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18 Attorneys for Plaintiffs

19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA

21 JESSE HERNANDEZ et al., on behalf of  
22 themselves and all others similarly situated,

23 Plaintiffs,

24 v.

25 COUNTY OF MONTEREY; MONTEREY  
26 COUNTY SHERIFF'S OFFICE;  
27 WELLPATH, INC., a California corporation;  
28 and DOES 1 to 20, inclusive,

Defendants.

Case No. CV 13 2354 BLF

**DECLARATION OF ERICK STEWART**

Judge: Hon. Beth Labson Freeman  
Date: August 24, 2023  
Time: 9:00 a.m.  
Crtrm.: 3

I, Erick Stewart, declare:

1. I have personal knowledge of the matters set forth in this declaration, and if

1 called as a witness, I could and would competently so testify. I make this declaration in  
2 support of Plaintiffs' Notice of Motion and Motion to Enforce Settlement Agreement and  
3 Implementation Plan.

4 2. I am currently incarcerated at the Monterey County Jail ("the Jail"). My  
5 current booking number is FN2301004. I was booked into the Jail on February 8, 2023. I  
6 was previously housed at the Jail between August and November 2022. I recently was  
7 sentenced to a prison term and I will soon be transported to a CDCR institution.

8 3. Since February 2023, I have been housed in Z-Pod. After arriving to Z-Pod,  
9 I met James Hall and we soon became friends. Mr. Hall was already at the Jail when I  
10 arrived in Z-Pod. He was housed in cell Z-108, and my cell is Z-102. Both of our cells are  
11 on the bottom tier. The angle of my cell and the large windows in the door allowed me to  
12 have a clear view into Mr. Hall's cell. We would talk to each other almost every day. We  
13 also would do Bible study together.

14 4. When we talked, Mr. Hall would often tell me about his health problems. I  
15 learned from Mr. Hall that he was brought to the Jail from out of state, but his CPAP  
16 machine did not transfer with him. Mr. Hall told me he submitted a grievance asking for a  
17 CPAP machine. At first, the Jail staff did not respond. Weeks later, I heard medical staff  
18 tell Mr. Hall that he needed to have someone bring his CPAP machine to the Jail for him.  
19 I heard Mr. Hall explain that he can't have a family member bring it because the machine  
20 was out of state. I heard the medical staff person respond by telling Mr. Hall that they do  
21 not provide CPAP machines to people at the Jail.

22 5. Mr. Hall told me he was having trouble breathing at night because he didn't  
23 have his CPAP machine. When we talked in the housing unit, he told me multiple times  
24 that he wakes up in the middle of the night gasping for air. When I learned this, I called  
25 Rosen Bien Galvan & Grunfeld LLP ("RBGG") near the end of March 2023 and asked  
26 them for help. At their suggestion, I encouraged Mr. Hall to contact them directly and he  
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1 did. I am informed and believe that an attorney at RBGG advocated for Mr. Hall to  
2 receive a CPAP machine after he spoke with them. But the Jail never provided him one.

3         6.       On the morning of Friday, April 7, 2023, I came out of my cell in the  
4 morning for my socialization time. Mr. Hall was still in his cell, but I talked to him  
5 through his cell door. Mr. Hall told me that he woke up the night before gasping for air as  
6 if he were suffocating and that he felt that he almost died. He told me he still had not  
7 gotten a CPAP machine, and that was why he was having trouble breathing at night. Mr.  
8 Hall told me that his time to get let out to dayroom that day was at 5 PM, and he would not  
9 have access to a phone until then. He told me he was worried he wouldn't be able to call  
10 RBGG's office before it closed. He asked that I call RBGG and tell them he had not  
11 received his CPAP machine yet and that he was still having problems breathing at night.

12         7.       Right after that, I called RBGG and told a paralegal what was going on.  
13 Afterwards, I told Mr. Hall to call RBGG when he got released to dayroom and to leave a  
14 voicemail if necessary. He told me he would. After that, I went back to my cell when my  
15 socialization time ended.

16         8.       Later that same day in the afternoon, the top tier was out for dayroom. I was  
17 in my cell at the time. All of a sudden, I heard people yelling, "man down" because they  
18 saw that Mr. Hall had collapsed on the floor in his cell. Someone goes "man down" when  
19 they are in need of emergency medical attention. I later learned that Mr. Hall's cellmate  
20 was in the top bunk sleeping at the time.

21         9.       There are emergency buttons in each person's cell in Z-Pod, and when you  
22 press the button, a speaker will ask "what is your medical emergency?" But then even if  
23 you state you are in need of emergency medical attention, only custody staff respond.  
24 After custody staff arrive, only then do they decide if they need to call medical staff.

25         10.      This is what happened on the afternoon of April 7 after people began calling  
26 "man down" for Mr. Hall. I soon saw deputies arrive to the unit and open Mr. Hall's cell  
27 door and pull him out of his cell into the dayroom. I could see a deputy start chest  
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1 compressions on Mr. Hall. When they first pushed on his chest, it looked like the entire  
2 contents of Mr. Hall's stomach came out of his mouth. But Mr. Hall was otherwise not  
3 responsive.

4 11. I saw deputies performing chest compressions until the nurses came several  
5 minutes later and hooked Mr. Hall up to a machine that seemed to analyze his heart.  
6 During this time, I heard the machine periodically saying something like, "Step back.  
7 Don't touch. Analyzing heart. Resume heart compressions." Whenever the machine  
8 stopped making noise, the deputies resumed the chest compressions. This cycle went on  
9 until paramedics arrived and took over. The paramedics worked on Mr. Hall for another  
10 approximately 15-20 minutes, and they were still working on him when they placed him  
11 on a stretcher and carried him out of the unit.

