

1 Barrett S. Litt, SBN 45527
 E-Mail: blitt@kmbllaw.com
 2 David S. McLane, SBN 124952
 E-Mail: dmclane@kmbllaw.com
 3 Ronald O. Kaye, SBN 145051
 E-Mail: rok@kmbllaw.com
 4 Kaye, McLane, Bednarski & Litt, LLP
 5 234 East Colorado Boulevard, Suite 230
 6 Pasadena, California 91101
 Telephone: 626-844-7660
 7 Facsimile: 626-844-7670

8 Melissa Goodman, SBN 289464
 E-Mail: MGoodman@aclusocal.org
 9 Brendan M. Hamme, SBN 285293
 E-Mail: BHamme@aclusocal.org
 10 Peter J. Eliasberg, SBN 189110
 E-Mail: PEliasberg@aclusocal.org
 11 ACLU Foundation of Southern CA
 12 1313 West 8th Street
 13 Los Angeles, California 90017
 Telephone: 213-977-9500
 14 Facsimile: 213-977-5299

15 UNITED STATES DISTRICT COURT
 16 CENTRAL DISTRICT OF CALIFORNIA
 17

| | |
|---|---------------------------------|
| 18 DAN MCKIBBEN, PEDRO GUZMAN, |) Case No. |
| 19 NICK OU, SEAN LINT, TIMOTHY |) |
| 20 WALKER, ILICH VARGAS, |) CLASS ACTION |
| 21 WILLIAM KENNEDY, JONATHAN |) COMPLAINT FOR |
| 22 ROBERTSON, STEVE aka LYNN |) DAMAGES AND |
| 23 PRICE, BRYAN BAGWELL, CHRISTOPHER |) INJUNCTIVE RELIEF |
| 24 CRAWFORD, FREDERICK CROCKAN, |) |
| 25 TAHEASH WHITE, MICHAEL aka MADISON |) 1. 42 U.S.C. §1983 (Equal |
| 26 HATFIELD, and KEVIN aka VERONICA |) Protection) |
| 27 PRATT, all individually and as class |) 2. Ca. Civ. Code §52.1 |
| 28 representatives, |) 3. Cal Civ. Code §815.6 |
| |) 4. Cal. Const. Art. I, §7 and |
| Plaintiffs, |) Cal. Govt. Code |
| |) §11135(a) (Injunctive |
| vs. |) Relief Only) |
| |) |
| |) DEMAND FOR JURY |
| |) TRIAL |
| (continued on next page) |) |

1 SHERIFF JOHN MCMAHON, individually)
 and in his official capacity; GREG)
 2 GARLAND, individually and in his official)
 capacity; JEFF ROSE, individually and in his)
 3 official capacity; SARGEANT JAMESMAHAN,)
 4 individually and in his official capacity;)
 CORPORAL CASTILLAS, individually and in his)
 5 official capacity; COUNTY OF SAN)
 BERNARDINO, a governmental entity; SAN)
 6 BERNARDINO COUNTY SHERIFF’S)
 DEPARTMENT, a California public entity;)
 7 and DOES 1 through 10,)
 8)
 9 Defendants.)
 _____)

11 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

12 1. San Bernardino County Jail (hereafter “the Jail”) is run by the San
 13 Bernardino County Sheriff’s Department (hereafter “SBCSD”). The Jail maintains
 14 an “Alternative Lifestyle Tank” (hereafter “ALT”) at the West Valley Detention
 15 Center (hereafter “WVDC”) to which all inmates who self-identify as gay,
 16 bisexual, and/or transgender (hereinafter “GBT inmates”) are automatically
 17 transferred and isolated from the general population. References in this Complaint
 18 to “GBT” inmates refer to such inmates housed in the ALT. The WVDC is the
 19 only SBCSD jail facility that houses self-identified GBT inmates.

20 2. Plaintiffs, and the classes they seek to represent, bring this action to
 21 challenge the systematic discrimination and denial of equal treatment experienced
 22 by GBT inmates at the WVDC. GBT inmates are not given equal access to
 23 opportunities to reduce their sentences, services, programs and facilities, and are
 24 often treated in an abusive and neglectful manner. In short, GBT inmates at
 25 WVDC serve longer sentences and endure substantially worse conditions of
 26 confinement simply because they are gay, bisexual or transgender. The conditions,
 27 restrictions, denials of access and opportunities, and unequal treatment for GBT
 28 inmates are the same regardless of whether one is gay, bisexual or transgender.

1 3. One of the major purposes of sentencing is rehabilitation. Yet, GBT
2 inmates have no access to drug treatment, education and work programs designed
3 to help inmates succeed in society when released. To the extent they may have
4 limited access on rare occasions, it is substantially less than that available to non-
5 GBT inmates and wholly at the arbitrary whim of WVDC officials. Thus, not only
6 are GBT inmates denied equal opportunities for rehabilitation inside jail, they
7 suffer more on the outside since they are not provided the tools to increase their
8 odds of rehabilitation. Unlike the male, non-GBT general population, sentenced
9 GBT inmates at WVDC are generally not allowed to participate in the inmate work
10 program, and, to the extent they may occasionally have limited access, it is
11 substantially less than that available to non-GBT inmates. GBT inmates serve
12 longer sentences than non-GBT inmates because they cannot enjoy the sentence-
13 reduction benefits that come with work credits. GBT inmates also do not get the
14 privileges that come with working, which include day-long access to the day room,
15 and getting a longer amount of time to spend with visitors. GBT inmates cannot be
16 trustees and, in the event they may be, are denied the full benefits afforded other
17 trustees.

18 4. GBT inmates are allowed substantially less time outside their cells on
19 a daily basis and given substantially less access to recreational and other activities
20 than both non-GBT general population inmates and non-GBT inmates placed in
21 other forms of special housing. They are living in a locked down status without any
22 security justification. GBT inmates who are housed in the ALT are generally
23 locked inside their cells for approximately 22 and one-half hours or more a day,
24 regardless of their security classification. Time out of cells for ALT inmates during
25 the two years prior to this lawsuit was, for a long period, only 45 minutes to an
26 hour a day. Recently, in response to Plaintiffs' notice of potential litigation,
27 Plaintiffs' investigation of Defendants' violations of Plaintiffs' rights, Plaintiffs'
28 counsel's letter to WVDC and Plaintiffs' 910 claims, there has been some increase,

1 but it is still far less than time afforded non-GBT inmates, who generally are
2 housed in dorms where they are allowed out of their cells all day, or in cells where
3 they are allowed out of their cells for longer periods of time. There is no legitimate
4 security justification to deny GBT inmates equal time out of their cells, particularly
5 given that they have access to their own segregated day room, which could protect
6 their security and allow them greater time out of their cells. Moreover, when a
7 GBT inmate in the ALT causes a disturbance, all ALT inmates get locked down in
8 their cells all day whereas in general population only the inmates involved in the
9 disturbance are locked down.

10 5. Unlike non-GBT general population inmates, GBT inmates are not
11 allowed to access religious services outside their unit, or religious services inside
12 the unit, including chaplains and bibles. To the extent they may occasionally have
13 limited access, it is substantially less than that available to non-GBT inmates and
14 wholly at the arbitrary whim of WVDC officials.

15 6. Unlike non-GBT general population inmates, GBT inmates are not
16 allowed to access educational programming such as occupational classes,
17 vocational classes, and GED classes. GBT inmates are not allowed to participate in
18 educational programs provided to general population inmates. They are also not
19 provided with separate educational programs.

20 7. Unlike non-GBT general population inmates, GBT inmates do not
21 have access to drug rehabilitation programs. This is true even if GBT inmates are
22 sentenced to serve their time in a rehabilitation program. GBT inmates cannot earn
23 time off their sentences for participating in programs such as "Inroads" at Glen
24 Helen, as GBT inmates cannot be housed at Glen Helen. Thus, GBT inmates serve
25 longer sentences than non-GBT inmates.

26 8. Plaintiffs are informed and believe that, unlike the non-GBT
27 population inmates, due to unwarranted dislike by SBCSD employees and an
28 unwarranted fear of AIDS, deputies generally do not conduct the required safety

1 checks for GBT cells mandated by Title 15, which are required to ensure inmate
2 safety.

3 9. GBT inmates are regularly subjected to abusive conduct and
4 derogatory name-calling by SBCSD deputies based on their sexual orientation and
5 gender identity.

6 10. Some GBT inmates have been retaliated against by SBCSD deputies
7 when they have complained about conditions in the ALT, and the discriminatory
8 treatment of GBT inmates.

9 11. The foregoing conditions of confinement violate Plaintiffs' rights to
10 equal protection of the laws under both Article I §7 of the California Constitution
11 and the Fourteenth Amendment to the United States Constitution, and related
12 statutes incorporating, *inter alia*, equal protection standards. Although jails have an
13 obligation to protect the safety of inmates who may be subject to victimization and
14 thus can, when appropriate, place such inmates in some form of protective custody,
15 such placements are not a permissible basis upon which to subject GBT inmates to
16 significantly worse conditions, deprive them of access to programs and privileges,
17 or subject to them to abuse based on their sexual orientation or their gender
18 identity.

19 12. This action is brought independently under the California Constitution
20 and California statutes incorporating those provisions directly or indirectly, as well
21 as under the United States Constitution through 42 U.S.C. §1983. Plaintiffs
22 emphasize the independent character of the California claims because the
23 California Supreme Court has expressly held that differential treatment of gay
24 people is subject to strict constitutional scrutiny, an issue not yet squarely
25 addressed by the United States Supreme Court. In addition, California claims are
26 not subject to the requirements, limitations and restrictions of the Prison Litigation
27 Reform Act ("PLRA"). Plaintiffs contend that the conduct alleged herein is
28 unconstitutional whatever level of scrutiny is employed – whether it is strict

1 scrutiny, heightened scrutiny or rational basis scrutiny, for there is no legitimate
2 penological reason to treat GBT inmates worse than non-GBT inmates just because
3 of their sexual orientation or gender identity.

4 13. Plaintiffs bring this action as a class action and seek injunctive relief
5 and damages under both state and federal law.

6 **II. JURISDICTION AND VENUE**

7 14. Plaintiffs present federal claims for relief under 42 U.S.C. §1983.
8 Accordingly, federal jurisdiction is conferred upon this Court by 28 U.S.C. §§1331
9 and 1343. Plaintiffs' state law claims are so related to their federal law claims that
10 they form part of the same case or controversy. Accordingly, supplemental
11 jurisdiction over the state law claims is conferred upon this Court by 28 U.S.C.
12 §1367.

13 15. Plaintiffs' claims arise out of acts of the San Bernardino County
14 Sheriff's Department in the County of San Bernardino, State of California.
15 Accordingly, venue is proper within the Eastern Division of the Central District of
16 California.

17 **III. PARTIES**

18 *A. Plaintiffs*

19 16. **Class Representatives No Longer In Custody:** Plaintiffs Dan
20 McKibben, Peter Guzman, Nick Ruttana Ou, and Sean Lint were, but are not
21 presently, incarcerated at WVDC, held in the ALT, and subjected to unequal
22 treatment and access to services and programs, and other violations of law as is
23 elaborated further on in this Complaint. The unequal treatment and access and
24 other violations of law were based on Plaintiffs' sexual orientation or gender
25 identity, and their classification as GBT inmates. The four are not prisoners within
26 the meaning of the Prison Litigation Reform Act ("PLRA") at the time of the filing
27 of this Complaint. They seek to act as class representatives for the federal damages
28 class – they are the only representatives of this class – and are also state damages

1 class representatives as they have filed and been denied state administrative 910
2 claims. They are at times referred to as the “Federal Damages Class
3 Representatives.” They are also among the California Damages Class
4 Representatives.

5 17. **Class Representatives In Custody At WVDC:** Plaintiffs Timothy
6 Walker, Ilich Vargas, William Kennedy, Jonathan Robertson, Steve aka Lynn
7 Price¹, and, Michael aka Madison Hatfield are currently incarcerated at WVDC.
8 They have been subjected, and will continue to be subjected, to unequal treatment
9 and access to services and programs, and other violations of law as is elaborated in
10 this Complaint. The unequal treatment, unequal access and other violations of law
11 elaborated in this Complaint were and are based on Plaintiffs’ sexual orientation or
12 gender identity, and their classification as GBT inmates.

- 13 a. Plaintiffs Walker, Vargas, Kennedy, Robertson, Price and
14 Hatfield are the only class representatives for the state
15 injunctive relief classes and are at times referred to as the
16 “California Injunctive Relief Class Representatives.”
17 b. Plaintiffs Walker, Vargas, Kennedy, Robertson, Price and
18 Hatfield are also among the “California Class Damages
19 Representatives” because either they have filed an
20 administrative 910 claims on behalf of all GBT inmates at the
21 WVDC which have been rejected, or are covered by such
22 claims because all 910 claims were filed as class claims.
23 c. Walker and Vargas (but **not** Kennedy, Robertson, Price and
24 Hatfield) are also the only class representatives for the federal
25

26 _____
27 ¹Steve Price, aka Lynn Price, Michael Hatfield aka Madison Hatfield and Kevin aka
28 Veronica Pratt, are transgender persons who, out of respect and preference, will be referred to as Lynn Price, Madison Hatfield and Veronica Pratt, and with use of the pronoun “she” throughout this Complaint.

1 injunctive relief class and are at times referred to as the
2 “Federal Injunctive Relief Class Representatives.”

