

period. The Warden was deliberately indifferent here where he took no action; moreso, even he ignored a substantial risk of death.

(106) Here , as previously mentioned Dr. Heller was deliberately indifferent to my serious medical need where when medical emergency was initially reported on 10-4-2012 at approximately 8:45 am. Due to clasped and excruciating pain, he didn't see me until 4½ hours later. Dr. Heller was present in the medical department when I was brought in, and clearly ignored my presence upon declared medical emergency. I did not know of the deadly fungal meningitis at that time.

(107) Dr. Heller, is deliberately indifferent to my serious medical needs for adequate and immediate treatment which causes unnecessary and wanton, infliction of pain where, upon his belated arrival. He conducted absolutely no examination or tests in regards to complained of excruciating pain or meningitis deadly infection.

(108) Dr. Heller, is deliberately indifferent to my serious medical need for physical therapy and surgery by fusion which is causing unnecessary and wanton infliction of pain where, his actions and/or inactions has lead to me being temporary disabled which will inadvertently be a permanent disability within next year due to rate of deterioration.

(109) Dr. Heller, is deliberately indifferent to my serious medical need which causes unnecessary and wanton infliction of pain where, he intentionally deviated from the portion of the established course of treatment that would actually repair injury to spine rather than conservatively medicate it to no avail.

(110) Dr. Heller, is deliberately indifferent where he was not even informed of the deadly meningitis outbreak, which I later was trying to explain to him the shots I took maybe attributed to my paralyzing condition. He posed a substantial risk to my health and life.

(111) Dr. Heller, is deliberately indifferent to my serious medical need which causes unnecessary and wanton infliction of pain where, he conducted absolutely no examinations, testing or ordered that blood be taken for the purpose of determining whether my condition was related to any form or strain of the life threaten infection that has crippled me.

(112) Dr. Heller is deliberately indifferent to my serious medical need, which did not give me any additional pain medication for declared medical emergency for literally crippling pain at that time.

(113) Dr. Heller, acted maliciously and sadistically for the very purpose of causing harm and even more excruciating pain where, he advised me that He had cancelled my facet injections for pain as recommended by Dr. Lins, because as he stated it won't help. But I was in pain at that time and received nothing, not even a promise of relief was torture.

(114) Dr. Heller, to make matters even worse, acted maliciously and sadistically for the very purpose of causing me harm and permanent disability. He further advised me in front of inmates Albert McCall and Steven Bohannon , who were inside of the infirmary at the time, that "He was not going to provide me with any surgery at all," In clear deviation from the established treatment plan.

(115) Dr. Heller, further acted maliciously and sadistically for the very purpose of causing harm excruciating pain and permanent disability where he advise me that, "He would not be providing me with anymore treatments for my spine. There was nothing else he could do but give me ibuprofen 800mg," which had previous rise my blood pressure.

(116) Dr. Heller, continued to act maliciously and sadistically which was a shock to the conscious of an otherwise just society where he stated that, "I would just have to live with it as he does." Referring to condition, excruciating pain, and deadly infection.

(117) When I pointed out to Dr. Heller that his condition was in no way to be compared to mine he walked and stood perfectly fine, he wasn't in any pain, and hadn't taken any contaminated shots. On the other hand I can't walk or even stand for a considerable period.

(118) Dr. Heller responded maliciously and sadistically which was a shock to the conscious of an otherwise just society where he stated that, "If you don't like it write it up."

(119) He literally had me thrown out of the medical infirmary in a wheel chair, provided me with no treatment, medication for pain at all, and when I was escorted to the dorm he instructed them to take the wheelchair.

(120) I did write it up, by the submission of Grievance Log# 1210-405-031, which are referencing the above mention facts. However, the Warden's response on 10-9-2012 was just as malicious and sadistic for the very purpose of causing harm where he did nothing, took no action. This grievance was totally ignored, although he signed it. Exhibit "I" (Log #1210-405-031, 12-6-34642). He knew of complaint.

(121) I further submitted Grievance Log# 1210-405-048 on 10-11-2012 again to the Warden where he continued to act maliciously and sadistically for the very purpose of causing harm, which here was a shock to an otherwise just society where, he totally disregarded Dr. Heller's excessive risk to my health, safety and life. As CDC was never even contacted. He again did nothing. Exhibit "J" Log #1210-405-048, 12-6-34640).

(122) But here, Dr. Heller was again deliberately indifferent causing unnecessary and wanton infliction of pain where, on 10-8-2012, after being previously thrown out of the infirmary, I clasped almost hitting the medal railing of my bed, was assisted into bed but couldn't get out. Had to be taken back to the infirmary and this time admitted.

(123) Dr. Heller, again never conducted any examinations, tests, or, ordered that any blood be taken. As a matter of fact I never even sought Dr. Heller, or received any treatment from him until 10-17-2012, do to his maliciously and sadistically display of unethical behavior which has caused harm, and excruciating, chronic and severe pain.

(124) The only way Dr. Heller came and seen me was because I received a letter from Dr. Lins on 10-16-2012, but dated 10-5-2012, the guise of that letter as it related to me was, "I am writing in response to the recent national outbreak of fungal meningitis after lumbar spine injections . . . as a safety precaution, if you develop headaches, worsen spine pain or any unusual symptoms, it is safe to report to the nearest emergency room for evaluation."

