

1 GAY CROSTHWAIT GRUNFELD – 121944
VAN SWEARINGEN – 259809
2 PRIYAH KAUL – 307956
ERIC MONEK ANDERSON – 320934
3 HANNAH M. CHARTOFF – 324529
ROSEN BIEN GALVAN & GRUNFELD LLP
4 101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
5 Telephone: (415) 433-6830
Facsimile: (415) 433-7104
6 Email: ggrunfeld@rbgg.com
vswearingen@rbgg.com
7 pkaul@rbgg.com
eanderson@rbgg.com
8 hchartoff@rbgg.com

9 AARON J. FISCHER – 247391
LAW OFFICE OF
10 AARON J. FISCHER
2001 Addison Street, Suite 300
11 Berkeley, California 94704-1165
Telephone: (510) 806-7366
12 Facsimile: (510) 694-6314
Email: ajf@aaronfischerlaw.com

13 *(additional counsel on following page)*

14 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
17 SOUTHERN DISTRICT OF CALIFORNIA

18 DARRYL DUNSMORE, ERNEST
ARCHULETA, ANTHONY EDWARDS,
19 REANNA LEVY, JOSUE LOPEZ,
CHRISTOPHER NELSON,
20 CHRISTOPHER NORWOOD, and
LAURA ZOERNER, on behalf of
21 themselves and all others similarly situated,

22 Plaintiffs,

23 v.

24 SAN DIEGO COUNTY SHERIFF'S
DEPARTMENT, COUNTY OF SAN
DIEGO, CORRECTIONAL
25 HEALTHCARE PARTNERS, INC.,
LIBERTY HEALTHCARE, INC., MID-
26 AMERICA HEALTH, INC., LOGAN
HAAK, M.D., INC., SAN DIEGO
27 COUNTY PROBATION DEPARTMENT,
and DOES 1 to 20, inclusive,

28 Defendants.

Case No. 3:20-cv-00406-AJB-WVG

**DECLARATION OF MICHAEL
KEAVNEY IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR
PRELIMINARY INJUNCTION
AND PROVISIONAL CLASS
CERTIFICATION**

Judge: Hon. Anthony J. Battaglia

Trial Date: None Set

1 *(counsel continued from preceding page)*

2 CHRISTOPHER M. YOUNG – 163319
ISABELLA NEAL – 328323
3 OLIVER KIEFER – 332830
DLA PIPER LLP (US)
4 401 B Street, Suite 1700
San Diego, California 92101-4297
5 Telephone: (619) 699-2700
Facsimile: (619) 699-2701
6 Email: christopher.young@dlapiper.com
isabella.neal@dlapiper.com
7 oliver.kiefer@dlapiper.com

8 BARDIS VAKILI – 247783
JONATHAN MARKOVITZ – 301767
9 ACLU FOUNDATION OF SAN DIEGO &
IMPERIAL COUNTIES
10 2760 Fifth Avenue, Suite 300
San Diego, California 92103-6330
11 Telephone: (619) 232-2121
Email: bvakili@aclusandiego.org
12 jmarkovitz@aclusandiego.org

13 Attorneys for Plaintiffs
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15
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17
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DECLARATION OF MICHAEL KEAVNEY

I, Michael Keavney, declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
2. I have been incarcerated at the San Diego County Jail (“the Jail”) since January 23, 2017. I am housed at San Diego Central Jail in unit 7B. My booking number is 17104761. I am 43 years old.
3. In mid-November 2021, I was temporarily moved from my cell in unit 7B to unit 5D at San Diego Central. To my knowledge, 5D was being used as a COVID-19 quarantine unit for persons who tested positive.
4. In 5D, I was housed with two cellmates, Dylan Lacroix and Robert Moniger. Mr. Moniger was of slight build, quiet, and somewhat disheveled. A couple days after Mr. Moniger moved into the cell occupied by me and Mr. Lacroix, Mr. Moniger told me that he had a pounding headache. I observed him having trouble breathing. He was in obvious distress. He had one inhaler, but he used it all up. During med pass, a nurse gave him a new inhaler cartridge on about his fourth or fifth day in the cell.
5. By his seventh or eighth day in the cell, Mr. Moniger was laying down on the floor of the cell by the door begging the deputies for help. Each time that they walked by, approximately once every hour, Mr. Moniger or Mr. Lacroix or I would let the deputies know that Mr. Moniger had trouble breathing and required medical attention. The deputies refused to pull him out of the cell and did not obtain any medical assistance for Mr. Moniger. Mr. Moniger pushed the emergency button in the cell at least half a dozen times for help. If a deputy responded (the majority of time they did not respond), he was told to talk to the floor deputy when they pass by—the same deputies who had ignored his requests for help.

