inmates or detainees with disabilities are housed in the most integrated setting appropriate to the needs of the individuals," 28 C.F.R. § 35.152(b)(2);

c. failing to "implement reasonable policies, including physical modifications to additional cells in accordance with the 2010 [accessibility] Standards, so as to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing," 28 C.F.R. § 35.152(b)(3);

d. failing or refusing to provide Plaintiffs and the Disability Subclass they represent with reasonable accommodations and other services related to their disabilities, *see generally* 28 C.F.R. § 35.130(a);

e. denying Plaintiffs and the Disability Subclass they represent "the opportunity to participate in or benefit from [an] aid, benefit, or service" provided by Defendants, 28 C.F.R. § 35.130(b)(1)(i);

f. failing to make "reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability," 28 C.F.R. 35.130(b)(7);

g. failing to "maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the [ADA]," 28 C.F.R. 35.133(a);

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required to reasonably accommodate prisoners with disabilities in their facilities, programs, activities, and services, and to provide a grievance procedure.

217. Plaintiffs and the Disability Subclass they represent are qualified individuals with disabilities as defined in the Rehabilitation Act.

218. By their policy and practice of

chronic illness care, surgery, and screening, Defendants are "defeating or substantially impairing accomplishment of" the provision of constitutionally adequate medical care to prisoners. That failure has a more harmful impact on prisoners with disabilities and therefore has the effect of discriminating on the basis of disability.

FEES AND COSTS

222. Pursuant to 42 U.S.C. § 1988, Plaintiffs are entitled to recover attorneys' fees and costs. Plaintiffs also request attorneys' fees, costs, and expenses against DOC for the ADA and Rehabilitation Act claims, pursuant to 42 U.S.C. § 12205 and 29 U.S.C. § 794a.

PRAYER FOR RELIEF

223. Plaintiffs and the Plaintiff Class have no adequate remedy at law to redress the wrongs suffered as set forth in this complaint. Plaintiffs have suffered and will continue to suffer irreparable injury as a result of the unlawful acts, omissions, policies, and practices of Defendants, as alleged herein, unless Plaintiffs and the Plaintiff Class are granted the relief they request. The need for relief is critical because the rights at issue are paramount under the United States Constitution and

C. Enjoin Defendants, their agents, employees, officials, and all persons acting in concert with them under color of state law, from subjecting Plaintiffs and the Plaintiff Class to the illegal and unconstitutional conditions, acts, omissions, policies, and practices set forth above;

D. Order Defendants and their agents, employees, officials, and all persons acting in concert with them under color of state law, to develop and implement, as soon as practical, a plan to eliminate the substantial risk of serious harm that Plaintiffs and member of the Plaintiff Class suffer due to Defendants' inadequate medical care. Defendants' plan shall include but not be limited to:

a. Staffing that is sufficient to provide Plaintiffs and the Plaintiff Class with timely access to qualified and competent clinicians who can provide routine, urgent, emergent, and specialty health care;

access

b. Policies and practices that provide timely access to health care, including reliable screening for medical conditions; timely access to medically necessary surgeries; and access to adequate rehabilitative care;

c. Timely and competent responses to health care emergencies;

d. Timely and competent prescription and distribution of medications and supplies necessary for medically adequate care;

e. Timely access to competent care for chronic diseases;

f. Medically appropriate follow-up care, including but not limited to appropriate dietary, duty

g. Basic sanitary conditions that do not promote the

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