3 **18. Class Representatives In Custody At Facilities Other Than**
4 **WVDC:** Plaintiffs Bryan Bagwell, Christopher Crawford, Fredrick Crockan,
5 Taheash White, and Kevin aka Veronica Pratt, are currently incarcerated in
6 different County or California Department of Corrections and Rehabilitation
7 facilities, and have filed and been denied state administrative 910 claims. They are
8 *solely* California damages class representatives. Every named class representative
9 filed an administrative 910 claim on behalf of all GBT inmates at the WVDC
10 which has been rejected, or are covered by such claims because all 910 claims
11 were filed as class claims. They are among the class representatives for the
12 California damages class. The “California Damages Class Representatives” are at
13 times collectively referred to by that name.

14 19. Different and overlapping Plaintiffs are acting as representatives for
15 different classes. The classes and class representatives identified in this Complaint
16 are: 1) Federal Damages Class (McKibben, Guzman, Ou and Lint); 2) California
17 Damages Class (McKibben, Guzman, Ou, Lint, Walker, Vargas, Kennedy,
18 Robertson, Price, Bagwell, Crawford, Crockan, White, Hatfield and Pratt); 3)
19 Federal Injunctive Relief Class (Walker, Vargas) and 4) California Injunctive
20 Relief Class (Walker, Vargas, Kennedy, Robertson, Price, and Hatfield). While the
21 various class representatives overlap in certain respects, they differ as follows:

- 22 a. The Federal Damages Class representatives are individuals who
23 were, within the relevant time periods, GBT inmates housed in
24 the ALT, but are not currently in custody in any detention
25 facility, jail or prison and are not “prisoners” within the
26 meaning of the PLRA. The Federal Damages Class extends to
27 all former or present GBT inmates detained at WVDC within
28 two years prior to the filing of this lawsuit, and extending into

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the future until such time as the unlawful conduct alleged herein ceases or resolution of this case.

b. The California Damages Class representatives are individuals who are or were, within the relevant time periods, GBT inmates housed in the ALT. Unlike the Federal Damages Class representatives, the California Damages Class representatives include individuals who are currently “prisoners” within the meaning of the PLRA, which statute does not apply to their claims under California law. All such class representatives were in custody at WVDC on or after October 9, 2013 (six months prior to the filing by Veronica Pratt of a Govt. Code § 910 claim on behalf of all similarly situated individuals on April 9, 2014, which makes the beginning of the California class damages period October 9, 2013). The California Damages Class extends to all former or present GBT inmates detained at WVDC beginning October 9, 2013, and extending into the future until such time as the unlawful conduct alleged herein ceases or resolution of this case.

c. The Federal Injunctive Relief Class representatives are individuals who are currently in custody at WVDC, confined in the ALT, who have exhausted or attempted to exhaust, or could not exhaust because they were prevented through the conduct of the SBCSD from exhausting their remedies within the SBCSD.

d. The California Injunctive Relief Class representatives are individuals who are currently in custody at WVDC, and confined in the ALT.

20. The following chart identifies each Named Plaintiff, what class or classes each seeks to represent, and their current inmate status.

| NAME | CLASS | INMATE STATUS |
|---------------------------------|--|-----------------------------------|
| Dan McKibben | Federal and California Damages Classes | Not Currently Incarcerated |
| Pedro Guzman | Federal and California Damages Class | Not Currently Incarcerated |
| Nick Ou | Federal and California Damages Class | Not Currently Incarcerated |
| Sean Lint | Federal and California Damages Class | Not Currently Incarcerated |
| Tim Walker | Federal and California Injunctive Relief Classes, California Damages Class | Inmate at WVDC |
| Ilich Vargas | Federal and California Injunctive Relief Classes, California Damages Class | Inmate at WVDC |
| William Kennedy | California Injunctive Relief Class, California Damages Class | Inmate at WVDC |
| Jonathan Robertson | California Injunctive Relief Class, California Damages Class | Inmate at WVDC |
| Steve Price, aka Lynn Price | California Injunctive Relief Class, California Damages Class | Inmate at WVDC |
| Christopher Crawford | California Damages Class | Inmate at Valley State Prison |
| Kevin Pratt, aka Veronica Pratt | California Damages Class | Inmate at Riverside County Jail |
| Bryan Bagwell | California Damages Class | Inmate at C.I.M., Chino |
| Fredrick Crockan | California Damages Class | Inmate in North Kern State Prison |

| NAME | CLASS | INMATE STATUS |
|--|--|-------------------------|
| Taheash White | California Damages Class | Inmate at C.I.M., Chino |
| Michael Hatfield, aka Madison Hatfield | California Injunctive Relief Class, California Damages Class | Inmate at WVDC |

21. All Plaintiffs identified in the foregoing paragraphs have filed 910 Administrative Claims with the State and County both on an individual basis and as class representatives, or as set forth above, are included in the 910 claims because all 910 claims were filed as class claims to include all GBT persons at the WVDC. All 910 claims have been rejected by both the County of San Bernardino and the State of California as of the date of filing of this Complaint.

B. Defendants

22. Defendant County of San Bernardino (hereafter “County”) is a public entity organized and existing under the laws of the State of California. Defendant San Bernardino County Sheriff’s Department is a public entity within the meaning of California law, and is a County agency. These Defendants are sued in their own right for a County and/or SBCSD policy, practice or custom that caused Plaintiffs’ injuries in violation of one or more federal constitutional guarantees under 42 U.S.C. §1983, and on Plaintiffs’ state law claims for injunctive relief based on violations of mandatory duties under California Government Code §815.6, the state constitutional provisions identified above and Civil Code §52.1.

23. Defendant John McMahan (hereafter “McMahan”) is the Sheriff of San Bernardino County, and is the policy maker for the SBCSD. He is sued in his official and individual capacities for both injunctive relief and damages under both California and Federal law.

1 24. Defendant Greg Garland (hereafter “Garland”) is the Deputy Chief in
2 charge of the Corrections Bureau which oversees all San Bernardino County jail
3 facilities, including the WVDC, Central, Glen Helen and Adelanto facilities.
4 Garland is sued in his individual capacity for damages only under both California
5 and Federal law.

6 25. Defendant Jeff Rose (hereafter “Rose”) is a deputy sheriff holding the
7 rank of captain. He is the commanding officer of WVDC. Rose is sued in his
8 individual capacity for damages only under both California and Federal law.

9 26. Defendant Sergeant James Mahan is a deputy sheriff holding the rank
10 of sergeant. He is involved in handling grievances by GBT persons in the ALT at
11 WVDC, and is responsible for determining programs to which GBT inmates are
12 eligible. Mahan is sued in his individual capacity for damages only under both
13 California and Federal law.

14 27. Defendant Castillas is a deputy sheriff holding the rank of corporal.
15 He is in charge of classification and placement of GBT inmates in the ALT, and is
16 involved in reviewing grievances by inmates in the ALT. Castillas is sued in his
17 individual capacity for damages only under both California and Federal law.

18 28. All Defendants’ discriminatory conduct was intentional, and/or was
19 done with reckless disregard for, and/or deliberate indifference toward, Plaintiffs’
20 rights.

21 29. Plaintiffs are ignorant of the true names and capacities of Defendants
22 sued herein as DOES 1 through 20, inclusive, and therefore sue these Defendants
23 by such fictitious names. Plaintiffs will give notice of this Complaint, and of one or
24 more DOES’ true names and capacities, when ascertained.

25 30. Plaintiffs are informed and believe, and based thereon allege, that
26 Defendants DOES 1 through 5 are responsible in some manner for the damages
27 and injuries hereinafter complained of.

28

1 31. DOES 6 through 10 (hereinafter collectively referred to as “SBCSD
2 Supervisory Defendants”) were and/or are now responsible for the SBCSD jails.
3 Among other duties, they are responsible for the training, supervision, control,
4 assignment and discipline of both sworn and civilian personnel of the SBCSD and
5 County who work in, operate, administer and manage the jails, and for the
6 formulation, promulgation, adoption, application, administration and enforcement
7 of the policies, rules, regulations and practices of the SBCSD jails.

8 32. Upon information and belief, Plaintiffs further allege that, at all times
9 relevant herein, Defendants participated in, approved, and/or ratified the
10 unconstitutional or illegal acts that occurred within SBCSD jails which are
11 complained of herein.

12 33. Plaintiffs are informed and believe, and thereupon allege that, at all
13 times relevant herein, the individual Defendants, and each of them, were the
14 agents, servants and employees of their respective employers (Defendants SBCSD
15 and the County) and were acting at all times within the scope of their agency and
16 employment with the knowledge and consent of their principals and employers. At
17 all times herein, Defendants, and each of them, were acting under the color of state
18 law.

19 **IV. COMMON FACTUAL ALLEGATIONS**

20 34. Inmates in SBCSD custody who self-identify as GBT during the
21 booking process are automatically transferred to the ALT at WVDC. The ALT is
22 currently located in Unit 1F and consists of 16 cells, each of which house two
23 inmates, that are isolated from the general population dorms and cells at WVDC.
24 There are two tiers or levels – the upper tier and the lower tier – each of which has
25 8 cells. The ALT has its own day room. The ALT is closed off from other inmates.
26 GBT inmates are denied the opportunity to participate in programs that are offered
27 to non-GBT inmates as described below, are not allowed to participate in the same
28 rehabilitation programs as offered non-GBT inmates, are not allowed the same

1 opportunities to earn time off their sentences as non-GBT inmates, and are not
2 allowed equal time out of their cells as non-GBT inmates.

3 35. For most of the past two years, GBT inmates housed in the ALT were
4 locked inside their cells for approximately 23 hours or more a day, regardless of
5 their level of custody. Prior to approximately March 2014, SBCSD allowed GBT
6 inmates to exit their cell for only 45 minutes to 1 hour per day. Inmates in general
7 population during this entire period either lived in dormitory style units, where
8 they are not confined to cells at all, or lived in cells in which they were generally
9 allowed out of their cells most non-sleeping hours. Non-GBT inmates placed in
10 special housing due to their status, e.g. informants and gang members, were
11 generally let out of their cells three hours or more daily. Thus, GBT inmates' cell
12 confinement was dramatically different and more limited than non-GBT inmates in
13 special housing during this period. After being notified on March 28, 2014 that
14 their housing of GBT inmates was being investigated, after the initial 910 class
15 claims were filed on April 9, 2014, and after being notified by Plaintiffs' counsel
16 that its GBT practices were discriminatory on May 2, 2014, SBCSD began to allow
17 GBT inmates living on the top tier of the ALT out of their cells for about an hour
18 to an hour and a half a day, and to continue to allow GBT inmates living on the
19 bottom tier approximately forty five minutes out of their cells.

20 36. Defendants do not provide GBT inmates time out of their cells equal
21 to general population inmates, who are generally housed in dorm settings, and
22 allowed outside cell access all day.

23 37. Unlike inmates in general population, ALT inmates get locked down
24 in their cells all day when any GBT inmates cause disturbances, whereas in general
25 population only the inmates involved in the disturbance are locked down.

26 38. The increased lock down for GBT inmates does not further any
27 legitimate penological purpose, and there is no reasonable necessity for the
28 differential treatment. Up to 32 GBT inmates can be housed in the ALT cells, and

1 there are 5 tables that can seat 32 inmates in the ALT day room. Thus, the GBT
2 inmates could be let out of their cells all day without compromising their safety.
3 They also could be housed dormitory style in a unit that would protect their safety,
4 or other SBCSD facilities that could safely afford them equal time out of their
5 cells, including Adelanto, Glen Helen and Central facilities.

6 39. On information and belief, SBCSD generally prohibits GBT inmates
7 who have been sentenced and are housed in the ALT from participating in the
8 inmate work program. Sentenced inmates can receive 1 day of work time credit for
9 each 4 days they do not refuse to satisfactorily perform labor as assigned by the
10 sheriff. Cal. Penal Code §4019. Additionally, by depriving them of jobs, GBT
11 inmates are denied access to the day room all day like non-GBT inmates; they do
12 not get increased visiting time of 30 to 45 minutes like non-GBT inmates (but
13 rather receive only the regular 20 minutes); and they do not have the opportunity or
14 ability to go beyond their immediate area like non-GBT inmates who work.
15 Consequently, sentenced GBT inmates serve longer sentences than non-GBT
16 inmates because SBCSD denies them access to work assignments. In contrast,
17 SBCSD permits sentenced, non-GBT inmates in general population to receive such
18 credit. Thus, sentenced non-GBT inmates receive work time credits, whereas GBT
19 inmates do not. Separate GBT crews could be created and work together as a
20 separate crew (e.g., in the law library, work crews outside the jail, work in the
21 kitchen or laundry all in one shift, or as trustees in the ALT). They could also work
22 with non-GBT inmates when it is safe to do so, as there is no legitimate
23 penological reason categorically to forbid them from working together. There are
24 numerous occasions when GBT inmates are together with non-GBT inmates such
25 as in the medical unit, in holding tanks prior to being transported to court, and
26 when being transported back and forth to court.

27 40. On information and belief, and only in response to Plaintiffs'
28 Counsel's letters, Plaintiffs' investigation into the conditions of the ALT at the

1 WVDC, Plaintiffs' 910 claims and the threat of a separate lawsuit by Plaintiff
2 Guzman, SBCSD has just recently begun allowing a single GBT inmate at a time
3 to work. Plaintiff Guzman and, after his release, class member Robert Torres,
4 were permitted to work in the law library. They were and are, however, denied
5 work credit and additional privileges that other non-GBT workers receive, such as
6 day-long access to the day room, and getting a longer amount of time to spend with
7 visitors. As a result, even the single GBT inmate who is allowed to work is treated
8 in a discriminatory manner and forced to serve a longer sentence than their
9 similarly situated non-GBT counterparts.