(125) These are the three symptoms that I am still experiencing out of the eight listed, and have never been tested. I explained this to Ms. Finisse, and she reviewed letter and contacted Dr. Heller to see me. He never came on his own and he admitted me upon this declared emergency.

(126) Ms. Finisse, and Dr. Heller acted maliciously and sadistically for the very purpose of causing harm, where neither official as a safety precaution contacted the emergency room, CDC, or the Palm Beach Health Department when they themselves have taken no tests. Yet, the symptom persists, and the pain is unbearable.

(127) On 10-16-2012, I responded back to Dr. Lins, specialist who gave me the shots and informed him I was exhibiting symptoms Ms. Finisse, and Dr. Heller would not test me I was in excruciating pain I needed to be tested and helped.

(128) Dr. Lins acted maliciously and sadistically for the very purpose of causing harm where he didn't even respond essentially where he gave me all three epidural injections during contaminated period. He has not assured me that I wasn't infected in some form which is possible, as my lower body seems paralyzed.

(129) The disease can lie dormant for weeks even months. Different people are effected differently. The antibodies in my system could slow down the disease.

(130) Whereas, it could progress rapidly in someone else. There are the possibilities of being immune or a carrier without exhibiting any of the normal symptoms. In my case I have three of them including chronic pain, which simply can't be rule out on face value, but only by blood content, which they have refused to take.

(131) These concerns were strongly expressed in Grievance Log# 1210-405-066 on 10-16-2012 directly to the Warden, titled, "Emergency Medical," who acted maliciously and sardistically for the very purpose of causing harm or death by doing nothing at all. Exhibit "K" (Log # 1210-405-066, 12-6-35831-non-Responsive within 30 days requirement ). He signed the grievance and knew of the complaint.

(132) Dr. Heller, also in response acted maliciously and sadistically for the very purpose causing harm, permanent disability or death where he determined without any laboratory work, blood testing, current x-rays or MRI<sup>1</sup> that my condition was not an emergency. There was absolutely no substantial basis for this naferious and

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<sup>1</sup> Abscesses' on spine can block meningitis from going to the brain and rather could affect the lower portions of the body instead, legs, calves, ankles, and feet.

egregious determination other than retaliation, as a result of oral complaint on 10-4-2012, written grievance on 10-7-2012, 10-11-2012, and 10-16-2012.

(133) Dr. Heller retaliated against me for the filing of Grievance Log# 1210-405-031, on 10-7-2012 against him. Where he denied me any laboratory work, blood testing for deadly infection of fungal meningitis. Additional, x-rays or MRI to reaffirm excruciating and paralyzing pain for purpose of surgery, which he denied. He then determined unsubstantially it was not an emergency.

(134) However, contrary to this determination, Dr. Heller had me admitted on 10-8-2012, into the medical infirmary as a result of a declared medical emergency for pain and where I have been house for approximately a month. He further retaliated against me for filing Griev. #1210-405-048 prolonging of treatment.

(135) Dr. Heller retaliated against me for the filing of Grievance Log# 1210-405-066, on 10-16-2012, against him where he further after the third consecutive grievance never responded to excruciating pain. Essentially where I point out that he, "Dr. Heller cancelled and denied . . . spinal procedures to be conducted in an attempt to keep me in the same painful condition I'm in . . ." which was also malicious and sadistic.

(136) Dr. Heller, retaliated against me further where "[He] denied surgery and physical therapy which was critical to being relieved of chronic severe pain. Essentially where, no medication he has prescribed out of numerous has relieved any pain over the period of his tenure as my physician.

(137) Dr. Heller was deliberately indifferent to my serious medical need for physical therapy, "which is unusually an important part of treatment, given in conjunction with shot." Says Dr. Timothy Deer, member of the American Academy of pain . . .

(138) The period for physical therapy to be effective has passed do to the maliciously and sadistically actions of Dr. Heller, for the very purpose of causing harm, who ordered no physical therapy in conjunction with shots

(139) Dr. Heller, retaliated against me where initially the long delays and prolonging of treatment contributed extremely to my deterioration condition. But

when I started initiating complaints he discontinued the previously established treatment plan of which he does not respond, to in his respond to grievance.

(140) Dr. Heller retaliated against me and acted maliciously and sadistically for the very purpose of causing harm where in this response regarding the deadly outbreak of fungal meningitis he selectively adopted the initial portion of Dr. Lins assumption that, "The medication in question that led to infections was not utilized in your lumber injection . . ."

(142) What Dr. Heller intentionally failed to mention was the fact that Dr. Lins also stated, ". . . as a safety precaution, if you develop any fevers, chills, headaches, nausea, vomiting neck stiffness, worsen spine pain or any unusual symptoms (like burning ankles and legs)". (Letter).

(143) Dr. Lins further stated, It is safest to report to the nearest emergency room for evaluation. An omission which is undoubtedly an outrage against an otherwise just society where he was informed I am experiencing 3 of these symptoms. However, he claimed he evaluated and determined condition was not an emergency, without conducting one test.