1 6. During his ninth or tenth night in the cell, I caught Mr. Moniger
2 swapping my inhaler cartridge for his empty inhaler cartridge. I pushed the
3 emergency button, and to my surprise a deputy responded. I told the deputy
4 that I had just caught my cellie stealing and that he needed to be removed
5 from the cell. Thereafter, the deputies escorted Mr. Moniger from the cell.
6 Mr. Moniger sat down immediately outside of the cell telling the deputies that
7 he could not walk and that he was having trouble breathing. Thereafter,
8 custody staff got a wheelchair, picked him up and put him in the wheelchair,
9 and took him out of the module.

10 7. The next morning, at around 9:00 or 10:00 a.m., detectives informed
11 me and Mr. Lacroix that Mr. Moniger had passed away. The deputies told me
12 that Mr. Moniger had been taken to a side-cell, a small 4x6 cell just outside
13 the module, and that Mr. Moniger had died in that cell.

14 8. I have had problems using the grievance process at the Jail. For
15 example, on October 7, 2021, I filed a grievance about issues in the Jail
16 related to ADA accommodations, mental health and medical care, and safety
17 and security issues. That grievance was signed by a staff member, ARJIS #
18 4295, on October 7, 2021. Attached hereto as **Exhibit A** is a true and correct
19 copy of that grievance. The Jail never responded to my grievance. On
20 October 21, 2021, having not received any response to my grievance in the
21 ten days required by the grievance procedure, I submitted an appeal. That
22 appeal was signed by a staff member on October 22, 2021. Attached hereto
23 as **Exhibit B** is a true and correct copy of that appeal. The Jail never
24 responded to that appeal. Not responding to grievances is standard operating
25 procedure at the Jail. I have submitted over 100 grievances that have not been
26 responded to by Jail staff.

27 9. The Jail has a long history of interfering with legal mail when it relates
28 to civil litigation with respect to the Jail. Numerous other incarcerated people

1 have told me that they have experienced delayed or lost mail when it involves
2 lawsuits against the Jail. In 2020, I filed a small claims lawsuit against the
3 Jail concerning the loss of my personal property. I was required to re-file the
4 initiating claim twice because court deadlines were not met due to the Jail's
5 failure to timely deliver mail from and to me. It would always get lost. When
6 I sent out evidence by mail to get copies for the lawsuit, it took four separate
7 attempts over the course of six to eight months for me to obtain the copies
8 that were being sent to me from the copier. Once I obtained the copies, it
9 took me three separate attempts to mail the copies to the court before the
10 court confirmed that the copies were delivered. As a result, it took
11 approximately two years for my small claim to be heard. When it was heard,
12 the court awarded me \$1,725.

13 10. In 2020, I filed an action in federal court complaining about inadequate
14 medical care at the San Diego County Jail after I sustained a shoulder and
15 ankle injury while incarcerated at the Jail. The case number of this lawsuit is
16 20-cv-1443-MMA-MSB. The court recognized me as proceeding *pro se* and
17 in *forma pauperis*. Among other things, my First Amended Complaint
18 alleged that the I was not provided physical therapy that was prescribed by a
19 doctor at the Jail as well as an outside specialist. On May 5, 2021, the court
20 dismissed the action and granted me sixty days leave to amend. The United
21 States District Court mailed me a copy of the dismissal order in an envelope
22 postmarked May 6, 2021. However, Jail staff did not deliver the envelope to
23 me until March 1, 2022, a delay of almost ten months. Attached as **Exhibit C**
24 is a true and correct copy of the envelope from the United States District
25 Court showing both the May 5, 2021 USPS postmark as well as a note by the
26 custody officer indicating that it was delivered March 1, 2022 by custody
27 officer with ARJIS # 3434. Immediately after receiving the dismissal order, I
28 filed a grievance stating that the Jail's delay in delivering the court order

1 resulted in the dismissal of my lawsuit and forced me to appeal due to the
2 Jail's delayed delivery. The same deputy that delivered the mail on March 1,
3 2022 (with ARJIS # 3434) signed my grievance and entered it into the Jail's
4 grievance tracking system. A true and correct copy of the grievance is
5 attached hereto as **Exhibit D**. To this date, I have not received a response to
6 this grievance.