10 41. On information and belief, SBCSD prohibits GBT inmates from being
11 trustees while non-GBT inmates are allowed to serve as trustees. Both pretrial and
12 sentenced inmates may act as trustees. Trustees are let out of their cells all day,
13 have longer visits, and get more time outside. GBT inmates cannot even be trustees
14 in the ALT. There is no legitimate penological purpose served by not allowing
15 GBT inmates to serve as trustees since they interact with non-GBT inmates, as set
16 forth in paragraph above. Even non-GBT inmates who are charged with violent
17 crimes, including murder, are allowed to be trustees for the ALT, including one
18 inmate charged with triple murder, two with double murder, and one with
19 manslaughter. Yet GBT inmates may not be so assigned.

20 42. On information and belief, SBCSD refuses to provide educational
21 programs or training to GBT inmates at WVDC. SBCSD prohibits GBT inmates
22 from participating in regional occupational classes, vocational educational classes,
23 and GED classes along with the general population. Non-GBT inmates have access
24 to such educational and other programming. SBCSD also does not provide
25 educational or other programs separately for GBT inmates.

26 43. On information and belief, SBCSD denies GBT inmates access to
27 religious services. SBCSD prohibits GBT inmates from attending congregational
28 prayer with other inmates or having group services inside the ALT, denies them

1 access to bibles, and prevents chaplains from visiting their cells. In contrast, non-
2 GBT inmates have access to religious services and materials.

3 44. On information and belief, SBCSD provides GBT inmates with
4 unequal access to drug rehabilitation programs. GBT inmates who request to
5 participate in the “INROADS” drug rehabilitation program at the Glen Helen
6 Rehabilitation Center are denied access because they cannot be housed there. In
7 contrast, SBCSD transfers non-GBT inmates to the “INROADS” drug treatment
8 program. GBT inmates who were sent to Glen Helen for drug treatment were sent
9 back to the WVDC once it was learned by sheriff’s officials at Glen Helen they
10 were GBT. On information and belief GBT inmates are sometimes given access
11 instead to a self-study, “journaling,” rehabilitation program. This program is
12 nothing like the full rehabilitation program at Glen Helen and, even if it were
13 comparable, GBT inmates in the self-study program do not earn time off their
14 sentences like inmates in the Glen Helen program.

15 45. On information and belief, SBCSD deputies regularly fail to perform
16 hourly safety checks or walk-throughs in the ALT as required by Title 15 Code of
17 Regulations. Plaintiffs are informed and believe that SBCSD deputies intentionally
18 avoid going near the cells in the ALT. In contrast, deputies conduct regular walk-
19 throughs of non-GBT inmates’ cells and the general population dorms.

20 46. GBT inmates at the WVDC are subjected to a pattern of harassing
21 behavior by SBCSD deputies, which includes derogatory name calling, neglect,
22 and humiliation. Deputies call GBT inmates “faggots,” “sissies,” “bitches,” and
23 “freak shows,” in addition to other derogatory and demeaning names, on a regular
24 basis.

25 47. On information and belief, GBT inmates housed in the ALT also
26 receive harsher punishments than non-GBT inmates in general population. SBCSD
27 deputies discipline inmates housed in the ALT with group punishment, but
28 discipline non-GBT inmates in general population on an individual basis. SBCSD
deputies use scare tactics as disciplinary measures by placing GBT inmates who

1 are at risk of physical or sexual assault in cells with intimidating non-GBT
2 inmates.

3 48. On information and belief, SBCSD deputies have retaliated against
4 GBT inmates who have complained about the discriminatory treatment and refused
5 to then move to general population out of concern for their safety. On April 30,
6 2014, Defendant Castillas told class representatives Christopher Crawford, Bryan
7 Bagwell, Fredrick Crockan, Madison Hatfield, Timothy Walker and class member
8 Larry Meyer that they now had the option to live in general population. Crawford,
9 Walker and Crockan had already filed 910 claims, while Bagwell and Meyer had
10 already received correspondence from Plaintiffs' counsel and a questionnaire
11 concerning the treatment of GBT inmates at the WVDC. The above-mentioned
12 inmates refused to transfer to the general population out of concern for their safety
13 and well-being, and because they felt they would be forced to hide their sexual
14 orientation or gender identity. On information and belief, the jail's rationale for
15 housing GBT inmates in the ALT is inmate safety, and the offer to place them in
16 the general population as identified GBT inmates was a cynical attempt to defend
17 against the Plaintiffs' claims of discrimination and to force GBT inmates to the
18 Hobson's choice of exposure to extreme violence in the general population, or
19 acceptance of the discrimination against GBT inmates housed in the ALT. On
20 information and belief, SBCSD then retaliated against these six inmates by giving
21 them less time outside of their cells.

22 49. In addition to filing Govt. Code §910 claims, Plaintiffs have engaged
23 in pre-litigation settlement efforts. Specifically, Plaintiffs sent Defendants a letter
24 consisting of the aforementioned complaints, and asked that Defendants
25 immediately cease and desist their unlawful practices. Defendants declined to
26 attempt to resolve Plaintiffs' claims without the need for litigation, and have
27 denied Plaintiffs' administrative 910 claims that have been filed. To date, and to
28 Plaintiffs' knowledge, Defendants continue to engage in the unlawful practices
detailed in this complaint.

1 50. Defendants will continue their aforementioned policies and practices
2 unless enjoined and restrained by the Court. Without injunctive relief applicable to
3 the class as a whole, the class members will suffer irreparable harm for which there
4 is no adequate remedy at law in that their constitutional and statutory rights will be
5 systematically violated. Without the intervention of this Court, Defendants will
6 continue these unconstitutional practices.

7 51. Defendants have the resources and money to properly house and
8 provide programmatic access to GBT inmates in a constitutional manner that does
9 not violate their equal protection rights. On or about February 6, 2014, the SBCSD
10 opened the Adelanto Jail facility, a state-of-the-art facility that cost the County
11 \$145.4 million. Adelanto opened with over 200 available beds, yet Defendants
12 continue to house the GBT inmates in a dehumanizing and discriminatory manner.

13 52. The differential treatment outlined in this Complaint serves neither a
14 legitimate compelling interest, nor a substantial state interest, nor is it narrowly
15 tailored to serve any such interests.

16 53. In engaging in the conduct alleged in this Complaint, Defendants, and
17 each of them, acted with a discriminatory intent toward GBT inmates, and/or with
18 deliberate indifference to, or a reckless disregard for the rights of GBT inmates.

19 54. As a result of the discriminatory conduct alleged herein, Plaintiffs
20 have suffered damages, including emotional distress damages and pain and
21 suffering, in amounts to be determined at trial.

22 55. In engaging in the conduct alleged in this Complaint, Defendants, and
23 each of them, acted maliciously, fraudulently and oppressively, and otherwise in a
24 manner entitling Plaintiffs to an award of punitive damages.

25 **V. CLAIMS OF CLASS REPRESENTATIVES**

26 **A. *TIMOTHY WALKER***

27 56. Timothy Walker was arrested by SBCSD on or around April 8, 2013.
28 Upon self-identifying as gay during the booking process, he was transferred to the

1 ALT at the WVDC. He is currently housed there, and will be housed there for the
2 foreseeable future.

3 57. From approximately April 8, 2013 to the present, Mr. Walker has
4 been housed in the ALT, first located in Unit 12A and currently in Unit 1F. During
5 that time, Mr. Walker was let out of his cell, on average, approximately 45 minutes
6 to an hour and one-half a day. Although some inmates on the top tier, including
7 Walker, have very recently been given up to three hours of time out of cell in
8 response to Plaintiffs' Counsel's letters and the threat of litigation, they are still
9 subject to discriminatory treatment compared to the time out of cell provided to
10 non-GBT inmates, as discussed above. He, along with the other ALT inmates, has
11 been required to eat meals in his cell, unlike non-GBT inmates.

12 58. Unlike other non-GBT inmates in the general population, as an inmate
13 in the ALT Walker was not permitted to work. Walker requested participation in
14 the work program by submitting official Inmate Request Slips on June 4, 2013,
15 July 1, 2013, and July 25, 2013. SBCSD denied each request by stamping his
16 requests slips "DENIED" or "NOTHING AVAILABLE AT THIS TIME". On
17 information and belief, positions were, in fact, available even when the denial
18 stated that nothing was available. Thus, Mr. Walker could not earn money and
19 work credit, and will serve a longer sentence than if he had been able to work and
20 receive early release credits. See Cal. Penal Code §4019.

21 59. Recently, in response to grievances he filed in early September 2014
22 and notice of this pending lawsuit, Walker was told he was eligible to obtain a job.
23 Plaintiffs are informed and believe that, to date, Mr. Walker has not been given a
24 job. Out of the hundreds of inmates housed in the ALT since Mr. Walker has been
25 there, only two others have had jobs. Pedro Guzman, who threatened legal action,
26 was allowed to work in the library, and Robert Torres, who replaced Mr. Guzman
27 when he was released. No others have been permitted to work.

28 60. Nor has Mr. Walker been permitted to be a trustee in the ALT.
Plaintiffs are informed and believe that the trustees who work in the ALT--

1 bringing food to the cells of inmates housed in the ALT-- are non-GBT pre-trial
2 inmates, and in the past have been awaiting trial on serious charges such as murder
3 and manslaughter. Yet, they have been allowed to work as trustees while the GBT
4 inmates have not.

5 61. Mr. Walker properly filed grievances on June 28, 2013 and May 15,
6 2014 regarding SBCSD's policy of not allowing GBT inmates to participate in the
7 inmate work program. SBCSD responded on June 26, 2013, concluding that
8 Walker's allegations were unfounded because he was involved in a mutual combat
9 fight, and thus ineligible for work assignment on that basis. On June 27, 2013, Mr.
10 Walker filed a grievance appeal disagreeing with these findings, stating that he was
11 disciplined for the fight prior to receiving his sentence and before he could even be
12 considered for work assignment, and thus should have been eligible for a work
13 assignment. SBCSD responded on July 3, 2013 concluding that, "regardless of
14 when Mr. Walker received his discipline, that discipline automatically excludes
15 him from becoming an inmate worker at any time while in Sheriff's custody per
16 Detention/Correction's policy." Plaintiffs are informed and believe that SBCSD's
17 policy prohibiting Mr. Walker from work assignment is pretextual because straight
18 inmates have participated in the work program even though they were disciplined
19 for fighting. Moreover, in a vague manner, he was recently told by Defendant
20 Mahan that he was eligible for a job, though he has not been given one. Because
21 he has not been permitted to work, Mr. Walker is serving a longer sentence than
22 non-GBT inmates who can earn work credits.

23 62. Mr. Walker is unable to participate in regional occupational classes,
24 vocational education classes, or GED classes along with the general population of
25 inmates at WVDC. Mr. Walker requested educational programs by submitting an
26 official Inmate Request Slip on July 1, 2013. SBCSD denied his request, stamping
27 "NOTHING AVAILABLE AT THIS TIME" on to his request slip. On information
28 and belief, however, educational programs were available to non-GBT inmates.

1 63. Mr. Walker is unable to participate in religious services inside the
2 ALT in person, and does not have access to religious services outside the ALT.

3 64. Unlike non-GBT general population inmates, Mr. Walker is unable to
4 participate in the “INROADS” drug rehabilitation program at Glen Helen
5 Rehabilitation Center. Since he filed his 910 claim, the jail has given him “IN
6 ROADS” in the form of a self-study program, but not at Glen Helen. He is not
7 receiving credit off his sentence like non-GBT inmates who participate in the
8 program. The self-study program itself is not proper or effective drug
9 rehabilitation programming.

10 65. Mr. Walker’s cell in the ALT at WVDC is not checked by deputies on
11 a routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
12 deputies skip cell checks and sign the log sheet, even though they never check Mr.
13 Walker’s or other inmate’s cells.

14 66. Mr. Walker has been and remains subject to harassment, name calling,
15 neglect, and humiliation by employees of SBCSD at WVDC, including being
16 referred to as a “bitch” and “high school girl.”

17 67. Mr. Walker has been retaliated against for complaining about his
18 treatment. On April 30, 2014, Defendant Castillas asked Mr. Walker to sign a
19 paper agreeing to go to general population where he would be responsible for his
20 own safety. He declined as being housed in general population and identified as
21 GBT would subject him to violence. The SBCSD offered the same transfer to
22 Plaintiffs Crockan, Bagwell and Hatfield, and to class member Larry Meyer. They
23 all declined due to safety concerns. Jail personnel then retaliated by placing these
24 inmates on the bottom tier of the ALT, which meant less time out of their cells. All
25 of these inmates had previously filed 910 administrative claims against the county.

26 68. As a result of the treatment and isolation of GBT inmates at WVDC,
27 Mr. Walker has experienced severe emotional distress and depression.

28 69. During all times Mr. Walker has been in custody at WVDC, he has
been subjected to all the conditions of confinement explained in Section IV, *supra*.

1 **B. *Dan MCKIBBEN***

2 70. Dan McKibben was arrested for a probation violation and booked into
3 SBCSD on or around March 21, 2014. Upon self-identifying as gay during the
4 booking process, he was automatically transferred to the ALT at WVDC. He was
5 released in or around June 2014, and is currently out of custody.