12 12. Even though I observed the incident from inside my cell, I could see the  
13 dayroom clearly. I did not see Mr. Hall breathe or make any voluntary movements, even  
14 after medical staff came. From what I could see, I believe Mr. Hall had died or was  
15 unconscious by the time staff responded.

16 13. Later that day, two officers came to the unit and spoke to some of the people  
17 on the top tier who were in the dayroom when the incident happened. They also talked to  
18 Mr. Hall's cellmate, and I saw them escort the cellmate out of the unit.

19 14. I later got confirmation that Mr. Hall had died because he never came back to  
20 the unit and staff took all of his belongings out of his cell.

21 15. Witnessing Mr. Hall's death has caused me significant distress and mental  
22 anguish. Since that day, I have even experienced physical pain in the form of a headache  
23 and stomach ache when I think about Mr. Hall. I feel angry and also helpless because Mr.  
24 Hall needed medical attention and was asking staff for help, but they never gave him his  
25 CPAP machine. The medical and mental health treatment that I and others have  
26 experienced at this Jail is absolutely atrocious.



1           16.     Since Mr. Hall's death, I have heard some people insinuate that Mr. Hall  
2 died from an overdose. But if medical staff suspected Mr. Hall had overdosed, they should  
3 have administered Narcan. I never saw any staff member administer Narcan to Mr. Hall  
4 when they were responding to the incident. I also never heard Mr. Hall mention anything  
5 about having access to drugs. When I spoke to him on the morning of his death, he did not  
6 appear to be under the influence of any drug. It is my belief that Mr. Hall's health  
7 deteriorated because he did not have his CPAP machine for months on end. The medical  
8 staff at the Jail knew he needed a CPAP machine, but they never provided one.

9           17.     I have also received inadequate medical care at the Jail. When I came to the  
10 Jail the first time in August 2022, the medical staff changed my medication and I had to go  
11 to the hospital to deal with the side effects. The medical staff at the Jail has also tried to  
12 change my mental health and heart medications, and initially prescribed different ones than  
13 the ones I have been taking for years, which did not work as well. There was no need for  
14 the Jail to change my medication that has been working well for me for years. It was very  
15 stressful not being able to have my regular medications continued.

16           18.     The Jail staff also took away my orthopedic wrist braces, which I still have  
17 not received back. They took my walker for a day and a half when I was first booked.

18           19.     I require incontinence supplies, but it took the Jail approximately 10 days to  
19 provide me with adult diapers when I first arrived. Initially they provided me with some  
20 hazard bags, but they no longer provide those. Staff have never provided me with wipes.

21           20.     At first I tried to advocate for myself to get my incontinence supplies, but the  
22 staff just ignored me so I was discouraged from raising it again. In my experience, the  
23 staff at this Jail are very callous and cavalier about people's medical concerns. I often hear  
24 staff tell me and other people that if we have a situation, we should put it on the tablet. It  
25 feels like we are just an app to them, not real people. Nursing staff never have the paper  
26 grievance forms for people to use when they do not know how to use the tablets.

1           21.     Luckily, I had brought some adult diapers with me to the Jail, so I had some I  
2 could use after I was booked. But since the Jail refused to provide hazard bags, I have  
3 been forced to save the brown paper bags from my meals and place my soiled diapers in  
4 the bag and keep them in my cell until the end of each day when a staff member comes to  
5 collect it. This is dehumanizing treatment that no one should have to endure.

6           22.     A few weeks ago, the Jail again stopped giving me my diapers. When I  
7 asked why, a nurse told me the order had expired and the doctor decided I didn't need  
8 them anymore. This is ridiculous, as I have a chronic condition that I will have for my  
9 whole life. After several days of having to use the remaining extra diapers I had brought  
10 with me to the Jail when I was first booked, a nurse who knew me gave me the diapers and  
11 the hazard bag I requested. Since then, I have been getting diapers but not the bags.

12          23.     On or around Monday, April 10, 2023, there was no morning medication  
13 pass in Z-Pod. We were told that it was due to nursing staff shortages. I have to take my  
14 heart medication every morning, but it was not provided to me that day. When I asked to  
15 get my heart medication at the noon med pass, the nurse told me she could not provide it  
16 because it was a different time. I therefore missed my dose completely, and was forced to  
17 wait until the following day to receive my heart medication. Similar things have happened  
18 to me before. For example, if a nurse forgets to pack someone's medications, they do not  
19 go back to the pharmacy to get it, they just skip the medication that day. This has  
20 happened to me more than once at the Jail. This is distressing and totally inappropriate.

21          24.     I believe that without radical improvements to the Jail's medical and mental  
22 health care, more people will suffer like I have. I am very concerned that more people like  
23 Mr. Hall might die. I believe other people who clearly need medical and mental health  
24 attention are unable or too scared to advocate for themselves. Because of this, more  
25 people will get hurt unless something changes.

26           I declare under penalty of perjury under the laws of the State of California that the  
27 foregoing is true and correct to the best of my knowledge, and that this declaration is  
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1 executed at Salinas, California this 14 day of April, 2023.

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3 Erick Laton Stewart SR  
4 Erick Stewart  
5 ERICK LATON STEWART.SR  
6 E.L.S.SR  
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