(144) Dr. Lins acted maliciously and sadistically for the very purpose of causing harm where he did not specify the medication that led to infection, which has recently been discovered to have allegedly been (NECC) methylpredac (PF) 800mg/mc. A discovery that was not conclusive, although 17,700 single dose vials were recalled.

(145) Dr. Lins acted maliciously and sadistically for the very purpose of causing harm where, the only medications recalled were from (NECC) Framingham facility, there were three recalled lots of steroids, says J. Todd Weber a doctor with the CDC's division of healthcare quality promotion.

(146) Dr. Weber, warned that patient and doctor's will need to be vigilant for at least several months following the injections. He added that the first person who received an injection . . . began to develop meningitis in the ankle. Which I've complained of repetitively.

(147) Dr. Lins acted maliciously and sadistically for the very purpose of causing harm where He inappropriately informed that, there are no documented infection

with (the medication) He used. Essentially where it had not been determined which medication or combination of medications were infected.

(148) On October 5, 2012 when Dr. Lins forwarded letter there were 45 case of infection, and 5 deaths. On October 11, 2012, there were 137 illnesses reported, and 10 deaths. One day later, 10-12-2012, 170 illnesses and 14 deaths. Apparently, Dr. Weber's warning was correct, need to be vigilant. And on 11-14-2012, there were 451 illnesses and 32 deaths reported. . . .

(149) Dr. Heller acted maliciously and sadistically for the very purpose of causing harm which is shocking to the conscious of otherwise a just society where, he conclusively determined based upon insufficient facts that there is no emergency and denied me any treatment for deadly infection or excruciating and extensive pain , in retaliation for filing grievances.

(150) Dr. Heller retaliated against me, is deliberately indifferent and acted maliciously and sadistically for the very purpose of causing harm where on 10-25-2012 the same day he provided an answer to Grievance Log# 1210-405-066 against him. He came and informed me that he would now put in a consult for outside treatment of facet injections.

(151) In retrospection, on October 4, 2012, Dr. Heller specifically stated, he had cancelled the facet injection because, "It won't help." Realistically, it definitely won't help my condition which is in the advanced stages. In most cases an irritated nerve root will heal with shots, because the steroid injection hastens this process dramatically.

(152) But in my case it has already been conclusively determined by various specialist, x-ray's and MRI that, I have a surgical problem simplistically put a herniated disc where my nerves are trapped and being pinched in between disc causing constant pain and can't heal. No medication or shot can reverse this underlying cause, which is the objective.

(153) On October 25, 2012, Dr. Heller retaliated against me for the filing of the grievances. In addition, he showed a deliberate indifference to my serious medical needs, and acted maliciously and sadistically for the very purpose of causing me harm where, his second consultation for facet injections was a ploy to intentionally delay and prolong surgery, which was a part of the established treatment plan he was denying me.

(154) On 11-29-2012, Dr. Heller, denied my grievance based on the retaliation initiated by Nurse Tremble, even-though he gave me back the wheelchair he took from me on 10-4-2012, and the assistant of an inmate to push me around. Still the pain was excruciating, and the damage, although temporary, it's persisting would become permanent and I will forever be confined to a wheelchair. Moreover, Dr. Heller further ignored my complaint of excruciating pain and failed to repair my injury, again. Exhibit "L" (Log #1211-405-407).

(155) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where, it distributed epidural steroids contaminated with fungal meningitis. Which I was injected with approximately on July 16, 2012, August 1, 2012 and August 22, 2012 between the effected months of contamination.

(156) New England Compounding Center was deliberate indifference to my serious medical needs, which caused unnecessary and wanton infliction of pain. They caused me to suffer the various symptoms, headaches, extremely worsen by the spinal pains, excruciating leg and ankle pains, which caused me to feel severe burning in my body from my ankle to my knee.

(157) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where the epidural steroid injection in my spine has lead to meningitis.

(158) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where steroid injections did not decrease inflammation around the irritated nerve roots. But instead extremely increase pain to that of paralyzing, and crippling results.

(159) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where the entire left side of my spine became inflamed. Most extreme where shots were injected in L5. S1, which also generated around both sides of my lower body, legs and ankles.

(160) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where the

contaminated steroid injections has virtually paralyzed me. I can't walk, stand, or move about without the assistance of a temporary aide.

(161) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where contaminated injections will inadvertently do to excruciating pain and rate of deterioration will cause me to be permanently disabled by or before next year. However, I am currently temporary disabled.

(162) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where do to contaminated injections which had me in so much pain immediately after the last shot and follow up on August 31, 2012. I reported excruciating pain to medical director on September 5, 2012.

(163) New England Compounding Center was deliberate indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where contaminated injections pains became more intense and so extreme I again reported chronic aid severe pains to the clinician on September 28, 2012.

(164) New England Compounding Center acted maliciously and sadistically for the very purpose of causing harm where it violated state and federal rules by manufacturing bulk quantities of drugs without underlying prescriptions which allegedly caused contamination and my actual clasped on 10-4-2012 from a sudden lower body shut down.

(165) New England Compounding Center acted maliciously and sadistically for the very purpose of causing harm. It violated state and federal rules by manufacturing bulk quantities of drugs without underlying prescriptions, which allegedly caused contamination and my I total clasped on 10-8-2012 from a complete lower body shut down, with virtually crippling and paralyzing effects, which put me in a wheelchair.