6 71. During all times Mr. McKibben was in custody at WVDC, he was
7 confined to his cell for approximately 23 hours a day. He was only allowed out of
8 his cell for 45 minutes to one hour per day, which time was used for the showers.
9 Meals were given inside the cell, not outside in the day room where there were
10 tables. Non-GBT inmates in general population either lived in dormitory style
11 units, where they are not confined to cells at all, or lived in cells in which they
12 were generally out of their cells most non-sleeping hours. Non-GBT inmates
13 placed in special housing due to their status, e.g. informants and gang members,
14 were and are generally let out of their cells three hours or more daily.

15 72. Unlike non-GBT inmates in the general population, as an inmate in
16 the ALT Mr. McKibben was not permitted to be a trustee or work at WVDC.
17 Because he was not permitted to work, he could not earn money or good time work
18 credits. As a result, Mr. McKibben served a longer sentence than he would have
19 had he been able to work and receive early release credits. See Cal. Penal Code
20 §4019.

21 73. Mr. McKibben was unable to participate in regional occupational
22 classes, vocational education classes, or GED classes along with the general
23 population of inmates at WVDC.

24 74. Mr. McKibben was unable to participate in religious services inside
25 the ALT in person, and did not have access to religious services outside the ALT.

26 75. Mr. McKibben's cell in the ALT at WVDC was not checked by
27 deputies on a routine basis as required by Title 15 for safety walk-throughs. On a
28 regular basis, deputies skipped cell checks and signed the log sheet, even though
 they never checked Mr. McKibben's cell. Mr. McKibben was subject to

1 harassment, name calling, neglect, and humiliation by employees of SBCSD at
2 WVDC. The deputies called the ALT the “fag bin” or “queer quarters”.

3 76. As a result of the treatment and isolation of GBT inmates at WVDC,
4 Mr. McKibben has experienced severe emotional distress and depression.

5 77. Mr. McKibben did not file grievances about the conditions due to his
6 fear of retaliation. To avoid trouble with the guards that he knew others
7 experienced, he “kept his mouth shut.”

8 78. During all times Mr. McKibben was in custody at WVDC, he was
9 subjected to all the conditions of confinement explained in Section IV, *supra*.

10 79. Mr. McKibben is not currently in custody and, thus, is not an inmate
11 within the meaning of the PLRA.

12 **C. PEDRO GUZMAN**

13 80. Pedro Guzman was housed by SBCSD beginning on approximately
14 January 21, 2014. Upon self-identifying as gay during the booking process, he was
15 automatically transferred to the ALT at WVDC. He was subsequently released in
16 or about late August, 2014, and is currently out of custody.

17 81. During all times Mr. Guzman was in custody at WVDC, he was
18 confined to his cell for approximately 22 and one-half hours a day. He was only
19 allowed out of his cell for one and one half hours a day, except when he got a job
20 (see the following paragraph) and was allowed out to work. Non-GBT inmates in
21 general population either lived, or continue to live in dormitory style units. They
22 were and are not confined to cells at all, or lived in cells in which they were
23 generally out of their cells during most non-sleeping hours. Non-GBT inmates
24 placed in special housing due to their status, e.g. informants and gang members,
25 were generally let out of their cells three hours or more daily.

26 82. On or about June 24, 2014, after threatening litigation, Mr. Guzman
27 was the first GBT person allowed to work. He was placed in the law library.
28 However, Mr. Guzman is informed and believes, based on statements made to him
by Sergeant Mahan, that he did not earn work credit, unlike non-GBT inmates. As

1 a result, Mr. Guzman served a longer sentence than he would have had he been
2 able to work and receive early release credits. See Cal. Penal Code §4019. Further,
3 unlike non-GBT inmates, Plaintiffs are informed and believe that Mr. Guzman did
4 not received the perks of being a worker. For example, he did not receive access to
5 the day room all day, his visits were limited to 15 minutes rather than 30 to 45
6 minutes, and he did not have additional access to the outside, all in contrast to non-
7 GBT workers. Plaintiffs are informed and believe that Mr. Guzman and Robert
8 Torres, after Mr. Guzman was released, have been the only GBT persons allowed
9 to work at WVDC, and only in response to the threat of litigation. Mr. Guzman
10 was not allowed the opportunity to work as a trustee.

11 83. Mr. Guzman was unable to participate in regional occupational
12 classes, vocational education classes, or GED classes along with the general
13 population of inmates at WVDC.

14 84. Mr. Guzman was unable to participate in religious services inside the
15 ALT in person, and did not have access to religious services outside the ALT.

16 85. Mr. Guzman's cell in the ALT at WVDC was not checked by deputies
17 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
18 basis, deputies skipped cell checks and signed the log sheet, even though they
19 never checked Mr. Guzman's cell. Mr. Guzman was subjected to harassment, name
20 calling, neglect, and humiliation by employees of SBCSD at WVDC, including
21 being called a "damn faggot", and having his face slammed against the bars by a
22 deputy for no reason other than being GBT.

23 86. As a result of the treatment and isolation of GBT inmates at WVDC,
24 Mr. Guzman has experienced severe emotional distress and depression.

25
26 87. During all times that Mr. Guzman was in custody at WVDC, he was
27 subjected to all the conditions of confinement explained in Section IV, *supra*. Mr.
28 Guzman is not currently in custody and, thus, is not an inmate within the meaning
of the PLRA.

1 *D. NICK OU*

2 88. Nick Ou was arrested by the Colton Police Department on or about
3 April 25, 2014, and was booked into the WVDC on that date. Upon self-
4 identifying as gay during the booking process, he was transferred to the ALT at
5 WVDC after a brief placement in the general population. He was subsequently
6 released in or about late August 2014, and is currently out of custody.

7 89. During all times Mr. Ou was in custody at WVDC, he was confined to
8 his cell for approximately 22 to 23 hours a day. He was only allowed out of his
9 cell, on average, for 1 to one and a half hours a day . He was required to eat in his
10 cell, like all GBT inmates, even though there was seating for 32 in the day room
11 that could accommodate all 32 inmates in the ALT. Non-GBT inmates in general
12 population either lived in dormitory style units, where they were not confined to
13 cells at all, or lived in cells in which they were generally out of their cells at least 3
14 hours a day. Non-GBT inmates placed in special housing due to their status, e.g.
15 informants and gang members, were generally let out of their cells three hours or
16 more daily.

17 90. Unlike non-GBT inmates in the general population, Mr. Ou was not
18 permitted to be a trustee, or work as an inmate in the ALT at WVDC. He attempted
19 to work and put in a work request slip, but was told he was ineligible due to his
20 “medical condition,” which SBCSD claimed would not allow him to climb stairs,
21 even though he was housed on the upper tier and had to climb stairs several times a
22 day. He filed a subsequent request and was told he was not medically cleared. He
23 then sought medical clearance from his doctor, which he received. He submitted
24 another request, which was denied. Defendants’ rationale for denying him work
25 was discriminatory and pretextual. As a result of Defendants’ discriminatory
26 conduct, Mr. Ou could not earn money or good time work credits, and thereby
27 served a longer sentence than he would have had he been able to work and receive
28 early release credits. See Cal. Penal Code §4019.

1 91. Mr. Ou was unable to participate in regional occupational classes,
2 vocational education classes, or GED classes along with the general population of
3 inmates at WVDC.

4 92. Mr. Ou was unable to participate in religious services inside the ALT
5 in person, a chaplain did not visit, and did not have access to religious services
6 outside the ALT.

7 93. Mr. Ou's cell in the ALT at WVDC was not checked by deputies on a
8 routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
9 deputies skipped cell checks and signed the log sheet, even though they never
10 checked Mr. Ou's cell. Mr. Ou was subjected to harassment, name calling, neglect,
11 and humiliation by employees of SBCSD at WVDC.

12 94. As a result of the treatment and isolation of GBT inmates at WVDC,
13 Mr. Ou has experienced severe emotional distress and depression.

14 95. During all times when Mr. Ou was in custody at WVDC, he was
15 subjected to all the conditions of confinement explained in Section IV, *supra*. Mr.
16 Ou is not currently in custody and, thus, is not an inmate within the meaning of the
17 PLRA.

18 ***E. SEAN LINT***

19 96. Sean Lint was arrested by the Barstow Police Department and booked
20 by the SBCSD into the WVDC in or around April or May, 2014. Upon self-
21 identifying as gay during the booking process, he was automatically transferred to
22 the ALT at WVDC. He was released in or around June or July 2014, and is
23 currently out of custody.

24 97. During all times Mr. Lint was in custody at WVDC, he was confined
25 to his cell for approximately 23 hours a day. He was only allowed out of his cell
26 for 45 minutes to one hour per day. Non-GBT inmates in general population either
27 lived and continue to live in dormitory style units. They were and are not confined
28 to cells at all, or lived in cells in which they were generally out of their cells most
non-sleeping hours. Non-GBT inmates placed in special housing due to their

1 status, e.g. informants and gang members, were generally let out of their cells three
2 hours or more daily.

3 98. Unlike non-GBT inmates in the general population, Mr. Lint was not
4 permitted to be a trustee or work as an inmate in the ALT at WVDC. Because he
5 was not permitted to work, he could not earn money or good time work credits. As
6 a result, Mr. Lint served a longer sentence than he would have had he been able to
7 work and receive early release credits. See Cal. Penal Code §4019.

8 99. Mr. Lint was unable to participate in regional occupational classes,
9 vocational education classes, or GED classes along with the general population of
10 inmates at WVDC.

11 100. Mr. Lint was unable to participate in religious services inside the ALT
12 in person, and did not have access to religious services outside the ALT.

13 101. Mr. Lint's cell in the ALT at WVDC was not checked by deputies on
14 a routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
15 deputies skipped cell checks and signed the log sheet, even though they never
16 checked Mr. Lint's cell. He was subjected to harassment, name calling, neglect,
17 and humiliation by employees of SBCSD at WVDC, including being called a
18 "faggot."

19 102. As a result of the treatment and isolation of GBT inmates at WVDC,
20 Mr. Lint has experienced severe emotional distress and depression.

21 103. During all times Mr. Lint was in custody at WVDC, he was subjected
22 to all the conditions of confinement explained Section IV, *supra*. Mr. Lint is not
23 currently in custody and, thus is, not an inmate within the meaning of the PLRA.

24 *F. Lynn Price*

25 104. Lynn Price was arrested by SBCSD in late July of 2014. Upon self-
26 identifying as transgender during the booking process, she was transferred to the
27 ALT at the WVDC. She is currently housed there and will be housed there for
28 the foreseeable future. Ms. Price has also been housed in the ALT during past

1 periods of incarceration at WVDC as well, including in 2012 and February of
2 2014.

3 105. During all times Ms. Price has been in the ALT tank, she has been
4 confined to her cell anywhere from 22 to 23 hours a day, and only allowed out of
5 her cell for approximately one hour to two hours a day. That is only very recently
6 in response to Plaintiffs' counsel's letter and the threat of litigation. She is
7 informed and believes that non-GBT inmates in general population either live in
8 dormitory style units, where they are not confined to cells at all, or live in cells in
9 which they are generally out of their cells most non-sleeping hours. Non-GBT
10 inmates placed in special housing due to their status, e.g. informants and gang
11 members, are generally let out of their cells three hours or more daily.

12 106. Unlike non-GBT inmates in the general population, Ms. Price has not
13 been permitted to be a trustee, or work as an inmate in the ALT at WVDC. Thus,
14 she could not earn money or good time work credits. As a result, Ms. Price is
15 serving a longer sentence than she would have if she were allowed to work and
16 receive early release credits. See Cal. Penal Code §4019.

17 107. Ms. Price is unable to participate in regional occupational classes,
18 vocational education classes, or GED classes along with the general population of
19 inmates at WVDC. On or about September 13, 2014, Ms. Price requested a GED
20 program. On or about September 24, 2014, Ms. Price was verbally told that a GED
21 program had to be court ordered. Shortly thereafter, she filed a grievance on that
22 and other issues related to the discriminatory treatment of GBT inmates. The
23 grievance was returned to her by Deputy Allen, who informed her that she could
24 only file a grievance on a single issue, and if she wanted to work she would have to
25 go to general population.

26 108. Ms. Price is unable to participate in religious services inside the ALT
27 in person, and does not have access to religious services outside the ALT.

28 109. Unlike non-GBT general population inmates, Ms. Price is unable to
participate in the "INROADS" drug rehabilitation program at Glen Helen

1 Rehabilitation Center. In the 1980s, Ms. Price was housed at Glen Helen, at which
2 time they were aware of her gender identity. They did not then offer the
3 rehabilitation programs currently offered.

4 110. Ms. Price's cell in the ALT at WVDC is not checked by deputies on a
5 routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
6 deputies skip cell checks and sign the log sheet, even though they never check Ms.
7 Price's cell.

8 111. Ms. Price is subjected to harassment, name calling, neglect, and
9 humiliation by employees of SBCSD at WVDC.

10 112. As a result of the treatment and isolation of GBT inmates at WVDC,
11 Ms. Price has experienced severe emotional distress and depression.

12 113. During all times Ms. Price has been in custody at WVDC, she has
13 been subjected to all the conditions of confinement explained in Section IV, *supra*.