7 11. On two occasions, Jail staff have searched my cell and property and
8 remove drafts of legal motions and other legal papers that I had been working
9 on for months. One time, when custody staff returned my property, my legal
10 papers were missing. The other time, when staff returned me to my cell, my
11 legal papers were missing. As a consequence, I have had to ask the court for
12 continuances as I redraft from scratch.

13 12. I submit this declaration because I want to help improve the medical,
14 dental, and mental health care at the Jail, ensure that incarcerated people with
15 disabilities are accommodated and treated fairly, and help make the Jail safe
16 and secure for all incarcerated people.

17
18 I declare under penalty of perjury under the laws of California and the United
19 States of America that the foregoing is true and correct, and that this declaration is
20 executed at San Diego County Central Jail in San Diego, California this 9th day of
21 March, 2022.

22 
23 _____
24 Michael Keavney
25
26
27
28

EXHIBITS A-B

Filed Under Seal

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK
333 WEST BROADWAY, SUITE 420
SAN DIEGO, CALIFORNIA 92101

OFFICIAL BUSINESS



U.S. POSTAGE >> PITNEY BOWES

ZIP 91950 \$ 001.11⁰
02 4W
000343406 MAY 26 2021

7B6

FAC 1 Area 7

Michael Richard Keavney, 17104761
Vista Detention Facility
325 S Melrose Dr #200
Vista, CA 92081

Delivered
3/1/2022 @ 0300
ARTIST # 3434

[Handwritten signature]

[Handwritten signature]

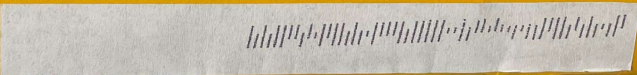


EXHIBIT D



San Diego County SHERIFF'S DEPARTMENT

INMATE GRIEVANCE/APPEAL OF DISCIPLINE QUEJA/APELACION DE LA DISCIPLINA DE PRESO

☒ SDCJ ☐ GBDF ☐ EMRF ☐ LCDRF ☐ SBDF ☐ VDF ☐ FAC8

From: Keavney, Michael Richard 17104761 7-B-6
De: Name (Last, First, Middle) Booking Number Housing Unit
Nombre (Apellido, Primero, Segundo) Número de ficha Unidad de alojamiento

Grievance is about: ☒ Jail Procedures ☒ Jail Conditions ☐ Medical ☐ PREA ☒ Other Federal legal mail 9 months late
La queja es acerca: Procedimientos de la Cárcel Condiciones de la Cárcel Médico Otro

Date and Time of Incident / Fecha y hora del incidente: 3/1/2022 @ 03:00 AM ongoing

Describe the reason for your grievance in your own words. Please be specific. (Use additional sheets if necessary)
Describe la razón de su queja en sus propias palabras. Por favor sea específico. (Use hojas adicionales si es necesario)

My legal mail from the clerk at the United States District Court Southern District of California that was mailed by the court to me on 05/05/2021 and postmarked on 05/06/2021 was delivered to me 03/01/2022. Containing Document # 10 Pages 213-220 Orders dismissing First Amended complaint with leave to Amend a second time. Officer J. Mendoza ARJIS # 3434 is who presented me with said parcel of mail and is the witness to the date and time of delivery.

Inmate Signature / Firma de Preso

Date / Fecha

THIS BOX IS FOR OFFICIAL USE ONLY
Esta caja es para el uso oficial solamente.

Received by: MENDOZA 3434 03/01/2022 0425
Signature of receiving staff member ARJIS # Date Time

Entered in JIMS: 03/01/2022 0425 224000373
Date Time JIMS Grievance Number

If one of the following two conditions is alleged by the inmate, this grievance must be answered within 4 days:

- ☐ The inmate's health or safety is unfairly impacted by a condition of confinement
☒ A condition of confinement has prevented the inmate's effective communication/participation in a legal hearing.

☐ This submission is not a grievance:

- ☐ It is an appeal of discipline—JIMS Incident # _____ JIMS Appeal Hearing # _____
☐ It is a complaint against staff—JIMS Incident # _____ (Refer to Detentions P&P Section N.1)
☐ It is an inmate request—respond in writing below. (No entry in JIMS, copy of response to booking jacket)

Response to Inmate Request:

FORWARDED TO MAIL PROCESSING DEPUTIES