(166) New England Compounding Center, acted maliciously and sadistically for the very purpose of causing harm where after I received deadly infection of which I'm currently disabled, NECC, recalled three lots of steroid to include Methylpred AC (PF) 80mg/ml., in a effort to determine which vials if not a combination of vial lots were contaminated. Whatever the determination may be the medication I received during the contaminated period of July-September 2012 were contaminated.

(167) New England Compounding Center acted maliciously and sadistically for the very purpose of causing harm where, NECC has crossed the manufacturing threshold and its operations failed to meet the tough standards set by the food and drug administration (FDA) for commercial manufactures. This has placed me at a substantial risk of death or being permanently disabled.

(168) New England Compounding Center acted maliciously and sadistically for the very purpose of causing harm where. NECC is operating under state regulated pharmacy boards, while doing commercial drugs manufacturing and avoiding FDA, tough standards. A standard that should have applied federally when that drugs left Mass., where no one was reportedly effected. However, do to the profit associated with it I'm substantially effected mentally and physically in Florida.

#### **VI. STATEMENT OF CLAIM:**

State as briefly as possible what rights under the constitution, laws, or treaties of the United States you claim have been violated. Be specific. Number each separate claim, and relate each claim to the facts in the complaint. If the claims are not related to the same basic incident or issue, they must be addressed in a separate civil rights complaint.

(1) First constitutional amendment violation for retaliation for the filing of grievance.

(2) Eighth constitutional amendment violation for deliberate indifference, cruel and unusual punishment for deliberate delay and prolonging of surgery, and excruciating pain and suffering for a long period of time, which could only be deemed as human torture.

#### **VII. RELIEF REQUESTED:**

State briefly what relief you seek from this court. Do not make any legal arguments or cite any cases. You may, if you wish, cite statutes which authorize the relief requested, but need not do so.

1. Compensatory damages of \$250,000 per Defendant.

2. Punitive damages of \$750,000 per Defendant.
3. Preliminary injunction issued for imminent surgery, which had already been previously established, but is now being denied when my condition is at such a critical stage, and when I am constantly in excruciating pain.
4. Cost of incarceration, litigation of this complaint and all other expenses.

**VIII. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS OF FACT, INCLUDING ALL CONTINUATION PAGES, ARE TRUE AND CORRECT.**

Signed this 20<sup>th</sup> day of DECEMBER, 2012.

  
\_\_\_\_\_  
DANIEL CUMMINGS #000532  
SOUTH BAY CONS. INC.  
P.O. BOX 7171  
JACKSONVILLE, FLA 32219-0717

\_\_\_\_\_  
(Signature(s) of Plaintiff(s))

DANIEL CUMMINGS # 088532  
SOUTH BAY CONFECTIONAL FACILITY  
P.O. BOX 7171  
SOUTH BAY, FL 33493

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**Case No.** \_\_\_\_\_

**The attached hand-written  
document  
has been scanned and is  
also available in the  
SUPPLEMENTAL  
PAPER FILE**

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

DARREL CUMMINGS  
Inmate # 088532

Vs.

CASE NUMBER: \_\_\_\_\_  
(To be assigned by Clerk)

NEW ENGLAND COMPOUNDING CENTER, CEO., BARRY CADEN,  
GEO GROUP INC., TOM LEVINS, WARDEN,  
MS. N. FINNISSE, MSM, HAS,  
DR. J. DAUPHIN, D.O.,  
DR. JULES HELLER, M.D.,  
DR. ROBERT LINS, M.D.,  
OFFICER MCINTIRE, CO1,  
Defendant(s)

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**ATTACHMENT OF GRIEVANCES**

Grievance are in Sequence of numbered paragraphs and claims as follows:

- A. Grievance Log# 11-2773
- B. Grievance Log# 11-3042
- C. Grievance Log# 1112-405-042
- D. Grievance Log# 12-6-02095
- E. Grievance Log# 11-1088
- F. Grievance Log# 12-6-01054
- G. Grievance Log# 12-0293
- H. Grievance Log# 12-2102, 1211-405-006
- I. Grievance Log# 1210-405-031, 12-6-34642
- J. Grievance Log# 1210-405-048, 12-6-34640

\* \* \*

K. Grievance Log# 1210-405-066, 12-6-35831(Non-Responsive within 30 days requirement.

L. Grievance Log# 1211-405-047

# **EXHIBIT - “A”**

LATE REQUEST

DEPARTMENT OF CORRECTIONS

Mail Number:
Team Number:
Institution:

11-2773

NOV 09 2011

TO: (Check One) Warden, Asst. Warden, Classification, Security, Medical, Mental Health, Dental, Other

Table with columns: FROM: Inmate Name, DC Number, Quarters, Job Assignment, Date. Handwritten entries: CUMMINGS, DANIEL, #088532, E-301, T.C., 11-8-11

REQUEST

Check here if this is an informal grievance [checked]