14 **G. Ilich Vargas**

15 114. Ilich Vargas was housed by the SBCSD at the WVDC on or about
16 December 13, 2012 in the general population, as he did not disclose his bisexual
17 orientation. Upon self-identifying as bisexual in general population, he was
18 transferred to the WVDC ALT tank in October 2013. He is currently housed as a
19 pre-trial inmate in the ALT.

20 115. During all times Mr. Vargas has been in the ALT tank, he has been
21 confined to his cell anywhere from 22 to 23 hours a day, and only allowed out for
22 approximately one hour to two hours a day. That is only very recently in response
23 to Plaintiffs' counsel's letter and the threat of litigation. He is informed and
24 believes that non-GBT inmates in general population either live in dormitory style
25 units where they are not confined to cells at all, or live in cells in which they were
26 generally out of their cells during most non-sleeping hours. Non-GBT inmates
27 placed in special housing due to their status, e.g. informants and gang members,
28 are generally let out of their cells three hours or more daily.

1 116. Unlike non-GBT inmates in the general population, Mr. Vargas has
2 not been permitted to be a trustee in the ALT, and thereby be out of his cell all day.

3 117. Mr. Vargas is unable to participate in regional occupational classes,
4 vocational education classes, or GED classes along with the general population of
5 inmates at WVDC.

6 118. Mr. Vargas is unable to participate in religious services inside the
7 ALT in person, and does not have access to religious services outside the ALT.

8 119. Mr. Vargas' cell in the ALT at WVDC is not checked by deputies on
9 a routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
10 deputies skip cell checks and sign the log sheet, even though they never checked
11 Mr. Vargas' cell.

12 120. Mr. Vargas is subjected to harassment, name calling, neglect, and
13 humiliation by employees of SBCSD at WVDC, including being called a "faggot"
14 by nursing staff.

15 121. As a result of the treatment and isolation of GBT inmates at WVDC,
16 Mr. Vargas has experienced severe emotional distress and depression.

17 122. During all times Mr. Vargas has been in custody at WVDC, he has
18 been subjected to all the conditions of confinement explained in Section IV, *supra*.

19 **H. WILLIAM KENNEDY**

20 123. William Kennedy was arrested by the Redlands Police Department,
21 and was booked into WVDC by the SBCSD on or around June 13, 2014. Upon
22 self-identifying as gay during the booking process, he was automatically
23 transferred to the ALT at WVDC. He has been at the WVDC since that time in the
24 ALT, and is currently still in custody.

25 124. During all times Mr. Kennedy has been in custody at WVDC, he has
26 been confined to his cell approximately 22 to 23 hours a day, during which time he
27 has to take a shower and make any necessary phone calls. Mr. Kennedy is
28 informed and believes that non-GBT inmates in general population either live in
dormitory style units, where they are not confined to cells at all, or live in cells in

1 which they were generally out of their cells for many hours a day. Non-GBT
2 inmates placed in special housing due to their status, e.g. informants and gang
3 members, are generally let out of their cells three hours or more daily.

4 125. Unlike non-GBT inmates in the general population, Mr. Kennedy has
5 not been permitted to be a trustee, and thus be allowed out of his cell all day.

6 126. Mr. Kennedy is unable to participate in regional occupational classes,
7 vocational education classes, or GED classes along with the general population of
8 inmates at WVDC.

9 127. Mr. Kennedy is unable to participate in religious services inside the
10 ALT in person, and does not have access to religious services outside the ALT. He
11 has asked for religious services and a chaplain, but has never received a response.

12 128. Kennedy is unable to participate in the "INROADS" mental health
13 program at Glen Helen Rehabilitation Center.

14 129. Mr. Kennedy's cell in the ALT at WVDC is not checked by deputies
15 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
16 basis, deputies skip cell checks and sign the log sheet, even though they never
17 check Mr. Kennedy's or other inmate's cells.

18 130. Mr. Kennedy is subjected to harassment, name calling, neglect, and
19 humiliation by employees of SBCSD at WVDC. For example, the inmates are
20 called "girls" or are told "hot dogs are what you like" by deputies.

21 131. As a result of the treatment and isolation of GBT inmates at WVDC,
22 Mr. Kennedy has experienced severe emotional distress and depression.

23 132. During all times Mr. Kennedy has been in custody at WVDC, he has
24 been subjected to all the conditions of confinement explained in Section IV, *supra*.

25 ***I. JONATHAN ROBERTSON***

26 133. Jonathan Robertson has been at the WVDC from August 22, 2012,
27 and upon self-identifying as gay on or about January 5, 2014, he was automatically
28 transferred to the ALT at WVDC. Since that time he has primarily been housed in

1 the ALT in pre-trial confinement, although he has been transferred to general
2 population for brief periods, on information and belief, as retaliation.

3 134. During all times Mr. Robertson has been in custody at WVDC, he has
4 been confined to his cell approximately 23 hours a day. Non-GBT inmates in
5 general population either live in dormitory style units, where they are not confined
6 to cells at all and are out all day, or live in cells in which they were generally out of
7 their cells at least 3 hours a day. Non-GBT inmates placed in special housing due
8 to their status, e.g. informants and gang members, were generally let out of their
9 cells three hours or more daily.

10 135. Unlike non-GBT inmates in the general population, Mr. Robertson is
11 not permitted to be a trustee and be allowed out of his cell during the day like other
12 trustees.

13 136. Mr. Robertson is unable to participate in regional occupational
14 classes, vocational education classes, or GED classes along with the general
15 population of inmates at WVDC.

16 137. Mr. Robertson is unable to participate in religious services inside the
17 ALT in person, and does not have access to religious services outside the ALT.

18 138. Mr. Robertson's cell in the ALT at WVDC is not checked by deputies
19 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
20 basis, deputies skip cell checks and sign the log sheet, even though they never
21 check Mr. Kennedy's or other inmate's cells.

22 139. Mr. Robertson is subjected to harassment, name calling, neglect, and
23 humiliation by employees of SBCSD at WVDC. For example, Mr. Robertson and
24 other inmates in the WVDC are called "bitches", "fags", "girls", "punks",
25 "motherfucker", and "disgusting" and told to "stop being a little bitch," by the
26 deputies.

27 140. As a result of the treatment and isolation of GBT inmates at WVDC,
28 Mr. Robertson has experienced severe emotional distress and depression and has

1 made multiple suicide attempts without having been given a psychological
2 evaluation.

3 141. During all times Robertson has been in custody at WVDC, he has
4 been subjected to all the conditions of confinement explained in Section IV, *supra*.

5 **J. CHRISTOPHER CRAWFORD**

6 142. Christopher Crawford was booked into the WVDC by the SBCSD on
7 multiple occasions including in February 2012, December 2013, and most recently,
8 on February 10, 2014. Each time, upon self-identifying as gay during the booking
9 process, he was automatically transferred to the ALT at WVDC.

10 143. Christopher Crawford was transferred to state custody on or around
11 April 12, 2014 and is no longer in SBCSD custody. He is currently a prisoner
12 within the meaning of the PLRA.

13 144. During all times Mr. Crawford was in custody at WVDC, he was
14 confined to his cell for approximately 23 hours a day. He was only allowed out of
15 his cell for 45 minutes to one hour per day. Non-GBT inmates in general
16 population either lived and continue to live in dormitory style units, where they are
17 not confined to cells at all, or lived and continue to live in cells in which they are
18 generally out of their cells most non-sleeping hours. Non-GBT inmates placed in
19 special housing due to their status, e.g. informants and gang members, were
20 generally let out of their cells three hours or more daily.

21 145. Unlike other non-GBT inmates in the general population, Mr.
22 Crawford was not permitted to be a trustee, or work as an inmate in the ALT at
23 WVDC. Because he was not permitted to work, he could not earn money or good
24 time work credits. As a result, Crawford served longer sentences than he would
25 have had he been able to work and receive early release credits. See Cal. Penal
26 Code §4019.

27 146. Crawford was unable to participate in regional occupational classes,
28 vocational education classes, or GED classes along with the general population of
inmates at WVDC. He and other inmates in the ALT were not allowed access to

1 educational programming provided to general population inmates and were also
2 not given access to any separate educational programming.

3 147. Mr. Crawford was unable to participate in religious services inside the
4 ALT in person, and did not have access to religious services outside the ALT.

5 148. Mr. Crawford's cell in the ALT at WVDC was not checked by
6 deputies on a routine basis as required by Title 15 for safety walk-throughs. On a
7 regular basis, deputies skipped cell checks and signed the log sheet, even though
8 they never checked Mr. Crawford's or other inmate's cells.

9 149. Mr. Crawford was subjected to harassment, name calling, neglect, and
10 humiliation by employees of SBCSD at WVDC.

11 150. Mr. Crawford was subjected to disproportionate punishment
12 compared to non-GBT inmates in general population. On one occasion, SBCSD
13 deputies punished Mr. Crawford for participating in mutual combat with another
14 inmate by placing him in a cell with a high-power, straight inmate.

15 151. Unlike non-GBT general population inmates, Mr. Crawford and other
16 inmates in the "ALT" were subjected to group, rather than individual, punishment.
17 For example, after the incident where Mr. Crawford engaged in mutual combat, all
18 inmates in the ALT were punished as a group, and were permitted even less time
19 out of their cells than the scant amount of time they were normally allowed. When
20 two non-GBT inmates in general population get into mutual combat typically only
21 those two individuals are punished, not the entire dorm.

22 152. As a result of the treatment and isolation of GBT inmates at WVDC,
23 Mr. Crawford has experienced severe emotional distress and depression.

24 153. Mr. Crawford was unable to file any grievances at WVDC because,
25 when he attempted to do so, deputies told him his grievances were "ungrievable."

26 154. During all times Mr. Crawford was in custody at WVDC, he was
27 subjected to all the conditions of confinement explained in Section IV, *supra*.
28

1 ***K. VERONICA PRATT***

2 155. Veronica Pratt was arrested by SBCSD on or around August 4, 2013.
3 Upon self-identifying as transgender during the booking process, she was
4 automatically transferred to the ALT at WVDC. Pratt was subsequently released.

5 156. Ms. Pratt was booked into the WVDC by the SBCSD and once again,
6 Ms. Pratt was placed in the ALT. She was released a second time on or about
7 June 6, 2014 to the custody of the Riverside County Jail, and is currently in that
8 facility.

9 157. During all times Ms. Pratt was in custody at WVDC, she was confined
10 to her cell approximately 23 hours a day. She was only allowed out of her cell for
11 45 minutes to one hour per day. Non-GBT inmates in general population either
12 lived and continue to live in dormitory style units, where they are not confined to
13 cells at all, or lived and continue to live in cells in which they were generally out of
14 their cells most non-sleeping hours. Non-GBT inmates placed in special housing
15 due to their status, e.g. informants and gang members, were generally let out of
16 their cells three hours or more daily.

17 158. Unlike non-GBT inmates in the general population, Ms. Pratt was not
18 permitted to be a trustee, or work as an inmate in the ALT at WVDC. Because she
19 was not permitted to work, she could not earn money or good time work credits.
20 As a result, Ms. Pratt served a longer sentence than she would have had she had
21 been able to work and receive early release credits. See Cal. Penal Code §4019.

22 159. Ms. Pratt was unable to participate in regional occupational classes,
23 vocational education classes, or GED classes along with the general population of
24 inmates at WVDC. On November 27, 2013, Ms. Pratt filed a grievance requesting
25 access to vocational education classes. SBCSD responded on December 3, 2013,
26 stating that her grievance was unfounded because vocational programs and
27 INROADS are court ordered programs, and she was not sentenced to these
28 programs.

1 160. Ms. Pratt was unable to participate in religious services inside the
2 ALT in person, and did not have access to religious services outside the ALT.

3 161. Ms. Pratt was unable to participate in the “INROADS” mental health
4 program at Glen Helen Rehabilitation Center.

5 162. Ms. Pratt’s cell in the ALT at WVDC was not checked by deputies on
6 a routine basis as required by Title 15 for safety walk-throughs. On a regular basis,
7 deputies skip cell checks and sign the log sheet, even though they never checked
8 Ms. Pratt’s or other inmate’s cells.

9 163. Ms. Pratt was subject to harassment, name calling, neglect, and
10 humiliation by employees of SBCSD at WVDC.

11 164. As a result of the treatment and isolation of GBT inmates at WVDC,
12 Ms. Pratt has experienced severe emotional distress and depression.

13 165. During all times Pratt was in custody at WVDC, she was subjected to
14 all the conditions of confinement explained in Section IV, *supra*.

15 ***L. BRYAN BAGWELL***

16 166. Bryan Bagwell was booked by SBCSD into the WVDC on or about
17 December 13, 2013. Upon self-identifying as gay during the booking process, he
18 was automatically transferred to the ALT at WVDC. As of June 4, 2014, he was
19 transferred to California Institute for Men of the California Department of
20 Corrections and Rehabilitation.

21 167. During all times Mr. Bagwell was in custody at WVDC, he was
22 confined to his cell for approximately 23 hours a day. He was only allowed to be
23 out for approximately one hour per day. Non-GBT inmates in general population
24 either live in dormitory style units, where they are not confined to cells at all, or
25 live in cells in which they were generally out of their cells during most non-
26 sleeping hours. Non-GBT inmates placed in special housing due to their status, e.g.
27 informants and gang members, were generally let out of their cells three hours or
28 more daily.

1 168. Unlike non-GBT inmates in the general population, Mr. Bagwell was
2 not permitted to be a trustee, or work as an inmate in the ALT at WVDC. Because
3 he was not permitted to work, he could not earn money or good time work credits.
4 As a result, Mr. Bagwell is serving a longer sentence than he would have had he
5 was able to work and receive early release credits. See Cal. Penal Code §4019.

6 169. Unlike non-GBT inmates in the general population, Mr. Bagwell was
7 not permitted to work as a trustee.

8 170. Mr. Bagwell was unable to participate in regional occupational
9 classes, vocational education classes, or GED classes along with the general
10 population of inmates at WVDC.

11 171. Mr. Bagwell was unable to participate in religious services inside the
12 ALT in person, and did not have access to religious services outside the ALT.

13 172. Mr. Bagwell's cell in the ALT at WVDC was not checked by deputies
14 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
15 basis, deputies skipped cell checks and signed the log sheet, even though they
16 never checked Mr. Bagwell's cell.

17 173. Mr. Bagwell was subjected to harassment, name calling, neglect, and
18 humiliation by employees of SBCSD at WVDC.

19 174. Mr. Bagwell has been retaliated against for complaining about his
20 treatment. On April 30, 2014, Defendant Castillas asked him to sign a paper to go
21 to general population where he would be responsible for his own safety. Mr.
22 Bagwell declined the offer as being housed in general population and identified as
23 GBT would subject him to violence. SBCSD offered the same transfer to Plaintiffs
24 Crockan, Hatfield and Walker, and to class member Larry Meyer. All said "no"
25 due to safety concerns. Jail personnel retaliated by placing these inmates on the
26 bottom tier of the ALT and giving them less time out of their cells. All of these
27 inmates had previously filed 910 administrative claims against the county.

28 175. As a result of the treatment and isolation of GBT inmates at WVDC,
Mr. Bagwell has experienced severe emotional distress and depression.

1 176. When trying to file a grievance, Mr. Bagwell was told that he would
2 not get one, and that he could “shut the f___ up!” When he tried to file a grievance
3 about guards routinely turning off the TV in the day room during the very short
4 period of time ALT inmates were allowed out of their cells, the guards would not
5 give him a form. Mr. Bagwell was able to file a grievance only after great effort.

6 177. During all times Mr. Bagwell was in custody at WVDC, he was
7 subjected to all the conditions of confinement explained in Section IV, *supra*.

8 **M. FREDRICK CROCKAN**

9 178. Fredrick Crockan was booked into the WVDC by the SBCSD on or
10 around October 13, 2013. Upon self-identifying as gay during the booking process,
11 he was automatically transferred to the ALT at WVDC. He is currently housed in
12 State prison.

13 179. During all times Mr. Crockan was in custody at WVDC, he was
14 confined to his cell for approximately 23 hours a day. He was only allowed out of
15 his cell for 45 minutes to one hour per day. Non-GBT inmates in general
16 population either live in dormitory style units, where they are not confined to cells
17 at all, or live in cells in which they were generally out of their cells during most
18 non-sleeping hours. Non-GBT inmates placed in special housing due to their
19 status, e.g. informants and gang members, are generally let out of their cells three
20 hours or more daily.

21 180. Unlike other non-GBT inmates in the general population, Mr.
22 Crockan was not permitted to be a trustee, or work as an inmate in the ALT at
23 WVDC. Because he was not permitted to work, he could not earn money or good
24 time work credits. As a result, Mr. Crockan will serve a longer sentence than he
25 would have if he was able to work and receive early release credits. See Cal. Penal
26 Code §4019.

27 181. Crockan was unable to participate in regional occupational classes,
28 vocational education classes, or GED classes along with the general population of
inmates at WVDC.

1 182. Crockan was unable to participate in religious services inside the ALT
2 in person, and does not have access to religious services outside the ALT.

3 183. Crockan was unable to participate in the “INROADS” mental health
4 program at Glen Helen Rehabilitation Center.

5 184. Mr. Crockan’s cell in the ALT at WVDC was not checked by deputies
6 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
7 basis, deputies skipped cell checks and signed the log sheet, even though they
8 never checked Mr. Crockan’s cell.

9 185. Mr. Crockan was subjected to harassment, name calling, neglect, and
10 humiliation by employees of SBCSD at WVDC.

11 186. Mr. Crockan was retaliated against for complaining about his
12 treatment. On April 30, 2014, Defendant Castillas asked Crockan to sign a paper to
13 go to general population where he would be responsible for his own safety. Mr.
14 Crockan declined because being housed in general population would identify him
15 as being GBT and would subject him to violence. SBCSD offered the same
16 transfer to Plaintiffs Hatfield, Bagwell and Walker, and to class member Larry
17 Meyer. All declined the offer due to safety concerns. Jail personnel then retaliated
18 by placing Hatfield, Bagwell, Walker and Meyer on the bottom tier of the ALT and
19 gave them less time out of their cells. All of these inmates had previously filed 910
20 administrative claims against the county.

21 187. As a result of the treatment and isolation of GBT inmates at WVDC,
22 Mr. Crockan has experienced severe emotional distress and depression.

23 188. Mr. Crockan filed several grievances regarding the conditions of
24 confinement for GBT inmates at WVDC, but all of his requests have been denied.

25 189. During all times Mr. Crockan was in custody at WVDC, he was
26 subjected to all the conditions of confinement explained in Section IV, *supra*.

27 **N. TAHEASH WHITE**

28 190. Taheash White was arrested by SBCSD on or about February 24,
2014. Upon self-identifying as gay during the booking process, he was

1 automatically transferred to the ALT at WVDC. He subsequently was released and
2 is now in state custody.

3 191. During all times Mr. White was in custody at WVDC, he was
4 confined to his cell for approximately 23 hours a day. He was only allowed out of
5 his cell for approximately 45 minutes to one hour per day. He is informed and
6 believes that straight inmates in general population either lived and continue to live
7 in dormitory style units, where they are not confined to cells at all, or lived and
8 continue to live in cells in which they were generally out of their cells during most
9 non-sleeping hours. Non-GBT inmates placed in special housing due to their
10 status, e.g. informants and gang members, were generally let out of their cells three
11 hours or more daily.

12 192. Unlike non-GBT inmates in the general population, Mr. White was
13 not permitted to be a trustee, or work as an inmate in the ALT at WVDC. Because
14 he was not permitted to work, he could not earn money or good time work credits.
15 As a result, Mr. White will serve a longer sentence than he would have if he was
16 able to work and receive early release credits. See Cal. Penal Code §4019.

17 193. Mr. White was unable to participate in the Glen Helen "INROADS"
18 program that would have reduced his sentence and given him drug rehabilitation
19 treatment.

20 194. Mr. White was unable to participate in regional occupational classes,
21 vocational education classes, or GED classes along with the general population of
22 inmates at WVDC.

23 195. Mr. White was unable to participate in religious services inside the
24 ALT in person, and did not have access to religious services outside the ALT.

25 196. Mr. White's cell in the ALT at WVDC was not checked by deputies
26 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
27 basis, deputies skipped cell checks and signed the log sheet, even though they
28 never checked Mr. White's cell.

1 201. Mr. White was subject to harassment, name calling, neglect, and
2 humiliation by employees of SBCSD at WVDC.

3 202. As a result of the treatment and isolation of GBT inmates at WVDC,
4 Mr. White has experienced severe emotional distress and depression.

5 203. Mr. White tried to file grievances about the conditions in the ALT
6 but the guards would not give him grievance forms since they say ALT inmates'
7 complaints about the conditions in the dorm are "not grievable."

8 204. During all times Mr. White was in custody at WVDC, he was
9 subjected to all the conditions of confinement explained in Section IV, *supra*.

10 ***O. MADISON HATFIELD***

11 205. Madison Hatfield was arrested by the Fontana Police Department and
12 booked into custody by the SBCSD at the WVDC on or about April 1, 2014. Upon
13 self-identifying as transgender during the booking process, she was transferred to
14 the ALT at WVDC. She was subsequently released to a sober living facility, and in
15 October, 2014, was transferred back from the sober living facility to the ALT of
16 the WVDC.

17 206. During all times Ms. Hatfield was in custody at WVDC, she was
18 confined to her cell for approximately 23 hours a day. She was only allowed out of
19 her cell for approximately 45 minutes to one hour per day. She is informed and
20 believes that non-GBT inmates in general population either lived and continue to
21 live in dormitory style units, where they are not confined to cells at all, or lived and
22 continue to live in cells in which they were generally out of their cells most non-
23 sleeping hours. Non-GBT inmates placed in special housing due to their status, e.g.
24 informants, gang members, were generally let out of their cells three hours or more
25 daily.

26 207. Unlike other non-GBT inmates in the general population, Ms. Hatfield
27 was not permitted to be a trustee, or work as an inmate in the ALT at WVDC.
28 Because she was not permitted to work, she could not earn money or good time
work credits. As a result, Ms. Hatfield served a longer sentence than she would

1 have if she was able to work and receive early release credits. See Cal. Penal Code
2 § 4019.

3 204. Ms. Hatfield was unable to participate in regional occupational
4 classes, vocational education classes, or GED classes along with the general
5 population of inmates at WVDC.

6 205. Ms. Hatfield was unable to participate in religious services inside the
7 ALT in person, and did not have access to religious services outside the ALT.

8 206. Ms. Hatfield's cell in the ALT at WVDC was not checked by deputies
9 on a routine basis as required by Title 15 for safety walk-throughs. On a regular
10 basis, deputies skipped cell checks and signed the log sheet, even though they
11 never checked Ms. Hatfield's cell.

12 207. Ms. Hatfield was subjected to harassment, name calling, neglect, and
13 humiliation by employees of SBCSD at WVDC.

14 208. She was retaliated against for complaining about her treatment. On
15 April 30, 2014, Defendant Castillas asked her to sign a paper to go to general
16 population where she would be responsible for her own safety, and she said no as
17 being housed in general population and identified as GBT would subject her to
18 violence. SBCSD offered the same transfer to Plaintiffs Crockan, Bagwell and
19 Walker, and to class member Larry Meyer. All declined the offer due to safety
20 concerns. Jail personnel then retaliated by placing these inmates on the bottom tier
21 of the ALT and gave them less time out of their cells. All of these inmates had
22 previously filed 910 administrative claims against the county.

23 209. As a result of the treatment and isolation of GBT inmates at WVDC,
24 Ms. Hatfield has experienced severe emotional distress and depression.

25 210. Ms. Hatfield filed grievances regarding the conditions of confinement
26 for GBT inmates at WVDC, but all of her requests were denied.

27 211. During all times Ms. Hatfield was in custody at WVDC, she was
28 subjected to all the conditions of confinement explained in Section IV, *supra*.

1 **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 212. GBT inmates in the ALT, including Plaintiff class representatives,
3 repeatedly have faced serious obstacles when they tried to utilize the grievance
4 procedure to complain about their lack of access to work opportunities, programs,
5 drug rehabilitation and other issues related to conditions and treatment. Many
6 GBT inmates have either attempted to file grievances and exhaust but have been
7 prevented by the SBCSD from fully exhausting; been intimidated into not filing
8 grievances and thereby have been prevented from exhausting since the SBCSD has
9 made it clear through its actions that the inmates are not eligible for programs and
10 filing grievances will be futile; or, nonetheless, have overcome intimidation by the
11 SBCSD and have fully exhausted. Because there are only two federal injunctive
12 relief class representatives currently in custody in WVDC, Timothy Walker and
13 Ilich Vargas, we focus on them. There are no Federal Damages Class
14 Representatives, and thus the only Named Plaintiffs required to exhaust
15 administrative remedies before filing suit are Walker and Vargas.

16 213. In August 2014 Federal Injunctive Relief Class Representative
17 Timothy Walker attempted to file a grievance with T.W., a deputy, about how little
18 time GBT inmates got out of their cells, and their lack of access to work
19 opportunities, educational opportunities, drug rehabilitation programming, and
20 religious services; the lack of safety checks in the unit; and the harsher punishment
21 imposed on GBT inmates. He had filed grievances in the past that were rejected
22 without a legitimate basis, but wanted to file a grievance covering all GBT
23 members in the ALT and to list all of his complaints concerning lack of time out of
24 the cell, programing and rehabilitation, and work opportunities. One or two days
25 later, Sergeant Mahan approached Mr. Walker and told him that, if he processed
26 the grievance, Mr. Walker would get an additional twenty days added to his
27 sentence for allegedly “abusing” the grievance process. Because he did not want to
28 risk serving extra time, Mr. Walker told Sgt. Mahan not to process the grievance.

1 214. On the other hand, Ilich Vargas was able to exhaust, overcoming great
2 odds, and after multiple attempts to do so. On April 16, 2014, Vargas received a
3 response to a grievance concerning discriminatory treatment of GBT inmates in the
4 ALT. Among other things, the response stated that “portions of the complaint that
5 are a mass grievance will not be investigated since mass grievance complaints are
6 not investigated.” Vargas was also informed that “[f]urther grievances on this
7 matter may lead to disciplinary action.” Despite being told that further grievances
8 would lead to disciplinary action, Mr. Vargas filed a grievance over the denial of
9 equal opportunities for GBT inmates in the WVDC, including a grievance over
10 lack of time out of his cell, denial of programs, religious programs, and trustee
11 opportunities. On September 3, 2014, the SBCSD responded to his grievance by
12 telling him that he was abusing the grievance process, that he had fully exhausted
13 his complaints over the lack of opportunities and programming in the ALT of the
14 WVDC, and that his grievance constituted an abuse of the grievance process and
15 would subject him to discipline if he pursued it. Because he would be disciplined
16 for pursuing his grievance, he decided not to pursue it. Thus, even when a GBT
17 inmate exhausts, a clear message is sent to all the GBT inmates not to pursue
18 grievances over their discriminatory treatment in the WVDC.