THIS COMPLAINT IS OF A MEDICAL NATURE, IN REGARDS TO UNEXPECTED AND INTENTIONAL DELAY IN THE TREATMENT OF SERIOUS AND PAINFUL INJURIES OR OUTRIGHT REFUSAL TO TREAT DIAGNOSED INJURIES. EVEN THOUGH A FEDERAL COURT OF COMPETENT JURISDICTION HAS PREVIOUSLY ON JAN 8, 2010, DETERMINED ACTUAL PHYSICAL INJURIES TO MY LOWER BACK, AND HAS HELD IN CIVIL CASE: CUMMINGS V WARDEN DUFFIE HARRISON 695 F. SUPP. 2d 12163; 2010 U.S. DIST. LEXIS 11054, THAT: PLAINTIFF [CUMMINGS] HAS PROVIDED EVIDENCE OF ACTUAL PHYSICAL ABUSE... PLAINTIFF HAS ALSO PROVIDED EVIDENCE OF REPEATED THREATS... THE EIGHT AMENDMENT PROHIBITS THE UNNECESSARY AND WANTON INFLECTION OF PAIN. PAIN IN ITS ORDINARY MEANING SURELY INCLUDES A NOTION OF PSYCHOLOGICAL HARM. ID. AT 1272... FURTHER IT WAS DETERMINED

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing. #088532

RECEIVED NOV 15 2011

DO NOT WRITE BELOW THIS LINE

RESPONSE

DATE RECEIVED: BY: C. [Signature]

Record indicate you were seen by the specialist on 10/30/11 for back pain. It was recommended you should try course of physical therapy, epidural injections before considering surgery. You were seen by the doctor at South Bay 11/10/11, which increased your Oxypropen from 600mg to 800mg and wrote a consultation request for epidural injection. You are scheduled for an evaluation for epidural injection.

[The following pertains to informal grievances only: Based on the above information, your grievance is (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]

Official (Signature): [Signature] Date: 11/21/11

Original: Inmate (plus one copy)
CC: Retained by official responding or if the response is to an informal grievance then forward to be placed in inmate's file

This form is also used to file informal grievances in accordance with Rule 33-103.005, Florida Administrative Code.

Informal Grievances and Inmate Requests will be responded to within 10 days, following receipt by the appropriate person.

## GRIEVANCE CONTINUATION

NAME: Cummings, Daniel  INFORMAL  FORMAL  
 Last Name, First, & Middle Initial  
 D.C.# 088532 DATE: 11 1 08 11

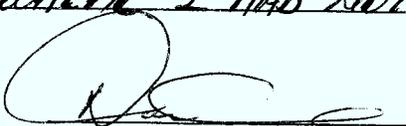
THAT, "... THE INJURY MUST BE MORE THAN DE-MINIMUS, BUT NEED NOT BE SIGNIFICANT... AND IT IS WELL ESTABLISHED THAT A PRISONER'S CONSTITUTIONAL RIGHTS ARE VIOLATED IF ADVERSE ACTION IS TAKEN AGAINST THEM IN RETALIATION FOR THE EXERCISE OF HIS FIRST AMENDMENT RIGHTS, (THE FILING OF A GRIEVANCE). JO. CUMMINGS AT 1273, 1274.

DESPITE DR. JEAN DAUPHIN'S, OWN PROFESSIONAL DIAGNOSIS OF BACK INJURIES, REFERRALS TO ORTHOPAEDIC SPECIALIST, DR. BOADHEAD SLUTSKY, AND THE LAKESIDE MEDICAL CENTER, TO HAVE AN M.R.I., CONDUCTED. DR. DAUPHIN, IS EITHER INTENTIONALLY DELAYING ME IMMEDIATE TREATMENT OR HAS REFUSED TO PRESCRIBE ME FURTHER OR INITIAL TREATMENT FOR DIAGNOSED INJURY, AND EXTREMELY SEVERE PAIN!

THE PRESCRIBED MEDICATIONS HE HAS PROVIDED ME MOSTLY CONSISTING OF IRBUPROFEN 600MG. HAS NOT WORKED IN THE LESS TO MINIMIZE THE PAIN.

IN REVIEW OF MY MEDICAL FILES TO WHICH I AM IN POSSESSION IT IS EVIDENT THAT AS EARLY AS 4-10-2010 I HAD REPORTED BACK PAINS TO DR. DAUPHIN OF WHICH I RECEIVED NO DOCUMENTED TREATMENT OTHER THAN "IRBUPROFEN," OR SOME OTHER MEDICATIONS WHICH DID NOT WORK.

IN THE MONTH OF JULY OF 2011 THE PAIN HAD BECOME UNBEARABLE, ESSENTIALLY, WHERE I HAD NOT BEEN

  
 Signature of Grievant & D.C. # 088532

## GRIEVANCE CONTINUATION

NAME: Cummins, Danae  
 Last Name, First, & Middle Initial

INFORMAL  FORMAL

D.C.# 088532

DATE: 11 / 08 / 11

TREATED ONLY MEDICATED WHICH MADE IT TWICE AS WORSE.  
 THE RECORDS INDICATE THAT TENDRILY IN THE MONTH OF  
 AUG OF 2011, DR. DAUPHIN ORDERED X-RAYS. THEREAFTER, THEY  
 WERE TAKEN AND I WAS ADVISED THAT IT WAS ONLY  
 ARTHRITIS, BUT REFERRED TO DR. SLUTSKY TO TAKE ANOTHER  
 X-RAY. CONTRARY TO DR. DAUPHIN'S PROGNOSIS, DR. SLUTSKY  
 EXPLAINED MY CONDITION AND POINTED OUT TO MYSELF, I NERVE  
 DISC <sup>CRACK</sup> ~~CRACK~~ AND RETARD, SOME SERIOUS DEFECTS AND  
 ABNORMALITIES IN MY SPINAL COLUMNE'S LOWER BACK.