19 215. SBCSD has repeatedly intimidated GBT inmates away from filing
20 grievances, mishandled grievances, provided misinformation about the grievance
21 process and particularly group grievances, and rejected grievances about
22 discriminatory conditions in the ALT. As a result, most GBT inmates in the ALT
23 stopped filing grievances because they felt threatened or intimidated, or were
24 unable to pursue their core claims of discrimination against those held in the ALT.

25 216. Through intimidation, creating obstacles in attempting to file
26 grievances, mishandling grievances, and by misinforming GBT inmates when or
27 over what topics they could file grievances, the SBCSD has created
28 insurmountable barriers in the grievance process. When GBT inmates have filed
grievances, or grievance denial appeals concerning conditions in the ALT, SBCSD

1 repeatedly has mishandled them or has given GBT inmates misinformation about
2 their access to the grievance procedure. Many GBT inmates have filed grievances
3 about matters that affect not only themselves, but all people in the ALT. SBCSD
4 repeatedly told GBT inmates that such grievances are “ungrievable,” and have
5 explicitly stated in grievance responses and grievance appeal responses that
6 inmates cannot submit group grievances, that “mass” grievance complaints are not
7 investigated, and that “mass” grievances cannot be appealed. This has occurred
8 despite the fact that “group” grievances are specifically allowed under the Title 15,
9 Section 3084.2(h), which WVDC purports to follow and, in fact, there is a special
10 form for group grievances. SBCSD does not make this form available to GBT
11 inmates in the ALT.

12 217. There are numerous instances where GBT inmates who are not
13 Federal Injunctive Relief class representatives have been blocked from filing or
14 pursuing grievances. For example, Larry Meyer, a GBT inmate who is a member
15 of the class, filed a grievance on March 27, 2014, alleging discrimination against
16 GBT inmates, including himself, by denying them opportunities to participate in
17 educational and self-help classes available to other inmates. The findings on his
18 grievance instructed him that the inmates shall not use the grievances on behalf of
19 a group of inmates and that his complaint was unfounded. The grievance response
20 stated that Department policy provides that “inmates shall NOT use this process to
21 submit grievances or grievance appeals to represent another inmate, or group of
22 inmates.” Further, the findings on his grievance by SBCSD were that gay inmates
23 are housed pursuant to departmental policy.

24 218. As explained above, Defendants systematically thwarted and
25 obstructed efforts to exhaust administrative remedies, or refused to allow the filing
26 of grievances addressing discrimination against GBT inmates. The Federal
27 Injunctive Relief Class Representatives and Class were not required to exhaust
28 administrative remedies because SBCSD’s administrative remedies were
ineffective, unobtainable, unduly prolonged, inadequate, and/or obviously futile,

1 thereby rendering the exhaustion mechanism for GBT inmates effectively
2 unavailable.

3 219. On May 2, 2014, attorneys for Plaintiffs sent a letter to SBCSD
4 and Captain Jeff Rose, who is in charge of the WVDC, regarding this policy of
5 refusing to hear grievances on behalf of a group of inmates. As of the filing of this
6 Complaint, SBCSD has not responded.

7 220. SBCSD has retaliated against a number of GBT inmates who have
8 filed grievances about conditions in the ALT. For example, very soon after filing
9 grievances about discriminatory conditions in the ALT, Named Plaintiffs (and
10 California State Damages Class Representatives Bagwell, Crockan and Hatfield, as
11 well as Federal Injunctive Relief Class Representative Walker and class member
12 Larry Meyer, were threatened with transfer to general population for filing
13 grievances, which would have risked their safety. They were then were reclassified
14 from top tier, the higher level of the ALT status with more privileges, to bottom
15 tier, the lower level of the ALT status, with less privileges. Further, Larry Meyer
16 was refused grievance forms on many occasions, and was punished and put into
17 administrative segregation for purportedly “abusing” the grievance process.

18 221. SBCSD has repeatedly denied grievances about conditions in the ALT
19 and treatment of GBT inmates by stating that GBT inmates are housed and treated
20 according to Department policy.

21 222. On May 2, 2014, counsel for Plaintiffs sent a letter to Janice
22 Rutherford, Chair of the Second District Board of Supervisors, Sheriff John
23 McMahon, and Captain Jeff Rose, identifying the systemic discrimination against
24 GBT inmates identified in this Complaint, identifying remedies they believed were
25 necessary, and inquiring whether the County was interested in attempting to
26 negotiate a resolution of the issues raised in the letter. The County, through
27 counsel, indicated that it disputed and denied Plaintiffs’ claims, and was not
28 interested in a meeting to discuss or negotiate the claims. Thus, Plaintiffs’ attempts
to resolve the issues through pre-litigation efforts were unsuccessful.

1 **VII. CLASS DEFINITIONS AND RULE 23 PREREQUISITES**

2 **A. CLASS DEFINITIONS**

3 223. Plaintiffs bring this action on their own behalf, and on behalf of
4 various classes of all other persons similarly situated, pursuant to Rule 23 of the
5 Federal Rules of Civil Procedure. There are four classes alleged in this Complaint
6 – two Federal and two California classes. They are defined as follows:

- 7 a. The California Damages Class is composed of individuals who
8 currently are, were in the past (within six months prior to the filing of
9 Veronica Pratt’s Govt. Code §910 claim), or will be in future (until
10 such time as the unlawful policies and practices cease or judgment is
11 entered in this case), GBT inmates housed in the ALT. They bring
12 their claims against the various individual Defendants as explained
13 *infra* in the causes of action brought under California law. They seek
14 statutory damages of \$4000 per violation for each class member
15 pursuant to California Civil Code §§52.1(b) and 52.
- 16 b. The Federal Damages Class is composed of individuals who currently
17 are, were in the past (within two years of the filing of this complaint)
18 or will be in future (until such time as the unlawful policies and
19 practices cease or judgment is entered in this case), GBT inmates
20 housed in the ALT. They bring their claims against all Defendants
21 under 42 U.S.C. §1983.
- 22 c. The California Injunctive Relief Class is composed of individuals who
23 currently are, or in the future without the intervention of this Court
24 will be, GBT inmates housed in the ALT and subject to the unlawful
25 treatment set forth in this Complaint. They bring their claims against
26 Defendants County, SBCSD and the individual Defendants under
27 California law.
- 28 d. The Federal Injunctive Relief Class is composed of individuals who
currently are, or in the future without the intervention of this court

1 will be, GBT inmates housed in the ALT and subject to the unlawful
2 treatment set forth in this Complaint. They bring their claims against
3 all Defendants under 42 U.S.C. §1983.

4 ***B. NUMEROSITY***

5 224. In accordance with F.R.Civ. P. Rule 23(a), the members of each class
6 are so numerous that joinder of all members is impracticable. Plaintiffs do not
7 know the exact number of class members. There are 32 GBT inmates who live in
8 the ALT at any given time, and there is constant change and turnover in who is
9 housed there. Plaintiffs are informed and believe, and thereon allege, that the
10 number of persons in each of the proposed damages classes is at least in the
11 hundreds, and that the number of persons in the proposed injunctive relief classes
12 is higher given that it covers future GBT inmates housed in the ALT.

13 225. On information and belief, San Bernardino County jails (excluding
14 Adelanto) has a daily inmate population of approximately 5000-6000, of which the
15 majority are housed at WVDC
16 [http://en.wikipedia.org/wiki/San_Bernardino_County](http://en.wikipedia.org/wiki/San_Bernardino_County_Sheriff's_Department#Detentions_and_Corrections_Bureau)
17 [Sheriff's_Department#Detentions_and_Corrections_Bureau](http://en.wikipedia.org/wiki/San_Bernardino_County_Sheriff's_Department#Detentions_and_Corrections_Bureau)). In 2006, over
18 100,000 inmates were processed through the SBCSD jail system. Thus, the inmate
19 population turns over many times each year.

20 ***C. COMMON ISSUES OF FACT OR LAW***

21 226. In §IV of this Complaint, Plaintiffs set forth common factual
22 allegations for the treatment of GBT inmates in the ALT who comprise the
23 members of each class, which allegations are incorporated into this section of the
24 Complaint. In §V of this Complaint, Plaintiffs set forth factual allegations for the
25 Named Plaintiffs regarding their treatment as GBT inmates in the ALT, which are
26 also incorporated into this section of the complaint.²

27 ² In ¶1, the term GBT inmates as used in this Complaint is limited to GBT inmates
28 housed in the ALT. Accordingly, we do not repeat each time the reference to being
in the ALT.

1 227. In accordance with F.R. Civ. P. Rule 23(a), there are questions of fact
2 common to the class. The common questions of fact include, but are not limited to
3 the following:

- 4 a. Whether the SBCSD provides GBT inmates time outside of
5 their cells equivalent to the time comparable non-GBT inmates
6 housed in the general population receive outside of their cells;
- 7 b. Whether SBCSD allows GBT inmates to attend and participate
8 in religious services while they are outside of their cell
9 comparable to non-GBT inmates, and to receive religious
10 materials and services inside their cells comparable to non-GBT
11 inmates;
- 12 c. Whether SBCSD provides GBT inmates with educational
13 programming, including regional occupational classes,
14 vocational education classes, and GED classes comparable to
15 non-GBT inmates;
- 16 d. Whether SBCSD allows pretrial GBT inmates the opportunity
17 to work as trustees comparable to the opportunity provided non
18 GBT inmates;
- 19 e. Whether SBCSD allows sentenced GBT inmates to participate
20 in the inmate work program and receive good time work credits
21 comparable to non-GBT inmates;
- 22 f. Whether SBCSD provides GBT inmates with access to the in
23 person “INROADS” drug rehabilitation program, which is held
24 at Glen Helen Rehabilitation Center, and allows them to receive
25 time off their sentences for completing the program comparable
26 to non-GBT inmates;
- 27 g. Whether SBCSD enforces hourly safety checks of GBT cells at
28 WVDC comparable to non-GBT inmates;

1 h. Whether SBCSD harasses, neglects, and humiliates GBT
2 inmates due to their sexual orientation or gender identity.

3 228. In accordance with F.R. Civ. P. Rule 23(a), there are questions of law
4 common to the class. Plaintiffs are informed and believe and, thereon allege, that
5 the common questions of law include but are not limited to the following:

6 a. Whether the SBCSD has violated the equal protection rights of
7 GBT inmates by allowing them less time out of their cell,
8 regardless of their custody level, than non-GBT inmates.

9 b. Whether the SBCSD has violated the equal protection rights of
10 GBT inmates in their exercise of religious freedom.

11 c. Whether the SBCSD has violated the equal protection rights of
12 GBT inmates by failing to provide GBT inmates with
13 educational programming, including regional occupational
14 classes, vocational education classes, and GED classes
15 comparable to non-GBT inmates.

16 d. Whether the SBCSD has violated the equal protection rights of
17 GBT inmates by failing to allow pre-trial GBT inmates to work
18 as trustees comparable to non-GBT inmates.

19 e. Whether the SBCSD has violated the equal protection rights of
20 GBT inmates by failing to allow sentenced GBT inmates to
21 participate in the inmate work program and receive good time
22 work credits comparable to non-GBT inmates.

23 f. Whether the SBCSD has violated the equal protection rights of
24 GBT inmates by failing to allow them access to the in person
25 “INROADS” drug rehabilitation program, which is held at Glen
26 Helen Rehabilitation Center, and to receive time off their
27 sentences for completing the program comparable to non-GBT
28 inmates.

- 1 g. Whether the SBCSD has violated the equal protection rights of
2 GBT inmates by failing to enforce hourly safety checks of the
3 ALT comparable to those for non-GBT inmates.
- 4 h. Whether SBCSD has violated the equal protection rights of
5 GBT inmates by harassing, neglecting and humiliating GBT
6 inmates due to their sexual orientation or gender identity, unlike
7 non-GBT inmates.
- 8 i. Regardless of whether sub-paragraphs a-h, above, constitute
9 violations of the equal protection of the law taken individually,
10 whether the overall treatment of GBT inmates at WVDC
11 violates their right to equal protection of the law under the
12 totality of the circumstances.
- 13 j. Whether the conduct described above constitutes a policy or
14 custom of Defendants.
- 15 k. Whether any individual Defendant is entitled to qualified
16 immunity on the federal claims, or state law immunity on the
17 state law claims, for the practices complained of herein.
- 18 l. Whether the conduct described above violates the equal
19 protection rights of class members under the California
20 Constitution Article I, §1, 7 and/or the Fourteenth Amendment
21 to the United States Constitution.
- 22 m. Whether the conduct described above violates California Civil
23 Code §§52.1 or 815.6.
- 24 n. Whether the level of scrutiny under the applicable law is strict
25 scrutiny or heightened scrutiny or some other level of scrutiny;
- 26 o. Whether there is a lawful justification for any of the
27 discriminatory treatment sufficient under the applicable level(s)
28 of scrutiny.

1 p. Whether class wide statutory damages are available under
2 California Civil Code §§52.1 and 52(a).

3 q. Whether presumed or general class wide damages are available
4 under 42 U.S.C. §1983.

5 ***D. TYPICALITY***

6 229. In accordance with F.R. Civ. P. Rule 23(a), the claims of the
7 representative Plaintiffs are typical of each class. All Named Plaintiffs were in
8 SBCSD custody when they were subjected to unequal treatment in the ALT, which
9 unequal treatment applied and applies to all inmates who are housed in the ALT.
10 Named Plaintiffs were denied access to educational programming, religious
11 services, work programs and good time release credits, and trustee programs; were
12 treated differently from non-GBT inmates with respect to time outside of their cell,
13 hourly safety checks; were subjected to harassment, name calling, neglect, and
14 humiliation by SBCSD deputies based on their sexual orientation or gender
15 identity; and were otherwise subjected to the discriminatory treatment alleged in
16 the Complaint.

17 230. Thus, Named Plaintiffs have the same interests, and have suffered the
18 same type of damages as the class members. Named Plaintiffs' claims are based
19 upon the same or similar legal theories as the claims of the class members. Each
20 class member suffered actual damages as a result of the Defendants' discriminatory
21 policies. The actual damages suffered by Plaintiffs are similar in type and amount
22 to the actual damages suffered by each class member.

23 231. In accordance with F.R. Civ. P. Rule 23(a), the Named Plaintiffs will
24 fairly and adequately protect the interests of the class. The interests of the Named
25 Plaintiffs are consistent with and not antagonistic to the interests of the class.

26 ***E. MAINTENANCE AND SUPERIORITY***

27 232. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(A), prosecutions of
28 separate actions by individual members of the class would create a risk that
inconsistent or varying adjudications with respect to individual members of the

1 class would establish incompatible standards of conduct for the parties opposing
2 the class.

3 233. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(B), prosecutions of
4 separate actions by individual members of the class would create a risk of
5 adjudications with respect to individual members of the class that would, as a
6 practical matter, substantially impair or impede the interests of the other members
7 of the class to protect their interests.

8 234. In accordance with Fed.R.Civ.P. Rule 23(b)(2), Plaintiffs are
9 informed and believe, and thereon allege that Defendants have acted on grounds
10 generally applicable to the class.

11 235. In accordance with Fed.R.Civ.P. Rule 23(b)(3), the questions of law
12 or fact common to the members of the class predominate over any questions
13 affecting only individual members, and this class action is superior to other
14 available methods for the fair and efficient adjudication of the controversy between
15 the parties. The interests of class members in individually controlling the
16 prosecution of a separate action is low in that most class members would be unable
17 to individually prosecute any action at all. The amounts at stake for individuals are
18 such that separate suits would be impracticable in that most members of the class
19 will not be able to find counsel to represent them. It is desirable to concentrate all
20 litigation in one forum because all of the claims arise in the same location, i.e., the
21 County of San Bernardino. It will promote judicial efficiency to resolve the
22 common questions of law and fact in one forum rather than in multiple courts.
23 Because the discrimination alleged herein is systemic, it is particularly well suited
24 to resolution on a class basis, as the critical questions in the case may be answered
25 on a class wide basis.

26 236. Plaintiffs do not know the identities of the class members. Plaintiffs
27 are informed and believe, and thereon allege, that the identities of the class
28 members are ascertainable from SBCSD records, in particular the SBCSD
computer systems used to track and identify SBCSD inmates. Plaintiffs are

1 informed and believe, and thereon allege, that the SBCSD computer records reflect
2 the identities, including addresses and telephone numbers, of the persons who have
3 been held in custody by SBCSD; when and on what charges inmates were arrested
4 and booked, taken to court, returned from court; when and why inmates were
5 released; what programs, work assignments and the like inmates participated in;
6 and where inmates were housed.

7 237. Plaintiffs know of no difficulty that will be encountered in the
8 management of this litigation that would preclude its maintenance as a class action.
9 The class action is superior to any other available means to resolve the issues
10 raised on behalf of the classes. The class action will be manageable because so
11 many different records systems exist from which to ascertain the members of the
12 class and to ascertain some of the proof relevant to Plaintiffs' claims. Liability can
13 be determined on a class-wide basis based on class wide evidence because the
14 Plaintiffs complain of systemic and widespread discriminatory policies and
15 practices. Named Plaintiffs and the class members are entitled to statutory damages
16 under state law, and to presumed damages under federal law; and, in any event,
17 individualization or variability in damages is not a bar to a liability certification
18 based on common liability issues.

19 238. In accordance with Fed.R.Civ.P. Rule 23(b)(3), class members must
20 be furnished with the best notice practicable under the circumstances, including
21 individual notice to all members who can be identified through reasonable effort.
22 Plaintiffs are informed and believe that SBCSD computer records contain a last
23 known address for class members. Plaintiffs contemplate that individual notice be
24 given to class members at such last known address by first class mail. Plaintiffs
25 contemplate that the notice inform class members of the following:

- 26 A. The pendency of the class action, and the issues common to the
27 class;
- 28 B. The nature of the action;

- 1 C. Their right to ‘opt out’ of the action within a given time, in
2 which event they will not be bound by a decision rendered in
3 the class action;
- 4 D. Their right, if they do not ‘opt out,’ to be represented by their
5 own counsel and enter an appearance in the case; otherwise,
6 they will be represented by the named Plaintiffs and their
7 counsel; and
- 8 E. Their right, if they do not ‘opt out,’ to share in any recovery in
9 favor of the class, and conversely to be bound by any judgment
10 on the common issues, adverse to the class.

11 239. Plaintiffs restate and incorporate by reference each of the foregoing
12 and ensuing paragraphs in each of the following causes of action as if each
13 paragraph was fully set forth therein.

14 **VIII. COUNT ONE – 42 U.S.C. §1983 [EQUAL PROTECTION] (ALL
15 DEFENDANTS)**

16 240. Plaintiffs re-allege all the preceding and following paragraphs of, and
17 allegations in, this Complaint.

18 241. The unequal treatment of GBT inmates, based on sexual orientation
19 and gender identity as alleged herein, deprives them of the protections afforded by
20 the 14th Amendment’s Equal Protection guarantee. Therefore, the Federal Damages
21 Class Representatives and Class are entitled to damages, and the Federal Injunctive
22 Relief Class Representatives and Class are entitled to injunctive relief, pursuant to
23 42 U.S.C. §1983.

24 242. The aforementioned acts of Defendants proximately caused Plaintiffs
25 to be deprived of their rights as stated above, thereby entitling the Federal
26 Damages Class Representatives and Class to damages in an amount to be proven at
27 trial, including punitive damages against the individual defendants.

28 243. The Federal Injunctive Relief Class Representatives and Class are
currently subject to, and will continue to be subject to, absent the intervention of

1 this Court, the unlawful treatment alleged herein and, therefore, seek injunctive
2 relief on behalf of themselves and the class of similarly situated individuals as
3 previously defined.

4 **IX. COUNT TWO - CAL. CIV. CODE §52.1 (ALL INDIVIDUAL**
5 **DEFENDANTS)**

6 244. Plaintiffs re-allege all the preceding and following paragraphs of, and
7 allegations in, this Complaint.

8 245. The Defendants interfered with the California Damages Class
9 Representatives' and Class', and the California Injunctive Relief Class
10 Representatives' and Class', rights to equal protection of the law under the
11 California Constitutions, as previously alleged, by threat, intimidation or coercion.

12 246. The aforementioned acts of Defendants proximately caused Plaintiffs
13 to be deprived of their rights as stated above, thereby entitling the California
14 Damages Class Representatives and Class to statutory damages as provided by
15 Civil Code §§ 52.1(b) and 52(a) and/or actual damages in an amount to be proven
16 at trial, and to punitive damages.

17 247. The California Injunctive Relief Class Representatives and Class are
18 currently subject to, and will continue to be subject to, absent the intervention of
19 this court, the unlawful treatment alleged herein, and therefore, seek injunctive
20 relief on behalf of themselves and the class of similarly situated individuals.

21 **X. COUNT THREE – VIOLATION OF CIVIL CODE §815.6 (AGAINST**
22 **DEFENDANTS COUNTY AND SBCSD)**

23 248. Plaintiffs re-allege all the preceding and following paragraphs of, and
24 allegations in, this Complaint.

25 249. The Federal and State Constitutional rights to equal protection of the
26 law are enactments as defined by, and within the meaning of, Cal. Govt. Code
27 §§810.6, 815.6.

28 250. All California constitutional provisions are mandatory.

1 251. All Federal constitutional provisions are mandatory.

2 252. These constitutional provisions protect all members of the general
3 public, including Plaintiffs, and were designed to prevent the kind of injuries
4 alleged herein.

5 253. Defendants did not exercise reasonable diligence in discharging their
6 duty to refrain from violating the constitutional rights of Plaintiffs and class
7 members.

8 254. Governmental entities are directly liable under Civil Code §815.6 for
9 violations meeting the statute's requirements, which the violations here alleged do.

10 255. The aforementioned acts of Defendants proximately caused Plaintiffs
11 to be deprived of their rights as stated above, thereby entitling the California
12 Damages Class Representatives and Class to compensatory damages in an amount
13 to be proven at trial, and to punitive damages.

14 256. The California Injunctive Relief Class Representatives and Class are
15 currently subject to, and will continue to be subject to, absent the intervention of
16 this court, the unlawful treatment alleged herein, and therefore, seek injunctive
17 relief on behalf of themselves and the class of similarly situated individuals.

18 **XI. COUNT FOUR – INJUNCTIVE RELIEF PURSUANT TO ARTICLE**
19 **1, §7 OF THE CALIFORNIA CONSTITUTION [EQUAL**
20 **PROTECTION] AND CAL. GOVT. CODE § 11135(A) (AGAINST**
21 **DEFENDANTS COUNTY, SBCSD AND MCMAHON)**

22 257. Plaintiffs re-allege all the preceding and following paragraphs of, and
23 allegations in, this Complaint.

24 258. The Defendants interfered with the California Federal Injunctive
25 Relief Class Representatives' and Class' rights to equal protection of the law under
26 Article 1 §7 of the California Constitution, as previously alleged.

27 259. California Government Code Section 11135(a) provides that no
28 person, on the basis of sexual orientation or gender identity, shall be unlawfully
denied full and equal access to the benefits of, or be unlawfully subjected to

1 discrimination under any program or activity operated or funded directly by the
2 State.

3 260. Plaintiffs are informed and believe that the County of San Bernardino
4 and the San Bernardino County Jail receives financial assistance from the State of
5 California.

6 261. The aforementioned acts of Defendants proximately caused the
7 California Injunctive Relief Class Representatives and Class to be denied full and
8 equal access to the benefits of, or be unlawfully subjected to discrimination under,
9 programs or activities receiving financial assistance from the State of California.

10 262. The California Injunctive Relief Class Representatives and Class are
11 currently subject to, and will continue to be subject to, absent the intervention of
12 this court, the unlawful treatment alleged herein, and therefore, seek injunctive
13 relief under the foregoing Constitutional provisions and statutes on behalf of
14 themselves and the class of similarly situated individuals.

15 **XII. APPROPRIATENESS OF EQUITABLE RELIEF**

16 263. The Federal and California Injunctive Relief Class Representatives
17 and Classes are currently (or will in the future be) incarcerated at the WVDC and
18 will continue to be discriminated against into the foreseeable future, absent
19 intervention of this Court. Further, the SBCSD has informed Plaintiffs in response
20 to complaints about the discriminatory treatment that they treat GBT inmates
21 according to policy and deny any discriminatory treatment, thus they will not
22 change how they discriminate against GBT inmates.

23 264. SBCDC's continuing discrimination and unequal treatment of GBT
24 inmates violates the Federal and California Injunctive Relief Class
25 Representatives' and Classes' constitutional rights, and causes them continuing,
26 sweeping and irreparable harm.

27 265. Because no adequate remedy at law exists for the injuries alleged
28 herein, Plaintiffs seek injunctive relief under both federal and state law.

XIII. PRAYER

WHEREFORE, Plaintiffs, on behalf of themselves and the class members they represent, request damages against each defendant as follows:

1. General and special damages according to proof;
2. Temporary, preliminary and permanent injunctive relief prohibiting Defendants from continuing to engage in the unlawful practices complained of herein;
3. As against the individual Defendants only, punitive damages according to proof;
4. In addition to actual damages, statutory damages as allowed by law, including statutory and treble damages under California Civil Code §§52 and 52.1;
5. Attorneys’ fees and costs under 42 U.S.C. §1988; California Civil Code §§52(b)(3), 52.1(h); California Code of Civil Procedure §1021.5, and whatever other statute or law may be applicable;
6. The costs of this suit; and
7. Such other relief as is just and proper.

Dated: October 22, 2014

KAYE, McLANE, BEDNARSKI & LITT, LLP

By: /s/ Barrett S. Litt
David S. McLane
Ronald O. Kaye
Attorneys for Plaintiffs

Dated: October 22, 2014

American Civil Liberties Union of Southern California

By: /s/ Melissa Goodman
Brendan M. Hamme
Peter J. Eliasberg
Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves individually and on behalf of the class,
demand a jury trial.

Dated: October 22, 2014

KAYE, McLANE, BEDNARSKI &
LITT, LLP

By: /s/ Barrett S. Litt
David S. McLane
Ronald O. Kaye
Attorneys for Plaintiffs

Dated: October 22, 2014

American Civil Liberties Union of
Southern California

By: /s/ Melissa Goodman
Brendan M. Hamme
Peter J. Eliasberg
Attorneys for Plaintiffs