IT APPEARED FROM THE X-RAYS THEMSELVES AS IF  
 THE DISC OF MY LOWER BACK HAD VERTICALLY CAME ALL  
 THE WAY OUT OF THE SPINAL COLUMNE. AND DO TO THE  
 DEGREE OF THIS ABNORMALITY, MY NERVES WHICH WERE  
 INDICATED ON X-RAY AS LINED CIRCLES CONNECTED TO EACH  
 DISC SEPARATELY WERE NOT INTACTED WHERE THE DISC  
 HAD SEEMINGLY CAME OUT IN MY LOWER BACK.

AS EXPLAINED BY DR. SLUTSKY, THIS NERVE (LINED CIRCLE)  
 COULD HAVE BEEN TRAPPED BETWEEN THE DISC'S AND WOULD  
 EXPLAIN THE CHRONIC AND SEVERE PAIN THAT I WAS  
 EXPERIENCING [SIC].

DR. SLUTSKY ASKED ME WHAT TYPE OF MEDICATION DR. DAUPHIN  
 PRESCRIBED. I INFORMED HIM IT WAS IBUPROFEN, AND  
 GULINDAC. HE STATED HE DIDN'T THINK THIS WOULD DO MUCH

  
 Signature of Grievant & D.C. # 088532

## GRIEVANCE CONTINUATION

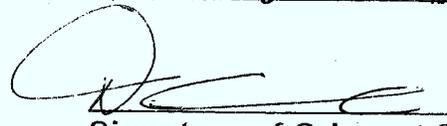
NAME: Cummings DARRYL  INFORMAL  FORMAL  
 Last Name, First, & Middle Initial  
 D.C.# 088532 DATE: 11 1 08 11

FOR THE TYPE OF INJURY I HAD ON THE PAZL, TO WHICH I TOTALLY ABASED. AS A MATTER OF FACT I EXPLAINED TO HIM AS I DID DR. DAUPHIN THAT I COULD BARELY STAND OR EVEN WALK WITHOUT EXTREMELY CHRONIC PAIN.

WHEN I ASKED DR. SUTSKY FOR SOME MEDICATION FOR PAZL HE INFORMED ME THAT DR. DAUPHIN ONLY RECOMMENDED THAT HE MADE A RECOMMENDATION FROM X-RAYS. THUS HE RECOMMENDED THAT AN M.R.I. BE TAKEN.

AT THIS POINT IT SHOULD BE POINTED THAT, DO TO THE EXTREME PAIN, WHILE BEING TRANSPORTED TO AND FROM ONECHOCHEE TO SEE DR. SUTSKY, DR. HOWARD HAD TO STRONGLY ASSIST ME. HOWEVER, I WAS DELAYED AND DENIED ANY IMMEDIATE TREATMENT FOR PAZL, "AT THAT TIME."

I EXPRESSED MY DISAPPROVAL TO DR. DAUPHIN IN REGARDS TO HIS REFUSAL FOR A RECOMMENDATION ONLY AND NO TREATMENT. HE BECAME VERY BELLIGERENT WITH ME TO THE POINT OF ACCUSING ME OF LYING ABOUT PAIN, AND THREATENING ME TO BE PUT OUT OF MEDICAL AND NOT GET ANY TREATMENT OR TO LOCK ME UP IF I DIDN'T STOP COMPLAINING. FURTHER HE ADVISED ME THAT IF I FILED A LAWSUIT ON HIM HE WOULD BEAT IT. BECAUSE I TOLD HIM THAT BY SIMPLY IGNORING MY PAIN AND CONSTANT COMPLAINTS WAS AGAINST THE LAW. OF WHICH HE PROTESTED, AND FURTHER DENIED ME ANY TREATMENT

  
 Signature of Grievant & D.C. # 088532

ON 9/16/11, I WAS TAKEN TO LAKESIDE MEDICAL CENTER TO HAVE M.R.I., CONDUCTED AFTER THIS EXAMINATION THE TREATING PHYSICIAN HAD TO VENTURELY LEFT ME FROM THE TABLE USING THE MATERNITY OF HER STRENGTH. AS A RESULT OF HER DIAGNOSIS AND MY PHYSICAL INABILITIES TO LEFT MYSELF FROM THE TABLE SHE STATED, THAT THERE WAS SOME SERIOUS DAMAGE TO MY LOWER BACK AND SPINE. [sic]

NEVERTHELESS, THE M.R.I., REPORTS WILL SPEAK FOR THEMSELVES. WHEN I RETURNED (DR. DAUGHTEN) FROM LAKESIDE I WASN'T SEEN UNTIL LIKE A WEEK OR SO LATER, AND ONLY AS A RESULT OF A SICK-CALL REQUEST OF WITZEL I WAS ABANDONED. THIS ENCOUNTER WAS EVEN MORE HOSTILE THEN THE LAST ONE. ESSENTIALLY, WHEN I INQUIRED AS TO WHY HE WAS SOMEWHAT INTENTIONALLY DELAYING MY TREATMENT FOR THE PAIN I WAS SUFFERING.

FURTHER, I STATED THAT EVERY DOCTOR'S DIAGNOSIS AND EVERY EXAMINATION THAT WERE CONDUCTED CONFIRM MY INJURY EVEN FOUR COUS, BUT FOR WHAT TREAT ME, WHY? HE NALEAHOUSLY STATED, "HE DIDN'T SEE WHY I WAS IN PAIN ALL OF A SUDDEN WHEN I HAD BEEN INTURED FOR SOMETIME." IN RESPONSE I STATED THAT, I'VE ALWAYS BEEN HURTING BUT NOT LIKE IT IS NOW, ITS UNBEARABLE AND I NEED

## TREATMENT.

IT TOOK SO LONG FOR ME TO BE SENT BACK TO DR. SLUTZKY THAT I INQUIRED OF NURSE JOSEPH, WHO WAS VERY PROFESSIONAL AND TOOK AWAY FROM HER TIME TO CHECK FOR ME SEEING THE PAIN I WAS IN, BOTH PHYSICALLY AND MENTALLY!

SHE ADVISED ME I WAS SCHEDULED, BUT THAT I HAD TO BE PATIENT THEY WERE EVENTUALLY GOING TO CALL FOR ME. PSYCHOLOGICALLY IT WAS VERY ASSURING AND HUMANE. BECAUSE MORE THAN OFTEN THEY TALK TO US AND TREAT US WORSE THAN ANIMALS. FOR EXAMPLE, THE WAY THAT DR. DRUMPTEN, IS ATTEMPTING TO TREAT ME THIS VERY MOMENT, BY BEING DELIBERATELY INDIFFERENT TO MY 'SUFFICIENTLY SERIOUS' MEDICAL NEEDS WHICH IS CAUSING ME UNNECESSARILY TO SUFFER UNLIKE ANYTHING YOU WOULD BELIEVE IS HUMAN.

EVENTUALLY THEY DID CALL ME APPROXIMATELY ON 10-10-11 FOUR (4) WEEKS AFTER VERY PERSISTENT COMPLAINTS OF PAIN CHRONIC AND SEVERE WERE PERSONALLY MADE TO HIM IN HIS OFFICE AND ACESSIBLE SCHEDULING WAS MADE AT THAT TIME.

FOUR WEEKS LATER I WAS AGAIN TAKEN TO ONECHOBBEE, TO AGAIN SEE DR. SLUTZKY IN ANTICIPATION OF SOME SORT OF TREATMENT FOR PAIN. MUCH TO MY SURPRISE DR. SLUTZKY, REFUSED TO PROVIDE ME ANY TREATMENT OR GIVE ME ANY PAIN MEDICATION. I WAS SO UPSET I ALMOST CRIED.

GIVE MY CONDITION AND DEMANDS WHEN I VERY SERIOUSLY INQUIRED AS TO WHAT WAS GOING ON, AS IF THEY WERE PLAYING GAMES WITH ME OR SOMETHING. TRANSPORTING ME ALL THE WAY TO OKEECHOBEE BEING ASSISTED BY OFFICER HOWARD AND OFFICER ~~MEANE~~ <sup>MEANE</sup> TO STAND, TO WALK GET ON AND OFF VAN IN CHAINS AROUND MY ARM AND FEET.

WHEN QUESTIONED AS TO WHY HE WOULD NOT PROVIDE ME TREATMENT, THE ANSWER WAS OBVIOUS! DR. DAUPITZ, HE STATED ABAZN ADVISED HIM TO ONLY GIVE A RECOMMENDATION. THUS, I COULD NOT BE PROVIDED TREATMENT FOR DIAGNOSED INJURY, IRRESPECTLESS OF THE DEGREE OF PAIN WITHOUT AUTHORIZATION OF DR. DAUPITZ, AND THE HEALTH CARE ADMINISTRATOR WHO IS A MRS. FINNESSO TO THE BEST OF MY KNOWLEDGE. THE ISSUE HERE SEEMS TO BE COST OF PROVIDING ADEQUATE MEDICAL TREATMENT AT THE EXPENSE OF HUMAN TORTURE WHICH IS EQUIVALENT TO CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF U.S.C.A. 8<sup>TH</sup> AMENDMENT.

DR. SLUTSKY, ~~OFFICER~~ <sup>OFFICER</sup> THESE OBVIOUS AND INTENTIONAL DELAYS ~~OF~~ BEING PROVIDED TREATMENT, <sup>WAS</sup> CAUSED BY DR. DAUPITZ. DR. SLUTSKY RECOMMENDED ① PHYSICAL THERAPY, ② ZILOT, ③ SUZZ, OF WHICH DR. DAUPITZ HAS EXPRESSED TO ME WHERE OUT OF THE QUESTION, BLATANTLY REFUSING TREATMENT.

MEMORANDUM OF LAW

IN THE CASE OF SCOTT V ANTONINI, 2011 U.S. DIST LEXIS 15063; THE FEDERAL COURT RECENTLY HELD THAT, "THE EIGHTH AMENDMENT FORBIDS PRISON OFFICIALS FROM UNNECESSARILY AND WANTONLY INFLECTING PAIN ON AN INMATE BY ACTING WITH DELIBERATE INDIFFERENCE TOWARDS [HIS] SERIOUS MEDICAL NEED... (CITING FARMER V BRENNAN 511 U.S. 825, 834, 114 S.Ct. 1970 (1994), THE SIXTH CIRCUIT DEFINED A 'SUFFICIENTLY SERIOUS' MEDICAL NEED AS ONE THAT HAS BEEN DIAGNOSED BY A PHYSICIAN AS MANDATING TREATMENT OR ONE THAT IS SO OBVIOUS THAT EVEN A LAY PERSON WOULD EASILY RECOGNIZE THE NECESSITY FOR A DOCTOR'S ATTENTION. Id., QUOTING, HARRISON V 13th 539 F.3d 510, 518 (6th Cir 2008). Additionally, THE SERIOUSNESS OF A PRISONER'S MEDICAL NEEDS MAY ALSO BE DECIDED BY THE EFFECT OF DELAY IN TREATMENT. BLACKMORE, 390 F.3d AT 898, (quoting HILL V DETAILS REG'L FOURTH DET. CENTER, 40 F.3d 1176, 1188 (11th Cir 1994); BAXTER V ADAM 750 F.Supp.2d 1313 (2010), IT HAS LONG BEEN ESTABLISHED THAT KNOWLEDGE OF THE NEED FOR MEDICAL CARE AND INTENTIONAL REFUSAL TO PROVIDE THAT CARE CONSTITUTE A CONSTITUTIONAL

VIOLATION. SEE: e.g., MANDEL V DOE, 888 F. 2d 783, 788 (11th Cir. 1989). FURTHERMORE, INTENTIONAL OR UNEXPLAINED DELAY IN THE TREATMENT OF SERIOUS AND PAINFUL INJURIES WAS CLEARLY RECOGNIZED AS RISING TO THE LEVEL OF A CONSTITUTIONAL [VIOLATION] CEASE... SEE: BROWN V HUGHES 894 F. 2d 1533, 1537-39 (11th Cir. 1990); CITING ESTELLE V GAMBLE, 429 U.S. AT 104, 97 S.Ct. AT 21.

CONCLUSION

NATURE OF RELIEF SOUGHT IS THAT, AN IMMEDIATE FUSS IS CONDUCTED, FOLLOWED BY PHYSICAL THERAPY AS RECOMMENDED BY ORTHOPAEDIC SPECIALIST, DR. SEUTSKY, FURTHER THAT A MEDICAL CONSENT FORM IS APPROVED TO RECEIVE ALL MEDICAL RECORDS FROM DR. SEUTSKY FOR THE PURPOSE OF PENDING CIVIL LITIGATION. AND FINALLY THAT, A STRONGER MEDICATION IS PRESCRIBED IMMEDIATELY BECAUSE I AM CURRENTLY IN CHRONIC PAIN, UNTIL FUSS HAS BEEN CONDUCTED.

11-08-11

 # 088532

# **EXHIBIT - “B”**

**INMATE REQUEST**

113042

**FLORIDA DEPARTMENT OF CORRECTIONS**

**RECEIVED**

DEC 08 2011

**GRIEVANCE CLERK**

Classification

Mail Number: \_\_\_\_\_  
 Team Number: \_\_\_\_\_  
 Institution: \_\_\_\_\_

**TO:**  
 (Check One)

Warden  
 Asst. Warden

Security

Medical  
 Mental Health

Dental  
 Other MS. N. FENISSE MSK.

FROM:	Inmate Name	DC Number	Quarters	Job Assignment	Date
	CUMMINGS, DARCEL	088532	E3101	TC	12-06-11

**REQUEST**

Check here if this is an informal grievance

On Dec 03, 2011, it is indicated that I was charged \$5.00 for a medical co-payment for November 2011. In the month of November, I also received a medical co-payment charge of \$5.00 for October 2011. These charges were a result of the same back injuries for which I'm still suffering chronic and severe pain and have not been treated. Since August, 2011, if you would review the record, you will see that since 9/2/11 I have been complaining of back pain and this M.D. X-ray and specialist have diagnosed changes. However, when I've returned from seeing specialist in October, and November Dr. Daulton put me off and did not conduct a follow up as required. To which I put in for sick call to access the follow up because I'm still in pain. I should be charged for follow up.

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing.

DO NOT WRITE BELOW THIS LINE

**RECEIVED**

DEC 09 2011

**RESPONSE**

DATE RECEIVED: \_\_\_\_\_ BY: C. Daulton

your sick call visit on 11/8/11 for joint pain, is not a condition that you are being seen in chronic clinic of entiated by a physician. Your co-pay charge for 11/8/11 is valid.

[The following pertains to informal grievances only.]  
 Based on the above information, your grievance is \_\_\_\_\_ (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]

Official (Signature): [Signature] Date: 12/13/11

Original: Inmate (plus one copy)  
 CC: Retained by official responding or if the response is to an informal grievance then forward to be placed in inmate's file

This form is also used to file informal grievances in accordance with Rule 33-103.005, Florida Administrative Code.  
 Informal Grievances and Inmate Requests will be responded to within 10 days, following receipt by the appropriate person.